

K.A.R. 28-19-202 ANNUAL EMISSIONS FEE

(a) The owner or operator of each stationary source of air emissions that has actual emissions of the types and quantities specified in subsection (b) shall pay an annual emissions fee to the department. Actual emissions shall be calculated for a calendar year according to K.A.R. 28-19-210.

(b) Annual emissions fees shall be assessed for all air emissions of any of the following pollutants from each stationary source for which the owner or operator is required to obtain a permit under K.A.R. 28-19-500(a):

(1) Sulfur oxides measured as sulfur dioxide;

(2) particulate matter calculated as PM₁₀, except if no emission factor or approvable method for calculating PM₁₀ is available, annual emissions fees shall be assessed for total particulate emissions;

(3) nitrogen oxides expressed as nitrogen dioxide;

(4) total volatile organic compounds; or

(5) hazardous air pollutants.

For purposes of this subsection, actual emissions shall include fugitive emissions from federally designated fugitive emissions sources and fugitive hazardous air pollutant emissions.

(c) The annual emissions fee for calendar year 2010 and for each subsequent year shall equal the sum of the actual emissions of the pollutant or pollutants specified in subsection (b) rounded to the nearest ton, multiplied by \$37.00, subject to the following:

(1) The owner or operator shall not be required to include any pollutant emitted from the stationary source more than one time in the fee calculation.

(2) The owner or operator shall not be required to include the following in the emissions fee calculation:

(A) Emissions of any pollutant of 500 pounds per year or less from any emissions source, unless the total emissions from similar sources at the stationary source equal or exceed 2,000 pounds per year;

(B) emissions in excess of 4,000 tons per year of any single pollutant from any stationary source; and

(C) for a portable emissions unit or stationary source that operates both in Kansas and out of state, emissions from the unit or source while operating out of state.

(d) Each owner or operator shall complete the calculations of actual emissions and calculation of the annual emissions fee on forms provided by the department.

(1) A responsible official or the person most directly responsible for the compilation of the submitted information shall sign the completed forms.

(2) The owner or operator shall submit the annual emissions fee payment to the department on or before the due date for the annual emissions inventory specified in K.A.R. 28-19-517. Timeliness of submissions shall be determined by the postmark if submitted by mail.

(3) The owner or operator shall make annual emissions fee payments by check, draft, credit card, or money order payable to the Kansas department of health and environment.

(4) Payment of emissions fees to the department shall be the responsibility of the person or persons who are the owners or operators of the emissions unit or stationary source on the date the emissions fee is due. For purposes of calculating actual emissions for a period in which someone other than the current owner or operator was the owner or operator of the stationary source, the owner or operator responsible for paying the fee may assume that the operation of the facility was identical to the operation of the facility by the current owner or operator if the current owner or operator has been unable, after reasonable and diligent inquiry, to obtain the actual operating information from the previous owner or operator.

(e) Each owner or operator who fails to pay the annual emissions fee by the due date for the annual emissions inventory specified in K.A.R. 28-19-517 shall pay a late fee. The late fee shall be \$20 per day or 0.10% of the annual emissions fee per day, whichever is greater. The timeliness of the submission from the owner or operator shall be determined by the postmark if the fee is submitted by mail.

(f) Any overpayment in an amount equal to or greater than the fee equivalent of one ton of emissions made by the owner or operator of a stationary source may be refunded or credited to the next year's annual emissions fee. Any owner or operator may apply overpayments of emissions fees paid for one source to the fees applicable to any other source for which the owner or operator is responsible for payment. A refund shall be issued by the department if a credit has not been used or if the department determines that, based on the source's past emissions, a credit will not be used. Overpayments in an amount less than the fee equivalent of one ton of emissions shall not be credited or refunded.

EPA Rulemakings

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 (c)
FRM: 69 FR 45277 (07/29/2004)
PRM: 69 FR 45300 (07/29/2004)
State Submission: 04/22/2004
State Effective Date: 01/30/2004
APDB File: KS-76
Description: This revision raised the annual rate for annual emissions fees to \$25.00 per ton for emissions occurring in 2003 and later. Other minor revisions were made including changes to the late fee provisions.

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: 03/23/2001
APDB File: KS-48
Description: This revision raised the annual rate for annual emissions fees to \$20.00 per ton for emissions occurring in 2001 and later.

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 state's program for accepting delegation of section 112 standards to enforce air toxics regulations.

Difference Between the State and EPA-Approved Regulation

None.