



# Hot-mix asphalt plants: Do you need an air operating permit?

## Introduction

To protect public health and the environment, industries are required to take steps to protect air quality. This fact sheet summarizes air quality requirements that hot-mix asphalt plants may have to meet.

Emissions from hot-mix asphalt plants may come from pre-production fugitive dust emissions, ducted production emissions, and other production-related fugitive emissions. Ducted sources are those vented to the atmosphere through some type of stack, vent, or pipe, such as from a rotary drum dryer. Fugitive sources are those emitted directly from the source to the ambient air. Examples of fugitive emissions include dust on roads and aggregate processing operations.

## Overview of air quality requirements

The Kansas Department of Health and Environment (KDHE) administers the following three primary programs under provisions of the Kansas Air Quality Act:

1. Construction permit program
2. Operating permit program
3. Annual emissions fee program

If you want to construct, set up, or modify a hot-mix asphalt plant, you may need an air construction permit or approval from KDHE before you begin. Under the construction permit program, a permit is required **before** construction may begin on proposed new or modified sources of air emissions, if increases in potential emissions from the emission source exceed certain thresholds. Construction permit and approval regulations are found in K.A.R. 28-19-300.

Potential to emit is calculated by assuming maximum capacity operation (24-hour operation, 365 days per year) and no pollution control devices. If you would like to learn more about how to calculate your potential to emit (PTE), refer to the SBEAP fact sheet *Here's how to figure your potential to emit* at [www.sbeap.org](http://www.sbeap.org).

In addition to needing a construction permit or approval, in Kansas, hot-mix asphalt plants may require a Class I or a Class II operating permit. Requirements of the Kansas operating permit program are found in the K.A.R. 28-19-500 series of regulations. Whether an operating permit is required depends upon a facility's potential to emit.

Your plant will need a Class I operating permit if it has the potential to emit 10 tons per year or more of a single hazardous air pollutant (HAP), 25 tons per year or more of any combination of HAPs, or 100 tons per year or more of a regulated pollutant. Regulated pollutants include sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOCs), and particulate matter (PM). If your *actual* annual emissions fall below these thresholds, you may be able to apply for the simpler Class II permit.

If you would like to learn more about Class I or Class II operating permits, see the Kansas Small Business Environmental Assistance Program (SBEAP) fact sheet *What is the Kansas Air Quality Act?* at [www.sbeap.org](http://www.sbeap.org).

Class I operating permit forms and instructions, and Class II permit applications are available on the KDHE Bureau of Air website at [www.kdheks.gov/air-permit/download.html](http://www.kdheks.gov/air-permit/download.html).

## Class II permit-by-rule regulation

Certain air emission sources, such as hot-mix asphalt facilities (manufactures hot-mix asphalt by heating and drying aggregate and mixing the aggregate with asphalt cement), are eligible to operate under the KDHE Class II permit-by-rule regulation (KAR 28-19-563). The permit-by-rule application process is easier than the typical Class II application. The permit by rule for hot-mix asphalt facilities is available to plants that restrict their production rate to 250,000 tons or less of asphalt during each consecutive 12-month period. In order for the regulation to apply, your facility cannot contain other emission sources that alone, or in combination with the hot-mix asphalt facility, would require you to obtain a Class I operating permit solely because of the facility's PTE.

The requirements apply to a hot-mix asphalt facility that uses venturi scrubbers, a baghouse, or equivalent particulate emission controls to limit particulate emissions to no more than 0.04 grains per dry standard cubic foot of exhaust gas.

## What are my requirements?

In addition to limiting production to not more than 250,000 tons of hot-mix asphalt during each consecutive 12-month period, a facility that wants to operate under the Class II permit-by-rule must do the following:

- Maintain records demonstrating that production restrictions and particulate emission limits specified in this regulation have not been exceeded.
- Update records monthly, not later than the last day of the month following the month to which the records relate.
- Retain records on site for at least two years.
- Submit an air emission report by April 1 of each year. Required information shall be submitted on forms provided by KDHE.

This publication was created by Kansas State University's Pollution Prevention Institute through the Small Business Environmental Assistance Program (SBEAP). SBEAP's mission is to help Kansas small businesses comply with environmental regulations and identify pollution prevention opportunities. SBEAP is funded through a contract with the Kansas Department of Health and Environment. SBEAP services are free and confidential. For more information, call 800-578-8898, send an e-mail to [sbeap@ksu.edu](mailto:sbeap@ksu.edu), or visit our Web site at [www.sbeap.org](http://www.sbeap.org). Kansas State University is an EEO/AA provider.

Additionally, if at the end of any calendar quarter a facility has produced hot-mix asphalt during the previous four consecutive calendar quarters in an amount that exceeds 212,500 tons (85% of the 250,000 ton restriction), the owner or operator of the facility must report in writing to KDHE actual production numbers during the previous four consecutive calendar quarters. The report must be submitted within 45 days of the last day of that calendar quarter.

## What if I exceed operational limits?

If at any time your facility produces more than 250,000 tons of hot-mix asphalt in any consecutive 12-month period, you must do the following:

- On or before the first working day after discovery of the exceedance, notify KDHE in writing.
- Within 60 days after discovery, submit a written plan to KDHE describing actions taken and that will be taken to return to and remain in compliance with Kansas air quality regulations.
- Within 180 days after the discovery, apply for an appropriate operating permit, if required.

## Plan ahead

Getting permits takes time. Consider permitting time frames when you bid on or contract for jobs, especially if it is a complex permit with public participation and a public hearing. It is important that you understand and follow the requirements that apply to your plant. If you can limit production to 250,000 tons or less of asphalt each consecutive 12-month period, then consider the Class II permit-by-rule.

The Kansas Small Business Environmental Assistance Program (SBEAP) operates a toll-free hotline, if you have questions or need additional information on environmental regulations.



### Notice of nondiscrimination

Kansas State University is committed to nondiscrimination on the basis of race, color, ethnic or national origin, sex, sexual orientation, gender identity, religion, age, ancestry, disability, military status, veteran status, or other non-merit reasons, in admissions, educational programs or activities and employment, including employment of disabled veterans and veterans of the Vietnam Era, as required by applicable laws and regulations. Responsibility for coordination of compliance efforts and receipt of inquiries concerning Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Americans With Disabilities Act of 1990, has been delegated to the Director of Affirmative Action, Kansas State University, 214 Anderson Hall, Manhattan, KS 66506-0124, (Phone) 785-532-6220; (TTY) 785-532-4807.