

Approved: 3-18-98
Date

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Vice-Chairperson Joann Freeborn at 3:30 p.m. on March 10, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. Steve Lloyd - excused

Committee staff present: Raney Gilliland, Legislative Research Department
Hank Avila, Legislative Research Department
Mary Torrence, Revisor of Statutes
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Steve Williams, Secretary, Kansas Department Wildlife & Parks, 900 SW Jackson, Suite 502, Topeka, KS 66612-1220
Representative Melvin J. Neufeld, District 115
Dr. Bill Hargrove, Professor and Director, Kansas State Research and Extension, 044 Waters Hall, Kansas State University, Manhattan, KS 66506
Don Carlson, Chief of Industrial Programs, Forbes Field, Building 283, Topeka, KS 66620

Others attending: See attached list

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She announced that several documents of information had been distributed for the committee to review, a Fiscal Note for Substitute for HB2950, e-mail testimony on Substitute for HB2950 from John A. George, P.E., Agricultural Engineering Association, (See attachment 1) and Major Requirements of Proposed Substitute for HB2950 for Various Sizes of Swine Facilities, from the Kansas Legislative Research Department. (See attachment 2)

The Chairperson opened public hearing on HB2499.

HB2499: **An act concerning controlled shooting areas; relating to the total licensed acreage in any county; amending K.S.A. 32-945 and repealing the existing section.**

Steve Williams, Secretary of Kansas Department Wildlife and Parks, was welcomed to the committee. He appeared in a neutral position to the bill. The Department has two primary concerns regarding controlled shooting areas. First, they are concerned about the cumulative impact of controlled shooting areas on the wild pheasant population, and the second concern is that expansion of controlled shooting area acreage would reduce the acreage available for public hunting through the traditional hunter/landowner permission process. (See attachment 3)

The Chairperson welcomed Representative Melvin Neufeld to the committee. He spoke in support of the bill. The purpose of the bill is to increase the total acreage that can be licensed as controlled shooting areas in a county from 2% to 3%. He and Representative Carl Holmes ask that the bill be passed. Haskell County has been the only county to have a problem with the 2% maximum, and the bill would put the budget proviso into law and would allow additional entrepreneurs to provide expanded hunting in other counties. (See attachment 4) Questions and discussion followed.

Chairperson Freeborn closed public hearing on HB2499.

The Chairperson welcomed Dr. Bill Hargrove, Professor and Director, Kansas State University, to the committee. Dr. Hargrove distributed "Evaluation of Lagoons for Containment of Animal Waste". (See attachment 5) He briefed the committee on Seepage from a Swine Waste Lagoon, Lagoon-Water Nitrogen Chemistry from KSU Studies, and gave a summary of KSU research on animal waste lagoons. He announced that a complete report is due in April, 1998, to the Kansas Department of Health and Environment.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 526-S Statehouse, at 3:30 p.m. on March 10, 1998.

Questions and discussion followed.

Chairperson Freeborn introduced a number of Representatives attending today's meeting, Rep. Joann Flower, Rep. Bruce Larkin, Rep. Bill Feuerborn, Rep. Carl Holmes and Rep. John Ballou.

The Chairperson welcomed Don Carlson, Chief of Industrial Programs, Kansas Department of Health and Environment, to the committee. He briefed the committee on the requirements and standards of lagoons in Oklahoma as compared to those of Kansas and the comparison of clay liners to synthetic liners. He discussed lagoon closures and how to dispose of synthetic liners. He distributed a copy of Comparison of the Substitute for HB2950, KDHE's current statutory/regulatory authority, and KDHE's current statutory authority and draft CAFO regulation and design standard package requirements. (See attachment 6) He summarized the report and briefed the committee on the new provisions.

The Chairperson opened Substitute for HB2950 for discussion and possible action.

Substitute for HB2950: An act concerning livestock; relating to regulation of confined animal feeding facilities; imposing restrictions on construction, operation and expansion of certain facilities; relating to disposal of certain dead animals; providing for certain income tax credits.

A copy of Proposed Amendments to Proposed Substitute for HB2950 was distributed. (See attachment 7)

Rep. Tom Sloan made a motion to accept Proposed Amendments to Proposed Substitute for HB2950. Seconded by Rep. Laura McClure. Motion carried.

Mary Torrence, Revisor of Statutes, explained the changes in the Proposed Substitute for HB2950. Questions and discussion followed.

The Chairperson asked if there were any changes in amendments.

Rep. Dennis McKinney made a conceptual motion to make separation distances apply to City Parks. Seconded by Rep. Douglas Johnston. Motion carried.

Rep. Marti Crow made a motion to change "and" to "or" after "habitually" on page 11 of amendments to page 28, line 16 through page 29, line 2, New Section 16 of the bill. Seconded by Rep. Douglas Johnston. Motion carried.

Rep. Vaughn Flora made a motion to add (h) (1), page 12, lines 10 through 17. Seconded by Rep. Kent Glasscock. Motion carried. (See attachment 8)

Rep. Vaughn Flora made a motion to add (h) (2), page 12, lines 10 through 17, use 4,500, strike 3,500. Seconded by Rep. Laura McClure. Rep. Vaughn Flora withdrew motion, Rep. Laura McClure agreed. (See attachment 8)

Rep. Sharon Schwartz made a motion to change animal units from 1,000 up to 4,500 animal units, on page 9, section 11 of amendments. (See Sloan attachment 7) Seconded by Rep. Dan Johnson. Motion failed.

Rep. Kent Glasscock made a conceptual motion to require KDHE take facility size into consideration in adopting odor control requirements. Seconded by Rep. Marti Crow. Motion carried.

Rep. Tom Sloan made a motion to adopt amendment. (See attachment 9) Seconded by Rep. Douglas Johnston. Part A, Motion carried. Part B, Motion carried. 11 yeas, 3 nays.

Rep. Sharon Schwartz made a motion to adopt amendment #1, (See attachment 10). Seconded by Rep. Kent Glasscock. Rep. Sharon Schwartz withdrew motion, Rep. Kent Glasscock agreed.

Rep. Sharon Schwartz made a motion to add an additional section, (See amendment #3, attachment 10). Seconded by Rep. Laura McClure. Motion carried.

Rep. Douglas Johnston made a motion to adopt amendment. (See attachment 11). Seconded by Rep. Marti Crow. Motion failed. 8 yeas, 8 nays, Chairperson voted nay.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 526-S Statehouse, at 3:30 p.m. on March 10, 1998.

Rep. Douglas Johnston made a motion to adopt amendment. (See attachment 12). Seconded by Rep. Marti Crow. Motion failed.

Rep. Douglas Johnston made a motion to adopt amendment. (See attachment 13) Seconded by Rep. Marti Crow. Motion failed.

Rep. Kent Glasscock made a motion to pass **Substitute for HB2950** as amended. Seconded by Rep. Tom Sloan. Motion carried.

Chairperson Freeborn thanked the committee their attention and hard work.

The meeting adjourned at 7:30 p.m.

The next meeting scheduled for March 11, 1998.

HOUSE ENVIRONMENT COMMITTEE COMMITTEE GUEST LIST

DATE: 3-10-98

NAME	REPRESENTING
Don Carlson	Ks. Dept. of Health & Environment
Bill Henry	Ks Society of Prof Engineers
Tom Bruno	Allen + Assoc
Jim Allen	Seaboard Corp.
Michaela Jacobs	Log. Intern
Jim Allen	Seaboard
Hank Ernst	Kansas Farmer
Bob Hargrove	visitor from Texas
Anne Hargrove	" " "
Leonard Hargrove	" " "
Bill Hargrove	KSU/KCARE
Sarah Kessinger	Harris News Service
Paul Johns	PACK
Marty Vanier	KS Ag Alliance
Martin Hawver	Hawver's Capitol Report
JOHN COLOKAZIYC	
Mike Jensen	Ks Pork
Charles Benjamin	KNRC/KS Sierra Club

From: Rep JoAnn Freeborn (3/4/98)

To: Mary Graham

[1]Written Testimony in Support of HB 2950

3/4/98 3:54 PM

Forwarded mail...

Date: 3/4/98 3:55 PM

From: georgeae

Dear Representative Freeborn:

I apologize that my hectic schedule does not allow me to attend the hearing scheduled for today in support of the subject bill. I would ask that you copy and transmit this written testimony to all members of your committee and the legislature who should see it.

As someone with **extensive** experience in agricultural environmental and regulatory matters in not only Kansas and most of the high plains and Midwest states, but also around the world, I **very much recognize and applaud** the tremendous amount of research, hearings, data collection and analysis, and study that has gone into this Bill. I support especially the parts of the Bill that heighten the administrative efficiency and technical competence required of KDHE in developing rules and design guidelines, administering the applicable regulations and rules, and interpretation of same. It has been painfully evident for most of the last decade that the vast majority of problems in agriculture and environmental matters stem one way or another from the sudden and intentional but persistent lack of highly qualified technical and administrative leadership in the ag waste area.

Since the version of the Bill I retrieved off of the internet is apparently not the latest version, some of what has been represented to be in the revised version may or may not still reside therein. Therefore some of these comments assuming such presence could be erroneous in that assumption. The following comments of support should be taken as encouraging the re-instatement of the subject provisions if they are not currently in place.

KDHE has displayed a longstanding lackadaisical attitude toward and performance of their responsibility to receive and process permit applications for new facilities and permit renewals in a timely and expeditious manner. It is totally unconscionable that we proceed with raising the environmental burden on our taxpayers and allow KDHE to continue to function as though they have no responsibilities to conduct their activities in an efficient, responsive, and technically competent manner. There are at least two key components to reversing this alarming and persistent non-performance on their part.

KDHE should be required by statute to obtain and maintain the highest practical level of technical competence and leadership in program personnel. As my previous letter indicated, this probably means at least one person with a M.S. Degree or higher in Agricultural Engineering with extensive experience in design, construction, management, and regulation of agricultural waste management facilities or closely allied experience in Extension, Research, or regulation of said facilities. Twenty years experience in unrelated bureaucratic positions don't fill this need.

Ten or fifteen days should be more than adequate to review and certify a new or renewal permit application as being complete or to delineate its specific shortcomings to the applicant if it is not complete.

Forty-five days should be more than adequate to review and approve a complete application and publish notice of the intent to issue a permit for construction and operation. Even at this rate, KDHE is holding an

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Attachment 1*

applicant in an economic "no man's land" for approximately 90 days after design completion before they can proceed with building the proposed facility. Before KDHE enacted the removal of the last qualified technical leadership they had in this program, this timeline was half as long with a fraction of today's staffing. I applaud the recognition on the part of your committee that the KDHE bureaucracy should not be allowed to hold applicants hostage simply because there are no deadlines for which KDHE is held responsible. I strongly urge you to be sure that this Bill retains the most basic and only very reasonable deadlines reiterated above. If KDHE fails to act in that time frame, the permit should issue by default and KDHE should bear the burden of any malfeasance, not the applicant.

