

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Waste Management
(New Administrative Regulation)

401 KAR 103:005. Definitions related to 401 KAR Chapter 103.

RELATES TO: KRS 224.10-100, 224.10-285, 224.43-345, 278.700 - 278.716

STATUTORY AUTHORITY: KRS 224.10-100(28), 224.10-100(30), (31), 224.10-285, 224.43-345, 278.710(3), (4), (5), (7) - (10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-285 requires the Energy and Environment Cabinet to establish monitoring and enforcement requirements for the obligation set for in KRS 278.710(3), (4), (5), (7) through (10) and 224.10-100(30) and (31). This administrative regulation defines essential terms that are used in this chapter.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 and Chapter 278, terms in 401 KAR Chapter 103 shall have the meanings given in this section.

- (1) "Abandon" or "Abandonment" means the relinquishment of all rights, title, or claim to the merchant electric generating facility.
- (2) "Above-ground facilities" means any portion of a system or structure located on the surface of the site.
- (3) "Annual report" means a yearly document that describes all operational activities in the previous year.
- (4) "Applicant" means any person who received a construction certificate pursuant to KRS 278.710, or who is seeking the transfer of a construction certificate, controlling rights, or ownership of a merchant electric generating facility.
- (5) "Cabinet" is defined by KRS 224.1-010.
- (6) "Commence to construct" is defined by KRS 278.700.
- (7) "Components" means either the solar panel or ancillary equipment of a solar array or solar panel system, or a constituent part.
- (8) "Construction certificate" means a formal certification approved and issued by the Kentucky State Board on Electric Generation and Transmission Siting ("Siting Board") to an owner-operator, or persons who have controlling rights, of a merchant electric generating facility that authorizes persons to construct and operate a merchant generating facility.
- (9) "Control" is defined by KRS 278.010.
- (10) "Current net salvage value" means the value of an asset expressed in current US dollars after it has become useless to the owner or the amount expected to be obtained when a fixed asset is disposed of at the end of its useful life and pursuant to KRS 278.706.
- (11) "Decommission" means the process of removal or closing of solar panel system at the end of the useful life.
- (12) "Decommission bond" or "Decommissioning bond" means an approved financial assurance mechanism used to guarantee the land used for a merchant electric generating facility will be returned to a substantially similar state upon decommissioning or abandonment of the project, unless otherwise requested by the landowner.
- (13) "Decommission costs" or "Decommissioning costs" means the amount of all costs and expenses incurred in connection with the dismantlement, removal, and disposal of structures, systems, and components of a merchant electric generating facility at the time of decommissioning pursuant to KRS 278.706.
- (14) "Decommission plan" or "Decommissioning plan" means a plan to retire physical facilities of a merchant electric generating facility, pursuant to KRS 278.706.

- (15) "Disposal" is defined by KRS 224.1-010.
- (16) "Facility" is defined by KRS 278.010.
- (17) "Hazardous substance" is defined by KRS 224.1-400.
- (18) "Land disposal" is defined by KRS 224.1-010.
- (19) "Landowner" means a person who has legal ownership of land where a merchant electric generating facility is located.
- (20) "Megawatt" means a unit of power equal to one million watts, measure of output of electrical power.
- (21) "Merchant electric generating facility" is defined by KRS 278.700.
- (22) "Mitigation measures" means an act or requirement established by the siting board pursuant to KRS 278.708.
- (23) "Modification" means a change in existing order or certificate, necessary to cure an error.
- (24) "Monitoring" is defined as the act of systematically inspecting and collecting data on operational parameters or on the quality of a merchant electric generating facility.
- (25) "Municipal government" means a city, town, or other local authority with an elected governing body.
- (26) "Net present value" means the difference between the present value inflow and outflow over a period of time and pursuant to KRS 278.706.
- (27) "Ordinance" means an official written act of a local government, the effect of which is general and permanent in nature, which is enforceable by the enacting local government as a local law within its jurisdiction.
- (28) "Owner-operator" is defined as any person who owns a merchant electric generating facility or is responsible for overall operation of a merchant electric generating facility, including any contractor conducting operational activities.
- (29) "Person" is defined by KRS 278.700.
- (30) "Professional Engineer" is defined by KRS 322.010; an independent, professional engineer shall be registered in Kentucky pursuant to KRS 322.040 and shall be experienced to engage in the decommissioning of solar electric generating facilities.
- (31) "Recycling" is defined by KRS 224.1-010.
- (32) "Secretary" is defined by KRS 224.1-010.
- (33) "Service" is defined by KRS 278.700.
- (34) "Solar panel" means a panel or device containing photovoltaic cells designed to absorb and convert sunlight into a source of generating electricity.
- (35) "Successor" means one who succeeds to the rights to own or control a merchant electric generating facility.
- (36) "Useful life" means the estimated length of time that depreciable property will generate income.
- (37) "Waste" is defined by KRS 224.1-010.

Section 2. Acronyms and Abbreviations. Unless otherwise specifically indicated by context, acronyms and abbreviations used in 401 KAR Chapter 103 shall have the meaning as identified in Table 1 of this administrative regulation.

Table 1. Acronyms and Abbreviations

KAR	Kentucky Administrative Regulations
KRS	Kentucky Revised Statutes
MEGF	Merchant Electric Generating Facility
MW	Megawatt

JOHN LYONS, Deputy Secretary

For REBECCA GOODMAN, Secretary

APPROVED BY AGENCY: September 27, 2023

FILED WITH LRC: September 27, 2023 at 2:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 21, 2023, at 10:00 a.m. Eastern Standard Time. The public hearing can be accessed at the following website address: <https://us05web.zoom.us/j/81334701532?pwd=eWjHA2kpT9I6PWurOirAnFpuYads2k.1> using access code M00m5c. Please note that registration is required to participate in this hearing. You must either email your name and mailing address to Tyler.Shields@ky.gov or mail this information to Tyler Shields, Department for Environmental Protection, Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601. Please put "401 KAR 103:005" as the subject line, and state in the body of the message if you plan to speak during the hearing. Individuals interested in being heard at this hearing shall register to speak by December 14, 2023. If no one registers to speak by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2023. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Tyler Shields, Environmental Control Supervisor, Department for Environmental Protection, Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601. phone (502) 782-5325, fax (502) 564-4245, email Tyler.Shields@ky.gov.