

**{As Amended by House Committee of the Whole}**

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**As Amended by House Committee**

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**{As Amended by Senate Committee of the Whole}**

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**As Amended by Senate Committee**

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*Session of 2015*

**SENATE BILL No. 124**

By Committee on Natural Resources

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1 AN ACT concerning the department of health and environment;  
2 relating to radioactive materials; by-product material; low-level  
3 radioactive waste; naturally occurring radioactive material; water  
4 and soil pollution; solid waste disposal; ~~relating to~~ land-spreading of  
5 drilling waste; amending K.S.A. 48-1603 and 48-1620 and K.S.A.  
6 2014 Supp. 65-171d and 65-3407c and repealing the existing section  
7 sections.  
8

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

10 **Section 1. K.S.A. 48-1603 is hereby amended to read as follows:**  
11 **48-1603. As used in this act:**

12 (a) "By-product material" means: (1) Any radioactive material,  
13 except special nuclear material, yielded in or made radioactive by  
14 exposure to the radiation incident to the process of producing or  
15 utilizing special nuclear material; ~~and~~

16 (2) the tailings or wastes produced by the extraction or  
17 concentration of uranium or thorium from any ore processed  
18 primarily for its source material content;

19 (3) (A) any discrete source of radium-226 that is produced, extracted  
20 or converted after extraction for use for a commercial, medical or  
21 research activity; or

22 (B) any material that:

23 (i) Has been made radioactive by use of a particle accelerator; and

24 (ii) is produced, extracted or converted after extraction for use for a  
25 commercial, medical or research activity; or

26 (4) any discrete source of naturally occurring radioactive material,  
27 other than source material, that:

28 (A) The secretary declares by order would pose a threat to the public  
29 health and safety or the common defense and security similar to the threat  
30 posed by a discrete source of radium-226 after the United States nuclear

1 *regulatory commission, or any successor thereto, determines the same;*  
2 *and*

3 (B) *is extracted or converted after extraction for use in a commercial,*  
4 *medical or research activity.*

5 (b) "Department" means the Kansas department of health and  
6 environment.

7 (c) "Civil penalty" means any monetary penalty levied on a  
8 licensee or registrant because of violations of statutes, regulations,  
9 licenses or registration certificates, but does not include criminal  
10 penalties.

11 (d) "Closure" or "site closure" means all activities performed at  
12 a waste disposal site, such as stabilization and contouring, to assure  
13 that the site is in a stable condition so that only minor custodial care,  
14 surveillance and monitoring are necessary at the site following  
15 termination of licensed operation.

16 (e) "Decommissioning" means final operational activities at a  
17 facility to dismantle site structures, to decontaminate site surfaces and  
18 remaining structures, to stabilize and contain residual radioactive  
19 material and to carry out any other activities to prepare the site for  
20 postoperational care.

21 (f) "Disposal of low-level radioactive waste" means the isolation  
22 of such waste from the biosphere.

23 (g) "Electronic product" means any manufactured or assembled:  
24 (1) Product which, when in operation, contains or acts as part of an  
25 electronic circuit and emits, or in the absence of effective shielding or  
26 other controls would emit, electronic product radiation; ~~or any~~  
27 ~~manufactured or assembled~~ (2) article which is intended for use as a  
28 component part, or accessory of a product described in this subsection  
29 and which in operation emits, or in the absence of effective shielding  
30 or other controls would emit, such radiation.

31 (h) "Electronic product radiation" means any ionizing or  
32 nonionizing, electromagnetic or particulate radiation, or any sonic,  
33 infrasonic, or ultrasonic wave, which is emitted from an electronic  
34 product as the result of the operation of an electronic circuit in such  
35 product.

36 (i) "General license" means a license effective pursuant to rules  
37 and regulations promulgated by the secretary of health and  
38 environment, without the filing of an application to transfer, acquire,  
39 own, possess or use quantities of, or devices or equipment utilizing by-  
40 product, source, special nuclear materials, or other radioactive  
41 material occurring naturally or produced artificially.

42 (j) "High-level radioactive waste" means: (1) Irradiated reactor  
43 fuel; (2) liquid wastes resulting from the operation of the first cycle

1 solvent extraction system, or equivalent, and the concentrated wastes  
2 from subsequent extraction cycles, or equivalent, in a facility for  
3 uranium processing irradiated reactor fuel; and (3) solids into which  
4 such liquid wastes have been converted.

