Kansas Administrative Regulations

Department of Health and Environment

Article 19.—Ambient Air Quality Standards and Air Pollution Control—Operating Permits.

28-19-500. Operating permit; applicability.

(a) A stationary source shall obtain a class I operating permit in accordance with the provisions of K.A.R. 28-19-510 if the stationary source is:

(1) a major source, except that a source is not required to obtain a permit if it would be classified as a major source solely because it has the potential-to-emit major amounts of a pollutant listed pursuant to section 112(r)(3) of the federal clean air act and is not otherwise required to obtain a permit under this regulation;

(2) an affected source;

(3) a solid waste incinerator unit required to obtain a permit pursuant to section 129(e) of the federal clean air act;

(4) subject to an emission limitation or standard under section 111 of the federal clean air act, new source performance standards, except for a stationary source which is exempt as provided in paragraph (h) of this regulation;

(5) subject to an emission limitation or standard under section 112 of the federal clean air act, hazardous air pollutants, except for a stationary source which is exempt as provided in paragraph (h) of this regulation. This provision shall not require a source to get a class I operating permit solely because it is subject to regulations or requirements under section 112(r) of the federal clean air act, prevention of accidental releases; or

(6) not a major source but is within a source category designated by the secretary as requiring a class I operating permit.

(b) A stationary source may avoid obtaining a class I operating permit by electing to reduce its potential-to-emit through any physical or operational limitation or use of pollution control equipment required by a class II operating permit. The potential-to-emit shall not be considered to be reduced until a class II permit has been issued to the

source. A class II operating permit may be obtained in accordance with K.A.R. 28-19-540 by:

(1) submitting an application for a class II operating permit that contains operational restrictions or requirements for air pollution control equipment, or both;

(2) submitting an application to operate in accordance with the terms of a class II general operating permit issued pursuant to K.A.R. 28-19-400; or

(3) for those source categories identified in K.A.R. 28-19-561 through K.A.R. 28-19-563, submitting an application for a permit-by-rule in accordance with K.A.R. 28-19-542.

(c) Each commercial or medical waste incinerator which is not otherwise required to obtain an operating permit shall obtain a class III operating permit in accordance with the provisions of K.A.R. 28-19-575.

(d) Each stationary source which is not otherwise required to obtain an operating permit but which is subject to any air quality regulatory emission limitation or standard shall obtain a class III operating permit in accordance with the provisions of K.A.R. 28-19-575. However, a stationary source shall not be required to obtain a class III operating permit pursuant to the terms of this subsection if the only emission limitations or standards applicable to the source are one or more of the following:

(1) K.A.R. 28-19-20 through K.A.R. 28-19-26, processing operation emissions;

(2) K.A.R. 28-19-30 through K.A.R. 28-19-32, indirect heating equipment emissions;

(3) K.A.R. 28-19-50, opacity requirements;

(4) K.A.R. 28-19-69, cutback asphalt;

(5) K.A.R. 28-19-70, leaks from gasoline delivery vessels and vapor collection systems;

(6) K.A.R. 28-19-72, gasoline dispensing facilities;

(7) 40 CFR part 60, subpart AAA, standards of performance for new residential wood heaters;

(8) 40 CFR 61.145, national emissions standard for asbestos, standard for demolition and renovation; or

(9) K.A.R. 28-19-750, hazardous air pollutants, if the source is an area source.

(e) Class I, II, and III permits.

(1) For purposes of the Kansas air quality act, a class I operating permit is a permit to operate an air contaminant emission stationary source.

(2) For purposes of the Kansas air quality act, a class II operating permit or a class III operating permit is an approval, rather than a permit, to operate an air contaminant emission stationary source.

(f) After the date an application for a class I, class II or class III operating permit is due, a person shall not operate an air emissions unit or stationary source for which the operating permit is required unless:

(1) an appropriate, valid operating permit has been issued for the air emissions unit or stationary source; or

(2) a complete application, including any required fee, for the appropriate operating permit is pending with the agency.

(g) An application for an operating permit for an emissions unit or stationary source may be submitted and processed simultaneously with the application for a construction permit or construction approval filed pursuant to K.A.R. 28-19-300 *et seq.* for that emissions unit or stationary source.

(h) Unless otherwise required by an applicable requirement, a stationary source which is not a major source, but which would be required to obtain a class I operating permit solely because of the provisions of paragraph (a)(4) or (a)(5) of this regulation, or both, is exempt from the requirement to obtain a class I operating permit until otherwise required by the department. Nothing in these regulations shall be interpreted to preclude any such air emission source from applying for and operating under the terms of a class I operating permit.

(i) Until such time as a stationary source is required to apply for a class I, class II, or class III operating permit, the stationary source shall be considered in compliance with this regulation if the source has a valid construction permit or approval or valid operating permit issued pursuant to the requirements of K.A.R. 28-19-300 *et seq.*, or its predecessor K.A.R. 28-19-14.

(Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

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