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.

28-19-564. Class II operating permits; permits-by-rule; sources with actual emissions less than 50 percent of major source thresholds.

(a) Any stationary source, or group of stationary sources, that would be classified as a major source based on the potential-to-emit may operate according to this regulation in lieu of obtaining an individual class I or class II operating permit, if the source is operated in compliance with subsections (d), (e), (f), and (g) and with either subsection (b) or subsection (c). Sources that are required to obtain a class I or class II operating permit based on criteria other than potential-to-emit shall not be eligible to operate under this regulation.

(b) Any stationary source or group of stationary sources that has actual emissions not exceeding 25 percent of the major source threshold, as defined in K.A.R. 28-19-200, may operate according to this subsection, if the source meets all of the following conditions:

(1) The stationary source is not otherwise required to obtain a class I operating permit.

(2) The owner or operator of the stationary source notifies the department, in writing, that it elects to operate the source under this regulation.

(3) The actual emissions of each regulated pollutant, for every consecutive 12-month period during which the stationary source is operated under this regulation, do not exceed 25 percent of the major source threshold.

(4) The owner or operator of the stationary source maintains records, as specified in subsection (h), that demonstrate compliance with the 25 percent actual emissions limitation.

(5) The owner or operator updates the records required by paragraph (b)(4) at least monthly and maintains the records on-site for at least two years from the date of record.

(c) Any stationary source or group of stationary sources with actual emissions not exceeding 50 percent of the major source threshold, as defined in K.A.R. 28-19-200, may operate according to this subsection if the source meets all of the following conditions:

(1) The stationary source is not otherwise required to obtain a class I operating permit.

(2) The owner or operator of the stationary source has submitted to the department an application to operate under the terms of this regulation and the appropriate fee specified in K.A.R. 28-19-545.

(3) The owner or operator of the stationary source has received notice from the secretary that the application submitted for the source has been approved.

(4) The actual emissions from the stationary source, for every consecutive 12-month period during which the stationary source is operated under this regulation, do not exceed 50 percent of the major source threshold.

(5) The owner or operator of the stationary source maintains records, as specified in subsection (h), that demonstrate compliance with the 50 percent actual emissions limitation.

(6) The owner or operator updates the records required by paragraph (c)(5) at least monthly and maintains the records on-site for at least two years.

(d)(1) If at any time a stationary source operating according to this regulation exceeds the applicable emissions level of either paragraph (b)(3) or paragraph (c)(4), the owner or operator shall notify the secretary in writing.

(2) The owner or operator shall mail, electronically submit, or deliver the notice to the secretary on the first working day after the discovery of the failure to comply.

(3) Within 60 days of the discovery of a failure to comply with an applicable requirement of this regulation, the owner or operator shall submit to the secretary an interim compliance plan and schedule identifying the actions being taken by the owner or operator to ensure compliance with applicable requirements until the appropriate class I or class II operating permit is issued according to paragraph (d)(5).

(4) Submittal of and compliance with the compliance plan and schedule shall not exempt the owner or operator from enforcement action by the department.

(5) The owner or operator shall file an application for the appropriate class I or class II operating permit within 180 days of discovery of the exceedance of the applicable limits of either paragraph (b)(3) or paragraph (c)(4), unless otherwise exempt.

(e) Each owner or operator of a stationary source shall submit to the department, by April 1 of each year, an annual emissions inventory and annual emissions fees for the stationary source as required by K.A.R. 28-19-546.

(f) Compliance with this regulation shall not exempt the owner or operator from enforcement action for exceeding any applicable restrictions or for any other violations of the Kansas air quality act or the Kansas air quality regulations.

(g) Each owner or operator of a stationary source operated according to this regulation shall continue to comply with all other applicable requirements of the Kansas air quality act and the Kansas air quality regulations.

(h)(1) The following records specified in this subsection shall be presumed to be sufficient to determine compliance with the recordkeeping requirements of this regulation:

(A) For coating and solvent emission units, the following:

(i) A current list of all coatings, solvents, inks, and adhesives in use, including volatile organic compounds (VOC) and hazardous air pollutant content;

(ii) a description of any equipment used for coating or solvent application, including type, make, and model, and maximum design process rate or throughput;

(iii) a monthly log of the consumption of each coating, ink, adhesive, and solvent, including solvents used in cleanup and surface preparation; and

(iv) purchase orders, invoices, and other documents to support information in the monthly log;

(B) for organic liquid storage units, the following:

(i) A monthly log identifying the liquid stored and monthly throughput; and

(ii) information on the tank design and specifications, including emissions control equipment;

(C) for combustion emission units, the following:

(i) Information on equipment type, make, and model; maximum design process rate or maximum power input and output; minimum operating temperature for thermal oxidizers; capacity; and all source test information; and

(ii) a monthly log of fuel type, fuel usage, fuel heating value, and percent sulfur for fuel oil and coal;

(D) for any emission control device for which emission reductions are being claimed, the following:

(i) Information on the control device type, including description, make, and model, and emission units served by the control device;

(ii) information on the control device design including, if applicable, the pollutant or pollutants being controlled, control device efficiency and capture efficiency, maximum design or rated capacity, and other design data as appropriate, including any available source test information; and

(iii) a monthly log of hours of operation, including notation of any control equipment breakdowns, upsets, repairs, maintenance, and any other deviations from design parameters; and

(E) for all other emission units, the following:

(i) Information on the process and equipment, including equipment type, description, make, and model;

(ii) maximum design process rate or throughput;

(iii) a monthly log of operating hours and each raw material used and its amount; and

(iv) purchase orders, invoices, or other documents to support the information in the monthly log.

(2) Each owner or operator relying on other documentation to demonstrate compliance with this regulation shall establish that the documentation relied upon demonstrates compliance with the recordkeeping requirements of this regulation.

(i) During the first 12 months of operation under this permit-by-rule, each owner or operator of the processes affected by this permit-by-rule shall operate in a manner that will not exceed any of the applicable permit limitation requirements at any time during the initial 12-month period.

(Authorized by K.S.A. 65-3005 and 65-3024; implementing K.S.A. 65-3007, 65-3008, and 65-3024; effective May 15, 1998; amended Oct. 4, 2002; amended Dec. 23, 2022.)

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