

**State of Kansas
Department of Health and Environment**

Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment (KDHE), Division of Environment, Bureau of Waste Management, will conduct a public hearing at 9:00 a.m. Wednesday July 10, 2019, in the Azure Conference Room, fourth floor, Curtis State Office Building, 1000 SW Jackson, Topeka, Kansas, to consider the proposed revocation of K.A.R. 28-55-1, 28-55-2, 28-55-3, 28-55-4, and 28-55-5 regarding polychlorinated biphenyl (PCB) disposal facilities.

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

Summary of Regulations:

K.A.R. 28-55-1, 28-55-2, 28-55-3, 28-55-4 and 28-55-5. Revoked. Kansas statutes concerning the regulation of polychlorinated biphenyl (PCB) disposal facilities were repealed effective July 1, 2014. The Environmental Protection Agency (EPA) regulates all aspects of PCB use, storage, clean-up, processing, and disposal under the Toxic Substances Control Act (TSCA) in 40 CFR Part 761. Unlike other federal environmental programs, the TSCA program cannot be delegated to states.

Economic Impact:

Cost to the agency, regulated community and other governmental agencies: There are no costs associated with the proposed revocations.

The time period between the publication of this notice and the scheduled hearing constitutes a public comment period of at least 60 days for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to 5:00 p.m. on the day of the hearing to Stephanie Fackrell, Kansas Department of Health and Environment, Bureau of Waste Management, 1000 SW Jackson, Suite 320,

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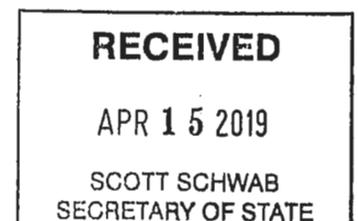
Topeka, KS 66612-1366, by email to Stephanie.Fackrell@ks.gov, or by fax to 785-559-4252.

During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed regulations as well as an opportunity to submit their written comments. 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.

Complete copies of the proposed regulations and the corresponding economic impact statement and environmental benefit statement may be obtained from the KDHE Bureau of Waste Management website, at http://www.kdheks.gov/waste/p_regsandstatutes.html or by contacting Stephanie Fackrell at Stephanie.Fackrell@ks.gov, 785-296-1606 or fax 785-559-4252. Questions pertaining to the proposed regulations should be directed to Stephanie Fackrell at the contact information above.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and the economic impact statement and environmental benefit statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Stephanie Fackrell.

Lee A. Norman, M.D.
Secretary



28-55-1. (Authorized by and implementing K.S.A. 65-3481 as enacted by L. 1986, Ch. 226, Sec. 2; effective, T-87-37, Nov. 19, 1986; effective May 1, 1987; revoked P-_____.)

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28-55-2. (Authorized by and implementing K.S.A. 65-3481 as enacted by L. 1986, Ch. 226, Sec. 2; effective, T-87-37, Nov. 19, 1986; effective May 1, 1987; revoked P-_____.)

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28-55-3. (Authorized by and implementing K.S.A. 65-3481; effective, T-87-37, Nov. 19, 1986; effective May 1, 1987; amended March 22, 2002; revoked P-_____.)

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28-55-4. (Authorized by and implementing K.S.A. 65-3481 as enacted by L. 1986, Ch. 226, Sec. 2; effective, T-87-37, Nov. 19, 1986; effective May 1, 1987; revoked P-_____.)

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28-55-5. (Authorized by and implementing K.S.A. 65-3481; effective, T-87-37, Nov. 19, 1986; effective May 1, 1987; amended March 22, 2002; revoked P-_____.)

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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Department of Health and Environment
Agency

Susan Vogel
Agency Contact

785-296-1291
Contact Phone Number

28-55-1, 28-55-2, 28-55-3, 28-55-4, and 28-55-5
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

The statutes concerning the regulation of polychlorinated biphenyl (PCB) disposal facilities were repealed effective July 1, 2014. These statutes were generally duplicative of the federal requirements. EPA regulates all aspects of PCB use, storage, clean-up, processing, and disposal under the Toxic Substances Control Act (TSCA) in 40 CFR Part 761. Unlike many other federal environmental programs, the TSCA program cannot be delegated to states.

A consequence of repealing the statutes is that Kansas no longer has regulatory authority for PCB disposal facilities. Therefore, the Kansas Department of Health and Environment (KDHE) proposes to revoke the PCB regulations found in K.A.R. 28-55-1 through 28-55-5.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

The state PCB regulations are not mandated by the federal government. Colorado, Nebraska, and Oklahoma do not have PCB facility permit programs. Missouri combines the federal requirements with state-specific requirements. Missouri requires that all commercial PCB facilities in the state obtain a hazardous waste permit from the Missouri Department of Natural Resources.