In addition to recreating the most basic technical competence and leadership inside the Department, there is probably merit to requiring the creation and reliance upon an Ag Waste Technical Advisory Board made up of at least two of the qualified agricultural engineering consultants designing and permitting ag production facilities in the state, the KSU Extension Ag Waste Engineer and a representative from each the Kansas Division of Water Resources, the Kansas Geological Survey, and the State office of the USDA-NRCS. This Technical Advisory Board should be utilized to assist in periodic review and updating of rules and regulations as well as review of interpretation and administrative procedures. The private sector resources on this Board should be compensated in accordance with State rules and precedent for similar service.

I applaud the recognition that this House erred last year in implementing as part of HB 2219 a restriction upon KDHE forbidding the requirement for any professional credentials whatsoever for the development of pollution control facilities design, construction review, quality control, or permitting. I applaud the recognition that protection of public health and well being justifies the requirement for the use of licensed design professionals in the form of Professional Agricultural Engineers for design and permitting of livestock pollution control facilities. This provision should be retained in the Bill.

As forward looking and appropriate as this bill is, there are a couple of areas wherein it could and perhaps should be improved.

One area has to do with monitoring wells. There are many who don't understand the very low risk of groundwater contamination by well designed and constructed waste management facilities. This low risk has been vividly proven over and over for many decades, even with mostly less than professionally designed and built facilities! Instead of wasting thousands of dollars per project requiring the building of more conduits directly to groundwater (coincidentally, most groundwater contamination occurs from wells), wouldn't it make more sense to require a higher level of inspection during the construction of the lagoon liners to provide even more assurance of "prevention" of groundwater contamination? Most other water resources projects over a certain size require full time inspection by the certifying engineer or his qualified representative.

Secondly, knowledgeable environmental regulators and those willing to learn, determined long ago that it is much more prudent to require performance standards (i.e., don't pollute the water) rather than adherence to or use of prescriptive technologies (i.e., use single membrane liners). I am concerned that there is a misplaced confidence in the relatively more expensive but much more fragile synthetic liners and that requiring the use of same will result in burgeoning regulations to fix their shortcomings which eventually will become evident. Visualize the fix required when a synthetic liner perforates and floats up in a lagoon that doesn't have an adequately low permeability soil liner underneath. I suggest this Bill should concentrate on performance

standards, not prescriptive technology.

Thirdly, I don't think there is much argument with the requirement, eventually, for manure management plans for facilities over a certain size. However, I am concerned that we may be setting the industry up for an unavoidable failure if we require same before we get the Department back on its feet in terms of technical competence! Should perhaps, this requirement be staved off a year or two, or even restricted to only the largest facilities for a while. KDHE has been calling for manure management plans in many permits for nearly a decade now without ever delivering the first or most basic guidance.

Fourthly, the issue of operator training is even more apt to put producers in a very untenable position by requiring them to obtain qualified training when KDHE is the least likely agency to embody today even an appropriate delineation of what qualifies as valid training, let alone provide for delivery of same. I would suggest that we slide the time frame for requiring training for a couple of years or restrict it at least to the largest producers. As a bare minimum, tie the requirement to some time after the Department develops and tests a training program and provides for its delivery in a timely and qualified manner.

Fifthly, it appears unduly punitive of the industry to require indemnity for closure expenses of all types of facilities when there is myriad evidence that this is not toxic nuclear or petrochemical waste we are dealing with, but a relatively mundane and totally natural by-product of life itself. If you stop putting manure into a treatment lagoon, the treatment process continues on to a relatively complete end point such that in a few months, the lagoon amounts to a pond of water not unlike most other ponds around the State. Spending large sums of money to shorten this process to a month or two after the last animals are in place is almost surely a total waste of money with no tangible environmental benefits. In the worst case, only those facilities which accumulate large quantities of concentrated manure stored in such a way as to preclude any effective treatment over time should require any specific cleanup effort.

Lastly but certainly not least, we have burdened primarily the swine industry nearly to extinction over recent decades with our ludicrous incarnation of a corporate ban. I have diligently sought to find the first Kansas farmer benefitted by that ban. We are heaping insult on injury with the implication by this Bill that pollution from cattle, poultry, dairy, and all other species is OK, but swine facilities should be forced to meet a higher environmental standard than anyone else. The impropriety is heightened further by the recognition that KDHE does not embody today the most fundamental abilities to administer a single set of rules, regulations, and design guidelines that have remained largely unchanged for nearly twenty five years and are uniform between species. There is no chance that they will soon master any semblance of administrative propriety and efficiency with different rules and interpretations of rules for each specie. I herewith plead with you, don't further tilt the already grossly skewed playing field against our small and medium sized family pork producers. Implement the changes I have encouraged above and make the Bill applicable to all livestock in the State.

I thank you for the diligent and dedicated effort you have invested in this Bill and welcome your inquiry if there are any questions or issues with which I or my staff can assist you.

Sincerely,

John A. George, P.E.

RFC-822 Header:

RECEIVED: from GIRARD1.CKT.NET by mail.ksleg.state.ks.us ; 04 MAR 98 15:54:25

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Received: from john ([206.253.50.121]) by girard1.ckt.net
 (post.office MTA v2.0 0813 ID# 108-30323) with SMTP id AAA27965;
 Wed, 4 Mar 1998 15:53:06 -0600

Message-ID: <34FDCD2E.4A6F@ckt.net>

Date: Wed, 04 Mar 1998 15:54:04 -0600

~~From: JOHN GEORGE <georgeaea@ckt.net>~~

Reply-To: georgeaea@ckt.net

Organization: AGRICULTURAL ENGINEERING ASSOC

X-Mailer: Mozilla 3.01Gold (Win95; I)

MIME-Version: 1.0

To:

Representative Joann Freeborn <rep_joann_freeborn@mail.ksleg.state.ks.us>

CC: rep_steve_lloyd@mail.ksleg.state.ks.us,

Representative sharon Schwartz <rep_sharon_schwartz@mail.ksleg.state.ks.us>

Representative Richard Reinhardt <rep_richard_reinhardt@mail.ksleg.state.ks.us>

, Representative Kent Glasscock <rep_kent_glasscock@mail.ksleg.state.ks.us>

Subject: Written Testimony in Support of HB 2950

Content-Type: text/plain; charset=us-ascii

Content-Transfer-Encoding: 7bit

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**Major Requirements of Substitute for H.B. 2950
for Various Sizes of Swine Facilities**

	UNDER 300 ANIMAL UNITS	300-999 ANIMAL UNITS	1,000-3,724 ANIMAL UNITS	EQUAL TO OR GREATER THAN 3,725 ANIMAL UNITS
Separation Distances, Sec. 1(h)	Does not apply.	1,320 feet from habitable structure or park. Reduction possible under certain conditions.	4,000 feet from habitable structure or park. Reduction possible under certain conditions. 5,000 feet from wildlife refuges for new facilities.	4,000 feet if expansion is within estimated perimeter; 5,000 feet for new or expansion outside the perimeter—county commission cannot ask for a reduction in separation. Reduction of distance possible if no objection from owners of habitable structures. 6,000 feet from wildlife refuges for new facilities.
Public Notification of Permit Application, New Sec. 3	Does not apply unless a permit is required.	Applies if a permit is required.	Applies.	Applies.
Location Parameters, New Sec. 4	Does not apply unless a permit is required.	Applies if a permit is required.	Applies.	Applies.
Distance to Surface Water, New Sec. 4	Generally, not less than 100 feet for permitted facilities.	Generally, not less than 100 feet for permitted facilities.	Generally, not less than 250 feet.	Generally, not less than 500 feet.
Manure Management Plan, New Sec. 5	Not required even if permitted.	Not required even if permitted.	Required of new or expansions. Required of existing within one year.	Required of new or expansions. Required of existing within one year.

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	UNDER 300 ANIMAL UNITS	300-999 ANIMAL UNITS	1,000-3,724 ANIMAL UNITS	EQUAL TO OR GREATER THAN 3,725 ANIMAL UNITS
Liner Requirements, New Sec. 5	No change in policy.	No change in policy.	No change in policy.	If 25 feet or less to groundwater, then a synthetic liner plus 1/4 inch seepage rate soil liner or soil liner with 1/8 inch seepage. Must do groundwater monitoring. If more than 25 feet to groundwater then a synthetic liner plus 1/4 inch seepage rate soil liner or soil liner with 1/8 inch seepage. If soil compaction cannot be met then a synthetic liner is required and if groundwater is less than 150 feet, then groundwater monitoring is required.
Groundwater Monitoring or other equivalent technology, New Sec. 5	Does not apply, but current regulations permit monitoring and are not size specific.	Does not apply, but current regulations permit monitoring and are not size specific.	Secretary of KDHE has discretion under the bill.	Existing facilities required to install by January 1, 2000 if less than 150 feet to groundwater. Secretary of KDHE has discretion.
Nutrient Utilization Plan, New Sec. 6	Does not apply unless a permit is required.	Does not apply unless a permit is required.	Required.	Required.
Employee Training for Manure or Wastewater Application, New Sec 6 (f)(7)	Does not apply unless a permit is required.	Does not apply unless a permit is required.	Applies.	Applies.
Certification for Operators of Waste Management Systems, New Sec. 7	Does not apply unless a permit is required.	Does not apply unless a permit is required.	Applies.	Applies.
Emergency Response Plan, New Sec. 8	Applies.	Applies.	Applies.	Applies.
Record Keeping Requirements, New Sec. 9	Does not apply unless a permit is required.	Does not apply unless a permit is required.	Applies.	Applies.

	UNDER 300 ANIMAL UNITS	300-999 ANIMAL UNITS	1,000-3,724 ANIMAL UNITS	EQUAL TO OR GREATER THAN 3,725 ANIMAL UNITS
Facility Operator Certification, New Sec. 10	Applies to all swine facilities which are required to have a permit.	Applies to all swine facilities which are required to have a permit.	Applies.	Applies.
Odor Control Plan, New Sec. 11	Does not apply even if permitted.	Does not apply even if permitted.	Applies.	Applies.
Facility Closure Requirements, New Sec. 12	Does not apply even if permitted.	Does not apply even if permitted.	Does not apply.	Applies to new or expanded facilities and to those which are renewing a permit. Must demonstrate financial ability to cover costs.
Lagoon or Pond Closure Requirements, New Sec. 13(a) and (b)	Does not apply even if permit is required.	Does not apply even if permit is required.	Does not apply.	Applies.
Evidence of Financial Ability to Close Lagoon or Pond, Sec. 13	Does not apply.	Does not apply.	Does not apply.	Applies after July 1, 2000.
Periodic Inspections of Swine Facilities, New Sec. 14	Every six months for permitted facilities identified as having a specific water pollution problem.	Every 36 months if permitted. Every six months for permitted facilities identified as having a specific water pollution problem.	Every 18 months. Every six months for facilities identified as having a specific water pollution problem.	Every 12 months. Every six months for facilities identified as having a specific water pollution problem.
"Bad Actor Provision," New Sec. 16	Applies only to permitted facilities.	Applies only to permitted facilities.	Applies.	Applies.
Dead Swine Disposal Plan, New Sec. 17	Does not apply.	Does not apply.	Applies.	Applies.
Tax Credit, New Sec. 28	Applies if it meets the definition of "qualified swine facility."	Applies if it meets the definition of "qualified swine facility."	Applies if it meets the definition of "qualified swine facility."	Applies if it meets the definition of "qualified swine facility."



