

**K.A.R. 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 its 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) of this regulation, and with either subsection (b) or (c) of this regulation. Sources that are required to obtain a class I or class II 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) of this regulation, that demonstrate compliance with the 25 percent actual emissions limitation.

(5) The owner or operator updates the records required by paragraph (b)(4) of this regulation 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, with the appropriate fee, as defined 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) of this regulation, demonstrate compliance with the 50 percent actual emissions limitation.

(6) Each owner or operator updates the records required by paragraph (c)(5) of this regulation 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 emissions level of either paragraph (b)(3) or (c)(4) of this regulation, whichever is applicable to the source based on its election to operate according to this regulation, the owner or operator shall notify the secretary in writing.

(2) The owner or operator shall mail 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 those 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) of this regulation.

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

(5) The owner or operator shall also file an application for the appropriate class I or class II operating permit within 180 days of discovery of the exceedance of the limits of either paragraph (b) (3) or (c) (4) of this regulation, whichever is applicable to the source based on its election to operate according to this regulation, unless otherwise exempt.

(e) Each owner or operator of a stationary source shall submit to the department, by February 15 of each year, a summary of the monthly records required by paragraph (b) (4) or (c) (5) of this regulation, whichever is applicable, for the previous calendar year in lieu of submitting an annual emissions inventory for the stationary source as otherwise required by K.A.R. 28-19-546(a).

(f) Compliance with this regulation shall not shield 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 be subject to 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 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

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(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 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 permit limitation requirements contained within this regulation at any time during the initial 12-month period.

(j) Within six months of EPA's approval of this regulation into the Kansas state implementation plan, any entity operating under the "general class II air emission source air operating permit for facilities that have actual emissions below 50 percent of major source thresholds" shall apply to operate under this regulation or other applicable operating permit. (Authorized by K.S.A. 2001 Supp. 65-3005; implementing K.S.A. 2001 Supp. 65-3008; effective May 15, 1998; amended Oct. 4, 2002.)

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EPA Rulemakings

CFR: 40 C.F.R. 52.870(c)  
FRM: 68 FR 14540 (03/26/2003)  
PRM: 68 FR 14570 (03/26/2003)  
State Submission: 12/19/2002  
State Effective Date: 09/09/2002  
APDE File: KS-66  
Description: This revision provides an alternative for certain small emission sources which otherwise would be required to apply for a full Class I or Class II operating permit.

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Difference Between the State and EPA-Approved Regulation

None.