

401 KAR 39:060. General requirements.

RELATES TO: KRS 61.870, 61.884, 224.1-400, 224.10, 224.40-310, 224.46, 224.99, 40 C.F.R. Parts 124, 260, 261, 268, 270, 42 U.S.C. 2011 et seq.

STATUTORY AUTHORITY: KRS 224.10-100, 224.46-505, 224.46-510(3), 224.46-520, 224.50-130, 224.50-135

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 authorizes the Energy and Environment Cabinet to promulgate administrative regulations for the generation, treatment, storage, recycling, and disposal of hazardous wastes. KRS 224.46-510(3) and 224.50-130 require the cabinet to identify the characteristics of and to list hazardous wastes. KRS 224.46-505 and 224.46-520 authorize the cabinet to control land disposal of hazardous waste to be protective of human health and the environment. KRS 224.46-520 requires that persons engaging in the treatment, storage, disposal, and recycling of hazardous waste obtain a permit, and to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities, and the post-closure monitoring and maintenance of hazardous waste disposal facilities. This administrative regulation establishes the general requirements for hazardous waste management systems.

Section 1. Applicability. This administrative regulation shall apply to a person, state, or federal agency that engages in the generation, treatment, storage, disposal, transportation, or management of waste defined or identified as hazardous in KRS Chapter 224 or 401 KAR Chapter 39, including hazardous substances spilled into the environment that meet the criteria of hazardous waste.

Section 2. Hazardous Waste Management System.

(1) Except as established in subsections (2) through (6) of this section and Section 6 of this administrative regulation, the requirements for hazardous waste management systems shall be as established in 40 C.F.R. Part 260, except:

- (a) 40 C.F.R. 260.34(a)(1) to (3);
- (b) 260.10; and
- (c) The last sentence of 40 C.F.R. 260.34(a).

(2) The public notice requirements established in 40 C.F.R. 260.20(c) shall be replaced with the requirements established in paragraphs (a) and (b) of this subsection. If the tentative decision is to:

- (a) Deny the petition, the cabinet shall notify the petitioner in writing and notify the public as required by subsection (3)(b) of this section; or
- (b) Grant the petition, the cabinet shall propose a regulatory amendment, and file the proposed amendment with the Legislative Research Commission pursuant to KRS Chapter 13A, including the rule making and public comment process contained therein.

(3) The final decision making procedure established in 40 C.F.R., 260.20(e) shall be replaced with procedures established in paragraphs (a) and (b) of this subsection.

- (a) The cabinet shall make a final decision after evaluating all public comments.
- (b) The final decision shall be published either in the Kentucky Administrative Register, a daily or weekly major local newspaper of general circulation, or other methods reasonably calculated to give actual notice of the action to the persons potentially affected by it.

(4) A check made payable to the Kentucky State Treasurer in the amount required by KRS 224.46-014 shall be submitted to the cabinet with the submission of a completed petition for each hazardous waste that is petitioned for delisting.

(5) Upon approval by the cabinet of a petition to exclude a waste from a particular facility in accordance with 401 KAR Chapter 39, the excluded waste shall be subject to the

disposal requirements established in 401 KAR Chapter 47 and the conditions as specified in the approved exclusion.

(6) A variance shall be a written waiver from a requirement of 401 KAR Chapters 39 and 40, upon the finding by the cabinet that the absence of the provision shall provide adequate protection to human health and the environment consistent with KRS Chapter 224.

(a)

1. A request for variance from a requirement of 401 KAR Chapters 39 and 40 shall be submitted in a report in sufficient detail to provide to the cabinet the analyses, procedures, controls, and other pertinent data necessary to support the request for variance.

2. The granting of a request by the cabinet shall be in writing and shall specify appropriate conditions, including duration, limitations, and review procedures to provide adequate protection to human health and the environment.

(b) The cabinet shall grant a variance or permit modification from the requirements of 401 KAR Chapters 39 and 40 if a waste permit requirement, or the process and equipment used, is determined by the cabinet to be:

1. Insignificant as a potential hazard to human health or the environment because of its small quantity, low concentration, physical, biological, or chemical characteristics, or method of operation used; or

2. Handled, processed, or disposed of pursuant to administrative regulations of another governmental agency, if the administrative regulations of other agencies comply with the requirements of the waste management administrative regulations, including federal exemption rule-making actions pertaining to hazardous waste management.

(c) The cabinet shall not grant any request for a variance that shall:

1. Make the hazardous waste program less stringent than the federal hazardous waste management program;

2. Conflict with Kentucky Revised Statutes;

3. Conflict with a regulatory provision stating that no variance shall be granted; or

4. Vary the financial responsibility requirements in a manner conflicting with 401 KAR 39:090 or Section 3 of this administrative regulation.

Section 3. Identification and Listing of Hazardous Waste.

(1) Except as established in subsections (2) through (8) of this section and Section 6 of this administrative regulation, the requirements for identification and listing of hazardous waste shall be as established in 40 C.F.R. Part 261, except:

(a) 40 C.F.R. 261.4(b)(17);

(b) 40 C.F.R. 261.149; and

(c) 40 C.F.R. 261.150.

(2) Wastes shall be considered radioactive mixed wastes if the wastes contain both hazardous wastes subject to KRS Chapter 224 and radioactive wastes subject to the Atomic Energy Act, 42 U.S.C. 2011 et. seq. Unless specifically exempted by 401 KAR 39:090, Section 3, radioactive mixed wastes shall be subject to the requirements of 401 KAR Chapters 39 and 40.

(3) Facilities required to comply with the export notification requirements referenced in 40 C.F.R. 261.39(a)(5) and 40 C.F.R. 261.41, shall also notify the cabinet.

(4) In addition to those substances listed in 40 C.F.R. 261, Subpart D, substances identified in Table I shall be listed hazardous wastes in the Commonwealth of Kentucky.

Table I

Ky.

Hazardous Substance

Waste No.

| | |
|------|--|
| N001 | GB (isopropyl methyl phosphonofluoridate) and related compounds (H) |
| N002 | VX (0-ethyl-S-(2-diisopropyl-aminoethyl)-methyl phosphonothiolate) and related compounds (H) |
| N003 | H (bis (2-chloroethyl) sulfide) and related compounds (H) |
| N101 | Uncontaminated M67 Rocket Motor Assembly, Propellant Component of the Rocket Motor, Shipping Firing Tubes, and End-Caps associated with GB munitions |
| N102 | Uncontaminated M67 Rocket Motor Assembly, Propellant Component of the Rocket Motor, Shipping Firing Tubes, and End-Caps associated with VX munitions |
| N201 | Metal Parts Treater Residue or Static Detonation Chamber Residues and Ash, and Post Thermal Oxidizer Solids and Sludges associated with GB munitions or related wastes |
| N202 | Metal Parts Treater Residue or Static Detonation Chamber Residues and Ash, and Post Thermal Oxidizer Solids and Sludges associated with VX munitions or related wastes |
| N203 | Static Detonation Chamber Residue and Ash, and Post Thermal Oxidizer Solids and Sludges associated with H munitions |
| N301 | Agent Hydrolysate associated with GB munitions |
| N302 | Agent Hydrolysate associated with VX munitions |
| N401 | Energetic Hydrolysate associated with GB munitions |
| N402 | Energetic Hydrolysate associated with VX munitions |
| N501 | Aluminum Precipitate associated with treated GB wastes |
| N502 | Aluminum Precipitate associated with treated VX wastes |
| N601 | Reverse Osmosis Reject or Supercritical Water Oxidation Effluent associated with treated GB wastes |
| N602 | Reverse Osmosis Reject or Supercritical Water Oxidation Effluent associated with treated VX wastes |
| N701 | Lab Wastes associated with treated GB wastes and GB-containing lab wastes treated to destroy agent with caustic |
| N702 | Lab Wastes associated with treated VX wastes and VX-containing lab wastes treated to destroy agent with caustic |
| N703 | Lab Wastes associated with treated H wastes and H-containing lab wastes treated to destroy agent with caustic |
| N801 | Off-gas Treatment (OTM) condensate associated with treated GB wastes, Off-gas Treatment System liquids including Quench Fluid, Scrubber Fluids, Electrostatic Precipitator Fluids, Process Fluid Bleed Water, Post-Thermal Oxidizer Condensates and related wastes associated with Static Detonation Chamber treatment of GB munitions |

