

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(As Amended at ARRS, March 8, 2021)

902 KAR 10:140. On-site sewage disposal system installer certification program standards.

RELATES TO: KRS 211.015, 211.360, 211.375, 211.970~~[211.350-211.380]~~, 211.990(2)

STATUTORY AUTHORITY: KRS Chapter 13B, 211.350~~[194.050, 211.090(3), 211.180(3)]~~, 211.357~~[, EO 96-862]~~

NECESSITY, FUNCTION AND CONFORMITY: KRS 211.350 requires/authorizes~~[to 211.380 directs]~~ the cabinet to regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems with a surface discharge.~~[:]~~ KRS 211.357 re-quires/authorizes~~[directs]~~ the cabinet to establish a program of certification for installers of on-site sewage disposal systems. ~~[The purpose of]~~ This administrative regulation establishes~~[is to fulfill the requirement to establish a]~~ certification program including competency testing, training, continuing education, and enforcement procedures relative to maintenance of an acceptable standard of competency for installers. ~~[Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.]~~

Section 1. Definitions. ~~[As used in this administrative regulation the following terms shall have the meanings set for the below:]~~(1) "Approved" is defined by KRS 211.970(1)~~[means that which has been considered acceptable to the cabinet].~~

(2) "Cabinet" is defined by KRS 211.015(1)(a)~~[means the Cabinet for Health Services and includes its authorized agents].~~

(3) "Certification level" means the level of technical skills and knowledge attained by an installer as categorized below:

(a) "Probationary level" means the certification entry level for an installer as specified in KRS 211.357(2) and Section 2(3) of this **administrative** regulation~~:[221.357(2). Installers at this level may possess minimal technical knowledge and require additional training and frequent technical assistance in design and installation procedures; and]~~

(b) "Full level" means the certification level attained by an installer as specified in KRS 211.357(2) and Section 2(4) of this **administrative** regulation;

(c) "Advanced level" means the certification level attained by an installer as specified in Section 2(5) of this **administrative** regulation; and

(d) "Master level" means the certification level attained by an installer as specified in Section 2(6) of this **administrative** regulation~~[Installers at this level are expected to possess competency in design and installation of conventional and modified conventional on-site systems but may require additional training and occasional technical assistance for alternative systems or complex designs].~~

(4) "Certified inspector" means a person employed by the cabinet or by a local health department who has met the requirements for certification contained in KRS 211.360~~[211.357]~~.

(5) "Certified installer" means a specific individual person who has met the requirements for certification contained in KRS 211.357 and the certification maintenance requirements contained in this **administrative** regulation.

(6) "Competency" means an acceptable level of professional conduct, workmanship, and

technical knowledge in the design and installation of on-site sewage disposal systems.

(7) "On-site sewage disposal system", "on-site sewage system", or "on-site system" means a complete system installed on a parcel of land, under the control or ownership of any person, that[which] accepts sewage for treatment and ultimate disposal under the surface of the ground, including~~[-]. The common terms "on-site sewage system" or "on-site system" also have the same meaning. This definition includes, but is not limited to, the following]:~~

(a) A conventional system consisting of a sewage pretreatment unit or units[unit(s)], distribution devices[box(es)], and lateral piping within rock-filled trenches or beds;

(b) A modified system consisting of a conventional system enhanced by shallower trench or bed placement, artificial drainage systems, dosing, alternating lateral fields, fill soil over the lateral field, or other necessary modifications to the site, system or wasteload to overcome site limitations;

(c) An alternative system consisting of a sewage pretreatment unit or units[unit(s)], necessary site modifications, wasteload modifications, and a subsurface soil treatment and dispersal[absorption] system using other methods and technologies than a conventional or modified system to overcome site limitations;

(d) A cluster system[systems which accept effluent from more than one (1) structure's or facility's sewage pretreatment unit(s) and transport the collected effluent through a sewer system to one (1) or more common subsurface soil absorption system(s) of conventional, modified or alternative design]; and

(e) A holding tank that[which] provides limited pretreatment and storage for off-site disposal where site limitations preclude immediate installation of a subsurface soil treatment and dispersal[absorption] system, or connection to a municipal sewer.

