

State of Kansas
Kansas Agricultural Remediation Board

Notice of Hearing on Proposed Administrative
Regulation

A public hearing will be conducted at 9:00 a.m. on Friday, May 9, 2025, at 816 SW Tyler, Topeka, Kansas, to review and consider the adoption of a proposed permanent regulation of the Kansas Agricultural Remediation Board. The public hearing will be conducted in person.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulation. All interested parties may submit written comments prior to the public hearing to Kansas Agricultural Remediation Board, 816 SW Tyler, Topeka, KS 66612, or by email to Randy@Kansasag.org.

All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing.

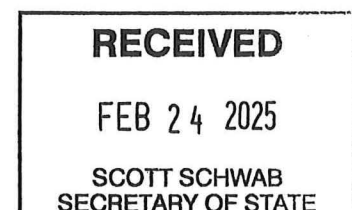
Any individual with a disability may request an accommodation to participate in the public hearing and may request the regulation and economic impact statement in an accessible format. Such requests for accommodation should be made at least 10 business days in advance of the hearing by contacting Sidney Rhinehart at 816 SW Tyler, Topeka, KS 66612 or by phone at 785-234-0461. Handicapped parking is located directly in front of the building.

Copies of the regulation and economic impact statement may be received upon request to Sidney Rhinehart at Sidney@Kansasag.org.

A summary of the proposed regulation and economic impact is below:

K.A.R. 125-1-7. Eligible corrective action costs; exclusions. This regulation defines certain corrective action costs as ineligible for reimbursement from the remediation reimbursement fund. The proposed amendment to the regulation removes existing language that prohibits additional reimbursement to a facility that has received \$200,000 in reimbursement payments from the fund. This proposed amendment would allow the regulation to become consistent with the enabling act which allows each facility to receive reimbursement up to \$300,000, following an amendment to the law in 2024. The Board anticipates the proposed amendment will have little to no economic impact on the Board, other state agencies, or the general public, as there is a robust existing balance in the fund. The proposed amendment will, however, allow for additional reimbursement of eligible corrective action costs incurred for remediation projects, which will directly benefit the eligible parties, and indirectly benefit local governments, communities, and schools.

Randy Stookey
Administrator
Kansas Agricultural Remediation Board



K.A.R. 125-1-7. Eligible corrective action costs; exclusions. Eligible corrective action costs shall not include the following:

- (a) Costs that are not eligible for reimbursement as specified in the board's regulations;
- (b) indirect costs charged by a contractor, unless those costs are allocated in the contract according to a reasonable cost allocation formula that the contractor uses for other similar contracts;
- (c) an eligible person's indirect costs;
- (d) the cost for the time that the eligible person or any officer of the eligible person spends planning or implementing a corrective action. Reimbursement of normal employee wages, salaries, expenses, or fringe benefit allocation for time that any employee, other than officers, spends implementing a corrective action may be allowed by the board;
- (e) costs to construct, repair, replace, improve, relocate, or demolish any building or fixture, unless the cost is required or approved by the secretary of health and environment and is a part of a corrective action;
- (f) loss or decrease of property values;
- (g) loss or decrease of revenue or income;
- (h) attorney fees or other legal costs;
- (i) costs for relocating residents or business operations;
- (j) costs of aesthetic or other improvements that are not essential to a corrective action, except for restorative grading and filling costs;
- (k) costs that are reimbursed from another source. If after being reimbursed by the board for any cost, an eligible person is reimbursed for the same cost from another source, the eligible

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person shall promptly notify the board and repay to the board any duplicative reimbursement;

(l) the cost of replacing the released agricultural chemicals;

(m) liability claims or judgments;

(n) costs incurred by any federal, state, or local governmental entity;

(o) costs for a contractor's services that exceed the contractor's bid price for those services, except for those costs that have increased due to services approved or required by the secretary of health and environment;

(p) costs not supported by a cancelled check or other conclusive proof of payment by the eligible person who is applying for reimbursement of those costs;

