

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Division of Water

4 (Amendment)

5 401 KAR 11:001. Definitions for 401 KAR Chapter 11.

6 RELATES TO: KRS 223.160 - 223.220~~[223.160-220]~~, 224.01-010(9), 224.73-110~~[, EO~~
7 ~~2009-538]~~

8 STATUTORY AUTHORITY: KRS 223.200, 224.10-100, 224.10-110, 224.73-110~~[, EO~~
9 ~~2009-538]~~

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-110 authorizes the
11 cabinet to promulgate administrative regulations concerning the certification of wastewater
12 operators. KRS 223.200 requires the cabinet to promulgate administrative regulations concerning
13 the certification of water treatment and distribution system operators. KRS 224.73-110 requires
14 wastewater system operators to be certified by the cabinet.~~[EO 2009-538, effective June 12, 2009,~~
15 ~~establishes the new Energy and Environment Cabinet.]~~ This administrative regulation establishes
16 definitions applicable to the certification of wastewater and water operators.

17 Section 1. Definitions. (1) "Active certificate" means a current and valid certificate that:

18 (a) Has been renewed for the current period as established in 401 KAR 11:050; and

19 (b) Authorizes the operator to operate the type of water or wastewater facility indicated
20 on the certificate.

1 (2) "Applicant" means a person who has submitted an application to take an examination
2 for certification.

3 (3)~~(2)~~ "Board" means the:

4 (a)~~[The]~~ Kentucky Board of Certification of Wastewater System Operators; or

5 (b)~~[The]~~ Kentucky Board of Certification of Water Treatment and Distribution System
6 Operators.

7 (4)~~(3)~~ "Cabinet" is defined by KRS 224.01-010(9).

8 (5)~~(4)~~ "Certificate" means a certificate of competency issued by the cabinet stating that
9 the operator has met the requirements for the specified operator classification as established by
10 401 KAR Chapter 11.

11 (6)~~(5)~~ "Certified Training Provider" or "CTP" means a continuing education or training
12 provider that has been approved by the cabinet, in consultation with the board, and that offers
13 continuing education or training that:

14 (a) Is pertinent to the practice of drinking water or wastewater plant operation;

15 (b) Contributes to operator competency beyond the knowledge obtained in the initial
16 certification preparatory program; and .1. This should refer to the "Core Content" developed by DCA and the
Certification Boards as this is what all training is approved by.

17 (c) Is pertinent to specific work requirements.

18 (7) "Certified operator" means an individual that holds an active certified operator's
19 certificate issued in accordance with 401 KAR 11:050.

20 (8)~~(6)~~ "Core content" means the information identified as essential by the board for
21 purposes of certification examination and continuing education training.

22 (9)~~(7)~~ "Direct responsible charge" means personal, first-hand responsibility to conduct
23 or actively oversee and direct procedures and practices necessary to ensure that the drinking

1 water treatment plant or distribution system is operated in accordance with accepted practices
2 and with KRS Chapters 223 and 224 and 401 KAR Chapters 8 and 11. 2. Direct Responsible Charge

and Primary Responsibility should be the same thing, no need for two definitions.

3 (10) "Inactive certificate" means a certificate: 3. Does this allow a retired operator to put his/her license on
hold? Should there be concern that an operator can be

4 (a) For which only the renewal fee has been paid; inactive for 10 years with no continuing education
and return to active status?

5 (b) For which continuing education required by 401 KAR 11:050 has not been met; and

6 (c) That shall not give the certificate holder the authority or credentials to operate any

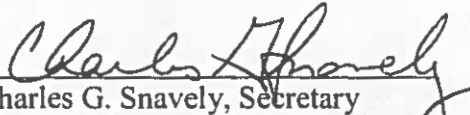
7 type of water or wastewater plant until the certificate has been returned to active status.

8 (11)[(8)] "Operator" means a person involved in the operation of a wastewater treatment
9 plant, wastewater collection system, drinking water treatment plant, or drinking water
10 distribution system.

