

About Permitting and Authorizations

Environmental authorizations, such as permits and registrations, are required by federal, state and sometimes local governments. The purpose of authorizations is to make sure that industry, businesses, and individuals minimize the impacts of certain activities on the environment.

Permits include conditions that are designed to control pollution. Permits also restrict the amount of pollutants that may be released during a specific timeframe.

Registrations are a permit option for some facilities that can carry out activities according to preset standards.

The types of permits and registrations that could apply to a particular industry or business vary depending on the location, activities, and the potential for pollution.

The types of activities that require permits or other approvals can include anything from emissions from power stations and sewer treatment plants to disposal of refuse and any other activities that might pollute the air, water, or land.

Environmental Guidance for Kentucky

Kentucky's Division of Compliance Assistance (DCA) developed this guide as an introduction to various environmental permits and authorizations issued by the Kentucky Department for Environmental Protection (DEP). It is intended to serve as a reference guide for anyone who needs to determine if environmental permits or authorizations are needed for any current or planned activities. It is important to note that this guide does not include every permit and authorization issued by DEP. Individuals should contact department staff for assistance with identifying all permits or authorizations that may apply to their unique circumstances.

Understanding Environmental Permits

WHY DO I NEED A PERMIT?

Activities that have the potential to significantly impact the environment or threaten human health require an environmental permit. Even minor activities when combined can create significant impacts. Failure to obtain and comply with permits can result in violations or delays.

WHEN SHOULD I SUBMIT AN APPLICATION FOR A PERMIT?

Facility owners and operators must obtain all applicable permits prior to beginning projects. Although most permits take a few months to finalize the review, some construction or operation activities may begin upon or shortly after submitting a complete application.

HOW LONG DOES THE PERMIT APPROVAL PROCESS TAKE?

Processing permits and receiving authorization takes time. The regulatory time frame for reviewing and issuing a final permit identifies the maximum time it should take to receive a final permit. If the activity is technically complex or requires multiple permits, then it may take longer.

DO I HAVE TO PAY A FEE FOR A PERMIT?

Certain permits or approvals have associated fees depending on the type of activity and the source. Questions about fees should be directed to the agency issuing the authorization.

CAN I SPEED UP THE PERMIT PROCESS?

DEP recognizes the compressed timelines associated with starting up or expanding a business. Therefore, the department is committed to reviewing applications as rapidly as possible, while ensuring accuracy for all approvals. Applicants proposing large scale, complex or controversial projects or major modifications to existing permits are encouraged to request a pre-authorization meeting with the appropriate agency staff. The following tips will help expedite the process:

- ◆ Determine all permits necessary for intended activities (including local authorizations).
- ◆ Be aware of the timelines associated with reviewing and approving permits.
- ◆ Discuss your timeline and the potential to prioritize the review process with agency staff.
- ◆ Make sure that all applications are complete and submit them as soon as possible.
- ◆ Consult DCA to identify permit needs and to facilitate discussions with permit reviewers.

Division for Air Quality

The Kentucky Division for Air Quality (DAQ) issues permits to industry, businesses, and individuals for activities that create air pollution. An “air contaminant” or “air pollutant” includes smoke, dust, soot, carbon or any particulate matter, radioactive matter, noxious acid, fumes, gases, odor, vapor or any combination of these items. Note: The Kentucky Division for Air Quality is responsible for air quality in all counties except Jefferson. The regulatory authority for air quality in Jefferson County is the Louisville Air Pollution Control District. For more information, visit <https://louisvilleky.gov/government/air-pollution-control-district>.

AIR PERMITTING AND TYPES OF AIR POLLUTANTS

An air quality permit from DAQ is required for the construction and operation of an air contaminant source and its air pollution control equipment. All air quality registration and permit applications use the [DEP7007 series of forms](#). The goal of air permitting programs is to meet and maintain state and federal air quality standards. The type of permit required depends on the type of facility and the amount of air pollutants that the facility has the potential-to-emit (PTE). PTE is based on the maximum capacity of the facility to release air pollutants if it were to operate 24 hours a day, 7 days a week. Air emissions are identified by the amount of **regulated air pollutants**, **individual hazardous air pollutants**, and **total combined hazardous air pollutants** that the entire source has the potential-to-emit. These terms are explained below:



Regulated air pollutants include nitrogen oxides, volatile organic compounds and pollutants promulgated by national primary and secondary air ambient quality standards, stratospheric ozone protection, new source performance standards, or as a hazardous air pollutant (401 KAR 52:001, Section 1(60)).