(q) costs to investigate or repair environmental contamination involving substances that are not agricultural chemicals. If a corrective action involving agricultural chemicals is combined with the investigation or repair of environmental contamination involving substances that are not agricultural chemicals, a portion of the combined project costs may be reimbursed by the board based on the information submitted to the board. If, for any combined project, an eligible person also submits a reimbursement claim to another governmental agency, the cost allocation shall reflect that submission so that this can be taken into account by the board when determining eligibility of the costs;

(r) costs to analyze environmental substances that are not agricultural chemicals, except that costs for the analysis of environmental parameters may be reimbursed by the board if that analysis is needed for the design or implementation of a corrective action;

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(s) costs to analyze environmental samples for agricultural chemicals that are not reasonably suspected of having been released at the discharge site;

(t) costs to prepare an application for reimbursement, to contest a decision by the board, or to consult with the board or administrator regarding the application;

(u) expense charges for meals, lodging, travel, mileage or other personal expenses;

(v) supplementary charges for expedited services, including expedited laboratory analysis, mail service, and parcel delivery service, unless required by the secretary of health and environment;

(w) contractor charges that are not based on services provided by the contractor and are not documented;

(x) interest expenses or other financing costs;

(y) costs for the rental or use of land on which the eligible person land spreads soil, water, or other material as approved by the secretary of agriculture or the secretary of health and environment;

(z) costs for subcontractor service charges or markups;

(aa) costs for environmental audits, assessments, evaluations, or appraisals, unless ordered or requested by the secretary of health and environment; and

(bb) any civil or criminal penalty assessed by a federal, state, county, or other governmental entity; and

(cc) ~~any cost of a corrective action that causes the total amount of reimbursement for the site to exceed \$200,000. The maximum amount of reimbursement to any one site shall not~~

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~~exceed \$200,000, without regard to the period of time within which the reimbursement was received. However, if the property has been sold or leased and both the buyer and the seller, or both the lessee and the lessor, are responsible for remediation of an agricultural or specialty chemical released at the site, then the total amount of reimbursement for the costs of the corrective actions at the site shall not exceed \$400,000, without regard to the period of time within which the reimbursement was received. (Authorized by K.S.A. 2024 Supp. 2-3710; implementing K.S.A. 2015 Supp. 2024 Supp. 2-3708 and K.S.A. 2024 Supp. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002; amended Jan. 23, 2015; amended June 10, 2016; amended P-_____.)~~

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas Agricultural Remediation Board
Agency

Randy Stookey
Agency Contact

785-234-0461
Contact Phone Number

KAR 125-1-7
K.A.R. Number(s)

Permanent Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million or more in implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation over the initial five-year period following adoption of such rule(s) and regulation(s) (as calculated in Section III, F)?

Yes If "Yes," then the agency shall not adopt the rule(s) and regulation(s) until the rule(s) and regulation(s) has been ratified by the Legislature with a bill, unless the proposed rule(s) and regulation(s) are: 1) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program, as described in K.S.A. 77-416(b)(1)(B), and amendments thereto; 2) temporary rule(s) and regulation(s) adopted pursuant to K.S.A. 77-722, and amendments thereto; or 3) rules and regulations adopted pursuant to K.S.A. 2-3710 (Kansas Agricultural Remediation Board). Continue to fill out the remaining EIS form to be included with the regulation packet in the review process to the Department of Administration and the Attorney General. The submitted EIS will be independently analyzed by the Division of the Budget for approval.

No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. The submitted EIS will be analyzed by the Division of the Budget for approval.

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Section I

Analysis, brief description, and cost and benefit quantification of the proposed rule(s) and regulation(s). If the approach chosen by the Kansas agency to address the policy issue is different from that utilized by agencies of contiguous states or of the federal government, the economic impact statement shall include an explanation of why the Kansas agency's rule and regulation differs.

K.A.R. 125-1-7 defines agricultural chemical remediation expenses that are not reimbursable from the agricultural chemical remediation reimbursement program and fund. The regulation specifically prohibits the reimbursement of any expense for a site that exceeds \$200,000. The proposed change would increase this maximum reimbursement to \$300,000. This proposed change reflects a change in the maximum reimbursement limit as a result of statutory change by the legislature in 2024, and was requested by the industry.

