ENERGY AND ENVIRONMENT CABINET

Department for Environmental Protection

Division for Air Quality

(Amendment)

401 KAR 63:060. List of hazardous air pollutants, petitions process, lesser quantity designations, and source category list.

RELATES TO: KRS 224.10-100, 224.20-110, 40 C.F.R. Part 63, Part 70, 42 U.S.C. 7401-7671q

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-110, 224.20-120

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) authorizes the cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides the list of hazardous air pollutants pursuant to 42 U.S.C. 7412(b) as amended in 40 C.F.R. Part 63, Subpart C and the list of source categories and subcategories.

Section 1. Definitions. As used in this administrative regulation, terms not defined in this section shall have the meaning given to them in 40 C.F.R. 63.2.

(1) "Hazardous air pollutant" means a substance listed in Section 2 of this administrative regulation.

(2) "MACT" means maximum achievable control technology.

(3) "Major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, ten (10) tons per year or more of a hazardous air pollutant or twenty-five (25) tons per year or more of any combination of hazardous air pollutants, or a lesser quantity which the cabinet may establish on the basis of the potency, persistence, potential for bioaccumulation, or other characteristics or relevant factors pertaining to the pollutant.

(4) "NESHAP" means national emission standards for hazardous air pollutant.

Section 2. List of Hazardous Air Pollutants. The following chemicals are hazardous air pollutants:

