

Approved February 19, 1991
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Jim Allen at
Chairperson

10:07 a.m./p.m. on February 14, 1991 in room 423-S of the Capitol.

All members were present ~~XXXX~~

Committee staff present: Raney Gilliland, Legislative Research Department
Lynne Holt, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Carl Hamilton, President, Kansas Sheep Association
Coffeyville, Kansas
Raymond Kuchlman, Vice President, Kansas Sheep
Association, Belleville, Kansas
Joe Rickabaugh, Kansas Livestock Association
Tom Clayman, Mid-States Wool Growers
South Hutchinson, Kansas
Larry Abeldt, Kansas Purebred Sheep Association
Hope, Kansas
Harold Mertz, member, Kansas Sheep Association
Manhattan, Kansas

Senator Allen called the Committee to order and called attention to SB 77 which would create a Kansas Sheep Commission. The Chairman called on the following proponents for SB 77.

Carl Hamilton gave the Committee copies of his testimony (attachment 1) and expressed support for SB 77. Mr. Hamilton stated that the sheep industry needs promoting and, if passed, SB 77 would provide the help to provide information and promotion of the sheep industry.

Raymond Kuchlman provided the Committee with copies of his testimony (attachment 2) and requested the Committee act favorably with the requested legislation. Mr. Kuchlman commented that the passage of SB 77 would provide the way to strengthen the sheep industry in Kansas.

Joe Rickabaugh expressed the support of the Kansas Livestock Association for SB 77. Mr. Rickabaugh gave copies of his testimony to the Committee (attachment 3) and stated that promotions from a sheep checkoff should improve the sheep industry in Kansas as checkoffs have helped the cattle and swine industry.

Tom Clayman provided a copy of his testimony (attachment 4) and expressed support for the proposed Kansas Sheep Commission which would make possible the promotion of the sheep industry in Kansas.

Larry Abeldt explained that SB 77 had been requested in an effort to improve the sheep industry in Kansas. Mr. Abeldt stated that a discussion had been held with several from the State Board of Agriculture to discuss the provisions of SB 77 and the amendments suggested for SB 77 as listed in the copy provided the Committee (attachment 5). Mr. Abeldt requested the following additions be made to the list of amendments as suggested in his handout. Add to number 5 after Kansas Sheep Association, "and/or other organizations that represent sheep in Kansas". The bill should specify that, "the make-up of that Commission should be two members from lamb feeders, two from ewe flock producers, 1 from purebred producers and 2 at large". In number 8 change to read, "the secretary shall make the appointments with the consent of the Commission and it shall be a classified position" and then words should be added to reflect that an assistant administrator may be added if and when needed. Number 14 suggestion should read, "strike deduct and add remit". Mr. Abeldt

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:07 a.m. ~~XXX~~ on February 14, 1991

requested that the wording state that, if K.S.A. 75-317a would not apply to the proposed sheep commission that, "a limit be set that would be taken from the checkoff totals to go to the State General Fund".

Harold Mertz gave the Committee copies of his testimony (attachment 6). Mr. Mertz expressed support for SB 77 with the proposed amendments and stated that promotion of the sheep industry will help the sheep industry and in turn the economy of the State of Kansas.

The Chairman called attention to a letter received by Senator Frahm from Frank J. Schwulst and Richard S. White of the Northwest-Research-Extension Center at Colby. Copies of the letter were given to Committee members (attachment 7). Support for SB 77 was expressed in the letter for the formation of a Kansas Sheep Commission as proposed in SB 77.

During Committee comments it was answered that there has been a voluntary sheep checkoff but that it has been learned how much more effective an official checkoff would be through a Kansas Sheep Commission; thus the request for the legislation. It was answered that no opposition has been expressed around the state for the proposed Kansas Sheep Commission although a few oppose the checkoff. Those who oppose the checkoff may request a refund but they will benefit from the promotional efforts made from the checkoff fees the same as those who do not request a checkoff refund. It was answered that promotion in another state has created an additional 10% to 15% in the consumption of lamb. An educational benefit for the sheep industry could be a class at the Vocational Technical Schools on the care of sheep and other aspects of the sheep business. It was questioned whether this legislation could state a maximum number of dollars that would go to the general fund. When asked if any hamburgers have been sold at fast food restaurants, it was answered that a restaurant in Newton had experimented but that a steady supply of lamb was not available. Mr. Abeltdt answered that the listing of who would make up the proposed sheep commission was listed so that all members would be bonafide sheep producers and also representative of all segments of the sheep industry. Mr. Abeltdt answered that the proposal as listed in the amendments states that the administrator is to be a classified position.

