

1 AN ACT relating to federal environmental permitting requirements.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 224.16-050 is amended to read as follows:

4 (1) The cabinet may issue federal permits pursuant to 33 U.S.C. sec. 1342(b) of the
5 federal Water Pollution Control Act, 33 U.S.C. sec. 1251 et seq., subject to the
6 conditions imposed in 33 U.S.C. secs. 1342(b) and 1342(d). The cabinet may issue
7 federal permits pursuant to 33 U.S.C. sec. 1344(e) and (g) of the federal Water
8 Pollution Control Act, 33 U.S.C. sec. 1251 et seq., subject to the conditions
9 imposed in 33 U.S.C. sec. 1344(h), (i), and (j). Any exemptions granted in the
10 issuance of NPDES permits shall be pursuant to 33 U.S.C. secs. 1311, 1312, and
11 1326(a). ~~The cabinet shall report to the standing committees of jurisdiction over
12 environmental protection, and appropriations and revenue, no later than January 1,
13 2006, on the costs, personnel requirements, and any statutory or regulatory changes
14 needed to support state assumption of the permitting program under 33 U.S.C. sec.
15 1344(e) and (g), and the anticipated benefits in permit streamlining and
16 environmental quality from state administration of the program.]~~

17 (2) (a) The cabinet shall make certification determinations pursuant to 33 U.S.C. sec.
18 1341 as to whether applicants for a federal permit for the construction or
19 operation of facilities which may result in a discharge into the waters of the
20 Commonwealth will comply with the applicable provisions of the federal
21 Water Pollution Control Act, 33 U.S.C. sec. 1251 et seq.

22 (b) Within thirty (30) calendar days of receipt of an application for certification
23 under paragraph (a) of this subsection, the cabinet shall notify the applicant in
24 writing that the application is complete or that the cabinet requires additional
25 information to process the application. If the cabinet determines that
26 additional information is necessary to process the application, the notice
27 provided pursuant to this paragraph shall clearly set forth the necessary

1 additional information, which the applicant shall provide within thirty (30)
2 calendar days of receiving the notice of incompleteness.

3 (c) Unless a longer period of time is requested by the applicant, the cabinet shall
4 make a final determination on whether to issue the certification or deny the
5 application within sixty (60) calendar days of notifying the applicant that the
6 application is complete pursuant to paragraph (b) of this subsection.

7 (d) If the cabinet does not make a final determination within sixty (60) calendar
8 days of a notification of completeness in accordance with paragraph (c) of this
9 subsection, the cabinet shall be considered to have waived certification
10 requirements by the Commonwealth, unless the applicant has voluntarily
11 agreed in writing to a longer review period not to exceed one (1) year from
12 the cabinet's receipt of the initial application.

13 (3) The certification provided under subsection (2) of this section shall be limited in
14 scope to water quality impacts from the discharge only and shall not include other
15 limitations or constitute a review of the proposed activity as a whole.

16 (4) The cabinet shall not impose under any permit issued pursuant to this section any
17 effluent limitation, monitoring requirement, or other condition which is more
18 stringent than the effluent limitation, monitoring requirement, or other condition
19 which would have been applicable under federal regulation if the permit were
20 issued by the federal government. The cabinet shall not postpone or delay the
21 review of, or condition, delay, or refuse the issuance of, any permit under 33 U.S.C.
22 sec. 1342(b) of the Federal Water Pollution Control Act on the applicant's need for
23 or receipt of any other federal, state, or local permit, certification, license,
24 authorization, or other approval.

25 (5) Nonprofit organizations which have been qualified under Section 501(c)(3) of the
26 Internal Revenue Code and which operate their own treatment facilities and which
27 are designated for capacities less than ten thousand (10,000) gallons per day shall

1 be charged a fee no greater than fifty dollars (\$50) by the cabinet to process a
2 construction permit, nor a fee greater than twenty dollars (\$20) per year for an
3 operating permit for one (1) facility. These fees shall in no case be higher than the
4 fees charged by the cabinet to process permit applications for comparable privately
5 owned facilities. This subsection shall not apply to any school or waterworks
6 owned by a water district, water association, or municipality and established
7 pursuant to KRS Chapter 74 or 106.

8 (6) The following activities do not require a permit issued under 33 U.S.C. sec. 1344.
9 The discharge of dredged or fill material:

- 10 (a) From normal farming, silviculture, and ranching activities such as plowing,
11 seeding, cultivating, minor draining, harvesting for the production of food,
12 fiber, and forest products, or upland soil and water conservation practices;
- 13 (b) For the purpose of maintenance, including emergency reconstruction of
14 recently damaged parts of currently serviceable structures such as dikes,
15 dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or
16 approaches, and transportation structures;
- 17 (c) For the purpose of construction or maintenance of farm or stock ponds,
18 irrigation ditches, or the maintenance of drainage ditches;
- 19 (d) For the purpose of construction of temporary sedimentation basins on a
20 construction site which does not include placement of fill material into the
21 navigable waters; or
- 22 (e) For the purpose of construction or maintenance of farm roads, forest roads, or
23 temporary roads for moving mining equipment, where the roads are
24 constructed and maintained, in accordance with best management practices, to
25 ensure that flow and circulation patterns and chemical and biological
26 characteristics of the navigable waters are not impaired, that the reach of the
27 navigable waters is not reduced, and that any adverse effect on the aquatic

1 environment will be minimized.

2 (7) Prior to assuming delegated authority from the United States Environmental
3 Protection Agency to administer 33 U.S.C. sec. 1344(e) and (g), the cabinet shall
4 enter into a memorandum of agreement with the United States Department of
5 Agriculture (USDA) regarding wetlands delineation on agricultural lands or lands
6 owned or operated by a USDA program participant. The cabinet shall give the same
7 deference to wetlands delineations made by USDA as would have been given by a
8 federal agency administering 33 U.S.C. sec. 1344(e) and (g).

9 (8) The cabinet may establish by regulation a fee for processing permit applications
10 under 33 U.S.C. sec. 1344.