

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 10:00 a.m. on February 22, 1994.

Approved: 3-8-94
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:10 a.m. on February 22, 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 McClafin, Committee Secretary

Conferees appearing before the committee:
Rich McKee, Kansas Livestock Association
Mike Jensen, Kansas Pork Producers Council
Bill Craven, Kansas Natural Resource Council
Charles Jones, Director, Division of Environment, Kansas Department of Health and Environment
Karl Mueldener, Kansas Department of Health and Environment

Others attending: See attached list

A motion was made by Senator Tillotson to approved the minutes of February 18, 1994. Motion was seconded by Senator Sallee. Motion carried.

The hearing was opened on SB 800 - confined feeding operation defined for water pollution purposes.

Rich McKee, Kansas Livestock Association, supported SB 800 with some amendments. SB 800 would raise the threshold to 1,000 head in confined livestock operations and would be consistent with two other state permits required for operators. He suggested if KDHE needs more funds they could be secured from taxes the livestock producers pay into the State Water Plan Fund (Attachment 1). He responded to questions.

Mike Jensen, Kansas Pork Producers Council, supported SB 800, and suggested it seemed appropriate that KDHE's compliance agenda should focus on those operations of 1000 or more animal units (Attachment 2). He distributed a copy of a brochure with the agenda of a workshop their organization had sponsored on February 16 and 17, 1994, regarding Livestock Manure Management . Mr. Jensen responded to questions regarding how permits are granted.

William Craven, Kansas Natural Resource Council and Kansas Sierra Club, opposed the bill, and raising the threshold to 1,000 head in confined livestock operations (Attachment 3) He requested that the Committee defeat the proposal or take no action on it. He was ask to provide information to the Committee regarding who did the water quality survey that was mentioned in his testimony.

Charles Jones, Director, Division of Environment, testified in opposition to SB 800, attached to his testimony is a fact sheet on feedlot waste in Kansas, and several maps of streams in Kansas not fully supporting contact recreational use and sporting use (Attachment 4). Mr. Jones responded to questions.

Karl Mueldener was asked to responded to a question regarding EPA requirements in other states.

A balloon copy of amendments proposed by Kansas Livestock Association was distributed (Attachment 5).

The meeting adjourned .

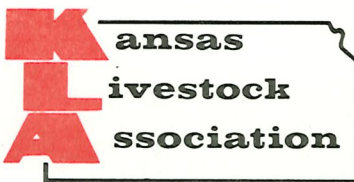
The next meeting is scheduled for February 23, 1994.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: 2/22/94

NAME	ADDRESS	ORGANIZATION
Bill Craven	Topeka	KNRC
Marty Vanier	Manhattan	KAA
George Wingert		Gov Office
BRAD HARRELSON		KLA
Arlan Holmes	Topeka	Div of Budget
Kara Ignaszewski	Topeka	KS Ag Statistics
Charles Ruckman	Topeka	KS Ag Statistics
CHARLES JONES	TOPEKA	KDHE
Karl Myklebust	...	:
Donald Carlson	Topeka	KDHE
Kenneth M. Wilke	Topeka	Agriculture
Rich McKee	11	KS Livestock
Ken Kern	"	SCC
Matt Truett	"	AP
Mike Jensen	Manhattan	KPPC
Chris Wilson	Wamego	KS Ass'n of Wheat Growers
Warren Parker	Manhattan	KFB
Jon Stiles	Topeka	KWO
Bill Fuller	Manhattan	Kansas Farm Bureau
Martin Hawer	Topeka	Hawer's Capitol Report
Mike Beam	Topeka	KS. Livestock Assn.
Russ Frey	Topeka	KVMA



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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
Senate Agriculture Committee
Senator David Corbin, Chairman
with respect to
Senate Bill 800
Confined Livestock Operations
presented by
Rich McKee
Executive Secretary, Feedlot Division
Kansas Livestock Association*

February 22, 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 with the following attached amendments.

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

*Senate Ag. Co.
2-22-94
attachment 1
1-1*

The Kansas Department of Health and Environment (KDHE) regulates all confined livestock operations in regards 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 \$22K annually. KDHE intends to raise the fees livestock operators pay from \$22K 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.

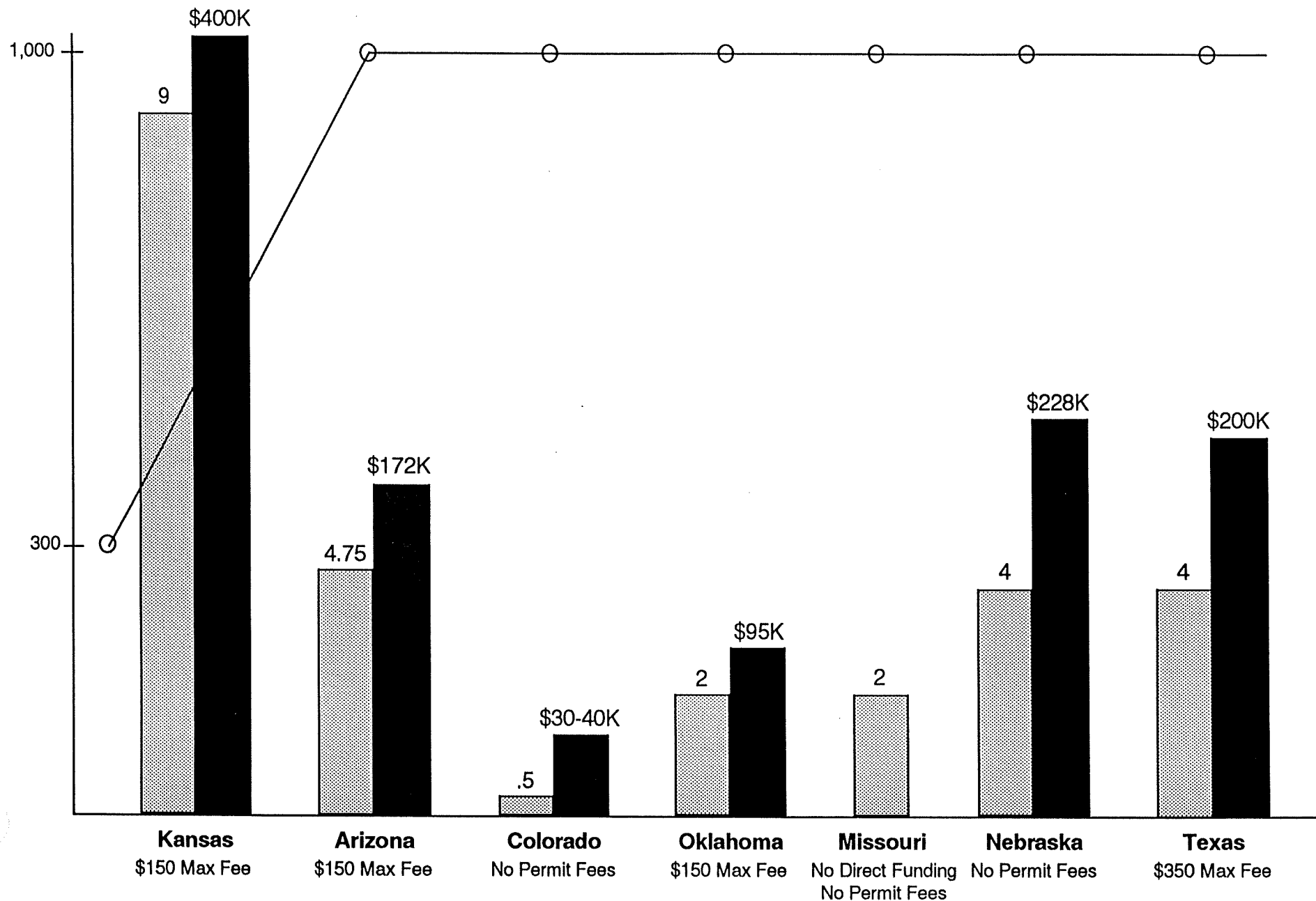
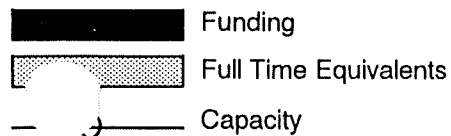
Raise the mandatory permitting threshold to 1,000 head. Current regulations (K.A.R. 28-18-1) require all confined livestock operations with the capacity to hold 300 or more head to be licensed with KDHE. This threshold is more than three times as stringent as the federal threshold of 1,000 head. Every 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 and 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 states water. It seems logical to us that if more funds need to be spent in protecting water from possible runoff from livestock operations that 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 with the attached amendments. Thank you.