|  |  |
| --- | --- |
| CASnumber | Chemical name |
| 75070 | Acetaldehyde |
| 60355 | Acetamide |
| 75058 | Acetonitrile |
| 98862 | Acetophenone |
| 53963 | 2-Acetylaminofluorene |
| 107028 | Acrolein |
| 79061 | Acrylamide |
| 79107 | Acrylic acid |
| 107131 | Acrylonitrile |
| 107051 | Allyl chloride |
| 92671 | 4-Aminobiphenyl |
| 62533 | Aniline |
| 90040 | o-Anisidine |
| 1332214 | Asbestos |
| 71432 | Benzene (including benzene from gasoline) |
| 92875 | Benzidine |
| 98077 | Benzotrichloride |
| 100447 | Benzyl chloride |
| 92524 | Biphenyl |
| 117817 | Bis(2-ethylhexyl)phthalate (DEHP) |
| 542881 | Bis(chloromethyl)ether |
| 75252 | Bromoform |
| 106945 | 1-Bromopropane (1-BP) |
| 106990 | 1,3-Butadiene |
| 156627 | Calcium cyanamide |
| 133062 | Captan |
| 63252 | Carbaryl |
| 75150 | Carbon disulfide |
| 56235 | Carbon tetrachloride |
| 463581 | Carbonyl sulfide |
| 120809 | Catechol |
| 133904 | Chloramben |
| 57749 | Chlordane |
| 7782505 | Chlorine |
| 79118 | Chloroacetic acid |
| 532274 | 2-Chloroacetophenone |
| 108907 | Chlorobenzene |
| 510156 | Chlorobenzilate |
| 67663 | Chloroform |
| 107302 | Chloromethyl methyl ether |
| 126998 | Chloroprene |
| 1319773 | Cresols/Cresylic acid (isomers and mixture) |
| 95487 | o-Cresol |
| 108394 | m-Cresol |
| 106445 | p-Cresol |
| 98828 | Cumene |
| 94757 | 2,4-D, salts and esters |
| 3547044 | DDE |
| 334883 | Diazomethane |
| 132649 | Dibenzofurans |
| 96128 | 1,2-Dibromo-3-chloropropane |
| 84742 | Dibutylphthalate |
| 106467 | 1,4-Dichlorobenzene(p) |
| 91941 | 3,3-Dichlorobenzidene |
| 111444 | Dichloroethyl ether (Bis(2-chloroethyl)ether) |
| 542756 | 1,3-Dichloropropene |
| 62737 | Dichlorvos |
| 111422 | Diethanolamine |
| 121697 | N,N-Diethyl aniline (N,N-Dimethylaniline) |
| 64675 | Diethyl sulfate |
| 119904 | 3,3-Dimethoxybenzidine |
| 60117 | Dimethyl aminoazobenzene |
| 119937 | 3,3'-Dimethyl benzidine |
| 79447 | Dimethyl carbamoyl chloride |
| 68122 | Dimethyl formamide |
| 57147 | 1,1-Dimethyl hydrazine |
| 131113 | Dimethyl phthalate |
| 77781 | Dimethyl sulfate |
| 534521 | 4,6-Dinitro-o-cresol, and salts |
| 51285 | 2,4-Dinitrophenol |
| 121142 | 2,4-Dinitrotoluene |
| 123911 | 1,4-Dioxane (1,4-Diethyleneoxide) |
| 122667 | 1,2-Diphenylhydrazine |
| 106898 | Epichlorohydrin (1-Chloro-2,3-epoxypropane) |
| 106887 | 1,2-Epoxybutane |
| 140885 | Ethyl acrylate |
| 100414 | Ethyl benzene |
| 51796 | Ethyl carbamate (Urethane) |
| 75003 | Ethyl chloride (Chloroethane) |
| 106934 | Ethylene dibromide (Dibromoethane) |
| 107062 | Ethylene dichloride (1,2-Dichloroethane) |
| 107211 | Ethylene glycol |
| 151564 | Ethylene imine (Aziridine) |
| 75218 | Ethylene oxide |
| 96457 | Ethylene thiourea |
| 75343 | Ethylidene dichloride (1,1-Dichloroethane) |
| 50000 | Formaldehyde |
| 76448 | Heptachlor |
| 118741 | Hexachlorobenzene |
| 87683 | Hexachlorobutadiene |
| 77474 | Hexachlorocyclopentadiene |
| 67721 | Hexachloroethane |
| 822060 | Hexamethylene-1,6-diisocyanate |
| 680319 | Hexamethylphosphoramide |
| 110543 | Hexane |
| 302012 | Hydrazine |
| 7647010 | Hydrochloric acid |
| 7664393 | Hydrogen fluoride (Hydrofluoric acid) |
| 123319 | Hydroquinone |
| 78591 | Isophorone |
| 58899 | Lindane (all isomers) |
| 108316 | Maleic anhydride |
| 67561 | Methanol |
| 72435 | Methoxychlor |
| 74839 | Methyl bromide (Bromomethane) |
| 74873 | Methyl chloride (Chloromethane) |
| 71556 | Methyl chloroform (1,1,1-Trichloroethane) |
| 60344 | Methyl hydrazine |
| 74884 | Methyl iodide (Iodomethane) |
| 108101 | Methyl isobutyl ketone (Hexone) |
| 624839 | Methyl isocyanate |
| 80626 | Methyl methacrylate |
| 1634044 | Methyl tert butyl ether |
| 101144 | 4,4-Methylene bis(2-chloroaniline) |
| 75092 | Methylene chloride (Dichloromethane) |
| 101688 | Methylene diphenyl diisocyanate (MDI) |
| 101779 | 4,4'-Methylenedianiline |
| 91203 | Naphthalene |
| 98953 | Nitrobenzene |
| 92933 | 4-Nitrobiphenyl |
| 100027 | 4-Nitrophenol |
| 79469 | 2-Nitropropane |
| 684935 | N-Nitroso-N-methylurea |
| 62759 | N-Nitrosodimethylamine |
| 59892 | N-Nitrosomorpholine |
| 56382 | Parathion |
| 82688 | Pentachloronitrobenzene (Quintobenzene) |
| 87865 | Pentachlorophenol |
| 108952 | Phenol |
| 106503 | p-Phenylenediamine |
| 75445 | Phosgene |
| 7803512 | Phosphine |
| 7723140 | Phosphorus |
| 85449 | Phthalic anhydride |
| 1336363 | Polychlorinated biphenyls (Arochlors) |
| 1120714 | 1,3-Propane sultone |
| 57578 | beta-Propiolactone |
| 123386 | Propionaldehyde |
| 114261 | Propoxur (Baygon) |
| 78875 | Propylene dichloride (1,2-Dichloropropane) |
| 75569 | Propylene oxide |
| 75558 | 1,2-Propylenimine (2-Methyl aziridine) |
| 91225 | Quinoline |
| 106514 | Quinone |
| 100425 | Styrene |
| 96093 | Styrene oxide |
| 1746016 | 2,3,7,8-Tetrachlorodibenzo-p-dioxin |
| 79345 | 1,1,2,2-Tetrachloroethane |
| 127184 | Tetrachloroethylene (Perchloroethylene) |
| 7550450 | Titanium tetrachloride |
| 108883 | Toluene |
| 95807 | 2,4-Toluene diamine |
| 584849 | 2,4-Toluene diisocyanate |
| 95534 | o-Toluidine |
| 8001352 | Toxaphene (chlorinated camphene) |
| 120821 | 1,2,4-Trichlorobenzene |
| 79005 | 1,1,2-Trichloroethane |
| 79016 | Trichloroethylene |
| 95954 | 2,4,5-Trichlorophenol |
| 88062 | 2,4,6-Trichlorophenol |
| 121448 | Triethylamine |
| 1582098 | Trifluralin |
| 540841 | 2,2,4-Trimethylpentane |
| 108054 | Vinyl acetate |
| 593602 | Vinyl bromide |
| 75014 | Vinyl chloride |
| 75354 | Vinylidene chloride (1,1-Dichloroethylene) |
| 1330207 | Xylenes (isomers and mixture) |
| 95476 | o-Xylenes |
| 108383 | m-Xylenes |
| 106423 | p-Xylenes |
| 0 | Antimony Compounds |
| 0 | Arsenic Compounds (inorganic including arsine) |
| 0 | Beryllium Compounds |
| 0 | Cadmium Compounds |
| 0 | Chromium Compounds |
| 0 | Cobalt Compounds |
| 0 | Coke Oven Emissions |
| 0 | Cyanide Compounds1 |
| 0 | Glycol ethers2 |
| 0 | Lead Compounds |
| 0 | Manganese Compounds |
| 0 | Mercury Compounds |
| 0 | Fine mineral fibers3 |
| 0 | Nickel Compounds |
| 0 | Polycyclic Organic Matter4 |
| 0 | Radionuclides (including radon)5 |
| 0 | Selenium Compounds |
| Footnotes: For all listings in the table that contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical as part of that chemical's infrastructure.1 X'CN where X = H' or any other group where a formal dissociation may occur.2 Glycol ethers include mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH2CH2)n-OR'.Where:n = 1, 2, or 3;R = alkyl C7 or less; orR = phenyl or alkyl substituted phenyl;R' = H or alkyl C7 or less; orOR' consisting of carboxylic acid ester, sulfate, phosphate, nitrate, or sulfonate.3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter one (1) micrometer or less.4 Includes organic compounds with more than one (1) benzene ring and that have a boiling point greater than or equal to 100°C.5 A type of atom that spontaneously undergoes radioactive decay. | |