Hazardous air pollutants are chemicals that are known to cause or contribute to serious human health risks or adverse environmental effects. A list of hazardous air pollutants can be found in Section 112(b)(1) of the Clean Air Act. Any deletions or redefinitions of hazardous air pollutants are listed within 40 CFR 63, Subpart C.

AIR PERMIT THRESHOLDS

Permits are issued to smaller sources referred to as **minor sources** and larger sources referred to as **major sources**. Whether or not a source requires an air permit depends on its potential emissions. The level of permitting is determined by the thresholds to which the facility will potentially emit. Federal rule applicability requires facilities to submit at least a registration.

- ◆ Some **minor sources** may not require a permit or registration if the potential emissions are less than ten tons per year of regulated air pollutants, two tons per year of individual hazardous air pollutants, and five tons per year of total combined hazardous air pollutants.
- ◆ A **Registration** is required for sources that have the potential-to-emit less than 25 ton per year of regulated air pollutants, less than 10 tons per year of individual hazardous air pollutants, and less than 25 tons per year of the total combined hazardous air pollutants.
- ◆ A **State Origin Permit** is required for facilities that have the potential-to-emit less than 100 tons per year of regulated air pollutants.
- ◆ A **Federally Enforceable State Operating Permit (also known as a conditional major permit)** is an option for some sources that have the potential-to-emit more than a minor source, but the actual emissions from the operations are less than minor source thresholds. This type of permit allows sources to elect for federally enforceable emission limitations and avoid entering as a major source.



Division for Air Quality

AIR PERMIT THRESHOLDS (cont.)

- ◆ A major source, or **Title V Permit**, is required when the potential emissions are greater than minor source thresholds.
- ◆ A **Prevention of Significant Deterioration (PSD)** permit is a construction permit for sources that exceed either 100 tons per year or 250 tons per year thresholds depending on the type of facility, are located within attainment areas, and often include certain industries with specific limitations. **Note: A nonattainment area is a locality where air pollution levels exceed National Ambient Air Quality Standards. These areas may be subject to additional regulatory requirements.*



FEDERAL RULE APPLICABILITY

In addition to Kentucky's air quality regulations (401 KAR Chapters 50 to 65), there are federal air quality regulations that may apply. These rules are referred to as **New Source Performance Standards** (40 CFR 60) and **National Emission Standards for Hazardous Air Pollutants** (40 CFR 63 and 40 CFR 61). These rules are source-specific and pollutant-targeted and may require certain permit conditions. If a federal rule is applicable to a source, then at least a registration application must be submitted.



ASBESTOS CONTROL AND LICENSING

All buildings must be inspected for asbestos by a Kentucky accredited asbestos inspector prior to renovation or demolition. Any project that will disturb asbestos over threshold amounts, in accordance with 40 CFR 61, Subpart M, must submit a 10-day notification form (DEP 7036) to DAQ. A certified asbestos contractor is required to remove the asbestos material that will be disturbed. A renovation project that will disturb asbestos in

amounts under thresholds but over three square- or linear-feet, does not need to submit a notification form; however, they still require a licensed asbestos abatement worker or supervisor to complete the work.

All demolitions require a 10-day notification whether or not asbestos is present in the building. If asbestos is present in the building, with some exceptions, it will have to be removed before demolition and the abatement activities require a 10-day notification. Some exceptions may apply to asbestos work in a single-family, private residence.



Division of Waste Management

The Kentucky Division of Waste Management (DWM) ensures the proper management of waste through permits and registrations. Anyone who generates, stores, transports, processes, recycles, or disposes of solid waste or hazardous waste may be subject to these authorizations. Before going forward with any of these activities, it is important to determine what types of authorizations are required by DWM.

MUNICIPAL SOLID WASTE COLLECTION AND TRANSPORT

In Kentucky, all municipal solid waste collectors and recyclers are required to register and report annually to the county or counties in which they provide service. In addition, transporters of municipal solid waste must obtain a permit from the Kentucky Department of Transportation.

MUNICIPAL SOLID WASTE FACILITIES, SITES, AND ACTIVITIES

Municipal solid waste facilities include landfills, material recovery facilities, transfer stations, composting facilities, beneficial reuse and waste tire sites. Permits and registrations for these types of facilities and sites are listed below:

◆ **Permit-by-Rule**

Disposal of certain solid wastes may be deemed to have a **permit-by rule** as long as the operation meets certain conditions and complies with environmental performance standards.