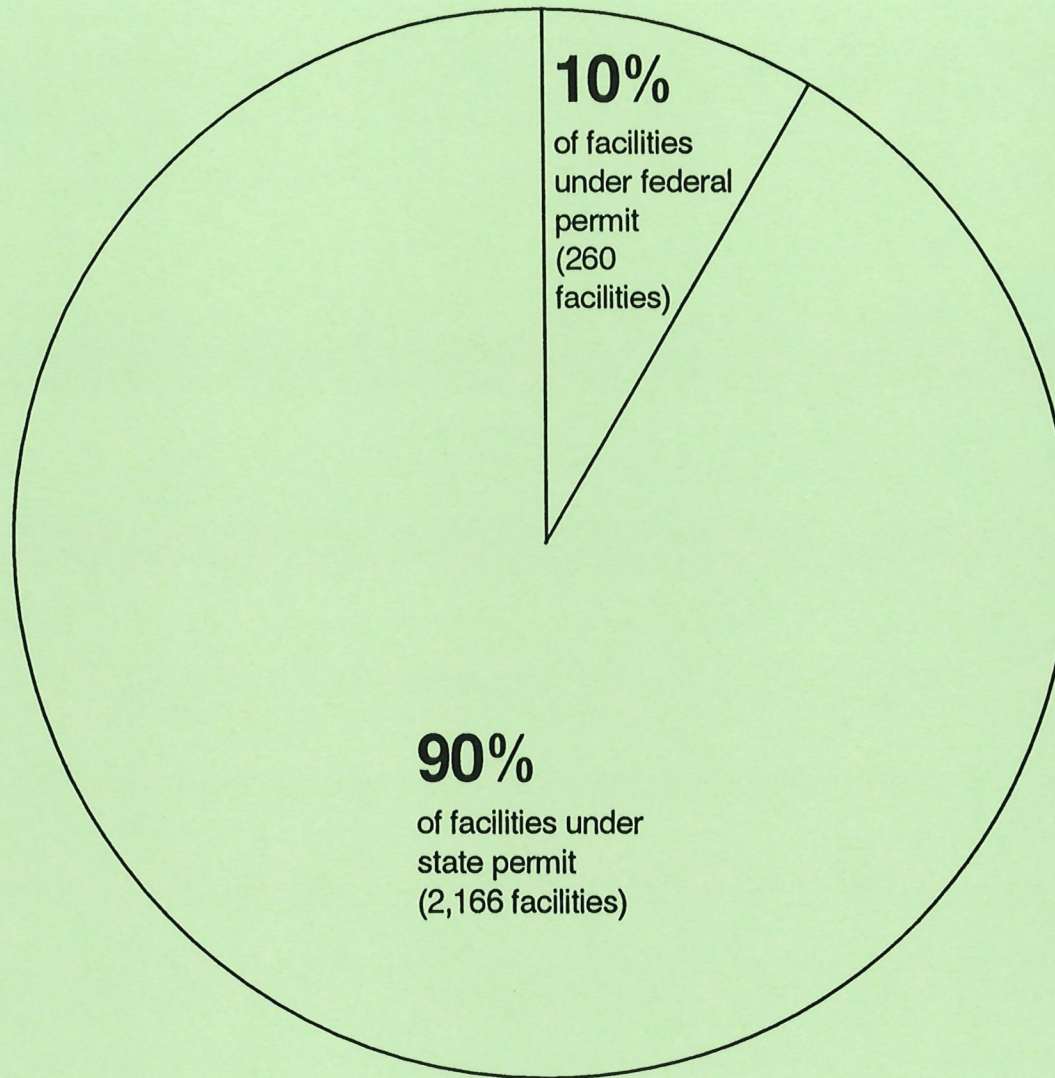


All Confined Feeding Facilities

Federal vs. State

(Over 1,000 head)

(Under 1,000 head)



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

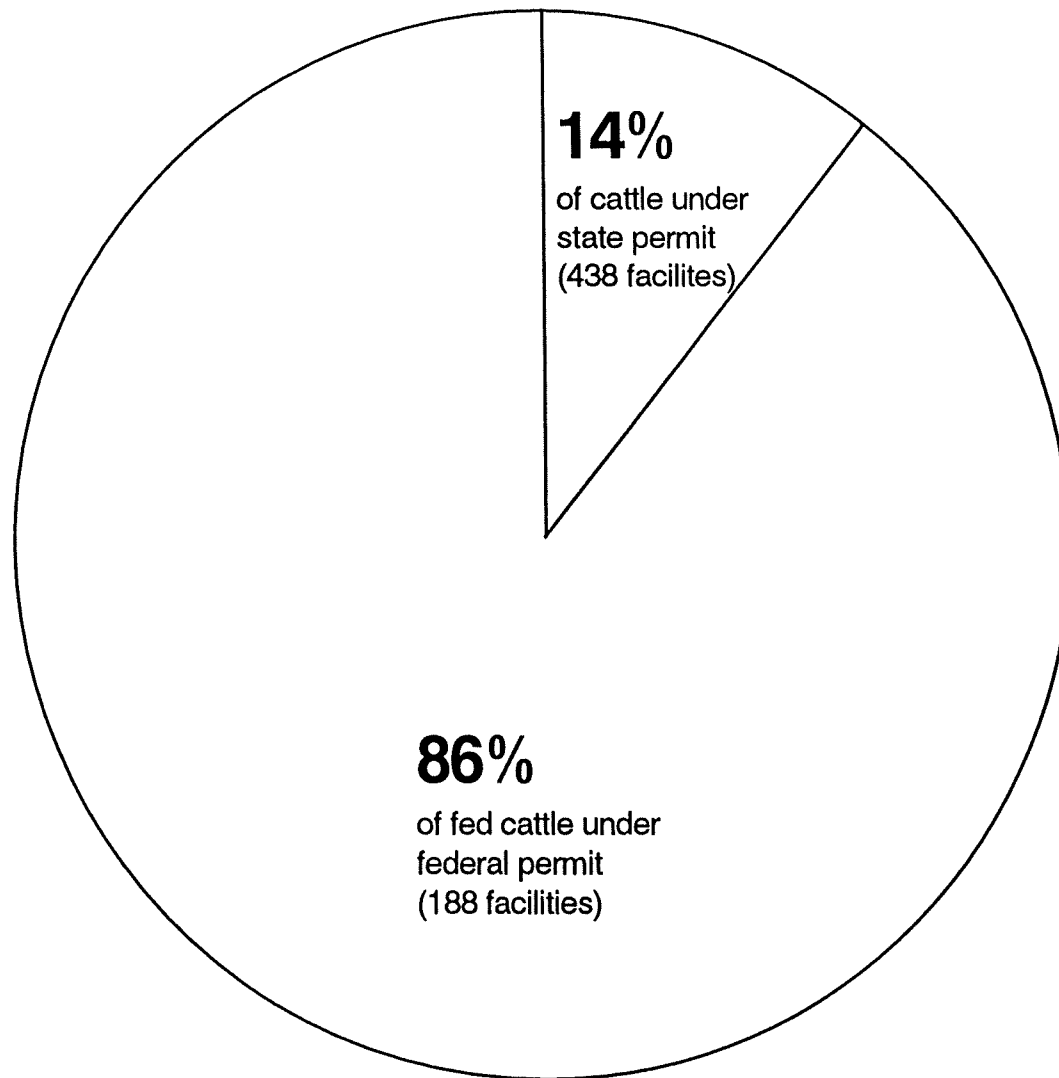
Total Permitted Facilities In State - 2,426

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

SENATE BILL No. 800

By Committee on Ways and Means

2-16

8 AN ACT relating to water pollution; defining confined feeding op-
9 erations; amending K.S.A. 65-171d and repealing the existing
10 section.
11

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

13 Section 1. K.S.A. 65-171d is hereby amended to read as follows:
14 65-171d. (a) For the purpose of preventing surface and subsurface
15 water pollution and soil pollution detrimental to public health or to
16 the plant, animal and aquatic life of the state, and to protect ben-
17 efitial uses of the waters of the state and to require the treatment
18 of sewage predicated upon technologically based effluent limitations,
19 the secretary of health and environment shall make such rules and
20 regulations, including registration of potential sources of pollution,
21 as may in the secretary's judgment be necessary to: (1) Clean up
22 pollution resulting from oil and gas activities regulated by the state
23 corporation commission; (2) protect the soil and waters of the state
24 from pollution resulting from (A) oil and gas activities not regulated
25 by the state corporation commission or (B) underground storage
26 reservoirs of hydrocarbons, natural gas and liquid petroleum gas; (3)
27 control the disposal, discharge or escape of sewage as defined in
28 K.S.A. 65-164 and amendments thereto, by or from municipalities,
29 corporations, companies, institutions, state agencies, federal agencies
30 or individuals and any plants, works or facilities owned or operated,
31 or both, by them; and (4) establish water quality standards for the
32 waters of the state to protect their beneficial uses.