5 (k) "Low-level radioactive waste" means radioactive waste not  
6 classified as:

7 (1) *NORM waste or TENORM waste at concentrations and from*  
8 *sources established in rules and regulations adopted by the secretary on*  
9 *or before July 1, 2016;*

10 (2) **high-level radioactive waste;**

11 (3) **transuranic waste;**

12 (4) **spent nuclear fuel; or**

13 (5) **by-product material as defined in subsection (a)(2).**

14 (l) "Person" means any individual, corporation, partnership,  
15 firm, association, trust, estate, public or private institution, group,  
16 agency, political subdivision of this state, or any other state or political  
17 subdivision or agency thereof, and any legal successor, representative,  
18 agency, or agency of the foregoing, other than the United States  
19 nuclear regulatory commission, or any successor thereto, and other  
20 than federal government agencies licensed by the United States  
21 nuclear regulatory commission, or any successor thereto.

22 (m) "Radiation" means: (1) Ionizing radiation including gamma  
23 rays, X-rays, alpha particles, beta particles, and including neutrons;  
24 (2) any electromagnetic radiation other than ionizing radiation which  
25 is generated during the operation of an electronic product; or (3) any  
26 sonic, ultrasonic, or infrasonic wave which is emitted from an  
27 electronic product as a result of the operation of an electronic circuit  
28 in such product.

29 (n) "Radioactive material" means any material, solid, liquid or  
30 gas, which emits ionizing radiation spontaneously. It includes  
31 accelerator produced, by-product, naturally occurring, source and  
32 special nuclear materials.

33 (o) "Secretary" means the secretary of the Kansas department of  
34 health and environment.

35 (p) "Source material" means: (1) Uranium, thorium; or any other  
36 material which the secretary declares by order to be source material  
37 after the United States nuclear regulatory commission, or any  
38 successor thereto, has determined the material to be such; or (2) ores  
39 containing one or more of the foregoing materials, in such  
40 concentration as the secretary declares by order to be source material  
41 after the United States nuclear regulatory commission, or any  
42 successor thereto, has determined the material in such concentration  
43 to be source material.

1 (q) "Source material mill tailings" means the tailings or waste  
2 produced by the extraction or concentration of uranium or thorium  
3 from any ore processed primarily for its source material content,  
4 including discrete surface wastes resulting from underground solution  
5 extraction processes but not including underground ore bodies  
6 depleted by such solution extraction process.

7 (r) "Source material milling" means any processing of ore,  
8 including underground solution extraction of unmined ore, primarily  
9 for the purpose of extracting or concentrating uranium or thorium  
10 therefrom and which results in the production of source material mill  
11 tailings.

12 (s) "Sources of radiation" means, collectively, radioactive  
13 material and radiation generating equipment.

14 (t) "Special nuclear material" means: (1) Plutonium, uranium  
15 233, uranium enriched in the isotope 233 or in the isotope 235, and  
16 any other material which the secretary declares by order to be special  
17 nuclear material after the United States nuclear regulatory  
18 commission, or any successor thereto, has determined the material to  
19 be such, but does not include source material; or (2) any material  
20 artificially enriched by any of the foregoing, but does not include  
21 source material.

22 (u) "Specific license" means a license issued after application, to  
23 use, manufacture, produce, transfer, receive, acquire, own or possess  
24 quantities of, or devices or equipment utilizing by-product, source,  
25 special nuclear materials, or other radioactive material occurring  
26 naturally or produced artificially.

27 (v) "Spent nuclear fuel" means irradiated nuclear fuel that has  
28 undergone at least one year's decay since being used as a source of  
29 energy in a power reactor. Spent nuclear fuel includes the special  
30 nuclear material, by-product material, source material and other  
31 radioactive material associated with fuel assemblies.

32 (w) "Transuranic waste" means radioactive waste containing  
33 alpha emitting transuranic elements, with radioactive half-lives  
34 greater than five years, in excess of 10 nanocuries per gram.

35 (x) "*Naturally occurring radioactive material*" or "*NORM*" means  
36 any nuclide that is radioactive in the nuclide's natural physical state.  
37 "*NORM*" does not include accelerator produced, by-product, source or  
38 special nuclear material.

39 (y) "*NORM waste*" means solid waste as defined in K.S.A. 65-3402,  
40 and amendments thereto, that is contaminated with *NORM*.

41 (z) "*Technologically enhanced NORM*" or "*TENORM*" means *NORM*  
42 whose radionuclide concentrations are increased by or as a result of past  
43 or present human practices. "*TENORM*" does not include accelerator

1 *produced, by-product, source or special nuclear material.*

2 (aa) "TENORM waste" means solid waste as defined in K.S.A. 65-  
3 3402, and amendments thereto, that is contaminated with TENORM.

4 **Sec. 2. K.S.A. 48-1620 is hereby amended to read as follows: 48-  
5 1620. The hazardous waste disposal facility approval board secretary shall  
6 review and grant or deny final approval for each low-level radioactive  
7 waste disposal facility license in the same manner as provided in  
8 K.S.A. 65-3433 et seq., and amendments thereto. The board secretary  
9 shall not approve any such license which would permit the disposal of  
10 low-level radioactive waste below the natural level of the disposal site  
11 unless the board secretary, subject to legislative approval, has  
12 determined that below grade disposal provides greater protection than  
13 above grade disposal for the environment and public health for the  
14 period of time for which such low-level radioactive waste may  
15 continue to pose a hazard to the environment and public health.**

16 ~~Section 1.~~ **Sec. 3.** K.S.A. 2014 Supp. 65-3407c is hereby amended to  
17 read as follows: 65-3407c. (a) The secretary may authorize persons to  
18 carry out the following activities without a solid waste permit issued  
19 pursuant to K.S.A. 65-3407, and amendments thereto:

20 (1) Dispose of solid waste at a site where the waste has been  
21 accumulated or illegally dumped. Disposal of some or all such waste must  
22 be identified as an integral part of a site cleanup and closure plan  
23 submitted to the department by the person responsible for the site. No  
24 additional waste may be brought to the site following the department's  
25 approval of the site cleanup and closure plan.

26 (2) Perform temporary projects to remediate soils contaminated by  
27 organic constituents capable of being reduced in concentration by  
28 biodegradation processes or volatilization, or both. Soil to be treated may  
29 be generated on-site or off-site. A project operating plan and a site closure  
30 plan must be submitted to the department as part of the project approval  
31 process.

32 (3) Dispose of demolition waste resulting from demolition of an  
33 entire building or structure if such waste is disposed of at, adjacent to or  
34 near the site where the building or structure was located. Prior to the  
35 department's authorization, written approval for the disposal must be  
36 obtained from the landowner and the local governmental or zoning  
37 authority having jurisdiction over the disposal site. The disposal area must  
38 be covered with a minimum of two feet of soil and seeded, rocked or  
39 paved. The final grades for the disposal site must be compatible with and  
40 not detract from the appearance of adjacent properties. In addition to the  
41 factors listed in subsection (b), the secretary shall consider the following  
42 when evaluating requests for off-site disposal of demolition waste:

43 (A) Public safety concerns associated with the building or structure

1 proposed to be demolished.

2 (B) Proposed plans to redevelop the building site which would be  
3 impacted by on-site disposal of debris.

4 (C) The disposal capacity of any nearby permitted landfill.

5 (4) Dispose of solid waste generated as a result of a transportation  
6 accident if such waste is disposed of on property adjacent to or near the  
7 accident site. Prior to the department's authorization, written approval for  
8 the disposal must be obtained from the landowner and the local  
9 governmental or zoning authority having jurisdiction over the disposal  
10 site. A closure plan must be submitted to the department as part of the  
11 authorization process.

12 (5) Dispose of whole unprocessed livestock carcasses on property at,  
13 adjacent or near where the animals died if: (A) Such animals died as a  
14 result of a natural disaster or their presence has created an emergency  
15 situation; and (B) proper procedures are followed to minimize threats to  
16 human health and the environment. Prior to the department's authorization,  
17 written approval for the disposal must be obtained from the landowner and  
18 the local governmental or zoning authority having jurisdiction over the  
19 disposal site.

20 (6) Dispose of solid waste resulting from natural disasters, such as  
21 storms, tornadoes, floods and fires, or other such emergencies, when a  
22 request for disposal is made by the local governmental authority having  
23 jurisdiction over the area. Authorization shall be granted by the department  
24 only when failure to act quickly could jeopardize human health or the  
25 environment. Prior to the department's authorization, written approval for  
26 the disposal must be obtained from the landowner and the local  
27 governmental or zoning authority having jurisdiction over the disposal  
28 site. The local governmental authority must agree to provide proper  
29 closure and postclosure maintenance of the disposal site as a condition of  
30 authorization.

