

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Waste Management
(Amended at ARRS Committee)

401 KAR 45:020. Types of special waste permits.

RELATES TO: KRS 224.1, 224.10, 224.40, 224.46, 224.50, 224.70, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-305, 224.50-760(1)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.50-760(1)(d) authorizes the cabinet to promulgate administrative regulations for the management special wastes. KRS 224.40-305 requires persons who establish, construct, operate, maintain, or allow the use of a waste site or facility to obtain a permit. This administrative regulation establishes the classification of special waste sites or facilities for permitting.

Section 1. Overview. This administrative regulation establishes the type of permit a person shall obtain prior to engaging in the disposal or management of special waste.

Section 2. Permit Types. This section establishes the types of special waste site or facility permits.

(1) Formal permit. A formal permitting process shall be established that shall include the submittal of a complete application, review of the application, and permit issuance or denial by the cabinet. A formal permit shall be obtained by persons engaged in:

(a) Special waste landfill, which shall be a category of waste site or facility designed and operated to accept for disposal a limited number of special wastes that are characterizable. The administrative and technical requirements for a special waste landfill shall be as established in 401 KAR 45:030 and 45:110; and

(b) Landfarming and composting, which shall be a category of special waste site or facility that landfarms or composts special waste.

1. A special waste composting site or facility that manages municipal wastewater treatment sludge shall be classified as a Type A or Type B facility according to the metal concentrations of the sludge and volume of sludge accepted at the site as established in 401 KAR 45:100, Section 2..]

2. Other special waste landfarming or composting shall include the category of site or facility that manages special waste, other than municipal wastewater treatment sludge, which shall be classified as established in this administrative regulation and based upon the source, chemical and physical characteristics of the waste, volume of waste, and its potential for adverse impact on human health or the environment. Other special waste landfarming or composting facilities shall be classified as either a Type A or Type B facility in accordance with 401 KAR 45:100, Section 2.

3. Landfarming of biosolids, the application to the land of sludges from the treatment of domestic sewage or sewage sludge from a treatment facility, shall be managed in accordance with 401 KAR 45:105.

(2) Permit-by-rule. This shall be a category of waste site or facility permit for certain special waste management practices established in 401 KAR 45:060, which shall be deemed to have a permit without the owner or operator having made application or registration with the cabinet.

(3) Registered permit-by-rule. This shall be a category of waste site or facility permit for certain special waste management practices established in 401 KAR 45:070, which shall be deemed to have a permit without further action by the cabinet upon acknowledgement by the cabinet of a complete registration by the owner or operator.

(4) Emergency permit. This shall be a category of special waste site or facility permit for the short-term storage or disposal of special waste generated during certain emergency situations. These permits shall be issued in accordance with 401 KAR 45:135.

(5) Research, development, and demonstration permit. This shall be a category of special waste or facility permit to demonstrate unproven technology. These permits shall be issued in accordance with 401 KAR 45:135.

Section 3. Special Waste Formal Permit Phases. The application process to obtain a formal permit shall consist of two (2) phases.

(1) Upon approval of a permit application, the cabinet shall issue a construction permit that authorizes the owner or operator to commence construction of a site or facility in accordance with the terms and conditions of the construction permit.

(2) Upon completion of the construction phase, the owner or operator shall notify the cabinet that construction of the special waste site or facility is complete, in accordance with 401 KAR 45:140, Section 1(11). The cabinet shall inspect the site or facility to ensure compliance with all construction permit requirements and, upon execution of financial assurance and the submission of a fee established in 401 KAR 45:250, Section 2(1)(d), the cabinet shall issue a construction and operation permit.

(18 Ky.R. 3078; eff. 6-24-1992; Cert eff. 9-5-2018; TAm eff. 10-15-2018; 50 Ky.R. 9+16, 2024; eff. 6-6-2024.)

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