The following regulations have been adopted and published in the Kansas Register. They will become effective on the final date listed in the history section that follows each regulation. Regulations become effective 15 days after publication in the Kansas Register unless a later effective date is given in the body of the regulation.

State of Kansas
Department of Health and Environment
Permanent Administrative Regulations

Article 65.—EMERGENCY PLANNING AND RIGHT-TO-KNOW

28-65-1. General provisions. (a) The provisions of 40 C.F.R. Parts 350, 355, 370, and 372, dated July 1, 2018, including any notes and appendices, unless otherwise specifically stated in this article of the department’s regulations, are hereby adopted by reference. If the same term is defined both in the Kansas statutes or this article of the department’s regulations and in any federal regulation adopted by reference in this article of the department’s regulations and the term is defined differently, the definition prescribed in the Kansas statutes or this article of the department’s regulations shall control.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

1. “The United States” shall be replaced with “the state of Kansas.”
2. “Environmental protection agency,” “EPA,” and “agency” shall be replaced with “Kansas department of health and environment,” “KDHE,” and “department,” respectively, unless the term is used in reference to the EPA web site.
3. “Administrator” and “regional administrator” shall be replaced with “secretary of the department of health and environment.”
4. “Federal register” shall be replaced with “Kansas register.”
6. “This chapter” and “this section” shall be replaced by “these regulations.”
9. “The Office of General Counsel, U.S. Environmental Protection Agency, Mailcode 2310A, 1200 Pennsylvania Avenue, NW, Washington DC 20460” shall be replaced by “the Office of General Counsel, Kansas Department of Health and Environment, 1000 SW Jackson Street, Topeka, Kansas 66612.”

(c) The following sections shall be deleted:
1. 40 C.F.R. 350.3(c); and

28-65-2. Definitions. As used in this article of the department’s regulations, each of the following terms shall have the meaning specified in this regulation:

(a) “Commission” has the meaning specified in K.S.A. 65-5702, and amendments thereto.
(b) “Department” means Kansas department of health and environment.
(c) “Extremely hazardous substance” means a substance listed in the appendices to 40 C.F.R. Part 355, emergency planning and notification, dated July 1, 2018 or on the list of Kansas reportable chemicals authorized by K.S.A. 65-5704, and amendments thereto.
(d) “Facility” means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person, or by any person who controls, is controlled by, or is under common control with, that person. For purposes of emergency release notification, the term shall include motor vehicles, rolling stock, and aircraft. For the purposes of toxic release reporting, any facility may contain more than one establishment, as defined in 40 C.F.R. 372.3, which is adopted in K.A.R. 28-65-1.
(e) “Federal act” has the meaning specified in K.S.A. 65-5702, and amendments thereto.
(f) “Kansas tier II form” and “tier II form” mean the hazardous chemical inventory form developed by the department.
(g) “Kansas tier II software” means the computer software developed for the department to allow an owner or operator of a facility to file the Kansas tier II form by electronic submission.
(i) “Operator” means the owner or owner’s designee who is director of a business, service, or industrial concern and conducts the affairs or manages an activity.
(j) “Owner” means proprietor or the person in whom is vested ownership, dominion, possession, or title of property. (Authorized by and implementing K.S.A. 65-5704; effective, T-88-62, Dec. 30, 1987; effective May 1, 1988; amended Nov. 22, 1993; amended Nov. 28, 1994; amended June 4, 1999; amended March 26, 2021.)

28-65-3. Submitting notifications and reports. (a) Each notification and report required to be submitted to the commission under sections 302 and 311 of the federal act and this article of the department’s regulations shall be completed using the Kansas tier II form, which shall be submitted to the department’s radiation control program in hard copy or by electronic submission.

(b) Each notification and report required to be submitted to the commission under section 312 of the federal act and this article of the department’s regulations shall be completed using the Kansas tier II software. The Kansas tier II form shall be submitted to the radiation control program of the department electronically.
(c) Each toxic chemical release form submitted pursuant to section 313 of the federal act shall be submitted to the department’s radiation control program before July 1 of each year for the previous calendar year.

