

M I N U T E S

SPECIAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

September 16 and 17, 1976
(Room 514 - State House)

Members Present

Representative John H. Vogel, Chairman
Senator Don Christy, Vice-Chairman
Representative Clifford Campbell
Representative Rex Crowell
Representative Ambrose Dempsey
Representative Walter Graber
Representative Lee Hamm

Staff Present

Donald L. Jacka, Jr., Kansas Legislative Research Department
Don Hayward, Revisor of Statutes Office
John Rowe, Kansas Legislative Research Department

September 16, 1976

Conferees and Guests Present

Mr. Dwight Beckwith, Kansas Meat Processor's Association
Mr. Emmett Schuetz, Kansas Meat Processor's Association
Mr. William Duitsman, Secretary, State Board of Agriculture
Mr. Pat Boyer, Assistant Secretary, State Board of Agriculture
Mr. Kenneth M. Wilke, Attorney, State Board of Agriculture
Mr. W. J. Petr, Director, Division of Meat and Poultry Inspection, State Board of
Agriculture
Mr. Hal Hellebust, Kansas Co-op Council
Mr. John O. Miller, Committee of Kansas Farm Organizations
Mr. Art Sommer, Kansas Seed Dealers Association
Mr. John Meetz, Kansas Livestock Association

Morning Session

Chairman John Vogel called the Committee to order and explained the two days' agenda to the members. The Chairman noted that Proposals No. 1 and 2 would be discussed on the first day and that the following day would be spent discussing Proposal No. 3. The Chairman then asked the staff to proceed with its presentation of a Committee report on Proposal No. 1.

A member of the staff reminded the Committee of the direction which it had given relative to its recommendations on Proposal No. 1. It was noted that the staff had attempted to present the Committee's recommendations within the Committee report. Major recommendations, set forth in the Committee report, included the Committee's intent to preserve the state operated meat and poultry inspection program and the Committee's recommendation that the state funding of the Talmadge-Aiken (T/A) Program of the state be discontinued.

Following the staff's presentation, discussion ensued concerning the Committee report. Mr. Jim Petr, of the State Board of Agriculture, stated that he felt the report adequately addresses the proposal but added a few points of clarification relative to custom and custom-curtis plants and the Talmadge-Aiken Act. Relative to the Talmadge-Aiken program, a member of the Committee asked Mr. Petr if the federal government would be willing to finance the state inspectors which staff Talmadge-Aiken (T/A) Plants. Mr. Petr noted that the federal government has implemented full federal funding of the T/A plants in the State of Maine, but he felt the federal government would probably not implement such a funding program in Kansas. At the conclusion of this discussion it was the Committee's consensus that the federal government should be asked to finance the entire Talmadge-Aiken program in Kansas. As an alternative to that financing, the Committee reiterated their desire to discontinue the Kansas Talmadge-Aiken program.

A discussion relative to the transition from state-operated to federal-operated meat and poultry inspection in Missouri then ensued. A member of the staff noted that, upon transition, plants in Missouri were required only to meet the structural standards set forth in the Federal Facilities Requirements for Small Existing Meat Plants. It was stressed that existing plants in Missouri were not required to meet the structural standards set forth in Handbook 191 unless they underwent remodeling or new construction. The staff also noted that in interpretation of these structural standards the "rule of reason" had allowed a liberal enforcement of these standards. It was also noted that Missouri is within a different federal meat and poultry inspection area than Kansas and that the "rule of reason" implementation in Kansas could be drastically different.

Following the discussion, a member of the staff noted that a final Committee Report on Proposal No. 1, incorporating the minor changes suggested by the Committee, could be reviewed by the Committee at the next day's meeting.

Chairman Vogel then recessed the Committee for noon break, to reconvene at 1:00 p.m.

Afternoon Session

Chairman Vogel called the Committee to order and stated that the afternoon session would be spent in discussion of Proposal No. 2, relating to the large-capacity scale inspection program of the Division of Weights and Measures of the State Board of Agriculture. The Chairman asked the staff to present the draft legislation which it had been directed to prepare. A member of the staff presented proposed legislation which would institute a form of variable-frequency inspection of large-capacity scales.

