

65-3027. Small business assistance program; compliance advisory panel. (a) There is hereby created the small business stationary source technical and environmental compliance assistance program, to be administered by the secretary. The program shall include each of the following:

(1) Adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources and programs to encourage lawful cooperation among such sources and other persons to further compliance with this act.

(2) Adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution.

(3) A designated office within the Kansas department of health and environment, reporting directly to the secretary, to serve as ombudsman for small business stationary sources in connection with implementation of this act.

(4) A compliance assistance program for small business stationary sources which assists small business stationary sources in determining applicable requirements and in receiving permits under this act in a timely and efficient manner.

(5) Adequate mechanisms to assure that small business stationary sources receive notice of their rights under this act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final rule and regulation or standard adopted under this act.

(6) Adequate mechanisms for informing small business stationary sources of their obligations under this act, including mechanisms for referring such sources to qualified auditors or for providing audits of the operations of such sources to determine compliance with this act.

(7) Procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. No such modification may be granted unless it is in compliance with the applicable requirement of this act and rules and regulations promulgated hereunder.

(b) "Small business stationary source" means a stationary air contaminant emission source that:

(1) Is owned or operated by a person that employs 100 or fewer individuals;

(2) is a small business concern as defined in the federal small business act;

(3) is not a major stationary source;

(4) does not emit 50 tons or more per year of any regulated air contaminant; and

(5) emits less than 75 tons per year of all regulated air contaminants.

(c) Upon petition by a source, the secretary, after notice and opportunity for public comment, may include as a small business stationary source for purposes of this section any stationary source which does not meet the criteria of subsection (b)(3), (4) or (5) but which does not emit more than 100 tons per year of all regulated air contaminants.

(d) The secretary may exclude from the small business stationary source definition any category or subcategory of sources that the administrator of the United States environmental protection agency determines to have sufficient technical and financial capabilities to meet the requirements of the federal clean air act without the application of this program, as provided by section 507(c)(3)(A) of the 1990 amendments to the federal clean air act.

(e) The secretary, in consultation with the administrator of the United States environmental protection agency and the administrator of the United States small business administration and after providing notice and the opportunity for public hearing, may exclude from the small business stationary source definition any category or subcategory of sources that the secretary determines to have sufficient technical and financial capabilities to meet the requirements of the act without the application of this section.

(f) There is hereby created a compliance advisory panel composed of seven individuals. The compliance advisory panel shall:

(1) Render advisory opinions concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program, difficulties encountered and degree and severity of enforcement;

(2) make periodic reports to the administrator of the United States environmental protection agency concerning compliance of the small business stationary source technical and environmental compliance assistance program with the requirements of the federal paperwork reduction act, the regulatory flexibility act and the equal access to justice act;

(3) review information for small business stationary sources to assure such information is understandable by the layperson; and

(4) have the small business stationary source technical and environmental compliance assistance program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

(g) The compliance advisory panel shall consist of:

(1) Two members who are not owners, or representatives of owners, of small business stationary sources, appointed by the governor to represent the general public;

(2) two members who are owners, or who represent owners, of small business stationary sources, one appointed by the speaker and one appointed by the minority leader of the Kansas house of representatives;

(3) two members who are owners, or who represent owners, of small business stationary sources, one appointed by the president and one appointed by the minority leader of the Kansas senate; and

(4) one member appointed by the secretary to represent the department of health and environment.

(h) Members of the compliance advisory panel serving on the effective date of this act by appointment by the governor, the speaker of the house of representatives or the president of the senate shall serve for terms ending June 30, 1998; members serving on the effective date of this act by appointment by the minority leader of the house of representatives, the minority leader of the senate or the secretary of health and environment shall serve for terms ending June 30, 1997. Upon expiration of such terms, the term of each member appointed to a vacancy created by expiration of a term shall be two years commencing on July 1 immediately following expiration of the term of the member's predecessor. Any vacancy occurring on the panel shall be filled for the unexpired term by appointment by the original appointing authority.

(i) A chairperson shall be elected annually by the members of the compliance advisory panel. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(j) The secretary may reduce any fee required by this act for any classification of small business sources to take into account the financial resources of such classification.

History: L. 1993, ch. 13, § 15; L. 1997, ch. 18, § 1; Apr. 3.