

**Proposed**

**State of Kansas**  
**Department of Health and Environment**  
**Notice of Hearing on Proposed Administrative Regulation**

The Kansas Department of Health and Environment (KDHE), Division of Environment, Bureau of Waste Management (BWM), will conduct a public hearing at 10:00 a.m. on Monday, May 19, 2025, in the Azure Conference Room, 4<sup>th</sup> Floor, Curtis State Office Building, 1000 SW Jackson, Topeka, Kansas, to consider the adoption of proposed new regulation K.A.R. 28-29-2008.

Members of the public who wish to attend the public hearing virtually shall request a pre-registration link from the agency contact provided.

The time period between the publication of this notice and the scheduled public hearing constitutes a comment period of at least 60 days for the purpose of receiving written public comments on the proposed regulation. All interested parties may submit written comments prior to 5:00 p.m. on the day of the hearing to Danny Volin, Kansas Department of Health and Environment, Office of Legal Services, Curtis State Office Bldg., 1000 SW Jackson, Suite 560, Topeka, KS 66612 or by email to [Daniel.Volin@ks.gov](mailto:Daniel.Volin@ks.gov). Interested parties are encouraged to participate in the public hearing by submitting written comments.

During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed regulation as well as an opportunity to submit their written comments. It is requested that each individual giving oral comments also provide a written copy of the comments for the record. In order to give each individual an opportunity to present their views, it may be necessary for the hearing officer to request that each presenter limit an oral presentation to an appropriate time frame.

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SECRETARY OF STATE

Complete copies of the proposed regulation and the corresponding economic impact statement may be obtained on the KDHE BWM website at <https://www.kdhe.ks.gov/660/Statutes-Regulations> or by contacting Danny Volin at [Daniel.Volin@ks.gov](mailto:Daniel.Volin@ks.gov) or 785-296-2622. Questions pertaining to the proposed regulation should be directed to Danny Volin at the contact information above.

A summary of the proposed regulation and estimated economic impact follows:

**K.A.R. 28-29-2008. Coal combustion residual (CCR) facility permit renewal fees.**

This regulation establishes a formula to determine the annual permit renewal fee for coal combustion residual (CCR) management units subject to K.S.A. 65-3407(e)(3). The annual permit renewal fee will be recalculated each year and will be equal to the annual cost BWM incurs to implement the CCR permitting program, divided by the number of CCR units subject to the annual fee. K.S.A. 65-3407 set in place a minimum fee amount of \$12,000 which applies to CCR units until a regulation establishing a fee schedule is adopted. It is expected that initially the annual permit renewal fee will be less than the amount facilities are currently paying. This regulation also ensures that, as inflation increases, the financial burden to implement the CCR permitting program will be offset by the CCR permit renewal fees

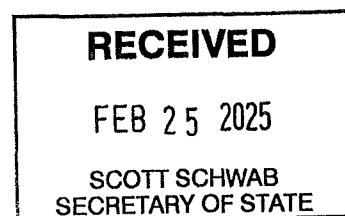
The estimated cost to implement the proposed regulation is \$0 for all respective parties, i.e. affected businesses, local governmental units, and individuals. Using 2024 cost estimates, the implementation and adoption of this regulation will save affected businesses a total of \$52,394 per year.

**Economic Impact:**

Cost to the agency: The proposed regulation will not result in increased costs to the agency.

Cost to the public and regulated community: \$0

Costs to other governmental agencies or units: \$0



Any individual with a disability may request accommodations in order to participate in the public hearing and may request the proposed regulation and the economic impact statement in an accessible format. Requests for accommodations to participate in the hearing should be made at least five working days in advance of the hearing by contacting Danny Volin.

**Environmental Benefit:**

There are no direct environmental benefits anticipated to accrue due to the proposed regulation.

Janet Stanek  
Secretary

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28-29-2008. Coal combustion residual (CCR) facility permit renewal fees. For each permitted CCR unit, the owner or operator shall pay to the department an annual permit renewal fee in accordance with this regulation.

(a) Definitions. For the purposes of this regulation, the following definitions shall apply:

(1) "Annual permit renewal fee" means the amount due for each permitted CCR unit.

(2) "Cost to implement the CCR program" means the estimated annual cost to the department, including salaries, benefits, and operational expenses, to perform the following tasks:

(A) Promulgate and update CCR regulations;

(B) prepare and update United States environmental protection agency CCR program approval applications; and

(C) implement and enforce CCR regulations.

(3) "Permitted CCR unit" means a solid waste disposal area or a solid waste processing facility that has been issued a permit by the secretary pursuant to K.S.A. 65-3407, and amendments thereto, and is subject to 40 C.F.R. 257 subpart D, as in effect on July 1, 2017, or any later version adopted by reference by the secretary.