| | |
|-------|--|
| N802 | Off-gas Treatment (OTM) condensate associated with treated VX wastes, Off-gas Treatment System liquids including Quench Fluid, Scrubber Fluids, Electrostatic Precipitator Fluids, Process Fluid Bleed Water, Post-Thermal Oxidizer Condensates and related wastes associated with Static Detonation Chamber treatment of VX munitions |
| N803 | Off-gas Treatment System liquids including Quench Fluid, Scrubber Fluids, Post-Thermal Oxidizer Condensates and related wastes associated with Static Detonation Chamber treatment of H munitions |
| N901 | Spent Decontamination Solution associated with treated GB wastes |
| N902 | Spent Decontamination Solution associated with treated VX wastes |
| N903 | Spent Decontamination Solution associated with treated H wastes |
| N1001 | GB contaminated waste equipment, tools, and construction materials that have been decontaminated in accordance with United States Army Guidelines and have been determined to be safe for storage or transport, and approved by the Cabinet as no longer acutely hazardous |
| N1002 | VX contaminated waste equipment, tools, and construction materials that have been decontaminated in accordance with United States Army Guidelines and have been determined to be safe for storage or transport, and approved by the Cabinet as no longer acutely hazardous |
| N1003 | H contaminated waste equipment, tools, and construction materials that have been decontaminated in accordance with United States Army Guidelines and have been determined to be safe for storage or transport, and approved by the Cabinet as no longer acutely hazardous |

(5) In addition to the agricultural wastes established in 40 C.F.R. 261.4(b)(2), prunings and crop residues shall be agricultural wastes.

(6) In addition to the copy of the written state agreement required in 40 C.F.R. 261.4(b)(11)(ii) being submitted to the U.S. EPA, a copy shall be submitted to the cabinet at the same time.

(7) If multiple facilities are covered by the same financial assurance mechanism as referenced in 40 C.F.R. 261.143(g), 40 C.F.R. 261.147(a)(1)(i), and 40 C.F.R. 261.147(b)(1)(i), evidence of financial assurance shall be submitted to the cabinet and, as applicable, to the Regional Administrator and other state directors.

(8) In addition to the excluded hazardous wastes in 40 C.F.R. Part 261, Appendix IX, the cabinet granted an exclusion for the multi-source landfill leachate (EPA Hazardous Waste F039) generated after February 2, 2017, at Ashland Route 3 Landfill, Kentucky 3, Catlettsburg, Kentucky. This subsection shall serve as publication of the exclusion in accordance with Section 2(3)(b) of this administrative regulation.

(9) Any special waste identified as a hazardous waste as established in this administrative regulation shall be:

(a) Regulated pursuant to 401 KAR Chapter 39; and

(b) Exempt from the assessment of the Kentucky hazardous waste management fund as established in KRS 224.46-580(7).

Section 4. Land Disposal Restrictions. Except as established in Section 6 of this administrative regulation, the requirements for land disposal restrictions shall be as established in 40 C.F.R. Part 268.

Section 5. Hazardous Waste Permit Programs and Procedures.

(1) Except as established in subsections (2) through (18) of this section and Section 6 of this administrative regulation, the requirements for hazardous waste permit programs and procedures shall be as established in 40 C.F.R. Parts 124 and 270, except:

- (a) 40 C.F.R. 270.1(c)(2)(ix);
- (b) 40 C.F.R. 270.14(b)(18); and
- (c) 40 C.F.R. 124, Subparts C and D.

(2) In addition to public notice requirements of 40 C.F.R. 124, the statement contained in KRS 224.40-310(5)(e) shall be included in each public notice.

(3) The applicant or facility shall reimburse the cabinet for the costs of newspaper advertisements, duplication, and postage for any required public notice or distribution to a mailing list.

(4) In addition to the requirements of 40 C.F.R. 124.10(a)(1)(iii), public notice shall be given if a hearing has been granted pursuant to 401 KAR Chapters 4 and 5 or 805 KAR Chapter 1.

(5) In addition to the federal appeal procedures referenced in 40 C.F.R. Parts 124 and 270, the cabinet appeal procedures shall be as established in KRS 224.10-420 through 224.10-470 and 400 KAR Chapter 1 for cabinet issued permits.

