

**BUREAU OF ENVIRONMENTAL REMEDIATION/REMEDIAL SECTION  
POLICY and GUIDANCE  
NITRATE PRESUMPTIVE REMEDY**

**BER POLICY # BER-RS-47  
DATE: August 2003  
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**Section Chief:**  **Date:** 8/28/10

**Bureau Manager:**  **Date:** 9/29/10

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***REVISIONS***

**Revisers: N. Garven, S. Bryant, C. Jaeger**

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**1.0 INTRODUCTION**

The Kansas Department of Health and Environment-Bureau of Environmental Remediation (KDHE-BER) has developed a nitrate presumptive remedy (NPR) approach tailored to address contaminated sites with nitrate and/or ammonia impacts to soil and/or groundwater. This NPR policy and guidance represents minimum KDHE-BER requirements for remediation of nitrate-and/or ammonia-contaminated sites in Kansas. Use of the generic terms nitrate and ammonia in this document refer to the nitrogen form of nitrate-N and ammonia-N. On a site-specific basis, other requirements may be identified and requested of the implementing party, particularly where there are other contaminants of concern (COCs) in addition to nitrate/ammonia, such as herbicides, pesticides and carbon tetrachloride used historically as a grain fumigant. Because conditions at many nitrate/ammonia-contaminated sites are similar and cleanup options are generally limited to more simplified, conventional approaches, this NPR policy and guidance is intended to streamline the investigation and cleanup process for nitrate/ammonia sites by focusing on what is minimally necessary to fulfill both investigation and remedial action objectives (RAOs).

During implementation of NPR activities, KDHE-BER considers operational constraints for active facilities. For example, it may not be feasible to initiate excavation activities during harvest or peak times in the agri-business industry. It is critical that the implementing party develop a schedule up front to accommodate active facility operations while clearly establishing an action plan to complete the required activities as quickly as possible. In addition, KDHE-BER may also consider seasonal implementation to maximize beneficial reuse of excavated soil and/or recovered groundwater, subject to KDHE-BER approval. Once a site has been addressed to KDHE-BER's satisfaction, facility owners and/or operators should utilize best management practices (BMPs) to prevent the recontamination of soil and groundwater as a result of new releases or spills. The Kansas Board of Agriculture has guidelines for proper construction of secondary containment structures and other pollution prevention requirements.

This policy may be used by the various cleanup programs within KDHE-BER to address nitrate/ammonia contaminated sites. Project managers will assure that specific programmatic requirements are followed when using this policy.

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**2.0 OBJECTIVES AND TIMING**

The first objective of this NPR policy is for the implementing party to conduct an investigation under KDHE-BER oversight to determine the magnitude and extent of nitrate/ammonia and other known or suspected contamination in all impacted environmental media (e.g., soil, groundwater, surface water, etc.). The implementing party must provide an accurate calculation of the volume of soil that has been impacted by nitrate/ammonia and/or other contaminants.

The second objective is to determine if an initial response or remedial action is necessary to eliminate or reduce immediate impact to public health and/or the environment. KDHE-BER will evaluate, modify, and approve all such actions. KDHE-BER's primary expectations for investigation and remediation of nitrate/ammonia-contaminated sites include the following:

- Identification, full vertical and horizontal delineation, and reduction of soil source area contamination to the extent practicable.
- Identification of any threatened or affected drinking water sources and provision of treatment or alternate water supplies, as appropriate.
- Identification and delineation of the magnitude and extent of impact to groundwater.
- Reduction of groundwater contamination hot spots through pumping for beneficial use, discharge, or treatment, whichever presents the most potential for timely reduction of groundwater contamination.

Depending upon the magnitude and extent of impact to groundwater, with consideration of the effectiveness of any groundwater hot spot reduction, KDHE-BER may require implementation of other remedial strategies to best achieve RAOs for groundwater. BER Policy No. BER-RS-015 entitled *Potential Applicable or Relevant and Appropriate Requirements (ARARs)* must be followed by the implementing party.

Due to the expense, difficulty, and time-consuming nature involved with demonstrating the effectiveness of various nitrate and ammonia remedial alternatives, KDHE-BER wishes to discourage remedial alternatives that would otherwise necessitate extensive bench- and/or pilot-testing. Experience has demonstrated that the procedure outlined in this NPR approach is often the quickest and least expensive remedial option currently available for the remediation of nitrate/ammonia contamination. KDHE-BER may also consider other innovative proposals for nitrate/ammonia reduction in groundwater, but may require implementation under a different framework if the proposal is not presumptive in nature.

