Kansas Administrative Regulations

Department of Health and Environment

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

28-19-302. Construction permits and approvals; additional provisions; construction permits.

(a) The owner or operator of any source which is required to obtain a construction permit pursuant to K.A.R. 28-19-16 through 28-19-16m, nonattainment area requirements, or K.A.R. 28-19-17 through 28-19-17q, prevention of significant deterioration requirements, shall comply with any applicable construction permit requirements of the regulations in addition to the requirements set forth herein.

(b) The owner or operator submitting an application for the construction of a new source or modification of an existing source may request a federally enforceable operational restriction be included in the construction permit which, either alone or in conjunction with a federally enforceable permit condition regarding properly maintained and operated air pollution control equipment, reduces the potential-to-emit of the emissions unit or stationary source or otherwise results in avoidance of any requirement of the federal clean air act. Such permit restriction shall meet the requirements of K.A.R. 28-19-501(b) to be considered federally enforceable.

(c) Any owner or operator which would otherwise be required to submit an application for the construction of a new source may, in lieu of applying for a construction permit, request an operational restriction be included in a construction approval which, either alone or in conjunction with properly maintained and operated air pollution control equipment, reduces the potential emissions of the source below the threshold requiring a construction permit if:

(1) the potential-to-emit is less than the threshold requiring a permit pursuant to any applicable requirements of:

(A) K.A.R. 28-19-16 through 28-19-16m, nonattainment area requirements;

(B) K.A.R. 28-19-17 through 28-19-17q, prevention of significant deterioration requirements;

(C) K.A.R. 28-19-510 *et seq.*, class I operating permits; and

(D) K.A.R. 28-19-540 *et seq.*, class II operating permits;

(2) the owner or operator specifies and quantifies the operational restrictions which will reduce the potential emissions of the source and agrees to operate the source in compliance with such operational restrictions;

(3) the owner or operator specifies a procedure for maintaining records that demonstrate compliance with the operational restrictions; and

(4) the owner or operator complies with the requirements of K.A.R. 28-19-501(d) in regards to any air pollution control equipment relied upon to reduce potential emissions of the source.

(d) Any failure to comply with an operational restriction, record-keeping requirement or control equipment requirement which provided the basis for issuance of an approval pursuant to subsection (c) of this regulation shall be deemed a violation of this regulation.

(e) For purposes of the Kansas air quality act, a construction permit shall be an approval to construct or modify an air contaminant emission stationary source. (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 *****