

1 ENERGY AND ENVIRONMENT CABINET  
2 Department for Environmental Protection  
3 Division of Water  
4 (Amendment)

5 401 KAR 8:050. Drinking water program fees.

6 RELATES TO: KRS 223.220, 224.10-100, 224.10-110, 40 C.F.R. 142.10, Pub.L. 104-  
7 182, 2008-531

8 STATUTORY AUTHORITY: KRS 223.220, 224.10-100(20), 224.10-110

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS[Chapter] 224.10-100(20)  
10 authorizes the cabinet to establish, by administrative regulation, a fee or schedule of fees for the  
11 cost of processing applications for permits authorized by KRS Chapter 224. KRS 224.10-110  
12 requires the cabinet to enforce cabinet regulations for review, approval, or disapproval of plans  
13 for water purification and distribution systems. This administrative regulation establishes fees for  
14 reviewing plans and specifications of public water systems[~~, for operator certification,~~] and for  
15 laboratory certification.

16 Section 1. Fees for the Review of Plans and Specifications for New and Existing Public  
17 and Semipublic Water Systems.

18 (1) Filing fees.

19 (a) Except as provided in KRS 224.10-100, a person who submits the plans and  
20 specifications listed in subsection (2) of this section shall simultaneously submit a filing fee in

1 the amount of twenty (20) percent of the required project fee described in subsection (2) of this  
2 section.

3 (b) A filing fee shall not be refundable if the plans and specifications for which the filing  
4 fee is required are denied or withdrawn.

5 (c) The filing fee shall be applied toward the project fee assessed in subsection (2) of this  
6 section.

7 (d)1. Plans and specifications not approved shall be returned to the applicant.

8 2. Further consideration of plans and specifications not approved shall require a new  
9 submittal and payment of the appropriate filing fee.

10 (2) Project fees.

11 (a) Following preliminary review of the plans and specifications, the cabinet shall notify  
12 the applicant whether the plans and specifications comply with 401 KAR 8:100. If the applicant  
13 is notified that the plans and specifications comply, the applicant shall submit the remainder of  
14 the fee required by paragraph (b) of this subsection.

15 (b) A fee for review and approval of the plans and specifications shall be assessed  
16 according to the following schedule:

17 1. Fee for reviewing plans of community public water systems

18 a. The fee for reviewing plans for a water treatment plant utilizing disinfection and all  
19 components of conventional filtration treatment shall be \$800.

20 b. The fee for reviewing plans for a water treatment plant utilizing disinfection, but not  
21 all components of conventional filtration treatment, shall be \$525.

22 c. The fee for reviewing plans for a water treatment plant utilizing only disinfection shall  
23 be \$250.

1 d. The fee for reviewing plans for a change in design capacity of a water treatment plant  
2 involving disinfection and all components of conventional filtration treatment shall be \$800.

3 e. The fee for reviewing plans for a change in design capacity of a water treatment plant  
4 involving disinfection, but not all components of conventional filtration treatment, shall be \$525.

5 f. The fee for reviewing plans for a change in design capacity of a water treatment plant  
6 involving only disinfection shall be \$125.

7 g. The fee for reviewing plans for a change in the structures and appurtenances, except  
8 for distribution lines of less than 10,000 feet, of a water supply system shall be \$325.

9 h. The fee for reviewing plans of a water supply system for a change to the distribution  
10 lines of 10,000 feet or less shall be \$150.

11 2. Fees for reviewing plans of noncommunity public water systems.

12 a. The fee for reviewing plans for a water treatment plant utilizing disinfection and all  
13 components of conventional filtration treatment shall be \$800.

14 b. The fee for reviewing plans for a water supply system serving more than 100 people  
15 that utilizes disinfection, but not all components of conventional filtration treatment, shall be  
16 \$200.

17 c. The fee for reviewing plans for a change to a water supply system serving more than  
18 100 people shall be \$100

19 d. The fee for reviewing plans for a water supply system serving 100 people or fewer,  
20 which utilizes disinfection, but not all components of conventional filtration treatment, shall be  
21 \$100.

22 e. The fee for reviewing plans for a change to a water supply system serving 100 people  
23 or fewer shall be fifty (50) dollars.

1           3. Semipublic water systems. The fee for reviewing plans for a semipublic water system  
2 facility or a change to a semipublic water system shall be fifty (50) dollars.

3           Section 2. Fees for Laboratory Certification. (1) Fees shall be received by December  
4 31~~[February 15]~~ of each calendar year prior to the certification period.

