

401 KAR 5:310. Surface water permit fees.

RELATES TO: KRS 224.01-010, 224.10-110, 224.16-050, 224.70-100, 224.70-110, 26 U.S.C. 501(c)(3), EO 2009-538

STATUTORY AUTHORITY: KRS 224.10-100, 224.10-230(3), 224.16-050, 224.70-120, 40 C.F.R. 122.28(b)(2), 33 U.S.C. 1323(a), EO 2009-538

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-230(3) authorizes the cabinet to amend, by administrative regulation, the discharge permit fees authorized by KRS 224.70-120. KRS 224.10-100(20) authorizes the cabinet to establish, by administrative regulation, a fee for the cost of processing an application for a permit. 40 C.F.R. 122.28(b)(2)(i) requires the cabinet to establish that a complete and timely filed notice of intent to be covered in accordance with general permit requirements, fulfills the requirements for a permit application. EO 2009-538, effective June 12, 2009, establishes the new Energy and Environment Cabinet. This administrative regulation establishes fees for reviewing surface water permits.

Section 1. Individual Permit Fees. The fee for review of an individual permit to discharge pollutants into waters of the Commonwealth shall be as established in Table 1 in this section.

Major Industry	\$7,000
Minor Industry	\$4,500
Nonprocess Industry	\$2,200
Large, Non-publicly-owned Treatment Works	\$3,700
Intermediate, Non-publicly-owned Treatment Works	\$3,200
Small, Non-publicly-owned Treatment Works	\$2,200
Agriculture (CAFO)	\$1,200
Surface Mining Operation	\$3,300

Section 2. General Permit Fees. The fee for review of a general permit notice of intent to discharge pollutants into waters of the Commonwealth shall be as established in Table 2 of this section.

Coal Mining	\$1,300
Non-Coal Mining	\$0
Transportation Facility	\$0
Drinking Water Treatment Plant	\$0
Groundwater Remediation	\$0
Storm Water Construction	\$0
CAFO	\$0
Storm Water Other	\$0

Section 3. Kentucky No Discharge Operational Permit (KNDOP) Fees. The fee for review of a KNDOP shall be as established in Table 3 of this section.

Large Animal Feeding Operation	\$0
Medium Animal Feeding Operation	\$0

Small Animal Feeding Operation	\$0
Industrial	\$1,200
Sanitary	\$0

Section 4. Multiple Categories. The cabinet shall impose the single maximum fee if a discharge falls into multiple categories.

Section 5. Short Term Permits. If the cabinet issues a permit that is effective for less than five (5) years, the fee assessed pursuant to this administrative regulation shall be adjusted proportionately to the effective term of the permit.

Section 6. Publicly Owned Facilities. A publicly owned facility shall be exempt from the fees established in this administrative regulation pursuant to KRS 224.10-100(20).

Section 7. Nonprofit Organizations. (1) A qualifying nonprofit organization shall be charged the fee established by KRS 224.16-050(5).

(2) A nonprofit organization requesting a reduced fee pursuant to KRS 224.16-050(5) shall submit proof of Internal Revenue Code 26 U.S.C. 501(c)(3) status with the permit application.

(3) A nonprofit organization that does not qualify for the fee established in KRS 224.16-050(5) shall be charged the applicable fee established in Sections 1 through 5 of this administrative regulation.

Section 8. Payment. (1) Check or money order shall be made payable to the Kentucky State Treasurer.

(2)(a) The applicant shall submit with the application a filing fee equal to twenty (20) percent of the permit fee.

(b) An application shall not be complete before the cabinet has received the filing fee.

(3) The cabinet shall retain the filing fee if:

(a) The cabinet denies the issuance, reissuance, or modification of the permit;

(b) The cabinet finds that the application is not complete pursuant to 401 KAR 5:075, Section 1(4), and returns the application as incomplete after the applicant has failed to submit a complete application within thirty (30) days following mailing of a notice of deficiency by the cabinet; or

(c) The applicant withdraws the application.

(4)(a) The cabinet shall notify the applicant of the permit fee due after the cabinet has determined that the permit shall be issued, but before the permit shall be issued.

(b) The applicant shall submit the permit fee within thirty (30) days of the notification required by paragraph (a) of this subsection.

(5) The cabinet shall not issue a permit before receipt of the applicable permit fee. (36 Ky.R. 486; 822; eff. 11-17-2009; Crt eff. 5-11-2018.)