(d) Each emergency release notification submitted pursuant to section 304 of the federal act shall be submitted to the division of emergency preparedness of the adjutant general’s department.

(e) Each owner or operator of a facility required to report under this regulation shall notify the department within 60 days after either of the following:

1. A change in the name, address, or both, of the owner or operator responsible for filing the facility report; or
2. Facility closure.

(f) Each claim of trade secrecy under sections 311, 312, and 313 of the federal act and each public petition requesting disclosure of chemical identities claimed as a trade secret shall be filed on a form provided by the department. The address to send all claims of trade secrecy under sections 311, 312, and 313 of the federal act shall be the address on the form provided by the department. (Authorized by and implementing K.S.A. 65-5704; effective, T-88-62, Dec. 30, 1987; effective May 1, 1988; amended, T-89-19, May 27, 1988; amended Sept. 26, 1988; amended Nov. 22, 1993; amended Nov. 28, 1994; amended June 4, 1999; amended March 26, 2021.)

28-65-4. Fees. (a) Except as provided in subsection (d), each owner or operator of a facility required to report under section 312 of the federal act and K.A.R. 28-65-3 shall pay an annual report fee based upon the sum of the maximum daily reportable quantities of extremely hazardous substances or hazardous chemicals, or both, present at the facility as reported on the Kansas tier II form. These fees shall be calculated on forms provided by the department using the tables in paragraphs (c)(1) and (c)(2) as appropriate. The fees required under this subsection shall be submitted to the department before March 1 of each year at the time of submission of the Kansas tier II form.

(b) Each owner or operator of a facility required to file the toxic chemical release form required under section 313 of the federal act and K.A.R. 28-65-3 shall pay an annual report fee based upon the total quantity of chemicals released as reported on the federal form R. These fees shall be calculated on forms provided by the department using table 3 in paragraph (c)(4). The fees required under this subsection shall be submitted to the department before March 1 of each year at the time of submission of the Kansas tier II form.

(c)(1) Fees on the total maximum daily reportable quantity of extremely hazardous substances listed on the Kansas tier II form required under subsection (a) shall be determined using table 1 as follows:

<table>
<thead>
<tr>
<th>Sum of the maximum daily amounts of all extremely hazardous substances reported (pounds)</th>
<th>Annual fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1–9,999</td>
<td>$25</td>
</tr>
<tr>
<td>10,000–99,999</td>
<td>$50</td>
</tr>
<tr>
<td>1,000,000 or greater</td>
<td>$150</td>
</tr>
</tbody>
</table>

(2) Fees on the total maximum daily reportable quantity of hazardous chemicals listed on the Kansas tier II form required under subsection (a) shall be determined using table 2 as follows:

<table>
<thead>
<tr>
<th>Sum of the maximum daily amounts of all hazardous chemicals reported (pounds)</th>
<th>Annual fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000–99,999</td>
<td>$25</td>
</tr>
<tr>
<td>100,000–999,999</td>
<td>$50</td>
</tr>
<tr>
<td>1,000,000–9,999,999</td>
<td>$150</td>
</tr>
<tr>
<td>10,000,000 or greater</td>
<td>$300</td>
</tr>
</tbody>
</table>

(d) Each owner or operator of an oil or gas well that is required to report under section 312 of the federal act and K.A.R. 28-65-3 shall pay an annual fee of $25. For the purposes of this subsection, the term “hazardous chemical” shall have the meaning specified in K.S.A. 55-150, and amendments thereto. The fee required under this subsection shall be submitted to the department before March 1 of each year at the time of submission of the Kansas tier II form.

(e) All fees shall be remitted by check, draft, or money order payable to the department and shall be nonrefundable. Any owner or operator may make an aggregate payment covering more than one facility by a single check, draft, or money order if a statement that indicates each individual facility name, address, and the amount of the fee for which payment is made accompanies each aggregate payment.