Chairman Vogel then directed the staff to present its draft Committee Report on Proposal No. 2. A member of the staff reviewed the report for the Committee. As set forth in the report, the major intent of the Committee is to insure that large-capacity scales throughout Kansas are adequately inspected on a regular basis. To accomplish this, the Committee Report recommends legislation which would institute a form of variable-frequency large-capacity scale inspection. The report concludes that through this method of large-capacity scale inspection, fees can be assessed to enable the Division of Weights and Measures to finance a program operating on a regular basis.

Following a more detailed staff presentation of a section-by-section review of draft legislation on Proposal No. 2, a discussion evolved relative to the penalty provisions contained within the act. Mr. Duitsman, Secretary of the State Board of Agriculture, stated that the Board needs a more rigid program of citation for violations of the proposed program. Mr. Duitsman's remarks were reiterated by Mr. Kenneth Wilke, the attorney for the State Board of Agriculture. Mr. Wilke stated that, to effectively enforce the program, he felt it would be necessary for the State Sealer to have the power of arrest. He continued that this legislation would be sufficiently strengthened by providing the State Sealer with the power to enjoin violations of the Act.

At the conclusion of the discussion, a motion was offered by Representative Graber to accept, for introduction to the 1977 Legislature, the proposed bill, including an amendment providing the State Sealer the power to enjoin. This motion was seconded by Senator Christy and passed with no opposition. A motion was then offered by Senator Christy to accept the Committee Report on Proposal No. 2. The motion was seconded by Representative Graber and passed unanimously. A copy of this Committee report is appended as Attachment No. 1.

Chairman Vogel adjourned the Committee, to reconvene at 9:00 a.m. on the following day -- September 17, 1976.

September 17, 1976

Conferees and Guests Present

Mr. William Duitsman, Secretary, State Board of Agriculture
Mr. Pat Boyer, Assistant Secretary, State Board of Agriculture
Mr. Hal Hellebust, Kansas Co-op Council
Mr. John O. Miller, Committee of Kansas Farm Organizations
Dr. David Whitney, Kansas State University
Mr. Milo Schroeder, Soybean Association
Mr. Tony Ballman, Soybean Association
Mr. Wayne Dicken, Soybean Association
Mr. Darrell McNeil, Department of Administration
Mr. Joe Detrixhe, Kansas Association of Wheat Growers
Mr. Stephen J. Lange, Kansas Association of Wheat Growers
Mr. Myron Krenzin, Administrator, Kansas Wheat Commission
Mr. John Blythe, Kansas Farm Bureau

Morning Session

The Committee was called to order by Chairman Vogel at 9:00 a.m. Representative Vogel noted that the Committee would involve its discussion with Proposal No. 3, concerning grain advisory boards. At the request of the Chairman, a member of the staff presented a draft of legislation, proposed at the last meeting. During the course of this presentation, the Chairman questioned the staff about the section of the bill which related to reimbursement of commission members who travel. It was noted that compensation for commission members had not been included within the draft. The Committee decided that members of commissions who are required to travel should be granted compensation. The staff was directed to provide for such in their next draft.

Upon the completion of their review of the draft, the Committee discussed an alternative to the organizational framework as presented in the draft. The Committee debated the organization of the corn commission, soybean commission and grain sorghum commission within and as part of the Marketing Division of the State Board of Agriculture. Endorsing such organization, the Committee directed the staff to draft new legislation which would incorporate those commissions within the Marketing Division. As directed, these three commissions would still be represented upon a commodities council. The commodities council would be composed of two representatives from each of the above stated commissions plus two representatives from the Wheat Commission. The Wheat Commission would remain a separate entity -- apart from the Marketing Division of the State Board of Agriculture. The corn, soybean, and grain sorghum commissions in addition to the commodities council would receive clerical and administrative support from the Marketing Division.

In discussion which followed, the Chairman asked representatives from each of the commodities associations involved how they felt about the alternative organization as presented above. Each of the grain associations felt that such an organization would benefit their grower-members of Kansas. In response to an inquiry by the Chairman, Mr. Duitsman, Secretary of the State Board of Agriculture, noted that he felt such an organization would be beneficial to marketing and research of grain crops of the state. He continued that to provide such service, the staff of the Marketing Division would need to be supplemented.

At the conclusion of their discussion, the Committee directed the staff to draft legislation which would create an organization as outlined above. A meeting date of October 22, 1976 was set to review the draft legislation and the Committee Report on Proposal No. 3.

