

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

Kansas Department of Health and Environment  
Agency

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K.A.R. 28-18-1, 28-18-4, 28-18-14, 28-18-16, 28-18-17, 28-18a-4, 28-18a-24  
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).**

These regulations have been amended to make corrections, update criteria, and specify current requirements.

K.A.R. 28-18-1 - Clarifies ambiguous definitions and includes additional definitions of terms used in regulations.

K.A.R. 28-18-4 - Clarifies application filing requirements for owners of multiple facilities and requires the signatory to meet requirements of 40 C.F.R.122.22.

K.A.R. 28-18-14 – Provides uniform requirements for inspections at all confined feeding facilities.

K.A.R. 28-18-16 – Allows electronic submission of waste-retention lagoon or pond closure reports.

K.A.R. 28-18-17 – Allows electronic submission of seepage rate tests results and cites the updated data in the “Kansas water quality standards: table of numeric criteria,” dated December 15, 2017.

K.A.R. 28-18a-4 –Clarifies application filing requirements for owners of multiple facilities and requires the signatory to meet requirements of 40 C.F.R.122.22.

K.A.R. 28-18a-24 – Corrects an error referencing non-existent K.A.R. 28-18-22(d).

**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)**

Electronic submission of reports and test results referenced in K.A.R. 28-18-16 and K.A.R. 28-18-17 will be required by federal law to be submitted electronically. The remainder of the proposed regulations are not mandated by federal law. The four contiguous states, Colorado, Nebraska, Missouri, and Oklahoma, each have their own established state CAFO permitting programs that operate like the Kansas CAFO

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program. The proposed amended regulations in this package and are generally in line with regulations in the contiguous states.

**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;**

These regulations will enhance business activities as the regulations will correct errors in current language, allow submittals using electronic methods, and also give confined feeding facility permit applicants a more concise criteria for whether the facilities are to be permitted as a single facility or multiple facilities.

Furthermore, after a recent district court ruling, it is unclear under the current regulation if two individual owners of two confined feeding facilities on separate tracts of land separated by a road would need to be considered a single facility. Under this proposal it makes clear that an owner of a confined feeding facility does not have to search property records in an attempt to ascertain the location of any adjoining properties that might contain a confined feeding facility even though there is no connection to the applicant and no shared waste management systems. This should save the applicant and agency staff significant administrative expenses to research a verify ownership claims.

**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 would be a net savings to industry as less time would need to be spent interpreting the current ambiguous regulations K.A.R. 28-18-4 and 28-18a-4 and a cost savings in avoided litigation should a permit be challenged under the current ambiguous regulation.

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

All livestock operations that contain confined feeding facilities, regardless of size, would be positively affected by this regulation.

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

There would be a net savings to industry as less time would need to be spent interpreting the current ambiguous regulations K.A.R. 28-18-4 and 28-18a-4 and a cost savings in avoided litigation should a permit be challenged under the current ambiguous regulation.

**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;**

KDHE consulted with industry groups to determine how current operations are structured to optimize an application and permitting process for determining whether two operations should be permitted as separate confined feeding facilities or a single confined feeding facility as authorized by statute. Industry groups indicated that a more prescriptive definition of separate and single facilities that focused on the separateness of waste management systems

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maximized environmental benefits, while providing industry a predictable permitting process.

- 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.**

There are no changes in the permitting process, changes are clarifying ambiguous language.

**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.**

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 regulations will not have an effect on the cities, counties, or school districts within the state. However, when the notice of hearing for the regulations 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 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).**

Industry associations and affected businesses were given several opportunities to provide feedback at stakeholder meetings.

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**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).**

The current regulations K.A.R. 28-18-4 and 28-18a-4 are ambiguous and have been subject to recent litigation. Litigation over ambiguous regulation requirements could cost the State lost administrative time and resources of staff, and confined feeding facilities lost administrative time, legal fees, and investment in a constructed facility if an approved permit is later invalidated by a court.

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