

Approved: 2-18-94  
Date

## MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:12 a.m. on February 17, 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  
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Senator Dave Kerr  
Brent Culver, Culver Fish Farm, McPherson, Ks.  
Steve Hurst, Kansas Water Office  
John R. Best, Kansas Water Authority  
Sharon Munk, owner and operator of BJ'S & Guys /Terry Kennels, and member Kansas Companion Animal Advisory Board

Others attending: See attached list

Chairperson Corbin called for action on the minutes of February 15, 1994. A motion was made by Senator Tillotson that the minutes be adopted. The motion was seconded by Senator Frahm. The motion carried.

The hearing was opened on SB 689 - concerning the water protection fee; regarding commercial fish farming. Chairperson Corbin called on Senator Kerr.

Senator Kerr testified in support of SB 689. He explained why the Hutchinson location is unique and told the Committee the project has a great economical potential for Hutchinson.

Brent Culver, Culver Fish Farm, testified in support of SB 689. The hydro-mining operating in Hutchinson provides the potential for efficient, inexpensive year round production, with the 10,000 gallons of 75-90 degree water, there is enough water to produce over 100 million pounds of fish annually. The project would create over 250 jobs at one site alone, and this would not include all of the supporting suppliers (Attachment 1).

Mr. Culver also distributed a copy of the Kansas Aquaculture Advisory Council, Annual Report (Attachment 2). Mr. Culver responded to questions about the facility.

John R. Best, Chairman, Kansas Water Authority, testified in opposition to SB 689. The Kansas Water Authority Board voted to oppose the bill as it would erode away the fee structures contributing to the fund, and would set a bad precedent in ignoring the responsibility of the primary user of the water to assist the state in protecting its water resources (Attachment 3).

Stephen A. Hurst, Director, Kansas Water Office, testified in opposition to SB 689. The bill sets a bad precedent, it increases the erosion of the State Water Plan Fund, and provides favored status to a narrow group of water users (Attachment 4).

The hearing on SB 689 was closed.

Chairperson Corbin referred to SB 413 - concerning the Kansas Animal Dealers Act. He stated the hearing on the bill was held on February 2, 1994, and on February 9, Dr. Graham had requested the Committee postpone action on the bill until the Companion Animal Board had their meeting on February 11. Dr. Graham submitted some amendments that were unanimously voted on at their board meeting (Attachment 5). Also distributed was information titled Animal and Plant Health Inspection Service, USDA (Attachment 6).

Sharon Munk presented information that the board would like to see incorporated in the law. She addressed

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 10:00 a.m. on February 17, 1994.

the section relating to the conviction of any crime relating to the theft of or cruelty to animals (Attachment 7).

Staff was called on to make some clarifying remarks regarding this section of the statutes dealing with conviction of any crime relating to the theft of or cruelty to animals.

Shon Koenig, Executive Director, Helping Hands Humane Society, Inc., submitted written testimony which was distributed (Attachment 8). She supports the bill as written.

The meeting adjourned at 11:00 a.m.

The next meeting is scheduled for February 18, 1994.

## GUEST LIST

COMMITTEE: Senate Agriculture

DATE: 2-17-94

[illegible]

## KANSAS SENATE BILL NO. 689 RATIONALE

Aquaculture, the controlled cultivation and harvest of aquatic animals and plants, is the number one growth area in agriculture today. Kansas has a long history of aquaculture development, but we have not kept pace with other states and have not created the environment necessary for aggressive aquaculture development in the years ahead. Due to expanding markets, seafood has become the second largest trade deficit next to oil in the United States.

The State of Kansas, through the Kansas State Board of Agriculture and the Governor's Office, has been proactive in establishing an Aquaculture Advisory Council (AAC), which has developed an aquaculture plan for the state. The AAC was formed as a result of recommendations made by the Kansas Aquaculture Task Force in 1991.

The Task Force affirmed that the state's resources--natural, institutional, and human--could form the foundation of a dynamic aquaculture industry for the benefit of farmers as well as corporate interests. They also felt that the aquaculture industry was on a solid base and that Kansas aquaculture had the potential to become a much larger industry if legal and administrative constraints would be removed and research and Cooperative Extension efforts would be vigorously supported.

Water is the single most important element for any aquaculture operation. The source, quantity, quality, and temperature of water are all extremely critical. Several Kansas industries which are not involved in aquaculture have surpluses of heated water. Such alliances could enable Kansas to overcome the short growing season restraints imposed by typical extensive pond culture operations. Intensive systems integrated with available water systems will provide more flexibility in siting production units and in addressing environmental, disease control, and management practices.

The aquaculture industry also provides a market for traditional grain crops and animal by-products which are the major constituents of fish feeds. Thus, aquaculture can strengthen Kansas' already excellent reputation in the areas of feed research and milling science. The development of a stronger Kansas aquaculture industry will almost certainly further diversify farm products, supplement farm incomes, and provide a new market for conventional farm outputs. An expanding aquaculture industry can therefore alter traditional animal feed outlets and allow farmers to realize additional sales potential for their farm products.

Culver Fish Farm (CFF) has developed an intensive, vertically integrated aquaculture project, which incorporates the use of warm water discharged from salt manufacturing plants located in the Hutchinson, Kansas, area. The water is used by the salt manufacturing plants for cooling to condense the salt out of the water, a process called hydro-mining. The water never comes in contact with the salt, it is only used for cooling. With over 10,000 gallons per minute of 75-90 degree water, there is enough water to produce over 100 million pounds of fish annually.

The Hutchinson location is unique, not only because of the hydro-mining, but also because it has the potential for efficient, inexpensive year-round production. The secondary use of the water for fish production eliminates waste because the water cannot be used agriculturally or domestically because of the salt content. CFF analyzed water from the Hutchinson area and found it to be perfect for fish production. A test raceway, which was very successful, was set up at one of the salt plants in 1992 and ran until the spring of 1993.

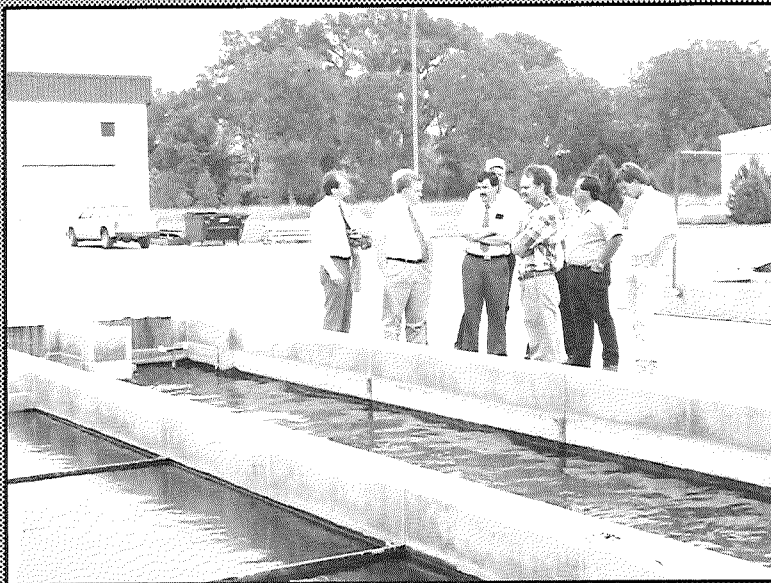
Kansas needs to further tap the natural resources available for economic development. Other agricultural industries reflect that the above principles work efficiently and effectively. With the amount of water available, this project will be able to initially produce over 19 million pounds of fish.

