

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 10:150. Domestic septage disposal site approval procedures.

RELATES TO: KRS 211.355, 211.360, 211.970, 211.974, 211.976, 211.981~~[211.982]~~

STATUTORY AUTHORITY: KRS 194A.050(1)~~[Chapter 13B,]~~ 211.980~~[, 211.090, EO 96-862]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires[authorizes] the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 211.980 requires[authorizes] the secretary~~[KRS 211.970 to 211.982 direct the Cabinet for Health Services]~~ to promulgate administrative regulations relating to approval of domestic septage treatment, land application, and surface disposal sites. This administrative regulation estab-
lishes the approval process for domestic septage disposal sites~~[sets forth the procedures for complying with KRS 211.970 to 211.982. Executive Order 96-862, effective July 2, 1996, reor-~~
ganizes the Cabinet for Human Resources and places the Department for Public Health and its
programs under the Cabinet for Health Services].

Section 1. Definitions. ~~[In addition to the definitions given in KRS 211.970, as used in this ad-~~
~~ministrative regulation, the following terms shall have the meanings set forth below:]~~

(1) "Cabinet" is defined by KRS 211.970(2).

(2) "Certified Inspector" means a specific individual who has met the requirements for certifi-
cation contained in KRS 211.360.

(3) "Deep incorporation" means land application by subsurface injection, trench disposal, or a
furrow-placement-cover operation.

(4)~~[(2)]~~ "Domestic septage" means liquid or solid material removed from a septic tank, holding
tank~~[cesspool]~~, portable toilet, Type III marine sanitation device, or similar treatment works that
receives only domestic sewage. Domestic septage shall not include:

(a) Liquid or solid material removed from a septic tank that contains commercial wastewater
or industrial wastewater processes;

(b) ~~[Cesspool;~~

~~(e)]~~ Similar treatment works that receives commercial or industrial wastewater processes or
individual wastewater processes; or

~~(c)[(d)]~~ Grease removed from a grease trap at a restaurant or similar grease producing busi-
ness.

(5)~~[(3)]~~ "Grease" is defined by~~[pursuant to]~~ KRS 211.970(3) ~~[and shall not apply to mineral-~~
~~based oils or greases].~~

(6)~~[(4)]~~ "Land application" means:

(a) The spraying or spreading, while the vehicle is in motion, of domestic septage or domestic
septage mixed with grease at a ratio of three (3) parts domestic septage to one (1) part grease
onto the land surface;

(b) The injection of domestic septage below the land surface; or

(c) The incorporation of domestic septage into the soil.

(7)~~[(5)]~~ "Operator" means a person operating or owning a domestic septage disposal, treat-
ment, or recycling site, including their authorized agents.

~~(8)~~~~(6)~~ "Restrictive horizon" means a soil horizon that is relatively impervious to the downward movement of water, grease, domestic septage, or mixture because of its cemented, compacted or structural condition.

(9) "Shallow incorporation" means land application by surface spreading followed by plowing, disking, or harrowing.

(10) "Surface disposal site" means an area of land that is used for domestic septage disposal.

(11) "Tank" is defined by KRS 211.970(12).

(12)~~(7)~~ "Water table" means the zone of soil saturation by groundwater.

Section 2. Application for Site Evaluation. (1)(a) Form DFS-345, [~~"]Application for[and] Site Evaluation and Permit to Operate a Disposal Site, [(12/18),] incorporated by reference in 902 KAR 10:160[" (6/94)], shall be submitted by the owner or operator~~[applicant]~~ to the local health department for~~[or]~~ any site that is to be used as a domestic septage disposal site.~~

~~(b)~~~~Form DFS-345, "Application and Site Evaluation", is incorporated by reference and may be viewed or obtained at the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.] A farm that properly disposes of~~[receives]~~ less than 2,000 gallons of its own domestic septage per year shall not be required to be permitted.~~[however]~~ The farm shall be registered with the local health department.~~

(2) The disposal area where domestic septage is to be applied shall meet the requirements in Section 4 of this administrative regulation.

