

K.A.R. 28-19-517

Class I Operating Permits; Annual Emission Inventory and Fees.

The owner or operator of each stationary source that is required to apply for a class I operating permit shall comply with this regulation.

(a) Annual emissions inventory.

(1) Each owner or operator shall submit to the department an annual emissions inventory for each stationary source for the year preceding the calendar year in which the source is required to apply for an operating permit and each year thereafter.

(2) Each annual emissions inventory shall be submitted for any regulated pollutant deemed necessary by the secretary from each emission unit, as defined in K.A.R. 28-19-200, and shall include the following:

(A) All operating information;

(B) actual emissions, including fugitive emissions, calculated pursuant to K.A.R. 28-19-210;

(C) any quantity of emissions regardless of operating hours, including sources that did not operate; and

(D) emissions from each source only while operating in Kansas, if the source operates both in Kansas and out of state.

(b) Annual emissions fees.

Each owner or operator shall pay to the department annual emissions fees calculated by the department based on information provided in the annual emissions inventory as follows:

(1) For calendar years 2022, 2023, and 2024, the annual emissions fees shall be the greater of the following:

(A) \$1,000.00; or

(B) \$53.00 per ton of emissions multiplied by the total number of tons of emissions, with a maximum of 4,000 tons of each of the following pollutants rounded to the nearest ton:

(i) Sulfur dioxide;

(ii) nitrogen oxides;

(iii) PM10;

(iv) volatile organic compounds (VOCs); and

(v) hazardous air pollutants (HAPs), excluding HAPs already accounted for as VOCs or PM10.

(2) For calendar year 2025 and for each subsequent year, the annual emissions fees shall be the sum of the facility fee, the hazardous air pollutant (HAP) emissions fee, and the criteria emissions fee as follows:

(A) The facility fee shall be \$1,000.00.

(B) The HAP emissions fee shall be \$80.00 per ton of emissions multiplied by the total number of tons of HAP emissions rounded to the nearest ton.

(C) The criteria emissions fee shall be \$56.00 per ton of emissions multiplied by the total number of tons of emissions, with a maximum of 4,000 tons of each of the following pollutants rounded to the nearest ton.

(i) Sulfur dioxide;

(ii) nitrogen oxides;

(iii) PM10; excluding PM10 emissions already accounted for as HAP emissions in paragraph (b) (2) (B); and

(iv) volatile organic compounds (VOCs), excluding VOC emissions already accounted for as HAP emissions in paragraph (b) (2) (B).

(c) Submittal.

(1) Each annual emissions inventory shall be signed by a responsible official, as defined in K.A.R. 28-19-200, and shall be due on or before April 1 of each year or, if April 1 is a Saturday or Sunday, on or before the next business day following April 1.

(2) Each payment for the annual emissions fees shall be payable to the Kansas department of health and environment by check, bank draft, credit card, or money order. Each payment shall be due on or before April 1 of each year or, if April 1 is a Saturday or Sunday, on or before the next business day following April 1.

(3) If there is a change in the owner or operator of the stationary

source, the owner or operator at the time the submission is due shall be responsible for submitting the annual emissions inventory and annual emissions fees. For purposes of determining the annual emissions inventory required by subsection (a) for any period in which there was any other owner or operator of the stationary source, the owner or operator may assume current operating and emission information if the owner or operator is unable to obtain actual information from any previous owner or operator.

(d) Late fee and refund.

(1) Each owner or operator who fails to submit the annual emissions inventory and pay the annual emissions fees by the due date specified in subsection (c) shall pay a late fee. The late fee shall be \$200.00 per day or 0.10 percent of the annual emissions fees per day, whichever is greater.

(2) Any overpayment of \$100.00 or more made by the owner or operator of a stationary source may be refunded. Overpayments in any amount less than \$100.00 shall not be refunded.

(Authorized by K.S.A. 65-3005 and 65-3024; implementing K.S.A. 65-3007 and K.S.A. 65-3024; effective Jan. 23, 1995; amended Feb. 20, 1998; amended Sept. 23, 2005; amended Nov. 5, 2010; amended Jan. 5, 2018; amended Dec. 23, 2022.)

