Kansas Administrative Regulations

Department of Health and Environment

Article 19.—Ambient Air Quality Standards and Air Pollution Control—Class II Operating Permits; Permit-By-Rule.

28-19-563. Class II operating permits; permit-by-rule; hot mix asphalt facilities.

(a) Definition. For purposes of this regulation, "hot mix asphalt facility" shall mean a facility that meets both of the following conditions:

(1) The facility is used to manufacture hot mix asphalt by heating and drying aggregate and mixing the aggregate with asphalt cement.

(2) The facility does not contain other emission sources that, alone or in combination with the hot mix asphalt facility, would require the owner or operator of the source to obtain a class I operating permit solely because of the facility's potential-to-emit.

(b) Applicability. The requirements of this regulation shall apply to each hot mix asphalt facility that uses venturi scrubbers, a baghouse, or equivalent particulate emission controls to limit particulate emissions to no more than 0.04 grains per dry standard cubic foot of exhaust gas.

(c) Operating conditions. In lieu of obtaining a class I permit under K.A.R. 28-19-500 or a class II permit under K.A.R. 28-19-540, each owner or operator of a hot mix asphalt facility who elects to operate pursuant to this regulation and K.A.R. 28-19-542 shall meet all of the following requirements:

(1) Limit production at the facility to not more than 250,000 tons of hot mix asphalt during any consecutive 12-month period;

(2) maintain records demonstrating that the production restrictions and particulate emission limits specified in this regulation have not been exceeded;

(3) update the records monthly, not later than the last day of the month following the month to which the records relate;

(4) retain the records on-site for at least two years following the date of record, unless an alternative record storage location is authorized by the secretary in writing; and

(5) submit an annual emission report to the department as required by K.A.R. 28-19-546.

(d) Reporting required.

(1) If at the end of any calendar quarter, a facility has produced hot mix asphalt during the previous four consecutive calendar quarters in an amount that exceeds 85% of any production restriction specified in paragraph (c)(1) of this regulation, the owner or operator of the facility shall report in writing to the department the actual production during the previous four consecutive calendar quarters.

(2) The actual production shall be reported in the units specified in paragraph (c)(1) of this regulation.

(3) The report shall be submitted to the department within 45 days of the last day of the last calendar quarter that is the subject of the reporting requirements of this subsection.

(e) Notice of exceedance required.

(1) If at any time a hot mix asphalt facility that the owner or operator has elected to operate pursuant to this regulation exceeds the operational limitations of paragraph (c)(1) of this regulation, the owner or operator shall notify the department in writing by mailing or delivering the notice on or before the first working day following discovery of the exceedance.

(2) Within 60 days of the discovery of the exceedance of any limitations of paragraph (c)(1) of this regulation, the owner or operator shall submit to the department a written compliance plan identifying those actions being taken and to be taken by the owner or operator to ensure future compliance with applicable requirements or to otherwise bring the source into compliance with this regulation, any other applicable Kansas air quality regulations, and the Kansas air quality statutes.

(3) The owner or operator shall also file an application for any required operating permit within 180 days of discovery of an exceedance of the provisions of paragraph (c)(1) of this regulation.

(4) Compliance with the requirements of this subsection shall not shield the owner or operator from enforcement action for exceeding any applicable requirement or for other violations of the Kansas air quality act or regulations.

(5) The timeliness of the required notifications, compliance plan submittals, and applications shall be determined by the postmark, if submitted by mail.

(f) Other applicable requirements. Each source that the owner or operator elects to operate in accordance with this regulation shall continue to be subject to all other applicable requirements of the Kansas air quality statutes and regulations.

(Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3007 and 65-3008; effective Jan. 23, 1995; amended Feb. 20, 1998; amended Sept. 23, 2005.)

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