(6)

(a) Any owner or operator required to obtain a permit shall complete and submit to the cabinet:

1. EPA form 8700-23 as referenced in 40 C.F.R. 270.13; and
2. Part A Application Addendum, DWM 7058A.

(b) If any of the information required by paragraph (a) of this subsection changes, the owner or operator shall submit revised forms, established in paragraph (a) of this subsection, to the cabinet within sixty (60) days of the change, except as established in 401 KAR 39:080, Section 5(4).

(7) In addition to the noncompliance reporting requirements referenced in 40 C.F.R. 270.30(l)(6), the permittee shall immediately notify the cabinet of a release as established in KRS 224.1-400.

(8) In addition to the requirements established in 40 C.F.R. 270.10, any person applying for a construction and operation permit shall submit the information and documentation required in KRS 224.46-520(1) to include documentation of the applicant's decisions with respect to the proposal and justification for actions taken.

(9) In addition to the requirements of 40 C.F.R. Parts 124 and 270, for a hazardous waste disposal site or facility, that meets the criteria established in paragraph (a) of this subsection, a permit shall not be approved or issued by the cabinet, or a permit-by-rule applied, prior to the determinations established in KRS 224.40-310(6).

(a) This subsection shall apply to an owner or operator of:

1. A hazardous waste disposal site or facility that meets the definition of a waste disposal facility as defined by KRS 224.40-310(1); and
- 2.

a. A new or proposed hazardous waste landfill, incinerator, or other site or facility for the land disposal of hazardous waste;

b. An existing hazardous waste landfill, incinerator, or other site or facility for the land disposal of hazardous waste that requests a permit modification that does not

- meet the criteria of a Class 1 or 2 modification; or
- c. A new or existing hazardous waste treatment facility or hazardous waste storage facility that requests a permit modification to include a disposal facility instead of or in addition to any permitted hazardous waste activity already conducted by the owner or operator.
- (b) The applicant shall obtain local government approval for incinerators or land disposal facilities, as established in KRS 224.40-310(7).
- (10) An emergency permit shall specify that:
- (a) All remaining hazardous waste and residues shall be removed at the end of the term of the emergency permit to a properly permitted hazardous waste site or facility in order to be exempted from the financial requirements of 401 KAR 39:090;
- (b) The permittee shall comply with the closure performance standards established in 401 KAR 39:090, Section 8; and
- (c) The cabinet shall recover its actual and necessary costs associated with the permittee's failure to properly close the unit specified in the emergency permit.
- (11) Upon collection of trial burn data, referenced in 40 C.F.R. 270.62(b)(9), the data shall become part of the Part B permit application.
- (12)
- (a) In accordance with 401 KAR 39:090, the applicant shall establish financial assurance prior to issuance of a permit or sixty (60) days before the date on which hazardous waste is first received for treatment, storage, or disposal.
- (b) The amount of financial assurance established for closure or post-closure shall be in accordance with the plan prepared pursuant to 401 KAR 39:090.
- (c) The owner or operator of the hazardous waste site or facility shall submit a demonstration of financial assurance as established in KRS 224.46-520(3) and 401 KAR 39:090.
- (13) An owner or operator of existing hazardous waste sites or facilities that close under interim status without submitting Part B of the permit application shall, at a minimum, comply with the corrective action requirements established in 401 KAR 39:090, Section 1.
- (14) In addition to the requirements in 40 C.F.R. 270.10 and KRS 224.40-330, any initial, renewal, or change to ownership permit application shall include the following background information and past compliance record:
- (a) Organizational structure:
1. If the applicant is a sole proprietor, a detailed listing of any general or limited partnership, joint venture, or corporation in which the applicant holds as much as or more than a twenty-five (25) percent interest, whether ownership or otherwise;
 2. If the applicant is a general or limited partnership, a detailed listing of:
 - a. Each of the partners and their respective interests, whether ownership or otherwise;
 - b. Any corporation, joint venture, limited liability corporation, general or limited partnership, or proprietorship in which any of the constituent partners of the applicant holds as much as or more than a twenty-five (25) percent interest whether ownership or otherwise; and
 - c. Any corporation, joint venture, proprietorship, limited liability corporation, or general or limited partnership that holds as much as or more than a twenty-five (25) percent interest, whether ownership or otherwise in any of the non-individual constituent partners comprising the applicant;
 3. If the applicant is a corporation, a detailed listing of:
 - a. The officers, directors, and major stockholders holding as much or more than a twenty-five (25) percent interest;