The Chairman next called attention to a handout (attachment 8) for Committee information concerning the changing of regulations for the clean water act which are causing problems.

The Chairman called for action on Committee minutes.

Senator Sallee made a motion the Committee minutes for February 5, 6, 7, and 12 be approved; seconded by Senator Daniels. Motion carried.

Senator Allen adjourned the Committee at 10:55 a.m.

Mr. Chairman, committee members, and guests. I would like to thank this committee and those that were instrumental in getting this bill introduced in the senate and for the opportunity that we have to come before this committee and defend the importance of this legislation to the sheep industry. If there has ever been a time in the history of the sheep industry that we see the need of a self help program to promote our industry and our product it is now. This last year our markets for both lamb and wool has fallen to disastrous lows for our producers with prices far below the cost of production. I come to you today not only representing the grass roots organization of the Kansas sheep industry, the Kansas Sheep Association, but also an individual representing two aspects of the industry as a lamb feeder and also as an operator of a lamb market in southeast Kansas. We see the need for this checkoff and we are ready to support it.

We are seeing our lamb markets today 20 cents lower than they have been at any time in the last 13 years. In real dollars our wool market has not been this low since before 1950. We are seeing this at a time when beef prices are at an all time high. The beef checkoff has been a proven success along with the checkoff for pork. We think it is time for the sheep industry to follow suit and quit running so far behind the rest of the red meat industry. I fully realize that with the beef and pork checkoff we are looking at a national program, however we feel that the producers of Kansas can not wait for a national sheep checkoff for there is too much to do. This is not to say there is not a national program in the offing and that our national leaders are ignoring the situation, but it is saying that we need to take the initiative now. Our neighboring states and beyond have already placed a checkoff into their programs and are succeeding. Nebraska, Missouri, Iowa, Oklahoma, Illinois, Indiana, Ohio are among those states.

We have sponsored two particular meetings in the last 3 months in which there was a good representation of producers and feeders from across the state. As we presented to them our concern for the need of a state checkoff and encouraged discussion on the subject, we found their attitude to be very positive. The consensus of opinion was that we needed the checkoff and it needed to be a mandatory checkoff. In our discussion with a large group of lamb feeders in Wichita, we asked what do you think is the most important need in our industry today? The overwhelming response in a roundtable discussion was "PROMOTION OF OUR PRODUCT". We do not want to imply that nothing is being done in promotion across our country. Our national organization, the American Sheep Industry Ass'n has a very aggressive program for lamb and wool promotion, however they too sometimes have to cut back on programs for lack of funding. We have many areas in Kansas needing promotion that they would never reach in a national

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attachment 1

program. We have three metropolitan areas in Kansas that needs heavier promotional coverage than is being done now. We cannot wholly depend on our national program to do all the funding of promotion work in our state especially when much of their emphasis is concentrated in the heavily populated areas of the country.

Much has been accomplished in these promotional areas. Lamb consumption is up 18 percent, retail price is up 5 percent, special featuring of lamb is up 88 percent, and imports is down 24 percent. These are all results of a successful program, but there is much more to do. We are just beginning to tap the 249 billion dollar food service industry.

On the wool side of the picture, the price of wool is being effected by the glut on the world market. The Wool Quality Improvement Program is concentrating on helping our domestic producers get more money in the international market by improving the reputation and quality of our domestic clip. One and a half million pounds were sold this last year on the international market. Quality of our wool is going to make the difference on the price our producers receive and education and research is going to be a vital factor in getting this message over to our producers.

When it comes to marketing and promotion, the old adage "if you don't do it yourself, nobody is going to do it for you" is still true. Can you imagine competing in today's world without marketing and promotion. This bill provides for the producers of Kansas a means to fund education, research, and promotion. These producers who are serious about the sheep business are saying "WE NEED THIS LEGISLATION, WE WILL SUPPORT THIS LEGISLATION" PLEASE GIVE US THE TOOLS TO DO IT.

I have attended two area sheep meeting this week, The general comment is what can we do to improve the price of lamb and wool. Those attending showed a genuine concern for the dwindling sheep numbers and ask what they could do individually to help the industry.