This vertically integrated aquaculture project incorporates the hatchery, growout facility, processing plant, and waste management via a feed mill into one mechanism. The goals within this concept are environmental protection and economic development, which capitalizes on efficiency. Being a year-round production facility impacts Kansas with jobs, value-added grain to be used for feed, and the possibility for the development of at least six sites within Kansas. For operational purposes, for one site alone there would be over 250 jobs created, not counting suppliers of tanks, raceways, buildings, compressors, filtration and monitoring equipment for production facilities; processing, grading, and refrigeration equipment; transport trucks; and nets, pharmaceuticals, chemicals, and feeds made from Kansas produced commodities. The total feed requirements annually for the hatchery and growout facilities would be over 16,000 tons.

*Senate Ag Co  
2-17-94  
Attachment 1*

# KANSAS AQUACULTURE ADVISORY COUNCIL

## ✧ ANNUAL REPORT ✧



*Milford Hatchery*

BRENT CULVER  
REPRESENTATIVE ROBERT KREHBIEL  
DARRELL WEIGEL  
JOE BURNSIDE  
LARRY CHILDS  
KEN BOUGHTON

JERRE SNYDER  
SENATOR DAVID CORBIN  
BOB HARTMANN  
MARC A. JOHNSON  
GEORGE MARTZ  
DR. JAMES R. TRIPLETT

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*attachment 2*  
*2-17-94*

# Annual Report

The Kansas Aquaculture Advisory Council is pleased to submit this first Annual Report. In the short time the Council has been organized, there has been considerable activity involving the aquaculture industry.

Aquaculture continues to offer an attractive alternative for Kansas agriculture. Increased interest in aquaculture nationwide, especially by consumers of fish and fish products, can only strengthen Kansas' position in the long term picture for aquaculture development.

The passage of SB 203 by the 1992 Kansas Legislature was a major step in placing Kansas at the cutting edge of aquaculture development. The legislation designated the Board of Agriculture as the lead agency and also created the Aquaculture Advisory Council.

Members appointed to the Council met December 16, 1992 for purposes of organizing and to review the purposes for which it was created. Brent Culver, McPherson was elected Chairperson of the Council and Jerre Snyder, Farmland Inc. was elected Vice Chairperson.

The Council's principal functions will be to advise the Board and other agencies regarding the industry's problems and needs, recommend research priorities and publish an annual report on the status of the industry.

The Council at their organizational meeting outlined a directory of agendas to be addressed by the Council. The following is an outline of these agendas.

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- ❖ Legislative Objectives: Possible support of bills working their way through the legislature. Cooperation and coordination of bill development by Council before going to the legislature.
- ❖ Research and Development Issues
- ❖ Support the coordination and dissemination of aquaculture information through K-State Extension and Kansas Wildlife and Parks.
- ❖ Market development
- ❖ Fundraising
- ❖ Fish Health and Disease

◆ ◆ ◆ ◆ ◆

The Council will work to develop a specific list of activities that support each of the agenda items.

## **FY 1993 Aquaculture Funding**

The 1992 Legislature provided \$9,350 to the Kansas State Board of Agriculture budget to begin the operation of the Kansas Aquaculture Advisory Council. These funds were to cover the cost of travel and subsistence, rent, printing and professional fees in connection with industry development.

**Aquaculture  
Advisory Council  
July 1, 1993**

## **aquaculture Advisory Council Meetings' Accomplishments**

In three quarterly meetings, December 16, 1992, March 12, 1993, and June 2nd and 3rd, 1993, the Council has addressed the following issues relating to the structure of the Council and priority activities supported by the industry.

- ◆ The Council recommended and supported an amendment to SB 203 that would add the Kansas Secretary of Wildlife and Parks, or his designee to the Council, increasing the membership to twelve. This recommendation along with some cleanup language was passed by the legislature and signed by the Governor.

Another legislative matter supported by the Council was HB 2034, that provided Wildlife and Parks the authority to permit and get exceptions to the restrictions of certain prohibited species. The agency is now in the process of writing regulations concerning this statute.

- ◆ In April, the Council co-sponsored a teleconference on "Investing In Freshwater Aquaculture". The conference was broadcast at four sites, Kansas State University, Pittsburg State University, Pratt Community College and Emporia State University. A member of the Council was at each site to act as host. While attendance was poor for each of the sites, it does demonstrate the ability to communicate and to dispense information to the general public in a very professional manner.

- ◆ The Council expressed concern regarding better communication to industry and other constituency. For sometime Extension and Wildlife and Parks have published a newsletter. It was agreed by the Council, that rather than publish a separate aquaculture newsletter, that we should cooperate in publishing one already in existence. The Kansas Fish Growers membership list has been added to the newsletter list for distribution. The April newsletter, was funded by the Council.

- ◆ The Council has discussed extensively the importance and role of research in the future development of the Kansas aquaculture industry. Both Kansas State University and Pittsburg State University have considerable interest in aquaculture research and have some capabilities in this area.

- ◆ Because of research potential and interest on the part of the Council, the June annual meeting of the Council was held at K-State. Tour of facilities in the Animal Science, Biology, Grain Science and Foods and Nutrition enables the Council to grasp a better understanding of what is currently taking place and the potential that exists for further research initiatives.



*Grain Science Department*

- ◆ As a part of the June Annual Meeting the Council toured the Milford Fish Hatchery and Education Center. This facility is a great asset to Kansas and provides a facility with significant potential for cooperative research with Kansas State University.

In addition, the Education Center provides an impressive public relations and communication vehicle for the fish and wildlife industry.

## ew Cooperative Unit at K-State

- ◆ The Kansas Cooperative Fish and Wildlife Research Unit was established at Kansas State University in 1991. Dr. Philip Gipson was hired as Leader of the Unit during May 1993. A fishery specialist and a wildlife biologist will be hired this fall as Assistant Leaders of the Unit. The major goal of the Unit is to become a source of credible information for natural resource managers, the agricultural community (including aquaculture), and other residents of Kansas.

Dr. Gipson and the two Assistant Leaders will serve as graduate faculty members in the Division of Biology at Kansas State University. They will conduct research, advise graduate students, and teach graduate courses in fish and wildlife management.

The Unit staff and graduate students will conduct research on a variety of issues of interest to aquaculture. Research topics have been suggested related to fish production, nutrition, and disease control.

## 1993 Fish Growers Directory available

- ◆ To meet the high demand for fish supplies and equipment and to promote aquaculture products and services in Kansas, the Kansas State Board of Agriculture publishes a fish producers directory. The directory is compiled to provide the general public and the industry with information on what types of fish are produced in the state, where they are produced and who makes them available.

Directory listings include: fish producers; processors of fresh fish; wholesale bait dealers; privately owned fee fishing ponds; feed and aquaculture equipment suppliers; and resource personnel.

The directory is to serve as a guide to both buyers and sellers of fish products. The published material is based on information supplied to the division by participating producers. Copies are available from the Marketing Division, Kansas State Board of Agriculture, 901 Kansas Ave, Topeka, KS 66612 or call (913) 296-1165.

## The USDA Regional Aquaculture Centers

The Kansas Aquaculture Advisory Council recognizes the importance of working in close cooperation with the North Central Regional Aquaculture Center. The Center provides a focus for cooperative research within the region and also for effective distribution of results through Extension.

**Background:** In 1987-88, the U.S. Congress established five Regional Aquaculture Centers, administered by USDA in association with colleges and universities, Federal and state agencies and facilities, nonprofit research institutions, and private corporations.

**Mission:** To support aquaculture research, development, demonstration, and extension education to enhance viable and profitable U.S. aquaculture production which will benefit consumers, producers, service industries, and the American economy.

