

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Division for Air Quality

4 (Amended After Comments)

5 401 KAR 52:070. Registration of air contaminant~~[designated]~~ sources.

6 RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. Parts
7 60, 61, and 63

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

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5)

10 authorizes~~[requires]~~ the ~~[Environmental and Public Protection]~~ cabinet to promulgate
11 administrative regulations for the prevention, abatement, and control of air pollution. ~~[There is no~~
12 ~~federal mandate for this administrative regulation.]~~ This administrative regulation establishes the
13 procedure for the registration of ~~[designated]~~ air contaminant sources in Kentucky.

14 Section 1. Applicability. (1) This administrative regulation shall apply to:

15 (a) A source~~[(1) Sources]~~ that has~~[emit or have]~~ the ~~[potential to emit (]PTE[)]~~:

16 1. [(a)] Two (2) tpy or more but less than ten (10) tpy of a HAP;

17 2. [(b)] Five (5) tpy or more but less than twenty-five (25) tpy of combined HAPs; or

18 3. Ten (10) tpy or more but not more than twenty-five (25) tpy of a regulated air
19 pollutant subject to an applicable requirement that does not specify the method for achieving
20 compliance;

21 4. Ten (10) tpy or more but less than 100 tpy of a regulated air pollutant subject to an

1 applicable requirement that clearly specifies the method of compliance; or

2 5. Ten (10) tpy or more but less than 100 tons per year of a regulated air pollutant for
3 which there is no applicable requirement[More than five (5) tpy but less than twenty-five
4 (25) tpy of a regulated air pollutant that is not a HAP]; or

5 (b) A source[(c) For other regulated air pollutants:

6 1. Ten (10) tpy or more but less than twenty-five (25) tpy of a pollutant subject to an
7 applicable requirement that does not specify the method for achieving compliance;

8 2. Ten (10) tpy or more but less than 100 tpy of a pollutant subject to an applicable
9 requirement that clearly specifies the method of compliance; or

10 3. Ten (10) tpy or more but less than 100 tons per year of a pollutant for which there is no
11 applicable requirement; or

12 (2) Sources] that has the potential to emit less than the cutoffs in paragraph (a) of this
13 subsection [(1) of this section] but is[are] subject to an applicable requirement in 40 C.F.R. Parts
14 60, 61, or 63.

15 (2) This administrative regulation shall not apply to:

16 (a) A source required to be permitted pursuant to 401 KAR 52:020, 401 KAR 52:030, or
17 401 KAR 52:040; or

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

19 Section 2. Exemptions. (1) The following sources shall be exempt from this administrative
20 regulation:

21 (a) A source[Sources that are required to be permitted under 401 KAR 52:020, 401 KAR
22 52:030, or 401 KAR 52:040;

23 (b) Sources] that emits[emit] only nonprocess fugitive emissions;

1 **(b) A source**~~[(e) Sources]~~ subject only to the requirements of 40 C.F.R. 60.530 to 60.539b,
2 **(Subpart AAA), Standards of Performance for New Residential Wood Heaters;**

3 **(c) A source subject only to the requirements of 40 C.F.R. 60.5472 to 60.5483, (Subpart**
4 **OOOO), Standards of Performance for New Residential Hydronic Heaters and Forced-Air**
5 **Furnaces; or**

6 **(d) A sawmill that produces**~~[Sawmills that produce]~~ only rough-cut or dimensional lumber
7 from logs and **that**~~[which]~~ **has**~~[have]~~ a rated capacity of 5,000 board feet per hour or less, if the
8 source does not include an indirect heat exchanger or waste wood burner subject to an applicable
9 requirement in 40 C.F.R. Part 60 or 401 KAR Chapters 59 or 61.