The staff then presented an amended copy of a previously reviewed Committee Report on Proposal No. 1. This Report is appended as Attachment No. II. Representative

Graber offered a motion that the Committee Report on Proposal No. 1 be accepted by the Committee for presentation to the 1977 Legislature. Representative Crowell seconded the motion and it passed unanimously.

Chairman Vogel entertained disposition of the previous meeting's minutes. Representative Hamm offered a motion for their approval which was seconded by Representative Crowell. Upon vote, the August 12 and 13, 1976 Committee minutes were approved.

Chairman Vogel then adjourned the Committee until their October 22, 1976 meeting. He noted that the October meeting would begin at 10:00 a.m.

At the request of Mr. Emmett Schuetz, of the Kansas Meat Processor's Association, a copy of standards which are required to be met by his processing facility is appended as Attachment No. III.

Prepared by Donald L. Jacka, Jr.

Approved by Committee on:

October 22, 1976
(Date)

9/16/76

COMMITTEE REPORT

TO: Legislative Coordinating Council
FROM: Special Committee on Agriculture and Livestock
SUBJECT: Proposal No. 2 - Division of Weights and Measures

As the result of concern expressed during the 1976 Legislative Session relative to the cost involved in the state-operated program of large-capacity scale inspection and validation, the Special Committee on Agriculture and Livestock was charged with the study of Proposal No. 2. Through this proposal, the Committee was directed to determine the desirability of continued funding and maintenance of the state-operated program of inspection and validation of large-capacity scales. An alternative, as directed by this proposal, would be the licensing of private individuals to perform such functions.

Background

The Division of Weights and Measures of the State Board of Agriculture is given the responsibility to, among other things, inspect and validate the accuracy of large-capacity scales operating within the State. To perform this function, the Division utilizes two trucks which carry certified weights used in the validation. The Division, using these vehicles, inspects and validates the accuracy of scales with capacities from 10,000 to 250,000 pounds. With both vehicles in good repair it presently takes the Division three years to inspect the approximately 4,000 large-capacity scales in Kansas.

During the 1976 Legislative Session, concern for the cost of maintenance and replacement of the inspection vehicles culminated in the drafting of legislation which would have instituted a system of fees to defray those costs. House Bill No. 3167, which never proceeded from its initial assignment to the House Committee on Ways and Means, would have instituted a program of large scale licensure. This bill would have required the Division of Weights and Measures to annually validate and license each large-capacity scale. To fund this program H.B. 3167 provided for an annual license fee of \$50 assessed to each large-capacity scale in the State.

Deliberations and Recommendations

In its consideration of Proposal No. 2, the Committee became aware of the increasing inability of the Division of Weights and Measures to conduct a viable program of large-capacity scale inspection and validation under existing budget and equipment constraints. The Committee became concerned with the cost inherent in the operation of the present program and with the inability to inspect and validate the scales on an annual basis. It is the consensus of the Committee that a less costly and more frequent program of large-capacity scale inspection and validation should be initiated by the Division of Weights and Measures. To accomplish this end, the Committee has drafted _____ . _____ is appended to this report.

This bill institutes a system of variable-frequency inspection of large-capacity scales. This system, which is present being utilized in a few counties of California and on a statewide

basis in Arizona, would allow the Division of Weights and Measures the flexibility to validate large-capacity scales on an annual basis. This bill also provides for the collection of fees to support the program.

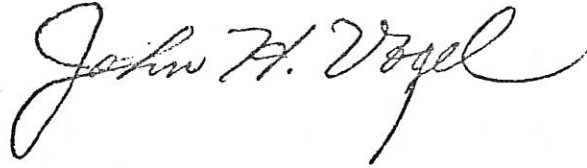
A variable-frequency inspection program is based on the proposition that a scale operator is responsible for the accuracy of the scale which he maintains. This system differs greatly from the system of scale validation which the State presently performs. Presently, the Division of Weights and Measures, utilizing two vehicles, travels throughout the State validating the large-capacity scales. Dysfunctional scales are tagged and the owners are then responsible for having them repaired. This service is presently performed at no cost to the scale operators. Under a system of variable-frequency inspection as set forth in _____, the Division of Weights and Measures would assume a role of law enforcement instead of simply one of scale validation. Under this system, the State would license individuals and businesses to perform repair services in addition to the inspection and validation functions presently performed by the Division. It would be the responsibility of the scale operator to insure that his scale is inspected and validated on an annual basis. To insure that this responsibility is assumed by the scale operator, the Division, utilizing its two vehicles, would then perform spot checks on the accuracy of both the scale and the scale operators.

