

**77.195 Regulation of installations which may cause emission of air contaminants -- Issuance of permits -- Changes -- Submission of plans and specifications -- Exempted installations.**

- (1) The air pollution control board may require by regulation that before any person builds, erects, alters, replaces, operates, or uses any article, machine, equipment, or other contrivance specified by the regulation the use of which may cause the issuance of air contaminants, such person shall obtain a permit to do so from the air pollution control officer. The regulation may include the requirements of Title V of the Clean Air Act of 1963 as amended by the Clean Air Act Amendments of 1990 and 40 C.F.R. Part 70 State Operating Permit Programs.
- (2) The air pollution control board may require by regulation that it shall be unlawful for any person to violate any requirement of a permit issued by the district.
- (3) Insofar as the regulations do not grant an automatic permit for the operation of any source required to be permitted under the Federal Clean Air Act of 1963, as amended by the Clean Air Act Amendments of 1990, or under district regulations which are in existence upon the effective date of the regulations, a permit shall not be required without first affording the owner, operator, or user thereof a reasonable time within which to apply for such permit, and to furnish the air pollution control officer the information required pursuant to KRS 77.215.
- (4) This subsection shall not apply to sources required to have a permit before construction or modification under the applicable requirements of district regulations. In all other cases, if an applicant has submitted a timely and complete application for a permit, including renewals, but final action has not been taken on the application, the source's failure to have a permit shall not be a violation concerning the activities to be covered by the permit unless the delay in final action was due to the failure of the applicant to timely submit information required or requested to process the application. No source required to have a permit shall be in violation of district permit regulations before the date on which the source may be required to submit an application.
- (5) Compliance with a permit issued in accordance with district regulations shall be deemed compliance with any applicable requirements of this chapter and with district regulations as of the date of permit issuance if:
  - (a) The applicable requirements are included and are specifically identified in the permit; or
  - (b) The district, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.
- (6) The air pollution control district shall, by regulation, allow changes within a permitted source or one operating pursuant to a timely application under subsection (3) of this section, without requiring a permit revision, if the changes are not modifications under any provision of Title I of the Federal Clean Air Act of 1963 as amended by the Clean Air Act Amendments of 1990, and if the changes do not

exceed the emissions allowable under the permit, whether expressed as a rate of emissions or in terms of total emission. The district may allow these changes without a permit revision only if the facility provides the United States Environmental Protection Agency and the district with written notification as required by district regulations at least seven (7) days in advance of the proposed changes, unless the district establishes, by regulation, a different schedule for emergencies.

- (7) The air pollution control board may require that before the air pollution control officer issues a permit to operate a source required to be permitted by district regulations or by the Federal Clean Air Act of 1963 as amended by the Clean Air Act Amendments of 1990, or issues a permit to build, erect, alter, or replace any equipment, that the plans, specifications, and compliance plan show, and that the permit issued by the air pollution control officer require, that the building, erection, alteration, or replacement will be done in such a manner, and that such approved equipment be used, as the air pollution control board finds will eliminate or reduce the discharge of any air contaminants.
- (8) A permit shall not be required for:
  - (a) Any mobile equipment;
  - (b) Any structure designed for and used exclusively as a single owner-occupied private residence. However, if a renovation, demolition, or cleanup of a structure may cause a disturbance of asbestos material, and:
    1. The structure is one (1) of a group of structures consisting of more than one (1) structure under common control; or
    2. At the time of the renovation, demolition, or cleanup, the use of the structure or the property is commercial or is not known,then notice to the air pollution control officer shall be required and a permit may be required depending on the amount of asbestos material involved;
  - (c) Equipment used for agriculture operations in the growing of crops, or raising of fowl or animals; or
  - (d) Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted. As used in this section, maintenance does not include operation.
- (9) The air pollution control board shall not, by regulation, order, or other legally enforceable means, require reductions in the emissions of oxides of nitrogen beyond those that are necessary to meet the provisions of the Federal Clean Air Act of 1963, as amended by the Clean Air Act Amendments of 1990, or regulations or other requirements of the United States Environmental Protection Agency, including, but not limited to, the requirements of Title I and Title IV of the federal act, the requirements for reasonably available control technology, and reductions that are submitted for inclusion in the Kentucky state implementation plan for attainment of maintenance of a national ambient air quality standard. This subsection shall not prohibit the air pollution control board from requiring, by regulation, order, or other enforceable means, a reduction in the emission of any

other air contaminant that might have the incidental effect of reducing emissions of oxides of nitrogen.

**Effective:** July 15, 1994

**History:** Amended 1994 Ky. Acts ch. 420, sec. 6, effective July 15, 1994. -- Created 1952 Ky. Acts ch. 53, secs. 47, 48, and 49, effective March 14, 1952.