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612
913/296-2281 FAX 913/296-6953



MEMORANDUM

To: Representative Joann Freeborn
Chair, House Committee on Environment

From: Steve Williams, Secretary

Date: March 9, 1998

Subject: Testimony on House Bill 2499

House Bill 2499 would increase the allowable acreage for controlled shooting areas (CSA) from 2% to 3% of the total acreage of each county. Current law (KSA 32-946) restricts the amount of acreage to 2% in each county in order to protect wild upland birds (pheasants, quail, and prairie chickens) and also to limit the amount of land in each county for commercial hunting reserves.

KSA 32-944 specifies that "any person owning, holding, or controlling, by lease or otherwise, for a term of five or more years, any contiguous tract of land having an area of not less than 160 acres nor more than 1,280 acres ... shall make application to the secretary for a license to operate a controlled shooting area." Under the current regulatory process, however, operators have been allowed to obtain multiple CSA permits creating some very large CSAs under a single operator.

Controlled shooting areas are licensed by the department. These areas may propagate and release pen-raised birds for clients during an extended season (from September 1 through March 31). Operators charge a fee for hunting. Services may include guiding, dogs, meals, etc. Hunters may harvest both male and female pheasants on these areas.

The Department of Wildlife and Parks has two primary concerns regarding controlled shooting areas. First, we are concerned about the cumulative impact of controlled shooting areas on our wild pheasant population. Pen-raised, released birds typically have a low survival rate. Birds released in advance of a day's hunt may not survive until the day they are hunted. This can lead to the harvest of wild birds rather than pen-raised birds. Wild hen pheasants may not be legally harvested outside of CSAs to protect the reproducing segment of the pheasant population. Expansion of controlled shooting areas acreage will result in exposure of wild hen pheasants to a prolonged hunting season and higher mortality. The department may review current CSA regulations to address future impacts of this proposed legislation.

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Attachment 3*

Our second concern is that expansion of controlled shooting area acreage would reduce the acreage available for public hunting through the traditional hunter/landowner permission process. In fact, if the allowable acreage were increased to 3%, the potential for controlled shooting areas would equal the available public access land in the state. Although the department recognizes the rights of private landowners to lease or operate their land as they please, we also have a responsibility to provide public access for hunting opportunity. As you are aware, the Walk-In Hunting Area program was designed to provide such public access. Increased controlled shooting areas is likely to reduce future public access.

Because we recognize private property rights, a 1% increase is small, and we cannot state the definitive impact on wild pheasant populations, the department is neutral on this bill. We ask that legislators consider balancing the public policy issues of private property rights with public access to a public resource.

Thank you for the opportunity to testify on HB 2499.

MELVIN J. NEUFELD
 REPRESENTATIVE, 115TH DISTRICT
 CLARK, GRAY, PARTS OF FORD, MEADE
 AND HASKELL COUNTIES
 7405 15 ROAD
 INGALLS, KANSAS 67853

ROOM—182-W, CAPITOL BLDG.
 TOPEKA, KS 66612-1504
 913-296-7649



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

APPROPRIATIONS
 CHAIRMAN: SRS TRANSITION OVERSIGHT
 CHAIRMAN: SOCIAL SERVICES SUBCOMMITTEE
 CHAIRMAN: ADMINISTRATIVE RULES &
 REGULATIONS

Testimony for House Environment Committee of HB 2499, March 10, 1998

Thank you, Madame Chairman and members of the committee, for the opportunity to speak on behalf of House Bill 2499. The purpose of this bill is to increase the total acreage that can be licensed as controlled shooting areas in a county from 2% to 3%. An individual in Haskell County who had normally been licensed in the past did not properly fill out the application several years ago and lost the land to another individual. In order to keep this individual from going out of business, an extra 1% has been allocated by proviso in the budget for the past several years. This bill will put this extra 1% allocation for controlled shooting grounds into law.

Representative Holmes and myself ask that this bill be passed. Haskell County has been the only county to have a problem with the 2% maximum, and this bill will put the budget proviso into law and will also allow additional entrepreneurs to provide expanded hunting in other counties.

Thank you for your time and consideration of HB 2499. If you have any questions please do not hesitate to ask.

Melvin J. Neufeld

*House Environment
 3-10-98
 Attachment 4*



**BRIEFING TO THE HOUSE ENVIRONMENT COMMITTEE
KANSAS HOUSE OF REPRESENTATIVES**

March 10, 1998

Evaluation of Lagoons for Containment of Animal Waste

Presenting from Kansas State University:

Dr. Bill Hargrove, Professor and Director

**Kansas Center for Agricultural Resources and the Environment
K-State Research and Extension**

Kansas State University

(785) 532-7103 <kcare@ksu.edu>



*House Environment
3-10-98
Attachment 5*

New Data: Feb, 1998

Technical Brief: Seepage from a Swine Waste Lagoont

J.M. Ham, Department of Agronomy, Kansas State University

March 3, 1998

Seepage losses from a swine waste lagoon were measured in February 1998 using the water balance method. Evaporation was measured using two floating lysimeters and associated meteorological instrumentation. Changes in water depth were monitored using linear displacement transducers. Calculations are based on data collected during 7-10 day periods when inflows and outflows were precluded.

Table 1. Description of Lagoon

Location:	Southwest Kansas
Built:	1995
Size:	2.2 acres, 20 acre-ft
Liner:	18" compacted soil (from native material)
Soil Texture:	Silt Loam
Permeability:	$<1 \times 10^{-8}$ cm/s†
Inside Slopes:	3:1
Total Depth:	22'
Working Depth:	20'
Depth During Study:	18'

Table 2. Seepage Calculations From Swine Lagoon

February, 1998

Change in Depth	3.4 mm/day
Evaporation	2.1 mm/day
Seepage	1.3 mm/day (0.05 "/day)
Seepage (Max Depth)	1.44 mm/day (0.057 "/day)

† Please do not reproduce or distribute

‡ Determined from recompacted soil samples. Laboratory analysis with a miniature permeameter.

New Data: Feb, 1998

5-3

Lagoon-Water Nitrogen Chemistry From KSU Studies

Analysis (mg/L)	<u>Swine Waste Lagoon</u>		<u>Cattle Feedyard Runoff Lagoon</u>
	Surface	Deep	
Nitrate N	2.4	2	1
Ammonia N	561	593	84
Total Kjeldahl N	686	788	160
Organic N	125	195	76

**SUMMARY OF K-STATE RESEARCH ON ANIMAL WASTE LAGOONS
(CURRENT TO 3 MARCH, 1998)**

I. Laboratory results of permeability measurements for three Kansas soil types show that two of the three soil types can be packed to meet or exceed the KDHE seepage standard of 0.25 in/day. The third soil type met the standard when sufficient bentonite was added to make the soil mixture 6% bentonite. Chemical analyses of the leachate water showed relatively high concentrations of ammonia and microorganisms and relatively low levels of nitrate and phosphate.

II. The whole lagoon seepage rate for two functioning lagoons has been measured. One of the lagoons was a beef cattle feedlot lagoon and the other was a swine lagoon. The beef cattle lagoon was 22 years old and had a depth of only about 4 feet of water at the time of the measurements. For the beef cattle lagoon the average seepage rate over a 5 day period was 0.094 inches/day. The swine lagoon was only five years old and had a water depth of 18 feet. The seepage rate over a period of 10 days averaged 0.05 in/day. The lagoon water had ammonia concentrations over 500 ppm, but nitrate concentrations in the 1-2 ppm range.

III. Our review of KDHE well data provides no direct evidence of contamination of groundwater by nitrate from animal waste lagoons. However, research conducted at K-State in the early 90's shows that monitoring wells near animal waste lagoons had elevated levels of ammonia and chloride, but concentrations subsided with distance from the lagoon.

IV. Future K-State research will focus on measuring more lagoons and on determining the fate of chemicals leaving the lagoon.

LAGOON RESEARCH TIMELINE

April 1998

December 1998

December 1999

—Completion of lab analyses of permeability using three KS soil types

—Measurement of whole lagoon seepage rate and water chemistry for four lagoons (one beef; three swine)

—Review and analysis of KDHE public well-water quality data

—Measurement of whole lagoon seepage rate and water chemistry for six to eight additional lagoons

—Installation of collectors beneath lagoon liners

—Coring beneath 2-3 lagoons

—Survey Sampling of soils where lagoon waste has been applied to cropland

—Additional survey sampling of soils where lagoon waste has been applied to crop land

—Analysis of water quality from seepage collectors

—Evaluation of impact of lagoon seepage on groundwater by simulation modeling

—Preliminary data from research on land application under controlled conditions

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**Short Term Personnel Needs To Support Research on Environmental Impact of
Waste Lagoons and Land Application of Animal Waste**

Personnel Description	Estimated Salary	Benefits	FTE	Total
Waste Lagoon Evaluation				\$119,550 /yr
Post -Doctoral Scientist	32,000	8,800	1.0	40,800
Technician	25,000	6,875	2.0	63,750
Ph.D. Student	15,000	---	1.0	15,000
Land Application of Manure				\$70,800 /yr
Post -Doctoral Scientist	32,000	8,800	1.0	40,800
Ph.D. Student	15,000	---	2.0	<u>30,000</u>
Wastewater Recycling				\$46,875 /yr
Technician	25,000	6,875	1.0	31,875
Ph.D. Student	15,000	---	1.0	15,000
Category sub total per year				<u>46,875</u>
Sub total per year				<u>237,225</u>
Grand Total for 3 years				<u>\$711,675</u>

Prepared by: Donald Carlson
 Kansas Department of Health and Environment - Bureau of Water
 Date: March 9, 1998

Comparison of the Substitute for HB 2950, KDHE's current statutory/regulatory authority, and KDHE's current statutory authority and draft CAFO regulation and design standard package requirements.

Substitute for HB 2950 - Provisions	Current Statutes and Regulations	Current Statutes & Proposed Regs
SECTION #1		
(c)(5) - Excludes from definition of habitable structure operator's habitable structure.	Does not address.	Proposed in draft regs.
(c)(6) - Defines "wildlife refuge".	Does not address.	Does not address.
(g): - Ties registration to design capacity not just existence of 300 AUs. Appears to require permitting of swine facilities with ≥ 300 AUs regardless of significant water pollution potential.	Addresses only 300 AUs. Requires significant water pollution potential for facilities < 1000 AUs.	Addresses only 300 AUs. Requires significant water pollution potential for facilities < 1000 AUs.
(h): - Establishes time frame for consideration of habitable structures and separation distances i.e., habitable structures in existence at time of receipt of CAFO application.	Does not address.	Attempts to define when both a habitable structure and CAFO come into existence, for all species.

