

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(As Amended at ARRS, August 9, 2019)

103 KAR 8:130. Ad valorem taxation of machinery actually engaged in the manufacturing of coal, crushed stone, sand, gravel and hot mix asphalt.

RELATES TO: KRS 132.020, 132.200

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. ~~[KRS 132.020(1)(i) establishes the ad valorem tax rate based on the value of the machinery actually engaged in manufacturing. KRS 132.200(4) provides that machinery actually engaged in manufacturing shall be subject to taxation for state purposes only.]~~ This administrative regulation explains the property tax classification found in KRS 132.020(1) and 132.200(4) for "machinery actually engaged in manufacturing" as it pertains to coal, crushed stone, sand, gravel and hot mix asphalt~~[the coal industry]~~.

Section 1. Definitions. (1) "Manufacturing machinery" means machinery actually engaged in manufacturing that is subject to the state ad valorem tax of fifteen (15) cents upon each \$100 of value provided in KRS 132.020(1) and exempt under KRS 132.200(4) from ad valorem taxation by any county, city, school or other taxing district in which it has a taxable situs.

(2) "Processing area" means the area of a coal preparation plant or coal load out facility where operational steps and methods are used to wash, size, blend, crush, load, or chemically treat coal to get a final marketable product.

Section 2. Machinery Actually Engaged in Manufacturing as it Pertains to Coal. (1) Machinery actually used in mining or a similar operation that is engaged in manufacturing.

~~(a) [Machinery Actually Engaged in Extraction, Severance, Dredging, or Mining of Coal. Machinery used in the extraction, severance, dredging, or mining of coal shall not be classified as manufacturing machinery for purposes of KRS Chapter 132.]~~

~~Section 3. Machinery Actually Used In Mining or a Similar Operation that is Engaged in Manufacturing. (1) Machinery actually used in the crushing, sizing, blending, chemical treating, and washing of coal shall be classified as manufacturing machinery.~~

~~(b) [(2)] Coal manufacturing shall begin when machinery and equipment is used to convey the raw coal into the crushing, sizing, blending and washing facilities and shall include machinery and equipment moving the coal between the manufacturing processes within the processing area including in-process staging.~~

~~(c) [(3)] Machinery and equipment used to blend different product grades, prior to the point of the coal being loaded on transport for removal from the processing area, shall be classified as manufacturing machinery.~~

~~(d) [(4)] Manufacturing shall end with the loading of coal for final transport to the end user. [(a)] The loading of coal for final transport to the end user shall only be classified as manufacturing if blending or chemical treatment occurs during the loading process.~~

~~(e) [(5)] Machinery actually used in crushing, sizing, blending and washing shall include structures housing the crushing, sizing, blending or washing machinery.~~

~~(f) [(6)] Machinery whose purpose shall be classified as to move, stage or load the coal when~~

it is utilized subsequent to receiving or dumping of the coal into one (1) of these processes and prior to completion of the sizing, crushing, blending or washing process is manufacturing machinery.

(2) Equipment used in mining or a similar operation that is not engaged in manufacturing.

(a)[Section 4. Equipment Used in Mining or a Similar Operation that Is not Engaged in Manufacturing. (1)] The manufacturing process shall exclude coal hauled via a licensed truck outside the processing area.

(b)[(2)] Other machinery actually used in extraction, severance, dredging, or mining operations shall not be classified as manufacturing machinery regardless of where in the operation it is located.

Section 3. Machinery Actually Engaged in Manufacturing of Crushed Stone, Sand, and Gravel. (1) "Machinery actually engaged in manufacturing" includes the following:

(a) Machinery actually used in the conveying, crushing, screening, washing, drying, blending, and stockpiling of stone, sand, or gravel to a product of the appropriate gradation and specification required for sale or final use;

(b) Machinery and equipment actually used to size, crush, screen, blend, de-dust or wash the stone, sand, or gravel, including all necessary housing, electrical, and support systems;

(c) Machinery and equipment actually used to convey or maintain proper material flow of the stone, sand, or gravel to and between the crushing, sizing, screening, blending, dedusting, and washing facilities; or

(d) Machinery and equipment actually used to reassemble, remix, and blend the crushed stone, sand, or gravel into different product grades.

(2) Manufacturing of crushed stone, sand, or gravel.

(a) Manufacturing of crushed stone, sand, and gravel shall commence with the initial sizing of the stone (shot rock), sand, or gravel after it has been removed from its natural deposit, and shall continue with the loading, hauling, pumping, or conveying to the primary crusher or screen.

(b) Manufacturing shall continue with the further sizing, classifying, crushing, screening, blending, dedusting, and washing of the stone, sand, or gravel.

(c) Manufacturing of stone, sand, or gravel shall end when the product meets and maintains the appropriate gradation, specifications, or blends.

(d) The loading of stone, sand, or gravel for final transport to the end user shall only be classified as manufacturing if blending occurs during the loading process.

Section 4. Machinery Actually Engaged in Manufacturing of Hot Mix Asphalt. (1) "Machinery actually engaged in manufacturing" shall include the following:

(a) Machinery and equipment actually used to load raw materials into an asphalt plant's cold feed bins, including the cold feed bins; the blending of aggregates; the movement of material across screen decks into dryers or drums, including the dryer and drums; and surge facilities, silos, and load control systems;

(b) Machinery and equipment actually used to transport or convey the material through or between the cold feed bins, the screen decks, the dryer or drum, the surge facilities, silos, and load control systems;

(c) Machinery and equipment actually used to heat, dry, mix, and blend the aggregates with the liquid asphalt, including all necessary housing, electrical, controls, liquid asphalt tanks, and energy supply systems; or

(d) Machinery and equipment actually used to load, adhere, remix, place, and compact the

hot mix asphalt.

(2) Manufacturing of Hot Mix Asphalt.

(a) Manufacturing of hot mix asphalt shall commence with the loading of raw materials to the cold feed bins.

(b) Manufacturing shall continue with the blending of aggregates on the conveyor belts, through the flow of material across the screen decks, and into the dryer or drum for further blending or mixing.

(c) Manufacturing shall continue through the surge facilities, silos, and load control systems.

(d) Manufacturing of hot mix asphalt shall end when ~~either~~:

1. **Either:**

a. The hot mix asphalt is loaded for delivery to a retail customer; or

b. When the hot mix asphalt is placed and compacted as directed by the customer; and

2. ~~c.~~ It meets the requirements set forth by the applicable customer or regulatory specifications.

(e) The loading of hot asphalt for final transport to the end user shall only be classified as manufacturing if blending occurs during the loading process.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: June 6, 2019

FILED WITH LRC: June 7, 2019 at 2 p.m.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov.