

**Testimony in Support of SB 405 to the Senate Agriculture and Natural Resources Committee
Kansas Department of Health and Environment
February 9, 2018**

The Kansas Department of Health and Environment (KDHE) appreciates this opportunity to provide testimony in support of SB 405. KDHE supports the statutory change to K.S.A. 65-171d(c)(3) that addresses an animal unit conversion factor for chicken facilities that use a dry manure system and establishes the requirement of a federal permit based on the number of chickens at the facility.

KDHE does not have an animal unit conversion factor for chicken facilities that use a dry manure system in statute. KDHE did have this conversion factor in a design standard document but senior administration officials asked it be added to the statute. The reason for adding the language in statute was to have the topic discussed by the legislature and to establish the conversion factor in law. The animal unit conversion factor is used to determine the size and therefore the type of permit and the required separation distance from the facility to a habitable structure.

KDHE currently uses .008 as the animal conversion unit for chickens other than laying hens, and .0122 as the animal conversion unit for laying hens. K.S.A. 65-171d(c)(3) addresses conversion units for cattle, turkey, laying hens and boilers with continuous overflow watering, but does not specify a conversion unit for dry manure systems. The basis of the current conversion unit is EPA regulations 40 CFR 122.23(4)(x) and (xi) which states an Animal Feeding Operation is defined as a *Large CAFO* if it stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(x) 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

(xi) 82,000 laying hens, if the AFO uses other than a liquid manure handling system;

These regulations are used to define animal thresholds to determine when Federal National Pollutant Discharge Elimination System (NPDES) permit is required and largely based on the phosphorous content of the litter produced. SB 405 proposes a federal permit will be required for a facility that uses a dry manure system and confines 125,000 or more broilers, or 82,000 or more laying hens. This requirement will allow KDHE to require a Nutrient Management Plan to ensure the chicken waste is handled and applied as a fertilizer to agricultural land in a manner that will not impact the environment.

K.S.A. 65-171d establishes separation distances between new or expanding livestock feeding facilities and habitable structures based on animal unit capacity at the facility. The current separation distances for non-swine facilities are:

- 1320 feet for facilities between 300 – 999 animal units; and,
- 4000 feet for facilities at or over 1000 animal units.

KDHE's current use of an animal conversion unit of .008 equates to 125,000 broilers to reach 1,000 animal units ($1,000 / .008 = 125,000$). Using the .008 conversion unit means a new or expanding chicken facility with 125,000 chickens would be required to be 4,000 feet from any habitable structure.

Reducing the conversion factor allows the number of broiler chickens at a facility to increase before it triggers the 4000 foot separation distance. If the facility remains below the number of chickens listed below, the separation distance is 1,320 feet. The table below shows how the conversion factor effects the number of chickens, therefor the separation distances from habitable structures.

Conversion Factor	Number of Chickens	Number of Houses at the Facility @ 30,000 Chickens / House	Separation Distance if this number of Chickens are at the Facility
.008	125,000	4	4,000
.007	142,857	4	4,000
.006	166,667	5	4,000
.005	200,000	6	4,000
.004	250,000	8	4,000
.003	333,333	11	4,000
.002	500,000	16	4,000

The separation distance between a chicken facility and a habitable structure is not an environment question. Environment protection will be obtained through the federal permitting requirements. The separation distance is a public perception issue that should be debated and defined by the legislature.

SB 405, as proposed, will not alter the statutory and regulatory requirements pertaining to water quality protection for new or existing chicken facilities. All existing state and federal statutes and regulations pertaining to manure management will be in place to protect surface water and groundwater. A NPDES permit and a Nutrient Management Plan will be required if a facility uses a dry manure system and confines 125,000 or more broilers, or 82,000 or more laying hens. This requirement must be included in the statute to protect human health and the environment.

Thank you for the opportunity to present testimony in support of SB 405.