III. Agency analysis specifically addressing following:

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

Revoking the PCB regulations will have no effect on business activities or growth. Kansas does not have the authority to enforce the regulations because the statutory authority was repealed.

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- 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 would be affected by the proposed rule and regulation and on the state economy as a whole;**

There will be no economic effect. Kansas does not have the authority to enforce the regulations because the statutory authority was repealed.

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

Revoking the PCB regulations will have no effect on businesses; Kansas does not have the authority to enforce the regulations because the statutory authority was repealed.

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

This section is not applicable because revoking the PCB regulations will not affect businesses and no costs are associated with the revocation.

- 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;**

There will be no costs or impacts to business or economic development within the state. Kansas does not have the authority to enforce the regulations because the statutory authority was repealed.

- F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**

\$0.

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

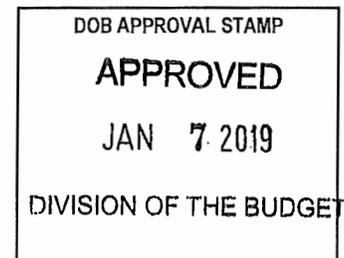
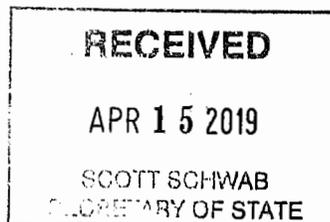
\$0

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

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

Not applicable. There are no costs associated with the revocation of the PBC regulations.



Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period 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.

Not applicable - the total implementation and compliance costs do not exceed \$3.0 million over any two-year period.

YES NO

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.

The proposed revocation of the PCB regulations will have no effect on the cities, counties, or school districts within the state. However, when the notice of hearing for this revocation is published in the *Kansas Register*, standard agency procedure will be followed and the three organizations will be contacted electronically for comment with attached copies of the or regulations, economic impact statement, and published notice of hearing.

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

Businesses, associations, local governments, state agencies, institutions, and members of the public will not be affected by the proposed revocation of the PCB regulations. The Kansas Department of Health and Environment, Bureau of Waste Management contacted, via electronic mail (e-mail), the two facilities in the state that receive PCBs (Emerald Transformer PPM LLC and Solomon Corp – Reclamation Facility). The email informed them of the proposed revocation of the regulations and stated that the revocation should not impact them financially or in any other way. The email requested a response by July 31, 2018 if either site did not agree with KDHE’s statement that there should be no costs or impacts to their business. No response was received.

I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

There will be no costs to any parties if the regulations are not revoked. Kansas does not have the authority to enforce the regulations because the statutory authority was repealed.

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Kansas Department of Health and Environment
Division of Environment
Bureau of Waste Management

Environmental Benefit Statement
pursuant to K.S.A. 77-416

Proposed Revocation of Permanent Regulations

K.A.R. 28-55-1

K.A.R. 28-55-2

K.A.R. 28-55-3

K.A.R. 28-55-4

K.A.R. 28-55-5

December 2018

Executive Summary of Proposed Revocation of Permanent Regulations

The statutes concerning the regulation of polychlorinated biphenyl (PCB) disposal facilities were repealed effective July 1, 2014. These statutes were generally duplicative of the federal requirements. EPA regulates all aspects of PCB use, storage, clean-up, processing, and disposal under the Toxic Substances Control Act (TSCA) in 40 CFR Part 761. Unlike many other federal environmental programs, the TSCA program cannot be delegated to states.

A consequence of repealing the statutes is that Kansas no longer has regulatory authority for PCB disposal facilities. Therefore, the Kansas Department of Health and Environment (KDHE) proposes to revoke the PCB regulations found in K.A.R. 28-55-1 through 28-55-5.

Environmental Benefit Statement

1) Need for proposed revocation and environmental benefit likely to accrue.

a. Need.

The PCB regulations need to be revoked because the statutory authority for these regulations was repealed in 2014.

b. Environmental benefit.

This section is not applicable. There will not be an environmental benefit or any other impact because these regulations are not being implemented.

2) When applicable, a summary of the research or data indicating the level of risk to the public health or the environment being removed or controlled by the proposed regulations (revocation).

This section is not applicable.

3) If specific contaminants are to be controlled by the proposed regulations (revocation), a description indicating the level at which the contaminants are considered harmful according to current available research.

This section is not applicable.