Section II

Explain whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed rules and regulations exceed the requirements of applicable federal law.

This proposed regulation is not mandated by federal law.

Section III

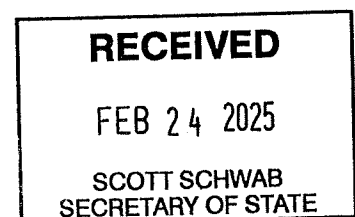
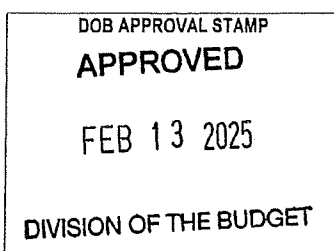
Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The proposed regulatory change may result in a few additional reimbursement orders annually, which might require additional staff time by the agency. However, any additional expense related to handling these additional payment orders is expected to be de minimis. Private individual applicants to the fund have the potential to receive up to an additional \$100,000 per site in reimbursement from the remediation fund. This will help them cover expenses of their remediation project and help these projects continue to completion.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that will be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

The proposed regulatory change may result in a few additional reimbursement orders annually, which might require additional staff time by the agency. However, any additional expense related to handling these additional payment orders is expected to be de minimis. Private individual applicants to the fund have the potential to receive up to an additional \$100,000 per site in reimbursement from the remediation fund. This will help them cover expenses of their remediation project and help these projects continue to completion. As the agricultural chemical remediation fund has a nearly \$2 million balance, this regulatory change will have little to no immediate



impact on private businesses or other entities paying environmental assessments into the fund.

C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

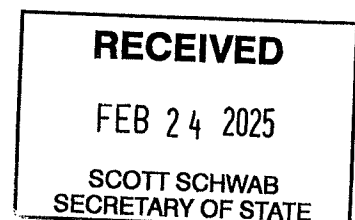
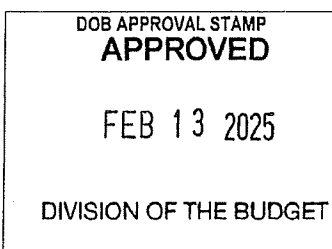
The businesses that would be directly affected include agribusiness entities that are working with state and federal regulators to remediate their facilities that have been negatively impacted by agricultural chemical environmental contaminants. They would be able to receive a greater reimbursement from the fund, which has a sufficient balance to sustain the increased reimbursements.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The proposed 50 percent increase in the maximum remediation reimbursement limit will have a significant beneficial effect on impacted properties and the ability of responsible parties to cover the growing costs of completing environmental remediation projects. The additional funding will encourage the completion of more projects and further the purpose of the Board and the act in remediating agribusiness properties across the state. The proposed regulation would be positive benefits to regulated industries with no additional costs.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

While the proposed change allows for an applicant entity to receive an increase maximum reimbursement, it does not increase the amount of environmental assessment fees paid into the fund. This is the least costly method of addressing industry's request to better provide for the increase costs associated with environmental remediation activities.



F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals. *Note: Do not account for any actual or estimated cost savings that may be realized. Implementation and compliance costs determined shall be those additional costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local governmental units, and individuals.*

Costs to Affected Businesses – \$0.00

Costs to Local Governmental Units – \$0.00

Costs to Individuals – \$0.00

Total Annual Costs – \$0.00

(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The proposed change has no direct impact on local governments, and would have a positive economic benefit on certain persons and businesses involved in agribusiness.

- Yes
 - No
 - Not Applicable
- If the total implementation and compliance costs exceed \$1.0 million or more in implementation and compliance costs over the initial five-year period following adoption of such rule(s) and regulation(s) that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation, did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

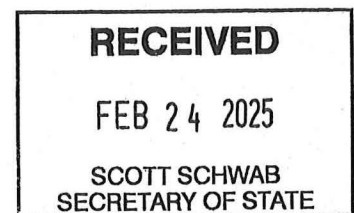
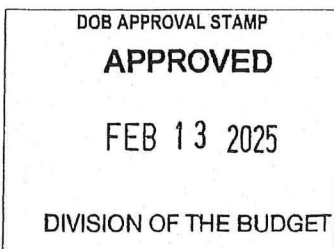
If applicable, click here to enter public hearing information.