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

11 (a) **Use of a vehicle**~~[Vehieles]~~ **[used]** for the transportation of passengers or freight;

12 (b) **Use of a publicly-owned road**~~[roads];~~

13 (c) **An asbestos demolition or renovation operation**~~[operations]~~ subject only to an
14 applicable requirement in 401 KAR Chapter 58;

15 (d) **An open burning covered under 401 KAR 63:005; or**~~[and]~~

16 (e) **An activity**~~[Activities]~~ or emission **unit**~~[units]~~ contained in the ~~[u]~~List of Trivial
17 Activities~~[u]~~, which the cabinet shall maintain and make available:

18 1. On request by calling the Division for Air Quality, Permit Support Section, at (502) 564-
19 3999; and

20 2. On the Internet at: <http://air.ky.gov>.

21 Section 3. General Provisions. (1) **A source**~~[Sources that are]~~ subject to this administrative
22 regulation shall:

23 (a) Register with the cabinet;

1 (b) Comply with all applicable requirements; and

2 (c)1. Allow an authorized representative~~[representatives]~~ of the cabinet to enter the
3 premises at all reasonable times to:

4 a. ~~[To]~~ Access and copy any records required by this administrative regulation;

5 b. ~~[To]~~ Inspect any facility, equipment (including air pollution control equipment),
6 practice, or operation; and

7 c. ~~[To]~~ Sample or monitor substances or parameters to determine compliance with
8 applicable requirements.

9 2. Reasonable times shall be:

10 a. During all hours of operation;

11 b. During normal office hours; or

12 c. During an emergency.

13 (2) A source~~[Sources]~~ that is~~[are]~~ located in an ozone nonattainment area or ozone
14 maintenance area that ~~[is subject to this administrative regulation and]~~ has~~[areas and emit or~~
15 have] the potential to emit twenty-five (25) tpy or more of~~[twenty-five (25) tpy or more of]~~ VOC
16 or NO_x shall submit an annual emission certification as follows:

17 (a) During the first quarter of each calendar year, the cabinet shall survey the source~~[these~~
18 ~~sources]~~ to determine ~~[their]~~ actual emissions during the preceding calendar year and the source
19 shall:

20 1. Make the appropriate additions or corrections to the survey; and

21 2. Return the updated survey to the cabinet within thirty (30) days of the date that the survey
22 is mailed to the source. For this response:

23 a. Each day past the deadline that a source fails to submit the required information shall be

1 a separate violation of this administrative regulation; and

2 b. If no response is received by the deadline, the cabinet shall estimate the actual emissions
3 based on prior history and other relevant information that is available; and

4 (b) Failure of the cabinet to notify a source under this subsection shall not relieve the source
5 from the obligation to submit an emissions statement.

6 (3) The cabinet may require registered sources to demonstrate compliance with applicable
7 requirements.

8 Section 4. When to Apply for Registration[Register]. (1) New sources. A source[Sources]
9 that commences[commence] construction after the effective date of this administrative regulation
10 shall submit a complete application[~~a registration form~~] to the cabinet prior to commencing
11 construction.

12 (a) A source may commence construction immediately upon submittal of a complete
13 application, as required by Section 7 of this administrative regulation[~~registration form~~].

14 (b) The cabinet shall review the application[~~registration form~~] and shall notify the source
15 within sixty (60) days of receipt that:

- 16 1. A permit or registration is not required;
- 17 2. The application[~~registration~~] as submitted is accepted, and the source is a registered
18 source; or
- 19 3. The source is required to obtain a permit and is required to take the specified action.

20 (2) Existing registered sources. A source[Sources] that is[are] registered with the cabinet
21 and plans[~~plan~~] to reconstruct or modify shall comply with the following:

22 (a) A source[Sources] that remains[~~remain~~] eligible for registration after the change:

- 23 1. Shall submit a complete application, as established in Section 7 of this administrative

1 regulation,~~[a registration form]~~ to the cabinet prior to commencing reconstruction or modification;
2 and

3 2. May commence reconstruction or modification immediately upon submittal of the
4 complete application; ~~or [registration form].~~

5 (b) A source~~[Sources]~~ that is~~[are]~~ not eligible for registration after the change shall:

6 1. Submit a complete~~[an]~~ application pursuant to~~[under]~~ 401 KAR 52:020, 401 KAR
7 52:030, or 401 KAR 52:040, as applicable; and

8 2. Obtain the appropriate permit prior to commencing reconstruction or modification.

