

### **211.392 Fluidized bed combustion technology tax exemption certificate.**

- (1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the Department of Revenue in the manner and form prescribed by the Department of Revenue and shall contain plans and specifications of the fluidized bed combustion unit including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the Department of Revenue for the proper administration of this section. If the Department of Revenue finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before the denial, revocation, or modification of a fluidized bed combustion technology tax exemption certificate, the Department of Revenue shall give the applicant written notice and shall afford the applicant an opportunity for a conference. The conference shall take place within sixty (60) days following notification. The Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
  - (a) The certificate was obtained by fraud or misrepresentation;
  - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or
  - (c) The fluidized combustion unit to which the certificate relates has ceased to be the major energy source for the primary operations of the plant facility.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder.
- (6) The applicant or holder of the certificate aggrieved by the refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky Board of Tax Appeals as provided in KRS 131.340.
- (7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate,

would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the Department of Revenue.

- (8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the Department of Revenue.
- (9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 626, effective June 20, 2005. -- Amended 1994 Ky. Acts ch. 488, sec. 7, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 325, sec. 27, effective July 13, 1990. -- Created 1986 Ky. Acts ch. 476, sec. 2, effective July 15, 1986.