33 (b) The secretary of health and environment may adopt by ref-
34 erence any regulation relating to water quality and effluent standards
35 promulgated by the federal government pursuant to the provisions
36 of the federal clean water act and amendments thereto, as in effect
37 on January 1, 1989, which the secretary is otherwise authorized by
38 law to adopt.

39 (c) For the purposes of this act, including K.S.A. 65-161 through
40 65-171h and amendments thereto, ~~pollution and rules and regu-~~
41 ~~lations adopted pursuant thereto:~~ (1) "Pollution" means: (1) (A) Such
42 contamination or other alteration of the physical, chemical or bio-
43 logical properties of any waters of the state as will or is likely to

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1 create a nuisance or render such waters harmful, detrimental or
2 injurious to public health, safety or welfare, or to the plant, animal
3 or aquatic life of the state or to other designated beneficial uses; or
4 ~~(2) (B) such discharge as will or is likely to exceed state effluent~~
5 standards predicated upon technologically based effluent limitations;

6 ~~and (2) "confined feeding operation" means: (A) Any confined feeding~~
7 ~~of 1,000 or more cattle, swine, sheep or horses at any one time; (B)~~
8 ~~any animal feeding operation of less than 1,000 head using a lagoon;~~
9 ~~or (C) any other animal feeding operation having a water pollution~~
10 ~~potential.~~

11 (d) In adopting rules and regulations, the secretary of health and
12 environment, taking into account the varying conditions that are
13 probable for each source of sewage and its possible place of disposal,
14 discharge or escape, may provide for varying the control measures
15 required in each case to those the secretary finds to be necessary
16 to prevent pollution. If a freshwater reservoir or farm pond is pri-
17 vately owned and where complete ownership of land bordering the
18 reservoir is under common private ownership, such freshwater res-
19 ervoir or farm pond shall be exempt from water quality standards
20 except as it relates to water discharge or seepage from the reservoir
21 to waters of the state, either surface or groundwater, or as it relates
22 to the public health of persons using the reservoir or pond or waters
23 therefrom.

24 (e) (1) Whenever the secretary of health and environment or the
25 secretary's duly authorized agents find that the soil or waters of the
26 state are not being protected from pollution resulting from oil and
27 gas activities not regulated by the state corporation commission or
28 from underground storage reservoirs of hydrocarbons, natural gas
29 and liquid petroleum gas or that storage or disposal of salt water or
1 oil not regulated by the state corporation commission or refuse in
2 any surface pond is causing or is likely to cause pollution of soil or
3 waters of the state, the secretary or the secretary's duly authorized
4 agents shall issue an order prohibiting such activity, underground
5 storage reservoir or surface pond. Any person aggrieved by such
6 order may within 15 days of service of the order request in writing
7 a hearing on the order.

8 (2) Upon receipt of a timely request, a hearing shall be conducted
9 in accordance with the provisions of the Kansas administrative pro-
10 cedure act.

11 (3) Any action of the secretary pursuant to this subsection is
12 subject to review in accordance with the act for judicial review and
13 civil enforcement of agency actions.

14 (f) The secretary may adopt rules and regulations establishing

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"confined feedlot waste control facility" means an operation that at any one time feeds more than (A) 1,000 slaughter and feeder cattle; (B) 700 mature dairy cattle; (C) 2,500 swine each weighing over 55 pounds; (D) 500 horses; (E) 10,000 sheep or lambs; (F) 55,000 turkeys; (G) 100,000 laying hens or broilers (if the facility has continuous overflow watering); or (H) 30,000 laying hens or broilers (if facility has a liquid manure system); (I) 5,000 ducks; or (J) any other individual confined animal feeding operation having significant water pollution potential.

1 fees for the following services:

2 (1) Plan approval, monitoring and inspecting underground or bur-
3 ied petroleum products storage tanks, for which the annual fee shall
4 not exceed \$5 for each tank in place;

5 (2) permitting, monitoring and inspecting salt solution mining
6 operators, for which the annual fee shall not exceed \$1,950 per
7 company; and

8 (3) permitting, monitoring and inspecting hydrocarbon storage
9 wells and well systems, for which the annual fee shall not exceed
10 \$1,875 per company.

11 (g) Agents of the secretary shall have the right of ingress and
12 egress upon any lands to clean up pollution resulting from oil and
13 gas activities. Such agents shall have the power to occupy such land
14 if necessary to investigate and clean up such pollution. Any agent
15 entering upon any land to conduct cleanup activities shall not be
16 liable for any damages necessarily resulting therefrom except dam-
17 ages to growing crops, livestock or improvements on the land.

18 Sec. 2. K.S.A. 65-171d is hereby repealed.

19 ~~Sec. 3. This act shall take effect and be in force from and after~~
20 ~~its publication in the statute book.~~

8-1

Sec. 3. K.S.A. 65-166a is amended to read as follows: (a) The secretary of health and environment is authorized and directed to establish by duly adopted rules or regulations a schedule of fees to defray all or any part of the costs of administering the water pollution control permit system established by K.S.A. 65-165 and 65-166 and amendments to those statutes. The amount of the fees so established shall be based upon the quantity of raw wastes or treated wastes to be discharged, units of design capacity of treatment facilities or structures, numbers of potential pollution units, physical or chemical characteristics of discharges and staff time necessary for review and evaluation of proposed projects. In establishing the fee schedule, the secretary of health and environment shall not assess fees for permits required in the extension of a sewage collection system, but such fees shall be assessed for all treatment devices, facilities or discharges where a permit is required by law and is issued by the secretary of health and environment or the secretary's designated representative. Such fees shall be nonrefundable.

8-1

(b) Any such permit for which a fee is assessed shall expire five years from the date of its issuance. The secretary of health and environment may issue permits pursuant to K.S.A. 65-165 and amendments thereto for terms of less than five years, if the secretary determines valid cause exists for issuance of the permit with a term of less than five years. The minimum fee assessed for any permit issued pursuant to K.S.A. 65-165 and amendments thereto shall be for not less than one year. Permit fees may be assessed and collected on an annual basis and failure to pay the assessed fee shall be cause for revocation of the permit. Any permit which has expired or has been revoked may be reissued upon payment of the appropriate fee and submission of a new application for a permit as provided in K.S.A. 65-165 and 65-166 and amendments to those statutes.

(c) At no time shall the permit fee for a confined feeding operation exceed:

(1) confined cattle, sheep, swine feedlot waste control facility

(a) \$30 per year for operations of 1,000 - 4,999 head; (b) \$75 per year for operations of 5,000 to 9,999 head; (c) \$150 per year for operation of 10,000 head or more.

(2) dairy farm waste control facility

\$30 per year for 500 cow herd or more.

(3) poultry waste control facility

(a) \$30 per year for operations of 10,000 - 49,999 fowl; (b) \$75 per year for 50,000 to 99,999 fowl; (c) \$150 per year for 100,000 fowl or more.

(d) The secretary of health and environment shall remit all moneys received from the fees established pursuant to this act to the state treasurer at least monthly. Upon receipt of such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

Sec. 4. This act shall take effect and be in force from and after its publication in the state books.

Testimony in Support
of Senate Bill 800

My name is Mike Jensen. I serve as Executive Vice-President of the Kansas Pork Producers Council. Our 800 members represent the overwhelming majority of hogs produced in this state.

We support Senate Bill 800. While we strongly believe all operations should operate in an environmentally "friendly" manner, it seems appropriate that KDHE's compliance agenda should focus on those operations of 1000 or more animal units.

There are currently a number of voluntary non-point source programs available for smaller units. The KPPC is actively working to encourage producers to take advantage of these opportunities.

These operations are needlessly using KDHE's resources and manpower.

Environmental preservation should be viewed as part of the total livestock production system design and management.

Ventilation, sanitation, management practices, feed handling, manure storage, and manure utilization are necessary parts of that system and should be mutually compatible to ensure a safe environment.

Environmental awareness of livestock producers must be expanded as we respond to water quality, soil conservation, and indoor and outdoor air quality issues.

PURPOSE

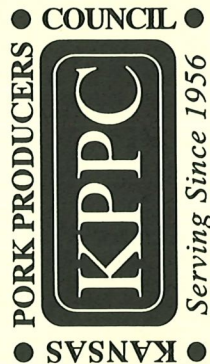
To educate producers on waste management strategies and their economic, environmental, agronomic, and political implications.

To provide practical approaches for evaluating and/or adopting waste storage, handling, and application methods to minimize the negative impact of animal waste and optimize manure nutrient utilization.

To provide a forum for the exchange of ideas among individuals representing producers, commodity groups, and governmental agencies relative to manure management.

