

STATE OF KANSAS

Department of Health and Environment

Notice of Public Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment (KDHE), Division of Environment, Bureau of Air, will conduct a public hearing at 10 a.m. Monday, August 30, in Room 530 of the Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider the adoption of proposed amended air quality regulations K.A.R. 28-19-202, 28-19-517, 28-19-720, 28-19-735, 28-19-750, and 28-19-750a and the revocation of air quality regulations K.A.R. 28-19-728 through 28-19-728f. A summary of the proposed regulations and the estimated economic impact follows.

Summary of Regulations:

K.A.R. 28-19-202. The proposed amendments will remove the minimum thresholds for calculating emissions fees for class I stationary sources, increase the emissions fee from \$25 per ton to \$37 per ton, and modify the late fee structure. The purpose of these changes is to ensure the fees are consistent with actual program costs. Projected shortfalls begin in fiscal year 2012 due to reductions in the amount of air pollutant emissions upon which the fees are calculated, the addition of the mercury deposition monitoring program, and decreased state general funding to the bureau.

K.A.R. 28-19-517. The proposed amendments will change the annual emissions inventory reporting date from June 1st to April 1st. This change is necessary due to the EPA moving up the deadline by 5 months for states to report their emissions inventories.

K.A.R. 28-19-720. The proposed amendments will incorporate changes made to federal New Source Performance Standards (NSPS) through July 1, 2008. The current adoptions by reference exist only for federal NSPS rules promulgated through June 30, 2005, and specific

amendments to include the federal Clean Air Mercury Rule (CAMR).

K.A.R. 28-19-728 through 28-19-728f. Revoked. Due to the vacatur of CAMR, the proposed revocations will align Kansas air quality regulations with federal court action.

K.A.R. 28-19-735. The proposed amendments will adopt by reference the provisions of 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP), through July 1, 2008. The Part 61 hazardous air pollutant (HAP) regulations establish standards to limit the emissions of specific HAPs. The state's authority currently exists for the Part 61 rules promulgated through June 30, 2005. This proposed regulation is necessary to maintain the state's authority under existing delegation agreements to administer federal regulations and to ensure Kansas air quality regulations are consistent with federal requirements.

K.A.R. 28-19-750. The proposed amendments will adopt by reference the provisions of 40 C.F.R. Part 63, NESHAP, through July 1, 2008. Prior to the 1990 Clean Air Act Amendments (CAAA), section 112 of the Clean Air Act directed the EPA administrator to identify HAPs for regulation. Under this, a limited number of regulations were developed to address specific compounds originating in certain industries. In the 1990 CAAA, Congress established a list of HAPs for which the administrator was to develop controls. These are now administered under 40 C.F.R. Part 63, which the state implements in 28-19-750. The state's authority currently exists for the 40 C.F.R. Part 63 rules promulgated through June 30, 2005. This proposed regulation is necessary to maintain the state's authority under existing delegation agreements to administer federal regulations and to ensure Kansas air quality regulations are consistent with federal requirements.

K.A.R. 28-19-750a. The proposed amendments will adopt by reference 40 C.F.R. Part 65, Consolidated Federal Air Rule, through July 1, 2008. This federal regulation consolidates

different requirements for the Synthetic Organic Chemical Manufacturing Industry (SOCMI) to enable easier compliance for facilities. Currently, the state's authority only exists for the 40 C.F.R. Part 65 rules promulgated through June 30, 2003. This proposed regulation is necessary to maintain the state's authority under existing delegation agreements to administer federal regulations and to ensure Kansas air quality regulations are consistent with federal requirements.

Economic Impact:

K.A.R. 28-19-202 will result in additional costs to the regulated community due to the proposed emissions fee increase. The fee increase coupled with the removal of the minimum thresholds, is predicted to generate additional revenue of approximately \$1,750,000 to \$1,800,000, which is necessary to maintain the Kansas air quality program. The remaining proposed regulations are not anticipated to result in additional costs to KDHE, other state agencies, or the private sector because the impacted facilities are already subject to the costs associated with the current federal standards which KDHE is proposing to adopt by reference.

The time period between the publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulatory action. All interested parties may submit written comments prior to 5:00 pm on the day of the hearing to Keith Weber, Kansas Department of Health and Environment, Bureau of Air, 1000 S.W. Jackson, Suite 310, Topeka, Kansas 66612, by fax to (785) 296-7455, or by e-mail to kweber@kdheks.gov. All interested parties will be given a reasonable opportunity to present their views orally on the proposed regulatory action during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to require each participant to limit any oral presentation to five minutes.

Copies of the proposed regulations and complete economic impact and environmental

benefit statements may be obtained from the KDHE Bureau of Air by contacting Keith Weber at (785) 291-3278 or kweber@kdheks.gov. Copies may also be viewed at the following locations:

- Department of Air Quality, Unified Government of Wyandotte County - Kansas City, Kansas Health Department, 619 Ann Ave., Kansas City, Kansas
- Johnson County Environmental Department, 11811 S. Sunset, Suite 2700, Olathe
- Curtis State Office Building, 1000 S.W. Jackson St., Ste. 310, Topeka
- KDHE Northeast District Office, 800 W. 24th St., Lawrence
- KDHE Northwest District Office, 2301 E. 13th St., Hays
- KDHE North Central District Office, 2501 Market Place, Ste. D, Salina
- KDHE South Central District Office, 130 S. Market, Ste. 6050, Wichita
- KDHE Southeast District Office, 1500 W. 7th St., Chanute
- KDHE Southwest District Office, 302 W. McArtor Rd., Dodge City
- Wichita-Sedgwick County Dept. of Community Health, 1900 E. 9th St., Wichita

The material is also available on the Bureau of Air's website at

<http://www.kdheks.gov/bar/publicnotice.html>. Questions pertaining to these proposed regulations should be directed to Keith Weber at (785) 291-3278.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and the economic impact and environmental benefit statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Keith Weber at (785) 291-3278.

Roderick L. Bremby

Secretary of Health and Environment