Section 3. List of Categories and Subcategories of Hazardous Air Pollutants. The following are major and area source categories and subcategories:

(1) Major sources:

(a) Aerospace industries;

(b) Asphalt processing and asphalt roofing manufacturing;

(c) Auto and light duty truck (surface coating);

(d) Boat manufacturing;

(e) Brick and structural clay products;

(f) Cellulose products manufacturing:

1. Cellulose ethers production:

a. Methyl cellulose;

b. Carboxymethylcellulose; or

c. Cellulose ethers; or

2. Miscellaneous viscose processes:

a. Cellulose food casing;

b. Rayon;

c. Cellulosic sponge; or

d. Cellophane;

(g) Chemical recovery combustion sources at kraft, soda, sulfite and stand-alone semi[~~-~~]chemical pulp mills - MACT II;

(h) Chromium electroplating:

1. Chromic acid anodizing;

2. Decorative acid; or

3. Hard chromium electroplating;

(i) Clay ceramics ceramics manufacturing;

(j) Coke ovens: charging, top side and door leaks;

(k) Coke ovens: pushing, quenching and battery;

(l) Combustion turbines;

(m) Commercial sterilizers;

(n) Dry cleaning:

1. Commercial dry cleaning dry-to-dry;

2. Commercial dry cleaning transfer machines;

3. Industrial dry cleaning dry-to-dry; or

4. Industrial dry cleaning transfer machines;

(o) Engine test cells/stands;

(p) Fabric printing, coating, and dyeing;

(q) Ferroalloys production: silicomanganese and ferromanganese;

(r) Flexible polyurethane foam fabrication operations;

(s) Flexible polyurethane foam production;

(t) Friction materials manufacturing;

(u) Gasoline distribution (Stage 1);

(v) Generic MACT I:

1. Acetal resins production;

2. Acrylic fibers/modacrylic fibers production;

3. Hydrogen fluoride production; or

4. Polycarbonates production;

(w) Generic MACT II:

1. Carbon black production;

2. Spandex production;

3. Cyanide chemicals manufacturing; or

4. Ethylene processes;

(x) Hazardous waste combustors;

(y) Hydrochloric acid production;

(z) Industrial/commercial/institutional boilers and process heaters;

(aa) Industrial process cooling towers;