### Key Features:

- Projects are driven by industry needs and are designed to directly impact commercial development in all states and U.S. territories.
- The Centers are organized to take advantage of the best aquaculture science, education skills, and facilities in the U.S.
- Projects are peer-reviewed for technical and industrial merit.
- No indirect or construction costs are allowed.
- Programs ensure effective coordination and a region-wide team approach to projects jointly conducted by research, extension, government, and industry personnel. Inter-agency collaboration and shared funding is strongly encouraged.



*A Recycled and Recyclable Paper*





Testimony of  
John R. Best, Chairman  
Of the  
Kansas Water Authority  
To the  
Senate Agriculture Committee

Re: S.B. 689, Concerning the Water Protection Fee and Fish Farming

February 17, 1994

Mr. Chairman and members of the committee:

I am Bob Best Chairman of the Kansas Water Authority here to testify on Senate Bill 689. The 23-members of the Kansas Water Authority voted last Thursday, February 10, to **oppose** this bill. The State Water Plan Fund was created in 1989 and is used to implement the *Kansas Water Plan*. Each year, the Kansas Water Authority makes recommendations to the Governor and Legislature on the expenditures from the Fund for the next fiscal year. I am happy to say that the Governor's recommendations for Fiscal Year 1995 agreed with 90 percent of the Authority's recommendations. We hope the legislature considers our advice as they move through the appropriation process.

The Authority has been concerned over the past few years by a developing trend of replacing State General Funds with State Water Plan Funds. While the Authority recognizes its role to the Governor and Legislature in such matters, it remains a concern to us as we attempt to implement the State Water Plan through the programs of the state agencies. Our concerns have taken several forms. First, switching traditional State General Funds with State Water Plan Funds to fund existing programs. Second, funding items which are not within the *Kansas Water Plan* with State Water Plan Funds. And third, reducing the transfers of money

from the State General Fund and the Economic Development Initiative Fund into the State Water Plan Fund.

Senate Bill 689 represents a fourth concern: a reduction in revenues, to the State Water Plan Fund, that are contributed by water users. This bill sets a potentially dangerous precedent of extending exemptions for paying fees which are deposited into the Fund. Regardless of the actual amount of revenue this bill would impact, the Authority believes that this bill sends a signal to other water users to initiate the acquisition of an exemption from water use based fees which represent a significant portion of the State Water Plan Fund.

The revenue distribution of the State Water Plan Fund is a fragile aggregation of state moneys and user fees. Many users have resented paying into the Fund without getting direct benefits back to them. The Kansas Water Authority believes it is the responsibility of all users of water, including the fish farming industry, to ensure proper water management and protection in the state. The philosophy of exemptions to participating in this responsibility should not be condoned and creates inequities.

Recognizing the tremendous pressure on the Legislature to squeeze the most out of limited financial resources, particularly the State General Fund, the Kansas Water Authority accepts those decisions impacting the State Water Plan Fund. However, to erode away the fee structures contributing to the Fund threatens to unravel the carefully crafted mechanism of funding state initiatives to solve its water problems. This bill sets a bad precedent in ignoring the responsibility of the primary user of the water to assist the state in protecting its water resources. It threatens to encourage a wave of exemptions which will devastate the State Water Plan Fund.

The demands on the State Water Plan Fund grow with each year. This year, state agencies asked for \$30 million in State Water Plan Fund expenditures. The Authority reduced those requests to \$17 million in recommendations. The Fund is not growing with the times, at best, its annual revenues are stable. Senate Bill 689 begins to erode the Fund. The Kansas Water Authority opposes this bill and asks the committee not to pass it.

Thank you for your time.

**Testimony of Stephen A. Hurst, Director  
Of the Kansas Water Office  
To the  
Senate Agriculture Committee**

**Re: S. B. 689, Concerning the Water Protection Fee and Fish Farming**

**February 17, 1994**

Mr. Chairman and members of the committee:

I am Stephen A. Hurst, Director of the Kansas Water Office, the state's water resource planning agency, here to testify on Senate Bill 689. Our agency opposes this bill. The State Water Plan Fund was created in 1989 and is set out in K.S.A. 82a-950, *et seq.* Revenues to the fund include transfers from the State General Fund (\$6 million), the Economic Development Incentive Fund (EDIF) (\$2 million), and fees imposed on municipalities, industries, stockwater, fertilizer sales and pesticide registrations. Of the \$15-16 million dollars contained within this Fund annually, industrial users, who pay three cents per 1000 gallons of water used in a year, contributed \$884,000 in Fiscal Year 1993 and are projected to contribute \$1.3 million in 1994 and 1995.

Commercial fish farms were exempted in the original bill creating the water protection fee and the State Water Plan Fund. If they had not been exempt, their contribution in 1992 would have been approximately \$42,000. The bill before you would extend that exemption to situations where fish farming, on a large scale, as a secondary use of industrial water would exempt the primary industrial user from paying the water protection fee.

The logistics of achieving the requisite production of 10 million fish to qualify for the bill's exemption appears difficult to document and vague in definition. Our agency knows of only one situation where this type of joint operation is in existence, but at probably a smaller

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Attachment 4  
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scale than described in the bill. We are also aware of one potential joint operation in south central Kansas which might benefit from this bill. Our projected fiscal impact of this bill would be a \$60,000-70,000 reduction in annual revenue to the State Water Plan Fund.

Aside from the reduced revenue to the fund, we oppose this bill because it sets a bad precedent of special exemptions that other water user groups could be tempted to follow. The fee structure of the State Water Plan Fund has always been a fragile coalition of contributors, each one feeling that they have paid a disproportionate amount into the Fund. We see this bill as opening the floodgates for various users to request special exemptions on their behalf.

The overriding concern of our agency is the trend of erosion we see in the available funding within the State Water Plan Fund. This fund, which was developed to implement the policies, projects, and programs of the *Kansas Water Plan* has had increasing demand placed on it over the last four years. There has been a continuing pressure to shift traditional State General Fund programs over to the State Water Plan Fund. In the last three years, the statutory transfers of State General Fund and EDIF money to the State Water Plan Fund have been reduced by the Legislature. And now, with this bill, the fee based contributions to the fund are starting to slip away. These actions continue to threaten to reduce the ability of the state agencies to implement the *Kansas Water Plan*.

We believe the water protection fee and the State Water Plan Fund were established to equitably distribute the responsibility of funding water management in Kansas among the population as a whole and among specific water users. The emphasis of the water use category for the purpose of fee contribution is on the primary user of that water. This bill

flies in the face of that philosophy and chooses to ignore the responsibilities and benefits of the primary user of the water on the basis of a secondary use which currently enjoys exempt status.

This bill sets a bad precedent, it increases the erosion of the State Water Plan Fund and provides favored status to a narrow group of water users. While we applaud efforts to reuse water and increase the economic efficiency of water use, the reasons for such actions should not be to get out of paying a fee contribution. The Kansas Water Office asks the committee to not act favorably on this bill. Thank you for your consideration of our concerns.

I would be pleased to stand for questions.



STATE OF KANSAS  
Animal Health Department

TO: Senate Agriculture Committee  
FROM: Samuel L Graham, DVM  
Acting Livestock Commissioner  
RE: SB 413  
DATE: February 14, 1994

The following action was taken on SB 413 at the regular Companion Animal Advisory Board meeting held February 11, 1994. It was unanimously voted to support the bill as amended except for the following changes.