(8) "Person" is defined by KRS 211.970(6)[means any individual, firm, corporation, association, organization, partnership, business trust, company or governmental unit].

Section 2. Application for Certification. (1) ~~A/No~~ person shall **not** offer services to construct, install, alter, or repair on-site sewage disposal systems without:

(a) Meeting the application **requirement[requirements]** of **this administrative regulation[the cabinet for certification]**; and

(b) Obtaining a valid certification card from the cabinet.

(2) Certification shall be:

(a) Nontransferable from one (1) person to another; and

(b) Valid statewide subject to the provisions of KRS 211.357 and this administrative regulation.

(3)(a) **A person[Persons]** seeking probationary **level** certification shall:

1. Be of legal age to conduct business in Kentucky;

2. Have sufficient skills and knowledge of **administrative** regulations and construction techniques to pass a minimum competency examination;

3. Submit a completed DFS-303, Application for Certification or Registration, incorporated by reference in 902 KAR 45:065, to the local health department;

4. Provide proof of liability insurance; and

5. Pay the test registration fee of twenty-five (25) dollars by check or money order made payable to the local health department.

(b) A passing score of at least seventy (70) percent **shall[must]** be achieved on the exam.

(c) **An individual[Individuals]** failing to achieve a passing score may retake the exam by re-registering and submitting another registration fee.

(d) **An individual[Individuals]** who **passes[pass]** the exam shall submit to the cabinet a

forty-five (45) dollar certification fee by check or money order made payable to the Kentucky State Treasurer.

(4) **A person[Persons]** seeking full **level** certification shall:

(a) Have continuously maintained probationary level status in good standing;

(b) Meet the requirements as specified in KRS 211.357(2);

(c) Submit the documentation required in subsection (3)(a)3 and (4) of this section; and

(d) Maintain requirements for certification as specified in Section 4 of this administrative regulation.

(5) **A person[Persons]** seeking advanced **level** certification shall:

(a) Have continuously maintained full level status in good standing;

(b) Submit the documentation required in subsection (3)(a)3 and (4) of this section;

(c) Complete the necessary training workshops with passing scores on workshop tests to obtain advanced level certification as required by the cabinet; and

(d) Maintain requirements for certification as specified in Section 4 of this administrative regulation.

(6) **A person[Persons]** seeking master **level** certification shall:

(a) Have continuously maintained advanced level status in good standing;

(b) Submit the documentation required in subsection (3)(a)3 and (4) of this section;

(c) 1. Installed a minimum of two (2) systems as specified in Section 3(4) of this administrative regulation; and

2. Submit written verification of passed inspection from a certified inspector employed by the local health department having jurisdiction; and

(d) Maintain requirements for certification as specified in Section 4 of this administrative regulation[~~Any person proposing to offer services to construct, install, alter or repair on-site sewage disposal systems shall first have met the application requirements of the cabinet for certification and have obtained a valid certificate from the cabinet. Applications shall be made on form DFS-233 – Application for Certification to Install On-site Sewage Disposal Systems provided by the cabinet and shall include necessary information about the applicant, and shall be accompanied by an applicable fee as established in KRS 211.357(3).~~

(2) For probationary certification applicant's qualifications shall be as follows:

(a) Applicant shall be a specific individual person of legal age to conduct business in Kentucky;

(b) Applicant shall have sufficient skills and knowledge of regulations and construction techniques to pass a minimum competency examination;

(c) Applicant shall possess or have ready access to use of necessary construction equipment including a backhoe, dump truck, hand tools, transit or level and leveling rod; and

(d) Applicant shall submit proof of liability insurance.

(3) Applicant's qualifications for full certification shall be as follows:

(a) As specified in subsection (2)(a) through (d) of this section; and

(b) As specified in KRS 211.357(2)

(4) Applicants meeting the qualifications listed above shall be issued the appropriate certificate by the cabinet.

