

401 KAR 52:070. Registration of air contaminant sources.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. Parts 60, 61, and 63

STATUTORY AUTHORITY: KRS 224.10-100(5), 224.20-100, 224.20-110, 224.20-120

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 establishes the procedure for the registration of air contaminant sources in Kentucky.

Section 1. Applicability.

(1) This administrative regulation shall apply to:

(a) A source that has the PTE:

1. Two (2) tpy or more but less than ten (10) tpy of a HAP;
2. Five (5) tpy or more but less than twenty-five (25) tpy of combined HAPs;
3. Ten (10) tpy or more but not more than twenty-five (25) tpy of a regulated air pollutant subject to an applicable requirement that does not specify the method for achieving compliance;
4. Ten (10) tpy or more but less than 100 tpy of a regulated air pollutant subject to an applicable requirement that clearly specifies the method of compliance; or
5. Ten (10) tpy or more but less than 100 tons per year of a regulated air pollutant for which there is no applicable requirement; or

(b) A source that has the potential to emit less than the cutoffs established in paragraph (a) of this subsection but is subject to an applicable requirement in 40 C.F.R. Parts 60, 61, or 63.

(2) This administrative regulation shall not apply to:

(a) A source required to be permitted pursuant to 401 KAR 52:020, 401 KAR 52:030, or 401 KAR 52:040; or

(b) A source exempt pursuant to Section 2 of this administrative regulation.

Section 2. Exemptions.

(1) The following sources shall be exempt from this administrative regulation:

- (a) A source that emits only nonprocess fugitive emissions;
- (b) A source subject only to the requirements of 40 C.F.R. 60.530 to 60.539b, (Subpart AAA), Standards of Performance for New Residential Wood Heaters;
- (c) A source subject only to the requirements of 40 C.F.R. 60.5472 to 60.5483, (Subpart QQQQ), Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces; or
- (d) A sawmill that produces only rough-cut or dimensional lumber from logs and that has a rated capacity of 5,000 board feet per hour or less, if the source does not include an indirect heat exchanger or waste wood burner subject to an applicable requirement in 40 C.F.R. Part 60 or 401 KAR Chapters 59 or 61.

(2) The following activities shall be exempt from this administrative regulation:

- (a) Use of a vehicle for the transportation of passengers or freight;
- (b) Use of a publicly-owned road;
- (c) An asbestos demolition or renovation operation subject only to an applicable requirement in 401 KAR Chapter 58;
- (d) An open burning covered under 401 KAR 63:005; or
- (e) An activity or emission unit contained in the List of Trivial Activities, which the cabinet shall maintain and make available:
 1. On request by calling the Division for Air Quality, Permit Support Section, at (502) 564-3999; and
 2. On the Internet at: <http://air.ky.gov>.

Section 3. General Provisions.

- (1) A source subject to this administrative regulation shall:
 - (a) Register with the cabinet;
 - (b) Comply with all applicable requirements; and
 - (c)
 1. Allow an authorized representative of the cabinet to enter the premises at all reasonable times to:
 - a. Access and copy any records required by this administrative regulation;
 - b. Inspect any facility, equipment (including air pollution control equipment), practice, or operation; and
 - c. Sample or monitor substances or parameters to determine compliance with applicable requirements.
 2. Reasonable times shall be:
 - a. During all hours of operation;
 - b. During normal office hours; or
 - c. During an emergency.
- (2) A source that is located in an ozone nonattainment area or ozone maintenance area that has the potential to emit twenty-five (25) tpy or more of VOC or NO_x shall submit an annual emission certification as follows:
 - (a) During the first quarter of each calendar year, the cabinet shall survey the source to determine actual emissions during the preceding calendar year and the source shall:
 1. Make the appropriate additions or corrections to the survey; and
 2. Return the updated survey to the cabinet within thirty (30) days of the date that the survey is mailed to the source. For this response:
 - a. Each day past the deadline that a source fails to submit the required information shall be a separate violation of this administrative regulation; and
 - b. If no response is received by the deadline, the cabinet shall estimate the actual emissions based on prior history and other relevant information that is available; and
 - (b) Failure of the cabinet to notify a source under this subsection shall not relieve the source from the obligation to submit an emissions statement.
- (3) The cabinet may require registered sources to demonstrate compliance with applicable requirements.

Section 4. When to Apply for Registration.

- (1) New sources. A source that commences construction after the effective date of this administrative regulation shall submit a complete application to the cabinet prior to commencing construction.
 - (a) A source may commence construction immediately upon submittal of a complete application, as required by Section 7 of this administrative regulation.
 - (b) The cabinet shall review the application and shall notify the source within sixty (60) days of receipt that:
 1. A permit or registration is not required;
 2. The application as submitted is accepted, and the source is a registered source; or
 3. The source is required to obtain a permit and is required to take the specified action.
- (2) Existing registered sources. A source that is registered with the cabinet and plans to reconstruct or modify shall comply with the following:
 - (a) A source that remains eligible for registration after the change:
 1. Shall submit a complete application, as established in Section 7 of this administrative regulation, to the cabinet prior to commencing reconstruction or modification; and

2. May commence reconstruction or modification immediately upon submittal of the complete application; or
- (b) A source that is not eligible for registration after the change shall:
 1. Submit a complete application pursuant to 401 KAR 52:020, 401 KAR 52:030, or 401 KAR 52:040, as applicable; and
 2. Obtain the appropriate permit prior to commencing reconstruction or modification.

Section 5. Application at the Cabinet's Request.

- (1) Upon request by the cabinet, a source that has commenced construction or operation without a permit or registration shall submit a complete application within thirty (30) days of request.
- (2) The cabinet shall review the application and within sixty (60) days of receipt:
 - (a) Shall notify the source that a permit or registration is not required; or
 - (b) If a permit or registration is required, shall specify the action the source is required to take, and may issue a notice of violation.

Section 6. Rescinding an Existing Permit.

- (1) A source that has a permit and is eligible for registration may request that the cabinet rescind its permit by submitting:
 - (a) A complete application, as established in Section 7 of this administrative regulation; and
 - (b) A letter requesting the cabinet to rescind the permit, along with supporting documentation that provides evidence that the source complies with the requirements for registration.
- (2) The cabinet shall review the request and shall notify the source within sixty (60) days of receipt that the request is:
 - (a) Approved and the permit has been rescinded; or
 - (b) Denied and shall specify the reason for denial and any action the source is required to take.

Section 7. How to Apply for Registration.

- (1) Application shall be made using the applicable forms DEP7007AI through DEP7007HH, incorporated by reference in 401 KAR 52:050.
 - (2) Complete applications shall be submitted to the Kentucky Division for Air Quality, 300 Sower Boulevard, Frankfort, Kentucky 40601.
- (27 Ky.R. 636; Am. 1299; 1794; eff. 1-15-2001; TAm eff. 8-9-2007; TAm. eff. 5-20-2010; TAm eff. 9-16-2013; TAm eff. 4-2-2014; TAm eff. 7-8-2016; 45 Ky.R. 761, 1689, 2085; eff. 2-1-2019.)