- Page 2 Line 28 Change "Dog warden" to "Animal Control Officer"
- Page 3 Line 34 Add "Animal Retailer A and Animal Retailer B does not include any premises where only fish are sold, or offered or maintained for sale. This does not prohibit inspection of these premises to verify that only fish are being sold."
- Page 4 Line 6 (2) Strike "any other animals"
- Page 4 Line 36 Change "10" to "20"
- Page 5 Line 33 Change "A dog warden" to "An Animal Control Officer"
- Page 5 Line 37 Change "a dog warden" to "an Animal Control Officer"
- Page 5 Line 38 Change "A dog warden" to "An Animal Control Officer"
- Page 5 Line 39 Change "warden's" to "officer's"

SLG:es  
cc: Companion Animal Advisory Board  
  
legis/SB413

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attachment 5*

(ii) The USDA license or registration number of the person if he or she is licensed or registered under the Act;

(iii) The vehicle license number and state, and the driver's license number and state of the person, if he or she is not licensed or registered under the Act;

(iv) The name and address of the person to whom a dog or cat was sold or given and that person's license or registration number if he or she is licensed or registered under the Act;

(v) The date a dog or cat was acquired or disposed of, including by euthanasia;

(vi) The official USDA tag number or tattoo assigned to a dog or cat under §§ 2.50 and 2.54;

(vii) A description of each dog or cat which shall include:

(A) The species and breed or type;

(B) The sex;

(C) The date of birth or approximate age; and

(D) The color and any distinctive markings;

(viii) The method of transportation including the name of the initial carrier or intermediate handler or, if a privately owned vehicle is used to transport a dog or cat, the name of the owner of the privately owned vehicle;

(ix) The date and method of disposition of a dog or cat, e.g., sale, death, euthanasia, or donation.

§ 2.75 Records: Dealers and exhibitors.

(a)(1) Each dealer, other than operators of auction sales and brokers to whom animals are consigned, and each exhibitor shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each dog or cat purchased or otherwise acquired, owned, held, or otherwise in his or her possession or under his or her control, or which is transported, euthanized, sold, or otherwise disposed of by that dealer or exhibitor. The records shall include any offspring born of any animal while in his or her possession or under his or her control.

(i) The name and address of the person from whom a dog or cat was purchased or otherwise acquired whether or not the person is required to be licensed or registered under the Act;

(2) Record of Dogs and Cats on Hand (VS Form 18-5) and Record of Disposition of Dogs and Cats (VS Form 18-6) are forms which may be used by dealers and exhibitors to make, keep, and maintain the information required by paragraph (a)(1) of this section.

(3) The USDA Interstate and International Certificate of Health Examination for Small Animals (VS Form 18-1) may be used by dealers and exhibitors to make, keep, and maintain the information required by paragraph (a)(1) of this section and § 2.79.

(4) One copy of the record containing the information required by paragraph (a)(1) of this section shall accompany each shipment of any dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (a)(1) of this

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*2-17-94*

*Attachment 6*

*6-1*



section shall accompany each shipment of any dog or cat sold or otherwise disposed of by a dealer or exhibitor: *Provided, however,* That information which indicates the source and date of acquisition of a dog or cat need not appear on the copy of the record accompanying the shipment. One copy of the record containing the information required by paragraph (a)(1) of this section shall be retained by the dealer or exhibitor.

(b)(1) Every dealer other than operators of auction sales and brokers to whom animals are consigned, and exhibitor shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning animals other than dogs and cats, purchased or otherwise acquired, owned, held, leased, or otherwise in his or her possession or under his or her control, or which is transported, sold, euthanized, or otherwise disposed of by that dealer or exhibitor. The records shall include any offspring born of any animal while in his or her possession or under his or her control.

(i) The name and address of the person from whom the animals were purchased or otherwise acquired;

(ii) The USDA license or registration number of the person if he or she is licensed or registered under the Act;

(iii) The vehicle license number and state, and the driver's license number and state of the person, if he or she is not licensed or registered under the Act;

(iv) The name and address of the person to whom an animal was sold or given;

(v) The date of purchase, acquisition, sale, or disposal of the animal(s);

(vi) The species of the animal(s); and

(vii) The number of animals in the shipment.

(2) Record of Animals on Hand (other than dogs and cats) (VS Form 18-19) and Record of Acquisition, Disposition, or Transport of Animals (other than dogs and cats) (VS Form 18-20) are forms which may be used by dealers and exhibitors to keep and maintain the information required by paragraph (b)(1) of this section concerning animals other than dogs and cats except as provided in § 2.79.

(3) One copy of the record containing the information required by paragraph (b)(1) of this section shall accompany each shipment of any animal(s) other than a dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (b)(1) of this section shall accompany each shipment of any animal other than a dog or cat sold or otherwise disposed of by a dealer or exhibitor; *Provided, however,* That information which indicates the source and date of acquisition of any animal other than a dog or cat need not appear on the copy of the record accompanying the shipment. The dealer or exhibitor shall retain one copy of the record containing the information required by paragraph (b)(1) of this section.

#### § 2.76 Records: Operators of auction sales and brokers.

(a) Every operator of an auction sale or broker shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each animal consigned for auction or sold, whether or not a fee or commission is charged:

(1) The name and address of the person who owned or consigned the animal(s) for sale;

(2) The name and address of the buyer or consignee who received the animal;

(3) The USDA license or registration number of the person(s) selling, consigning, buying, or receiving the animals if he or she is licensed or registered under the Act;

(4) The vehicle license number and state, and the driver's license number and state of the person, if he or she is not licensed or registered under the Act;

(5) The date of the consignment;

(6) The official USDA tag number or tattoo assigned to the animal under §§ 2.50 and 2.54;

(7) A description of the animal which shall include:

(i) The species and breed or type of animal;

(ii) The sex of the animal; and

(iii) The date of birth or approximate age; and

(iv) The color and any distinctive markings;

(8) The auction sales number or records number assigned to the animal.

(b) One copy of the record containing the information required by paragraph (a) of this section shall be given to the consignor of each animal, one copy of the record shall be given to the purchaser of each animal: *Provided, however,* That information which indicates the source and date of consignment of any animal need not appear on the copy of the record given the purchaser of any animal. One copy of the record containing the information required by paragraph (a) of this section shall be retained by the operator of such auction sale, or broker, for each animal sold by the auction sale or broker.

**§ 2.77 Records: Carriers and intermediate handlers.**

(a) In connection with all live animals accepted for shipment on a C.O.D. basis or other arrangement or practice under which the cost of an animal or the transportation of an animal is to be paid and collected upon delivery of the animal to the consignee, the accepting carrier or intermediate handler, if any, shall keep and maintain a copy of the consignor's written guarantee for the payment of transportation charged for any animal not claimed as provided in § 2.80, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for out-of-pocket expenses incurred for the care, feeding, and storage of the animal. The carrier or intermediate handler at destination shall also keep and maintain a copy of the shipping document containing the time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee, as provided in § 2.80.

(b) In connection with all live dogs, cats, or nonhuman primates delivered for transportation, in commerce, to any carrier or intermediate handler, by any dealer, research facility, ex-

hibitor, operator of an auction sale, broker, or department, agency or instrumentality of the United States or of any state or local government, the accepting carrier or intermediate handler shall keep and maintain a copy of the health certification completed as required by § 2.79, tendered with each live dog, cat, or nonhuman primate.

**§ 2.78 Health certification and identification.**

(a) No dealer, exhibitor, operator of an auction sale, broker, or department, agency, or instrumentality of the United States or of any State or local government shall deliver to any intermediate handler or carrier for transportation, in commerce, or shall transport in commerce any dog, cat, or nonhuman primate unless the dog, cat, or nonhuman primate is accompanied by a health certificate executed and issued by a licensed veterinarian. The health certificate shall state that:

(1) The licensed veterinarian inspected the dog, cat, or nonhuman primate on a specified date which shall not be more than 10 days prior to the delivery of the dog, cat, or nonhuman primate for transportation; and

(2) when so inspected, the dog, cat, or nonhuman primate appeared to the licensed veterinarian to be free of any infectious disease or physical abnormality which would endanger the animal(s) or other animals or endanger public health.

