Kansas Administrative Regulations

Department of Health and Environment

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

28-19-515. Class I operating permits; public participation, affected state participation, and USEPA participation.

(a) Except for administrative permit amendments or modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and an opportunity for a public hearing on the proposed permit. In addition to procedures specified at K.A.R. 28-19-204, the procedures shall include the following requirements.

(1) Notice shall be given to persons on a mailing list developed by the department, including those who request in writing to be on the list and by other means if necessary to assure adequate notice to the affected public.

(2) The notice shall identify the emissions change involved in any permit modification.

(3) The notice shall state that prior to the issuance of the permit, permit modification, or permit renewal, the USEPA has the right to object to issuance of the permit. The notice shall further state that if the USEPA fails to object to issuance of the permit within 45 days of receipt of the permit which the department proposes to issue, a person may petition the administrator of the USEPA to review the permit by filing a petition with the administrator of the USEPA within 60 days of the expiration of the USEPA's 45 day review period.

(4) Notice and opportunity for participation by affected states shall be provided pursuant to subsection (b) of this regulation.

(5) A record of the commenters and of the issues raised during the public participation process shall be made so that the USEPA may fulfill its obligation under

section 505(b)(2) of the federal clean air act to determine whether a citizen petition may be granted, and such records shall be available to the public.

(b) (1) Notice of each proposed permit, permit renewal, or permit modification shall be provided to any affected state on or before the time that notice is provided to the public under subsection (a) of this regulation, except to the extent minor permit modification procedures or group processing of minor permit modification procedures require the timing of the notice to be different.

(2) As part of the submittal of the proposed permit to the USEPA, or as soon as possible after the submittal for minor permit modification procedures allowed under K.A.R. 28-19-513(c), the USEPA and any affected state shall be notified by the department in writing of any refusal to accept all recommendations for the proposed permit that the affected state submitted during the public or affected state review period.

(A) The notice shall include the reasons for not accepting any such recommendation.

(B) The department shall not be required to accept recommendations that are not based on applicable requirements, the requirements of 40 CFR part 70, or the requirements of the Kansas air quality regulations.

(c) Unless waived by the USEPA, the USEPA shall be provided a copy of each permit application including any application for permit modification, each proposed permit, and each final class I operating permit. The applicant may be required by the department to submit a copy of the permit application, including the compliance plan, directly to the USEPA.

(d) Any person may request a copy of the statement developed by the department and submitted to the USEPA that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory or regulatory provisions.

(e) Copies of the proposed permit, the application, all relevant supporting materials, including any compliance plan and compliance certification, and all other materials available to the department that are relevant to the permit decision shall, upon request, be furnished without charge to the USEPA and any affected state. Any other person

requesting copies of such documentation shall pay a fee equal to that regularly charged by the department for copying of documents.

(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 *****