

Proposed

KANSAS AGRICULTURAL REMEDIATION BOARD
Notice of Hearing on Proposed
Amendment to Administrative Regulation

The Kansas Agricultural Remediation Board will conduct a public hearing at 10:00 a.m., Thursday, December 4, 2014, in the conference room of the Tom R. Tunnell Building, 816 SW Tyler, Topeka, Kansas, to consider the adoption of a proposed amended regulation.

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 rules and regulations. All interested parties may submit written comments prior to the hearing to the Chairman of the Board, 816 SW Tyler, Topeka, Kansas 66612, or by e-mail at randy@kansasag.org. During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulation. Copies of the regulation and the economic impact statement may be obtained by contacting Randy Stookey at 785.234.0461. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes. The regulation is proposed for adoption on a permanent basis.

Summary of the Proposed Regulation:

K.A.R. 125-1-7. Eligible corrective action costs; exclusions. In order for the Board to satisfy the purpose of the remediation reimbursement program of reimbursing eligible parties for agricultural remediation expenses, the proposed amendment limits the total amount of reimbursement from the agricultural remediation fund for any one site to \$200,000, except that if the property has been sold or leased and both the buyer and seller (or lessee and lessor) are responsible for the site remediation costs, then the total amount of reimbursement shall be limited to \$400,000. Grammatical amendments were requested by the Dept. of Administration and the Attorney General's office to bring the regulation in line with current customs and usage.

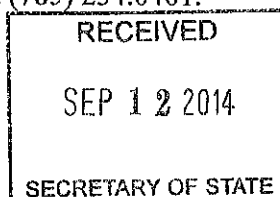
Economic Impact upon the Kansas Agricultural Remediation Board:

The proposed changes will likely increase administrative costs required to reimburse additional applicants from the agricultural remediation fund.

Economic Impact upon other governmental agencies, private business or individuals:

The proposed changes will have no fiscal impact upon other Governmental agencies. The proposed changes to K.A.R. 125-1-7 will have a positive impact on all applicants to the fund that would not have otherwise received reimbursement for costs associated with ag-chemical environmental remediation efforts, as the limited amount of money in the fund will be paid out to a greater number of applicants. This will provide additional applicants with the necessary funds to continue their environmental remediation efforts, furthering the purpose of the agricultural and specialty chemical remediation act. The proposed changes to K.A.R. 125-1-7 may have a negative impact on any applicant who has already received \$200,000 from the fund and will not be eligible for further reimbursement.

Individuals with a disability may request accommodation in order to participate in the public hearing. Such requests should be made at least five working days before the hearing by contacting Randy Stookey at (785) 234.0461.




Larry Shivers, Chairman
Kansas Agricultural Remediation Board

K.A.R. 125-1-7. ~~Ineligible~~ Eligible corrective action costs; exclusions. ~~The authority to make the determination as to what constitutes an ineligible cost shall be retained by the board.~~

~~Ineligible~~ Eligible corrective action costs shall not include the following items:

- (a) Costs that are not eligible for reimbursement as ~~set forth~~ specified in the board's regulations ~~adopted by the board;~~
- (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 employce 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 ~~Kansas department~~ 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;

RECEIVED
SEP 12 2014
SECRETARY OF STATE

ATTORNEY GENERAL
AUG 29 2014
APPROVED BY 

APPROVED
AUG 28 2014
DEPT. OF ADMINISTRATION

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

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

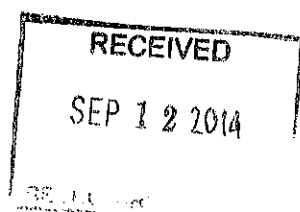
(m) liability claims or judgments;

(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 ~~Kansas department~~ 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



ATTORNEY GENERAL

AUG 29 2014

APPROVED BY *gt*

APPROVED

AUG 28 2014

DEPT. OF ADMINISTRATION

allocation shall reflect that submission so that this may 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;

(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, or other personal expenses incurred by the eligible person or officer of the eligible person;

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

(w) contractor charges that are not based on services provided by the contractor and ~~that~~ 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,

RECEIVED
SEP 12 2014
SECRETARY OF STATE

ATTORNEY GENERAL

AUG 29 2014

APPROVED BY *ef*

APPROVED

AUG 28 2014

DEPT. OF ADMINISTRATION

water, or other ~~media~~ material as approved by the ~~Kansas department~~ secretary of agriculture or the ~~Kansas department~~ 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 ~~Kansas department~~ 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 for any one site shall not exceed \$200,000, regardless of 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, regardless of the period of time within which the reimbursement was received. (Authorized by and K.S.A. 2-3710; implementing K.S.A. 2000 2013 Supp. 2-3708 and K.S.A. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002; amended P-_____.)