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

There are likely to be additional expenditures from the remediation fund in certain years for those applicants that have already received \$200,000 in remediation reimbursement payments. There may also be additional administrative time required by the state to handle additional fund applications. However, such time is likely to be limited to deminimis.

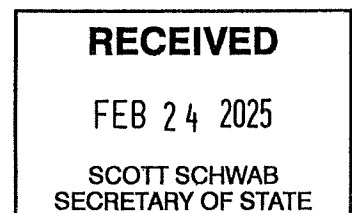
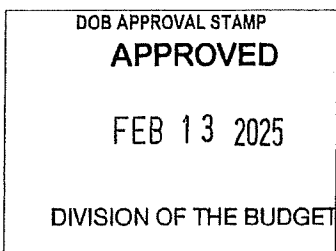
Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

The proposed change will have long-term positive impacts on individuals and companies that are actively remediating agribusiness facilities. The proposed change will also have long-term positive



Proposed

impact on the state and local governments as those agribusiness properties undergo and complete agricultural chemical remediation.



G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

Impacts to these entities, if any, is likely to be positive if the value of the property increases following completion of the remediation activities. The proposed change will impose no new functions or responsibilities on the entities listed above. KARB will consult with these entities.

H. Describe how the agency consulted and solicited information from businesses, business associations, local governmental units, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s) or may provide relevant information.

The proposed change was brought to the state agency by the various industry organizations in the state which pay into the remediation fund and are applicants to the fund. These industry associations were the lead proponents for the underlying legislation that caused the regulatory change to be proposed.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

Yes If yes, complete the remainder of Section IV.

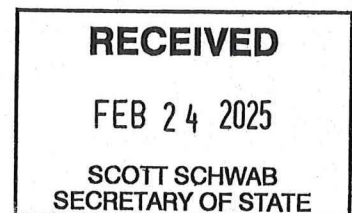
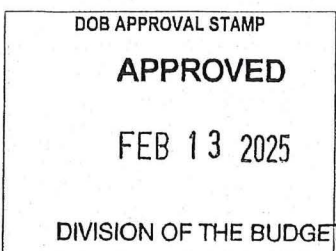
No If no, skip the remainder of Section IV.

A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the individuals or entities who would bear the costs.

The capital costs are attached to licensing fees which are set forth in Kansas statute and are unaffected by this proposed regulatory change.

B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other individuals who will bear the costs.

The proposed regulatory change will increase the workload of the Board as additional applications to the fund may become eligible for reimbursement. However, as the Board's direct expenses are fixed through an administrative contract it would not experience an increase in expenses. The Kansas Department of Agriculture remits payments to each applicant to the fund who receives an approved reimbursement order. The proposed regulatory change may result in a few additional reimbursement orders annually, which might require additional staff time by the agency. However, any additional expense related to handling these additional payment orders is expected to be de minimis.



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- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, the individuals or entities who will bear the costs and who will be affected by the failure to adopt the rule(s) and regulation(s).

If the proposed regulation is not adopted, applicants to the fund will not be able to access the additional remediation reimbursement funds, which will likely limit their ability to continue their remediation reimbursement projects, or such costs will reduce patronage to the farmer-owners of the agribusinesses.

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

The state board conducts an annual audit of the receipts and expenditures of the remediation fund. From such audit, the practical administration of the fund, and conversations with fund applicants and state regulators, it was deduced that the growth in costs to conduct the remediation activities required by land lessors, and state and federal regulators, have outpaced the value of the maximum allowable reimbursement from the fund. This imbalance caused the impacted industry to seek the proposed change in the regulation in order to allow applicants to be able to receive an amount of reimbursement that would more closely cover their remediation expenses.