(bb) Integrated iron and steel manufacturing;

(cc) Iron and steel foundries;

(dd) Large appliance (surface coating);

(ee) Leather finishing operations;

(ff) Lime manufacturing;

(gg) Magnetic tapes (surface coating);

(hh) Manufacturing of nutritional yeast;

(ii) Marine vessel loading operations;

(jj) Metal can (surface coating);

(kk) Metal coil (surface coating);

(ll) Metal furniture (surface coating);

(mm) Mineral wool production;

(nn) Miscellaneous coatings manufacturing;

(oo) Miscellaneous metal parts and products (surface coating);

(pp) Miscellaneous organic chemical manufacturing:

1. Alkyd resins;

2. Ammonium sulfate production-caprolactum by-products;

3. Benzyltrimethylammonium chloride;

4. Carbonyl sulfide;

5. Chelating agents;

6. Chlorinated paraffins;

7. Ethylidene norbornene;

8. Explosives;

9. Hydrazine;

10. Maleic anhydride copolymers;

11. OBPA/1, 3–diisocyanate;

12. Photographic chemicals;

13. Phthalate plasticizers;

14. Polyester resins;

15. Polymerized vinylidene chloride;

16. Polymethyl methacrylate resins;

17. Polyvinyl acetate emulsions;

18. Polyvinyl alcohol;

19. Polyvinyl butyral;

20. Quaternary ammonium compounds;

21. Rubber chemicals; or

22. Symmetrical tetrachloropyridine;

(qq) Municipal solid waste landfills;

(rr) Off-site waste and recovery operations;

(ss) Oil and natural gas production;

(tt) Organic liquids distribution (non-gasoline);

(uu) Paper and other web (surface coating);

(vv) Pesticide active ingredient production:

1. 4-chloro-2-methyl acid production;

2. 2,3 salts and esters production;

3. 4,6-dinitro-o-cresol production;

4. Butadiene furfural cotrimer;

5. Captafol production;

6. Captan production;

7. Chloroneb production;

8. Chlorothalonil production;

9. Dacthal (tm) production;

10. Sodium pentachlorophenate production; or

11. Tordon (tm) acid production;

(ww) Petroleum refineries - catalytic cracking units, catalytic reforming units, and sulfur recovery units;

(xx) Petroleum refineries - other sources not distinctly listed;

(yy) Pharmaceuticals productions;

(zz) Phosphate fertilizers production and phosphoric acid manufacturing;

(aaa) Plastic parts and products (surface coating);

(bbb) Plywood and composite wood products;

(ccc) Polyether polyols production;

(ddd) Polymers and resins:

1. Butyl rubber;

2. Epichlorohydrin elastomers;

3. Ethylene-propylene rubber;

4. Hypalon (tm);

5. Neoprene;

6. Nitrile butadiene rubber;

7. Polybutadiene rubber;

8. Polysulfide rubber; or

9. Styrene-butadiene rubber and latex;

(eee) Polymers and resins II:

1. Epoxy resins; or

2. Non-nylon polyamides;

(fff) Polymers and resins III—Amino/phenolic resins;

(ggg) Polymers and resins IV:

1. Acrylonitrile-butadiene-styrene;

2. Methyl methacrylate-acrylonitrile-butadiene-styrene;

3. Methyl methacrylate-butadiene-styrene terpolymers;

4. Nitrile resins;

5. Polyethylene terephthalate;

6. Polystyrene; or

7. Styrene-acrylonitrile;

(hhh) Polyvinyl chloride and copolymers;

(iii) Portland cement manufacturing;

(jjj) Primary aluminum;

(kkk) Primary copper smelting;

(lll) Primary lead smelting;

(mmm) Primary magnesium refining;

(nnn) Printing and publishing (surface coating);

(ooo) Publicly owned treatment works;

(ppp) Pulp and paper production (MACT I and III);

(qqq) Reciprocating internal combustion engines;

(rrr) Refractory products manufacturing;

(sss) Reinforced plastic composites production;

(ttt) Rubber tire manufacturing;

(uuu) Secondary aluminum production;

(vvv) Secondary lead smelting;

(www) Semiconductor manufacturing;

(xxx) Shipbuilding and ship repair (surface coating);

(yyy) Site remediation;

(zzz) Solvent extraction for vegetable oil production;

(aaaa) Steel pickling - HCl process facilities and hydrochloric acid regeneration plants;

(bbbb) Synthetic organic chemical manufacturing - hazardous organic NESHAP – tetrahydrobenzaldehyde manufacture;