RECEIVED
SEP 12 2014
SECRETARY OF STATE

ATTORNEY GENERAL

AUG 29 2014

APPROVED BY *ef*

APPROVED

AUG 28 2014

DEPT. OF ADMINISTRATION

**KANSAS AGRICULTURAL REMEDIATION BOARD (KARB)
ECONOMIC IMPACT STATEMENT
Amended Regulation: K.A.R. 125-1-7**

I. Summary of Proposed Regulation, Including Its Purpose.

K.A.R 125-1-7: In accordance with the authority granted to the Kansas Agricultural Remediation Board through K.S.A. 2-3708 to limit the "total amount reimbursed for any one site," and in order for the Board to satisfy the purpose of the remediation reimbursement program of reimbursing eligible parties for expenses related to agricultural chemical environmental remediation, the proposed amendment to K.A.R. 125-1-7 limits the total amount of reimbursement from the Kansas agricultural remediation fund for any one site to \$200,000, except that if the property has been sold or leased and both the buyer and seller (or lessee and lessor) are responsible for the remediation costs at that site, then the total amount reimbursed for that site shall be limited to \$400,000. Other minor grammatical amendments or updates were requested by the Department of Administration and the Attorney General's office to bring the regulation in line with current usage and custom.

II. Reasons The Proposed Regulation Is Required, Including Whether Or Not The Regulation Is Mandated By Federal Law.

These proposed changes are not required to reflect changes in Kansas statute and are not mandated by federal law. The proposed changes, authorized by the agricultural and specialty chemical remediation act, are intended to realize the legislative intent of the act by providing greater economic benefit to a broader range of applicants to the Kansas agricultural remediation fund, furthering the goal of ensuring clean soil and water in Kansas.

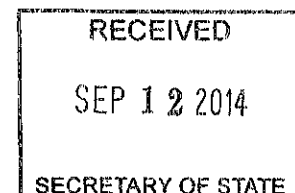
III. Anticipated Economic Impact Upon The Kansas Agricultural Remediation Board.

There will be an increase in administrative costs for additional time spent reimbursing individual applicants from the Kansas agricultural remediation fund.

IV. Anticipated Financial Impact Upon Other Governmental Agencies, Private Business, Small businesses, Individuals, Or Consumers Of The Products OR Services Of The Regulation.

These proposed changes will have no fiscal impact upon other governmental agencies.

The proposed changes will ^{have} a positive impact on all applicants to the fund that would not have otherwise received reimbursement for costs associated with ag-chemical environmental remediation efforts, as the limited amount of money in the fund will be paid out to a greater number of applicants. This will provide additional applicants with the necessary funds to continue their environmental remediation efforts, furthering the purpose of the agricultural and specialty chemical remediation act. Small business



applicants will especially benefit from the increased ability to receive reimbursement for their ag-chemical environmental remediation costs.

The proposed changes will have a negative impact on any applicant who has already received \$200,000 from the fund and will not be eligible for further reimbursement.

V. Less Costly or Intrusive Methods That Were Considered, But Rejected, And The Reason For Rejection.

Costs associated with the proposed changes are minimal and internal, and the proposed changes will provide more funding to a greater number of ag-chemical environmental remediation sites.

VI. Environmental Impact

The proposed changes will provide more funding to a greater number of ag-chemical environmental remediation sites. The additional reimbursements will provide more applicants with the necessary funds to continue their environmental remediation efforts, furthering the purpose of the agricultural and specialty chemical remediation act to ensure clean soil and water in Kansas.

VII. Economic Impact On Cities, Counties, Or School Districts

Cities, counties, and school districts neither pay into the agricultural remediation fund, nor are eligible to receive money from the agricultural remediation fund either directly or indirectly. Therefore, the proposed changes to the regulation will have no economic effect or impact on cities, counties, or school districts and will not decrease their revenues or increase their expenditures or fiscal liability.

