Kansas Administrative Regulations

Department of Health and Environment

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

28-19-501. Operating permits; emissions limitations and pollution control equipment for class I and class II operating permits; conditions.

(a) The owner or operator of an emissions unit or stationary source may request an operational permit restriction or a permit condition requiring the use of air pollution control equipment, or both, which reduce the potential-to-emit of an emissions unit or stationary source.

(b) Operational restrictions specified in an operating permit shall reduce the potential-to-emit of an emissions unit or stationary source if:

(1) all restrictions imposed in the operating permit are at least as stringent as any other applicable limitations or restrictions contained in the state implementation plan;

(2) the restrictions do not waive, or make less stringent, any limitations, restrictions or requirements contained in or issued pursuant to the state implementation plan or that are otherwise federally enforceable; and

(3) the restrictions are permanent, quantifiable and otherwise enforceable as a practical matter.

(c) The owner or operator of an emissions unit or stationary source which is subject to operational restrictions set forth in a class I or class II operating permit, except as otherwise specifically required, shall maintain at the stationary source records demonstrating that the operational restrictions imposed have not been exceeded. Records shall be updated monthly, no later than the last day of the following calendar month.

(1) If, at the end of any calendar quarter, the monitored operational parameters demonstrate that actual operations have exceeded 85% of the operational restrictions for the past four calendar quarters, including the most recently completed calendar quarter, the owner or operator shall report the actual operations to the department for

that period of time. The actual operations shall be reported in the same units as the operational restrictions specified in the operating permit. The report shall be submitted to the department within 45 days of the last day of the month following the conclusion of the calendar quarter.

(2) Exceeding operational restrictions.

(A) If, at any time, the actual operations of the emissions unit or stationary source exceed the operational restrictions specified in the operating permit, the owner or operator shall notify the department in writing, the notice to be mailed or delivered the first working day following discovery of exceeding any operating permit operational restriction.

(B) Within 60 days of discovery of exceeding the operational restrictions, the owner or operator of the stationary source shall submit to the department a compliance plan, signed by a responsible official, stating those actions being taken by the owner or operator to assure future compliance with the operational restrictions or to otherwise bring the stationary source into compliance with the permit or the Kansas air quality statutes and regulations.

(C) If appropriate, the owner or operator shall also file the appropriate application for a permit modification or a class I operating permit within 180 days of discovery of exceeding any operating permit operational restriction.

(D) Compliance with the requirements of subsection (c)(2) of this regulation does not shield the owner or operator from enforcement action for exceeding any operating permit operational restriction or for other violations of the Kansas air quality act or regulations.

(d) Except as otherwise authorized by the Kansas air quality regulations or the operating permit issued to the source, air pollution control equipment identified in an operating permit shall reduce the potential-to-emit of an emissions unit or stationary source, either alone or in conjunction with an operational restriction, if the owner or operator of the emission unit or stationary source:

(1) continuously operates the air pollution control equipment while operating the associated emissions unit or units;

(2) develops, implements and maintains on-site a written maintenance plan to assure proper operation of the air pollution control equipment; and

(3) maintains a log showing the date of all routine or other maintenance, malfunction or repair of the air pollution control equipment, the nature of the action taken on such date, and any corrective action or preventative measures taken.

(e) Except in the case of a permit-by-rule issued pursuant to K.A.R. 28-19-542, when calculating the potential-to-emit, reductions in emissions due to operational restrictions or to air pollution control equipment shall reduce the potential-to-emit only if:

(1) the provisions of K.A.R. 28-19-204 have been satisfied;

(2) notice soliciting comments on the proposed restrictions is:

(A) given to the USEPA;

(B) placed in the *Kansas Register*; and

(C) except in the case of a general permit, placed in a newspaper of general circulation in the area in which the emissions unit or stationary source is, or will be, located, at least 30 days prior to issuance of the operating permit; and

(3) the USEPA is provided, in a timely manner, with a copy of the proposed and final class II operating permit.

(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 *****