(5) Certification shall be valid only for the specific individual person to which it was issued and is not transferable to another person. Certification shall remain in effect and be valid statewide subject to the provisions of this regulation and KRS 211.357].

Section 3. Certification Level Standards. Certification level standards shall be limited to on-site systems that utilize only the following:

- (1) Probationary certification level is limited to residential, on-site systems utilizing:
 - (a) Gravity distribution;
 - (b) Rock-filled trenches or beds;
 - (c) Leaching chamber trenches or beds; or
 - (d) Evaporation-absorption lagoons.
- (2) Full certification level is able to install residential, commercial, industrial, or public facility systems utilizing:
 - (a) Dosed systems;
 - (b) Fill and wait systems;
 - (c) Leaching chambers at grade; or
 - (d) Constructed wetlands; and
 - (e) Probationary certification level system listings.
- (3) Advanced certification level is able to install residential, commercial, industrial, or public facility systems utilizing:
 - (a) Low pressure pipe systems;
 - (b) Mounds;
 - (c) Drip irrigation;
 - (d) Advanced treatment;
 - (e) Experimental technology; or
 - (f) Cluster systems; and
 - (g) Probationary and full certification level system listings.
- (4) Master certification level is able to install residential, commercial, industrial, or public facility systems utilizing probationary, full, and advanced certification level system listings.

Section 4. Maintenance of Certification. (1) ~~Each person~~**[All persons]** holding a valid certification under KRS 211.357 shall be required to:

- (a) Attend training workshops offered by the cabinet to maintain certification and improve competency based on the level of certification attained;
- (b) Maintain and submit proof of liability insurance annually to the local health department; and
- (c) Annually pay the certification fee as required by Section 2(3)(d) of this administrative regulation to the Kentucky Department for Public Health.
- (2) An installer whose certification has expired shall:
 - (a) Comply with subsection (1) of this section;
 - (b) Submit proof of completion of continuing education units; and
 - (c) Receive a renewal certification card prior to installing an on-site sewage system.
- (3) For all certification levels, ~~Attendance at~~ a minimum of two (2) training workshops for a total of six (6) approved continuing education units per year with passing scores on workshop tests shall meet certification maintenance requirements.
- (4)~~(3)~~ Attendance at workshops, seminars, or conferences not sponsored by the cabinet may be substituted on a one (1) for one (1) basis to meet certification maintenance requirements at the **determination****[discretion]** of the cabinet. Requests for consideration of other training for substitution shall be based upon the following:
 - (a) Submission of a copy of the training agenda, speaker or presenter biographies, and course outlines; and
 - (b) Submission of proof of attendance and results of any testing or other performance measurement with verification by the training sponsor.
- (5)~~(4)~~ Upon receipt of a request for training substitution the cabinet shall compare that

training for equivalency with similar training it provides. If equivalency is demonstrated, the cabinet shall accept that training for substitution as specified in subsection ~~(4)~~⁽⁴⁾ of this section.

~~(6)~~⁽⁵⁾ Any person failing to meet certification maintenance requirements shall be subject to administration action under Section ~~7~~⁶ of this **administrative** regulation and KRS 211.357(4).

Section ~~5~~⁴. Training. (1) The cabinet shall develop and implement a series of training workshops for certified installers in the areas of on-site sewage disposal system design, technology, application and function.

(2) Training workshops shall be conducted throughout the state at frequencies, times, and locations necessary to provide all certified installers a reasonable opportunity to attend a number of workshops sufficient to maintain certification.

(3) A schedule of training workshops, including dates, times, location, and topics~~[, and registration forms]~~ shall be prepared and made available to all certified installers to notify them of training opportunities and allow for scheduling attendance.

(4) A series of training courses shall be developed including instructor and student manuals, and other audiovisual and written materials.

(5) The cabinet may charge a reasonable fee at each training workshop to support program costs.

(6) The cabinet shall establish, through grants or contracts, a training staff composed of local health department fully certified inspectors to conduct training workshops on a regional basis. These local instructors shall serve as supplemental staff to the cabinet and act under the direct supervision of the cabinet.