- b. Any corporation of which the applicant is either a subsidiary or which holds as much as or more than a twenty-five (25) percent interest, either in stock or assets, in the applicant;
 - c. Any corporations that are either subsidiaries of the applicant or in which the applicant holds as much as or more than a twenty-five (25) percent interest, either in stock or assets; and
 - d. Any proprietorship, general or limited partnership, or joint venture in which the applicant holds as much as or more than a twenty-five (25) percent interest, whether ownership or otherwise; or
4. If the applicant is a joint venture, a detailed listing of:
- a. All other joint ventures, and the respective interests, whether ownership or otherwise of each; and
 - b. Any proprietorship, general or limited partnership, joint venture, or corporation in which the applicant holds as much as or more than a twenty-five (25) percent interest, whether ownership or otherwise;
- (b) For each individual or other entity listed in paragraph (a) of this subsection, a detailed listing of all violations of federal or state laws, rules, or administrative regulations concerning the areas established in subparagraphs 1. through 5. of this paragraph, whether judicial or administrative proceedings are pending or completed, that have resulted or might result in either criminal convictions or civil or administrative fines as much as or more than \$1,000:
- 1. Solid or hazardous waste management;
 - 2. Air pollution;
 - 3. Water;
 - 4. Occupational Safety and Health Administration with respect to hazardous materials or hazardous substances; or
 - 5. Transportation with respect to hazardous materials or hazardous substances; and
- (c) For each individual or other entity listed in paragraph (a) of this subsection, a current financial statement prepared by a certified public accountant.
- (15) The owner or operator of the hazardous waste site or facility shall complete and submit an evaluation of subsurface geologic formations and surface topography for solution or karst terrain.
- (a) If the owner or operator demonstrates to the cabinet that the facility is not underlain by soluble limestone, the owner or operator shall be exempt from the requirements of this subsection.
- (b) Except as established in paragraph (a) of this subsection, the owner or operator shall demonstrate that:
- 1. The facility has been designed to withstand any gradual or sudden land subsidence, which is characteristic of areas underlain by soluble limestone; and
 - 2. Contamination into or through any fractures, channels, or solution features shall not occur.
- (c) Except as established in paragraph (a) of this subsection, the owner or operator shall:
- 1.
 - a. Establish the presence and extent of all fractures, channels, and solution features in the bedrock beneath the facility and describe how these features shall be sealed, filled, isolated, or otherwise neutralized to prevent subsidence; and
 - b. Describe how solution features shall be monitored to demonstrate compliance with the criteria established in paragraph (b) of this subsection; or
 - 2.
 - a. Design, operate, and maintain a double-liner system, which shall be installed beneath the facility and that shall include a leak detection system that meets the

criteria established in paragraph (b) of this subsection; and

b. Comply with all of the requirements of 401 KAR 39:090, Section 1, for the design of the double-lined facility as applicable.

(16) The owner or operator of the hazardous waste site or facility shall submit the actual test data demonstrating the liner is or will be compatible with the waste, if applicable.

(17)

(a) The applicability established in 40 C.F.R. 124.31(a) shall be replaced with this paragraph.

1. The requirements in 40 C.F.R. 124.31 shall apply to all RCRA part B applications seeking:

- a. An initial permit for a hazardous waste management unit;
- b. A renewal of a permit for a unit with a significant change in facility operations;
- c. A RCRA standardized permit as referenced in 40 C.F.R. 270, Subpart J; or
- d. A renewal of a standardized permit for a unit with a significant change in facility operations, as defined by 40 C.F.R. 124.211(c).

2. The requirements in 40 C.F.R. 124.31 shall not apply to permit modifications pursuant to 40 C.F.R. 270.42 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) The applicability established in 40 C.F.R. 124.32(a) shall be replaced with this paragraph.