Through a variable-frequency inspection system, the Division of Weights and Measures could concentrate its activities on spot checking those scales and scale inspectors which have poor histories of accuracy. Also under this system the Division could

recover, through the various fees assessed, the necessary revenue for the operation and maintenance of the large scale inspection program.

The Committee is convinced of the need for a program of large-capacity scale inspection in Kansas. It is also their consensus that such a program is necessary on an annual basis. The Committee believes that a system of variable-frequency inspection as provided by _____ will achieve the accuracy which is desired, at a savings to the State.

Respectfully submitted,

A handwritten signature in cursive script, reading "John H. Vogel". The signature is written in dark ink and is positioned below the typed name "John H. Vogel".

COMMITTEE REPORT

TO: Legislative Coordinating Council
FROM: Special Committee on Agriculture and Livestock
SUBJECT: Proposal No. 1 - Meat and Poultry Inspection

Proposal No. 1 directs the Special Committee on Agriculture and Livestock to determine the desirability of a continuation of the funding and maintenance of the state-operated program of meat and poultry inspection. Under this charge, the Special Committee examined the feasibility of an alternative to the state program, that being a federally-operated program of meat and poultry inspection in Kansas. During the course of its study of this proposal, the Special Committee heard testimony from the State Board of Agriculture, the Meat and Poultry Inspection Area Office of the USDA, the Kansas Association of Meat Processors, a representative of the Minnesota Association of Meat Processors, and interested individuals and groups from throughout the state.

Background

Kansas has conducted its present meat and poultry inspection program since 1970, the first year in which the state complied with the provisions of the Wholesome Meat Act of 1967. This act provided consistent standards for meat inspection to be maintained throughout the United States. The act allowed the states a period of two years in which to adopt meat inspection standards "at least equal to standards of federal inspection."

It also specified that federal agencies would assume all meat inspection functions within states which failed to adopt such standards. The term "at least equal to" has been interpreted to mean strict federal standards must be met and maintained relative to sanitation, wholesomeness, formulations, and labeling. In addition to prescribing standards for the inspection of meat, this act also provided structural standards for the meat processing facilities.

The Meat and Poultry Inspection Division of the State Board of Agriculture employs approximately 110 people in the performance of its functions. While there are 70 facilities in Kansas inspected by the federal government, in 1975 the Division inspected 320 state plants on an ongoing basis. Of these plants, 194 were fully inspected and allowed to do retail as well as custom business, 68 were Custom or Custom-Curtis plants,* 52 were miscellaneous plants (brokers, warehouses, pet food manufacturers, etc.) and six were Talmadge-Aiken plants.

The Talmadge-Aiken Act gave the Secretary of Agriculture authority to cooperate with the states in the administration of regulatory laws. Under this act, Kansas-based plants doing business on an interstate basis, requiring federal inspection, would be inspected by state employees licensed by the U.S. Secretary of Agriculture. Plants under the Talmadge-Aiken Act

* These are plants which perform processing services for owners of livestock. These plants cannot sell custom slaughtered meat on a retail basis but Custom-Curtis plants may buy federally and state inspected carcasses for retail sales.

must meet all federal regulations for the processing of meat and poultry and must use federal labels. The provisions of this act allow Talmadge-Aiken plants to sell their products in interstate or foreign commerce. A primary advantage of this arrangement over federal inspection, as noted by plant operators, is that program administration is based at the state level instead of Washington, D.C., thus facilitating communication between plant operators and the regulatory agency. Currently the six Talmadge-Aiken plants in Kansas are inspected by 11 full-time and two half-time state meat inspectors.

Sixteen states have opted to terminate their state-operated meat and poultry inspection programs and have allowed the U.S. Department of Agriculture to assume full jurisdiction over those programs. In those states, the most drastic difference in the federal regulations, as opposed to those of the state, lies in the structural standards of the meat processing facilities. To implement these structural renovations in the states that decided to discontinue their state meat and poultry inspection programs, it has been the normal procedure to allow the plants 18 months to develop blueprints for remodeling their facilities according to federal specifications. After submitted these blueprints, the plants are normally given another 18 months to implement the plans. During this three-year transition period most plants are allowed to stay in operation as long as they meet certain sanitary standards. In many instances structural requirements were waived during the planning period.