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**3.0 PROCESS**

The following is a general, step-wise process to accomplish these NPR objectives in an efficient and turn-key manner. The implementing party will be required to submit appropriate work plans and reports throughout the process which are subject to KDHE-BER review and approval.

**STEP 1:** Either the implementing party, or KDHE-BER in consultation with the implementing party, will perform an area water well survey and sample all nearby private wells likely to be affected in order to identify potential receptors and determine the degree of impact. A water well survey form provided by KDHE-BER must be used to document the water well survey. If adverse impact is identified, the implementing party will take appropriate measures to reduce potential exposure (e.g., providing bottled water supply, whole-house treatment, and/or a connection to a public water supply) with approval from KDHE-BER. Results of the water well survey sampling effort may be useful in distinguishing upgradient/background conditions and focusing subsequent investigation efforts.

**STEP 2:** The implementing party must submit an investigation work plan for KDHE-BER review and approval. The investigation may be conducted in a step-wise manner; however, KDHE-BER recommends that the number of mobilizations to the site be minimized to save money and expedite overall NPR implementation. Work plan addenda can supplement the original NPR Investigation Work Plan to fill data gaps before the NPR investigation is considered fully complete. The NPR Investigation Work Plan must also include a site-specific quality assurance project plan (QAPP) and field sampling plan (FSP). A health and safety plan (HSP) must also be submitted with the NPR Investigation Work Plan for Administrative Record File purposes; however, please note that KDHE-BER does not customarily review or provide approval of the implementing party's HSP.

The following information must be contained in all NPR Investigation Work Plans:

***Background Information and Current Site Conditions***

- Summarize previous investigation results identifying areas and media contaminated with nitrate/ammonia.
- Identify current or historical practices or fertilizer handling areas that may contribute to nitrate/ammonia contamination.
- Identify other potential sources of non-nitrate/ammonia contamination so that appropriate sampling may be conducted in targeted areas (e.g., chemical storage, disposal areas,

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- septic tank/lateral field system, etc.).
- Pertinent information on geology, hydrogeology, soils and topography.
  - Propose soil and groundwater sampling, and as appropriate other environmental media sampling, in locations of suspected contamination or areas of known historical significance.
  - Maps indicating the site location, areas and levels of known contamination, a map summarizing proposed sampling locations, and other pertinent tables or figures.

***Work Plan Tasks for NPR Investigation***

Describe in detail the tasks required to complete the NPR investigation. The tasks must be listed so that they clearly state the manner in which the NPR investigation is to be implemented. The tasks must include those necessary to complete the site investigation such as:

- Soil sampling;
- groundwater sampling;
- surface water sampling; and
- monitoring well installation for future long-term monitoring and monitoring of NPR effectiveness.

***STEP 3:*** Upon KDHE-BER approval of the NPR Investigation Work Plan, the implementing party will implement the KDHE-BER approved plan to determine the magnitude and extent of nitrate/ammonia and other contamination in all impacted environmental media (e.g., soil, groundwater, surface water, etc.) with particular emphasis on identification of all nitrate/ammonia soil source area hot spots. Based on KDHE-BER experience the likely most cost-effective investigative method involves direct-push probing/sampling methods combined with sampling nearby wells instead of delineating the extent of impact through installation of more costly monitoring wells. Once the extent of impact has been determined through initial probing/sampling efforts, permanent monitoring wells can be better located thereby reducing overall project costs.

***STEP 4:*** Following the completion of all investigative activities, an NPR Investigation Report must be submitted to KDHE-BER for review and approval. An Interim Report of Findings may be required at the discretion of KDHE-BER for investigation results obtained in a step-wise manner. The NPR Investigation Report will be the basis for the NPR Action Plan.

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***NPR Investigation Report***

The NPR Investigation Report must, at a minimum, include the following:

- All site history and background information;
- summary of site-specific hydrogeologic conditions;
- presentation of investigation results;
- description of the full vertical and horizontal extent of contamination including an estimated volume of impacted soil;
- description of any deviations from the approved NPR Investigation Work Plan;
- quality assurance/quality control (QA/QC) data summary with discussion of considerations for laboratory and field;
- borehole logs; monitoring well construction schematics and water well (WWC5) records;
- laboratory analytical reports;
- surveyor's report; and
- data validation reports.

