



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 70**

**[EPA-R07-OAR-2023-0462; FRL-11395-02-R7]**

**Air Plan Approval; Kansas; Annual Emission Inventory and Fees**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve revisions to the State Implementation Plan (SIP) and Operating Permits Program and the 112(l) plan submitted by the State of Kansas on February 20, 2023. The revised Kansas rules update the Class I emission fee and emissions inventory regulations, establish a Class II fee schedule and ensure that Kansas's Operating Permits Program is adequately funded. Approval of these revisions ensures consistency between the State and federally-approved rules and does not impact air quality.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2023-0462. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in

hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** William Stone, Environmental Protection Agency, Region 7 Office, Air Permitting and Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7714; email address: stone.william@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to EPA.

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### **I. What is Being Addressed in this Document?**

The EPA is amending the Kansas SIP and the Operating Permits Program to include revisions received on February 20, 2023. The revisions restructure and update the Kansas Class I Operating Permit Program fee schedule for calendar year 2025 and beyond to bring in adequate revenue to support the Class I Operating Permit Program and establish a fee schedule for the Class II Federally Enforceable State Operating Permit (FESOP) Program. The EPA finds that these revisions meet the requirements of the Clean Air Act (CAA), do not impact the stringency of the SIP, and do not adversely impact air quality. The full text of these changes can be found in the State's

submission, which is included in the docket for this action.

On November 26, 2024, Kansas requested that the EPA exclude the term "electronically" from two places in the February 20, 2023, submittal because KDHE's State and Local Emissions Inventory System (SLEIS) is not currently approved by the EPA to meet the Cross-Media Electronic Reporting Rule (CROMERR) at 40 CFR part 3.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from August 25, 2022, to November 3, 2022, and received four comments. Kansas did not revise the rule based on public comment prior to submitting to the EPA, as noted in the State submission included in the docket for this action. In addition, as explained above the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## **III. The EPA's Response to Comments**

The public comment period on the EPA's proposed rule opened January 15, 2025, the date of its publication in the *Federal Register* and closed on February 14, 2025. During this period, the EPA received one comment that was supportive of our proposed approval.

## **IV. What Action is the EPA Taking?**

We are amending the Kansas SIP and Operating Permit Program by approving the State's request to revise three regulations: K.A.R. 28-19-517. *Class I operating permits; annual emission inventory and fees;* K.A.R. 28-19-546. *Class II operating permits; annual emission inventory and fees;* and K.A.R. 28-19-564. *Class II operating permits; permits-by-rule; sources with actual emissions less than 50 percent of major source thresholds.*

#### **V. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of K.A.R. 28-19-546 and K.A.R. 28-19-564 as discussed in section I. of this preamble and as set forth below in the amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the

final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

## **VI. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in

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<sup>1</sup> 62 FR 27968, May 22, 1997.

Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

### **List of Subjects**

#### *40 CFR Part 52*

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

#### *40 CFR Part 70*

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

**Dated: April 9, 2025.**

**James Macy,**  
*Regional Administrator,*  
*Region 7.*

For the reasons stated in the preamble, the EPA amends 40 CFR parts 52 and 70 as set forth below:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart R—Kansas**

2. In § 52.870, the table in paragraph (c) is amended by revising the entries “K.A.R. 28-19-546” and “K.A.R. 28-19-564” to read as follows:

**§ 52.870 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-Approved Kansas Regulations**

Kansas citation	Title	State effective date	EPA approval date	Explanation
<p align="center"><b>Kansas Department of Health and Environment Ambient Air Quality Standards and Air Pollution Control</b></p>				
<p>* * * * *</p>				
<p align="center"><b>Class II Operating Permits</b></p>				
<p>* * * * *</p>				
<p>K.A.R. 28-19-546</p>	<p>Definitions Class II operating permits; annual emission inventory</p>	<p>12/23/2022</p>	<p>[insert date of publication in the Federal Register], 90 FR [insert Federal Register page where the document begins]</p>	
<p>* * * * *</p>				
<p>K.A.R. 28-19-564</p>	<p>Permit-by- Rule; Sources with Actual Emissions Less Than 50 Percent of Major Source Thresholds</p>	<p>12/23/2022</p>	<p>[insert date of publication in the Federal Register], 90 FR [insert Federal Register page where the document begins]</p>	
<p>* * * * *</p>				

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**PART 70-STATE OPERATING PERMIT PROGRAMS**

3. The authority citation for part 70 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

4. Appendix A to part 70 is amended by adding paragraph (h) under "Kansas" to read as follows:

**Appendix A to Part 70--Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

**Kansas**

\* \* \* \* \*

(h) The Kansas Department of Health and Environment submitted revisions to Kansas rules K.A.R. 28-19-517, on February 20, 2023. The State effective date is December 23, 2022. This revision is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

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