Sheep producers must help them self, competition is the name of the game.

I know personally that lamb is and excellent product and people enjoy eating lamb. Several years ago a group of sheep producers at Belleville, Ks., decided that we would promote our product with a lamb supper during our fair. We, yearly serve 350-400 Leg of Lamb Dinners. We have people asking two weeks before the fair for tickets. Check Off FUNDS used for taste sampling in food stores and trade shows and food fairs will have the same results. We ~~can~~ ^{need to} also study better means of distribution.

The sheep and wool industry in Kansas contributes in many ways to the over all economy of our state. Feed, Vet. Supplies, trucking are a few of the many ways.

As I thought about why it is important to provide funds for research and promotion of our product, ^{why sheep are important to myself} I thought back to 1952 when I was in high school and purchasing my first ewes. Later when my wife and I always used the wool payment to make our land payment. I also thought of the good experiences with our son and his 4-H lamb project and activities.

Although the sheep are only part of our livestock operation, we consider sheep a stable and important pat of our farming enterprise.

I would ask that you support Senate Bill 77 for I feel it is a n important step in strengthening the sheep industry of Kansas.

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attachment 2



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attach 3
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**STATEMENT OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE
SENATE COMMITTEE ON AGRICULTURE
WITH RESPECT TO
SENATE BILL 77
PRESENTED BY
JOE RICKABAUGH, EXECUTIVE SECRETARY,
PUREBRED DIVISION
FEBRUARY 14, 1991**

Thank you Mr. Chairman and members of the committee for giving us the opportunity to present our views on Senate Bill 77, the creation of the Kansas Sheep Commission.

Our members support the concept of the Kansas sheep industry creating a promotional arm to further sheep enterprises in this state as well as nationwide. The KLA membership appreciates the fact this program is producer funded as well as being overseen by a producer board. This same type of format has served both the cattle and swine industries well in this state and across the nation.

At the most recent KLA Convention, the full membership approved a policy supporting the concept of a state lamb checkoff for promotional purposes. The KLA policy also contains two more resolutions supporting the promotion of lamb and wool as well as a national lamb checkoff. The bill before you allows cooperative agreements between state and national sheep organizations in market development, education and publicity. Hopefully, if this legislation or similar legislation is passed, the newly formed Kansas Sheep Commission will pursue the proper avenues to cooperate with a nationwide effort for promotion of both lamb and wool.

Lastly, with more interest and involvement of the sheep packing and wool warehousing enterprises in Kansas, sheep business in the state should improve. This could also provide more options for the Kansas agricultural industry, specifically in breeding flock and lamb

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attachment 3*

feeding enterprises. This state's grain and hay industries could also benefit with the increase of sheep production in Kansas. The creation of the Kansas Sheep Commission should also compliment and, hopefully, lead to an even larger sheep industry for this state.

Mr. chairman and members of the committee thank you again for allowing the Kansas Livestock Association to present our views on Senate Bill 77. I would be happy to answer any questions or respond to any comments on my testimony.

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The wool buying companies that operate within the state of Kansas all strongly support the concept of a check off program. Each of my fellow companies have been involved with check offs in each of the states we operate in. Many of us have been involved in helping set up these types of commissions in Missouri and Nebraska in the last few years. The additional programs that I have seen taking place in these states clearly says to me that these self help type programs are very beneficial to all that are involved within the sheep industry. The additional education, research, and marketing help can only stand to help strengthen our sheep industry.

Tom Clayman
Mid. States Wool Growers
South Hutchinson, Ks.

The following other companies support H.B. 77

North Central Wool Marketing
Minneapolis, Minn.

Woodberry Hinds, + Draper
Broomfield, Colo.

Gruenewald Fur + Wool
Forrester, Ill.