(f) An owner or operator of a facility subject to this article of the department’s regulations shall not be charged a fee for chemical information submitted on a voluntary basis beyond that required under K.A.R. 28-65-3 if the optional nature of the information is clearly marked in the appropriate box on the Kansas tier II form. (Authorized by and implementing K.S.A. 65-5704; effective Nov. 22, 1993; amended Nov. 28, 1994; amended March 26, 2021.)

Lee A. Norman, M.D.
Secretary
State of Kansas  
Department of Agriculture  
Permanent Administrative Regulations

Article 8.—NOXIOUS WEEDS

4-8-13. Service of notices and statements. (a) Service of notices and statements required by K.S.A. 2-1320, and amendments thereto, shall be deemed sufficient when made upon the owner of the land to which the notice or statement pertains or the landowner’s agent or trustee, the executor or administrator of the estate of a deceased landowner, the guardian or conservator of the estate of a minor or legally disabled person, or one of several joint owners or tenants in common, by either of the following means:

(1) Personal delivery; or
(2) certified mail.

(b) The notices and statements required by K.S.A. 2-1320, and amendments thereto, may be served by any of the following:

(1) The county, city, township, or district weed supervisor for the county, city, township, or district where the land specified in the notice or statement is located;
(2) a county commissioner of the county where the land specified in the notice or statement is located;
(3) the sheriff of the county where the land specified in the notice or statement is located; or
(4) a member of the governing body of a city or the marshal or a law enforcement officer of any city having jurisdiction over land described in the notice or statement.

(c) If personal service or service by certified mail cannot be achieved within 45 days of the date on which any weed control activities are performed pursuant to K.S.A. 2-1320 and amendments thereto, then the notice or statement may be posted at the property where the weed control activity was performed, and the posting shall be considered valid notice. (Authorized by and implementing K.S.A. 2019 Supp. 2-1315 and 2-1320; effective Jan. 1, 1966; amended March 26, 2021.)


4-8-27. Adoption of control methods for musk thistle. (a) The Kansas department of agriculture’s document titled “official control methods for musk thistle,” dated May 20, 2020, is hereby adopted by reference and shall apply to the control of musk thistle in Kansas.

(b) If a county, city, township, or district weed supervisor determines that musk thistles in the weed supervisor’s county, city, township, or district have reached a stage of maturity that will render the weed control methods currently being used in that county, city, township, or district ineffective, the weed supervisor may give notice requiring the effective control methods to be implemented within 10 business days of the date the notice was issued. (Authorized by and implementing K.S.A. 2019 Supp. 2-1315; effective May 1, 1988; amended Jan. 22, 1990; amended June 1, 1992; amended Oct. 27, 2000; amended Aug. 6, 2004; amended, T-4-5-20-05, May 20, 2005; amended, T-4-3-29-06, March 29, 2006; amended April 27, 2007; amended March 26, 2021.)


4-8-36. Adoption of control methods for pignut. The Kansas department of agriculture’s document titled “official control methods for pignut,” dated May 20, 2020, is hereby adopted by reference and shall apply to the control of pignut in Kansas. (Authorized by and implementing K.S.A. 2019 Supp. 2-1315; effective May 1, 1988; amended Aug. 6, 2004; amended March 26, 2021.)

4-8-37. Adoption of control methods for kudzu. The Kansas department of agriculture’s document titled “official control methods for kudzu,” dated May 20, 2020, is hereby adopted by reference and shall apply to the control of kudzu in Kansas. (Authorized by and implementing K.S.A. 2019 Supp. 2-1315; effective May 1, 1988; amended Aug. 6, 2004; amended March 26, 2021.)

4-8-38. Weed supervisor employment. (a) Each individual hired to serve as a county, city, township, or district weed supervisor shall be hired as an employee of the county, city, township, or district and not as an independent contractor. Any county, city, township, or district weed supervisor serving as an independent contractor when this regulation becomes effective may continue to serve as an independent contractor until the expiration of the current term under that individual’s existing contract, which shall not be renewed or extended.