(b) The Secretary may provide exceptions to the health certification requirement on an individual basis for animals shipped to a research facility for purposes of research, testing, or experimentation when the research facility requires animals not eligible for certification. Requests should be addressed to the Administrator, APHIS, USDA, Room 206, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

(c) No intermediate handler or carrier to whom any live dog, cat, or nonhuman primate is delivered for transportation by any dealer, research facility, exhibitor, broker, operator of an auction sale, or department, agency, or instrumentality of the United States or any State or local government shall

receive a live dog, cat, or nonhuman primate for transportation, in commerce, unless and until it is accompanied by a health certificate issued by a licensed veterinarian in accordance with paragraph (a) of this section, or an exemption issued by the Secretary in accordance with paragraph (b) of this section.

(d) The U.S. Interstate and International Certificate of Health Examination for Small Animals (VS Form 18-1) may be used for health certification by a licensed veterinarian as required by this section.

#### § 2.79 C.O.D. shipments.

(a) No carrier or intermediate handler shall accept any animal for transportation, in commerce, upon any C.O.D. or other basis where any money is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of all transportation, including any return transportation, if the shipment is unclaimed or the consignee cannot be notified in accordance with paragraphs (b) and (c) of this section, including reimbursing the carrier or intermediate handler for all out-of-pocket expenses incurred for the care, feeding, and storage or housing of the animal.

(b) Any carrier or intermediate handler receiving an animal at a destination on a C.O.D. or other basis any money is to be paid and collected upon delivery of the animal to the consignee shall attempt to notify the consignee at least once every 6 hours for a period of 24 hours after arrival of the animal at the animal holding area of the terminal cargo facility. The carrier or intermediate handler shall record the time, date, and method of each attempted notification and the final notification to the consignee, and the name of the person notifying the consignee, on the shipping document and on the copy of the shipping document accompanying the C.O.D. shipment. If the consignee cannot be notified of the C.O.D. shipment within 24 hours after its arrival, the carrier or intermediate handler shall return the animal to the consignor, or to whomever the consignor has designated, on the next practical available transportation, in

accordance with the written agreement required in paragraph (a) of this section and shall notify the consignor. Any carrier or intermediate handler which has notified a consignee of the arrival of a C.O.D. or other shipment of an animal, where any money is to be paid and collected upon delivery of the animal to the consignee, which is not claimed by the consignee within 48 hours from the time of notification, shall return the animal to the consignor, or to whomever the consignor has designated, on the next practical available transportation, in accordance with the written agreement required in paragraph (a) of this section and shall notify the consignor.

(c) It is the responsibility of any carrier or intermediate handler to hold, feed, and care for any animal accepted for transportation, in commerce, under a C.O.D. or other arrangement where any money is to be paid and collected upon delivery of the animal until the consignee accepts shipment at destination or until returned to the consignor or his or her designee should the consignee fail to accept delivery of the animal or if the consignee could not be notified as prescribed in paragraph (b) of this section.

(d) Nothing in this section shall be construed as prohibiting any carrier or intermediate handler from requiring any guarantee in addition to that required in paragraph (a) of this section for the payment of the cost of any transportation or out-of-pocket or other incidental expenses incurred in the transportation of any animal.

#### § 2.80 Records, disposition.

(a) No dealer, exhibitor, broker, operator of an auction sale, carrier, or intermediate handler shall, for a period of 1 year, destroy or dispose of, without the consent in writing of the Administrator, any books, records, documents, or other papers required to be kept and maintained under this part.

(b) Unless otherwise specified, the records required to be kept and maintained under this part shall be held for 1 year after an animal is euthanized or disposed of and for any period in excess of one year as necessary to comply with any applicable Federal,

absorbent bedding, must be sanitized by removing the contaminated material as necessary to prevent odors, diseases, pests, insects, and vermin infestation.

(c) *Housekeeping for premises.* Premises where housing facilities are located, including buildings and surrounding grounds, must be kept clean and in good repair to protect the animals from injury, to facilitate the husbandry practices required in this subpart, and to reduce or eliminate breeding and living areas for rodents and other pests and vermin. Premises must be kept free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and pest control, and to protect the health and well-being of the animals.

(d) *Pest control.* An effective program for the control of insects, external parasites affecting dogs and cats, and birds and mammals that are pests, must be established and maintained so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas.

#### § 3.12 Employees.

Each person subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3) maintaining dogs and cats must have enough employees to carry out the level of husbandry practices and care required in this subpart. The employees who provide for husbandry and care, or handle animals, must be supervised by an individual who has the knowledge, background, and experience in proper husbandry and care of dogs and cats to supervise others. The employer must be certain that the supervisor and other employees can perform to these standards.

#### TRANSPORTATION STANDARDS

##### § 3.13 Consignments to carriers and intermediate handlers.

(a) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce more than 4 hours before the scheduled departure time of the primary conveyance on which the animal is to be transported. However, a carrier or intermediate

handler may agree with anyone consigning a dog or cat to extend this time by up to 2 hours.

(b) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce unless they are provided with the name, address, and telephone number of the consignee.

(c) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce unless the consignor certifies in writing to the carrier or intermediate handler that the dog or cat was offered food and water during the 4 hours before delivery to the carrier or intermediate handler. The certification must be securely attached to the outside of the primary enclosure in a manner that makes it easily noticed and read. Instructions for no food or water are not acceptable unless directed by the attending veterinarian. Instructions must be in compliance with § 3.16 of this subpart. The certification must include the following information for each dog and cat:

(1) The consignor's name and address;

(2) The tag number or tattoo assigned to each dog or cat under §§ 2.38 and 2.50 of this chapter;

(3) The time and date the animal was last fed and watered and the specific instructions for the next feeding(s) and watering(s) for a 24-hour period; and

(4) The consignor's signature and the date and time the certification was signed.

(d) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce in a primary enclosure unless the primary enclosure meets the requirements of § 3.14 of this subpart. A carrier or intermediate handler must not accept a dog or cat for transport if the primary enclosure is obviously defective or damaged and cannot reasonably be expected to safely and comfortably contain the dog or cat without causing suffering or injury.

(e) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce unless their animal holding area meets the minimum temperature requirements provided in §§ 3.18 and 3.19 of this sub-

part, or unless the consignor provides them with a certificate signed by a veterinarian and dated no more than 10 days before delivery of the animal to the carrier or intermediate handler for transport in commerce, certifying that the animal is acclimated to temperatures lower than those required in §§ 3.18 and 3.19 of this subpart. Even if the carrier or intermediate handler receives this certification, the temperatures the dog or cat is exposed to while in a terminal facility must not be lower than 45 °F (2.2 °C) for more than 4 consecutive hours when dogs or cats are present, as set forth in § 3.18, nor lower than 45 °F (2.2 °C) for more than 45 minutes, as set forth in § 3.19, when moving dogs or cats to or from terminal facilities or primary conveyances. A copy of the certification must accompany the dog or cat to its destination and must include the following information:

(1) The consignor's name and address;

(2) The tag number or tattoo assigned to each dog or cat under §§ 2.38 and 2.50 of this chapter;

(3) A statement by a veterinarian, dated no more than 10 days before delivery, that to the best of his or her knowledge, each of the dogs or cats contained in the primary enclosure is acclimated to air temperatures lower than 50 °F (10 °C); but not lower than a minimum temperature, specified on a certificate, that the attending veterinarian has determined is based on generally accepted temperature standards for the age, condition, and breed of the dog or cat; and

(4) The signature of the veterinarian and the date the certification was signed.