(cccc) Taconite iron ore processing;

(dddd) Wet-formed fiberglass mat production;

(eeee) Wood building products (surface coating);

(ffff) Wood furniture (surface coating); or

(gggg) Wool fiberglass manufacturing;

(2) Area sources:

(a) Acrylic fibers/modacrylic fibers production;

(b) Agricultural chemicals and pesticide manufacturing;

(c) Aluminum foundries;

(d) Asphalt processing and asphalt roofing manufacturing;

(e) Autobody refinishing paint shops;

(f) Carbon black production;

(g) Chemical manufacturing: Chromium compounds;

(h) Chemical preparations;

(i) Chromic acid anodizing;

(j) Clay products manufacturing (clay ceramics manufacturing);

(k) Commercial sterilization facilities;

(l) Copper foundries;

(m) Cyclic crude and intermediate production;

(n) Decorative chromium electroplating;

(o) Dry cleaning facilities;

(p) Electrical and electronic equipment – finishing operations;

(q) Fabricated metal products;

(r) Fabricated plate work;

(s) Fabricated structural metal manufacturing;

(t) Ferroalloys production: Ferromanganese and Silicomanganese;

(u) Flexible polyurethane foam fabrication operations;

(v) Flexible polyurethane foam production;

(w) Gas distribution stage 1;

(x) Halogenated solvent cleaners;

(y) Hard chromium electroplating;

(z) Hazardous waste incineration;

(aa) Heating equipment, except electric;

(bb) Hospital sterilizers;

(cc) Industrial boilers fired by coal, wood and oil;

(dd) Industrial inorganic chemical manufacturing;

(ee) Industrial machinery and equipment – finish operations;

(ff) Industrial organic chemical manufacturing;

(gg) Inorganic pigments manufacturing;

(hh) Institutional/commercial boilers fired by coal, wood and oil;

(ii) Iron and steel forging;

(jj) Iron foundries;

(kk) Lead acid battery manufacturing;

(ll) Medical waste incinerators;

(mm) Mercury cell chlor-alkali plants;

(nn) Miscellaneous organic NESHAP;

(oo) Municipal landfills;

(pp) Municipal waste combustors (MWC);

(qq) Nonferrous foundries;

(rr) Oil and natural gas production;

(ss) Paint strippers;

(tt) Paints and allied products manufacturing;

(uu) Pharmaceutical production;

(vv) Plastic materials and resins manufacturing;

(ww) Plastic parts and products (surface coating);

(xx) Plating and polishing;

(yy) Polyvinyl chloride and copolymers production;

(zz) Portland cement;

(aaa) Prepared feeds materials;

(bbb) Pressed and blown glass and glassware manufacturing;

(ccc) Primary copper (not subject to MACT);

(ddd) Primary metal products manufacturing;

(eee) Primary nonferrous metals (Zn, Cd and Be);

(fff) Public owned treatment works;

(ggg) Secondary copper smelting;

(hhh) Secondary lead smelting;

(iii) Secondary nonferrous metals;

(jjj) Sewage sludge incineration;

(kkk) Stainless and nonstainless steel manufacturing electric arc furnace;

(lll) Stationary internal combustion engines;

(mmm) Steel foundries;

(nnn) Synthetic rubber manufacturing;

(ooo) Valves and pipe fittings; or

(ppp) Wood preserving.

REBECCA W. GOODMAN, Secretary

APPROVED BY AGENCY: September 22, 2022

FILED WITH LRC: October 13, 2022 at 11:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A virtual public hearing on this administrative regulation amendment will be held on December 22, 2022, at 10:00 a.m. (Eastern Time). The public hearing can be accessed at the following Web site address: https://us02web.zoom.us/j/84744885330; meeting ID: 847 4488 5530 and can be accessed by phone: +1 (309)205-3325 using access code 84744885330#. Please note that registration is required to participate in this hearing. You must either email your name and mailing address to Lisa.C.Jones@ky.gov or mail this information to Lisa Jones, Division for Air Quality, 300 Sower Building, 2nd Floor, Frankfort, Kentucky 40601. Please put “List of hazardous air pollutants, petitions process, lesser quantity designations and source category list” as the subject line, and state in the body of the message if you plan to speak during the hearing. If no one registers to speak by December 15, 2022, then the hearing will be cancelled. 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 until December 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation amendment 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: Lisa Jones, Environmental Scientist III, Division for Air Quality, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 782-1288, fax (502) 564-4245, email Lisa.C.Jones@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Jones

