

224.10-270 Exemption or partial exemption -- Application -- Period of exemption -- Renewal -- Emergency provisions not limited.

- (1) Any person subject to any rule or regulation governing the emission or discharge of contaminants into the ambient air or waters of the Commonwealth promulgated by the cabinet may apply for an exemption or partial exemption from such rule or regulation. The application shall be accompanied by such information and data as the cabinet may require. The cabinet may grant such an exemption or partial exemption if it finds that:
 - (a) The discharge occurring or proposed to occur does not or will not have a measurable impact on the quality of the ambient air or waters of the Commonwealth; and
 - (b) Compliance with the rules or regulations from which exemption is sought would produce serious hardship without equal or greater benefit to the public.
- (2) Any person applying to the cabinet for an exemption shall publish notice of his application in accordance with the rules and regulations of the cabinet in at least one (1) newspaper of general circulation in the county in which the emission or discharge sought to be exempted is located. The cabinet shall promptly investigate the application, consider the relative interests of the applicant, other owners of property likely to be affected by the emission or discharge, and of the general public. If the cabinet, in its discretion, concludes that a hearing should be held, or if any person files an objection to the granting of such exemption within thirty (30) days from the date of the first publication of notice of the application, then a hearing shall be held in the manner prescribed by the rules and regulations of the cabinet and the burden of proof shall be on the applicant for the exemption.
- (3) No exemption or partial exemption pursuant to this section shall be granted for a period to exceed one (1) year, but any such exemption or partial exemption may be renewed for like periods if no complaint is made to the cabinet on account thereof or if, such complaint having been made and duly considered at a hearing held by the cabinet in the manner provided in subsection (2) of this section, the cabinet finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least thirty (30) days prior to the expiration of the exemption or partial exemption. Immediately prior to application for renewal the applicant shall give public notice of such application in accordance with rules and regulations of the cabinet. Any renewal pursuant to this subsection shall be on the same grounds and subject to the same limitations and requirements as provided in subsection (1) of this section.
- (4) An exemption, partial exemption, or renewal thereof shall not be a right of the applicant or holder thereof but shall be in the discretion of the cabinet.
- (5) Nothing in this section and no exemption, partial exemption, or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of KRS 224.10-410 to any person or his property.

- (6) In granting or denying an exemption, partial exemption, or renewal thereof, the secretary shall issue a written statement of the facts and reasons leading to the decision and make such statement a part of the record of the action on the application.

History: Amended 1974 Ky. Acts ch. 74, Art. III, secs. 1 and 13(2), effective June 21, 1974. -- Created 1972 (1st Extra. Sess.) Ky. Acts ch. 3, sec. 22, effective January 1, 1973.

Formerly codified as KRS 224.073.