BULK RATE
U.S. Postage Paid
Non-Profit Organization
Manhattan, Kansas 66502
Permit No. 630

2601 Farm Bureau Road
Manhattan, KS 66502



Livestock Manure Management Workshop



Wednesday-February 16, 1994

9 a.m. - Holiday Inn-Holidome
530 Richards Drive
Manhattan

Thursday-February 17, 1994

9 a.m. - Bob's Sirloin Room
103 North Street
Seneca

Livestock Manure Management Workshop

Livestock Manure Management Workshop

AGENDA

9:00 a.m. **WELCOME**
Ken Goodyear, Dwight
Chairman
KPPC Environmental Task Force

9:10 a.m. **COMPLIANCE PANEL**
**Manure Mangement Design
Regulations and the Producer**

Tom Lorenz
Water Quality
Programs Coordinator
Environmental Protection
Agency - Region 7

Larry Hess
Bureau of Water
Kansas Department of
Health and Environment

Questions and Answers

10:30 a.m. **BREAK** - Refreshments

10:45 a.m. **ASSISTANCE PANEL**
**Technical Assistance for
Livestock Manure Management**
Pat Murphy/Joe Harner
KSU Extension Ag Engineers

Frank Mercurio
Agricultural Engineer
Soil Conservation Service

Duane Mueting, P. E.
Mueting Engineering
Seneca

**Cost-Share Programs Available
for Livestock Manure Manage-
ment**

Greg Foley
NPS Program Specialist
Soil Conservation Commission

Questions and Answers

12:00 p.m. **LUNCH**

1:00 p.m. **ASSISTANCE PANEL**
Questions and Answers

1:30 p.m. **PRODUCER PANEL**

**Working through the SCS to
Complete a Plan**

Lance Rezac, Onaga
(Manhattan)
James Feldkamp, Centralia
(Seneca)

**Working through a Private
Engineer to Complete a Plan**

Steve Eichman, St. George
(Manhattan)
Robert Haverkamp, Jr., Bern
(Seneca)

Questions and Answers

2:00 pm. **WRAP UP**
Ken Goodyear, Dwight
Chairman
KPPC Environmental Task Force

Registration

Name(s) _____

Address _____

City _____ State _____

Zip _____

Phone # _____

I will be attending the Manhattan meeting
on February 16 (Please check) _____

I will be attending the Seneca meeting
on February 17 (Please check) _____

Pre-registration price: \$20
(Includes lunch and refreshments.)

On-site registration price: \$25
**Space is limited, so please pre-register to
ensure you have a meal.**

Pre-registrations must be in the
KPPC Office by
Monday, February 7, 1994.

No. pre-registering _____ at \$20 per person.
Total Enclosed \$ _____

Please make your check payable to the
KPPC. Check must accompany registration.

Send completed form and payment to:

Kansas Pork Producers Council
2601 Farm Bureau Road
Manhattan, KS 66502



Kansas Natural Resource Council

P.O. Box 2635
Topeka, KS 66601-2635

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Arthur Youngman, Wichita
Ann Zimmerman, Manhattan



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

Senate Agriculture Committee
S.B. 800
February 22, 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. Together, these two groups have about 4,000 members who are concerned about environmental issues, and in particular, about how agriculture affects the environment.

I usually premise my remarks before this committee by stressing that I am not an anti-agricultural activist. Instead, what I am interested in is the long-term sustainability of agriculture and recognition on the part of agriculture that it needs to do its part to address the environmental problems that it causes.

I see this bill as as nothing short of an intentional attempt designed to duck that responsibility. In fact, I'm not sure if I have seen any industry assume such an environmentally irresponsible position so far this session. The nut of this bill is to exempt from KDHE regulation all feedlots below 1,000 head in size.

Where is the evidence that feedlots below that size 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.

KDHE and KLA officials are on record as saying that large feedlots and livestock operations (over 1,000 head) are better regulated from an

*Senate Ag Co
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attachment 3*

environmental standpoint, so the question is why remove the regulatory authority for the small and mid-sized operations? There is no good answer to that question.

The issue between KLA and KDHE as I understand it is the agency's desire to close the gap between the cost of the program and what is contributed by the industry. Industry only contributes about \$22,000 of the \$400,000 cost of the program. KDHE is trying to have fees cover a greater part of all its programs, not just this one, and I think that is an effort which has been supported by the legislature.

To be perfectly blunt, I am disappointed in the livestock industry. This would not be the bill I would support if I were in charge of public relations for the industry. Instead, I would try to position the industry in an activist role, and work to increase public and industry support for the effort to control both point and non-point sources of pollution that diminish the quality of Kansas' rivers and streams.

I have no problem in supporting ways to increase administrative flexibility by KDHE, and I support the voluntary non-point source programs under development by the State Conservation Commission, and the county conservation districts. It is probably true that at the county level, the real problems can be best identified. But I strongly oppose gutting the regulatory program until a better system is in place, and I strongly urge this committee to take whatever steps are necessary to strengthen this state's commitment to water quality.

Thank you for the opportunity to testify.

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

Testimony presented to

Senate Agriculture Committee

by

The Kansas Department of Health and Environment

Senate Bill 800

KDHE's technical regulations for confined feeding operations became effective on 1 July 1967. In short, facilities over 1000 head were required to obtain a permit for water pollution control; facilities greater than 300 head were required to register with the state and install controls only if they have a pollution potential; and facilities less than 300 head required a permit only if they had the potential to pollute or utilize some sort of wastewater control system, such as a lagoon. These technical requirements, adopted in 1967, have never been amended. They remain in effect today.

KDHE's fee regulations were adopted in the mid-70's. In 1984, fees were adjusted, actually decreased, so that only NPDES-permitted (facilities above 1000 head) were required to pay permit fees. No other facilities were required to pay fees. Fees for confined feeding operations are:

<u>cattle, swine or sheep</u>	<u>poultry</u>	<u>annual fee</u>
1K-5K head	10K-50K	\$ 30
5K-10K head	50K-100K	\$ 75
10K or more	100K or more	\$150

So what has happened since 1967 to stir up the current fuss over confined feeding operations, and where do we go from here? KDHE offers the following analysis:

- KDHE's confined feeding program has 6 field technicians and 2 engineers. Currently, active confined feeding program includes 260 federal (NPDES) permits and 1466 state permits. An additional 1760 facilities have been reviewed and certified as not needing pollution controls. Each week, the program receives five sets of plans and specifications for new or expanded facilities. Common technical problems in the submittals are inadequacies in waste holding capacity, inadequacies in land disposal or irrigation systems, groundwater protection concerns, and site related disputes. The steady influx of new plans and delays incurred in resolving problems has led to an on-going backlog and permit processing.

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attachment 4

- Concerned about liability for contamination at agricultural properties, lending institutions increasingly insist upon proper permitting and compliance as a precondition to lending start-up or expansion monies. This has put increasing pressure on facility operators and KDHE to process permit applications -- including plan and specification reviews -- at a rapid pace.
- With its current fees of \$22K -- as set in the mid-70's -- the confined feeding industry offsets only 5% of the total program costs of \$400K. KDHE has been encouraged to use fees, when appropriate, to cover program costs. The Division, as a whole, is 70% fee funded; approximately 20% of funding needs are met by federal grants; leaving less than 10% to be covered by State General Funds. Appropriations and Ways and Means have consistently urged the Division to adopt fees where possible and appropriate, freeing much-needed State General Funds for other uses. Fees adopted to implement the Clean Air and the Solid Waste Planning Acts best exemplify the Division's commitment to fee funding and underscore the need for equity in fee setting throughout the Division.
- Proposed amendments to the federal Clean Water Act will inevitably have profound impacts on Kansas confined feeding operations: whether they be large or small, permitted or not. Confined feeding related elements in the proposed CWA revision package speak to watershed management, control of nonpoint source contamination, and fees.
- Most importantly from KDHE's vantage point is growing knowledge of and concern about the impact of confined feeding operations on water quality throughout the state.

What has KDHE done to best address these challenges to the confined feeding program?

We better defined program goals. We secured the services of two temporary employees, dedicated more staff resources to plan and specification review, and established a system for prioritizing plan review. We brought in Gary Hall, former Acting Secretary of Agriculture, to critique the program and frame elements where the confined feeding program might be strengthened. Finally, we began the process which brings us here today: generating fees which are appropriate to program needs. (See attached speech to the Kansas Livestock Association dated 12 August 1993.)

These remarks hardly tell the full story of KDHE confined feeding program, but they are hopefully a compressed means to get the ball rolling. KDHE is eager and willing to discuss the program and SB 800 at length, and hope that the committee touches upon:

- KDHE's funding proposal, which included \$400K in fees on the NPDES-permitted facilities (facilities smaller than 1000 head would continue to be exempt from fees) and \$200K in State General Funds;

- The Ways and Means funding proposal which includes \$200K in fees and \$200K in State General Funds, and would establish an interim committee to review the confined feed program;
- KDHE's numerous attempts to sit down with industry representatives to discuss funding needs and options; and
- Our ongoing commitment to program improvement.