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<p>(h)(2): - Establishes more stringent swine specific separation distance requirements.</p> <p>Establishes separation distance requirements from federal, state, and county parks and wildlife refuges.</p> <p>Establishes time frame for consideration of habitable structures and separation distances i.e., habitable structures in existence at time of receipt of CAFO application.</p>	<p>Does not address the more stringent separation distance criteria.</p> <p>Does not address separation distance requirements from federal, state, and county parks and wildlife refuges.</p> <p>Does not address.</p>	<p>Does not address the more stringent separation distance criteria.</p> <p>Does not address separation distance requirements from federal, state, and county parks and wildlife refuges.</p> <p>Attempts to define when both a habitable structure and CAFO come into existence, for all species.</p>
<p>(h)(2)(A) - New swine construction/expansion of 300-999 AUs requires 1320 feet.</p>	<p>Addressed.</p>	<p>Addressed.</p>
<p>(h)(2)(B) - New swine construction/expansion of 1000-4499 AUs requires 4000 feet.</p>	<p>Addressed.</p>	<p>Addressed.</p>
<p>(h)(2)(C) - New swine expansion to 4500 AUs requires 4000 feet, if expansion remains within facility footprint.</p>	<p>Not addressed.</p>	<p>Facility footprint concept addressed.</p> <p>4,000 foot separation distance not addressed.</p>
<p>(h)(2)(D) - New construction \geq 4500 AUs requires 5000 foot separation distance.</p> <p>New expansions to \geq 4500 AUs requires 5000 foot separation distance if outside facility footprint.</p>	<p>Not addressed.</p>	<p>Not addressed.</p>

<p>(i)(1) - Updates the waiver provisions for all species.</p>	<p>Addressed.</p>	<p>Addressed.</p>
<p>(i)(2)(A) - Retains current waiver provisions for Secretary to reduce separation distances for species other than swine.</p>	<p>Addressed.</p>	<p>Addressed.</p>
<p>(i)(2)(B) - For small (300-999 AUs) and medium (1000-4499 AUs) swine CAFOs, Secretary may reduce distances if requested by County Commission or if no objection from certified notice to habitable structure.</p> <p>Allows Secretary to consider available technology.</p>	<p>Addressed with exception of certified notice.</p> <p>Does not allow.</p>	<p>Addressed with exception of certified notice.</p> <p>Does not allow.</p>
<p>(i)(2)(C) - For large/mega (≥ 4500 AUs) swine CAFOs, Secretary may not reduce distances if requested by County Commission. May reduce distances if no objection from certified notice to habitable structure.</p> <p>Allows Secretary to consider available technology.</p>	<p>Not addressed.</p> <p>Does not allow.</p>	<p>Not addressed.</p> <p>Does not allow.</p>
<p>(j)(1) - Ties down the "grandfathering" provisions of SB 800 (KSA 65-161d 1994 Session) so they are not reopened.</p>	<p>Addressed.</p>	<p>Addressed.</p>

(j)(2)(A) - "Grandfathers" from the new swine separation distance requirements permitted or certified swine CAFOs existing on the effective date of the bill.	Not addressed.	Not addressed.
(j)(2)(B) - Provides for exemption of separation distances under certain situations where the expansion is to an animal unit capacity of 4500 or less.	Not addressed.	Not addressed.
(k) - Establishes, for swine, the concept of the facility perimeter or "footprint" in administering separation distances.	Not addressed.	Addressed but not species specific.
(l) - Provides that operators that wish to reduce separation distances provide certified notification to people within the prescribed separation distance. If no substantial objection, it may be reduced.	Exists, but not the requirement for a certified notification.	Exists, but not the requirement for a certified notification. Provides for notification of the public via local newspapers and requires the operator to provide KDHE names of individuals within separation distance for KDHE notification.
(m) - Requires licensed professional engineer to certify the CAFO pollution control design.	Specifically precluded from being required (KSA 65-171d(k) - 1997 Session).	Specifically precluded from being required (KSA 65-171d(k) - 1997 Session).
NEW SECTION #2		
Defines "best available technology for swine facilities".	Not addressed.	Not addressed.
Defines "best management practices for swine facilities".	Not addressed.	Not addressed.

Defines "permit" from the standpoint of being swine specific for the provisions of this bill.	Addressed but not swine specific.	Addressed but not swine specific.
Defines "significant water pollution potential" by authorizing the Secretary to define via regulations.	Not addressed.	Defined in the draft regs, but is not swine specific.
Defines "swine facility".	Not addressed.	Not addressed.
Defines "swine waste management facility".	Not addressed.	Draft CAFO regs define "animal waste management system" which is not swine specific.
Defines "swine waste retention lagoon or pond".	Not addressed.	Draft CAFO regs define "waste retention lagoon or pond" which is not swine specific.
NEW SECTION #3		
(a) - Expands the amount of information required to be published in the Kansas register including: requirements which the swine CAFO must comply with; any variance to requirements, standards or regulations; a fact sheet summarizing facility specific information and proposed practices.	Addressed but not to the degree spelled out in the bill. Current public notice indicates where this information can be reviewed.	Addressed but not to the degree spelled out in the bill. Expands information required of the operator. Current public notice indicates where this information can be reviewed.

<p>(b) - Expands the public notice requirements for new construction or expansion of swine facilities.</p> <p>Directs KDHE to develop regulations addressing procedures for publication in newspapers, direct notification of individuals within separation distance, and notification of local governments.</p>	<p>Providing current notifications with the exception of the newspaper publication.</p> <p>Regulations and/or practices currently address these provisions with the exception of the newspaper publication. Not swine specific.</p>	<p>Addresses expansion of the public notification including publication in newspaper of local circulation in area and the official county newspaper. Not swine specific.</p>
<p>(d) - Provides criteria for the contents of a public notice for swine permits.</p>	<p>Generally addresses the requirements with the exception of a summary of the procedures and schedule for making a determination on permit issuance or denial. Not swine specific.</p>	<p>Generally addresses the requirements with the exception of a summary of the procedures and schedule for making a determination on permit issuance or denial. Not swine specific.</p>
<p>(e) - Requires KDHE to allow 30 days for public comment on swine permits.</p>	<p>Addressed but not swine specific.</p>	<p>Addressed but not swine specific.</p>
<p>(f) - Clarifies that public meetings / public hearings, on swine CAFOs, are for addressing only those matters over which the Secretary has authority.</p>	<p>Does not address but is utilized. Not swine specific.</p>	<p>Draft CAFO regs addresses hearings conducted only for those issues for which the Secretary has authority. Not swine specific.</p>
<p>(g) - Prohibits KDHE from taking final action until the public notice procedures are completed.</p> <p>Allows KDHE to deny a permit without initiating the public notice process.</p>	<p>Addressed. Not swine specific.</p> <p>Addressed. Not swine specific.</p>	<p>Addressed. Not swine specific.</p> <p>Addressed. Not swine specific.</p>

NEW SECTION #4		
(a)(1) - Swine CAFOs to be located to prevent impairment of surface and groundwater.	Addressed. Not swine specific.	Addressed. Not swine specific.
(a)(2) - Swine facilities to be located outside 100-year flood plain.	CAFOs to be located outside of 10-year flood plain. Not swine specific.	In proposed regs, CAFOs to be located outside of 25-year flood plain. Not swine specific.
(a)(3) - Establishes additional separation distances for swine facilities from surface water bodies. ≥ 4500 AUs requires 500 feet. 1000-4499 AUs requires 250 feet. ≤ 1000 AUs requires 100 feet.	100 feet regardless of size or species.	100 feet regardless of size or species.
(a)(4) - Requires 250 foot separation distance from private water wells, other than operators.	Requires 100 feet from private wells. Not swine specific.	Requires 100 feet from private wells. Not swine specific.
(a)(5) - Requires 1000 foot separation distance from any public water supply well.	Requires 100 feet from public water supply wells. Not swine specific.	Requires 100 feet from public water supply wells. Not swine specific.
(b) - Provides for exemptions of the surface water body and water well separation distances for swine facilities that are permitted or for which an application is pending for new construction or an expansion.	Not addressed.	Not addressed.

<p>(c) - Requires swine operators with facilities \geq 4500 AUs and water wells less than 250 feet from the swine waste management system to test wells annually and report to KDHE.</p>	<p>Not addressed. Could require monitoring of well if pollution suspected. Not species specific.</p>	<p>Draft CAFO regs specifies ability to require sampling of groundwater monitoring or water supply wells. Not swine specific.</p>
<p>NEW SECTION #5</p>		
<p>(a) - Requires for new construction or new expansions of swine facilities \geq 1000 AUs the development and submission of a manure management plan and to implement it per the permit.</p>	<p>Not specifically addressed. Currently addressed as a waste management plan and addressed in permit. Not species or size dependent.</p>	<p>Addressed as a waste management plan in the draft CAFO regs. Not size or species specific.</p>
<p>(b) - Requires existing swine facilities \geq 1000 AUs to develop a manure management plan within 1 year of the effective date of the bill.</p>	<p>Permit conditions specify development of a waste management upon notification of KDHE as a permit condition for existing facilities that do not have a current waste management plan. Not size or species specific.</p>	<p>New regs address development of a waste management plan for new and existing CAFOs. Not size or species specific.</p>
<p>(c) - Requires for swine facilities that develop a manure management plan which employs land application of wastewater or manure to develop and implement a nutrient utilization plan.</p>	<p>Nutrient utilization plan is considered a part of the waste management plan currently required. The bill provides for more detail than currently required.</p>	<p>Proposed CAFO regs expand on the information / practices which address the nutrient utilization plan. The draft bill provides for more specific detail than draft regs.</p>
<p>(d) and (e) - Addresses when a manure management plan needs or is required to be amended.</p>	<p>Not generally addressed.</p>	<p>Draft CAFO regs address when changes are to be brought to KDHE's attention to evaluate the need for changes in the waste management plan or permit. Not species specific.</p>

<p>(f) - Requires manure management plan to be retained on site.</p>	<p>Not addressed.</p>	<p>Draft CAFO regs requires the waste management plan to be retained at the site or available by the operator if no facility office exists. Not size or species dependent.</p>
<p>(g) - Requires that if the operator does not own the swine at the facility there be a contract that specifies responsibility for management of the manure and wastewater generated at the facility.</p>	<p>Not addressed. KDHE regulates the permittee. Not size or species dependent.</p>	<p>Not addressed. KDHE regulates the permittee. Not size or species dependent.</p>
<p>(h) - If the swine facility gives or sells the manure or wastewater to individuals other than those working at the facility, the operator is to maintain a log of who the waste is given to, date removed, and volume of waste removed. Requires the operator to provide recipient a copy of the nutrient analysis of the manure / wastewater.</p>	<p>Not addressed or regulated.</p>	<p>Not addressed or regulated.</p>
<p>(i)(1) - For swine CAFOs with capacities \geq 4500 AUs and where groundwater is less than 25 feet below the pond bottom an earthen liner shall provide no more than 1/8-inch permeability or the operator is required to provide a 40 mil synthetic membrane liner.</p>	<p>More restrictive than current criteria.</p>	<p>More restrictive than proposed criteria. Adequacy of the existing or proposed CAFO design standards will be evaluated in light of the findings of the KSU Lagoon Study currently being conducted. Not species specific.</p>

