

**Testimony on SB 417
presented to
Senate Agriculture and Natural Resources Committee
by
Kansas Department of Health and Environment
February 11, 2022**

The Kansas Department of Health and Environment (KDHE) respectfully submits this neutral testimony regarding SB 417. SB 417 would revise K.S.A. 65-3407 by raising the limit on annual permit renewal fees for industrial waste landfills and surface impoundments that receive Coal Combustion Residuals, or CCR, from electric power plants. At the request of the industry stakeholders, the KDHE Bureau of Waste Management (BWM) is prepared to apply to the U.S. Environmental Protection Agency (EPA) for approval to administer the federal CCR program in lieu of EPA. The increase in permit renewal fees will provide the BWM the resources necessary to implement the federal program. Without this additional fee the BWM will not have the resources to implement the CCR program.

Coal combustion residuals are generated when coal is burned in electric power plants, and then are disposed of in landfills or surface impoundments (collectively referred to as CCR units). CCR contains contaminants like mercury, cadmium and arsenic which can pollute surface and groundwater if not properly managed. The EPA established federal regulations for the construction, operation and closure of CCR units after large spills of CCR near Kingston, Tennessee and Eden, North Carolina that caused widespread environmental and economic damage to nearby waterways and properties.

States may apply to EPA to administer the federal CCR regulations, which fall under Subtitle D of the federal Resource Conservation and Recovery Act (RCRA). The BWM already has federal approval to administer most of the Subtitle D regulations for solid waste disposal sites.

The electric power plants in Kansas have requested that BWM pursue federal CCR program approval. Without state program approval, the electric power plants will be subject to dual regulatory oversight and permitting by both KDHE and EPA. In addition to concerns about dual regulatory oversight, the power plants cite state agency knowledge of their facilities as a reason for wanting KDHE to pursue program delegation.

The solid waste program is supported exclusively by the Solid Waste Fee Fund which is comprised of the solid waste tonnage fee, permit fees, interest and other collections. The tonnage fee is a \$1.00/ton fee remitted to the state for each ton of solid waste disposed of at most solid waste disposal areas and transfer stations. It accounts for 95-97% of the BWM's solid waste program funding. However, most industrial landfills, which includes facilities with CCR units, are exempted by statute from paying the tonnage fee.

K.S.A. 65-3407 authorizes KDHE to adopt regulations establishing annual solid waste facility renewal fees but it has a \$4,000 cap on such fees. SB 417 proposes an increase in the cap on annual permit renewal fees for facilities with CCR units to a minimum of \$12,000 and a maximum of \$16,000 for each CCR unit that is subject to federal CCR rules. The additional revenue will support the salary, benefits and operational costs for one full time professional environmental engineer (1.0 PEE) and one half-time environmental specialist (0.5 ES), and BWM overhead costs to implement the CCR program.

Without the increase proposed in SB 417 for annual permit renewal fees for CCR disposal units, the BWM does not have sufficient resources to assume this additional program responsibility and will not pursue federal program delegation.

Thank you for the opportunity to provide testimony on SB 417.