K.A.R. 28-19-517

EPA Rulemakings

CFR: 40 C.F.R. 70, Appendix A, Kansas (h)
FRM: 90 FR 17554 (4/28/25), eff. date May 28, 2025.
PRM: 90 FR 3731 (1/15/25)
State Submission: 2/20/23
State Effective Date: 12/23/22
APDB File: KS-121
Description: This revision amends K.A.R. 28-19-517(b) annual emission fee language to maintain the existing fee schedule of \$1,000 base fee or \$53 per ton criteria emissions fee for calendar year 2022, 2023 and 2024 and to establish a new fee schedule for calendar year 2025 and each subsequent year to be the sum of the facility fee, the hazardous air pollutant (HAP) emissions fee, and the criteria emissions fee. The revisions to K.A.R. 28-19-517(b) (2) (A) maintains the minimum \$1,000 facility fee, but applies it in addition to the revised criteria emissions fee and new hazardous air pollutant (HAP) fee; all applied in calendar year 2025 and beyond. The revision to K.A.R. 28-19-517(b) (2) (B) establishes an annual hazardous air pollutant (HAP) fee of \$80.00 per ton of total HAP emissions for calendar year 2025 and beyond. The revisions to K.A.R. 28-19-517(b) (2) (C) amends the existing criteria emissions fee from \$53.00 (effective through calendar year 2024) to \$56.00 per ton of criteria emissions for calendar year 2025 and beyond.

CFR: 40 C.F.R. 70, Appendix A, Kansas (g)
FRM: 84 FR 6338 (2/27/19), eff. date April 29, 2019.
PRM: 83 FR 65115 (12/19/18)
State Submission: 1/22/18
State Effective Date: 1/5/18
APDB File: KS-115 (eff. 3/29/19)
Description: This revision incorporates new emissions fee language applicable to only sources required to submit an annual emissions inventory pursuant to K.A.R. 28-19-517; increases the emission fee from current rate of \$37.00 per ton to \$53.00 per ton; establishes a base annual emission fee of \$1,000; establishes the operation for an electronic submittal or paper submittal with associated fee, and amends language concerning late fees, refunds, and credits to encourage timely submission and discourage inaccurate reporting. The new language added to K.A.R. 28-19-517 parallels the revoked language in K.A.R. 28-19-202. The language was added as K.A.R. 28-19-517(a), (b), and (d). With the addition of the new language that paralleled K.A.R. 28-19-202, sections formerly part of K.A.R. 28-19-517(a) and (b) have been revised and re-numbered as K.A.R. 28-19-517(c) (1) and (2).

CFR: 40 C.F.R. 70, Appendix A, Kansas (c)
FRM: 79 FR 4274 (1/27/14), Correction 81 FR 1890 (1/14/16) effective 1/14/16
PRM: 79 FR 4313 (1/27/14)
State Submission: 5/17/11
State Effective Date: 11/5/10
APDB File: KS-95 KS-96 (effective 3/28/14) (correction effective 1/14/16).
Description: This revision aligns the states reporting requirements with EPA's reporting requirements. Specifically the due date of Emissions Inventory Questionnaire is changed to April 1; minimum thresholds for assessing emission fees for class 1 stationary sources is removed; late fee structure is modified; and the emissions fee in paragraph (c) is increased to \$37 per ton.

CFR: 40 C.F.R. 70, Appendix A, Kansas (d)
FRM: 73 FR 7468 (02/08/2008)
PRM: 75 FR 7504 (02/08/2008)
State Submission: 03/08/2006
State Effective Date: 9/23/2005
APDB File: KS-80; EPA-R07-OAR-2007-0829
Description: This revision clarifies that if June 1 falls on a weekend or holiday, the deadline for submission will be the next business day.

CFR: 40 C.F.R. 70, Appendix A, Kansas (b)
FRM: 68 FR 46489 (08/06/2003)
PRM: 68 FR 46538 (08/06/2003)
State Submission: 06/25/2001
State Effective Date: 02/28/1998
APDB File: KS-48
Description: This revision changed the due date of the annual emission inventory from April 1 to June 1.

CFR: 40 C.F.R. 70, Appendix A, Kansas (a)
FRM: 61 FR 2938 (1/30/96)

PRM: 60 FR 34493 (7/3/95)

State Submission: 12/12/94

State Effective Date: 1/23/95

APDB File: KS-37

Description: EPA fully approved the operating permits program submitted by the state of Kansas for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources and certain other sources. EPA also approved, under section 112(l), the states program for accepting delegation of section 112 standards to enforce air toxics regulations.

Difference Between the State and EPA-Approved Regulation

The word "electronically" in paragraph (a)(1) is not approved.