(7) Training workshops for staff and supplemental staff instructors shall be conducted to assure uniformity of training for certified installers.

(8) The cabinet may contract with other governmental agencies, private consultants, or professional organizations for specialized instructor services.

Section ~~6~~⁵. Materials and Equipment. (1) Each training course shall be developed into a training materials packet consisting of the following:

- (a) Course outline;~~[.]~~
- (b) Instructor script;~~[.]~~
- (c) Trainee guide;~~[.]~~
- (d) Audiovisual materials;~~[.]~~
- (e) Trainee worksheets and reference sheets;~~[.]~~
- (f) Test;~~[.]~~
- (g) Instructor comment sheet; **and**~~[.]~~
- (h) Trainee comment sheet.

(2) A complete training materials packet, in hardcopy or digital format~~[assembled in a loose-leaf, three (3) ring binder,]~~ shall be provided to each instructor for each course.

(3) A training material packet, excluding subsection (1)(b), (d) and (g) of this section, shall be provided to each trainee for each course.

~~(4) [A loose-leaf, three (3) ring binder shall be provided to each trainee at the first workshop attended. This binder shall be used by the trainee to assemble a reference manual for the first course and all subsequent courses attended.]~~

~~(5)~~ Sufficient stocks of instructor and trainee material packets shall be maintained for each course to meet demand.

~~(5)~~⁽⁶⁾ Audiovisual equipment~~[, including an overhead projector, slide projector, projection~~

~~screen, videocassette player, and television monitor]~~ shall be available to each instructor.

Section ~~7~~6. Enforcement. (1) Failure of any certified installer to comply with the requirements of KRS 211.350, 211.357(4) and (5), 902 KAR 10:081, 902 KAR 10:085, or this administrative regulation shall result in administrative action being taken.

(2) A minimum six (6) months probationary period shall be assigned to any certified installer who:

(a) Fails final inspection on any two (2) consecutive systems ~~that~~which require follow-up inspections before approval is granted;

(b) Backfills any system before final inspection is conducted and approval to backfill is given;

(c) Fails final inspection on any system ~~that~~which results in reconstruction of the system before approval can be given;

(d) Fails to place, cause to be placed, or fails to supervise placement of any required additional fill soil over an installed system;

(e) Fails to call for final inspection of any system;

(f) Fails to be present on the site anytime work is being performed on the system under construction;

(g) Fails to provide name, certification number, and notification of intent on application of permit when performing excavation and backfilling work on permitted homeowner installations;
or

(h) Performs work on any system outside of the designated certification level.

(3) Probation may be assigned to a certified installer by the cabinet or by the certified inspector having local jurisdiction. Terms of the probationary period shall stipulate any restrictions, requirements, or additional training ~~determined~~deemed necessary to correct performance.

(4) For other violations, the provisions of KRS 211.357(4) and (5) relating to suspension or revocation of certification shall apply. ~~[In addition, if necessary to correct damaged or abandoned systems or sites, surrender of business bond shall be required.]~~

(5) In all instances of administrative action being taken for probation, suspension or revocation, a certified installer shall have the right to request an administrative ~~conference~~hearing. The request shall be submitted in writing on form DFS-212 - Request for Conference, incorporated by reference in 902 KAR 1:400,~~[Hearing]~~ to the local health department having jurisdiction or to the cabinet. All administrative ~~conferences~~hearings shall be conducted pursuant to~~[in accordance with]~~ 902 KAR 1:400.

(6) If immediate legal action is necessary to prevent the creation or continuance of a health hazard, damage to the environment, or compel compliance with KRS 211.350~~(5), (7), (8), and (9)~~ [(2) and (3)], 211.357(4) and (5) or **administrative** regulations pursuant to those statutes, the cabinet or local health department concerned may maintain, in its own name, injunctive action against any person engaged in the construction, installation, or alteration of an on-site sewage disposal system.

(7) The cabinet shall be notified within two (2) business days~~[in writing]~~ of any administrative action taken by a local health department against any certified installer, so that other local health departments can be alerted to that installer's status.

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