In his message to the 1976 Legislature, the Governor recommended that the legislature repeal the Kansas Meat and Poultry Inspection Act. The Governor suggested that, by allowing the federal government to institute its program of meat and poultry inspection, the state could realize a savings to its General Fund with no decline in the quality of inspection. As a result of these recommendations, the 1976 House Committee on Governmental Organization introduced House Bill No. 3205 which, if adopted, would have repealed the Kansas Meat and Poultry Inspection Act. This bill never progressed from its initial assignment to the House Committee on Governmental Organization and was ultimately stricken from the Calendar.

Committee Deliberations

The Special Committee began its study of Proposal No. 1 with a review of the effects of the state-to-federal transition in the 16 states which had discontinued their meat and poultry inspection programs. The Committee found that in most cases the states had discontinued their inspection programs because of fiscal considerations. In a survey of these states, it was also noted that there was much concern, upon transition, that the meat processing facilities would be unable to meet the financial burden of implementing the structural changes which would be required by the federal inspection program.

At the onset of its deliberation, the Special Committee attempted to resolve this problem of facility structural requirements -- the solution to this problem was felt to be fundamental

in the consideration of this proposal. At issue were the structural standards which the federal government imposes upon the meat processing facilities. This problem involves a disagreement as to the degree of flexibility in the implementation of the federal structural requirements as they apply to existing meat processing facilities.

In their consideration of this portion of the federal meat and poultry inspection program, Committee members received input from both the State Board of Agriculture and the Administrator of this regional meat and poultry inspection area of the USDA. The Committee noted that, relative to the enforcement of the structural standards, there are two USDA publications which apply. The Committee was told that upon transfer from the state to the federal program, the existing plants would have to meet the requirements of the publication entitled Federal Facilities Requirements for Small Existing Meat Plants. The other USDA publication, Agricultural Handbook 191, was said to apply only to the construction of new facilities or the remodeling of existing facilities.

Even with this explanation, however, the Committee felt that there would be problems associated with the interpretation of the regulations relative to small and existing meat processing facilities. Under these regulations, the Area Administrator is given what is termed the "Rule of Reason" in his application of the structural requirements to existing facilities. Because of this, it was difficult for the Committee to determine whether the existing plants in Kansas could meet the structural standards or

whether it would be necessary for the facilities to expend resources for remodeling to comply with those standards.

Relative to their discussion of what, if any, structural renovations would be required by existing facilities upon the institution of a federal program, the Committee received testimony from a meat processor in Minnesota, a state which underwent such a state-to-federal transition in 1971. This conferee cautioned the Committee about the problems and financial burdens which the meat processors in Kansas would bear if a transition from a state-operated meat and poultry inspection program should occur. The Committee was told that because of the structural requirements imposed upon the meat processors in Minnesota, a number of processors either discontinued their operations or became custom plants. The Committee was informed that a custom plant does not slaughter for retail sale and is thus infrequently inspected under the federal meat and poultry inspection program. The conferee continued that, as a result of the interpretation of the structural requirements in Minnesota, the meat processing industry was damaged -- not only were a number of businesses dissolved but, more importantly, a number of businesses became custom plants and were inspected on an infrequent basis.

Various members of the Kansas Association of Meat Processors testified before the Committee and indicated that if major structural modifications would be necessary in Kansas, as they were in Minnesota, their specific businesses and their industry, as a whole, could not absorb the costs that would be involved. It was also noted that the state-inspected plants could not afford to sacrifice the retail portions of their businesses

and become custom plants. It was explained that in many cases slaughtering for retail sales accounts for more than two-thirds of the total operation of these plants.

The conferees representing the Kansas Association of Meat Processors also noted the problems of communication which would evolve if the transition from state to federal inspection should take place. The conferees noted that presently there was a very workable relationship between their operations and the Division of Meat and Poultry Inspection of the State Board of Agriculture. They were concerned that they would no longer have their questions and appeals handled immediately. Of major concern to the representatives of this organization was the possible decline in the quality of meat processed in the state. It was reasoned that if a federal program were implemented, the custom plants would be inspected infrequently and the quality of their product could easily decline.