31 (7) Store solid waste resulting from natural disasters, such as storms,  
32 tornadoes, floods and fires, or other such emergencies, at temporary waste  
33 transfer sites, when a request for storage is made by the local  
34 governmental authority having jurisdiction over the area. Authorization  
35 shall be granted by the department only when failure to act quickly could  
36 jeopardize human health or the environment. Prior to the department's  
37 authorization, written approval for the storage must be obtained from the  
38 landowner and the local governmental or zoning authority having  
39 jurisdiction over the storage site. The local governmental authority must  
40 agree to provide proper closure of the storage and transfer site as a  
41 condition of authorization.

42 (8) (A) Dispose of solid waste generated by drilling oil and gas wells  
43 by land-spreading in accordance with best management practices and

1 maximum loading rates ~~developed~~ *established in rules and regulations*  
2 *adopted* by the secretary ~~and published on the department website.~~

3 (B) For any area that annually receives more than 25 inches of  
4 precipitation, as determined by the department, any solid waste disposed  
5 of by land-spreading shall be incorporated into the soil. No land-spreading  
6 shall occur on any area where the water table is less than 10 feet or on any  
7 area where there is documented groundwater contamination as determined  
8 by the department.

9 (C) (i) Each separate land-spreading location shall require submission  
10 of an application to land-spread drilling waste, complete with all  
11 information required on the application form developed by the secretary.  
12 The contents of the application form shall include, but are not limited to,  
13 the land-spreading location, soil characteristics, waste characteristics,  
14 waste volumes, drilling mud additives, land-spreading method and post-  
15 land-spreading report. A separate land-spreading application and a post-  
16 land-spreading report shall be submitted for each location.

17 (ii) For the purposes of protecting the health, safety and property of  
18 the people of the state, and preventing surface and subsurface water  
19 pollution and soil pollution detrimental to public health or to the plant,  
20 animal and aquatic life of the state, a land-spreading application may not  
21 be approved for the same location unless a minimum of three years has  
22 passed since the previous land spreading occurred.

23 (iii) A fee of \$250 shall be paid to the state corporation commission  
24 with each drilling waste land-spreading application. The fee shall be  
25 remitted to the state treasurer in accordance with K.S.A. 75-4215, and  
26 amendments thereto, to be credited to the conservation fee fund.

27 (D) The secretary and the state corporation commission shall enter  
28 into a memorandum of agreement for the purposes of:

29 (i) Administering the land-spreading application and approval  
30 process;

31 (ii) monitoring compliance; and

32 (iii) establishing mechanisms for enforcement and remedial actions.

33 (E) ***The seller of any property where land-spreading has occurred***  
34 ***within the previous three years pursuant to this paragraph shall***  
35 ***disclose such land-spreading and the date thereof to any potential***  
36 ***purchaser of such property prior to closing.***

37 (F) On or before January 1, 2014, the secretary, in coordination with  
38 the state corporation commission, shall adopt rules and regulations  
39 governing land-spreading of waste generated by drilling oil and gas wells.  
40 In developing such rules and regulations, the secretary and the state  
41 corporation commission shall seek advice and comments from  
42 groundwater management districts and other groups or persons  
43 knowledgeable and experienced in areas related to this paragraph.

1       ~~(F) On or before January 30, 2013 and 2014, the state corporation~~  
2 ~~commission shall present a report to the senate standing committees on~~  
3 ~~natural resources and ways and means and to the house standing~~  
4 ~~committees on agriculture and natural resources and appropriations. Such~~  
5 ~~report shall include, but not be limited to, information concerning the~~  
6 ~~implementation and status of land-spreading procedures and the costs~~  
7 ~~associated with the regulation of land-spreading pursuant to this~~  
8 ~~paragraph.~~

9       ~~(G) The provisions of this paragraph shall expire on July 1, 2015.~~

10       ***(G) On or before January 30 of each year, the state corporation***  
11 ***commission, in coordination with the Kansas department of health***  
12 ***and environment, shall present a report to the senate standing***  
13 ***committees on natural resources{, utilities} and ways and means and to***  
14 ***the house standing committees on agriculture and natural resources{,***  
15 ***energy and environment} and appropriations. Such report shall***  
16 ***include, but not be limited to, information concerning the***  
17 ***implementation and status of land-spreading procedures and the costs***  
18 ***associated with the regulation of land-spreading pursuant to this***  
19 ***paragraph.***

20       ~~***[(H) The provisions of this paragraph shall expire on July 1, 2018.]***~~

21       (b) The secretary shall consider the following factors when  
22 determining eligibility for an exemption to the solid waste permitting  
23 requirements under this section:

- 24       (1) Potential impacts to human health and the environment.
- 25       (2) Urgency to perform necessary work.
- 26       (3) Costs and impacts of alternative waste handling methods.
- 27       (4) Local land use restrictions.
- 28       (5) Financial resources of responsible parties.
- 29       (6) Technical feasibility of proposed project.
- 30       (7) Technical capabilities of persons performing proposed work.