◆ **Registered Permit-by-Rule**

A **Registered Permit-by-Rule (RPBR)** is required for certain solid waste and special waste facilities including medical waste and solid waste transfer stations, composting and land application sites, less-than-one-acre construction demolition debris (CDD) landfills, sludge give-away and sludge storage and treatment. Recycling facilities accepting only “recovered materials” are exempt from RPBR requirements. RPBR applications require local approval and may require a public notice and public hearing. Typically, the period from submitting the RPBR application to final approval is several months, though some types of permits have a five-day review period. If administrative requirements are met and the application is accepted within five days, then the applicant may begin operation immediately after the review period.

◆ **Formal Permit**

A **formal permit** is required for constructing or expanding the following types of facilities: contained, residual, and special waste landfills, and construction and demolition landfills that are larger than one acre. These facilities are classified based on the type of waste accepted for disposal. They also have design, operational, and closure standards along with permit requirements tailored to provide adequate containment for the specific wastes that are accepted. The process and timeframe for obtaining a full permit may take a minimum of two years from the initial submittal to the final approval. The first step requires approval from the local governing body and a public participation period. Once local requirements are met, the applicant can submit the formal application to DWM. The state level review process consists of three phases:

- 1) *Notice of Intent* (verifies site approval and consistency with other published documents).
- 2) *Administrative Application* (confirms applicant eligibility, background, and geological information).
- 3) *Review of Technical Application* (specifies design and operational conditions).

◆ **Waste Tire Registration**

Kentucky’s waste tire laws require transporters, accumulators, processors, and some retailers of waste tires to obtain a **waste tire registration** and post financial assurance for closure and corrective action. The process includes completing and submitting at least three forms, depending on the scope of the proposed operation. Waste tire registration requirements apply to:

- 1) any person who accumulates more than 25 waste tires for the purpose of processing.
- 2) any person who transports more than waste tires at one time.
- 3) any person who accumulates more than 100 waste tires at a site.
- 4) any recycling dealers or new tire retailers who accumulate more than 1,000 waste tires on site.



Division of Waste Management

UNDERGROUND STORAGE TANKS

Kentucky's underground storage tank (UST) regulations and procedures are established in 401 KAR Chapter 42. Although installation, repairs, or modifications of UST systems are permitted through the Department of Housing, Buildings and Construction, Office of the State Fire Marshal, the DWM Regional Office must be notified 14 days prior to installing any underground tanks and piping.

All owners and operators of regulated UST systems must register with the DWM UST Branch within 30 days of bringing a UST system into operation and within 30 days of a change in ownership or change of address. Owners and operators are also responsible for ensuring that UST systems are operated, maintained, and tested in accordance with regulatory requirements. Confirmed releases, spills, and overfills must be reported immediately to the cabinet's 24-hour Environmental Response Line. An owner or operator must immediately report any suspected release to the cabinet's 24-hour Environmental Response Line, unless all three of these conditions are met:

1. System equipment is found not to be releasing regulated substances into the environment.
2. Any defective system equipment or component is immediately repaired or replaced.
3. For secondarily contained systems, any liquid in the interstitial space not used as part of the interstitial monitoring method is removed immediately.

DWM's UST Branch also regulates the permanent closure of UST systems. As with installation, the DWM Regional Office must be notified 14 days prior to the permanent closure of a UST or an entire piping run. A UST removal contractor certified by the State Fire Marshal must perform all permanent closures.

HAZARDOUS WASTE GENERATOR ACTIVITIES AND FACILITIES

Hazardous waste generators are individuals or businesses that produce hazardous waste. Kentucky defines three categories of hazardous waste generators based on the quantity of hazardous waste generated in one calendar month (see chart). Depending on the amount of hazardous waste and/or the type of activity, a registration or permit may be required.

Hazardous Waste Generator Classifications

Generator Class	Generated in One Calendar Month	Acute Hazardous Waste
LQG	≥2,200 lbs.	>2.2 lbs.
SQG	>220 - <2,200 lbs.	≤2.2 lbs.
VSQG	≤220 lbs.	

A summary of requirements for hazardous waste generators and activities is provided below:

Generating Hazardous Waste (Generator Registrations Requirements)



Large (LQG) and small (SQG) quantity hazardous waste generators must notify and register with DWM using [EPA 8700 Form](#) and [DWM 7037A Form](#). Very small (VSQG) quantity hazardous waste generators are not required to register unless they need to obtain an EPA ID number. Generator status, whether large, small, or very small, affects how hazardous waste is managed in terms of storage, storage times, recordkeeping, reporting, transportation, processing, and/or final disposal.