11 (12)[(9)] "Primary responsibility" means personal, first-hand responsibility to conduct or
12 actively oversee and direct procedures and practices necessary to ensure that the wastewater
13 treatment plant or wastewater collection system is operated in accordance with accepted
14 practices and with KRS Chapter 224 and 401 KAR Chapters 5 and 11.

4. A definition of "Operator In Training" needs to be added to this regulation.

401 KAR 11:001 Definitions for 401 KAR Chapter 11 is approved for filing.


Charles G. Snavey, 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 the Department for Environmental Protection, Training Room B, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 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, 3rd Floor
300 Sower Boulevard
Frankfort, Kentucky 40601
Phone (502) 564-3410
Fax (502) 564-9003
Email: water @ky.gov (Subject line: "Chapter 11 regulations")

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

401 KAR 11:001

Contact Person:

Carole J. Catalfo

Phone: (502) 782-6914

Email: water@ky.gov (Subject Line: "Chapter 11 regulations")

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes definitions for terms used in 401 KAR Chapter 11.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to define terms used in 401 KAR Chapter 11.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-110 authorizes the cabinet to promulgate administrative regulations concerning the certification of wastewater operators. KRS 223.200 requires the cabinet to promulgate administrative regulations concerning the certification of water treatment and distribution system operators. KRS 224.73-110 requires wastewater system operators to be certified by the cabinet. This administrative regulation establishes definitions applicable to the certification of wastewater and water operators.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides definitions for terms used throughout 401 KAR Chapter 11 for proper interpretation and enforcement.

(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 adds definitions for "Active certificate", "Certified training provider", and "Inactive certificate".

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary for clarification of terms used in 401 KAR Chapter 11.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-110 authorizes the cabinet to promulgate administrative regulations concerning the certification of wastewater operators. KRS 223.200 requires the cabinet to promulgate administrative regulations concerning the certification of water treatment and distribution system operators. KRS 224.73-110 requires wastewater system operators to be certified by the cabinet. This administrative regulation establishes definitions applicable to the certification of wastewater and water operators.

(d) How the amendment will assist in the effective administration of the statutes: The amendment adds two terms used in 401 KAR Chapter 11.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Certified water and wastewater operators, operator-candidates, and state or local governments that operate drinking water or wastewater plants will be affected by the amendment.

(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: This administrative regulation establishes definitions only. No further actions will be needed to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation establishes definitions only. No additional costs will be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Affected entities will have clear definitions for understanding the terms used throughout 401 KAR Chapter 11.

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

(a) Initially: This administrative regulation will not result in additional costs.

(b) On a continuing basis: 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: This administrative regulation establishes definitions only. No changes in funding are necessary.

(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: This administrative regulation establishes definitions only. No changes in fees or funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied because definitions do not require tiering.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

401 KAR 11:001

Contact Person:

Carole J. Catalfo

Phone: (502) 782-6914

Email: water@ky.gov (Subject Line: "Chapter 11 regulations")

(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? Government entities using the regulations in 401 KAR Chapter 11 will have clear definitions for terms used throughout the chapter.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-110 authorizes the cabinet to promulgate administrative regulations concerning the certification of wastewater operators. KRS 223.200 requires the cabinet to promulgate administrative regulations concerning the certification of water treatment and distribution system operators. KRS 224.73-110 requires wastewater system operators to be certified by the cabinet.

(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? This administrative regulation establishes definitions only and 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? This administrative regulation establishes definitions only and will not generate any revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation establishes definitions only and will not result in additional costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation establishes definitions only and 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: This administrative regulation establishes definitions only and will not result in additional revenue or costs.

FEDERAL MANDATE ANALYSIS COMPARISON

401 KAR 11:001

Contact Person:

Carole J. Catalfo

Phone: (502) 782-6914

Email: water@ky.gov (Subject Line: "Chapter 11 regulations")

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate regarding the establishment of definitions.
2. State compliance standards. KRS 223.200, 224.10-100, 224.10-110, 224.73-110
3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate regarding the establishment of definitions.
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 mandate regarding the establishment of definitions.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate regarding the establishment of definitions.