Most importantly, we hope that Senate Bill 800, and the related review of the confined feeding programs will be acquaint this Committee, the Legislature, the confined feeding industry and Kansas citizens with the profound impact that feedlots and confined feeding operations are having on water quality across the State.

I believe that the confined feeding industry is deeply committed to environmental wellbeing. I also believe that KDHE and its staff are deeply committed to regulatory programs which make sense and work effectively. Hopefully, by drawing upon the best from both industry and the agency, we can turn our attention to the formidable challenges which lie ahead.

Thank you for allowing KDHE to testify on SB 800.

Testimony presented by: Charles Jones, Director
Division of Environment
February 22, 1994

FACT SHEET

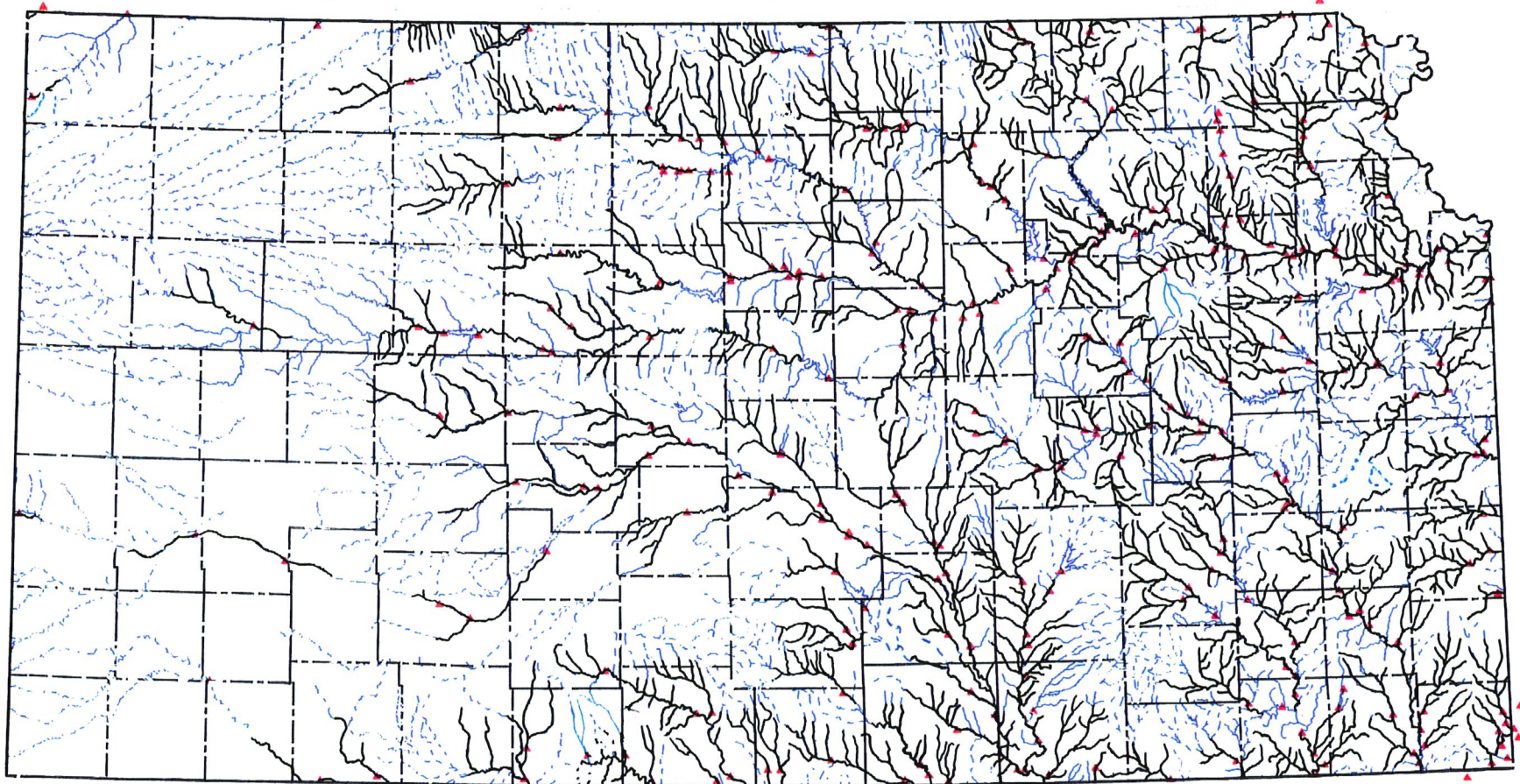
FEEDLOT WASTE IN KANSAS

- *** Stormwater runoff from feedlots introduces substantial quantities of microbial pathogens and other contaminants to nearby streams. Of the approximately 17,200 miles of streams regularly assessed by KDHE, approximately 80% of the stream miles **not** meeting water standards are impacted by feedlots.
- *** Kansas is home to some 5,890,000 cattle and 1,440,000 swine. Collectively, these livestock outnumber human residents by a ratio of nearly three-to-one. Kansas cattle and swine produce approximately 400,000,000 cubic yards (230,000,000 tons) of organic waste each year.
- *** Feedlots located in close proximity to wells are among the most widespread causes of groundwater contamination. In about 25 percent of the documented cases where the Maximum Contaminant Level (MCL) for nitrate is exceeded in groundwater, feedlots (or dairies) are located within 1,000 feet of an irrigation or farmstead well.
- *** Since 1988, feedlots have been implicated in 21 fishkills involving an estimated 205,981 dead fish. Costs recovered by KDHE in association with fines and restitution efforts have netted only \$23,600. It is generally believed that only a fraction of the number of fishkills occurring in Kansas are ultimately reported to KDHE.
- *** 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.
- *** KDHE's feedlot program employs nine full-time staff. These individuals conduct site appraisals, review plans, write permits, perform interim and post-construction inspections, respond to citizen complaints, respond to owner/operator informational inquiries, and handle all enforcement actions related to feedlots. The staff-to-permitted feedlot ratio currently stands at about 290:1.

February 22, 1994

STREAMS NOT FULLY SUPPORTING CONTACT RECREATIONAL USE

(BASED ON EXCEEDANCES OF FECAL COLIFORM BACTERIA CRITERION OF 200 COLONIES PER 100 ML)