(f) When a primary enclosure containing a dog or cat has arrived at the animal holding area at a terminal facility after transport, the carrier or intermediate handler must attempt to notify the consignee upon arrival and at least once in every 6-hour period thereafter. The time, date, and method of all attempted notifications and the actual notification of the consignee, and the name of the person who notifies or attempts to notify the consignee must be written either on the carrier's or intermediate handler's

copy of the shipping document or on the copy that accompanies the primary enclosure. If the consignee cannot be notified within 24 hours after the dog or cat has arrived at the terminal facility, the carrier or intermediate handler must return the animal to the consignor or to whomever the consignor designates. If the consignee is notified of the arrival and does not accept delivery of the dog or cat within 48 hours after arrival of the dog or cat, the carrier or intermediate handler must return the animal to the consignor or to whomever the consignor designates. The carrier or intermediate handler must continue to provide proper care, feeding, and housing to the dog or cat, and maintain the dog or cat in accordance with generally accepted professional and husbandry practices until the consignee accepts delivery of the dog or cat or until it is returned to the consignor or to whomever the consignor designates. The carrier or intermediate handler must obligate the consignor to reimburse the carrier or intermediate handler for the cost of return transportation and care.

(Approved by the Office of Management and Budget under control number 0579-0093)

#### § 3.14 Primary enclosures used to transport live dogs and cats.

Any person subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3) must not transport or deliver for transport in commerce a dog or cat unless the following requirements are met:

(a) *Construction of primary enclosures.* The dog or cat must be contained in a primary enclosure such as a compartment, transport cage, carton, or crate. Primary enclosures used to transport dogs and cats must be constructed so that:

(1) The primary enclosure is strong enough to contain the dogs and cats securely and comfortably and to withstand the normal rigors of transportation;

(2) The interior of the primary enclosure has no sharp points or edges and no protrusions that could injure the animal contained in it;

(3) The dog or cat is at all times securely contained within the enclosure and cannot put any part of its body outside the enclosure in a way that could result in injury to itself, to handlers, or to persons or animals nearby;

(4) The dog or cat can be easily and quickly removed from the enclosure in an emergency;

(5) Unless the enclosure is permanently affixed to the conveyance, adequate devices such as handles or handholds are provided on its exterior, and enable the enclosure to be lifted without tilting it, and ensure that anyone handling the enclosure will not come into physical contact with the animal contained inside;

(6) Unless the enclosure is permanently affixed to the conveyance, it is clearly marked on top and on one or more sides with the words "Live Animals," in letters at least 1 inch (2.5 cm.) high, and with arrows or other markings to indicate the correct upright position of the primary enclosure;

(7) Any material, treatment, paint, preservative, or other chemical used in or on the enclosure is nontoxic to the animal and not harmful to the health or well-being of the animal;

(8) Proper ventilation is provided to the animal in accordance with paragraph (c) of this section; and

(9) The primary enclosure has a solid, leak-proof bottom or a removable, leak-proof collection tray under a slatted or wire mesh floor that prevents seepage of waste products, such as excreta and body fluids, outside of the enclosure. If a slatted or wire mesh floor is used in the enclosure, it must be designed and constructed so that the animal cannot put any part of its body between the slats or through the holes in the mesh. Unless the dogs and cats are on raised slatted floors or raised floors made of wire mesh, the primary enclosure must contain enough previously unused litter to absorb and cover excreta. The litter must be of a suitably absorbent material that is safe and nontoxic to the dogs and cats.

(b) *Cleaning of primary enclosures.* A primary enclosure used to hold or transport dogs or cats in commerce must be cleaned and sanitized before

each use in accordance with the methods provided in § 3.11(b)(3) of this subpart. If the dogs or cats are in transit for more than 24 hours, the enclosures must be cleaned and any litter replaced, or other methods, such as moving the animals to another enclosure, must be utilized to prevent the soiling of the dogs or cats by body wastes. If it becomes necessary to remove the dog or cat from the enclosure in order to clean, or to move the dog or cat to another enclosure, this procedure must be completed in a way that safeguards the dog or cat from injury and prevents escape.

(c) *Ventilation.* (1) Unless the primary enclosure is permanently affixed to the conveyance, there must be:

(i) Ventilation openings located on two opposing walls of the primary enclosure and the openings must be at least 16 percent of the surface area of each such wall, and the total combined surface area of the ventilation openings must be at least 14 percent of the total combined surface area of all the walls of the primary enclosure; or

(ii) Ventilation openings on three walls of the primary enclosure, and the openings on each of the two opposing walls must be at least 8 percent of the total surface area of the two walls, and the ventilation openings on the third wall of the primary enclosure must be at least 50 percent of the total surface area of that wall, and the total combined surface area of the ventilation openings must be at least 14 percent of the total combined surface area of all the walls of the primary enclosure; or

(iii) Ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each of the four walls must be at least 8 percent of the total surface area of each such wall, and the total combined surface area of the openings must be at least 14 percent of total combined surface area of all the walls of the primary enclosure; and

(iv) At least one-third of the ventilation area must be located on the upper half of the primary enclosure.

(2) Unless the primary enclosure is permanently affixed to the conveyance, projecting rims or similar devices must be located on the exterior of

## § 3.14

each enclosure wall having a ventilation opening, in order to prevent obstruction of the openings. The projecting rims or similar devices must be large enough to provide a minimum air circulation space of 0.75 in. (1.9 cm) between the primary enclosure and anything the enclosure is placed against.

(3) If a primary enclosure is permanently affixed to the primary conveyance so that there is only a front ventilation opening for the enclosure, the primary enclosure must be affixed to the primary conveyance in such a way that the front ventilation opening cannot be blocked, and the front ventilation opening must open directly to an unobstructed aisle or passageway inside the conveyance. The ventilation opening must be at least 90 percent of the total area of the front wall of the enclosure, and must be covered with bars, wire mesh, or smooth expanded metal having air spaces.

(d) *Compatibility.* (1) Live dogs or cats transported in the same primary enclosure must be of the same species and be maintained in compatible groups, except that dogs and cats that are private pets, are of comparable size, and are compatible, may be transported in the same primary enclosure.

(2) Puppies or kittens 4 months of age or less may not be transported in the same primary enclosure with adult dogs or cats other than their dams.

(3) Dogs or cats that are overly aggressive or exhibit a vicious disposition must be transported individually in a primary enclosure.

(4) Any female dog or cat in heat (estrus) may not be transported in the same primary enclosure with any male dog or cat.

(e) *Space and placement.* (1) Primary enclosures used to transport live dogs and cats must be large enough to ensure that each animal contained in the primary enclosure has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position.

(2) Primary enclosures used to transport dogs and cats must be positioned in the primary conveyance so as to provide protection from the elements.

(f) *Transportation by air.* (1) No more than one live dog or cat, 6

months of age or older, may be transported in the same primary enclosure when shipped via air carrier.

(2) No more than one live puppy, 8 weeks to 6 months of age, and weighing over 20 lbs (9 kg), may be transported in a primary enclosure when shipped via air carrier.

(3) No more than two live puppies or kittens, 8 weeks to 6 months of age, that are of comparable size, and weighing 20 lbs (9 kg) or less each, may be transported in the same primary enclosure when shipped via air carrier.

(4) Weaned live puppies or kittens less than 8 weeks of age and of comparable size, or puppies or kittens that are less than 8 weeks of age that are littermates and are accompanied by their dam, may be transported in the same primary enclosure when shipped to research facilities, including Federal research facilities.

