

28-19-300. Construction permits and approvals; applicability. (a) ~~Any~~ Each person who proposes to construct or modify a stationary source or ~~emissions~~ emission unit shall obtain a construction permit before ~~commencing such~~ beginning actual construction or modification if at least one of the following conditions is met:

(1) The potential-to-emit of the proposed stationary source or ~~emissions~~ emission unit, or the increase in the potential-to-emit resulting from the modification, equals or exceeds any of the following:

(A) Either 25 tons ~~per year~~ of particulate matter per year or 15 tons ~~per year~~ of PM10 per year, except for any agricultural-related activity, in which case the emission level is shall be 100 tons ~~per year~~ of particulate matter per year, including ~~but not limited to~~ PM10;

(B) 40 tons ~~per year~~ of sulfur dioxide or sulfur trioxide, or a combination ~~thereof~~ of these, per year;

(C) 100 tons ~~per year~~ of carbon monoxide per year;

(D) 40 tons ~~per year~~ of volatile organic compounds per year;

(E) 40 tons ~~per year~~ of oxides of nitrogen per year; ~~or~~

(F) 0.6 tons ~~per year~~ of lead or lead ~~compound~~ compounds per year; ~~or~~

(G) 10 tons of directly emitted PM2.5 per year. For the purposes of this paragraph, "PM2.5" shall mean particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.

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(2) For the purposes of this paragraph, the definitions in 40 C.F.R. part 63 adopted by reference in K.A.R. 28-19-750 shall apply. The emissions unit or construction or modification project is located at a stationary source is an affected source; and involves any of the following:

(A) The construction of any new major source of hazardous air pollutants;

(B) the reconstruction of any existing major source of hazardous air pollutants;

(C) the modification of any existing area source of hazardous air pollutants such that the source becomes a major source; or

(D) any activity specified in 40 C.F.R. 63.5(b)(3).

(3) ~~the emissions unit or stationary source is a major source of hazardous air pollutants;~~
The source is requesting a federally enforceable operational restriction or permit condition pursuant to K.A.R. 28-19-302(b).

(4) ~~The emissions~~ emission unit or stationary source is an incinerator used to dispose of refuse by burning or pyrolysis or used for the processing of salvageable materials, except incinerators installed on residential premises that contain ~~less~~ fewer than six dwelling units and ~~that~~ are used to burn waste materials associated with normal habitation of those dwelling units; ~~or.~~

(5) ~~The emissions~~ emission unit or stationary source is required to apply for a construction approval pursuant to ~~K.A.R. 28-19-300(b)(2)~~ paragraph (b)(2), and the secretary ~~or an authorized representative of the secretary~~ determines that air emissions from the ~~emissions~~ emission unit or stationary source require that the permit issuance procedures be implemented.

(b) Any Each person who proposes to construct or modify a stationary source or

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~~emissions~~ emission unit who is not required to obtain a construction permit pursuant to ~~K.A.R. 28-19-300 subsection (a)~~, shall, before ~~commencing~~ beginning actual construction or modification of the stationary source or ~~emissions~~ emission unit, obtain an approval from the department to ~~commence such~~ begin actual construction or modification if at least one of the following conditions is met:

(1) The potential-to-emit of the proposed stationary source or ~~emissions~~ emission unit, or the increase in the potential-to-emit resulting from the modification, equals or exceeds one or more of the following:

(A) Either ~~5~~ five pounds ~~per hour~~ of particulate matter per hour or ~~2~~ two pounds ~~per hour~~ of PM10 per hour, except for any agricultural-related activity, in which case the emission level is ~~5~~ shall be five pounds ~~per hour~~ of particulate matter per hour, including ~~but not limited to~~ PM10;

(B) ~~2~~ two pounds ~~per hour~~ of sulfur dioxide or sulfur trioxide, or a combination ~~thereof~~ of these, per hour;

(C) 50 pounds ~~per 24-hour period~~ of carbon monoxide per 24-hour period;

(D) 50 pounds ~~per 24-hour period~~ of volatile organic compounds per 24-hour period, except when the stationary source or ~~emissions~~ emission unit is located in an area designated as a nonattainment area at in 40 CFR C.F.R. 81.317 as in effect on July 1, 1989, in which case approval is ~~shall be~~ required if the emission level exceeds either 15 pounds per 24-hour period or ~~3~~ three pounds per hour;

(E) 50 pounds ~~per 24-hour period~~ of oxides of nitrogen calculated as nitrogen dioxide per 24-hour period; or

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(F) 0.1 pounds ~~per hour~~ of lead or lead ~~compound~~; compounds per hour.

