

# Construction Permitting 101



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**Our Mission: To protect and improve the health and environment of all Kansans.**

# Construction Permit Types

- Construction Permit
- Construction Approval
- Response
- PSD Permit



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# K.A.R. 28-19-300 Applicability Guidance - Permits

Required when construction or modification project:

- Emissions exceed thresholds specified
- Construct new acid rain unit or modification trigger new acid rain requirements
- Is a new major source of hazardous air pollutants (HAPs)
- Causes an increase in emissions above HAP major source thresholds
- Is an incinerator
- Sources designated by the secretary of KDHE

# K.A.R. 28-19-300 Applicability Guidance - Permits

A permit is not required solely for:

- Modifications at an Acid Rain unit
- Fugitive dust from storage piles, conveyors, or units other than the Acid Rain unit
- Area HAPs source increases emissions less than major HAPs thresholds
- Major HAPs source increases emissions less than major HAPs thresholds
- All of above not required to obtain permit or approval as long as no emission threshold or other permit triggers
- Approvals may be required

# Commence Construction

- A facility cannot “commence construction” until a permit or approval is issued.
- Examples of what you can do:
  - Site clearing activities
  - Excavation and demolition activities
- What you cannot do:
  - Permanently affix or install equipment whose emissions contribute to the requirement for a permit.

[http://www.kdheks.gov/air-permit/forms/Pre\\_Construction.pdf](http://www.kdheks.gov/air-permit/forms/Pre_Construction.pdf)

# Permitting

- PSD/Construction Permit/Approval
  - Required prior to commencing construction
  - To assure compliance with NAAQS and applicable regulations

# PSD Permit

- K.A.R. 28-19-350, 40 CFR 52.21
- Major Review – required air quality analysis and control technology review
- Required for new Major Stationary Sources that exceed:
  - 100 tpy of any regulated new source review pollutant for EPA listed sources (40 CFR 52.21(b)(23)(i))
  - 250 tpy for all other sources

# PSD Permit

- PSD review required if emissions increase exceeds PSD significance levels for regulated pollutants [40 CFR 52.21(b)(23)(i).]



# PSD New Source Review

- Emissions must be well controlled
  - Best Available Control Technology (BACT)
- Emissions cannot cause:
  - Exceedance of the “increment,” (NO<sub>x</sub>, SO<sub>2</sub>, PM), nor
  - Cause or contribute to a NAAQS violation
  - Demonstrated through modeling
- Preconstruction monitoring
- Complex regulation
  - 40 CFR §52.21 (most states’ PSD rules are identical or very similar)

# Construction Permits

- K.A.R. 28-19-300(a)
- Required for construction or modification of existing source or emissions unit if PTE equals or exceeds or increase in PTE exceeds thresholds for certain regulated pollutants.

# Potential to Emit (PTE)

- Potential-To-Emit (PTE) of emissions of equipment/installation determine type of permit needed, if any.
- PTE based on maximum design rate operating continuously (8760 hrs/yr).
- Emission Factors taken from EPA data (AP-42), performance tests, or engineering data

# Construction Permit PTE Thresholds

<u>Pollutant</u>	<u>Threshold (tons/year)</u>
PM	25
PM10	15
PM (ag-related)	100
SOx	40
CO	100
VOC	40
NOx	40
Lead (or compounds)	0.6

# Construction Permit required if:

- Emissions Unit is an affected source under Title IV (Acid Rain)
- Emission Unit is a Major HAP Source
- Incinerator



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# K.A.R. 28-19-300 Guidance

## Non-road Engines:

K.A.R. 28-19-300 describes permit and approval requirements for stationary sources. KDHE has determined that non-road engines, as defined in 40 CFR Part 1068.30, are not stationary sources, and are not subject to permit or approval requirements under K.A.R. 28-19-300.

# Construction Approval Thresholds

<u>Pollutant</u>	<u>Threshold (tons/year)</u>
PM	5 lb/hr
PM10	2 lb/hr
PM/PM10 (ag-related)	5 lb/hr
SOx	2 lb/hr
CO	50 lb/24 hr
VOC	50 lb/24 hr
NOx	50 lb/24 hr
Lead (or compounds)	0.1 lb/hr

# Construction Approval Required if: [K.A.R 28-19-300(b)]

- Subject to New Source Performance Standard (NSPS) (K.A.R. 28-19-720, 40 CFR Part 60)
- Subject to National Emission Standards for Hazardous Air Pollutants (NESHAP) (K.A.R. 28-19-735, 40 CFR Part 61)
- Subject to Maximum Achievable Control Technology Standard (MACT) (K.A.R. 28-19-750, 40 CFR Part 63)
  - Except 40 CFR Part 63, Subpart M, CCCCCC, or ZZZZ(area sources only)
- Sources which apply for approval under K.A.R. 28-19-302(c) (operational restrictions)

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# K.A.R. 28-19-300 Applicability Guidance - APPROVALS

An approval is not required solely for:

- Changes at an NSPS affected facility that do not meet the regulatory definition of construction, reconstruction, or modification
- Changes at a MACT affected facility that do not meet the regulatory definition of construction or reconstruction
- Existing sources subject to a new rule (submit required notifications, follow rule requirements)

