

1 AN ACT relating to solid waste management.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 224.40-315 is amended to read as follows:

4 (1) No permit to construct or expand a municipal solid waste disposal facility shall be  
5 accepted for processing by the cabinet unless the application contains a  
6 determination from the governing body for the solid waste management area in  
7 which the facility is or will be located concerning the consistency of the application  
8 with the area solid waste management plan submitted under KRS 224.43-345(1)(a)  
9 to (d) and (l) until January 1, 1993, and the entire plan after January 1, 1993. The  
10 governing body for the area shall, within sixty (60) days of receipt of a written  
11 request, make the determination after public notice and opportunity for public  
12 comment and public hearing. For applications with a notice of intent filed prior to  
13 February 26, 1991, the cabinet shall continue to process the application but no  
14 permit shall be approved until the governing body for the solid waste management  
15 area in which the facility is or will be located has made a determination in  
16 accordance with this section.

17 (2) No permit to construct or expand a municipal solid waste disposal facility shall be  
18 approved unless the applicant affirmatively demonstrates and the cabinet makes a  
19 written finding in the preliminary determination made pursuant to KRS 224.40-  
20 310(2) that the application conforms to and is consistent with all of the following:

- 21 (a) The capacity needs identified in the area solid waste management plan;
- 22 (b) Other elements of the area solid waste management plan, for permit  
23 applications filed after approval of those elements;
- 24 (c) The statewide solid waste reduction and management plan, for permit  
25 applications filed after completion of the plan; and
- 26 (d) Applicable zoning regulations adopted pursuant to KRS Chapter 100.

27 (3) If the cabinet approves a permit to construct or expand a municipal solid waste

1 management facility after the governing body for the area has determined the  
2 application to be inconsistent with the area solid waste management plan, as part of  
3 the written finding the cabinet shall state in detail the reasons why it did not accept  
4 the determination of the governing body for the area.

5 (4) For the purposes of this section, the term municipal solid waste disposal facility  
6 includes, in addition to those facilities defined in KRS 224.1-010(14), any residual  
7 or contained landfill or incinerator disposing of industrial solid waste for a fee, but  
8 does not include a waste site or facility which is operated exclusively by a solid  
9 waste generator on property owned by ~~that~~<sup>the</sup> solid waste generator which  
10 accepts only industrial solid waste generated on or adjacent to that property  
11 ~~by~~<sup>from</sup> the solid waste generator and any~~or~~ industrial solid waste generated at  
12 another facility owned and operated by the generator or wholly-owned subsidiary.

13 ➔Section 2. KRS 224.43-345 is amended to read as follows:

14 (1) Each area solid waste management plan shall be prepared in accordance with any  
15 administrative regulations of the cabinet and shall be required to include the  
16 following:

17 (a) Identification of the area that will be included in the plan;

18 (b) A demographic study of the planning area of current and projected  
19 populations five (5), ten (10) and twenty (20) years in the future. A projection  
20 of the amount and source of solid waste generated, collected, and requiring  
21 disposal at municipal solid waste disposal facilities for each of these time  
22 periods shall be provided;

23 (c) An inventory and description of all existing solid waste management facilities  
24 and activities. The description shall include their identity, location, life  
25 expectancies, ownership, cost to the users, and level of compliance with state  
26 and federal laws. The description is not required to include any solid waste  
27 management facility which is operated exclusively by a solid waste generator

1 on property owned by the solid waste generator for the purpose of accepting  
2 solid waste from the solid waste generator or waste generated at another  
3 facility owned and operated by the generator or wholly owned subsidiary.  
4 After commencement of operation by a solid waste generator of a solid waste  
5 disposal facility which is permitted but not included in a solid waste  
6 management plan, an amendment to a solid waste management plan shall be  
7 required for any solid waste which is to be no longer disposed by the solid  
8 waste generator in its own solid waste disposal facility;

9 (d) An estimate of the area's long-range needs for solid waste management and  
10 facilities for five (5), ten (10), and twenty (20) years into the future;

11 (e) Identification and assessment of current and future solid waste management  
12 problems faced by the area. List any deficiencies with existing solid waste  
13 management facilities in meeting current and future area needs, and identify  
14 opportunities for improvement;

15 (f) Outline short-term, mid-term, and long-term goals and objectives of the solid  
16 waste management area. The goals and objectives shall be consistent with the  
17 policies and goals set out in KRS 224.43-010;