(3)~~(2)~~ The following documents shall accompany the application:

(a) A plat or recording in the local county clerk's office, an original and current 7.5 minute U. S. Geological Survey Quadrangle topographical map with proposed site boundaries clearly marked, or dimensioned site plan showing:

1. Number of acres and site boundaries;
2. Structures and other facilities;
3. Proposed disposal area;

4. Setback distances for features on the site and adjacent to the site as listed in Section 4, Table 8, of this administrative regulation;

5. North and prevailing wind direction; and

6. Access roads and other features outside of the boundaries of the site that may have an impact on site approval.

(b) Proposed operations plan including:

1. Methods and equipment for application, treatment, recycling, or storage;
2. Land usage and the nitrogen requirement for the crop or vegetation;
3. Application rate;
4. Monitoring program for vector and pathogen reduction;
5. State and federal endangered species impact statement, if applicable; and
6. Other information **determined as**~~[deemed]~~ necessary by the cabinet.

Section 3. Site Evaluation Fee. (1) An evaluation fee shall be required for the cost of conducting a site evaluation by the local health department.

(2) In accordance with KRS 211.355, the site evaluation fee shall be established by the local board of health having jurisdiction.

~~(a) Fifty (50) dollars per proposed disposal site that contains five (5) acres or less;~~

~~(b) \$100 per sites greater than five (5) acres but less than twenty-five (25) acres;~~

~~(c) \$150 per sites greater than twenty-five (25) acres but less than fifty (50) acres;~~

~~(d) \$200 per sites greater than fifty (50) acres but less than 100 acres; and~~

- (e) \$300 per sites greater than 100 acres,
- (2) Fee shall be made payable to the local health department.]

Section 4. Site Approval Procedures. (1) A certified inspector shall evaluate each proposed site based on the factors listed in Tables 1 through 8 of this section. An official site evaluation form shall be completed classifying each factor using the following rating method:

- (a) An "A" rating means that the site is acceptable for that site factor.
- (b) An "M" rating means the site factor is acceptable with modification or restriction to the site or disposal method.

1. M₁ - Upslope surface water diversion required.
2. M₂ - Shallow placement of domestic septage shall maintain a minimum separation distance of eighteen (18) inches between the domestic septage and a water table or bedrock. Lined wetland cells, storage, or treatment facilities may be excluded from this requirement;
3. M₃ - Shallow placement of domestic septage shall be required to maintain a minimum separation distance of eighteen (18) inches between the domestic septage and a restrictive horizon.
4. M₄ - Acceptable if a curtain drain is installed to lower the water table to a level of eighteen (18) inches below the domestic septage application.

(c) A "U" rating means the site factor is not acceptable. Reclamation site areas with "U" ratings may be acceptable for disposal sites if the disposal activity will not contaminate the groundwater or create a public health nuisance.

(2) Topography.

TABLE 1 - SITE TOPOGRAPHY			
Disposal Method	Slope 0 to 12%	Slopes >12% to 25%	Slopes >25% or complex[nonuniform]
Surface Application	A	U	U
Shallow Incorporation	A	U	U
Deep Incorporation	A	M	U

(3) Landscape position.

TABLE 2 - LANDSCAPE POSITION			
Disposal Method	Flat Or Convex: Ridgetop; Natural Terraces; Shoulder Slope; Sideslope; Footslopes; Terraces	Concave: Shoulder Slope; Sideslope	Concave: Ridgetops; Terraces; Footslopes; Toeslopes; Sinkholes; Karst Depressions; Floodplains
Surface Application	A	M ₁	U
Shallow Incorporation	A	M ₁	U

Deep Incorporation	A	M ₁	U
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(4) Soil texture. Soil texture shall be classified as follows:

(a) Soil Group I. Sandy texture soils containing more than the seventy (70) percent sand-sized particles including the sand and loamy sand soil textural classes;

(b) Soil Group II. Coarse loamy texture soils containing more than thirty (30) percent clay-sized particles including sandy loam and loam soil texture classes;

(c) Soil Group III. Fine loamy soils containing less than forty (40) percent clay-sized particles and not more than thirty (30) percent sand-sized particles including sandy clay loam, silt loam, clay loam, and silty clay loam textural classes; and

(d) Soil Group IV. Clay texture soils containing forty (40) percent or more clay-sized particles including sandy clay, silty clay, and clay.