Corresponding tables, maps and figures should minimally present:

- General site layout;
- sample locations;
- sample collection depth interval(s);
- static water elevation measurements;
- top-of-casing elevations;
- groundwater elevation contour map(s) with water level elevation for each water-bearing zone of interest; and
- concentration contour maps of nitrate/ammonia and any other COCs, or other graphical depiction to represent contaminant distribution for each media of concern.

Note that installation of additional monitoring wells may be requested by KDHE-BER at a future time based upon review of available monitoring data.

***STEP 5:*** Once KDHE-BER has approved the NPR Investigation Report, an NPR Action Plan should be prepared and submitted to KDHE-BER for review and approval. In some instances, with KDHE-BER approval, it may be appropriate to focus the NPR Action Plan initially on soil excavation and land application/disposal activities with the primary objective of

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minimizing/preventing further impact to groundwater. If this approach is taken, after a limited period (e.g., 6-12 months) of monitoring to assess the benefit of the soil removal action on groundwater quality, KDHE-BER may request submission of a NPR Action Plan Addendum to address the groundwater pathway. KDHE-BER may also request additional soil source area removal action(s) be conducted if previous soil excavation efforts are determined insufficient to meet RAOs for the site.

***NPR Action Plan***

The NPR Action Plan must at a minimum include the following components:

- A brief description of site background;
- previous investigations and summary of results;
- maps, tables, figures, and calculations;
- description of proposed NPR action(s) to be implemented including volume determination;
- remedial objectives;
- design basis;
- design specifications;
- drawings/schematics;
- cost estimate; and
- detailed working schedule.

Excavation specifications for soil source area(s) and complete design specifications for the water extraction/recovery system must be provided to KDHE-BER for approval before implementation at the site. These specifications must be presented in sufficient detail so that contractors/subcontractors can bid on the completion of the NPR action(s). Depending on the complexity of the proposed NPR action(s), as determined by the KDHE-BER project manager, the implementing party must submit complete design specifications and drawings/schematics, including any relevant figures and/or site system engineering layouts (e.g., process flow diagram, piping and instrumentation diagram, etc.) and engineering design basis. Management of all remediation waste must be clearly described. KDHE-BER may request a contingency be identified in the NPR Action Plan in the event the implemented NPR remedial strategy fails or is determined to be insufficient.

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As determined by KDHE-BER project managers on a project-specific basis, additional design specifications may include one or more of the following:

- Estimated COC concentrations in targeted excavated area;
- total soil volume to be excavated and land-applied or otherwise disposed;
- source of backfill material and supporting analytical data (consistent with KDHE-BER Policy No. BER-RS-048 entitled *Consideration and Selection of Borrow Sites*);
- identification of disposal facility;
- cleanup verification testing protocols (e.g., field screening);
- soil confirmation sampling plan;
- identification of off-site laboratory;
- design specifications for beneficial reuse of nitrate-contaminated water including aquifer test designs (aquifer tests/slug tests) and recovery well specific yield testing;
- capture zone analysis to verify that extraction/recovery is sufficient for intended remediation purposes, independent of facility beneficial use operational needs;
- groundwater modeling plan and groundwater model (consistent with KDHE-BER Policy No. BER-RS-007 entitled *Minimum Standards for Model Use*); and,
- pumping well controls, operating volumes, site and system layout, among other details (KDHE-BER Policy No. BER-RS-028, entitled *Consideration for Hydraulic Containment*, serves as general guidance for the design and requirements of a groundwater extraction system).

The determination of the feasible excavation extent/depth will be determined by the KDHE-BER in consultation with the implementing party.

***Supplemental NPR Action Plan Documents***

A QAPP and HSP must be included as appendices (or reference an applicable existing document). As necessary, an operations and maintenance (O&M) plan and performance monitoring plan must be included. All access agreements and permits required for the implementation of the soil source area(s) excavation and water extraction/recovery system must be identified and secured up front with copies included in the appendices. If applicable, a *Land Application Work Plan, Land Application Calculation Form, and Land Application Agreement Form* must also be included in the appendices of the NPR Action Plan for KDHE-BER approval.