9 Section 5. Application~~[Registration]~~ at the Cabinet's Request. (1) Upon request by the
10 cabinet, a source that has commenced construction or operation without a permit or registration
11 shall submit a complete application~~[a registration form]~~ within thirty (30) days of request.

12 (2) The cabinet shall review the application~~[registration form]~~ and within sixty (60) days
13 of receipt:

14 (a) Shall notify the source that a permit or registration is not required; or

15 (b) If a permit or registration is required, shall specify the action the source is required to
16 take, and may issue a notice of violation.

17 Section 6. Rescinding an Existing Permit. (1) A source that has a permit and is eligible for
18 registration may request that the cabinet rescind its permit by submitting:

19 (a) A complete application, as established in Section 7 of this administrative
20 regulation~~[registration form]~~; and

21 (b) A letter requesting the cabinet to rescind the permit, along with supporting
22 documentation that provides evidence that the source complies with~~[meets]~~ the requirements for
23 registration.

1 (2) The cabinet shall review the request and shall notify the source within sixty (60) days
2 of receipt that the request is:

3 (a) ~~[The request is]~~ Approved and the permit has been rescinded; or

4 (b) ~~[The request is]~~ Denied and shall specify the reason for denial and any action the
5 source is required to take.

6 Section 7. How to Apply for Registration~~[Register]~~. (1) Application~~[Registration]~~ shall be
7 made using the applicable forms DEP7007AI through DEP7007HH, incorporated by reference in
8 401 KAR 52:050.

9 (2) Complete applications shall be submitted to the Kentucky Division for Air Quality, 300
10 Sower Boulevard, Frankfort, KY 40601.[:

11 ~~(a) Form DEP7039A, which is incorporated by reference in Section 8 of this administrative~~
12 ~~regulation; or~~

13 ~~(b) Form DEP7105 for gasoline dispensing facilities which are subject to 401 KAR 59:174.~~

14 ~~(3) Completed registration forms shall be submitted to Kentucky Division for Air Quality,~~
15 ~~Attn: EIS Section, 300 Sower Boulevard, Frankfort, Kentucky 40601.~~

16 ~~Section 8. Incorporation by Reference. (1) "Form DEP7039A, Minor Source Registration",~~
17 ~~May 2000, is incorporated by reference.~~

18 ~~(2) This material may be inspected, copied, or obtained at the following offices of the~~
19 ~~Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:~~

20 ~~(a) The Division for Air Quality, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone~~
21 ~~(502) 564-3999, fax (502) 564-4666;~~

22 ~~(b) Ashland Regional Office, 1550 Wolohan Drive, Suite 1, Ashland, Kentucky 41102-~~
23 ~~8942, (606) 929-5285;~~

- 1 ~~(e) Bowling Green Regional Office, 2642 Russellville Road, Bowling Green, Kentucky~~
2 ~~42101, (270) 746-7475;~~
- 3 ~~(d) Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence,~~
4 ~~Kentucky 41042, (859) 564-3999;~~
- 5 ~~(e) Frankfort Regional Office, 300 Sower Boulevard, Frankfort, Kentucky 40601, (502)~~
6 ~~564-3358;~~
- 7 ~~(f) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-~~
8 ~~6022;~~
- 9 ~~(g) London Regional Office, 875 S. Main Street, London, Kentucky 40741, (606) 330-~~
10 ~~2080;~~
- 11 ~~(h) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro,~~
12 ~~Kentucky 42303, (270) 687-7304; and~~
- 13 ~~(i) Paducah Regional Office, 130 Eagle Nest Drive, Paducah, Kentucky 42003, (270) 898-~~
14 ~~8468.]~~