(4) "Number of units subject to the fee" means the total number of permitted CCR units on May 1 of each year.

(b) Subject to subsection (c), the annual permit renewal fee shall be calculated by the department each year using the following formula:

$$\text{annual permit renewal fee} = \frac{\text{cost to implement the CCR program}}{\text{number of units subject to the fee}}$$

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(c) The annual permit renewal fee shall not be less than \$500 and not more than the maximum limit specified for permitted CCR units in K.S.A. 65-3407, and amendments thereto.

(d) Each person that pays the annual permit renewal fee by check or money order shall make the check or money order payable to the “solid waste management fund – Kansas department of health and environment.”

(e) Any owner or operator required to pay an annual permit renewal fee specified in this regulation for a permitted CCR unit shall not be required to pay the annual permit renewal fee specified in K.A.R. 28-29-84 for the facility at which the permitted CCR unit is located. Each owner and operator shall remain subject to the provisions of K.A.R. 28-29-84(a) and (b).

(Authorized by and implementing K.S.A. 2024 Supp. 65-3407; effective

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Proposed

# Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas Department of Health and Environment  
Agency

Danny Volin  
Susan Vogel  
Agency Contact

Daniel.volin@ks.gov  
785-296-2622  
785-296-1291  
Contact Phone Number

28-29-2008  
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.S.A. 65-3407(e)(3) establishes a range for the cost of the annual permit renewal fee for industrial waste landfills and surface impoundments that receive coal combustion residuals (CCR) from coal burning electric power plants. SB 417, passed in 2022, increased the fee amount a facility with a CCR unit would pay from \$1,000 minimum and \$4,000 maximum to \$12,000 and \$16,000 respectively, and authorized the Kansas Department of Health and Environment (KDHE) to develop a fee schedule. In accordance with K.S.A. 65-3407(e)(3)(B), CCR landfills and surface impoundments currently pay the minimum \$12,000 annual permit renewal fee and will continue to do so until a fee schedule is adopted.

The proposed regulation will establish a method to determine the annual permit renewal fee for CCR units. The method determines the annual permit fee renewal amount by dividing the cost to implement the CCR program by the number of CCR units subject to the fee. This method allows KDHE to calculate the annual implementation cost less any outside funding and ensures that, as inflation increases, the cost to implement and run the CCR program is offset by the CCR permit renewal fees.

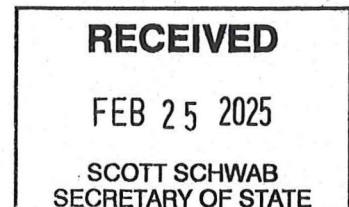
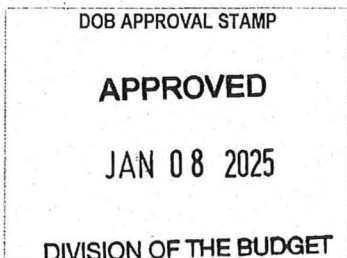
The cost to implement the proposed regulation is \$0 for all respective parties, i.e. affected businesses, local governmental units, and individuals. Using 2024 cost estimates, the implementation and adoption of this regulation will save affected businesses a total of \$52,394 per year.

Kansas differs from contiguous states' approaches for establishing fee schedules for CCR units at electrical utility facilities because the statute which authorizes the proposed regulation established the Kansas fee to be a permit renewal fee. The contiguous states have fees for document review, activity, enrollment, or major permit modifications.

**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 the federal government, however K.S.A. 65-3407(e)(3) has authorized KDHE to set a fee schedule for CCR units. The Kansas fee was established by statute and this regulation describes how the annual permit renewal fee will be calculated, subject to the maximum limit set by K.S.A. 65-3407(e)(A) and the minimum amount established in the regulation.



**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 regulation is not expected to enhance or restrict business activities and growth.

- 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 affected parties would be the owners and operators of CCR units that dispose of CCR generated from the combustion of coal at electric utilities and independent power producers. The regulation proposes an annual permit renewal fee for each CCR unit that is equal to the cost to implement the CCR program divided by the number of CCR units subject to K.S.A. 65-3407(e)(3). The estimated annual permit renewal fee using the proposed calculation and current program costs is shown in the table below. The calculated fee below is less than the minimum amount established in K.S.A. 65-3407(e)(3) and as such the regulation would not impose any increased economic effect on the affected parties. Once this regulation is adopted, the minimum annual permit renewal fee limit, specified in K.S.A. 65-3407(e)(3), is no longer applicable.

Kansas Citizens' Utility Ratepayer Board (CURB) noted that 2022 Senate Bill 417, which increased the annual permit renewal fee, would not have an impact on ratepayers. KDHE does not expect the proposed regulation to have any impact on ratepayers.