The Committee received input from various civic groups located throughout the state. Of major concern to these groups was the fear of their communities losing viable businesses. They appealed to the Committee that, because of the vast expenditures which would have to be made by the processing plants for facility renovations upon the transfer from a state-operated program to a federal program, a number of those processing plants would either reduce their operations or dissolve their businesses. These conferees noted that the economic bases of many communities would be severely damaged if the meat processing plants located in those

communities would be forced to cut back or discontinue their operations. Conferees also noted that, as taxpayers of the state, they felt that their tax dollars presently were being spent wisely on the meat and poultry inspection program.

Committee members reviewed the expenditures by the federal government for the operation of meat and poultry inspection programs in those states which implemented a transfer. They found that Kansas is operating its meat and poultry inspection program much more economically and efficiently than the programs operated by the federal government. Generally, it was found that the federal government expends much more in the operations of its program than the states expended prior to the transition.

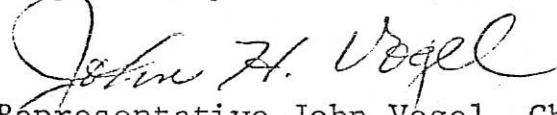
Recommendations

Upon comprehensive review of Proposal No. 1, the Committee has concluded that it is desirable to continue the present operation of the Kansas meat and poultry inspection program. The Committee feels that the present operation of this program is being performed with both a benefit to the consumer and at a savings to the taxpayer. The Committee feels strongly that the present program is responsible for the high quality of meat processed in the state and would not support legislation which could damage that quality.

Although the Committee is committed to the preservation of the present state program of meat and poultry inspection, it is also cognizant of the fiscal considerations expressed by many.

For that reason, the Committee recommends that the federal government finance the Talmadge-Aiken Program. As an alternative to federal financing the Committee recommends that the Division of Meat and Poultry Inspection of the State Board of Agriculture discontinue its staffing of inspectors to the Talmadge-Aiken plants of the state. As noted previously, there are currently six Talmadge-Aiken plants in Kansas. The Committee found that should the federal government assume the total financing of the Talmadge-Aiken Program or should the state discontinue its participation in the Talmadge-Aiken program, 11 of the 12 FTE positions could be dropped from the Division's budget. The net savings to the state, based on the FY 1978 budget projections, would be \$74,400, or 8.4 percent of the state's general fund total support of the division's operation.

Respectfully submitted,


Representative John Vogel, Chairman
Special Committee on Agriculture
and Livestock

September 17, 1976

FROM U.S.D.A. HANDBOOK #191 ON FEDERAL REQUIREMENTS OF PLANT FACILITIES

1. Rust resistant equipment.
2. Metal clad doors and jambs.
3. Walls, ceilings and equipment impervious. (impervious-not capable of being penetrated)
4. Rail Height - 11 foot hanging - 16 foot bleeding.
5. No rails closer than 2 feet to stationary object.
6. 50°F temperature in product and carcass area.
7. 180° Water.
8. Cooler unit drains pipes extended to floor drain area.
9. Pedal operated Lavatories in product handling areas.
10. Pedal operated Lavatories not to drain on floor.
11. Viscera truck cleaning area (separate area, separate drain).
12. Head wash cabinet.
13. Coves on all wall-floor junctions.
14. Retail areas separate.
15. Inspectors office, furniture, shower bath in slaughter plants, separate toilet and dressing room if more than one inspector.
16. Two toilet rooms if both sexes work in plant.
 1. Vestibule attached to toilet rooms.
18. Shower bath room in slaughter plants.
19. Clothing locker for each employee.
20. Walls and ceilings smooth and flat.
21. All window sills sloped to 45°.
22. 4½ ft. doors with track - 5 ft. doors for trucks.
23. Retain cage in cooler.
24. Separate room to wash equipment.
25. 12 inch curbs on holding pens.
26. Watering troughs with water overflow.
27. Roof over suspect pen.
28. Outside area paved.
29. Paved unloading chutes.
30. Loading areas - extend 20 ft. from building and drained.
31. Dry land and bleeding areas.
32. Proper facilities to unload cripples.
 1. Header rails 3 ft. from wall.
 2. Thermometer in hot water line.

In my plant I have no. 3, 7, 17, 25, 32.

Under small existing plants handbook I am in full compliance.