5           (2) A fee received after December 31~~[February 15]~~ and before January 15~~[March 14]~~  
6 shall incur a surcharge of fifteen (15) percent.

7           (3) Laboratory certification shall be revoked if fees are not received by January 15 of the  
8 certification year~~[March 15]~~.

9           (4) To reinstate a laboratory certification that was revoked pursuant to subsection (3) of  
10 this section, the laboratory shall comply with 401 KAR 8:040, Section 2, and shall pay a  
11 surcharge of twenty-five (25) percent of the certification fee established in Table A in subsection  
12 (5) of this section.

13           (5) The annual fee for certification by analysis category shall be as established in Table  
14 A:

Analysis Category	Fee
Microbiology Administration and Application	\$1,000
Microbiology	\$500
Chemistry Administration and Application	\$1,000
Disinfection By-Products	\$500
Synthetic Organic Chemicals	\$500
Volatile Organic Chemicals	\$500
All Other Chemical Analysis Categories	\$500
Other audits resulting in a certification status change	\$500 each

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16           (6) Fees shall apply to in-state and out-of-state laboratories.

17           (7)(a) A laboratory may request a ten (10) percent discount of the following year's  
18 certification fee if it submits compliance data electronically for one (1) calendar year.

1 (b) To be eligible for the discount:

2 1. The laboratory's data shall not contain errors;

3 2. The laboratory shall not err in the electronic-submittal process; and

4 3. The laboratory shall comply with 401 KAR 8:040, Section 4.

5 (8) A laboratory certified by the National Environmental Laboratory Association  
6 Certification Institute (TNI) or a National Environmental Laboratory Association Program  
7 accrediting authority may request a ten (10) percent discount of the total certification fee for  
8 which it maintains the TNI certification.

9 ~~[Section 3. (1) Fees for certification of water treatment plant and water distribution~~  
10 ~~system operators.~~

11 ~~(a) Certification application fee shall be \$100.~~

12 ~~(b) A renewal application fee shall be:~~

13 ~~1. Fifty (50) dollars if renewed through the cabinet Web site; or~~

14 ~~2. \$100 if not renewed through the cabinet Web site.~~

15 ~~(c) A renewal late fee shall be \$250.~~

16 ~~(d) A reciprocity fee shall be \$500.~~


17 ~~(2) Each year the cabinet, in consultation with the board, shall establish fees for operator~~  
18 ~~training conducted by the cabinet.~~

19 ~~(3)(a) The fees established in subsection (1) of this section shall be nonrefundable.~~

20 ~~(b) Fifty (50) percent of the fees established in subsection (2) of this section shall be~~  
21 ~~refundable if registration is canceled at least two (2) business days prior to the beginning of the~~  
22 ~~training event.~~

1            ~~(e) The fees in subsection (2) of this section shall be fully refunded if the training event is~~  
2 ~~cancelled by the cabinet.]~~

401 KAR 8:050 Drinking water program fees is approved for filing.

  
\_\_\_\_\_  
Charles G. Snavely, Secretary  
Energy and Environment Cabinet

5/9/2019  
Date

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on June 27, 2019 at 6:00 p.m. Eastern Time at 300 Sower Boulevard, 1<sup>st</sup> Floor, Training Room B, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Carole J. Catalfo  
Internal Policy Analyst, RPPS  
Division of Water  
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Frankfort, Kentucky 40601  
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## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

401 KAR 8:050

Contact Person:

Carole J. Catalfo

Phone: (502) 782-6914

Email: [water@ky.gov](mailto:water@ky.gov) (Subject Line: Chapter 11 regulations)

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes fees for review of plans and specifications for new and existing public and semipublic water systems, laboratory certification, and drinking water operator certification.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish fees for cabinet review of plans and specifications for new and existing public and semipublic water systems, laboratory certification, and drinking water operator certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(20) authorizes the cabinet to establish, by administrative regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by KRS Chapter 224. KRS 224.10-110 requires the cabinet to enforce cabinet regulations for review, approval, or disapproval of plans for water purification and distribution systems. This administrative regulation establishes fees for reviewing plans and specifications of public water systems, operator certification, and laboratory certification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes fees for the drinking water program, including laboratory certification fees.