(g) *Transportation by surface vehicle or privately owned aircraft.* (1) No more than four live dogs or cats, 8 weeks of age or older, that are of comparable size, may be transported in the same primary enclosure when shipped by surface vehicle (including ground and water transportation) or privately owned aircraft, and only if all other requirements of this section are met.

(2) Weaned live puppies or kittens less than 8 weeks of age and of comparable size, or puppies or kittens that are less than 8 weeks of age that are littermates and are accompanied by their dam, may be transported in the same primary enclosure when shipped to research facilities, including Federal research facilities, and only if all other requirements in this section are met.

(h) *Accompanying documents and records.* Shipping documents that must accompany shipments of dogs and cats may be held by the operator of the primary conveyance, for surface transportation only, or must be securely attached in a readily accessible manner to the outside of any primary enclosure that is part of the shipment, in a manner that allows them to be detached for examination and securely reattached, such as in a pocket or sleeve. Instructions for administration of drugs, medication, and other special

care must be attached to each primary enclosure in a manner that makes them easy to notice, to detach for examination, and to reattach securely. Food and water instructions must be attached in accordance with § 3.13(c).

(Approved by the Office of Management and Budget under control number 0579-0093)

**§ 3.15 Primary conveyances (motor vehicle, rail, air, and marine).**

(a) The animal cargo space of primary conveyances used to transport dogs and cats must be designed, constructed, and maintained in a manner that at all times protects the health and well-being of the animals transported in them, ensures their safety and comfort, and prevents the entry of engine exhaust from the primary conveyance during transportation.

(b) The animal cargo space must have a supply of air that is sufficient for the normal breathing of all the animals being transported in it.

(c) Each primary enclosure containing dogs or cats must be positioned in the animal cargo space in a manner that provides protection from the elements and that allows each dog or cat enough air for normal breathing.

(d) During air transportation, dogs and cats must be held in cargo areas that are heated or cooled as necessary to maintain an ambient temperature that ensures the health and well-being of the dogs or cats. The cargo areas must be pressurized when the primary conveyance used for air transportation is not on the ground, unless flying under 8,000 ft. Dogs and cats must have adequate air for breathing at all times when being transported.

(e) During surface transportation, auxiliary ventilation, such as fans, blowers or air conditioning, must be used in any animal cargo space containing live dogs or cats when the ambient temperature within the animal cargo space reaches 85 °F (29.5 °C). Moreover, the ambient temperature may not exceed 85 °F (29.5 °C) for a period of more than 4 hours; nor fall below 45 °F (7.2 °C) for a period of more than 4 hours.

(f) Primary enclosures must be positioned in the primary conveyance in a manner that allows the dogs and cats

to be quickly and easily removed from the primary conveyance in an emergency.

(g) The interior of the animal cargo space must be kept clean.

(h) Live dogs and cats may not be transported with any material, substance (e.g., dry ice) or device in a manner that may reasonably be expected to harm the dogs and cats or cause inhumane conditions.

**§ 3.16 Food and water requirements.**

(a) Each dog and cat that is 16 weeks of age or more must be offered food at least once every 24 hours. Puppies and kittens less than 16 weeks of age must be offered food at least once every 12 hours. Each dog and cat must be offered potable water at least once every 12 hours. These time periods apply to dealers, exhibitors, research facilities, including Federal research facilities, who transport dogs and cats in their own primary conveyance, starting from the time the dog or cat was last offered food and potable water before transportation was begun. These time periods apply to carriers and intermediate handlers starting from the date and time stated on the certificate provided under § 3.13(c) of this subpart. Each dog and cat must be offered food and potable water within 4 hours before being transported in commerce. Consignors who are subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3) must certify that each dog and cat was offered food and potable water within the 4 hours preceding delivery of the dog or cat to a carrier or intermediate handler for transportation in commerce, and must certify the date and time the food and potable water was offered, in accordance with § 3.13(c) of this subpart.

(b) Any dealer, research facility, including a Federal research facility, or exhibitor offering any dog or cat to a carrier or intermediate handler for transportation in commerce must securely attach to the outside of the primary enclosure used for transporting the dog or cat, written instructions for the in-transit food and water requirements for a 24-hour period for the dogs and cats contained in the enclosure. The instructions must be at-



tached in a manner that makes them easily noticed and read.

(c) Food and water receptacles must be securely attached inside the primary enclosure and placed so that the receptacles can be filled from outside the enclosure without opening the door. Food and water containers must be designed, constructed, and installed so that a dog or cat cannot leave the primary enclosure through the food or water opening.

(Approved by the Office of Management and Budget under control number 0579-0093)

§ 3.17 Care in transit.

(a) *Surface transportation (ground and water).* Any person subject to the Animal Welfare regulations transporting dogs or cats in commerce must ensure that the operator of the conveyance, or a person accompanying the operator, observes the dogs or cats as often as circumstances allow, but not less than once every 4 hours, to make sure they have sufficient air for normal breathing, that the ambient temperature is within the limits provided in § 3.15(e), and that all applicable standards of this subpart are being complied with. The regulated person must ensure that the operator or person accompanying the operator determines whether any of the dogs or cats are in obvious physical distress and obtains any veterinary care needed for the dogs or cats at the closest available veterinary facility.

(b) *Air transportation.* During air transportation of dogs or cats, it is the responsibility of the carrier to observe the dogs or cats as frequently as circumstances allow, but not less than once every 4 hours if the animal cargo area is accessible during flight. If the animal cargo area is not accessible during flight, the carrier must observe the dogs or cats whenever they are loaded and unloaded and whenever the animal cargo space is otherwise accessible to make sure they have sufficient air for normal breathing, that the animal cargo area meets the heating and cooling requirements of § 3.15(d), and that all other applicable standards of this subpart are being complied with. The carrier must determine whether any of the dogs or cats

are in obvious physical distress, and arrange for any needed veterinary care as soon as possible.

(c) If a dog or cat is obviously ill, injured, or in physical distress, it must not be transported in commerce, except to receive veterinary care for the condition.

(d) Except during the cleaning of primary enclosures, as required in § 3.14(b) of this subpart, during transportation in commerce a dog or cat must not be removed from its primary enclosure, unless it is placed in another primary enclosure or facility that meets the requirements of § 3.6 or § 3.14 of this subpart.

(e) The transportation regulations contained in this subpart must be complied with until a consignee takes physical delivery of the dog or cat if the animal is consigned for transportation, or until the animal is returned to the consignor.

2-17-94 10:00AM  
Senate Agriculture Committee  
Room 423 South

RE: SENATE BILL #413

I'm Sharon Munk, owner and operator of BJ'S & GUYS/TERRY KENNELS, one of the largest professional breeding kennels in the state of KANSAS. I also distribute puppies for other KANSAS breeders. I am a member of APPDI (American Professional Pet Distributors Inc.), PIJAC (Pet Industry Joint Advisory Council), KACA (Kansas Animal Control Association), I attend regular meetings of the Federation of KANSAS Humane Societies, and I am a member of the KANSAS Companion Animal Advisory Board.

Senate Bill #413, is an improvement to the KANSAS Animal Dealers Act. The Advisory Board worked on these changes throughout 1992, 1993, and our first meeting of 1994. The Advisory Board unanimously approves Senate Bill #413, along with the changes you received from Dr. Graham, Acting Animal Health Commissioner, dated February 14th.

Why do we need improvements? KANSAS, is the industry LEADER where an animal dealers act is concerned. We didn't have another state's ideas to follow. During the implementation of this act, the last three years, we found things that need to be included, or changed.