(b) Any individual seeking employment as a county, city, township, or district weed supervisor may be conditionally approved for employment by the secretary if the individual has education, training, or experience sufficient to allow the individual to carry out the employment duties of a county, city, township, or district weed supervisor.

(c) Final approval of the employment of each individual who has been conditionally approved to be employed as a county, city, township, or district weed supervisor may be issued by the secretary when the individual has met the following requirements:

(1) Obtained certification as a pesticide applicator in category 9a, regulatory pest control, noxious weed control, pursuant to K.S.A. 2-2438a et seq. and amendments thereto; and

(2) successfully completed the noxious weed basic short course offered by the Kansas department of agriculture, plant protection and weed control program.

(d) Approval of the employment of each individual previously approved for employment as a county, city, township, or district weed supervisor may be renewed by the secretary on or before January 1 of each year if the individual meets the following requirements:

(1) Is still employed as a county, city, township, or district weed supervisor by the same county, city, township, or district when renewal is sought;

(2) is currently certified as a pesticide applicator as specified in paragraph (b)(1); and

(3) has timely filed the annual weed eradication progress report and any other records or reports requested by the secretary.

(e) Approval of the employment of any county, city, township, or district weed supervisor shall be withdrawn by the secretary if the county, city, township, or district weed supervisor has failed, without just cause, to comply with any of the requirements specified in subsection (c).


4-8-41. Designation of noxious weeds. (a) Pursuant to K.S.A. 2-1314 and amendments thereto, the weeds designated noxious by the secretary shall be placed in the following categories:

(1) Category A noxious weeds, which are weed species that are generally not found in the state or that are found limited in distribution throughout the state;

(2) category B noxious weeds, which are weed species with discrete distributions throughout the state; and

(3) category C noxious weeds, which are weed species that are well established within the state and known to exist in larger or more extensive populations in the state.

(b) Category A noxious weeds shall be subject to con-
control efforts directed at excluding the noxious weeds from the state or eradicating the population of noxious weeds wherever detected statewide, in order to protect neighboring lands and the state as a whole. Category A noxious weeds shall include the following:

1. Hoary cress, *Lepidium draba*;
2. leafy spurge, *Euphorbia virgata*;
3. quackgrass, *Elymus repens*;
4. Russian knapweed, *Rhaponticum repens*;
5. kudzu, *Pueraria montana* variety *lobata*; and
6. pignut, *Hoffmannseggia glauca*.

(c) Category B noxious weeds shall be subject to control wherever populations have become established within the state and subject to control efforts directed at eradication wherever populations are not established. Category B noxious weeds shall include Canada thistle, *Cirsium arvense*.

(d) New populations of category C noxious weeds shall be subject to control efforts directed at reducing or eradicating those populations. Known and established populations of category C noxious weeds shall be managed by any approved control method. Category C noxious weeds shall include the following:

1. Field bindweed, *Convolvulus arvensis*;
2. musk thistle, *Carduus nutans*;
3. sericea lespedeza, *Lespedeza cuneata*;
4. Johnsongrass, *Sorghum halepense*; and
5. bur ragweed, *Ambrosia grayii*.

(e) Any county, city, township, or district weed supervisor or any official of another government agency may require the most stringent control measures specified in this regulation for any noxious weed, regardless of the category in which this regulation places that noxious weed, if the county, city, township, or district weed supervisor or government agency official determines that it is necessary to do so based on the results of the survey provided pursuant to K.S.A. 2-1316, and amendments thereto. (Authorized by and implementing K.S.A. 2019 Supp. 2-1315 and 2-1316; effective March 26, 2021.)