(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: The amendment to this administrative regulation removes fees for drinking water operator certification, which will instead be relocated to 401 KAR 11:060 Certification fees, and adjusts the due dates for laboratory certification fees so that fees are paid prior to certification being issued.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation will facilitate consolidation of operator certification fees in one location (401 KAR 11:050). The amendment also requires that laboratory certification fees be paid prior to certification being renewed. This prevents lab results, which are required to be reported every January, from being disqualified for lack of certification, and prevents a

laboratory from receiving up to six (6) weeks of certification (January 1 through March 15) without having paid the appropriate fee.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(20) authorizes the cabinet to establish, by administrative regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by KRS Chapter 224. KRS 224.10-110 requires the cabinet to enforce cabinet regulations for review, approval, or disapproval of plans for water purification and distribution systems. This administrative regulation establishes fees for reviewing plans and specifications of public water systems, operator certification, and laboratory certification.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will prevent redundancy and will facilitate consolidation of operator certification fees in one location, and will prevent laboratory certification from being issued prior to the appropriate fee being paid.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Certified drinking water treatment plant and distribution system operators, as well as operator candidates, will be affected by this amended regulation. State or local governments that operate drinking water treatment plants or distribution systems will be affected if they pay certification fees for their employees. There are approximately sixty (60) certified microbiology and chemistry laboratories in Kentucky, thirty (30) of which are municipally owned, and approximately twenty-nine (29) laboratories outside Kentucky. These laboratories service 436 public, 52 semipublic, and 5 bottled water systems in Kentucky.

(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: Laboratories will need to pay certification fees in an earlier timeframe so that certification is not issued prior to the fee being paid. The other regulated entities will not need to take any additional action to comply with the amendment to 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 amendments to this administrative regulation will not result in additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment to this administrative regulation will prevent redundancy and will facilitate consolidation of operator certification fees in one location.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The amendment to this administrative regulation will not result in additional costs.

(b) On a continuing basis: The amendment to this administrative regulation will not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The amendment to this regulation removes drinking water operator fees from this regulation to consolidate it into 401 KAR 11:060, and changes the timeframe during which laboratory certification fees must be paid but does not increase those fees. There is no source of funding necessary for implementation 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: The amendment to this administrative regulation will not require an increase in fees or a change in funding sources.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes fees for the review of plans and specifications for new and existing public and semipublic water systems, certified water operators, and laboratory certification.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is applied. Fees vary according to the type and level of application for new and existing public and semipublic water systems and laboratory certification. Fees for operator certification are tiered based on the type of certification application being made.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

401 KAR 8:050

Contact Person:

Carole J. Catalfo

Phone: (502) 782-6914

Email: [water@ky.gov](mailto:water@ky.gov) (Subject Line: Chapter 11 regulation)

(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? This administrative regulation applies to certified drinking water operators, laboratories hired by public and semipublic water systems, and review of plans and specifications for new and existing water systems. A public water system is often owned by a city government or is organized under county government.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(20) authorizes the cabinet to establish, by administrative regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by KRS Chapter 224. KRS 224.10-110 requires the cabinet to enforce cabinet regulations for review, approval, or disapproval of plans for water purification and distribution systems. This administrative regulation establishes fees for reviewing plans and specifications of public water systems, operator certification, and laboratory certification.

(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 administrative 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? The amendment to this administrative regulation will not generate any revenue.

(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? The amendment to this administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? The amendment to this administrative regulation will not result in additional costs.

(d) How much will it cost to administer this program for subsequent years? The amendment to this administrative regulation will not result in additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

**Other Explanation:** The amendment to this administrative regulation will not result in additional costs or generate revenue.

## FEDERAL MANDATE ANALYSIS COMPARISON

401 KAR 8:050

Contact Person:

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Phone: (502) 782-6914

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1. Federal statute or regulation constituting the federal mandate. There is no federal statute or regulation that addresses operator certification fees or laboratory certification, although 40 C.F.R. 142 requires these activities as a condition of receiving primary responsibility for the federal Safe Drinking Water Act.
2. State compliance standards KRS 224.10-100(20), 224.10-110
3. Minimum or uniform standards contained in the federal mandate. 40 C.F.R. Part 141 and Part 142 establish national Primary Drinking Water regulations and implementation standards for those regulations.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? No. There is no federal statute or regulation that addresses operator certification fees or laboratory certification, although 40 C.F.R. 142 requires these activities as a condition of receiving primary responsibility for the federal Safe Drinking Water Act.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. KRS 224.10-100(20) authorizes the cabinet to promulgate regulations establishing a fee or schedule of fees for permits authorized by KRS Chapter 224.