31       (c) The secretary may seek counsel from local government officials  
32 prior to exempting activities from solid waste permitting requirements  
33 under this section.

34       **Sec. 4. K.S.A. 2014 Supp. 65-171d is hereby amended to read as**  
35 **follows: 65-171d. (a) For the purpose of preventing surface and**  
36 **subsurface water pollution and soil pollution detrimental to public**  
37 **health or to the plant, animal and aquatic life of the state, and to**  
38 **protect designated uses of the waters of the state and to require the**  
39 **treatment of sewage predicated upon technologically based effluent**  
40 **limitations, the secretary of health and environment shall make such**  
41 **rules and regulations, including registration of potential sources of**  
42 **pollution, as may in the secretary's judgment be necessary to: (1)**  
43 **Protect the soil and waters of the state from pollution resulting from**



1 underground storage of liquid petroleum gas and hydrocarbons, other  
2 than underground porosity storage of natural gas; (2) control the  
3 disposal, discharge or escape of sewage as defined in K.S.A. 65-164,  
4 and amendments thereto, by or from municipalities, corporations,  
5 companies, institutions, state agencies, federal agencies or individuals  
6 and any plants, works or facilities owned or operated, or both, by  
7 them; and (3) establish water quality standards for the waters of the  
8 state to protect their designated uses, *including establishment of water*  
9 *quality standards variances that may apply to specified pollutants,*  
10 *permitteds, or waterbody segments that reflect the highest attainable*  
11 *condition during the specified time period for the variance. In no event*  
12 *shall the secretary's authority be interpreted to include authority over*  
13 *the beneficial use of water, water quantity allocations, protection*  
14 *against water use impairment of a beneficial use, or any other function*  
15 *or authority under the jurisdiction of the Kansas water appropriation*  
16 *act, K.S.A. 82a-701, and amendments thereto.*

17 (b) The secretary of health and environment may adopt by  
18 reference any regulation relating to water quality and effluent  
19 standards promulgated by the federal government pursuant to the  
20 provisions of the federal clean water act, and amendments thereto, as  
21 in effect on January 1, 1989, which the secretary is otherwise  
22 authorized by law to adopt.

23 (c) For the purposes of this act, including K.S.A. 65-161 through  
24 65-171h and K.S.A. 65-1,178 through 65-1,198, and amendments  
25 thereto, and rules and regulations adopted pursuant thereto:

26 (1) "Pollution" means: (A) Such contamination or other  
27 alteration of the physical, chemical or biological properties of any  
28 waters of the state as will or is likely to create a nuisance or render  
29 such waters harmful, detrimental or injurious to public health, safety  
30 or welfare, or to the plant, animal or aquatic life of the state or to  
31 other designated uses; or (B) such discharge as will or is likely to  
32 exceed state effluent standards predicated upon technologically based  
33 effluent limitations.

34 (2) "Confined feeding facility" means any lot, pen, pool or pond:  
35 (A) Which is used for the confined feeding of animals or fowl for food,  
36 fur or pleasure purposes; (B) which is not normally used for raising  
37 crops; and (C) in which no vegetation intended for animal food is  
38 growing.

39 (3) "Animal unit" means a unit of measurement calculated by  
40 adding the following numbers: The number of beef cattle weighing  
41 more than 700 pounds multiplied by 1.0; plus the number of cattle  
42 weighing less than 700 pounds multiplied by 0.5; plus the number of  
43 mature dairy cattle multiplied by 1.4; plus the number of swine

1 weighing more than 55 pounds multiplied by 0.4; plus the number of  
2 swine weighing 55 pounds or less multiplied by 0.1; plus the number  
3 of sheep or lambs multiplied by 0.1; plus the number of horses  
4 multiplied by 2.0; plus the number of turkeys multiplied by 0.018;  
5 plus the number of laying hens or broilers, if the facility has  
6 continuous overflow watering, multiplied by 0.01; plus the number of  
7 laying hens or broilers, if the facility has a liquid manure system,  
8 multiplied by 0.033; plus the number of ducks multiplied by 0.2.  
9 However, each head of cattle will be counted as one full animal unit  
10 for the purpose of determining the need for a federal permit. "Animal  
11 unit" also includes the number of swine weighing 55 pounds or less  
12 multiplied by 0.1 for the purpose of determining applicable  
13 requirements for new construction of a confined feeding facility for  
14 which a permit or registration has not been issued before January 1,  
15 1998, and for which an application for a permit or registration and  
16 plans have not been filed with the secretary of health and environment  
17 before January 1, 1998, or for the purpose of determining applicable  
18 requirements for expansion of such facility. Except as otherwise  
19 provided, animal units for public livestock markets shall be  
20 determined by using the average annual animal units sold by the  
21 market during the past five calendar years divided by 365. Such  
22 animal unit determination may be adjusted by the department if the  
23 public livestock market submits documentation that demonstrates  
24 that such adjustment is appropriate based on the amount of time in  
25 24-hour increments or partials thereof that animals are at the market.