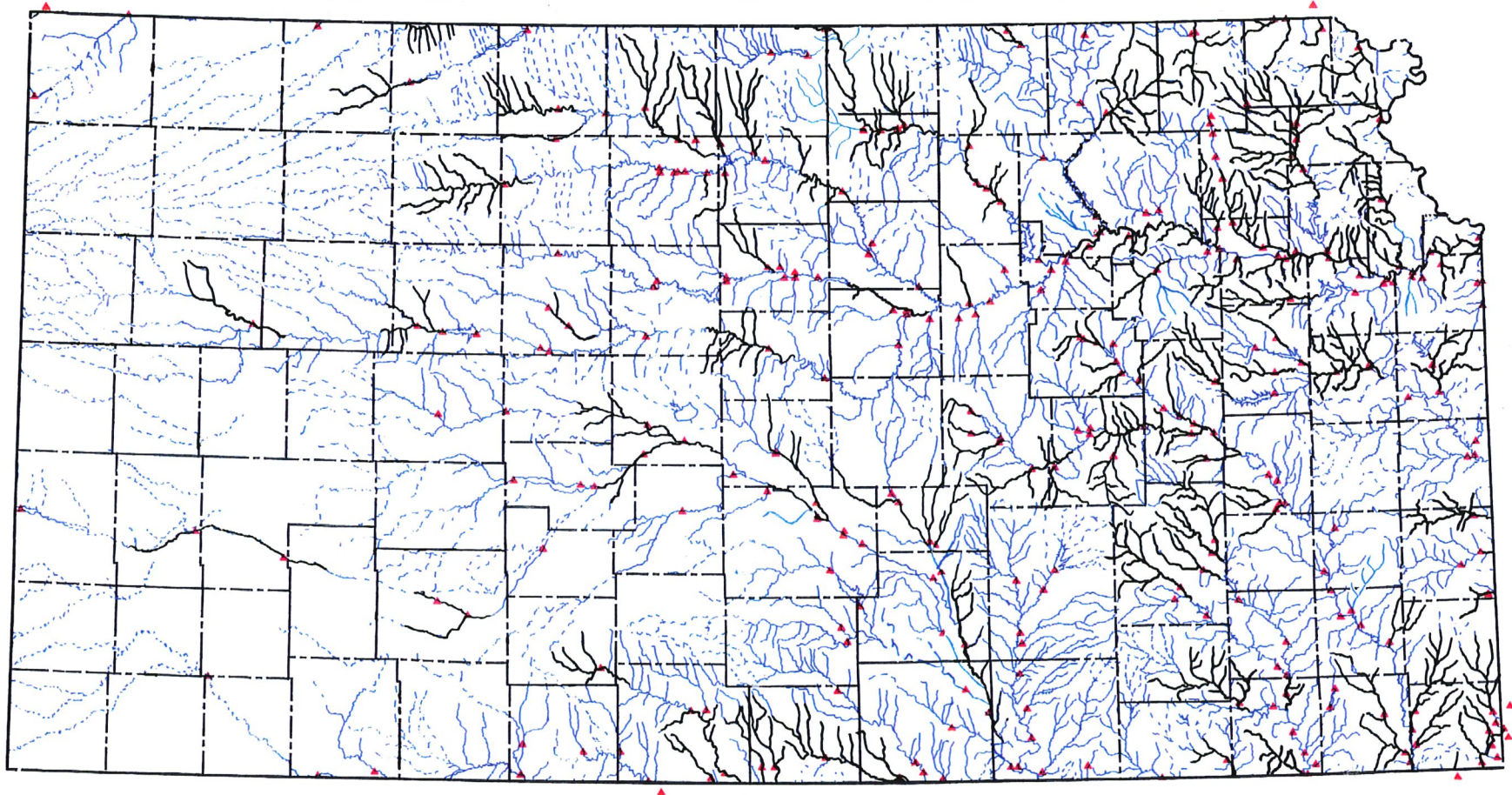


DRAFT
OSS, KDHE 2/94

- STREAMS FULLY SUPPORTING USE
- STREAMS NOT FULLY SUPPORTING USE
- - - STREAMS NOT ASSESSED
(generally due to absence of water)

STREAMS NOT FULLY SUPPORTING NONCONTACT RECREATIONAL USE

(BASED ON EXCEEDANCES OF FECAL COLIFORM BACTERIA CRITERION OF 2,000 COLONIES PER 100 ML)



DRAFT
OSS, KDHE 2/94

- STREAMS FULLY SUPPORTING USE
- STREAMS NOT FULLY SUPPORTING USE
- - - STREAMS NOT ASSESSED
(generally due to absence of water)