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attachment 4

KANSAS SHEEP ASSOCIATION
suggested changes on SENATE BILL: No. 77

1. Sec. 1
Add (H) "Seller" means any entity private or a corporation that sells sheep or wool at a first point for sale in Kansas.
2. Sec. 2
(A) Add- such commission shall be attached to and a part of the division of markets of the State Board of Agriculture.
3. Pg. 1 Line 40-strike 3 years-add two years.
4. Pg. 2 Line 2 add 2 consecutive terms.
5. Pg. 2 Line 5 add-with 2 members being lamb feeders, 2 ewe flock, 1 purebred and 2 at large.
The Governor shall make the selection from nominations provided by the Kansas Sheep Association.
6. Pg. 2 Line 16-add in any one fiscal year.
7. Pg. 2 Line 33-Campaign of market Development through Research, education and promotion.
8. Pg. 2 Line 40 (may appoint)
9. Pg. 3 Line 9 add or international organization.
10. Pg. 3 Line 14 same as Pg. 2 line 33 above.
11. Pg. 3 Line 24 strike producer add Seller, strike for slaughter.
12. Pg. 3 Line 25 seller replace producer.
13. Pg. 3 Line 28-strike for slaughter.
14. Pg. 3 Line 30-deduct and (add) remit
15. Pg. 3 Line 39 strike one year add 60 days.
16. Pg. 4 Line 24-not to exceed \$8,000.00.

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attachment 5

My name is Harold Mertz. The Mertz family has been in the feeder lamb business since 1935. My sons and I are currently the third and fourth generations of our family to feed lambs. We market several thousand lambs each year from our farm east of Manhattan in Wabaunsee and Riley Counties.

The sheep market has been depressed for several years. I believe everyone in the industry recognizes that we need to do more to promote our product. A check-off program must be considered, as a means of funding a promotional program.

I am a member of the Kansas Sheep Association. I represent the state association as the Kansas Director, in the American Sheep Industry. This is a national organization with offices in Denver, Colorado.

ASI has formed a task force to study a proposed national check-off program. A large share of those points have been incorporated into the proposed Kansas bill. Specifically, the rate per head; the refund procedure and requirements; and assessment at each point of sale. I believe a state check-off program should follow closely, the industry's national program.

It is imperative that the proposed legislation be adopted in order for funds to be available for promotion, research and education.

Lamb feeders will be contributing a majority of the funds generated in the proposed bill. As a lamb feeder, I believe Senate Bill 77, with amendments, will be a fair bill for the feedlots in Kansas. It will give them representation on the commission, providing them with a voice in how the money is

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attachment 6*

page two

spent. With a check-off at each point of sale, each producer will contribute his fair share of money. This is the way the beef check-off operates. It works for them and it will work for the sheep industry.

I believe in promoting your product you create more demand for it. In return, producers should receive more for their lamb and wool. I mentioned earlier that we have been experiencing depressed markets in the sheep industry. The bottom line is that if the funds from this bill generate money for us to use in promoting our product, not only will producers benefit, the state of Kansas will benefit as well.

FEB 13 1991

**Northwest Research-Extension Center**

Kansas Agricultural Experiment Station
RR 2, Box 830
Colby, Kansas 67701
913-462-7575

February 13, 1991

TO: SENATE AGRICULTURE COMMITTEE

Though our Kansas sheep industry is not large when compared with beef cattle, it is very viable. Kansas sheep producers are among the most innovative in the country and are very responsive to new technology. Kansas is one of the leading states in sheep research and education.

Kansas sheep producers and people in allied fields recognize the need to contribute to their own industry for the purposes of promotion, marketing, education and research. We, therefore, express our support for Senate Bill No. 77 providing for the establishment of a Kansas Sheep Commission.

Sincerely,

A handwritten signature in cursive script that reads 'Frank J. Schwulst'.

Frank J. Schwulst, Ph.D.
Sheep Research Scientist

A handwritten signature in cursive script that reads 'Richard S. White'.

Richard S. White, Ph.D.
Head

vs

Senate Agriculture Committee

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attachment 7



MURK FROM THE CLEAN WATER ACT

A feedlot faces the future of government regulations over the environment.

By STEVE SUTHER

Larry Oltjen has his new feedlot. But it took a fight before he could use it, even though he already had the necessary permits to build the 5,000-head lot in northeastern Kansas. The holdup came with a major shift in state regulators' approach toward waste management and the federal Clean Water Act, which is to be rewritten by Congress this year.

Even now, having gotten through the red tape and delays, Oltjen worries that requirements will again change and force some new expense on him. "The biggest problem we've had is that they tell you one thing and then six months down the road call you up and say, 'Hey you can't do it that way.'" he

says. Regulatory attempts at overcontrol are getting worse, he believes, "and they're going to get worse yet."