26 (4) "Animal unit capacity" means the maximum number of  
27 animal units which a confined feeding facility is designed to  
28 accommodate at any one time.

29 (5) "Habitable structure" means any of the following structures  
30 which is occupied or maintained in a condition which may be occupied  
31 and which, in the case of a confined feeding facility for swine, is owned  
32 by a person other than the operator of such facility: A dwelling,  
33 church, school, adult care home, medical care facility, child care  
34 facility, library, community center, public building, office building or  
35 licensed food service or lodging establishment.

36 (6) "Wildlife refuge" means Cheyenne Bottoms wildlife  
37 management area, Cheyenne Bottoms preserve and Flint Hills,  
38 Quivera, Marais des Cygnes and Kirwin national wildlife refuges.

39 (d) In adopting rules and regulations, the secretary of health and  
40 environment, taking into account the varying conditions that are  
41 probable for each source of sewage and its possible place of disposal,  
42 discharge or escape, may provide for varying the control measures  
43 required in each case to those the secretary finds to be necessary to

1 prevent pollution. If a freshwater reservoir or farm pond is privately  
2 owned and where complete ownership of land bordering the reservoir  
3 or pond is under common private ownership, such freshwater  
4 reservoir or farm pond shall be exempt from water quality standards  
5 except as it relates to water discharge or seepage from the reservoir or  
6 pond to waters of the state, either surface or groundwater, or as it  
7 relates to the public health of persons using the reservoir or pond or  
8 waters therefrom.

9 (e) (1) Whenever the secretary of health and environment or the  
10 secretary's duly authorized agents find that storage or disposal of salt  
11 water not regulated by the state corporation commission or refuse in  
12 any surface pond not regulated by the state corporation commission is  
13 causing or is likely to cause pollution of soil or waters of the state, the  
14 secretary or the secretary's duly authorized agents shall issue an order  
15 prohibiting such storage or disposal of salt water or refuse. Any  
16 person aggrieved by such order may within 15 days of service of the  
17 order request in writing a hearing on the order.

18 (2) Upon receipt of a timely request, a hearing shall be conducted  
19 in accordance with the provisions of the Kansas administrative  
20 procedure act.

21 (3) Any action of the secretary pursuant to this subsection is  
22 subject to review in accordance with the Kansas judicial review act.

23 (f) The secretary may adopt rules and regulations establishing  
24 fees for plan approval, monitoring and inspecting underground or  
25 buried petroleum products storage tanks, for which the annual fee  
26 shall not exceed \$5 for each tank in place.

27 (g) (1) Prior to any new construction of a confined feeding facility  
28 with an animal unit capacity of 300 or more, such facility shall register  
29 with the secretary of health and environment. Such registration shall  
30 be accompanied by a \$25 fee. The secretary shall acknowledge the  
31 receipt of the registration in a form as designated by the secretary and  
32 publish a notice of such receipt.

33 (2) Such registration shall indicate that the proposed construction  
34 will occur within the prescribed tract of land and that the separation  
35 distances from the tract boundaries or proposed facility footprint  
36 comply with the requirements described in subsections (j), (l) and (m)  
37 or exceptions described in (k).

38 (3) Within 30 days of receipt of such registration, the department  
39 of health and environment shall identify any significant water  
40 pollution potential or separation distance violations pursuant to  
41 subsection (j).

42 (A) (i) If the proposed facility has an animal unit capacity of  
43 1,000 or more, or if there is identified a significant water pollution

1 potential for a facility of less than 1,000 but more than 300, such  
2 facility shall be required to obtain a permit from the secretary.

3 (ii) If there is no identified water pollution potential posed by a  
4 facility with an animal unit capacity of 300 or more but less than  
5 1,000, the secretary shall certify that no permit is required.

