

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

401 KAR 45:010. Definitions for 401 KAR Chapter 45.

RELATES TO: KRS 224.1-010, 224.50-760, 224.50-765

STATUTORY AUTHORITY: KRS 224.10-100(28), 224.40-305, 224.50-760(1)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(28) authorizes the cabinet to promulgate administrative regulations that are consistent with the provisions of law administered by the cabinet. 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, pursuant to administrative regulations promulgated by the cabinet. KRS 224.50-760(1)(d) authorizes the cabinet to promulgate administrative regulations for the management of special wastes. This administrative regulation establishes definitions for 401 KAR Chapter 45, concerning the management of special wastes and the training and certification of operators of special waste sites or facilities.

Section 1. Definitions.

(1) "Beneficial reuse":

(a) Means the use or reuse of special wastes in a manner that complies with the environmental performance standards of 401 KAR 30:031 and all other applicable requirements of 401 KAR Chapter 45; and

(b) Does not mean the use or reuse of biosolids that are governed by the provisions of 401 KAR 45:105.

(2) "Biosolids" is defined by KRS 224.50-765(1).

(3) "Certified operator" means a special waste site or facility operator who holds a valid certificate upon the successful completion of a training course and examination, both approved as established in 401 KAR 45:090. The categories of certified operator include:

(a) Composting operator;

(b) Interim operator;

(c) Landfarming operator; and

(d) Landfill operator.

(4) "Closure" is defined by KRS 224.1-010(4).

(5) "Coal combustion by-products":

(a) Means special waste including fly ash, bottom ash, or scrubber sludge residues produced by coal-fired electrical generating units; and

(b) Does not mean residues of refuse derived fuels such as municipal waste, tires, or solvents.

(6) "Composting" is defined by KRS 224.1-010(6).

(7) "Composting operator" means a certified operator who is responsible for ensuring compliance with all permit conditions at a composting facility and who is available to the facility during operations.

(8) "Construction permit" means a formal permit issued by the cabinet to an owner or operator of a special waste site or facility that authorizes the owner or operator to commence site preparation prior to the disposal or management of special waste.

(9) "Construction and Operation permit" means a formal permit issued by the cabinet to an owner or operator of a special waste site or facility that authorizes the owner or operator to accept special waste for disposal or management. This permit is issued only after the construction of the site or facility has been certified as complete by the cabinet and the necessary financial assurance has been executed.

(10) "Formal permit" means a permit for special waste landfills, landfarming operations, and composting operations issued by the cabinet after review of the designated application form and completion by the applicant of the requirements of 401 KAR Chapter 45.

(11) "Horizontal expansion" means any increase in the capacity of a special waste landfill that expands the waste boundary of the landfill beyond the original waste boundaries contained in the permit application, approved as established in 401 KAR 45:040.

(12) "Interim operator" means a person who assumes the position of a special waste site or facility operator in the absence of a designated certified operator pursuant to 401 KAR 45:090, Section 11.

(13) "Landfarming facility" means a special waste site or facility for land application of sludges or other special waste by methods established in 401 KAR Chapter 45, for purposes of disposal. Disposal on any piece or pieces of land could improve the physical and chemical qualities of the land for agricultural purposes, but does not alter the topography of the application area as revealed by contours and does not disturb the soil below three (3) feet from the surface.

(14) "Landfarming operator" means a certified operator who is responsible for ensuring compliance with all permit conditions at a landfarming site or facility and who is available to be at the site or facility during operations.

(15) "Landfill operator" means a certified operator who has primary responsibility for management and operation of a special waste landfill to assure compliance with all permit conditions and is available to be at the site or facility during operations.

(16) "Postclosure" means the routine care, maintenance, and monitoring of a special waste site or facility following closure of the facility.

(17) "Responsible corporate officer" means:

(a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

(b) The manager of one (1) or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million; or

(c) A person who, pursuant to a corporation resolution, is designated to act on behalf and bind the corporation on all matters relating to permit applications and modifications.

(18) "Special waste" means:

(a) As established in KRS 224.50-760(1)(a); and

(b) Coal combustion residuals, which are governed by 401 KAR Chapter 46 and not included for the purposes of 401 KAR Chapter 45 provisions.

(19) "Special waste site or facility" means any land, real property, appurtenance, building, structure, or installation where special waste is managed, processed, beneficially reused, or disposed.

(18 Ky.R. 3076; 3432; 19 Ky.R. 22; eff. 6-24-1992; 32 Ky.R. 1472; 1885; eff. 5-5-2006; 43 Ky.R. 794, 1557; eff. 5-5-2017; Cert eff. 9-5-2018; 50 Ky.R. 914, 2023; eff. 6-6-2024.)

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