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**STEP 6:** Once the NPR Plan is approved by KDHE, implementation of the NPR can commence. For contaminated soil that has been fully delineated, soil source area hot spot(s) are typically excavated to the maximum extent feasible and either land-applied to nearby agricultural fields at an appropriate agronomic rate or disposed off-site at an approved landfill. This step must be completed in accordance with requirements contained in Section 4.0 of this policy and in a manner consistent with BER Policy No. BER-RS-50 entitled *Key Considerations for Assessment/Remediation of Agricultural Chemical Releases*.

For impacted groundwater that has been fully delineated, the installation of groundwater monitoring wells will likely be required for the purposes of long-term monitoring of the nitrate/ammonia impacted groundwater plume; to evaluate the effectiveness of soil source area(s) removal; and, to evaluate the effectiveness of any necessary groundwater remedial measures (e.g., hydraulic containment of the nitrate/ammonia plume).

KDHE-BER may require the implementing party to perform remedial measure(s) to restore groundwater to its most beneficial use with consideration of background water quality conditions. For example, at this point in time a groundwater extraction and treatment system may be designed, installed, and operated to diminish contaminated groundwater. There may also be a need to address surface water impacts more directly if such exist.

**STEP 7:** Following the installation/start-up and/or completion of NPR remedial activities, an NPR Action Report must be submitted to KDHE-BER for review and approval. An Interim Report of Action may be required at the discretion of KDHE-BER for NPR remedial activities conducted in a step wise manner. In some instances, with KDHE-BER approval, it may be appropriate to focus the NPR Action Plan initially on soil excavation and land application/disposal activities with the primary objective of minimizing/preventing further impact to groundwater

***NPR Action Report***

The NPR Action Report must minimally include:

- A final summary of NPR activities including volumes excavated and land-applied.
- An evaluation of the post-NPR action confirmation sampling relative to identified remedial objectives.
- A description of contaminated water extraction/recovery and/or treatment system installation.

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- A copy of all final as-built drawings (if any changes from NPR Action Plan).
- All start-up testing evaluation and results.
- A captioned, color photographic record of the NPR action(s) and/or installed system(s).

The KDHE-BER project manager will determine the appropriate form or content of the NPR Action Report.

**STEP 8:** KDHE-BER may request the implementing party prepare and implement a Long-Term and Performance Monitoring Program for all environmental media of concern. Subject to KDHE-BER approval, the routine monitoring program must clearly identify proposed monitoring/sampling locations, proposal(s) for installation of any additional monitoring wells, frequency of site monitoring, a description of QA/QC considerations for the laboratory and field, and a description of reporting methods and frequency. KDHE-BER may require the initiation of well installation and routine monitoring at any point during the NPR process. At a minimum, the monitoring reports must include:

- Tabulated current and historical analytical results;
- static water elevation measurements and top-of-casing elevations;
- well construction information;
- analytical laboratory reports and data validation reports;
- a map which shows the site and monitoring wells or other sample point locations;
- description of any deviations from the approved sampling procedures/equipment;
- QA/QC data summary;
- groundwater elevation contour map(s) of the water level elevation for each water-bearing zone of interest;
- concentration contour maps of nitrate/ammonia and any other COCs, or other graphical depiction to represent contaminant distribution for each media;
- evaluation of effectiveness of corrective action during the reporting period;
- logs of any newly constructed site monitoring wells; and,
- all other relevant site data collected during the reporting period.

Routine monitoring reports must evaluate extraction/recovery and/or treatment system effectiveness, re-evaluate the potential of exposure to receptors or new targets and make recommendations for any modifications to NPR action(s) or associated monitoring. Report any site monitoring results within 45 days of receipt of analytical results from the laboratory, or as otherwise directed by the KDHE-BER project manager.

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**STEP 9:** The establishment of Environmental Use Controls may be a necessary component of the overall remedial strategy for the site in the event residual impacts disallow unrestricted use or there are structural limitation issues preventing investigation and/or remediation. Such institutional controls must be established within the framework of KDHE's Environmental Use Control (EUC) Program.

#### **4.0 BENEFICIAL REUSE**

Beneficial reuse may be defined as using contaminated media in a beneficial manner. An example would be excavating nitrate/ammonia contaminated soil and land applying the contaminated soil at a calculated agronomic rate to benefit future crop production. In order for a nitrate/ammonia-contaminated site to be eligible for a beneficial reuse remedial alternative, there must be analytical documentation ensuring that no additional contaminants are present in the media of interest at levels exceeding the Tier 2 levels as specified in the *Risk-based Standards for Kansas RSK Manual*, or other agronomic application rates approved by KDHE-BER. For this reason, KDHE-BER may require that select samples be collected and analyzed for other potential contaminants of concern including, but not limited to, pesticides, herbicides, petroleum hydrocarbons, and volatile organic compounds (VOCs) prior to implementation of NPR remedial measures.

