

ENERGY AND ENVIRONMENT CABINET
Department Of Environmental Protection
Division Of Waste Management
(Amendment)

401 KAR 48:320. Operating requirements for less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfills.

RELATES TO: KRS 224.01-010, 224.10-100, 224.10-105, 224.40-100, 224.40-110, 224.40-120, 224.40-305, 224.40-310, 224.40-315, 224.40-320, 224.40-325, 224.40-330, 224.40-340, 224.40-605, 224.40-650, 224.43-010, 224.43-020, 224.43-070, 224.43-310, 224.43-315, 224.43-330, 224.43-340, 224.43-345, 224.43-350, 224.70-100, 224.70-110, 224.99-010, 224.99-020

STATUTORY AUTHORITY: KRS 224.10-100(19)(c) and (24), 224.40-100, 224.40-120, 224.40-305, 224.40-330, 224.40-605

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(19)(c) and (24), 224.40-120, 224.40-305, 224.40-330, and 224.40-605 authorize the cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This administrative regulation establishes the technical requirements for less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfills.

Section 1. Applicability. This administrative regulation shall apply to owners and operators of less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfills. The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill shall operate the facility in accordance with the requirements of this administrative regulation.

Section 2. Requirement to Obtain a Registered Permit-by-rule. The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill shall not begin construction or accept waste until the registered permit-by-rule for the facility has become effective as established in 401 KAR 47:110.

Section 3. Construction Requirements. The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill located inside a wellhead protection area, as defined by 401 KAR 5:002, Section 1, shall construct and maintain a liner and leachate collection system.

(1) The liner shall:

(a) Be constructed of soil:

1. With a minimum thickness of twelve (12) inches; and
2. That includes a low permeability soil component with a minimum of twelve (12) contiguous inches of 1×10^{-7} centimeters per second maximum permeable material, or its equivalent; and

(b) Cover the bottom and sidewalls of the facility, with the bottom liner sloped toward a leachate collection system that complies with subsection (3) of this section.

(2) A professional engineer, licensed in Kentucky pursuant to KRS 322.040, shall supervise the design and installation of the liner, including moisture and density tests, and shall certify that the liner meets the compaction requirements. The certification shall be submitted to the cabinet within ten (10) days of completion of the liner.

(3) The leachate collection system shall:

(a) Have a minimum of a twelve (12) inch layer of gravel, or a layer of equivalent performance, and a toe-drain; and

- (b) Be discharged into a collection tank with a minimum capacity of 1000 gallons.
- (4) A professional engineer licensed in Kentucky, pursuant to KRS 322.040, shall supervise the design and installation of the leachate collection system, and shall certify that the collection tank meets the capacity requirement. The certification shall be submitted to the cabinet within ten (10) days of completion of the liner.

Section 4. Operating Requirements.

- (1) The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill shall comply with:
 - (a) The environmental performance standards of 401 KAR 30:031;
 - (b) The siting requirements of 401 KAR 48:050, Sections 1 through 3;
 - (c) The liner and a leachate collection system as established in Section 3 of this administrative regulation, if the landfill is to be located in a wellhead protection area;
 - (d) The groundwater protection plan requirements of 401 KAR 5:037;
 - (e) The requirements of KRS 224.40-120;
 - (f) The operator certification requirements established pursuant to KRS 224.40-605;
 - and
 - (g) The annual report requirement of 401 KAR 47:110, Section 2(3).
- (2) The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill shall:
 - (a) Dispose only of construction or demolition waste or construction material as defined by 401 KAR 48:005, Section 1(18);
 - (b) Not dispose of electrical fixtures containing hazardous liquids, such as fluorescent light ballasts or transformers;
 - (c) Properly dispose of any non-construction or demolition debris landfill waste at a properly permitted disposal facility;
 - (d) During operation clearly delineate the horizontal boundary with slats, stakes, or other types of easily identifiable permanent markers to show that the constructed boundary is within the permitted boundary;
 - (e) Install silt fencing, hay bales, or other appropriate best management practices to prevent sediment from leaving any area disturbed by construction, including stockpiled soil and borrow pit areas. The sediment controls shall be kept in good operating order;
 - (f) Only accept waste from sources listed in the registration and approved by the cabinet. Wastes may be added by submitting a revised registration pursuant to 401 KAR 47:110, Section 3(3);
 - (g) Place the waste in layers, two (2) feet thick or smaller, and compact each layer thereafter;
 - (h) Cover each ten (10) foot lift with a minimum of six (6) inches compacted soil;
 - (i) Maintain a buffer zone of 750 yards from any other less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill permitted boundary;
 - (j) Remove landfill debris, mud and waste from off-site roadways;
 - (k) Limit the maximum capacity of a less than one (1) acre construction or demolition debris landfill not to exceed 40,000 cubic yards of waste; and
 - (l) Limit the maximum capacity of a less than one (1) acre construction or demolition debris landfill that has been expanded to a less than two (2) acre construction or demolition debris landfill not to exceed a total combined volume of 110,000 cubic yards of waste.
- (3) Interim cover period. The owner or operator:
 - (a) Shall place interim soil cover in a manner to eliminate protruding waste over an area that will not receive at least twelve (12) cubic yards of waste within ninety (90) calendar days of the last waste placement;