Disposal Method	Soil Textural Group I	Soil Textural Group II & III [ii & iii]	Soil Textural Group IV [iv]
Surface Application	U	A	A
Shallow Incorporation	U	A	A
Deep Incorporation	U	A	A

(5) Depth to a restrictive horizon.

Disposal Method	Restrictive Horizon < 18"	Restrictive Horizon From 18" To 24"	Restrictive Horizon From 24" To 42"	Restrictive Horizon > 42"
Surface Application	U	A	A	A
Shallow Incorporation	U	M ₃	M ₃	A
Deep Incorporation	U	U	M ₃	A

(6) Depth to a water table.

Disposal Method	Water Table Depth < 18"	Water Table Depth From 18" To 24"	Water Table Depth From 24" To 42"	Water Table Depth > 42"
Surface Application	M _{2,4}	A	A	A

Shallow In-corporation	M _{2,4}	M _{2,4}	M _{2,4}	M _{2,4}
Deep Incorporation	M _{2,4}	M _{2,4}	M _{2,4}	M _{2,4}

(7) Soil depth.

TABLE 6 - SOIL DEPTH				
Disposal Method	Soil Depth <18"	Soil Depth 18" To 24"	Soil Depth 24" To 42"	Soil Depth > 42"
Surface Application	U	A	A	A
Shallow In-corporation	U	M ₂	M ₂	M ₂
Deep Incorporation	U	U	M ₂	M ₂

(8) Available space. The disposal site area shall be a minimum of one (1) acre (43,560 sq. ft.) after application of the setback distance requirements.

TABLE 7 - AVAILABLE SPACE		
Disposal Method	One Year Disposal Capacity	Less Than One Year Disposal Capacity
Surface Application	A	U
Shallow In-corporation	A	U
Deep Incorporation	A	U

TABLE 8 - MINIMUM SETBACK DISTANCES FOR DOMESTIC SEPTAGE DISPOSAL SITES			
Site Features	Surface Application; Experimental Disposal Methods	Shallow Incorporation	Deep Incorporation
Potable Water Supplies And Wells	500 Feet	300 Feet	300 Feet
Lakes, Ponds, Streams, Intermittent Water Ways Downslope	200 Feet	100 Feet	100 Feet
Sinkholes, Karst, Depressions	200 Feet	200 Feet	200 Feet
Dwellings, Business, Beaches, Public Gatherings	600 Feet	500 Feet	300 Feet

Property Line Or Easements	100 Feet	50 Feet	50 Feet
Public Roads	200 Feet	200 Feet	100 Feet

(9) Backhoe pits or a soil probe truck shall be used to determine soil characteristics and as necessary, soil samples shall be randomly spaced and taken to a depth of forty-two (42) inches unless limited by site conditions. The owner or operator[~~applicant~~] shall provide the backhoe or soil probe truck.

Section 5. Appeal Procedures. (1) An administrative conference[~~A hearing~~] shall be provided, pursuant to[~~in accordance with~~] 902 KAR 1:400, at the request of the owner or operator[~~applicant~~] if a site has been disapproved.

(2) The request for an administrative conference[~~a hearing~~] shall be made in writing on Form DFS-212, Request for Conference, incorporated by reference in 902 KAR 1:400[~~"Request for Hearing" (1/91)~~], to the cabinet within ten (10) days after notification by the cabinet of an enforcement proceeding. ~~Form DFS-212, "Request for Hearing", is incorporated by reference and may be viewed or obtained at the Office of the Commissioner for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.~~

(3) ~~All administrative hearings shall be conducted in accordance with 902 KAR 1:400. Service of process and proof of service shall comply with KRS 211.220].~~

CONTACT PERSON: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.