<p>(i)(2) - For swine CAFOs with capacities \geq 4500 AUs and where soils can not be compacted per (i)(1), a 40 mil synthetic membrane liner is required with compaction of soils as much as practical. If groundwater is less than 150 feet deep a 3-well groundwater monitoring well system is to be installed or equivalent technology.</p>	<p>More restrictive than current criteria.</p>	<p>More restrictive than proposed criteria. Adequacy of the existing or proposed CAFO design standards will be evaluated in light of the findings of the KSU Lagoon Study currently being conducted. Not species specific.</p>
<p>(i)(3) - Provides a "grandfather" provision for swine CAFOs \geq 4500 AUs and requires, where groundwater is less than 150 feet, these CAFOs install 3 groundwater monitoring wells or equivalent technologies by January 1, 2000.</p>	<p>More restrictive than current criteria.</p>	<p>More restrictive than proposed criteria. Adequacy of the existing or proposed CAFO design standards will be evaluated in light of the findings of the KSU Lagoon Study currently being conducted. Not species specific.</p>
<p>(i)(4) - Provides Secretary authority to increase animal unit capacities of swine facilities regarding lagoon sealing and monitoring wells after January 1, 2000. Ties into KSU lagoon findings.</p>	<p>Not addressed.</p>	<p>Not addressed.</p>
<p>(j) - Provides authority to Secretary to require groundwater monitoring wells or alternative technology for swine facilities $>$ 1000 AUs if determined necessary.</p>	<p>Currently has this authority. Not species related. Bill clearly delineates this authority.</p>	<p>Clarification as to this authority is addressed in draft CAFO regs. Not species specific.</p>
<p>(k) - Authorizes Secretary to require the planting of vegetative screens to help reduce potential for odors for swine facilities $>$ 1000 AUs.</p>	<p>Not addressed.</p>	<p>Not addressed.</p>

<p>(l) - Authorizes the Secretary to adopt additional regs for swine CAFOs > 1000 AUs as to the location and construction of swine lagoons or ponds to protect the waters, soils and public health.</p>	<p>Current authority exists. Bill clarifies Legislative intent regarding additional regulatory actions by KDHE.</p>	<p>Current authority exists. Bill clarifies Legislative intent regarding additional regulatory actions by KDHE.</p>
<p>NEW SECTION #6</p>		
<p>(a) - Prohibits KDHE from issuing or renewing permits to swine CAFOs > 1000 AUs unless the nutrient management plan is approved by the Secretary of Agriculture.</p>	<p>Not addressed.</p>	<p>Not addressed.</p>
<p>(b)(1)(A) & (B) - Requires new construction / expansion of swine CAFOs > 1000 AUs to submit nutrient utilization plan and receive approval of Secretary of Ag and then comply with KDHE permit requirements implementing it.</p> <p>Requires existing swine CAFOs > 1000 AUs to develop nutrient utilization plan within 6 months of bill enactment.</p>	<p>Nutrient utilization plan in the current form of a waste management plan is being required and is not species or size specific. Nutrient utilization plan requirements are more detailed.</p>	<p>In the draft CAFO regs the waste management plan requirements related to land application and soil / groundwater monitoring requirements have been significantly expanded.</p>
<p>(b)(2) - Details specific information the nutrient utilization plan is to contain / address.</p>	<p>Exceeds current requirements. Current requirements are not size or species specific.</p>	<p>Exceeds proposed draft CAFO reg proposals. Draft reg requirements are not size or species specific.</p>
<p>(b)(3) - Addresses when nutrient utilization plan is to be amended.</p>	<p>Addressed in permit as to facility change to be reported to KDHE.</p>	<p>Draft CAFO regs provide for more detailed requirements which address changes in the CAFO.</p>

(b)(4) - Requires maintenance of the nutrient utilization plan at the site.	Waste management plan required to be maintained by operator.	Waste management plan required to be maintained by operator.
(c)(1) - Requires swine CAFO > 1000 AUs conduct soils testing prior to development of nutrient utilization plan.	Not addressed.	Not addressed.
(c)(2) - Requires swine facilities which give or sell wastewater or manure to a third party to provide the third party with nutrient analyses of the manure / wastewater.	Not addressed.	Not addressed.
(c)(3) - Requires swine operators with nutrient utilization plans to evaluate the data and provide nutrient application calculations in reports to KDHE / Dept. of Ag.	Not required.	Draft CAFO regs address data development and maintenance to document application at agronomic rates. Not species specific.
(d) - Requires for swine CAFOs limits for application of phosphorous so as to not exceed the phosphorous holding capacity of soils.	Addresses agronomic application rates. To date primarily limited to consideration of nitrogen. Not size or species specific.	New regs/design standards address application of phosphorous at agronomic rates independent of soils holding capacities. Not size or species specific.
(e) - Authorizes the Dept. of Ag to require modification of nutrient application practices or require application to other sites if required to address phosphorous loading.	The Dept. of Ag administering this provision is not addressed. Would be regulated per the permit.	The Dept. of Ag administering this provision is not addressed. Would be regulated per the permit.

<p>(f)(1) - Requires application of swine wastes to minimize odor nuisances by requiring injection when applied to bare ground and requires 1000 foot separation to habitable structures.</p>	<p>Not addressed in regs. Addressed in permit conditions i.e., concentrated waste application is to be 1/8-mile separation from habitable structures unless injected.</p>	<p>Not addressed in draft CAFO regs. Addressed in permit conditions i.e., concentrated waste application to be 1/8-mile separation from habitable structures unless injected.</p>
<p>(f)(2) - Exempts the 1000 foot separation distance requirement in (f)(1) to address existing swine CAFOs/habitable structures and those habitable structures constructed after the effective date of the bill.</p>	<p>Not addressed.</p>	<p>Not addressed.</p>
<p>(f)(3) - Addresses prohibition as to the application of swine wastes to highly erodible soils, on precipitation saturated or frozen ground, and during rainstorms.</p>	<p>Generally addressed by current permit conditions. Not species specific.</p>	<p>Will be covered by permit conditions and draft CAFO regs. Not species specific.</p>
<p>(f)(4) - Requires swine facilities to follow land application procedures and precautions to prevent discharges to groundwater and surface waters.</p>	<p>Addressed by permits. Not species specific.</p>	<p>To be addressed by permit. Not species specific.</p>
<p>(f)(5) - Addresses for swine CAFOs irrigation practices.</p>	<p>Addressed in permits.</p>	<p>To be addressed in permits.</p>
<p>(f)(6) - Requires swine CAFOs to maintain and keep calibrated land application equipment.</p>	<p>Permit and regs require water pollution control facilities be maintained. Not species specific.</p>	<p>Draft CAFO regs address maintenance of pollution controls. Not species specific.</p>
<p>(f)(7) - Requires swine operators to keep employees and contractors trained that land apply swine wastes.</p>	<p>Not required.</p>	<p>Draft CAFO regs address operator certification and training. Not species specific.</p>

(g) - Addresses KDHE / Ks. Dept. of Ag coordination on nutrient utilization plan.	Not addressed.	Not addressed.
NEW SECTION #7		
(a) - Requires the Secretary to develop operator certification regs for swine facilities.	Not addressed.	CAFOs \geq 1000 AUs are required to have certified operators. Not species specific.
(b) - Requires the Secretary to develop regs addressing reporting of swine lagoon failures or unplanned releases.	Addressed. Not species specific.	Addressed. Not species specific.
NEW SECTION #8		
Requires KDHE to develop regulations addressing when an emergency response plan is required to be developed, require operators to train employees, update the plan when required, and to maintain the plan on site.	Not addressed.	Not addressed.
NEW SECTION #9		
Requires swine CAFOs keep records at site and be available to KDHE inspectors. Requires records be retained for 3 years.	Addressed. Not species specific.	Addressed. Not species specific.

NEW SECTION #10		
Requires training and certification for swine operators. Requires certification within 6 months of enactment of the bill. Requires operators to train employees and contractors.	Not addressed.	Proposed in the draft CAFO regs for CAFOs > 1000 AUs to have certified operators. Not species specific.
NEW SECTION #11		
Requires the development and approval of an odor control plan by swine CAFOs with proposed new, existing or expansion capacities \geq 4500 AUs.	Not addressed.	Not addressed.
NEW SECTION #12		
Requires the development and approval of a facility closure plan by swine CAFOs with proposed, existing or expansion capacities \geq 4500 AUs. Addresses annual submission of financial statement/information to ensure capability for closure.	Not addressed.	Draft CAFO regs address the development and submission of a closure plan and its implementation upon notification of KDHE. Does not address financial surety for closure. Not species specific.

NEW SECTION #13		
(a) - Addresses swine lagoon and pond closure requirements. Establishes when an swine CAFO is considered inactive and closed. Requires removal and disposal of wastes per KDHE requirements. requires KDHE certification of closure.	Not addressed. Facility is considered a significant water pollution potential until properly closed. Not species specific.	Draft CAFO regs addresses facility closure. Not species specific.
(b) - Addresses closure of swine manure and wastewater storage facilities other than lagoons or ponds.	Not addressed. Facility is considered a significant water pollution potential until properly closed. Not species specific.	Draft CAFO regs addresses facility closure. Not species specific.
(c) - Establishes the requirement for swine CAFOs \geq 4500 AUs to demonstrate annually financial ability to cover cost of closure. Also addresses proof by new owners of facilities or when CAFOs are transferred or sold to another individual.	Not addressed.	Not addressed.

NEW SECTION #14		
<p>Establishes inspection frequencies for swine facilities.</p> <p>Addresses inspector access and biosecurity at swine operations.</p> <p>Prohibits KDHE from issuing an inspection fee.</p> <p>Authorizes KDHE to contract out for inspections.</p>	<p>Access for inspections is addressed. The remaining provisions are not addressed. Not species specific.</p>	<p>Draft CAFO regs address inspector access and biosecurity issues. Not species specific.</p>
NEW SECTION #15		
<p>Provides for "reverse setback" provisions.</p> <p>Addresses and limits provisions under which nuisance lawsuits can be filed.</p>	<p>Not addressed.</p>	<p>Draft CAFO regs attempt to establish provisions as to who was there first for separation distance requirements and clarify that separation distances do not apply to those that move next to CAFOs. Not species specific.</p>
NEW SECTION #16		
<p>Establishes provisions under which the Secretary can deny or revoke a swine CAFO permit. Provides a "bad actor" provision.</p>	<p>Not addressed.</p>	<p>Draft CAFO regs address a bad actor provision. Not species specific.</p>

NEW SECTION #17		
<p>Require swine CAFOs \geq 1000 AUs to file with KDHE a dead animal disposal plan. Dead animal disposal regulatory authority remains with the Kansas Animal Health Department. Directs KDHE to develop regs addressing limiting visibility of dead animals from public roads and habitable structures and to require removal within 48 hours under normal conditions.</p>	<p>Not addressed.</p>	<p>Draft regs require CAFO operators to handle and dispose of dead animals per the Kansas Animal Health Department requirements. Not species specific.</p>
NEW SECTION #18		
<p>Requires KSU to consult with KDHE regarding best available technology and best management practices for swine facilities. Directs KSU to expand the CAFO Lagoon Study to address land application impacts and deep soil nutrient sampling, within appropriation limits. Requires KSU to provide annual status reports to the Governor and Legislature.</p>	<p>Not addressed.</p>	<p>Not addressed.</p>

NEW SECTION #19		
<p>Provides Legislative intent that the bill is not intended to limit or prohibit KDHE from adopting regulations establishing standards or requirements for CAFOs other than swine.</p> <p>Addresses the fact the bill is not intended to waive or exempt provisions of the chemigation, levee, and stream obstruction laws administered by the Dept. of Ag.</p>	Not addressed.	Not addressed.
SECTION # 20		
<p>Expands the Dept. of Ag's chemigation authority to address chemicals which include animal wastes and to define agronomic application rates.</p>	Not addressed.	Not addressed.
NEW SECTION #21		
<p>Swine wastes applied to land is regulated by the Ks. Dept. of Ag, is to be applied at agronomic rates, requires approval of the nutrient utilization plan, and requires the operator to pay for soil tests.</p>	Not addressed.	Not addressed.