- (b) Shall not have more than one (1) acre of exposed waste at any given time;
- (c) Shall not remove the interim cover until the day of waste placement;
- (d) Shall place, compact, and grade the interim cover to promote positive drainage; and
- (e) Shall apply temporary erosion controls at the time of placing interim cover.

Section 5. Closure Requirements. The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill shall close the facility as established in the section.

(1) The landfill shall be covered with a soil cap, two (2) feet thick, and the entire disturbed area shall be vegetated within thirty (30) days of ceasing to accept waste. The cabinet may approve an alternative cover of equivalent performance proposed by the owner or operator.

(a) The vegetation shall consist of:

- 1. A minimum of two (2) legumes;
- 2. One (1) annual grass; and
- 3. One (1) perennial grass, in sufficient poundage to provide at least ninety (90) percent ground coverage for the disturbed area.

(b) The grass seed shall be covered with at least one and one-half (1.5) tons of straw mulch or an alternative that delivers equivalent performance per acre.

(c) The straw mulch or its alternative shall be stabilized with netting on slopes that exceed fifteen (15) percent.

(d) The final cap shall have a slope of between five (5) percent and twenty-five (25) percent upon completion of the final grading.

(2) The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill shall record a notice, with the property deed, on which the less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill is located. The notice shall notify, in perpetuity, any potential purchaser of the property of the landfill's location and dates of operation, the nature of the waste disposed, and impose a restriction against any disturbance of the cap. The notice shall be recorded in accordance with KRS Chapter 382 and proof of recording shall be submitted to the cabinet prior to the cabinet's approval of closure.

(3) The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill shall, upon completion of closure of the facility, contact the cabinet for a closure inspection and release of the bond, described in 401 KAR 48:310.

(4) Closure shall be completed no later than thirty (30) days after final receipt of waste.

Section 6. Corrective Action Requirements. If the cabinet determines that a threat to human health, safety, or the environment exists, the owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfill shall conduct corrective action in accordance with 401 KAR 48:300, Section 8. The owner or operator shall certify to the cabinet that corrective action has been completed in accordance with this section. The cabinet shall determine that corrective action has been completed before releasing the bond.

JOHN LYONS, Deputy Secretary
For REBECCA GOODMAN, Secretary

APPROVED BY AGENCY: September 13, 2024

FILED WITH LRC: September 13, 2024 at 11:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024, at 10:00 a.m. Eastern Standard Time. The public hearing can be accessed at the following website address:

<https://us05web.zoom.us/j/81334701532?pwd=eWjHA2kpT9I6PWurOirAnFpuYads2k.1>
using access code M00m5c. Please note that registration is required to participate in this hearing. You must either email your name and mailing address to Tyler.Shields@ky.gov or mail this information to Tyler Shields, Department for Environmental Protection, Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601. Please put “401 KAR 48:320” as the subject line, and state in the body of the message if you plan to speak during the hearing. Individuals interested in being heard at this hearing shall register to speak by November 14, 2024. If no one registers to speak by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Tyler Shields, Environmental Control Supervisor, Department for Environmental Protection, Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 782-5325, fax (502) 564-4245, email Tyler.Shields@ky.gov (Subject line: “401 KAR 48:320”).