401 KAR 52:070 approved for filing.

11/14/2018
Date

Charles G. Snaveley
Charles G. Snaveley, Secretary
Energy and Environment Cabinet

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 401 KAR 52:070

Contact person: Cassandra Jobe

Phone: (502) 782-6670

E-mail: cassandra.jobe@ky.gov

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does:

This administrative regulation establishes the procedure for the registration of an air contaminant source in the Commonwealth of Kentucky that has the potential to emit (PTE) a regulated air pollutant that meets the minimum threshold requirements and is not required to be permitted pursuant to 401 KAR 52:020, 52:030, or 52:040.
 - (b) The necessity of this administrative regulation:

This administrative regulation is necessary to ensure that applications for registered sources contain the information necessary to determine applicability for federal and state regulations to new and existing air contaminant sources.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 224.10-100(5) authorizes the Energy and Environment Cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation establishes the procedures for the registration of air contaminant sources.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation currently assists in the effective administration of the statutes by establishing requirements for registration of air contaminant sources.
- (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 proposed amendment retains the threshold for VOC and NO_x emissions in ozone nonattainment and maintenance areas, makes amendments to be consistent with KRS 13A, and retains the applicability requirements in Section 1.
 - (b) The necessity of the amendment to this administrative regulation:

This proposed amendment is necessary to be consistent with the requirements of KRS 13A, and to not be overly burdensome by requiring an emission survey of sources with less than 25 tpy of VOC or NO_x.
 - (c) How the amendment conforms to the content of the authorizing statutes:

This amendment conforms to the authorizing statutes by making amendments to be consistent with KRS 13A and requiring information from air contaminant sources

that are not permitted in accordance with 401 KAR 52:020, 52:030, or 52:040.

- (d) How the amendment will assist in the effective administration of statutes:
The proposed amended administrative regulation will assist in the effective administration of the statute by requiring air contaminant sources to submit information to the cabinet, which will allow the cabinet to accurately determine the applicability of state and federal regulations.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation.
The proposed administrative regulation affects any air contaminant source within the Commonwealth of Kentucky that is not required to apply for a permit pursuant to 401 KAR 52:020, 52:030, or 52:040, and meets the applicability criteria established in Section 1 of the proposed amendment to the administrative regulation.
- (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:
Air contaminant sources will be required to submit an application to the cabinet in accordance with this administrative regulation.
- (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):
The cost of compliance with this administrative regulation will be the cost of completing the required application forms that are incorporated by reference in 401 KAR 52:050.
- (c) As a result of compliance, what benefits will accrue to the entities identified in question (3):
By complying with this administrative regulation, entities will be registered or permitted, as appropriate. This will help regulated entities to know the applicable requirements for the air contaminant source, and improve compliance with those requirements. This amendment will also lead to continued improvement in air quality in Kentucky.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: The Division will not incur any additional costs for the implementation of this administrative regulation.
- (b) On a continuing basis: The Division will not incur any additional costs on a continuing basis 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 Division's current operating budget will be used for the implementation and enforcement of 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? (Explain why tiering was or was not used.)
Yes. The proposed administrative regulation requires air contaminant sources whose emissions meet specific threshold criteria to submit an application to the cabinet.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 401 KAR 52:070

Contact person: Cassandra Jobe

Phone number: (502) 782-6670

E-mail: cassandra.jobe@ky.gov

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 Division for Air Quality will continue to process applications from air contaminant sources in accordance with this administrative regulation.
2. Identify each state or federal statute or federal regulation that requires or authorizes action taken by the administrative regulation.
KRS 224.10-100(5), 224.20-100, 224.20-110, 224.20-120
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 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?
This 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?
This 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 Division'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 Division's current operating budget will be used to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impacts 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 further explanation.

