

#### **401 KAR 5:050. General provisions of KPDES Permitting Program.**

RELATES TO: KRS 224.1-010, 224.1-070, 224.1-400, 224.10-110, 224.16-050, 224.70-100, 224.70-110, 224.70-120, 224.99-010, 40 C.F.R. 122.403, 33 U.S.C. 1251-1387

STATUTORY AUTHORITY: KRS 224.10-100, 224.16-050, 224.70-110, 40 C.F.R. 122.403, 33 U.S.C. 1251-1387

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 authorizes the Energy and Environment Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe, permits to discharge into the waters of the Commonwealth. KRS 224.16-050 authorizes the cabinet to issue federal permits pursuant to 33 U.S.C. Section 1342(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) and requires that the cabinet shall not impose under any permit issued pursuant to this section any effluent limitation, monitoring requirement, or other condition that is more stringent than would have been applicable under the federal regulation if the permit were issued by the federal government. This administrative regulation establishes the provisions, terms, effect, schedule of compliance, and duration of a KPDES permit, and the basis for permit modification or revocation and reissuance.

Section 1. Conflicting Provisions. The provisions of the KPDES administrative regulations shall be construed as compatible with and complementary to each other. If any of these administrative regulations are found by a court of competent jurisdiction to be contradictory, the more stringent provisions shall apply.

Section 2. Duration of Permits. The duration of a KPDES permit shall be as established in 40 C.F.R. 122.46.

Section 3. Schedules of Compliance. The schedule of compliance for a KPDES permit shall be as established in 40 C.F.R. 122.47.

Section 4. Requirements for Recording and Reporting of Monitoring Results. The requirements for recording and reporting of a monitoring result shall be as established in 40 C.F.R. 122.48.

Section 5. Effect of a Permit.

- (1) Except for a toxic effluent standard or prohibition established in 401 KAR 5:065, compliance with a KPDES permit during its term shall constitute compliance, for purposes of enforcement, with the KPDES program.
- (2) A permit may be modified, revoked and reissued, or revoked during its term for cause as established in Sections 7 and 8 of this administrative regulation.
- (3) The issuance of a permit shall not convey property rights or exclusive privilege.
- (4) The issuance of a permit shall not authorize:
  - (a) Injury to persons or property;
  - (b) Invasion of other private rights; or
  - (c) Infringement of state or local law or administrative regulations.

Section 6. Transfer of Permits. Transfer of a KPDES permit shall be as established in 40 C.F.R. 122.61.

Section 7. Modification or Revocation and Reissuance of Permit.

- (1) The modification or revocation and reissuance of a KPDES permit shall be as established in 40 C.F.R. 122.62.
- (2) A minor modification of a KPDES permit shall be as established in 40 C.F.R. 122.63.

Section 8. Revocation of Permit. The causes and procedure for revoking a KPDES permit shall be as established in 40 C.F.R. 122.64.

Section 9. Substitutions, Exceptions, and Additions to Cited Federal Regulations.

(1) "Waters of the Commonwealth" shall be substituted for "waters of the United States" in the federal regulations cited in this administrative regulation.

(2) "Cabinet" shall be substituted for "Director" in the federal regulations cited in this administrative regulation.

(3) "KPDES" shall be substituted for "NPDES" in the federal regulations cited in this administrative regulation.

(9 Ky.R. 852; 1100; 10 Ky.R. 6; eff. 6-1-1983; 11 Ky.R. 737; eff. 1-7-1985; 12 Ky.R. 507; eff. 12-10-1985; 20 Ky.R. 3228; 21 Ky.R. 362; eff. 8-24-1994; TAm eff. 8-9-2007; 44 Ky.R. 2612; eff. 11-1-2018.)