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation provides the list of hazardous air pollutants (HAPs) pursuant to 42 U.S.C. 7412(b) of the Clean Air Act (CAA) and as promulgated in the National Emission Standards for Hazardous Air Pollutants (NESHAP) for source categories in 40 C.F.R. Part 63 by the U.S. EPA.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to identify HAPs which have been reasonably determined to endanger public health or welfare. This administrative regulation is necessary to be consistent with the federal regulations codified at 40 C.F.R. Part 63, and for the Energy and Environment Cabinet (Cabinet) to retain delegation of authority for implementation and enforcement of the standards established under 40 C.F.R. Part 63.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 224.10-100(5) authorizes the Cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. 42 U.S.C. 7416 requires that state authorities not adopt or enforce emission standards or limitations that are less stringent than the federal standards. This administrative regulation updates the HAPs list to be consistent with the federal HAP list.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation will enable the Cabinet to continue to implement and enforce the control of emissions associated with requirements established in 40 C.F.R. Part 63, pursuant to Section 112 of the CAA.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment updates the existing administrative regulation to include an amendment to 42 U.S.C. 7412(b) which adds 1-Bromopropane as a new HAP.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary for the state emission standards for NESHAPs to be consistent with the federal requirements established in 40 C.F.R. Part 63. This amendment is necessary for the Cabinet to retain delegation of authority to continue to implement and enforce the federal NESHAP program, and be no less stringent than the federal requirements.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment conforms to the content of the authorizing statute by adopting a listing of hazardous pollutants consistent with the list established in 40 C.F.R. Part 63.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment adopts federally regulated HAPs to provide for consistency between federal and state regulations for source categories. The control of the new NESHAP pollutant will be enforceable by the Cabinet.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

There are no specifically identified individuals, businesses, organizations, or state and local governments affected by this administrative regulation. However, emissions of 1-BP will be included in a permit applicant’s emissions calculations. This could potentially change the applicant’s permitting classification. Sources will be impacted upon EPA promulgation of updated or new NESHAP regulations which set emissions standards for the newly listed HAP. The Cabinet will retain delegation of authority for implementation and enforcement of these requirements.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Regulated entities will not be subject to any additional requirements due to this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There is no additional cost to the regulated entities to comply with this amendment as the amendment simply adds a HAP to the list of regulated HAPs. This amendment will allow the Cabinet to retain delegation of authority for implementation and enforcement of the NESHAPs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

There is no compliance with this administrative regulation.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The Cabinet will not incur any additional costs for the implementation of this administrative regulation initially.

(b) On a continuing basis:

The Cabinet will not incur any continuing costs for the implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The Cabinet’s current operating budget will be used for the implementation and enforcement of the amendment to this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?

No. This administrative regulation lists HAPs consistent with the federal HAP list.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

U.S. EPA promulgated the federal regulations related to the HAP listings in 40 C.F.R. Part 63, pursuant to 42 U.S.C. 7412.

(2) State compliance standards.

This administrative regulation provides the list of HAPs pursuant to 42 U.S.C. 7412(b) as amended in 40 C.F.R. Part 63, Subpart C and the list of source categories and subcategories.

(3) Minimum or uniform standards contained in the federal mandate.

42 U.S.C. 7412 requires that the U.S. EPA promulgate NESHAPs for source categories.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No. This administrative regulation is being amended to adopt the same standards as the federal regulations codified in 40 C.F.R. Part 63.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

Stricter standards or additional or different responsibilities or requirements are not imposed.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Cabinet will continue to permit sources in accordance with this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 224.10-100(5), 224.20-110, 40 C.F.R. Part 63, Part 70, 42 U.S.C. 7401-7671q.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The proposed administrative regulation will not generate revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

The proposed administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year?

The Cabinet’s current operating budget will be used to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years?

The Cabinet’s operating budget will be used to administer the program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation:

There is no other explanation.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

The proposed administrative regulation will not generate cost savings for any regulated entities in the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

The proposed administrative regulation will not generate cost savings for any regulated entities in subsequent years.

(c) How much will it cost the regulated entities for the first year?

There is no known cost to the regulated entities in the first year.

(d) How much will it cost the regulated entities for subsequent years?

There is no known cost to the regulated entities in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-): There is no known cost savings.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation:

There is no other explanation.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars ($500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This proposed administrative regulation will not have a major economic impact.