SECTION #22		
Updates chemigation law to allow Secretary of Ag to utilize latest scientific knowledge or technology to protect groundwater and surface water.	Not addressed.	Not addressed.
SECTION #23		
Provides authority for the Ks. Dept. of Ag staff to enter premises or property to conduct inspections.	Not addressed.	Not addressed.
SECTION #24		
Modifies the Kansas Animal Health Dept. statutes to authorize composting as a legal means for disposal of dead livestock.	Not addressed.	Draft CAFO design standards contain a section addressing the composting of poultry.
NEW SECTION #25		
Tax credit provision.	Not addressed.	Not addressed.
SECTION #26		
Prohibits costs claimed as tax credits from being deducted from individuals gross income for tax purposes.	Not addressed.	Not addressed.
NEW SECTION #27		
Requires Secretary of KDHE to submit reports to Legislature in 1999 and 2000 on implementation of the bill.	Not addressed.	Not addressed.

NEW SECTION #28		
Provision of the bill which terminates the bill and returns all statutes to pre-bill status if a moratorium or prohibition on issuing swine permits is passed this legislative session.	Not addressed.	Not addressed.
SECTIONS #29-33 and NEW SECTION #34		
Reinstates the current statutes if the moratorium provision is triggered.	Not addressed.	Not addressed.
NEW SECTION #35		
Directs KDHE to develop regs addressing the composting livestock.	Not addressed.	The draft design standards proposes composting requirements for poultry.
SECTION #36		
Repeals the statutes modified by the bill.	Not addressed.	Not addressed.
SECTION #37		
Repeals the revisions to the statutes in the bill if the moratorium provision is triggered.	Not addressed.	Not addressed.
SECTION #38		
Bill becomes effective upon publication in the Kansas Register.	Not addressed.	Not addressed.

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lines 5-9:

...complete ownership of land bordering the reservoir or pond is under common private ownership, such freshwater reservoir or farm pond shall be exempt from water quality standards except as it relates to water discharge or seepage from the reservoir or pond to waters of the...

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lines 3-21:

(2) ~~Any new construction or new expansion of~~ A confined feeding facility for swine shall meet or exceed the following requirements in separation distances from any habitable structure, ~~wildlife refuge~~ or county, state or federal park in existence when the application for a permit is submitted:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999;

(B) 4,000 feet for facilities with an animal unit capacity of 1,000 to 4,499;

(C) 4,000 feet for expansion of existing facilities to an animal unit capacity of 4,500 or more if such expansion is within the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility; and

(D) 5,000 feet for: (i) Construction of new facilities with an animal unit capacity of 4,500 or more; or (ii) expansion of existing facilities to an animal unit capacity of 4,500 or more if such expansion extends outside the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility.

(3) Any construction of new confined feeding facilities for swine shall meet or exceed the following requirements in separation distances from any wildlife refuge:

(A) 5,000 feet for facilities with an animal unit capacity of 1,000 to 4,499; and

(B) 6,000 feet for facilities with an animal unit capacity of 4,500 or more.

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lines 10-27:

(2) The separation distances required pursuant to ~~subsection~~ subsections (h)(2)(A) and (B) shall not apply to:

(A) Confined feeding facilities for swine which ~~are~~ were permitted or certified by the secretary on ~~the effective date of this act; and~~ July 1, 1994;

(B) confined feeding facilities for swine which existed on July 1, 1994, and registered with the secretary before

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July 1, 1996; or

~~(B)~~ (C) expansion of a confined feeding facility to an animal unit capacity of less than 4,500, including any such expansion for which an application is pending on the effective date of this act which existed on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to the effective date of this act July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to the effective date of this act July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.

(3) The separation distances required pursuant to subsections (h)(2)(C) and (D) and (h)(3) shall not apply to the following, as determined in accordance with subsections (a), (e) and (f) of section 2 and amendments thereto:

(A) Expansion of an existing confined feeding facility for swine if an application for such expansion has been received by the department before March 1, 1998; and

(B) construction of a new confined feeding facility for swine if an application for such facility has been received by the department before March 1, 1998.

Page 9

lines 9-12:

~~(k)~~ (m) All plans and specifications submitted to the department for new construction or new expansion of confined feeding facilities may be, but are not required to be prepared shall be approved by a licensed professional engineer or a consultant.

lines 15-28:

(a) "Application" means:

(1) The applicable fee, all properly completed and executed documents furnished by the department and any additional required documents or information necessary for obtaining a permit, including but not limited to a registration, construction plans, specifications and any required manure management, nutrient utilization, emergency response, odor control, facility closure and dead swine handling plans; or

(2) registration with the department before July 1, 1996, which has not been acted on by the department before March 1, 1998.

~~(a)~~ (b) "Best available technology for swine facilities" means the best available technology for swine facilities, as determined by the department in consultation with Kansas state university, owners and operators of permitted swine facilities and other appropriate persons, entities and state and federal agencies.

~~(b)~~ (c) "Best management practices for swine facilities" means those schedules of activities, maintenance procedures and other management practices of a swine facility that are designed to minimize or prevent pollution of the air, water or soil or to control odor, flies, rodents and other pests, as determined by the department in consultation with Kansas state university ~~and swine producers, owners and operators of permitted swine facilities and other appropriate persons, entities and state and federal agencies.~~

~~(e)~~ (d) "Department" means the department of health and environment.

(e) "Existing swine facility" means any swine facility in existence and registered with or permitted by the secretary before the effective date of this act.

(f) "In existence" means constructed or in place and capable of confining, feeding and maintaining swine. If the department has taken final formal administrative action requiring abandonment of a swine facility or cessation of a swine facility operation for reasons other than separation distances, the department shall conclude the past facility or operation was illegal and not eligible to continue previously legal acts. A facility for which the department has taken such an action shall be considered a new swine facility for the purpose of separation distance requirements.

[reletter remaining subsections]

Page 10

lines 10-14:

(i) "Swine waste retention lagoon or pond" means an excavated or diked structure, or a natural depression, provided for or used by a swine facility for the purpose of containing or detaining ~~animal~~ swine wastes or other wastes generated in the production of ~~animals~~ swine.

Page 11

line 12:

(b) ~~The department~~ secretary shall establish by rules and regulations...

line 20: reletter (d) as (c)

Page 12

line 7: reletter (e) as (d)

line 10: reletter (f) as (e)

line 18: reletter (g) as (f)

after line 22:

(g) The department shall make the determination to approve or disapprove the issuance of a permit not later than 180 days after the completed application is filed with the

department.

(h) An operator of a swine facility shall submit a registration or application to the department before initiating construction or operation of either a swine facility or a swine waste management system. When the department finds no permit is required, construction or operation of the swine facility may be initiated upon issuance, by the department, of a certification. When the department determines a permit or permit modification is required for the swine facility, construction may be initiated upon approval of the application, construction plans, specifications and swine waste management plan. Operation and stocking of a swine facility for which a permit is required shall not be initiated until the department issues the permit. An operator of a swine facility for which a permit modification is required because of a proposed facility expansion shall not increase the number of swine at the facility beyond that authorized by the permit until the department issues the modified permit.

line 33 through page 13, line 1:

~~(3) except in the case of a water impoundment that is constructed rather than natural, is located wholly within the boundaries of and under common private ownership and is entirely isolated from other surface water as provided by subsection (c), is located: (A) Not less than...~~

Page 13

lines 7-9:

~~(4) except as provided by subsection (d), is located not less than 250 feet from any private drinking water well, other than the facility operator's well, that is in active use; and...~~

lines 16-26:

~~(2) swine facilities for which an application for a permit is pending on has been received before the effective date of this act; or~~

~~(3) expansion of a swine facility if an application for a permit for the expansion is pending on has been received before the effective date of this act.~~

(c) The separation distances required by subsection (a)(3) shall not apply to any freshwater reservoir or farm pond that is privately owned if complete ownership of land bordering the reservoir or pond is under common private ownership. Such separation distances shall apply to any waters that flow from such reservoir or pond. The secretary shall have the authority provided by subsections (d) and (e) of K.S.A. 65-171d and amendments thereto with respect to any such reservoir or pond as necessary the public health, the soils or waters of the state and wildlife.

~~(e) If the swine waste management system of a swine facility having an animal unit capacity of 4,500 or more is~~

~~located less than 250 feet from the facility operator's (d) The separation distance required by subsection (a)(4) shall not apply to any private drinking water well that is in active use, the facility operation located within the perimeter from which separation distances are determined pursuant to subsection (k) of K.S.A. 65-171d and amendments thereto but, if the facility has an animal unit capacity of more than 4,500, the facility operator shall test waters from such well and annually report the test results to the department.~~

Page 14

line 15:

(e) ~~The department~~ secretary shall establish by rules and regulations...

Page 15

line 13 through page 16, line 23:

(i)(1) Except as provided by subsection (i)(5), if a swine waste retention lagoon or pond is utilized by a swine facility that has an animal unit capacity of 4,500 or more and is located where the groundwater is at a depth of 25 feet or less from the underneath side of the liner of the lagoon or pond:

(A) The sides and bottom of such lagoon or pond shall be lined with:

(i) A compacted soil liner of 3.6×10^{-6} cm/sec permeability at 95% standard proctor density plus 2% optimum moisture (1/8 inch per day); or

(ii) a synthetic liner having a thickness of 40 mil on top of a compacted soil liner of 7.3×10^{-6} cm/sec permeability at 95% standard proctor density plus 2% optimum moisture (1/4 inch per day); and

(B) the facility operator shall be required to install not fewer than one upstream and two downstream groundwater monitoring wells for each such single cell lagoon or pond and for the primary cell of each such multiple cell lagoon or pond, or employ equivalent technology, as provided by rules and regulations of the secretary.

(2) Except as provided by subsections ~~(i)(2), (3) and (4)~~, the sides and bottom of any swine waste retention lagoon or pond utilized by a swine facility that has an animal unit capacity of 4,500 or more and located where the groundwater is at a depth of 25 feet or less under the surface of the ~~(i)(3), (4) and (5)~~, if a swine waste retention lagoon or pond is utilized by a swine facility that has an animal unit capacity of 4,500 or more and is located where the groundwater is at a depth of more than 25 feet from the underneath side of the liner of the lagoon or pond, the sides and bottom of such lagoon or pond shall be lined with:

(A) A compacted soil liner of 3.6×10^{-6} cm/sec permeability at 95% standard proctor density plus 2% optimum moisture (1/8 inch per day); or

(B) a synthetic liner having a thickness of 40 mil on top of a compacted soil liner of 7.3×10^{-6} cm/sec permeability at 95% standard proctor density plus 2% optimum moisture (1/4 inch per day).