4-8-17. Management plan. Each county, city, township, or district weed supervisor, with the aid of that county, city, township, or district weed supervisor’s board of county commissioners or city or township board, shall submit a management plan to the secretary no later than March 15 of each year pursuant to K.S.A. 2-1316, and amendments thereto. Each management plan shall be submitted on a form provided by the department and shall include, at a minimum, the following:

(a) The goals and priorities of the county, city, township, or district’s noxious weed control program;
(b) the distribution and abundance of each noxious weed species known to exist within the county, city, township, or district; specific locations of new infestations; and areas particularly susceptible to new infestations;
(c) integrated weed management goals and procedures, including goals and procedures regarding biological control agent selection and distribution, pesticide selection and application, and cultural and mechanical controls;
(d) the estimated personnel, operations, and equipment costs of the proposed program;
(e) a compliance plan or strategy;
(f) a strategy for working with state agencies to control noxious weeds on state lands; and
(g) any other relevant information that the secretary deems necessary. (Authorized by K.S.A. 2019 Supp. 2-1315; implementing K.S.A. 2019 Supp. 2-1315 and 2-1316; effective March 26, 2021.)

4-8-45. Official control plans. (a) Each official control plan adopted by the secretary shall be based on the most current available science and shall include, if applicable, biological, chemical, cultural, and mechanical methods of control.

(b) A control method adopted by the secretary as part of an official control plan that includes more than one control method shall not be used alone for the control of noxious weeds, except that any chemical control method may be used alone and any county, city, township, or district weed supervisor may, at the county, city, township, or district weed supervisor’s discretion, use any integrated weed management technique alone for the control of any perennial noxious weed.

(c) The control of each noxious weed species shall be undertaken in accordance with the official control plan adopted by the secretary for that noxious weed species. (Authorized by and implementing K.S.A. 2019 Supp. 2-1315; effective March 26, 2021.)

4-8-46. Annual report. Each annual weed eradication progress report that a weed supervisor submits to the secretary pursuant to K.S.A. 2-1316, and amendments thereto, shall include, at a minimum, the following:

(a) The approximate acreage of land, including roadside areas, currently infested with each species of noxious weed and the location of each infestation in the county;
(b) the dollar amount of all expenditures made during the year to purchase materials, chemicals, and other equipment for the control of noxious weeds;
(c) the dollar amount of all sales made during the year, for cash or charge, of materials, chemicals, and other equipment for the control of noxious weeds;
(d) the dollar amount of all charges and receipts made during the year for use of equipment owned by each county, city, township, or district on public or private land;
(e) the approximate acreage of land, including roadside areas, treated for each species of noxious weed during the year and the control methods used for treatment; and
(f) any other relevant information that the secretary deems necessary. (Authorized by K.S.A. 2019 Supp. 2-1315; implementing K.S.A. 2019 Supp. 2-1315 and 2-1316; effective March 26, 2021.)
ation or infestations specified in the notice or statement;
(d) the official methods adopted by the secretary for
the control of the noxious weeds specified in the notice
or statement;
(e) a time frame, which shall not be fewer than five
days after mailing the notice, in which the owner or op-
erator or supervising agent of the noxious weed-infested
land shall implement the required noxious weed control
methods;
(f) a statement that if the owner, operator, or supervising
agent fails to implement the required noxious weed
control methods within the time frame provided in the
notice or statement, the county, city, township, or district
weed supervisor may enter the noxious weed-infested
land or cause the noxious weed-infested land to be en-
tered upon as often as necessary to control the noxious
weed infestation and may use approved noxious weed
control methods that the county, city, township, or dis-
trict weed supervisor deems best adapted for the control
of noxious weeds on the particular area of land;
(g) a statement that if the county, city, township, or dis-
trict weed supervisor enters the noxious weed-infested
land or causes the noxious weed-infested land to be en-
tered upon to control the noxious weed infestation, the
owner, operator, or supervising agent shall be served no-
tice of the costs of treatment pursuant to K.S.A. 2-1332,
and amendments thereto; and
(h) a statement that the owner, operator, or supervising
agent may be prosecuted pursuant to K.S.A. 2-1323, and
amendments thereto, and, if convicted, fined as estab-
lished by law. (Authorized by K.S.A. 2019 Supp. 2-1315,
2-1315 and 2-1331; effective March 26, 2021.)

Mike Beam
Secretary

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