Oltjen and his father Max have been feeding cattle since the 1960s, gradually expanding to over 4,000 head in lots southwest of Robinson, Kan. In 1989, they decided to expand once again and build a new yard so they could feed 4,000 tons of drought-stricken corn that they had ensiled. To design the yard, they hired Ag Engineering Associates of Uniontown, Kan.

The choice made sense. Ag Engineering specializes in livestock waste management and has designed systems from the West Coast to the Atlantic.

John George, its president, had spent four years with the Environmental Protection Agency in the early 1970s to transfer federal authority over feedlot permits to states.

In designing the Oltjens' feedyard, Ag Engineering incorporated an innovative design to handle the waste. The area's relatively high annual rainfall, averaging 35", makes lagoons impractical, so the plans instead called for grass filter strips and grass filter waterways to control runoff. The design has seen little practical application outside Illinois, but its effectiveness was demonstrated by EPA 15 years ago, George says.

"It takes an inordinately large runoff retention and disposal facility to keep from having a discharge, and timing may create a discharge when the stream [and its fish] can least handle it," George explains. "Why complicate the matter by detaining and concentrating wastes when you can treat and release them as generated? That way, any nutrients received by a stream at high flow are more easily assimilated."

In the fall of 1989, the Oltjens received approval from the Kansas Department of Health and Environment (KDHE) to build their lot as proposed. What's more, George says, KDHE agreed to cooperate with him and Oltjen over several years to determine how it compared with lagoon systems.



PHOTO: JIM PATRICO

Then last year, Oltjen suddenly heard a different story. "Their fieldman came by one day and said now they wanted to issue a permit for just 1,500 head," Oltjen says. "They said they weren't sure our plan would work, but we had already built pens for over 2,000 head, along with the headquarters building and a mill for 7,500 [including service

"THE BIGGEST PROBLEM we've had is that they tell you one thing, and then six months down the road they call you up and say, 'Hey, you can't do it that way,'" says Oltjen.

to the home lots]. We had a heck of an investment, and it seemed like they were trying to slow us down."

Oltjen enlisted help from then-Gov. Mike Haden and Kansas Livestock Association Feedlot Secretary Rich McKee. The political pressure eventually brought a 5,000-head permit, but not before there were a host of limitations and conditions attached.

Part of the problem relates to personnel changes at the KDHE's Bureau of Environmental Quality. Bureau Director Ron Fox came to his position at about the same time Oltjen decided to build his yard. In addition, a veteran certification chief was replaced by a recent college graduate, who was instructed by Fox to take a stronger stand on compliance with existing water-pollution laws.

Last year, against a backdrop of two major fish kills from commercial feedlots in western Kansas, Fox moved to shore up state enforcement of EPA regulations. A publicity campaign aimed at getting producers with more than 300 head of livestock in confined lots to apply for the permits they should have had generated some 300 applications by fall, Fox says.

That created a paper backlog, along with apprehension among producers who had applied to build new or to expand. Some gave up and invested in existing facilities elsewhere. Oltjen's permit application was red-flagged

because of the relatively new technology to be used.

"There are limits to how big a lot can be handled with grass filtering, and the technology is not all that well defined," George admits, adding that the new guard seems to regard grass filtering as more of a liability.

But there was also a change in attitude at KDHE, according to George. He says he had a good working relationship with the "prior guard at KDHE," and this has now flown out the window.

"There has been a dramatic change in the posture of regulators in Kansas. They've gone from a realistic, common-sense approach to one that is irrational and unilateral—dictatorial," he says. "They've thrown out scientific parameters in favor of phantom political parameters. It's hard to predict what level of overexpenditure they will require next, other than if past history and science says it's adequate, it's probably not adequate."

The change in approach isn't limited to Kansas, George adds. Across the country, state regulators have lost some of their willingness to work with producers to solve problems, he believes, and Oltjen's concern over the generalized terms in his permit isn't without reason.

"The permits are designed so that neither side has guarantees, but it requires some good faith on both sides."

EPA TIGHTENS CLEAN-WATER ENFORCEMENT

■ According to ancient Greek legend, Hercules cleaned out the stables of King Augeas in one day by diverting the Alpheus River through them. Pollution control has come a long way since then, mostly in the last 25 years.

Water-pollution control had "a dismal track record" when efforts were focused on in-stream quality, based on the original 1965 Clean Water Act, says EPA Commodities Branch Chief Donald Anderson. But when the 1972 law switched to a technical approach, it helped EPA "identify a number of particularly troublesome point sources" and develop federal effluent guidelines for all animal feedlots in 1974, he says.