~~(2)~~ (3) If the soil compaction requirements of subsection ~~(i)(1)~~ (i)(2) cannot be met for one or more waste retention lagoons or ponds ~~utilized by a swine facility having an animal unit capacity of 4,500 or more~~ to which such subsection applies:

(A) The sides and bottom of such lagoons or ponds shall be lined with a synthetic liner having a thickness of 40 mil on top of a soil liner compacted to the extent possible; and

(B) if the groundwater is at a depth of 150 feet or less from the surface of the land at the place where such lagoons or ponds are located, the facility operator shall be required to install not fewer than one upstream and two downstream groundwater monitoring wells for each single cell lagoon or pond and for the primary cell of each such multiple cell lagoon or pond, or employ equivalent technology, as provided by rules and regulations of the secretary.

~~(3)~~ (4) Any swine waste retention lagoons or ponds existing on the effective date of this act and utilized by a swine facility that has an animal unit capacity of 4,500 or more shall not be required to meet the requirements of subsection ~~(i)(1) and (2)~~ but must (i)(1), (2) or (3) but the facility operator shall be required to install, before January 1, 2000, not fewer than one upstream and two downstream groundwater monitoring wells for each single cell lagoon or pond and for the primary cell of each multiple cell lagoon or pond, or employ equivalent technology, as provided by rules and regulations of the secretary, ~~before January 1, 2000,~~ if the groundwater is at a depth of 150 feet or less from the surface of the land at the place where such lagoons or ponds are located.

~~(4)~~ (5) On or after January 1, 2000, if the secretary determines, based on scientific evidence, that the standards imposed by subsections (i)(1), (2) and (3), (3) and (4) are not required to protect the groundwater, the secretary may increase the animal unit capacity at which such standards apply.

(j) The secretary may require installation and sampling of groundwater monitoring wells in the vicinity of any swine waste retention lagoon or pond ~~utilized by a swine facility that has an animal unit capacity of 1,000 or more or when the department~~ when the secretary determines necessary, or the secretary may allow the use of equivalent technology, as provided by rules and regulations of the secretary. The locations and design of such monitoring wells shall be subject to approval by the secretary.

Page 16

line 34 through page 17, line 2:

New Sec. 6. (a) The department of health and

environment shall not issue or renew a permit for any swine facility ~~that has an animal unit capacity of 1,000 or more and that applies manure or wastewater to land~~ unless:

(1) The land application process complies with the applicable requirements of this section; and

(2) the nutrient utilization plan required by this section is approved by the secretary of agriculture.

(b) (1) If the manure management plan prepared pursuant to section 5 and amendments thereto provides for land application of manure or wastewater:

(A) The applicant for a permit for construction of a new swine facility ~~having an animal unit capacity of 1,000 or more~~ or for expansion of an existing swine facility ~~to an animal unit capacity of 1,000 or more~~ shall submit with the application for a permit a nutrient utilization plan on a form prescribed by the secretary of agriculture and shall comply with the plan when the permit is issued by the department of health and environment; and

(B) the operator of ~~the~~ an existing swine facility ~~that has an animal unit capacity of 1,000 or more~~ shall submit to the department of health and environment, within six months after the effective date of this act, a nutrient utilization plan on a form prescribed by the secretary of agriculture, for approval by the department of agriculture, and shall comply with the plan by a date established by the secretary of agriculture.

Page 18

line 3:

(F) the amounts of nitrogen and ~~phosphorous~~ phosphorus applied to the...

line 33:

...for nitrogen, ~~phosphates~~ phosphate, ~~chlorides~~ chloride, copper and zinc, on the land...

Page 19

line 27:

...pursuant to this act indicate that the ~~phosphorous~~ phosphorus holding...

line 32:

...the capability to apply manure ~~and~~ or wastewater at appropriate...

line 35:

...facility to apply manure ~~and~~ or wastewater on all or a portion of...

Page 20

lines 2-3:

...agronomic ~~phosphorous~~ phosphorus needs of the crops or

pasture, or the soil ~~phosphorous~~ phosphorus holding capacity, in less than the time originally...

line 16:

(A) The manure ~~and~~ or wastewater have been subjected to

line 20:

(B) the manure ~~and~~ or wastewater are applied with innovative

Page 21

lines 16-17:

in the land application of manure ~~and~~ or wastewater to prevent discharge of ~~pollutants~~ manure or wastewater to surface water and groundwater due to

line 35 through page 23, line 12:

(7) The operator of each swine facility that is required to have a permit and that land applies manure or wastewater shall:

(A) Identify, train and keep current the training of each employee and contractor who supervises the transfer of manure or wastewater to land application equipment and the conducting of land application activities; and

(B) train, and keep current the training of, all employees and contractors who conduct land application activities.

(g) Each swine facility that is required to have a nutrient utilization plan shall amend such plan whenever warranted by changes in conditions. The operator of the facility shall file such plan and any amendments to such plan with the department of health and environment and the department shall forward such plan and any amendments to the secretary of agriculture.

(h) The secretary of agriculture shall make a determination to approve or disapprove a nutrient utilization plan not later than 45 days after the plan is received from the department of health and environment.

New Sec. 7. The secretary shall adopt rules and regulations establishing:

(a) Standards for training and certifying, and for periodic continuing education or recertification of, swine facility operators of swine facilities maintaining or supervising the swine waste management system of a swine facility that is required to have a permit; and

(b) procedures for notifying the department of failure of a swine waste retention lagoon or pond or any unplanned release of animal waste by a swine facility.

New Sec. 8. (a) The secretary shall establish by rules and regulations the circumstances under which a swine facility shall be required to develop an emergency response plan.

(b) Each swine facility that is required to ~~develop~~ submit an emergency response plan shall maintain such plan:

(1) In a location at the facility that is readily

accessible to all employees or contractors who are responsible for implementing the plan; and

(2) as otherwise required in section 9 and amendments thereto.

(c) The operator of each swine facility that is required to ~~develop~~ submit an emergency response plan shall train, and keep current the training of, the employees and contractors who are responsible for implementing such plan.

(d) Each swine facility that is required to ~~develop~~ submit an emergency response plan shall amend such plan whenever warranted by changes in the facility or in other conditions affecting the facility.

New Sec. 9. (a) Each swine facility that is required to have a permit shall keep all records and plans required by this act at the facility's site office in a manner that is accessible to inspection by authorized representatives of the department pursuant to section 14 and amendments thereto.

(b) Each swine facility that is required to have a permit shall retain at the location required in subsection (a) the current and previous three years' versions of the records and plans required by this act.

Page 24

lines 2-11:

New Sec. 11. (a) As a condition of issuance of a permit for a swine facility, the department shall require the applicant to submit a plan, approved by the department, for odor control if the application is for:

~~(a)~~ (1) A permit for construction or expansion of a swine facility that has an animal unit capacity of ~~4,500~~ 1,000 or more;

~~(b)~~ (2) a permit for expansion of a swine facility to an animal unit capacity of ~~4,500~~ 1,000 or more; or

~~(c)~~ (3) renewal of a permit for a swine facility that has an animal unit capacity of ~~4,500~~ 1,000 or more.

(b) Each swine facility that is required to submit an odor control plan shall amend such plan whenever warranted by changes in the facility or in other conditions affecting the facility.

after line 26:

(c) Each swine facility that is required to submit a facility closure plan shall amend such plan whenever warranted by changes in the facility or in other conditions affecting the facility.

line 27 through page 25, line 3:

New Sec. 13. (a) (1) Each swine facility that has an animal unit capacity of 4,500 or more and has a swine waste retention lagoon or pond shall maintain the facility at all times until it is certified to comply fully with the closure requirements of this subsection (a).

(2) (A) Any swine facility that has an animal unit

capacity of 4,500 or more and ceases to operate shall close any swine waste retention lagoon or pond of the facility in accordance with the requirements of this subsection (a).

(B) Any swine facility that has an animal unit capacity of 4,500 or more and has a swine waste retention lagoon or pond that has not received manure or wastewater from the facility for a period of 12 consecutive months shall close the facility in accordance with the requirements of this subsection (a), unless:

(i) The facility continues to operate;
 (ii) the facility intends to restore use of the lagoon or pond at a later date; and
 (iii) the facility maintains the lagoon or pond as though it were actively used, adding fresh water to replace water lost to evaporation and preventing loss or compromise of structural integrity or removes and disposes of all manure and wastewater in accordance with the requirements of this act and refills the lagoon or pond with clean water to preserve the integrity of the synthetic or earthen liner.

(C) Any swine facility that has an animal unit capacity of 4,500 or more and chooses not to close a swine waste retention lagoon or pond pursuant to subsection (a)(2)(B) shall:

(i) Notify the department of the decision and the actions taken to comply with the requirements of subsection (a)(2)(B);

(ii) conduct routine inspections, maintenance and record keeping as though the facility were in use; and

(iii) prior to restoration of use of the lagoon or pond, notify the department and provide the department with the opportunity to inspect the facility to ensure that it complies with the requirements of section 4 and amendments thereto.

(3) To close a swine waste retention lagoon or pond, a swine facility has an animal unit capacity of 4,500 or more and shall remove all manure and wastewater, as well as all associated appurtenances and conveyance structures, from the lagoon or pond and dispose of the manure and or wastewater in accordance with the requirements of this act or, if the facility requests, as determined otherwise by the department.

(4) The secretary shall adopt rules and regulations establishing standards and procedures for demolition of any swine waste retention lagoon or pond, or conversion of the lagoon or pond to another use (such as a farm pond), as a condition of closure for a swine facility that has an animal unit capacity of 4,500 or more.

(5) Upon notification to the department by a swine facility having an animal unit capacity of 4,500 or more that a swine waste retention lagoon or pond utilized by the facility has been closed, the department shall inspect the lagoon or pond and certify whether the closure complies with the requirements of this subsection (a).

(6) The secretary shall establish, by rules and regulations, standard maximum periods for completion of all closure activities for swine waste retention lagoons and

ponds utilized by swine facilities having an animal unit capacity of 4,500 or more from the date of cessation of operation of the lagoon or pond to the date of compliance with all closure requirements of this subsection (a).

(b) When a swine facility having an animal unit capacity of 4,500 or more ceases to operate, it shall close all other manure and wastewater storage facilities to which subsection (a) does not apply removing all manure and wastewater from the manure and wastewater storage facility and disposing of the manure and wastewater in accordance with the requirements of this act or, if the swine facility requests, as determined otherwise by the department.

