

401 KAR 63:010. Fugitive emissions.

RELATES TO: KRS 224.20, 224.10-100, 42 U.S.C. 7407

STATUTORY AUTHORITY: KRS 224.10-100(5)

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 requirements for the control of fugitive emissions.

Section 1. Definitions. Except as defined in this section, terms used in this administrative regulation shall have the meaning established in 401 KAR 50:010.

- (1) "Affected facility" means an apparatus, operation, or road that emits or could emit fugitive emissions not elsewhere subject to an opacity standard within 401 KAR Chapters 50 through 68.
- (2) "Emission time" means the accumulated amount of time that emissions are visible during the observation period.
- (3) "Fugitive emissions" means the emissions of any air contaminant into the open air other than from a stack or air pollution control equipment exhaust.
- (4) "Observation period" means the accumulated time period during which observations are conducted.
- (5) "Open air" means the air outside buildings, structures, and equipment.

Section 2. Applicability. The provisions of this administrative regulation shall be applicable to each "affected facility" as defined by Section 1(1) of this administrative regulation.

Section 3. Standards for Fugitive Emissions.

- (1) A person shall not cause, suffer, or allow any material to be handled, processed, transported, or stored; a building or its appurtenances to be constructed, altered, repaired, or demolished; or a road to be used without taking reasonable precaution to prevent particulate matter from becoming airborne. Reasonable precautions shall include, as applicable:
 - (a) Use, if possible, of water or suitable chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;
 - (b) Application and maintenance of asphalt, oil, water, or suitable chemicals on roads, materials stockpiles, and other surfaces that can create airborne dusts;
 - (c) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials, or the use of water sprays or other measures to suppress the dust emissions during handling. Adequate containment methods shall be employed during sandblasting or other similar operations;
 - (d) Covering, at all times while in motion, open bodied trucks transporting materials likely to become airborne;
 - (e) The maintenance of paved roadways in a clean condition; or
 - (f) The prompt removal of earth or other material from a paved street to which earth or other material has been transported by trucking or earth moving equipment or erosion by water.
- (2) A person shall not cause, suffer, or allow visible fugitive dust emissions beyond the lot line of the property on which the emissions originate, as determined by Reference Method 22 of Appendix A in 40 C.F.R. Part 60, for:
 - (a) More than five (5) minutes of emission time during any sixty (60) minute observation period; or
 - (b) More than twenty (20) minutes of emission time during any twenty-four (24) hour period.

(3) If dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building or equipment in a manner and amount as to cause a nuisance or to violate any administrative regulation, the secretary may, based on the cause, type, or amount of a fugitive emission, order that the building or equipment in which processing, handling, and storage are done be tightly closed and ventilated in a way that all air and gases and air or gas-borne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

(4) The provisions of this section shall not apply to agricultural practices, such as tilling of land or application of fertilizers, which take place on a farm. Agricultural practices, such as tilling of land or application of fertilizers, which take place on a farm, shall be conducted in a manner as to not create a nuisance to others residing in the area.

Section 4. Additional Requirements. In addition to the requirements of Section 3 of this administrative regulation, the requirements established in subsections (1) through (3) of this section shall apply.

(1) At all times while in motion, open bodied trucks, operating outside company property, transporting materials likely to become airborne shall be covered.

(2) The provisions of Section 3(1) and (2) of this administrative regulation shall not be applicable to temporary blasting or construction operations.

(3) A person shall not cause, suffer, or allow earth or other material being transported by truck or earth moving equipment to be deposited onto a paved street or roadway.

(5 Ky.R. 511; 6 Ky.R. 50; eff. 6-29-1979; TAm eff. 8-9-2007; Crt eff. 9-12-2018; TAm eff. 2-14-2019; 46 Ky.R. 1941, 2629; eff. 6-30-2020.)