

401 KAR 45:070. Special waste registered permit-by-rule.

RELATES TO: KRS 224.01-010, 224.50-760

STATUTORY AUTHORITY: KRS 224.10-100(30), 224.10-100, 224.40-305, 224.50-760(1)(d)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(30) authorizes the cabinet to promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet. KRS 224.50-760(1)(d) authorizes the cabinet to promulgate administrative regulations for the management of special wastes. KRS 224.40-305 requires persons who establish, construct, operate, maintain or permit the use of a waste site or facility to obtain a permit, pursuant to administrative regulations adopted by the cabinet. This administrative regulation establishes requirements for a special waste registered permit-by-rule.

Section 1. Registered Permit-by-rule.

(1) A person engaged in the following activities shall be required to register with the cabinet:

- (a) Sludge giveaway in accordance with Section 8 of 401 KAR 45:100;
- (b) Beneficial reuse of special waste not specified in Section 1(7) of 401 KAR 45:060; and
- (c) Facilities that treat and store processed special waste for distribution under Section 10 of 401 KAR 45:100.

(2) Special waste registered permit-by-rule sites or facilities shall not store, treat, reuse, or dispose of special waste without first submitting a registration to the cabinet and receiving acknowledgement, in writing, by the cabinet of acceptance of the registration in accordance with Section 2 of this administrative regulation.

Section 2. Registration Procedure for Registered Permit-by-rule.

(1) Persons required to obtain a registered permit-by-rule shall complete and submit the following information:

- (a) "Registered Permit-by-rule for Sludge Giveaway" DEP 7059D (November 2005);
- (b) "Registered Permit-by-rule for Beneficial Reuse" DEP 7059F (November 2005); or
- (c) "Registered Permit-by-rule for Storage and Treatment of Processed Special Waste" DEP 7059G (November 2005).

(2) The owner or operator shall submit any additional information necessary to ensure compliance with this administrative regulation to the cabinet upon request.

(3) After submission of the appropriate registration form, the cabinet shall review the registration form. If the cabinet determines upon examination of the registration form that it fails to include all of the required information or that the registration form fails to provide the engineering, geological, or scientific information necessary to determine that the registered permit-by-rule site or facility will comply with 401 KAR 30:031, the cabinet shall notify the owner or operator that the registration form is deficient and the owner or operator shall submit the information requested by the cabinet.

(4) Owners or operators of a registered permit-by-rule site or facility may begin operation of the site or facility when the cabinet acknowledges in writing receipt of a complete registration and the cabinet determines the operation complies with the environmental performance standards of 401 KAR 30:031.

Section 3. Operation During a Registered Permit-by-rule.

(1) A site or facility operating under a registered permit-by-rule, except as provided in Section 4 of this administrative regulation, shall not:

- (a) Store, treat, reuse, or dispose of special waste not specified in the registration form;
or
 - (b) Exceed the design capacities specified in the administrative registration form.
- (2) The owner or operator of a registered permit-by-rule site or facility shall comply at all times with 401 KAR 30:031, 401 KAR 45:140, and this administrative regulation.
- (3) The owner or operator of a registered permit-by-rule site or facility shall comply with the applicable provisions of 401 KAR 45:100.

Section 4. Changes To a Registered Permit-by-rule.

- (1) The owner or operator of a registered permit-by-rule site or facility shall submit a revised registration form identifying new types of special waste to be stored, treated, reused, or disposed at the registered permit-by-rule site or facility if the special waste type was not previously identified in the registration form.
- (2) The owner or operator shall submit a revised registration form prior to increases in the design capacity of processes used at a site or facility.
- (3) The owner or operator shall submit a revised registration form prior to changes in the processes for the storage, treatment, reuse, or disposal of special waste or use of additional processes.
- (4) The owner or operator shall submit a revised registration form prior to changes in owners or operators of the site or facility.
- (5) Changes listed in subsections (1) to (4) of this section shall not be implemented until the cabinet acknowledges in writing receipt of a complete revised registration form.
- (6) If the revised registration form fails to provide the engineering, geological, or scientific information necessary to determine that the registered permit-by-rule site or facility will comply with 401 KAR 30:031, the cabinet shall notify the owner or operator that the revised registration form is deficient, and the owner or operator shall submit the information requested by the cabinet.

Section 5. Noncompliances. The cabinet may take any appropriate enforcement actions, including corrective action or revocation, if a special waste registered permit-by-rule site or facility is not operating in compliance with this administrative regulation.

Section 6. Incorporation by Reference.

- (1) The following material is incorporated by reference:
- (a) "Registered Permit-by-rule for Sludge Giveaway", DEP 7059D, November 2016;
 - (b) "Registered Permit-by-rule for Beneficial Reuse", DEP 7059F, November 2016; or
 - (c) "Registered Permit-by-rule for Storage and Treatment of Processed Special Waste", DEP 7059G, November 2016.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601, (502) 564-6716, Monday through Friday, 8 a.m. to 4:30 p.m., eastern time, excluding state holidays, or from the Web site at eec.ky.gov/environmental-protection/waste.
- (401 KAR 045:070. 18 Ky.R. 3090; 3438; 19 Ky.R. 23; eff. 6-24-1992; 32 Ky.R. 1474; 1886; eff. 5-5-2006; TAm eff. 7-8-2016; TAm eff. 12-21-2016; Crt eff. 9-5-2018; TAm eff. 5-7-2019; Crt eff. 8-29-2025.)