6 (B) If the secretary certifies that no permit is necessary pursuant  
7 to subsection (g)(3)(A)(ii), the secretary shall take the following action  
8 in regard to separation distances of such facility:

9 (i) If the separation distances comply with the requirements for  
10 separation distances, the secretary shall certify the registration; or

11 (ii) if the separation distances do not comply with the  
12 requirements for separation distances, the secretary:

13 (a) May reduce the separation distance requirements pursuant to  
14 subsection (k) and certify the registration based on such reduction of  
15 separation distances; or

16 (b) shall report the conditions necessary to receive certification to  
17 the registrant.

18 (h) (1) Facilities with a capacity of less than 300 animal units may  
19 register with the secretary of health and environment. Such  
20 registration shall be accompanied by a \$25 fee.

21 (2) Within 30 days of receipt of such registration, the department  
22 of health and environment shall identify any significant water  
23 pollution potential. If there is identified a significant water pollution  
24 potential, such facility shall be required to obtain a permit from the  
25 secretary. If there is no water pollution potential posed by such  
26 facility, the secretary may certify that no permit is required.

27 (i) (1) If a facility requires a permit pursuant to subsection (g)(3)  
28 or (h)(2), the registrant shall submit an application for such permit  
29 not later than 18 months after the date of receipt of registration or the  
30 registration shall expire.

31 (2) Upon petition by the registrant, the secretary may extend the  
32 application period, by no more than an additional 18 months, if the  
33 secretary believes such an extension is reasonable under the  
34 circumstances.

35 (3) Within 30 days of receipt of an application, the secretary shall  
36 notify the registrant of whether the application is complete or  
37 incomplete. If the application is incomplete, such notice shall state the  
38 reasons why such application is incomplete. Once such registrant  
39 submits an application properly addressing each reason listed as a  
40 basis for the determination that the application is incomplete, the  
41 secretary shall issue an acknowledgment of receipt of the completed  
42 application within 30 days of properly addressing such reasons.

43 (4) Upon expiration of the application period or any extension

1 thereof, the secretary shall not accept any further registrations  
2 pertaining to the same location for a period of not less than 180 days.

3 (j) (1) Any new construction or new expansion of a confined  
4 feeding facility, other than a confined feeding facility for swine, shall  
5 meet or exceed the following requirements in separation distances  
6 from any habitable structure in existence when the registration is  
7 received:

8 (A) 1,320 feet for facilities with an animal unit capacity of 300 to  
9 999; and

10 (B) 4,000 feet for facilities with an animal unit capacity of 1,000  
11 or more.

12 (2) A confined feeding facility for swine shall meet or exceed the  
13 following requirements in separation distances from any habitable  
14 structure or city, county, state or federal park in existence when the  
15 registration is received:

16 (A) 1,320 feet for facilities with an animal unit capacity of 300 to  
17 999;

18 (B) 4,000 feet for facilities with an animal unit capacity of 1,000 to  
19 3,724;

20 (C) 4,000 feet for expansion of existing facilities to an animal unit  
21 capacity of 3,725 or more if such expansion is within the perimeter  
22 from which separation distances are determined pursuant to  
23 subsection (m) for the existing facility; and

24 (D) 5,000 feet for: (i) Construction of new facilities with an  
25 animal unit capacity of 3,725 or more; or (ii) expansion of existing  
26 facilities to an animal unit capacity of 3,725 or more if such expansion  
27 extends outside the perimeter from which separation distances are  
28 determined pursuant to subsection (m) for the existing facility.

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

32 (A) 10,000 feet for facilities with an animal unit capacity of 1,000  
33 to 3,724; and

34 (B) 16,000 feet for facilities with an animal unit capacity of 3,725  
35 or more.

36 (k) (1) The separation distance requirements of subsections (j)(1)  
37 and (2) shall not apply if the registrant obtains a written agreement  
38 from all owners of habitable structures which are within the  
39 separation distance stating such owners are aware of the construction  
40 or expansion and have no objections to such construction or  
41 expansion. The written agreement shall be filed in the register of deeds  
42 office of the county in which the habitable structure is located.

43 (2) (A) The secretary may reduce the separation distance

1 requirements of subsection (j)(1) if: (i) No substantial objection from  
2 owners of habitable structures within the separation distance is  
3 received in response to public notice; or (ii) the board of county  
4 commissioners of the county where the confined feeding facility is  
5 located submits a written request seeking a reduction of separation  
6 distances.