The law was written so that states could administer the law, and 38 do so.

EPA steps in elsewhere, and whenever a state falls short in its effort, Anderson explains.

The current law requires states to follow the 1974 effluent guidelines, which require lagoons and zero discharge for lots greater than 1,000 head. But as a "practical reality," Anderson says some newer technologies like grass filtering of wastes can be permitted and not subject to the 1974 guidelines.

There are few concessions being granted, however, says Kathleen Hartnett, environmental specialist with the National Cattlemen's Association. "We have heard from EPA and the states that there is an effort to more thoroughly enforce the regulations now,"

she says. EPA may be pressuring states because the Clean Water Act is to be rewritten this year, and many of its authors are from urban districts.

For its part, EPA plans to release a report this month that claims agriculture is responsible for half to two thirds of all nonpoint source water pollution, and that animal waste is to blame for half of that, Hartnett says. "Manure storage and disposal, even application as fertilizer, are seen as major problems," she adds.

However, Hartnett says queries about which species is the worst offender indicate that EPA doesn't differentiate. "We may have to deal with a lot of generic claims that really don't have to do with beef cattle," she adds.

George says. In too many states, particularly in Kansas, "the emphasis has shifted to fines and penalties."

McKee, of the conservative KLA, admits relations with KDHE have been "strained" since 1990, but says there is still a good working relationship.

Fox denies any shift away from cooperation, as well as George's other charges. If there appears to be a "crack-down," he says, it is because of shifts at the federal level and the state's hope to keep ahead of them.

When Congress scrutinizes the current Clean Water Act this year, it is likely to push for a tougher law. Fox predicts. "There's going to be tremendous pressure from the federal government to rein in all types of pollution, including the potential from feedlots," he says. "My intention is to get Kansas in front of that curve ball. A lot of other states are looking at what

we're doing."

Fox, "an old Indiana farm boy" and more recently an eight-year representative in the Kansas Legislature, says he believes strongly in states' rights. He thinks Kansas cattle feeders will fare better under local enforcement of rules than under EPA, which has commended recent Kansas efforts to fight nonpoint source pollution.

One thing that Kansas is now doing to keep federal regulators at a distance is soul searching. Fox has set up a task force to review current practices and determine whether there are problems, and how to solve any that become evident. The industry, professional and government representatives are divided into policy and technical sides.

The technical side (on which George sits) has adjourned until the policy side agrees on goals. That initial report should come by March 1, with the full task force's report by summer, says

policy committee chairman James "Pat" Murphy of Kansas State University.

Murphy notes that the main thrust of his committee has been to give broad directives on how to manage waste from feedlots with fewer than 1,000 head—those not currently under EPA control. "We've got to decide what size operation we will start to look at for compliance," Murphy says.

Perhaps differing levels of compliance will be required for those under 50 head, those between 50 and 299 head and those between 300 and 1,000, suggests policy committee member Mary Fund, head of the Kansas Natural Resources Council. Though it was pollution from a couple of large lots that recently focused attention on compliance, small producers will be the ones most affected by more thorough enforcement, Fund predicts.

She adds that the issue of how to handle small, existing barnside feedlots along streams may require a new cooperative effort between the Extension Service, producers and the KDHE. "Maybe the old lots could be grandfathered in with conditions on management," she says. "But we have to consider how much technical assistance can come from the regulators."

After the task force reports are in and a period of adjustment is over, Fox says producers will see that they "can count on a good working relationship" with KDHE. "I'm wide open to working with operators, but some realities won't go away," he says.

Fox notes that his first duty is to the laws that protect the environment—"but I also have a moral priority to manage those laws to allow producers to operate in a reasonable manner," he says. "There are conflicts, and when I have to come down on one side, it's on the side of the law."

Oltjen's case is one that Fox points to as having been settled by negotiation to include close monitoring of effluent discharge. Oltjen, however, remains a bit uneasy about the unstated tolerance levels. "I have no idea what levels they're looking for—they won't tell me," he says.

That level, according to federal law, is zero. But even EPA Commodities Branch Chief Donald Anderson admits. "There is a practical reality." No one will say what it is, except that it may vary from site to site. That obviously puts a premium on a working relationship between the state administrators and the cattle industry. ◀

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