



# **Bureau of Air and Radiation Changes for the Future**

The Kansas Department of Health and Environment (KDHE) Bureau of Air and Radiation (BAR) has made significant changes in its permitting processes and is also in the process of updating Kansas' regulations to implement new federal air program changes. BAR has re-focused its permitting program on environmental results by concentrating more on significant pollutant sources and has streamlined approvals, permits, and permit renewal processes. Although some of these activities have yet to be finalized, this fact sheet highlights changes that will affect emission sources and summarizes upcoming changes that may affect air-permitting requirements of your business.

## ***New management approaches***

BAR has established a new approach to help reduce time for processing new approvals and/or permits. Companies are now assigned to one staff person at KDHE who will work on all phases of their permit to reduce permit backlogs and construction delays for small sources. BAR has re-organized its permitting resources by assigning staff to specific industry sectors or emission types, and has re-focused its environmental protection strategy to spend more resources on complex major-source emitters. BAR has also established new procedures to help reduce duplication in reporting and paper-work for small emission sources to increase their program efficiency and service capacity.

## ***New regulations and policy approaches***

Several regulations have been revised or revoked, and KDHE has adopted EPA's new source review reform regulations by reference. These changes are summarized below.

### ***Preconstruction review: approval vs. registration***

#### ***K.A.R. 28-19-300 revisions***

BAR is in the process of revising the existing regulation K.A.R. 28-19-300. Final regulations are expected to be implemented in fall 2006. Businesses with new construction or modification projects that equal or exceed the thresholds listed below are required to apply for a preconstruction approval. The new construction approval thresholds, based on potential to emit (PTE) of any regulated pollutant, are as follows:

- 25 tons/yr particulate matter (PM) or 15 tons/yr of PM 10 (agriculture-related activities with emissions of 100 tons/yr)
- 40 tons/yr sulfur oxides (SO<sub>x</sub>)
- 100 tons/yr carbon monoxide (CO)
- 40 tons/yr volatile organic compounds (VOC)
- 40 tons/yr nitrogen oxides (NO<sub>x</sub>)
- 0.6 tons/yr lead or lead compounds

Federally designated fugitive emissions sources must include fugitive emissions in their PTE calculations. New construction or modification projects will also trigger the need for a construction approval if—

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- The project is a major source of hazardous air pollutants (HAP) or causes the facility to become a major HAP source (Major HAP sources emit or have the PTE to emit 10 tons/year of a single HAP or 25 tons/year of a combination of HAPs.);
- The project causes the facility to become a major source of HAPs;
- The project is “major-emitting” and involves construction, reconstruction, or modification activities which are subject to 40 CFR Part 63 MACT standard;
- The project is subject to a relevant standard under 40 CFR Part 61 NESHAP; or
- The project is a new incinerator (except those installed for residential premises with less than six units to burn normal household wastes).

Businesses are still required to apply for construction permits if the emissions unit or stationary source is a new source under federal acid rain requirements, or requires a PSD or NSR permit. These permit applications will include all requirements of a pre-construction approval application, with additional provisions specific to each type of permit.

Under this revision, small emission sources that do not meet the above construction approval thresholds may still be required to register prior to construction if the project triggers construction, reconstruction, or modification under any of the following:

- 40 CFR Part 60 NSPS (except for new residential wood heaters)
- K.A.R. 28-19-722, which applies to existing solid waste landfills
- K.A.R. 28-19-729, which applies to hospital/medical/infectious waste incinerators

Such sources will also be required to register if—

- The project involves construction or reconstruction of an affected source subject to or such that

the source becomes subject to a 40 CFR Part 63 MACT (area sources);

- The applicability of a listed RACT regulation is altered as a result of the construction or modification project; or
- The PTE or the increase in PTE from the proposed project equals or exceeds 15 pounds per 24-hour period or three pounds per hour of VOC for sources located in Johnson or Wyandotte counties.

Registration forms will be available on the KDHE Web site at

<http://www.kdheks.gov/air-permit/download.html>.