# Expedited Permit Applications

Goal: Reduce application processing time

- Combine application and permit
- Eliminate KDHE internal review process by making all documents identical for each source type
- No administrative or clerical activities for issuance

# Expedited Permit Application Process

- Application Submitted – electronically to [KDHEBOApermit@ks.gov](mailto:KDHEBOApermit@ks.gov)
- Application reviewed by permit writer
- Once approved, permit is signed and emailed back to source
- Guidance documents were developed for several federal regs to aid in compliance

# Expedited Permits/Approvals

- Available Expedited Applications
  - Portable Rock Crusher (not for quarries)
  - Animal Incinerator
  - Concrete Batch Plant
  - Oil and Natural Gas Production and Compressor Stations
  - Emergency Generator

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

# Expedited Oil and Gas Application

- Only for minor source oil and natural gas production facilities and compressor stations
  - Minor Source –for all regulated pollutants
- Major sources or facilities needing FELs to avoid the Title V program must submit a traditional application
  - Facilities requesting FELs to avoid NSPS OOOO may still use the expedited application

# Expedited Concrete Batch Application

- Application is for construction permit and/or Class II operating permit
- Truck mix loading/ central mix loading capacity less than 840 yd<sup>3</sup>/hr
- Emissions must be controlled with baghouse for truck mix > 160 yd<sup>3</sup>/hr and central mix > 290 yd<sup>3</sup>/hr
- Applicable only to activities associated with concrete batch production

# Expedited Animal Incinerators

- Expedited Construction Permit
- Only for units combusting animal carcasses that are not classified as infectious waste
- Less than 350 lbs/hr waste burning rate
- Must meet the design and emission requirements in K.A.R. 28-19-40(C) and 41
- Cannot be homemade incinerator
- Fuel natural gas, liquified petroleum or diesel
- Burners less than 3 mmBtu/hr

# Standard Construction Permit/Approval

- Gasoline Dispensing Facilities that are:
  - Not required to obtain a Class I Operating Permit or;
  - Required to apply for Class I Operating Permit but has <10,000 gallon/month throughput

<http://www.kdheks.gov/air-permit/forms/stnd-constr-permit-approval-gasoline-dispensing.pdf>



# How Can I Get My Permit Quickly?

- Process applications more quickly if application is complete
- Email approvals and responses for new engines and replacements
- Online permits and approvals
- Streamlined and expedited documents
- Send permit fee with application – we now accept credit cards for fees up to \$5000

# Construction Application (What needs to be Submitted)

- Cover Letter
- Notification of Construction/Modification Form
- Equipment Form(s)
- PTE Calculations
- Other info (MSDS, Manufacturer's Data Sheets, Engine Certification, etc.)
- Application Fee
- Submit Applications by Mail or to [KDHE.BOApermit@ks.gov](mailto:KDHE.BOApermit@ks.gov)
- <http://www.kdheks.gov/air-permit/download.html>

# How Is My Application Processed?

- Application Received
- Application Review by Unit Supervisor for Completeness
- Application Assigned a Tracking Number
- Application Assigned to Permit Writer for Technical Review

# KAPRS

- KAPRS is the Kansas Air Permit and Reporting System.
- KAPRS was created to allow applicants to submit applications and track permit applications electronically.
- Instructions, registration and links can be found at:
  - <http://www.kdheks.gov/bar/index.html>

# Confidential Information

- Information other than emission data may be treated as confidential if the information would divulge methods or processes entitled to protection as trade secrets. K.S.A. 65-3015.
  - Must provide both censored (masked) and uncensored document, clearly marked as **confidential**.
  - Specification of the type of information to be held as confidential (i.e. product formulas, process rates, etc)
  - Specification and justification of reason the information is qualified by statute to be treated as confidential,
  - A reference at each place in the document or documents where information is masked referring to the specification of the type of information masked and the specification and justification the information is qualified by statute to be treated as confidential.

<http://www.kdheks.gov/air-permit/forms/Confidential.pdf>

# Application Fees

- Requirements are found at K.A.R. 28-19-304(a-c).
- Construction Permits (includes expedited)
  - Based on Source Category
  - Maximum of **\$4,000**
  - Minimum of **\$1,000**
- Construction Approvals **\$750** (includes expedited)

# PSD Application Fees

- K.A.R. 28-19-304(d)
- New permit **\$10,000**
- Refined modeling analysis **\$8,000**
- Revision to application **\$5,000**
- Revision to modeling **\$4,000**
- Modification to existing permit **\$3,000**; **\$10,000** if includes
  - New/modified best available control technology (BACT)
  - Review of emissions or net calculations
  - New unit subject to BACT

# Amended Fee Regulations

Located At:

- <http://www.kdheks.gov/bar/regs.html>



# Other

- Guidance Documents
  - [http://www.kdheks.gov/air-permit/tech\\_guidance.html](http://www.kdheks.gov/air-permit/tech_guidance.html)
- FAQs
  - <http://www.kdheks.gov/air-permit/faq.html>
- BOA Contacts
  - <http://www.kdheks.gov/bar/contact.html>
- Outside Links
  - [http://www.kdheks.gov/air-permit/links\\_outside.html](http://www.kdheks.gov/air-permit/links_outside.html)

# Questions

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**Thank you**