18 (g) Based on the problems, needs, goals, and objectives previously identified,  
19 identify alternative approaches to solid waste management and select the  
20 optimal alternatives. Solid waste management activities and facilities to be  
21 addressed include:

22 1. Identification of those regulations and ordinances which provide for  
23 proper, safe, and sanitary management of solid waste;

24 2. A description of proposed improvements to existing solid waste  
25 collection and transportation systems necessary to achieve universal  
26 collection;

27 3. Establishment of a siting procedure and development program to assure

1 the orderly location, development, and financing of new or expanded  
2 municipal solid waste management facilities. The plan shall demonstrate  
3 how all persons in the planning area will within the near future have  
4 reasonable opportunity to dispose of their waste in a manner that  
5 complies with state and federal laws;

6 4. Identification of planned programs for the control and cleanup of litter  
7 and open dumps. The programs shall include: identification of an  
8 approved schedule for the cleanup of open dumps in existence as of  
9 October 1, 2002; an annual survey of the planning area to discover new  
10 open dumps which shall then be scheduled for cleanup within one (1)  
11 year unless the cabinet approves a longer schedule; measures to prevent  
12 the recurrence of dumping at sites which are cleaned up; cleanup of litter  
13 along public roads three (3) times per year; and cleanup of litter along  
14 city streets two (2) times per year. In these public road cleanups and also  
15 open dump cleanups, nonviolent misdemeanor and Class D felon  
16 inmate laborers may be used. A county that does not receive in any year  
17 an allocation from the Kentucky pride fund sufficient to complete the  
18 number of road cleanups provided for in this section shall not be deemed  
19 out of compliance;

20 5. An assessment of opportunities to reduce the need for land disposal by  
21 banning grass clippings, leaves, and other yard wastes from municipal  
22 solid waste disposal facilities and the institution of composting  
23 operations for grass clippings, leaves, and other yard wastes;

24 6. Establishment of a plan to reduce the need for land disposal through  
25 waste reduction and recycling, materials recovery, and energy recovery  
26 and the provision of opportunities for recycling that may include, but are  
27 not limited to, drop-off centers or door-to-door collection. Where

- 1 recycling or material recovery is not deemed feasible, specific factual  
2 analysis shall be provided to support the conclusion; and
- 3 7. A description of any proposed recycling, materials recovery, or energy  
4 recovery plan or facility;
- 5 (h) A five (5) year schedule and description of activities to be undertaken to  
6 implement the proposed plan;
- 7 (i) A description of short-term costs of the plan including capital and operational  
8 costs for each element of the plan, and the identification of the means of  
9 financing plan implementation;
- 10 (j) Designation of the governing body for implementation of the solid waste  
11 management plan or components of the plan. A description of its  
12 responsibilities and authority shall be provided;
- 13 (k) A description of proposed surveillance and enforcement procedures to assure  
14 that solid waste in the planning area is properly managed. Identification of  
15 modifications to local laws and regulations necessary to implement the area  
16 plan;
- 17 (l) Specific provisions to assure that adequate capacity for a ten (10) year period  
18 shall be available for municipal solid waste generated in the solid waste  
19 management area, and identification of any additional capacity authorized for  
20 disposal of out-of-area municipal solid waste;
- 21 (m) *A description of any capacity authorized for disposal of industrial solid*  
22 *waste generated in or out-of-area at a municipal solid waste management*  
23 *facility, as prescribed in subsection (4) of Section 1 of this Act;*
- 24 (n) Contractual agreements for use of waste disposal capacity at any municipal  
25 solid waste disposal facility inside or outside the waste management area  
26 identified and relied upon in the plan;
- 27 ~~(o)~~ Provisions to assure achievement of the policies and goals of KRS

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224.43-010; and

~~(p)(e)~~ Establishment of a public information and participation process including the following components:

1. Formation of an advisory committee composed of local residents; business and industry representatives; and, with respect to collection of solid waste, representatives of any city that is located within the solid waste management area, is not a designated city as defined in KRS 224.43-315(9), and is not located within a county containing a consolidated local government;
2. Preparation of a draft plan for public notice and comment;
3. Convening of a public hearing upon request; and
4. Publication of a response to public comments.

(2) A solid waste management plan complying with subsection (1) of this section shall be submitted to the cabinet by October 1, 2002, and updated every five (5) years thereafter. The cabinet shall make its determination approving or disapproving a plan within one hundred twenty (120) days of receipt. A plan on which the cabinet has not yet made a determination shall remain in effect until the determination is made.