9-4

Figure 1

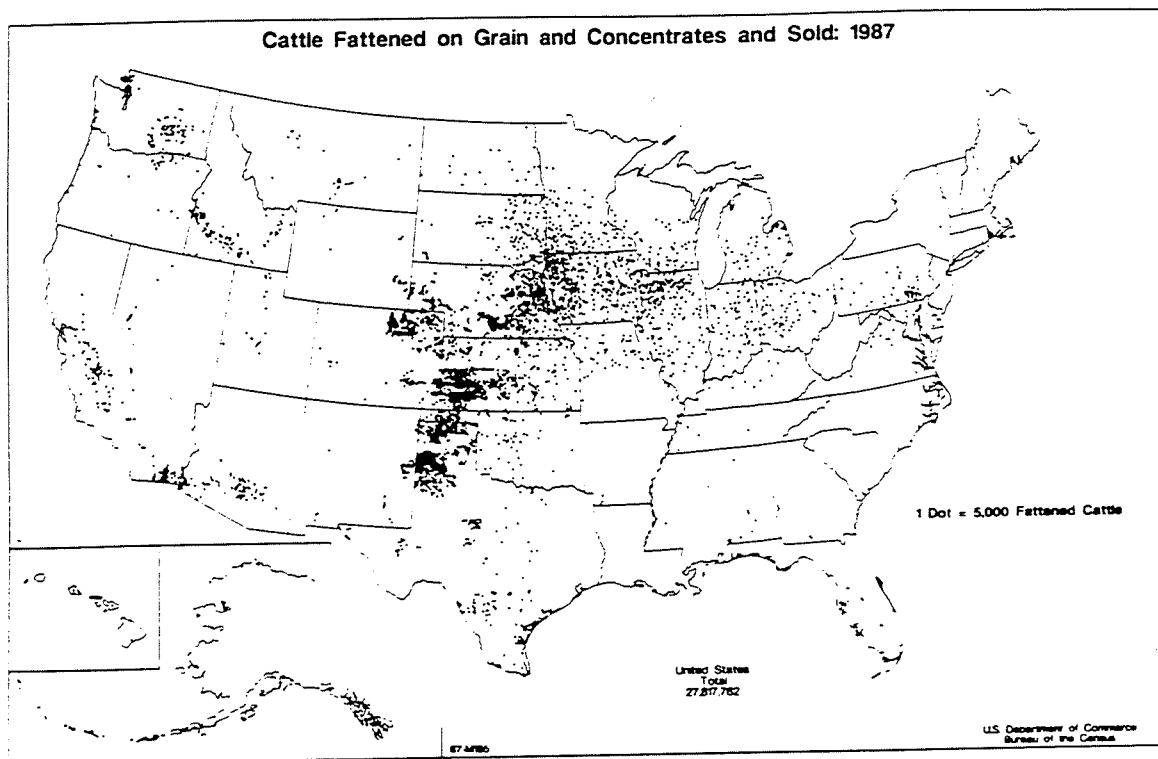


Figure 2

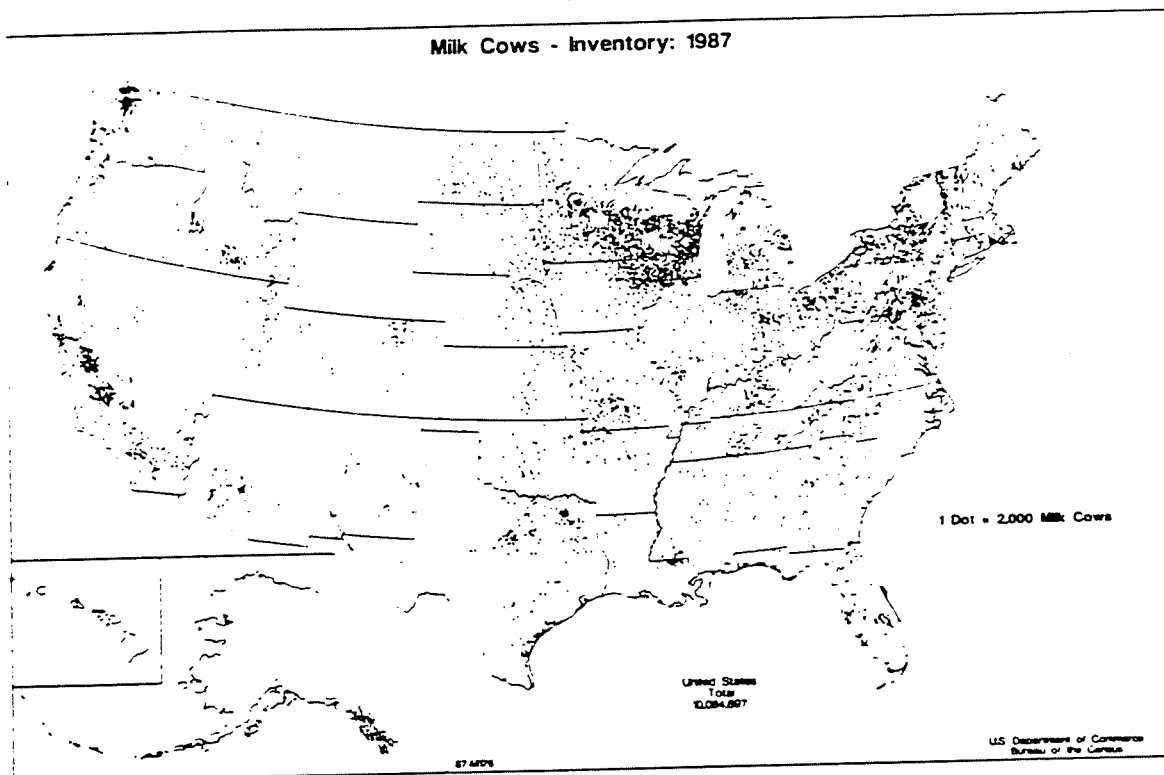


Figure 3

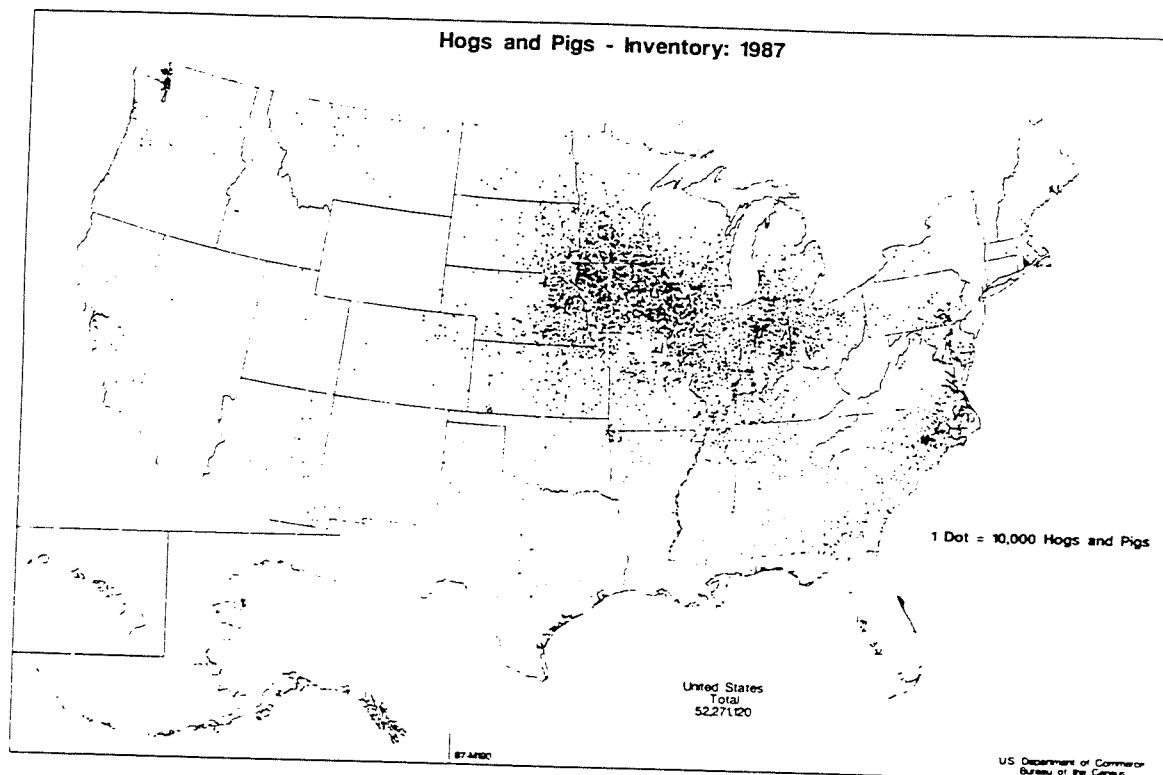
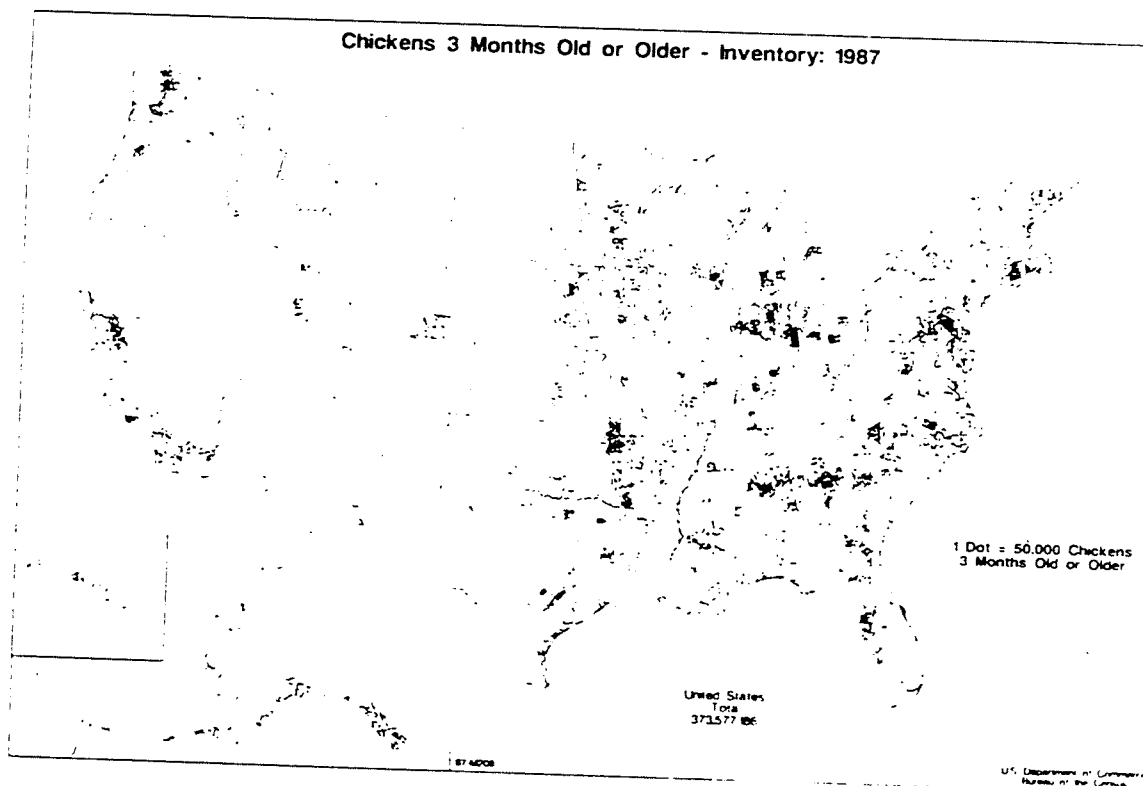


Figure 4



Who to Contact?

For more information please contact an agricultural environmental technician in one of our district offices:

1. Northwest District Office Hays (913/625-5664)

Barton	Ness	Russell
Cheyenne	Norton	Sheridan
Decatur	Osborne	Sherman
Ellis	Phillips	Smith
Gove	Rawlins	Thomas
Graham	Rooks	Trego
Logan	Rush	Wallace

2. North Central District Office Salina (913/827-9639)

Clay	Lincoln	Republic
Cloud	Marion	Rice
Dickinson	McPherson	Riley
Ellsworth	Mitchell	Saline
Geary	Morris	Washington
Jewell	Ottawa	

3. Northeast District Office Lawrence (913/842-4600)

Atchison	Jefferson	Osage
Brown	Johnson	Pottawatomie
Doniphan	Leavenworth	Shawnee
Douglas	Marshall	Wabaunsee
Franklin	Miami	Wyandotte
Jackson	Nemaha	

4. Southwest District Office Dodge City (316/225-0596)

Barber	Hamilton	Pratt
Clark	Haskell	Scott
Comanche	Hodgeman	Seward
Edwards	Kearny	Stafford
Finney	Kiowa	Stanton
Ford	Lane	Stevens
Grant	Meade	Wichita
Gray	Morton	
Greeley	Pawnee	

5. South Central District Office Wichita (316/838-1071)

Butler	Harper	Reno
Chase	Harvey	Sedgwick
Cowley	Kingman	Sumner

6. Southeast District Office Chanute (316/431-2390)

Allen	Crawford	Montgomery
Anderson	Elk	Neosho
Bourbon	Greenwood	Wilson
Chautauqua	Labette	Woodson
Cherokee	Linn	
Coffey	Lyon	

or the agricultural environmental engineers at the KDHE central office in Topeka:

Bureau of Water Topeka
(913/296-5570 or 913/296-5550)

State of Kansas

Agricultural Waste Management



Kansas Department of
Health & Environment
Forbes Field,
Topeka, KS 66620-0001

4-9

Who Needs a Water Pollution Permit?

- ☐ Any confined livestock operation which provides capacity for more than 300 head (poultry 1000 head).
- ☐ All livestock operations that utilize waste water control facilities, i.e. manure pits, ponds, lagoons, or other devices.
- ☐ Upon notification by departmental personnel-any livestock operation which presents a potential water pollution problem including but not limited to the following:
 1. Open lots located across or adjacent to creeks, streams, intermittent waterways, or other conveying channel or device.
 2. Any operation with a discharge line or other conveyance channel which precludes the control of the waste water upon the operators property.
 3. Any operation observed to practice improper disposal of livestock wastes.
- ☐ Sale barns and collection centers with an average capacity greater than 300 head or utilized more than once a week.
- ☐ All livestock truck wash facilities.
- ☐ Any other animal feeding operation whose operator(s) elects to come under these regulations.

Steps Required to Obtain a Permit or Modify a Facility

1. Contact KDHE for information (see telephone numbers on back)
2. Request a site appraisal from KDHE.
3. Submit a registration application to KDHE.
4. Obtain releases from adjacent residents if required and submit to KDHE.
5. Submit a general information and operational plan to KDHE.
6. Submit application, fees (if applicable), and construction plans to KDHE for review and approval.
7. KDHE places draft permit on 30 day public notice (if applicable)
8. KDHE issues permit and approval to start construction.
9. Notify KDHE for construction inspection.
10. Notify KDHE for post construction inspection.
11. The facility is placed into service.
12. The permit is renewed every five years.