(c) (1) On and after July 1, 2000: ~~(A)~~, the operator of each swine facility that has a capacity of 4,500 animal units or more and has a swine waste retention lagoon or pond ~~that is constructed or expanded after the effective date of this act~~ shall demonstrate annually to the department annually at a time specified by the department evidence, satisfactory to the department, that the operator has financial ability to cover the cost of closure of the lagoon or pond as required by the department; ~~and~~

~~(B) whenever a swine facility that has a capacity of 4,500 animal units or more and has a swine waste retention lagoon or pond constructed before the effective date of this act is sold, the new operator shall demonstrate annually to the department evidence, satisfactory to the department, that the operator has financial ability to cover the cost of closure of the lagoon or pond as required by the department.~~

Page 28

line 16 through page 29, line 2:

New Sec. 16. (a) The secretary may deny an application for any permit, whether new or a renewal, for a swine facility and, upon notice and opportunity for hearing in accordance with the Kansas administrative procedure act, may suspend or revoke any permit for a swine facility, if the secretary finds that the applicant, or any officer, director, partner or resident manager of the applicant has:

~~(a)~~ (1) Intentionally misrepresented a material fact in applying for any permit;

~~(b)~~ (2) habitually and intentionally violated environmental laws of this or any other state or of the United States and the violations have caused significant and material environmental damage; or

~~(c)~~ (3) had any permit revoked under the environmental laws of this or any other state or of the United States.

(b) Failure of the operator of a swine confined feeding facility to implement any required manure management, emergency response, odor control, facility closure or dead swine handling plan:

(1) May render the operator liable for a civil penalty pursuant to K.S.A. 65-170d and amendments thereto; and

(2) upon notice and opportunity for hearing in accordance with the Kansas administrative procedure act,

shall be grounds for the secretary to suspend the permit for such facility.

New Sec. 17. (a) Every swine facility that has a capacity of 1,000 or more animal units shall file with the department a plan for the handling of dead swine. The secretary shall adopt rules and regulations establishing minimum standards, including requirements that:

(1) No dead swine shall be left where visible from municipal roads or habitable structures;

(2) before disposal, all dead swine shall be kept within the perimeter from which separation distances are determined pursuant to subsection (k) of K.S.A. 65-171d and amendments thereto unless otherwise approved by the department; and

(3) carcasses shall be picked up within 48 hours under normal circumstances.

(b) Each swine facility that is required to submit a plan for handling dead swine shall amend such plan whenever warranted by changes in the facility or in other conditions affecting the facility.

Page 29

lines 25-30:

New Sec. 19. (a) The express adoption or authorization of standards and requirements for swine facilities by this act shall not be construed to prohibit or limit in any manner the secretary's authority to adopt and enforce rules and regulations establishing:

(1) Standards and requirements for swine facilities that are in addition to or more stringent than those provided by this act if the secretary determines necessary for the purposes provided by K.S.A. 65-171d and amendments thereto;

(2) standards and requirements for swine facilities that exist on the effective date of this act and that are not subject to the standards and requirements provided by this act; and

(3) standards and requirements for confined feeding facilities for livestock other than swine.

Page 30

line 3:

(K.S.A. 82a-701 et seq. and amendments thereto) or any other

Page 31

lines 34-35

...to crops or land and that are submitted by swine confined feeding ~~operations~~ facilities pursuant to section 6 and amendments thereto if the...

Page 32

after line 11:

(d) Failure of the operator of a swine confined feeding facility to implement a nutrient utilization plan approved by the secretary shall be considered a violation of the Kansas chemigation safety law for which the secretary may suspend a permit pursuant to K.S.A. 2-3310 and amendments thereto or may impose a civil penalty pursuant to K.S.A. 2-3317 and amendments thereto, or both.

line 17:

(a) Criteria adopted by the secretary by rules and regulations that, in the...

Page 34

line 25:

(2) "Qualified ~~farm~~ swine facility" means a swine facility...

line 34:

(3) "Required improvements to a qualified ~~family farm~~ swine..."

Page 35

line 2:

...required for a qualified ~~family farm~~ swine facility to comply...

line 11:

...taxpayer for required improvements to a qualified ~~family farm~~...

after line 35:

(d) On or before the first day of the 1999, 2000 and 2001 regular legislative sessions, the secretary of revenue shall submit to the senate standing committee on energy and natural resources, the house standing committee on environment, the senate standing committee on assessment and taxation and the house standing committee on taxation a report of the number of taxpayers claiming the credit allowed by this section and the total amount of such credits claimed by all taxpayers.

Proposed Amendments to Proposed Substitute for H.B. 2950

Page 12

lines 10-17:

~~(f)~~ (g) The department, in its discretion, may hold a public meeting or hearing within 30 days after the conclusion of the comment period required by subsection (e) to receive further public comment if the department determines that significant environmental or technical concerns or issues have been raised during the comment period.

(h) The department shall hold a public hearing within 30 days after the conclusion of the comment period required by subsection (e) to receive further public comment if:

(1) A hearing is requested by any owner of a habitable structure within the applicable separation distance; or

(2) the application is for: (A) Construction of a new swine facility that has an animal unit capacity of [3,500][4,500] or more; (B) expansion of an existing swine facility to an animal unit capacity of [3,500][4,500] or more; or (C) expansion of an existing swine facility that has an animal unit capacity of [3,500][4,500] or more.

(i) Public meetings and hearings scheduled by the department pursuant to subsection (g) or (h) shall address only those matters for which the secretary has authority.

[reletter subsection (g)]

House Environment
3-10-98
Attachment 8

Proposed Amendment to Proposed Substitute for H.B. 2950

Where the proposed substitute bill refers to swine facilities having an animal unit capacity of:

4,500 or more change that to 3,500 or more

1,000 to 4,499 change that to 1,000 to 3,499

Add the following:

New Sec. __. A qualified swine facility, as defined by section 25, that expands to an animal unit capacity of 3,500 or more shall be subject to the provisions of this act applicable to a swine facility having an animal unit capacity of 1,000 to 3,499 if:

(a) The department determines that the swine waste management system of such facility on the effective date of this act has the capacity to accommodate the expanded capacity;

(b) the expansion is located within the perimeter from which separation distances are determined pursuant to subsection (k) of K.S.A. 65-171d and amendments thereto or the written agreements required by subsection (i)(1) of K.S.A. 65-171d and amendments thereto are obtained; and

(c) the expansion does not exceed the lesser of:

(1) - An animal unit capacity that is more than 1/3 greater than the capacity of such facility on the effective date of this act; or

(2) an animal unit capacity of 4,499.

House Environment
3-10-98
Attachment 9

Proposed Amendments to Proposed Substitute for H.B. 2950

1. Add the following definition to section 2:

() "Perennial stream" means a stream, or part of a stream, that flows continuously during all of the calendar year, except during an extended drought.

Amend page 12, line 33, through page 13, line 6, to read as follows:

(3) except in the case of a water impoundment that is constructed rather than natural, is located wholly within the boundaries of and under common private ownership and is entirely isolated from other surface water is located: (A) Not less than 500 feet from any surface water lake, pond, reservoir or perennial stream if the facility has an animal unit capacity of 4,500 or more; (B) not less than 250 feet from any surface water lake, pond, reservoir or perennial stream if the facility has an animal unit capacity of 1,000 to 4,499; or (C) not less than 100 feet from any surface water lake, pond, reservoir or perennial stream if the facility has an animal unit capacity of under 1,000;

2. Add an additional section to read as follows:

New Sec. . The requirements of subsection (i) of section 5 shall apply to construction of any new lagoon and expansion of any existing lagoon used for retention of human waste by the occupants of a private dwelling or by a municipal wastewater treatment system.

3. Add an additional section to read as follows:

New. Sec. . The secretary of health and environment, pursuant to K.S.A. 75-5616 and amendments thereto, shall appoint an advisory committee to consult with and advise the secretary on the implementation and administration of the provisions of K.S.A. 65-171d and section 2 through 20, and amendments thereto, with respect to swine facilities. The advisory committee shall consist of five members who represent persons knowledgeable and experienced in areas related to regulation of swine facilities, including but not limited to owners and operators of swine facilities, Kansas state university extension services and professional engineers.

House Environment
3-10-98
Attachment 10

Proposed Amendments to Proposed Substitute for H.B. 2950

Page 15

lines 13-14:

(i) (1) Except as provided by subsections (i)(2), ~~(3)~~ and ~~(4)~~ and (3), the sides and bottom of any swine waste retention lagoon or...

Page 16

lines 11-15:

~~(4) On or after January 1, 2000, if the secretary determines, based on scientific evidence, that the standards imposed by subsections (i)(1), (2) and (3) are not required to protect the groundwater, the secretary may increase the animal unit capacity at which such standards apply.~~

House Environment
3-10-98
Attachment 11

Proposed Amendments to Proposed Substitute for H.B. 2950

Page 40

lines 7-12:

~~New Sec. 28. The provisions of this act shall expire upon the enactment of any law during the 1998 regular legislative session prohibiting the secretary of health and environment from issuing any permit for a new swine breeding, farrowing, feeding or finishing facility, or any combination thereof, regardless of size. (a) Notwithstanding any other provision of law to the contrary, if, pursuant to K.S.A. 17-5908 and amendments thereto, the voters of a county have voted against allowing the establishment of swine production facilities in the county, the secretary shall not issue a permit for any of the following located in such county:~~

~~(1) Construction or operation of any new swine facility that has an animal unit capacity of 1,000 or more;~~

~~(2) expansion of any existing swine facility to an animal unit capacity of 1,000 or more; or~~

~~(3) expansion of any existing swine facility if such facility has an animal unit capacity of 1,000 or more.~~

~~(b) If after the effective date of this act the voters of a county vote, at an election pursuant to K.S.A. 17-5908 and amendments thereto, against allowing the establishment of swine production facilities in the county, the prohibition of subsection (a) shall apply on and after the date of such election.~~

~~(c) Nothing in this section shall prohibit renewal of a permit that was issued by the secretary before the effective date of this act.~~

[also delete sections 29-34, relating to expiration of act upon enactment of moratorium and amend title and repealer accordingly]

HOUSE ENVIRONMENT
3-10-98
ATTACHMENT 12

Proposed Amendments to Proposed Substitute for H.B. 2950

Page 40

lines 7-12:

~~New Sec. 28. The provisions of this act shall expire upon the enactment of any law during the 1998 regular legislative session prohibiting the secretary of health and environment from issuing any permit for a new swine breeding, farrowing, feeding or finishing facility, or any combination thereof, regardless of size. (a) Notwithstanding any other provision of law to the contrary, the secretary of health and environment shall not issue a permit for a swine facility if the application for such permit:~~

~~(1) Was or is received by the department on or after January 1, 1998, and before January 1, 2000; and~~

~~(2) is for: (A) Construction of a new swine facility that has an animal unit capacity of [3,500][4,500] or more; (B) expansion of an existing swine facility to an animal unit capacity of [3,500][4,500] or more; or (C) expansion of an existing swine facility that has an animal unit capacity of [3,500][4,500] or more.~~

~~(b) Nothing in this section shall prohibit renewal of a permit that was issued by the secretary before the effective date of this act.~~

[also delete sections 29-34, relating to expiration of act upon enactment of moratorium and amend title and repealer accordingly]

House Environment
3-10-98
Attachment 13