(2) The secretary ~~or an authorized representative of the secretary~~ determines that any other air contaminant emissions from the ~~emissions~~ emission unit or stationary source ~~may~~ could cause or contribute to air pollution within the state because of ~~its~~ the specific chemical or physical nature of the emissions or because of the quantity discharged ~~and if the department notifies the owner or operator of the emissions unit or stationary source of such determination prior to the commencement of the construction or modification of the emissions unit or stationary source;~~ .

(3) ~~the source is not otherwise required to obtain a construction permit pursuant to K.A.R. 28-19-30(a) but is subject to:~~

(A) ~~an emissions limitation or standard pursuant to~~ The construction or modification project is located at a stationary source for which a standard has been promulgated under 40 C.F.R. part 60, as adopted by reference in K.A.R. 28-19-720, new source performance standards, except and the project involves the construction of any new source or the modification or reconstruction of any existing source subject to the standard. For the purposes of this paragraph, the definitions in 40 C.F.R. part 60 adopted by reference in K.A.R. 28-19-720 shall apply. A construction approval shall not be required for construction, reconstruction, or modification projects subject to the standards of performance for new residential wood heaters, 40 CFR C.F.R. part 60, subpart AAA; .

(B) (4) The construction or modification project is located at a stationary source for which a standard has been promulgated under 40 C.F.R. part 61, as adopted by reference in

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K.A.R. 28-19-735, ~~national emission standards for hazardous air pollutants, except the national emissions standard for asbestos, standard for demolition and renovation, and the project involves the construction of any new source or the modification of any existing source subject to the standard. For the purposes of this paragraph, the definitions in 40 C.F.R. part 61 adopted by reference in K.A.R. 28-19-735 shall apply. A construction approval shall not be required for construction or modification projects subject to 40 CFR C.F.R. 61.145; or~~

~~(C) (5) The construction or modification project is located at a stationary source for which a relevant standard has been promulgated under 40 C.F.R. part 63, as adopted by reference in K.A.R. 28-19-750 et seq., hazardous air pollutants and the project involves the construction of any new source or the reconstruction of any existing source subject to the relevant standard. For the purposes of this paragraph, the definitions in 40 C.F.R. part 63 adopted by reference in K.A.R. 28-19-750 shall apply. A construction approval shall not be required solely if the project is subject to any of the following:~~

~~(A) 40 C.F.R. part 63, subpart M;~~

~~(B) 40 C.F.R. part 63, subpart CCCCCC; or~~

~~(C) 40 C.F.R. part 63, subpart ZZZZ, if the project is located at an area source.~~

~~(4) (6) The source is seeking an approval with operational restrictions pursuant to K.A.R. 28-19-302(b) (c).~~

~~(c) For the purpose of this regulation, neither of the following shall not be considered a modification:~~

~~(1) Routine maintenance or parts replacement; or~~

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(2) an increase or decrease in operating hours or production rates if both of the following conditions are met:

(A) Production rate increases do not exceed the originally approved design capacity of the stationary source or ~~emissions~~ emission unit; and

(B) the increased potential-to-emit resulting from the change in operating hours or production rates ~~do~~ does not exceed any emission or operating limitations imposed as a condition to any permit issued under ~~these regulations~~ this article of the department's regulations. (Authorized by K.S.A. ~~1993~~ 2015 Supp. 65-3005; implementing K.S.A. ~~1993~~ 2015 Supp. 65-3008; effective Jan. 23, 1995; amended P-_____.)

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