



Division of Environment
Office of Laboratory Services

ENVIRONMENTAL BENEFIT STATEMENT
AND
ADDITIONAL ECONOMIC IMPACTS FOR ENVIRONMENTAL REGULATIONS

Pursuant to K.S.A. 77-416(d) – (e)

**PROPOSED AMENDMENT OF LABORATORY SCHEDULE OF FEES REGULATION:
K.A.R. 28-14-2**

July 2023

I. Environmental Benefit Statement

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

a) Need

Pursuant to 42 U.S.C. §300f et seq., 33 U.S.C. 1251 et seq., U.S. public law 92-500, as amended by public law 92-217, public law 95-576, public law 96-483, and public law 97-117, K.S.A. 65-161 et seq., 65-171d, 65-3001 et seq. or 65-3430 et seq. or 65-3452a et seq. or 65-34,105 et seq., environmental testing is required for drinking water, wastewater, and hazardous waste. The requirements for testing drinking water and wastewater are described in 40 CFR Parts 141 and 136, respectively. K.A.R. 28-14-2, schedule of fees, as proposed would update the pricing and language of 48 billable tests performed by the Kansas Health & Environmental Laboratories (KHEL) for public water supplies across the State. In addition, it would add nine new tests to the schedule and remove five obsolete tests.

KHEL utilizes fees from these services as part of its operating budget so updating them to reflect current supply and staffing costs is essential. It has been more than eight years since this regulation has been updated and the cost to perform testing has only increased during that time. Updating this regulation will ensure that KHEL has the funds necessary to perform the testing requested by its clients.

KHEL's current business model relies on charging its customers for the environmental testing it performs. This approach is identical to Colorado, Nebraska, and Oklahoma who all charge their clientele for environmental testing to support their laboratory. Missouri charges small fees for a handful of tests, but they require all PWS's in the State to pay an annual fee for laboratory services. This fee generates a total of approximately 4.9 million dollars for Missouri's water laboratory. While Kansas has the same model as Colorado, Nebraska, and Oklahoma, KHEL currently charges less than any of these States for nearly every single environmental test offered by KHEL.

b) Environmental benefit

The largest benefit to the proposed rule is keeping KHEL solvent so they can continue to serve all the facilities that rely on them for their services. Almost all Kansans obtain their drinking water from a public water system and many systems discharge into the natural environment. These systems are required to test their water for multiple chemicals and organisms that are harmful to human health and the environment. Having KHEL available as an option to serve these communities is vital to protecting the health of Kansans. KHEL offers tremendous service and serves communities for all their regular needs and at the times when they need it the most.

For example, KHEL does not charge any facility an emergency or weekend fee if testing needs to be performed over the weekend to get their system off a boil water advisory due to the potential of E. coli being found in their drinking water.

Without KHEL's work all systems would be forced to fulfill their testing requirements themselves or find a third party to do it for them. This would be a huge economic burden to these facilities because bringing testing in-house has a huge up-front cost and the price of testing through a third party is generally higher than KHEL even with the proposed increases. KHEL offers their customers excellent service at an affordable price. KHEL also prides itself on providing results in a timely fashion and holding themselves to a high standard.

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

If the proposed changes are not adopted, KHEL will need to start looking at which tests cost them the most money to run and start refusing that service to their clients. The federal and state requirements for those facilities to test will remain in effect, forcing those facilities to get those test results from somewhere. KHEL is certified by the EPA Region 7 Drinking Water Certification Program. They produce valuable, accurate results of known and documented quality. Kansas has over 1,000 public water supply systems that deliver drinking water directly to Kansas homes. These facilities rely on KHEL's accuracy and timeliness to know how their facility may be impacting the environment. Taking this service away would potentially create a frenzy where some testing is missed or performed improperly.

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

The proposed regulation amendments do not specify the control of any contaminants. However, it does layout the fees that KHEL can collect for analysis of any contaminants that are considered potentially harmful now and in the future.

II. Additional Economic Impacts for Environmental Regulations

In addition to the Economic Impact Statement prepared for the Kansas Division of the Budget, for all environmental rules and regulations the following descriptions of costs are included:

1) Capital and annual costs of compliance with the proposed amendments and the persons who will bear those costs.

The total change in costs is estimated to be \$791,949 and will mostly be billed to public water suppliers across the State. The total annual cost to KHEL clients with the proposed fee increase is approximately \$2.4 million with roughly \$1.6 million already being paid by KHEL clients on an annual basis. Per the procedure laid out in the Economic Impact Statement prepared for the Kansas Division of Budget under Section III, subsection H the majority of respondents from the stakeholder feedback indicated that they would absorb the cost while some of them will pass it along to the public.

2) Initial and annual costs of implementing and enforcing the proposed amendments, including the estimated amount of paperwork, and the state agencies, other governmental agencies or other persons or entities who will bear the costs.

There is no initial cost to implement or enforce the proposed rule. This rule already exists and is being updated to reflect the current costs on KHEL to operate. The cost of enforcement is negligible as KHEL has very few clients who do not pay their testing bill on time.

3) Costs which would likely accrue if the proposed regulations are not adopted, the persons who will bear the costs and those who will be affected by the failure to adopt the regulations.

If the proposed regulation is not adopted, then KHEL would either need to pursue additional funds through the State General Fund or stop providing those services that are the largest cost burden to the laboratory. In the latter instance, KHEL clients would be forced to either perform the testing themselves or find a private sector lab that could do the testing for them. Both of these cases would lead to increased cost to the facility. For these facilities to bring this testing in-house, would take a significant amount of capital and investment up front as well as laboratory testing experience. Moving their testing to the private sector will also be more expensive as the proposed prices are the same or lower than most commercial laboratories. Also, KHEL does not charge additional

fees if the facility requires testing on a holiday or weekend as sometimes happen for unexpected and unpredictable reasons. Either of the above instances would end up costing the facilities, the public, and businesses more money.

4) A detailed statement of the data and methodology used in estimating the costs used in the statement.

Prior to analyzing any data, KHEL performed a price audit to make sure that all pricing codes in the laboratory's database were true and accurate. Testing data was obtained from KHEL's laboratory information management system (LIMS) for one entire calendar year. That data set contained: all samples ran for the year, client name and ID, test name and ID, the date KHEL received the sample, and the results reported. The annual volume was analyzed along with the pricing list that also exists in the database. A new pricing list was then created that contained all the proposed testing charges.

The total price was calculated for all clients for both the current and the proposed testing rates. The difference between those two totals came to \$791,949. This data set also allowed for summing the testing cost of each individual client. This allowed for a direct before and after comparison of all clients as well as breaking them apart individually.

To determine how much of the cost would be passed onto the public, KHEL utilized stakeholder engagement to arrive at the above number. Out of the 186 clients that responded to the request for input, only three of them mentioned that they would pass these costs along to their customers. However, 13.8% said that the proposed rates would have an impact on their facility. Using this number as a guide, roughly 13.8% of all costs would be forwarded to the public which equates to \$109,289 of the total charges. More details can be found in the Economic Impact Statement prepared for the Kansas Division of Budget under Section III, subsections B and H.