Division of Waste Management

HAZARDOUS WASTE GENERATOR ACTIVITIES AND FACILITIES (cont.)

Generating and Accumulating Universal Waste



Universal waste includes:

- ◆ Batteries
- ◆ Unused pesticides
- ◆ Mercury-containing devices
- ◆ Spent lamps
- ◆ Aerosol cans

In Kentucky, registration is required if generating or accumulating 11,000 lbs. or more of universal waste at one time.

Onsite Treatment of Hazardous Waste

Hazardous waste may be treated onsite by the generator under certain conditions and with approval by DWM. An initial proposal for onsite treatment activities by a generator must be accompanied with a clear explanation of the process, a description of all wastes to be handled by the process, capacity of the process, type of unit in which the process will be conducted, documentation that the process will adequately protect public health and the environment and other pertinent information. A list of requirements for onsite treatment can be found at <https://eec.ky.gov/Environmental-Protection/Waste/hazardous-waste/Pages/hazardous-waste-forms.aspx>.



Transporting and Processing Used Oil



Certain activities associated with used oil require registration with DWM. These activities include transporting, processing, refining, marketing, and/or burning off specification used oil. A used oil transporter or transfer station includes activities of transporting and/or collecting used oil from more than one generator or owning/operating a used oil transfer facility. Used oil fuel marketers ship off-specification used oil from their facility to a used oil burner or they are the first person to claim the used oil to burn for energy recovery.

Hazardous Waste Treatment, Storage and Disposal Facilities

A *Hazardous Waste Treatment, Storage and Disposal (TSD) Facility Permit* is required prior to constructing and operating a facility that treats, stores, or disposes hazardous waste onsite. Some industries obtain TSD permits in order to hold containers or tanks for longer periods of time.



Division of Water

A Kentucky Division of Water (DOW) permit is required whenever activities involve a withdrawal of water, a location within a floodplain, a discharge into the state's waters, or a threat to a water resource. DOW permits are generally required for construction activities and activities associated with wastewater treatment plants or public water systems.

KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM (KPDES)



All **wastewater discharges** that enter the waters of the Commonwealth require a [KPDES operating permit](#). Wastewater discharge can be produced from the treatment of wastes or the processes of certain activities and operations. Most facilities with this type of discharge require an **individual** permit. **General** permits, on the other hand, have been developed for sources that meet the criteria of general permit requirements.

Another type of discharge includes those that are associated with stormwater. **Stormwater discharge** involves industrial and commercial materials or activities that occur outdoors and have the potential to discharge pollutants to the waters of the Commonwealth. Some facilities, as identified by Standard Industrial Classification codes, are required to submit an application for a **general stormwater permit** 15 days prior to operation. A facility that is not eligible for a general permit may be required to apply for an **individual KPDES permit**. A **construction stormwater permit** is a temporary permit to be obtained prior to beginning construction or expansion activities that will disturb one or more acres. A **Notice of Intent**, submitted electronically, is required at least seven days prior to construction.



Other types of wastewater permits include the **KY No Discharge Operational Permit** required for operating a closed circuit, subsurface injection or land application wastewater system, and the **KY Inter-System Operations Permit** required prior to operating a public- or private-owned sewer system with 5,000 linear feet or more of sewer line that discharges to a wastewater treatment plant owned by another system.

LOCAL AUTHORIZATIONS FOR DISCHARGES

Some activities that involve local approval prior to discharging wastewater include:

- ◆ **Septic System Installation:** septic systems require approval from the local health department.
- ◆ **Pretreatment Limits to a Municipal System:** facilities that discharge wastewater to a municipal system are bound to pretreatment limits, approvals, and permits set by the local authority.
- ◆ **Municipal Separate Storm Sewer System (MS4):** facilities located within a jurisdictional area that has a separate storm sewer system must meet requirements in local ordinances.

DRINKING WATER

Drinking water authorizations are required for facilities that treat water and serve as a public water system. Prior to construction, drinking water facilities must ensure that the water source has adequate capacity and infrastructure to deliver a sufficient water supply.



SECTION 401 WATER QUALITY CERTIFICATION (WQC)

Any projects that involve working in, dumping, or discharging dredged or fill material into the state's waters, regardless of whether on private or public property, must obtain a **Section 401 Water Quality Certification** (401 WQC) from DOW. A 401 WQC certifies activities conducted under federal licenses and permits. Examples of federal licenses and permits that are subject to a 401 WQC include:

- ◆ Clean Water Act Section 404 permits issued by the U.S. Army Corps of Engineers (USACE).
- ◆ Federal Energy Regulatory Commission hydropower licenses issued by USACE.
- ◆ Rivers and Harbors Act Section 9 and Section 10 permits issued by the USACE.