### What activities are NOT considered modifications?

The new regulation also clarifies activities that are not considered “modifications,” which therefore would eliminate the need to obtain an approval or to register the activity with KDHE for the following:

- Routine maintenance or relocation of an emission unit within the same installation that doesn’t involve an appreciable change in emissions, or increase the PTE, or affect air quality in any way. Examples include bag replacements in bag houses; repairs or changes in electrostatic precipitators that do not decrease design efficiency; other changes to control devices as long as the performance of the control device is not altered; and replacing boiler tubes, piping, ductwork, engines, or other equipment as part of a normal maintenance program.
- Increases or decreases in operating hours or production rates as long as these do not exceed the originally approved design capacity of the source or the unit, and the increase PTE does not exceed any limitation stated in the permit.
- Changes in processes or process equipment that do not involve installation, construction, or reconstruction of an emission source or its con-

trol device; or involve a change in emissions, or PTE from the source or emission unit, or affect the air quality from the source or the unit.

- Replacement of existing emission units that do not involve an appreciable change in chemical or physical nature, or increase PTE or cause detrimental effects on air quality.

Note, however, that the above activities do not change the term “modification” as it applies to 40 CFR 52.21, New Source Review, NSPS, NESHAP, or MACT.

### **K.A.R. 28-19-300a**

As part of the changes for new emissions sources, BAR has provided several rule exemptions for construction approvals for specific activities. Rule exemptions include the following:

- Installation of combustion equipment that emits only combustion products and produces less than 150 lb/day in actual emissions; and
  - uses exclusively natural gas or liquefied petroleum gases or combinations of these fuels. These units must have a maximum capacity of less than 10 million Btu/hr heat input, or
  - the combustion equipment has a maximum capacity of less than one million Btu/hour heat input.
- Emergency equipment such as internal combustion engines, gas turbine-drive compressors, electric generator sets, and water pumps and their associated fuel storage tanks, if they are only used for emergency purposes or for short periods to perform maintenance and testing with no more than 500 hours operation time annually.
- Natural gas compressor facilities, gas and oil exploration and production facilities, provided the facility-wide total maximum horsepower (design ratings) for all reciprocating internal combustion engines in compressor service is equal to or less than 240 horsepower.

### **K.A.R. 28-19-350 revisions**

KDHE BAR is also adopting EPA’s new source review reform amendments which will change the existing New Source Review (NSR) regulation for air quality. In Kansas, the NSR program refers to Prevention of Significant Deterioration (PSD) permits and PSD applicability.

Changes to the NSR program affect applicability of PSD permits. Once a PSD permit is required, the permitting process has not changed. The changes in applicability tests include the following:

- Establishes a new actual-to-projected actual (ATPA) applicability test for determining whether there will be an emission increase that triggers the need for a modification. For physical changes or changes in the method of operation to existing emissions units at existing major NSR sources, major NSR applicability will be based on the highest emissions increase resulting from the difference between the projected actual emissions from all affected emissions units and the baseline actual emissions from all affected emissions units.
- Establishes a new optional program for sources covered by a plant-wide applicability limit (PAL). A PAL is an annual (source-wide) emissions limitation (12-month total, rolled monthly) under which the facility can make any changes without triggering NSR review for that pollutant. A PAL can be pollutant-specific and last for a 10-year term. At the time of setting a PAL, classify all emissions units as new or existing. Also sources must determine the baseline actual emissions of all units.

NSR reform added equipment replacement provisions (ERP) to the PSD and non-attainment NSR air permitting requirements; however, the U.S. Court of Appeals for the D.C. Circuit issued a stay order regarding the ERP rule. You can check on the status of this ruling at <http://www.epa.gov/nsr/>. Also, the

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clean unit exemption and pollution control projects parts of the reform have been vacated by the courts.

### Other changes

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In addition to changes in the pre-construction permitting process, BAR revised its emissions inventory due date to April 1 of each year for Class II permitted facilities (KAR 28-19-546) and revoked both the sulfur rule (K.A.R. 28-19-22) as well as the class III operating permit program (K.A.R. 28-19-575 through 578).

### Additional resources

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The BAR has updated their Web pages with many new technical guidance documents and other valuable resources. We recommend updating your Web bookmarks to include the following—

BAR's main department page contains links to departments and a "What's New" section:

<http://www.kdheks.gov/bar/index.html>

BAR's Air Permitting and Compliance Section includes staff contact information, technical guidance documents, frequently asked questions, and forms and applications:

<http://www.kdheks.gov/air-permit/index.html>

BAR's Air Permit Forms and Applications Web page includes Class I and II forms, construction permit applications, NSPS notifications, and expedited approval applications and instructions:

<http://www.kdheks.gov/air-permit/download.html>

BAR's Web site also includes a number of construction and Class II operating permit process/equipment description forms:

[http://www.kdheks.gov/air-permit/process equip\\_desc.html](http://www.kdheks.gov/air-permit/process equip_desc.html)



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