

401 KAR 63:025. Asphalt paving operations.

RELATES TO: KRS 224.20-100, 224.20-110, 224.20-120, 42 U.S.C. 7401 et seq., 7407, 7408, 7410

STATUTORY AUTHORITY: KRS 224.10-100

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Environmental and Public Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. 42 USC 7410 likewise requires the state to implement standards for national primary and secondary ambient air quality. This administrative regulation provides for the control of volatile organic compound emissions due to asphalt paving operations.

Section 1. Definitions. Terms used in this administrative regulation not defined in this section shall have the meaning given to them in 401 KAR 63:001.

(1) "Asphalt paving operations" means the use of asphalt in any paving operation, public or private, including, but not limited to paving of roads, paving of parking lots, maintenance operations, application of tack coats, sealants, etc.

(2) "Asphalt" means a dark brown to black cementitious material (solid, semisolid, or liquid in consistency) in which the predominating constituents are bitumens which occur in nature as such or which are obtained as residue in refining petroleum.

(3) "Cutback asphalt" means asphalt cement which has been liquefied by blending with volatile organic compounds VOCs as diluents. Upon exposure to atmospheric conditions the diluents evaporate, leaving the asphalt cement to perform its function.

(4) "Emulsified asphalt" means an emulsion of asphalt cement, VOCs, and water which contains a small amount of an emulsifying agent; a heterogeneous system containing two (2) normally immiscible phases (asphalt and water) in which the water forms the continuous phase of the emulsion, and minute globules of asphalt form the discontinuous phase.

(5) "Maintenance operation" means patching of holes and breaks in pavement as is necessary for safety.

(6) "Penetrating prime coat" means an application of low-viscosity liquid asphalt to an absorbent surface. It is used to prepare an untreated base for an asphalt surface. The prime penetrates the base and plugs the voids, hardens the top, and helps bind it to the overlying asphalt course. It also reduces the necessity of maintaining an untreated base course prior to placing the asphalt pavement.

(7) "Unacceptable emulsion asphalt" means any emulsion asphalt which yields more than seven (7) percent by volume of oil distillate when tested according to AASHTO T 59-78, Sections 7 to 9, which have been incorporated by reference in 401 KAR 50:015.

Section 2. Applicability. This administrative regulation is applicable to all asphalt paving operations which are located in a county or portion of a county which is designated ozone nonattainment, for any nonattainment classification except marginal, under 401 KAR 51:010.

Section 3. Standard for VOCs. On or after April 1, 1980, no person shall use cutback asphalts or unacceptable emulsion asphalts for asphalt paving operations. If this requirement becomes applicable because the county was previously designated nonurban nonattainment or redesignated in 401 KAR 51:010 after November 15, 1990, compliance is extended to May 31, 1995.

Section 4. Exemptions. This administrative regulation shall not apply to the following asphalt paving operations:

(1) Application of penetrating prime coat;

(2) Dust suppression operations;

(3) Maintenance operations during the months of November, December, January, February and March.

(401 KAR 063:025. 5 Ky.R. 513; 1064; eff. 6-6-1979; 18 Ky.R. 2686; 3386; eff. 6-24-1992; TAm eff. 8-9-2007; Crt eff. 9-12-2018; Crt eff. 8-28-2025.)