- ◆ Section 404 Nationwide Permits may be certified by a **General 401 WQC** from DOW. *Note: General 401 WQCs speed up the permitting process because similar conditions can be issued for similar projects. These projects must result in minimal degradation and cannot occur within an outstanding resource water. If a project doesn't meet these requirements, then an **Individual 401 WQC** may be required.*



WATER WITHDRAWAL

A **Water Withdrawal Permit** must be obtained if raw water is withdrawn from surface water or groundwater at a rate of 10,000 gallons per day or more. If a well is to be drilled, then a Kentucky-certified water well driller must be used. Although a certified well driller must be used, there are no permitting requirements.

FLOODPLAIN CONSTRUCTION

A **Floodplain Construction Permit** must be obtained prior to the construction, reconstruction or relocation of any dam, embankment, levee, dike, bridge, or fill along a stream or within the floodplain of a stream. A floodplain construction permit is also required to fill or alter any area adjacent to a river or stream.

GROUNDWATER PROTECTION

A facility that handles pesticides, hazardous or solid wastes, bulk quantities of raw material and other potentially polluting substances should develop a **Groundwater Protection Plan** (GPP). GPPs are to be implemented upon development and are not dependent on approval by DOW, unless requested. The plan must be maintained on-site and made available upon request.



Assistance and Resources

- ◆ **Department for Environmental Protection (DEP) Forms Library:** For permit applications, registrations, and other forms pertaining to DEP programs, visit <https://eec.ky.gov/Environmental-Protection/resources/Pages/default.aspx>.
- ◆ **Division of Compliance Assistance (DCA) Staff:** DCA staff assist businesses, individuals and organizations in complying with environmental requirements. In addition to developing resource materials and reference guides, DCA staff provide guidance for determining the types of permits that may be required for certain projects.
- ◆ **Kentucky Certifications Programs:** DEP issues certifications for the following activities and operations:
 - *Asbestos Inspectors
 - *Drinking Water Operators
 - *Wastewater Operators
 - * Well Drillers
 - *Solid Waste Operators
 - *Drinking Water Laboratories
 - *Wastewater LaboratoriesFor more information about DEP certifications, visit <https://eec.ky.gov/Environmental-Protection/Compliance-Assistance/operator-certification-program/Pages/default.aspx>.
- ◆ **Construction and Demolition:** Construction and demolition often involve activities that are regulated by DEP. These activities include fugitive dust, asbestos notifications, stormwater construction permits, waste generation and waste disposal. For more information and a brief description of common DEP regulations associated with these activities, please visit <https://eec.ky.gov/Environmental-Protection/Compliance-Assistance/DCA%20Resource%20Document%20Library/ConstructionandDemolitionFactSheet.pdf>.

Contact Information

Kentucky Department for Environmental Protection

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Frankfort, Kentucky 40601

(502) 564-0323 – Office and (502) 564-4245 – Fax Email: envhelp@ky.gov

Website: <https://eec.ky.gov/Environmental-Protection/Pages/default.aspx>

Division of Compliance Assistance

(502) 782-6189 – Office

Website: <https://eec.ky.gov/Environmental-Protection/Compliance-Assistance/Pages/default.aspx>

Division for Air Quality

(502) 564-3999 – Office

Website: <https://eec.ky.gov/Environmental-Protection/Air/Pages/default.aspx>

Division of Waste Management

(502) 564-6716 – Office

Website: <https://eec.ky.gov/Environmental-Protection/Waste/Pages/default.aspx>

Division of Water

(502) 564-3410 – Office

Website: <https://eec.ky.gov/Environmental-Protection/Water/Pages/default.aspx>

Environmental Response Team

(502) 564-2380 – Office

1-800-928-2380– 24-hour Emergency Hotline

Website: <https://eec.ky.gov/Environmental-Protection/Waste/Pages/EmergencyResponseBranch.aspx>

Disclaimer: The Division of Compliance Assistance helps small businesses, local governments, and the general public comply with state environmental regulations. This document is intended solely as guidance and is not a substitute for reading and understanding Kentucky's statutes and regulations governing the applicability and issuance of environmental permits.



Kentucky Division of Compliance Assistance

Kentucky Energy and Environment Cabinet

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