Job Class	Salary & Benefits	Operations <sup>1</sup>	Subtotal	Agency Indirects <sup>2</sup>	Total
CCR Staff 1.5 FTE	\$115,282	\$6,000	\$121,282	\$30,321	\$151,603
<b>Total Program Cost</b>					<b>\$151,603</b>
<b>Number of Permitted CCR units</b>					<b>17</b>
<b>Estimated Annual Permit Fee for each CCR Unit<sup>3,4</sup></b>					<b>\$8,918</b>
<b>Current Annual Permit Fee for each CCR Unit</b>					<b>\$12,000</b>
<b>Estimated Annual Savings for each CCR Unit</b>					<b>\$3,082</b>

1 Operations include computer, communication, supplies, rent and some training/travel.

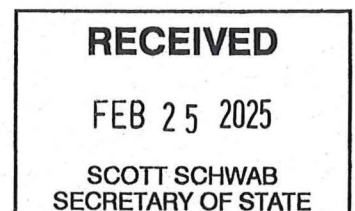
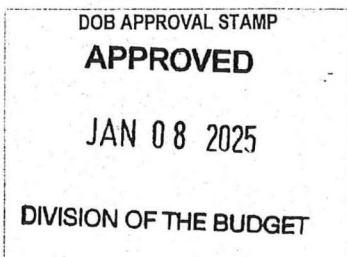
2 Agency indirect rate is 25%.

3 Proposed fee is total program cost/number of permitted CCR units subject to federal rules (17).

4 The estimated fee is based on 2024 cost estimates and does not account for inflation.

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

CCR landfills and surface impoundments that disposed of CCR, generated from the combustion of coal at electric utilities and independent power producers, on or after October 19, 2015.

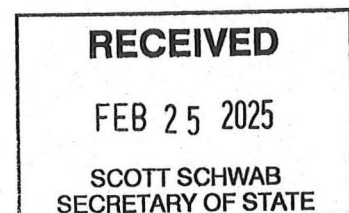
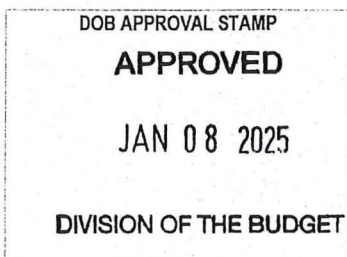


D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The proposed regulation sets a fee structure for facilities based on the number of CCR units subject to the requirements of 40 C.F.R. 257 Subpart D. Currently, facilities are paying a permit renewal fee of \$12,000 per unit, which is the minimum amount established in K.S.A. 65-3407(e)(3). The regulation would not increase the annual permit renewal fee at the current time and would allow the department more flexibility when calculating the fee required from facilities. The regulation specifies the “cost to implement the CCR program” means the “annual cost to the department” which would allow KDHE to use sources of outside funding, e.g. federal grants, thereby reducing the “annual cost to the department” and the amount of the annual fee. If passed, the regulation would make the minimum fee amount specified in K.S.A. 65-3407(e)(3)(A) obsolete and establish a minimum fee amount of \$500.

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;

The proposed regulation establishes a fee schedule making the minimum fee amount specified in K.S.A. 65-3407(e)(3)(A) no longer applicable. As shown in Section III, Subsection B, the estimated annual fee for a CCR unit, using 2024 estimates, would be less than what is currently required by statute. The proposed regulation also establishes a much lower minimum fee amount of \$500 per CCR unit.



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  
 Costs to Local Governmental Units – \$0  
 Costs to Individuals – \$0  
**Total Annual Costs – \$0**  
 (sum of above amounts)

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

Using the proposed calculation method, the cost for each CCR unit is less than the minimum fee amount of \$12,000 that KDHE is currently collecting in accordance with K.S.A. 65-3407(e)(3)(B). Therefore, the estimated implementation and compliance cost to the affected parties is \$0.

Job Class	Salary & Benefits	Operations <sup>1</sup>	Subtotal	Agency Indirects <sup>2</sup>	Total
CCR Staff 1.5 FTE	\$115,282	\$6,000	\$121,282	\$30,321	\$151,603
<b>Total Program Cost</b>					<b>\$151,603</b>
<b>Number of Permitted CCR units</b>					<b>17</b>
<b>Estimated Annual Permit Fee for each CCR Unit<sup>3,4</sup></b>					<b>\$8,918</b>
<b>Current Annual Permit Fee for each CCR Unit</b>					<b>\$12,000</b>
<b>Estimated Annual Savings for each CCR Unit</b>					<b>\$3,082</b>