The proposal for beneficial reuse must identify and address any permit requirements. For short-term land-application proposals, the following KDHE-BER forms are required to be completed:

- *Land Application Work Plan;*
- *Land Application Calculation Form;* and
- *Land Application Agreement Form.*

The KDHE-BER Land Application forms are available at [http://www.kdheks.gov/remedial/scu/nitrate\\_contaminated\\_sites.htm#nitrate](http://www.kdheks.gov/remedial/scu/nitrate_contaminated_sites.htm#nitrate), and must be completed and approved prior to the land application of nitrate/ammonia contaminated soil and/or water. The *Land Application Work Plan* and *Land Application Calculation Form* are intended to ensure that contaminated soil and/or water is applied at rates that do not exceed normal and acceptable application rates for healthy fertilization of crops, while protecting surface water and groundwater from runoff and minimizing infiltration of excessive amounts of dissolved nitrate/ammonia beyond root zone depths. The *Land Application Agreement Form* ensures that the landowner of the land receiving the contaminated media for beneficial reuse is in agreement with the application and also agrees to ensure that the application is made in

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accordance with reasonable and prudent crop nutrient application practices.

Excavated soil with contamination other than nitrate/ammonia such as herbicides or pesticides, with nitrate/ammonia concentrations in excess of acceptable application rates, or with debris/larger-size material present, may need to be segregated and disposed at an approved off-site disposal facility. The KDHE-BER project manager must consult with the Kansas Department of Agriculture (KDA) – Pesticide and Fertilizer Program in advance to determine if land application is an appropriate option.

Beneficial reuse of contaminated surface water or groundwater for irrigation may require approval, oversight, or permits from the KDHE-Bureau of Water (KDHE-BOW) and/or the KDA. For example, while a land application permit allows for the beneficial reuse of extracted/recovered water, the permit is limited in nature. Instead of a land application permit, a National Pollutant Discharge Elimination System (NPDES) permit from KDHE-BOW is required for any long-term application of contaminated water. Also, extraction or recovery of contaminated water may require a water appropriation or term permit from the KDA-Division of Water Resources (DWR).

**5.0 PUBLIC INVOLVEMENT**

Public involvement activities must be performed as required by KDHE-BER consistent with BER Policy No. BER-RS-002 entitled *Public Information Program*. Minimally, for each site, a Public Information Plan (PIP) is to be prepared which provides a framework to facilitate communication, encourage community involvement and solicit input on proposed cleanup strategies from nearby residents and other interested parties. Reference should also be made to the KDHE-BER *Voluntary Cleanup and Property Redevelopment Program Manual* for additional program-specific public participation requirements.

**6.0 CLEANUP PLAN/AGENCY DECISION STATEMENT**

KDHE will make available for public comment a Voluntary Cleanup Plan or NPR Agency Decision Statement. All final plans or decisions will be finalized with consideration of public comment received. Please refer to the *Voluntary Cleanup and Property Redevelopment Program Manual* for additional program-specific requirements or KDHE-BER Policy No. BER-RS-009 entitled *State Cooperative Program Decision Document Development*.

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From a timing standpoint, issuance of the NPR Agency Decision Statement for public comment may occur prior to implementation of the NPR Action Plan. However, in order to not lose any momentum with critical elements of the NPR implementation, KDHE-BER may elect to first proceed with soil excavation and land application/disposal activities, and/or possibly water extraction/recovery system installation and operation. This would be similar in approach to an interim measure implementation where any initial actions taken are ultimately consistent with the final selected remedy for the site.

**7.0 NO FURTHER ACTION/SITE RECLASSIFICATION**

On a KDHE-BER program-specific basis, a site may be given a no further action (NFA) status consistent with the *Voluntary Cleanup and Property Redevelopment Program Manual* or reclassified when cleanup is complete to a resolved status (consistent with KDHE-BER Policy No. BER-RS-024 entitled *Reclassification Plan*). If soil contamination is left in place due to implementation and excavation impracticability, the impacted property(ies) may require the establishment of EUCs resulting in, for example, a resolved with restrictions status.