7 (B) The secretary may reduce the separation distance  
8 requirements of subsection (j)(2)(A) or (B) if: (i) No substantial  
9 objection from owners of habitable structures within the separation  
10 distance is received in response to notice given in accordance with  
11 subsection (n); (ii) the board of county commissioners of the county  
12 where the confined feeding facility is located submits a written request  
13 seeking a reduction of separation distances; or (iii) the secretary  
14 determines that technology exists that meets or exceeds the effect of  
15 the required separation distance and the facility will be using such  
16 technology.

17 (C) The secretary may reduce the separation distance  
18 requirements of subsection (j)(2)(C) or (D) if: (i) No substantial  
19 objection from owners of habitable structures within the separation  
20 distance is received in response to notice given in accordance with  
21 subsection (l); or (ii) the secretary determines that technology exists  
22 that meets or exceeds the effect of the required separation distance  
23 and the facility will be using such technology.

24 (l) (1) The separation distances required pursuant to subsection  
25 (j)(1) shall not apply to:

26 (A) Confined feeding facilities which were permitted or certified  
27 by the secretary on July 1, 1994;

28 (B) confined feeding facilities which existed on July 1, 1994, and  
29 registered with the secretary before July 1, 1996; or

30 (C) expansion of a confined feeding facility, including any  
31 expansion for which an application was pending on July 1, 1994, if: (i)  
32 In the case of a facility with an animal unit capacity of 1,000 or more  
33 prior to July 1, 1994, the expansion is located at a distance not less  
34 than the distance between the facility and the nearest habitable  
35 structure prior to the expansion; or (ii) in the case of a facility with an  
36 animal unit capacity of less than 1,000 prior to July 1, 1994, the  
37 expansion is located at a distance not less than the distance between  
38 the facility and the nearest habitable structure prior to the expansion  
39 and the animal unit capacity of the facility after expansion does not  
40 exceed 2,000.

41 (2) The separation distances required pursuant to subsections (j)  
42 (2)(A) and (B) shall not apply to:

43 (A) Confined feeding facilities for swine which were permitted or

1 certified by the secretary on July 1, 1994;

2 (B) confined feeding facilities for swine which existed on July 1,  
3 1994, and registered with the secretary before July 1, 1996; or

4 (C) expansion of a confined feeding facility which existed on July  
5 1, 1994, if: (i) In the case of a facility with an animal unit capacity of  
6 1,000 or more prior to July 1, 1994, the expansion is located at a  
7 distance not less than the distance between the facility and the nearest  
8 habitable structure prior to the expansion; or (ii) in the case of a  
9 facility with an animal unit capacity of less than 1,000 prior to July 1,  
10 1994, the expansion is located at a distance not less than the distance  
11 between the facility and the nearest habitable structure prior to the  
12 expansion and the animal unit capacity of the facility after expansion  
13 does not exceed 2,000.

14 (3) The separation distances required pursuant to subsections (j)  
15 (2)(C) and (D) and (h)(3) shall not apply to the following, as  
16 determined in accordance with subsections ~~(a), (e) and (f)~~ of K.S.A. 65-  
17 1,178(a), (e) and (f), and amendments thereto:

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

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

24 (m) The separation distances required by this section for confined  
25 feeding facilities for swine shall be determined from the exterior  
26 perimeter of any buildings utilized for housing swine, any lots  
27 containing swine, any swine waste retention lagoons or ponds or other  
28 manure or wastewater storage structures and any additional areas  
29 designated by the registrant for future expansion. Such separation  
30 distances shall not apply to offices, dwellings and feed production  
31 facilities of a confined feeding facility for swine.

32 (n) The registrant shall give the notice required by subsections (k)  
33 (2)(B) and (C) by certified mail, return receipt requested, to all owners  
34 of habitable structures within the separation distance. The registrant  
35 shall submit to the department evidence, satisfactory to the  
36 department, that such notice has been given.

37 (o) All plans and specifications submitted to the department for  
38 new construction or new expansion of confined feeding facilities may  
39 be, but are not required to be, prepared by a professional engineer or  
40 a consultant, as approved by the department. Before approval by the  
41 department, any consultant preparing such plans and specifications  
42 shall submit to the department evidence, satisfactory to the  
43 department, of adequate general commercial liability insurance

1 **coverage.**

2     Sec. ~~2~~ **5. K.S.A. 48-1603 and 48-1620 and K.S.A. 2014 Supp. 65-**  
3 **171d and 65-3407c ~~is~~ are hereby repealed.**

4     Sec. ~~3~~ **6.** This act shall take effect and be in force from and after its  
5 publication in the statute book.