- #1. Definition of pet shop. Those with a kennel that retail their animals were classified as a pet shop, but pet shop rules and regulations are for the typical pet store as we know it, not adaptable for kennels.
- #2. Adequate veterinary medical care is defined.
- #3. No-kill shelter facilities are added.
- #4. Establishes a \$50 late fee for delinquencies of more than 45 days.
- #5. Provisions for a temporary closing permit.
- #6. Only one license per premise.
- #7. Gives the state access to our records, according to USDA rules and regs.
- #8. Gives the state access to inspect our transportation of animals according to USDA rules and regs.
- #9. Changes the terminology of "dog warden" to "Animal Control Officer" and the word "warden" to "Officer".

As Sharon Munk, a KANSAN, an APPDI member, and one of the regulaties of this law, with the support of all KANSAS National Board of Directors, and other APPDI members, and the support of independent KANSAS breeders, as long as this law is now opened, we are asking for one more change. For the protection of KANSANS in this industry, or KANSANS that want to enter this industry at a future date, we are asking that you drop the word "OR" in 47-1706 #4.

#4 states: The conviction of ANY crime, an essential element of which is misstatement, fraud or dishonesty, OR relating to the theft of or cruelty to animals. I don't know who jumbled it by putting those extra words in there, but this law is saying: THE CONVICTION OF ANY CRIME.

Speeding is a crime. If it wasn't a crime, we wouldn't have laws against it.

There are nine listed reasons why the commissioner ALONE may refuse to issue or renew or may suspend or revoke any license or certificate of registration. Every one of those nine, except #4 have something to do with the law or animals.

We, Sharon Munk, KANSAS APPDI Board of Directors, KANSAS APPDI members in general, KANSAS independent breeders, want this part of the law to READ: The conviction of any crime relating to the theft of or cruelty to animals.

When it comes to crimes, at least give us a three year limit. Our speeding tickets are off our records in three years. The KANSAS Animal Dealer Act states: Records of a deficiency or violation shall not be maintained for longer than three years after the deficiency or violation is remedied.

Don't BLANKET us with ANY CRIME.

Again, we ask that you remove the word "OR" from 47-1706 #4.

THANK YOU for your time, and THANK YOU for helping make KANSAS the leader in our industry. I'm PROUD to be a KANSAN.

"MAKE KANSAS SHINE"

*Senate Ag. Co.  
2-17-94  
Attachment 7 7-1*



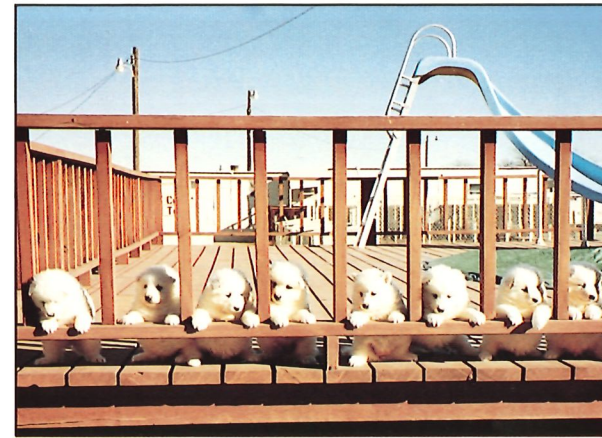
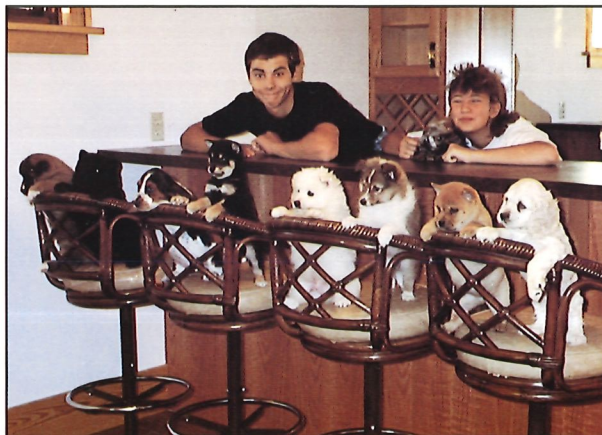


Paul, Sharon, Dustin,  
Andy, Jeff and Sara Munk

USDA #48-B-081  
KS #005  
APPDI #92-007-B

**Professional Pet  
Distributors Since  
1978**

*"Family Owned and Operated"*



**CONCERNED  
BREEDERS  
OF  
KANSAS**

Motto: *MAKE KANSAS SHINE*

Sharon Munk has worked with the Governor, Attorney General, Legislators, Animal Control Association, and Federation of Kansas Humane Societies, to assure YOU of receiving healthy quality pet animals from their state.

The Kansas Governor has appointed Sharon to the Facilities Inspection Advisory Board.



BJ'S & GUYS facility is inspected and approved as an APPDI HUMANE CARE FACILITY.

APPDI - American Professional Pet Distributors, Inc. - is a nationally recognized association of professional pet breeders, distributors, retailers, and manufacturers committed to providing consumers with the finest, healthiest animals available.

A comprehensive humane care standard and certification program was developed in conjunction with a blue ribbon panel of veterinarians and animal health experts from across the country. Facilities certified by APPDI must comply with more than 100 standards, exceeding USDA requirements.

APPDI certification is nationally recognized as the distinctive hallmark of quality pet care.







## HELPING HANDS HUMANE SOCIETY, INC.

2625 N.W. Rochester Road  
Topeka, Kansas 66617-1201  
(913) 233-7325  
Fax (913) 233-8151

Shon Koenig  
Executive Director

February 17, 1994

RE: S B 413

AS A PAST STATE COMPANION ANIMAL FACILITIES INSPECTOR I WOULD LIKE TO ASK YOU TO SUPPORT THIS BILL AS WRITTEN. THE RECORDS TO BE INSPECTED ARE

ALREADY COMPLETED FOR USDA AND THIS BILL WILL ENABLE STATE INSPECTORS EASIER ACCESS TO BETTER TRACK SALES AND ENFORCE THE LAW AS WRITTEN.

THE PORTIONS ON "RETAILER B" WILL ENCOMPASS A GROUP OF BREEDERS THAT HAVE BEEN PLACED IN A GRAY AREA AND NEED TO BE LICENSED IN AN APPROPRIATE CATAGORY.

JACK JONES WORKED LONG HARD HOURS PUTTING THIS BILL TOGETHER WITH THE STATE INSPECTORS AND IT IS A GOOD BILL.

THE PERSONS NOT WANTING SPECIFIC PORTIONS OF THIS BILL ARE TRYING TO MAKE SURE THE LOOPHOLES THAT THEY LIKE ARE NOT TAKEN OUT. THE STATE PROGRAM HAS PROVEN IT CAN WORK BUT WE NEED TO WATCH OUT FOR THE SELF SERVING MEMBERS OF THE COMPANION ANIMAL ADVISORY BOARD. I SAT IN THEIR BOARD MEETING LAST WEEK AND LISTENED TO THEM. I DON'T UNDERSTAND HOW THEY CAN SIT ON A BOARD AND VOTE IN FAVOR OF THE BILL AND THEN AS AN INDIVIDUAL SAY THEY DON'T WANT PORTIONS OF IT. I THINK THEY NEED TO BE DISMISSED OFF OF THE BOARD AND REALIGN THEIR PRIORITIES TO SUITE THEIR PERSONAL NEEDS.

SHON KOENIG

*Shon Koenig*  
EXECUTIVE DIRECTOR

*Senate Ag. Co*  
*2-17-94*  
*Attachment 8*