# Kansas Administrative Regulations

## Department of Health and Environment

### Article 19.—Ambient Air Quality Standards and Air Pollution Control—Source Monitoring Fees.

**28-19-81. Environmental impact monitoring.**

(a) On or before April 1 of each year, the department of health and environment shall notify the owner or operator of each power generation facility of any environmental impact monitoring activities that the Department proposes to conduct at the facility during the 12 month period commencing on July 1 of that year. This proposal shall include the information required to be reported under the provisions of K.A.R. 28-19-80 (a) and shall reflect consideration of any proposals received by the Department under the provisions of that regulation.

(b) At the time of giving notice, as required by subsection (a) of this regulation, the Department also shall notify the owner or operator of the facility of the fee to be collected for determining and monitoring the environmental impact of the power generation facility, including any quality review and evaluation of monitoring proposed to be conducted by the owner or operator of the facility. The fee shall be computed in accordance with K.A.R. 28-19-82 on the basis of reasonable estimates of costs of the department of health and environment for the conduct of these activities during the proposed 12 month monitoring period.

(c) If, upon receipt of the notices provided for in subsections (a) and (b) of this regulation, the owner or operator of a facility who has submitted a monitoring program proposal in accordance with the provisions of subsection (a) of K.A.R. 28-19-80 believes the monitoring activities to be conducted represent an avoidable duplication of effort and expense, the owner or operator may request that the Department modify the monitoring activities to be conducted. The request shall be submitted, in writing, within 30 days of the receipt of the notices and shall identify the basis upon which duplication is alleged.

(d) Upon receipt of the notices provided for in subsections (a) and (b) of this regulation the owner or operator of a facility who has not submitted a monitoring proposal in accordance with the provisions of subsection (a) of K.A.R. 28-19-80 may submit a monitoring proposal providing the information required by that regulation and additional information indicating the proposed date by which this plan is to be fully placed into effect. This plan shall be submitted to the Department in writing not later than 30 days after receipt of the notices. Any facility owner or operator submitting a plan in accordance with this subsection may request that the Department consider this plan and modify the proposals provided under the provisions of subsection (a) of this regulation in order to avoid any specifically identified duplication of effort and expense between monitoring activities proposed to be carried out by the Department and those proposed to be carried out under the plan. This request shall be in writing and shall be submitted with the plan.

(e) Within 30 days of receipt of a request as provided for by subsections (c) or (d), the Department shall review the request and make a final determination of the monitoring activities that it will conduct at the facility. When possible these activities shall avoid duplication of effort and expense between activities approved to be carried out by the owner or operator of the facility and those to be carried out by the Department. The Department shall notify the owner or operator of the facility, in writing, of that determination and the basis upon which it was made. If the monitoring activities to be conducted at the facility by the Department are modified due to the request, the Department shall recompute the monitoring fee and notify the owner or operator of the new fee.

(f) All fee remittances shall be made payable to the state of Kansas, power generating facility fee fund, and shall be paid annually on or before July 1.

(g) The department of health and environment shall prepare a report that describes the nature and findings of each environmental impact monitoring activity that has been conducted at any power generation facility under the provisions of this regulation. This report shall be provided for each 12 month monitoring period proposed under the provisions of subsection (a) of this regulation. A copy of this report shall be sent to the

owner or operator of these facilities not more than 120 days after the end of the monitoring period.

(h) The department of health and environment shall prepare a final fiscal report that computes its actual costs for each power generating facility environmental impact monitoring activity conducted under the provisions of this regulation. This report shall cover the 12 month period reported under subsection (g) of this regulation. A copy of this report shall be sent to the owner or operator of each monitored facility at the same time that the report required by subsection (g) is sent.

(i) The department of health and environment shall determine an adjusted fee to be applicable to each facility for which environmental impact monitoring activities have been conducted. This fee shall be calculated in accordance with the provisions of K.A.R. 28-19-82 using the cost figures included in the reports required by subsection (h) of this regulation. This adjusted fee shall be compared with the fee originally paid by the owner or operator for the same period under the provisions of subsection (f). If the Department finds that the adjusted fee is more than the fee originally paid by the source owner or operator, it shall:

(1) add the difference between the adjusted fee and the original fee that is established under subsections (b) or (e) to the next annual fee for the facility, or any other facility owned or operated by the same person; or

(2) if no new monitoring fees are proposed for those facilities by the following April 1, the Department shall subsequently provide the owner or operator with written notice that an additional fee equal to this difference is to be paid by the following July 1. If the Department finds that the adjusted fee is less than the original fee paid, it shall deduct the difference between the adjusted fee and the original fee from the next annual fee that is established under subsections (b) and (e) for the facility, or any other facility owned or operated by the same person. The source owner or operator shall pay any fee determined in accordance with this subsection in the manner prescribed by subsection (f).

(Authorized by and implementing K.S.A. 65-3022; effective, T-82-11, June 9, 1982; effective May 1, 1983.)

***** Authenticated Kansas Administrative Regulation *****