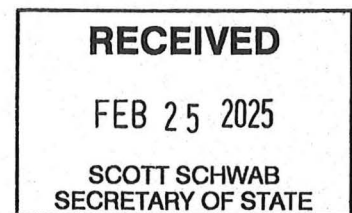
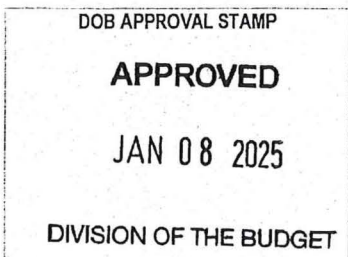
1 Operations include computer, communication, supplies, rent and some training/travel.  
 2 Agency indirect rate is 25%.  
 3 Proposed fee is total program cost/number of permitted CCR units subject to federal rules (17).  
 4 The estimated fee is based on 2024 cost estimates and does not account for inflation.

Yes     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.

No

Not Applicable

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.

For SFY 2025, there will be no change because the regulation was not in effect at the time the SFY 2025 payment is due (9/1/2024). For SFY 2026, it is estimated revenue will decrease by \$52,394 (if the regulation is in effect before the SFY 2026 payment due date of 9/1/2025), but the amount of the fee should always cover the annual cost to the department to implement the CCR program.

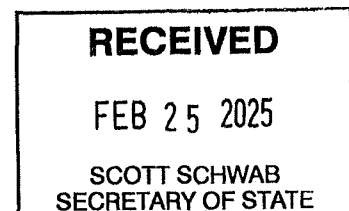
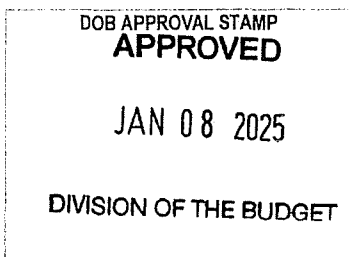
Estimated Annual Permit Fee for each CCR Unit <sup>1</sup>	\$8,918
Current Annual Permit Fee for each CCR Unit	\$12,000
Estimated Annual Permit Fee Decrease for each CCR Unit	\$3,082
Number of Permitted CCR Units	17
<b>Estimated Revenue Decrease for SFY 2026<sup>2</sup></b>	<b>\$52,394</b>

1 Based on calculations provided in Section III B and F.

2 The estimated revenue decrease for SFY 2026 is the current annual permit fee less the estimated annual permit fee multiplied by the number of permitted CCR units. This assumes that the regulation will be in effect by the time the SFY 2026 fee payment is due (9/1/2025).

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.

There is not anticipated to be any economic impact on any individuals, small employers, or the general public.



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.

We do not anticipate an increase or decrease. However, the three organizations will be consulted electronically for comment regarding the proposed regulation and the economic impact statement. The email will include program staff contact information and the website address where documents, including the regulation, economic impact statement, environmental benefit statement are posted.

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 coal burning electric utility facilities in Kansas have requested that KDHE pursue federal CCR program approval. The facilities supported 2022 SB 417 and the increase of the permit renewal fee in order to provide KDHE the resources needed to administer the CCR program. These facilities were provided a copy of the proposed regulation and economic impact calculations and given the opportunity to comment on the method established in the proposed regulation and the economic impact.

**Section IV**

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

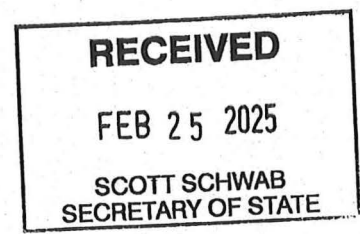
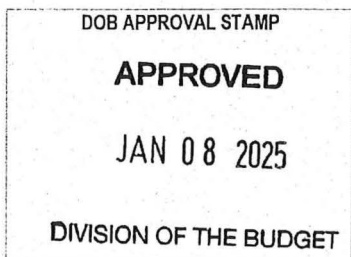
- Yes If yes, complete the remainder of Section IV.
- No If no, skip the remainder of Section IV.

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 proposed regulation imposes no new capital costs to the implementing agency or the public. The regulated community would not be subject to any new cost to comply with the proposed regulation.

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 regulation would not impose new costs upon the state agencies, other governmental agencies or other persons. There would be a negligible paperwork increase that would be managed by existing staff.



- 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).

A failure to adopt the proposed rule would result in CCR facilities paying the minimum \$12,000 per unit annual permit renewal fee, in accordance K.S.A. 65-3407(e)(3)(B). Without promulgation of this regulation, KDHE could be responsible for costs to implement the program that exceed the current amount being collected from the CCR facilities. The minimum fee amount set in K.S.A. 65-3407(e)(3) applies until a fee schedule or method to determine a fee schedule is established, therefore CCR facilities are at risk of paying a higher fee than necessary if the proposed regulation is not adopted.

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

The same data and methodology as described in Section III, Subsection B was used to estimate the costs.

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