Why are These Regulations Necessary?

1. To protect surface water and ground waters from possible pollution.
2. To prevent fish kills.
3. To minimize nuisance conditions:
 - a. Odors
 - b. Dust
 - c. Insects
 - d. Rodents

Permit facilities will be monitored routinely by KDHE staff through unannounced inspections to assure compliance with the conditions of the permit.



SENATE BILL No. 800

By Committee on Ways and Means

2-16

8 AN ACT relating to water pollution; defining confined feeding op-
9 erations; amending K.S.A. 65-171d and repealing the existing
10 section.

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

12 Section 1. K.S.A. 65-171d is hereby amended to read as follows:
13 65-171d. (a) For the purpose of preventing surface and subsurface
14 water pollution and soil pollution detrimental to public health or to
15 the plant, animal and aquatic life of the state, and to protect ben-
16 efitial uses of the waters of the state and to require the treatment
17 of sewage predicated upon technologically based effluent limitations,
18 the secretary of health and environment shall make such rules and
19 regulations, including registration of potential sources of pollution,
20 as may in the secretary's judgment be necessary to: (1) Clean up
21 pollution resulting from oil and gas activities regulated by the state
22 corporation commission; (2) protect the soil and waters of the state
23 from pollution resulting from (A) oil and gas activities not regulated
24 by the state corporation commission or (B) underground storage
25 reservoirs of hydrocarbons, natural gas and liquid petroleum gas; (3)
26 control the disposal, discharge or escape of sewage as defined in
27 K.S.A. 65-164 and amendments thereto, by or from municipalities,
28 corporations, companies, institutions, state agencies, federal agencies
29 or individuals and any plants, works or facilities owned or operated,
30 or both, by them; and (4) establish water quality standards for the
31 waters of the state to protect their beneficial uses.

32 (b) The secretary of health and environment may adopt by ref-
33 erence any regulation relating to water quality and effluent standards
34 promulgated by the federal government pursuant to the provisions
35 of the federal clean water act and amendments thereto, as in effect
36 on January 1, 1989, which the secretary is otherwise authorized by
37 law to adopt.

38 (c) For the purposes of this act, including K.S.A. 65-161 through
39 65-171h and amendments thereto, ~~pollution and rules and regu-~~
40 ~~lations adopted pursuant thereto:~~ (1) "Pollution" means: (1) (A) Such
41 contamination or other alteration of the physical, chemical or bio-
42 logical properties of any waters of the state as will or is likely to
43

Senate Ag. Co.
2-22-94
Attachment 5-1

1 create a nuisance or render such waters harmful, detrimental or
 2 injurious to public health, safety or welfare, or to the plant, animal
 3 or aquatic life of the state or to other designated beneficial uses; or
 4 (2) (B) such discharge as will or is likely to exceed state effluent
 5 standards predicated upon technologically based effluent limitations;
 6 and (2) "confined feeding operation" means ~~(A) Any confined feeding~~
 7 ~~of 1,000 or more cattle, swine, sheep or horses at any one time; (B)~~
 8 ~~any animal feeding operation of less than 1,000 head using a lagoon,~~
 9 ~~or (C) any other animal feeding operation having a water pollution~~
 10 ~~potential.~~

11 (d) In adopting rules and regulations, the secretary of health and
 12 environment, taking into account the varying conditions that are
 13 probable for each source of sewage and its possible place of disposal,
 14 discharge or escape, may provide for varying the control measures
 15 required in each case to those the secretary finds to be necessary
 16 to prevent pollution. If a freshwater reservoir or farm pond is pri-
 17 vately owned and where complete ownership of land bordering the
 18 reservoir is under common private ownership, such freshwater res-
 19 ervoir or farm pond shall be exempt from water quality standards
 20 except as it relates to water discharge or seepage from the reservoir
 21 to waters of the state, either surface or groundwater, or as it relates
 22 to the public health of persons using the reservoir or pond or waters
 23 therefrom.

24 (e) (1) Whenever the secretary of health and environment or the
 25 secretary's duly authorized agents find that the soil or waters of the
 26 state are not being protected from pollution resulting from oil and
 27 gas activities not regulated by the state corporation commission or
 28 from underground storage reservoirs of hydrocarbons, natural gas
 29 and liquid petroleum gas or that storage or disposal of salt water or
 30 oil not regulated by the state corporation commission or refuse in
 31 any surface pond is causing or is likely to cause pollution of soil or
 32 waters of the state, the secretary or the secretary's duly authorized
 33 agents shall issue an order prohibiting such activity, underground
 34 storage reservoir or surface pond. Any person aggrieved by such
 35 order may within 15 days of service of the order request in writing
 36 a hearing on the order.

37 (2) Upon receipt of a timely request, a hearing shall be conducted
 38 in accordance with the provisions of the Kansas administrative pro-
 39 cedure act.

40 (3) Any action of the secretary pursuant to this subsection is
 41 subject to review in accordance with the act for judicial review and
 42 civil enforcement of agency actions.

43 (f) The secretary may adopt rules and regulations establishing

the confined feeding, at one time, of more than any of the following:
 (A) 1,000 slaughter and feeder cattle; (B) 700 mature dairy cattle;
 (C) 2,500 swine each weighing over 55 pounds; (D) 500 horses; (E)
 10,000 sheep or lambs; (F) 55,000 turkeys; (G) 100,000 laying hens
 or broilers (if the facility has continuous overflow watering); or
 (H) 30,000 laying hens or broilers (if the facility has a liquid
 manure system); or (I) 5,000 ducks.

14-5-2

fees for the following services:

(1) Plan approval, monitoring and inspecting underground or buried petroleum products storage tanks, for which the annual fee shall not exceed \$5 for each tank in place;

(2) permitting, monitoring and inspecting salt solution mining operators, for which the annual fee shall not exceed \$1,950 per company; and

(3) permitting, monitoring and inspecting hydrocarbon storage wells and well systems, for which the annual fee shall not exceed \$1,875 per company.

(g) Agents of the secretary shall have the right of ingress and egress upon any lands to clean up pollution resulting from oil and gas activities. Such agents shall have the power to occupy such land if necessary to investigate and clean up such pollution. Any agent entering upon any land to conduct cleanup activities shall not be liable for any damages necessarily resulting therefrom except damages to growing crops, livestock or improvements on the land.

Sec. 2. K.S.A. 65-171d is hereby repealed.

~~Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.~~

Sec. 3. K.S.A. 65-166a is amended to read as follows: (a) The secretary of health and environment is authorized and directed to establish by duly adopted rules or regulations a schedule of fees to defray all or any part of the costs of administering the water pollution control permit system established by K.S.A. 65-165 and 65-166 and amendments to those statutes. The amount of the fees so established shall be based upon the quantity of raw wastes or treated wastes to be discharged, units of design capacity of treatment facilities or structures, numbers of potential pollution units, physical or chemical characteristics of discharges and staff time necessary for review and evaluation of proposed projects. In establishing the fee schedule, the secretary of health and environment shall not assess fees for permits required in the extension of a sewage collection system, but such fees shall be assessed for all treatment devices, facilities or discharges where a permit is required by law and is issued by the secretary of health and environment or the secretary's designated representative. Such fees shall be nonrefundable.

(b) Any such permit for which a fee is assessed shall expire five years from the date of its issuance. The secretary of health and environment may issue permits pursuant to K.S.A. 65-165 and amendments thereto for terms of less than five years, if the secretary determines valid cause exists for issuance of the permit with a term of less than five years. The minimum fee assessed for any permit issued pursuant to K.S.A. 65-165 and amendments thereto shall be for not less than one year. Permit fees may be assessed and collected on an annual basis and failure to pay the assessed fee shall be cause for revocation of the permit. Any permit which has expired or has been revoked may be reissued upon payment of the appropriate fee and submission of a new application for a permit as provided in K.S.A. 65-165 and 65-166 and amendments to those statutes.

(c) At no time shall the permit fee for a confined feeding operation exceed:

- | | |
|---|---|
| (1) confined cattle, sheep, swine facility waste control facility | (a) \$30 per year for operations of 1,000 - 4,999 head; (b) \$75 per year for operations of 5,000 to 9,999 head; (c) \$150 per year for operation of 10,000 head or more. |
| (2) dairy farm waste control facility | \$30 per year for 500 cow herd or more. |
| (3) poultry waste control facility | (a) \$30 per year for operations of 10,000 - 49,999 fowl; (b) \$75 per year for 50,000 to 99,999 fowl; (c) \$150 per year for 100,000 fowl or more. |

(d) The secretary of health and environment shall remit all moneys received from the fees established pursuant to this act to the state treasurer at least monthly. Upon receipt of such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

Sec. 4. This act shall take effect and be in force from and after its publication in the state books.