1. The requirements in 40 C.F.R. 124.32 shall apply to RCRA part B applications seeking:

- a. An initial permit for a hazardous waste management unit; or
- b. A renewal of a permit for a unit pursuant to 40 C.F.R. 270.51.

2. The requirements in 40 C.F.R. 124.32 shall not apply to a hazardous waste unit for which a facility owner or operator is seeking:

- a. A RCRA standardized permit referenced in 40 C.F.R. part 270, subpart J;
- b. A permit modification pursuant to 40 C.F.R. 270.42; or
- c. A permit application submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(c) The applicability established in 40 C.F.R. 124.33(a) shall be replaced with this paragraph. The requirements in 40 C.F.R. 124.33 shall apply to applicants seeking RCRA permits for hazardous waste management units.

(18) The biennial reporting referenced in 40 C.F.R. 270.60(a)(3)(v) shall be replaced with annual reporting.

Section 6. Exceptions and Additions.

(1) In the event of a release or threatened release of a hazardous substance, pollutant, or contaminant to the environment in a quantity that might present an imminent or substantial danger to human health or the environment, the facility authorized representative shall:

(a) Immediately notify the cabinet's twenty-four (24) hour emergency response line as required by KRS 224.1-400; and

(b) Provide a written report of the incident or accident within seven (7) days of the release, if required by the cabinet pursuant to KRS 224.1-400.

(2) Dates included in the federal regulations referenced in 401 KAR Chapter 39 that occurred before the effective date of this administrative regulation shall not be construed as creating a retroactive right or obligation in accordance with 401 KAR Chapter 39 if that right or obligation did not exist in this administrative regulation prior to the date the federal regulations were referenced.

(3) If a right or obligation existed in accordance with federal regulations based on a date in federal regulations, and there is a period from the date cited in the text until the date the requirements initially became effective in 401 KAR Chapter 39, these administrative regulations shall not contravene or countermand the legal application of the federal regulation for that period.

(4)

(a) For initial issuance, modification, revocation and reissuance, or termination, of a permit, the applicable administrative regulations shall be those regulatory provisions that are in effect upon the date that the cabinet makes a final determination upon the permit action and are applicable to those specific permit conditions being modified or revoked and reissued.

(b) The procedures that shall be used for permit modification, revocation and reissuance, or termination shall be those regulatory procedures that are in effect upon the date of the cabinet's final determination.

(5) In addition to RCRA, Section 7003 KRS 224.10-410 shall apply.

(6) In addition to RCRA, Section 3008 KRS 224.10-420 through 224.10-470, 224.46-530, and 224.99-010 shall apply.

(7) In addition to RCRA, Section 3004 KRS 224.46-520, 401 KAR 39:090, and Section 4 of this administrative regulation shall apply.

(8)

(a) As referenced in 401 KAR Chapter 39, the requirements in RCRA, Section 3010 shall be replaced with the requirement that any person generating or transporting a substance, or owning or operating a facility for treatment, storage, disposal, or recycling of the substance, shall register with the cabinet after promulgation of an administrative regulation identifying a substance by its characteristics or listing as hazardous waste subject to 401 KAR Chapter 39.

(b) The registration shall be filed as established in 401 KAR 39:080, Section 1(2) and within ninety (90) days after promulgation or revision of the administrative regulation unless another registration date is established in the administrative regulation.

(9) Any person who submits information to the cabinet pursuant to KAR Chapters 39 and 40, may assert a claim of business confidentiality or trade secret covering part or all of that information by following the procedures established in KRS 224.10-212 and 400 KAR 1:060.

(a) Information covered by a claim shall be disclosed by the cabinet as established in 400 KAR 1:060 and KRS Chapter 61, except that information required by 401 KAR 39:080, Section 1, which is submitted in notification of intent to export a hazardous waste, shall be provided to the U.S. Department of State, U.S. EPA, and the appropriate authorities in a receiving country regardless of any claims of confidentiality.

(b) If a claim does not accompany the information received by the cabinet, the claim may be made available to the public without further notice to the person submitting the claim.

(10) A person shall not deliver hazardous waste to a facility for treatment, storage, or disposal, unless the owner or operator has:

(a) Registered with the cabinet as an existing hazardous waste facility in operation on or before November 19, 1980;

(b) Qualified for interim status in accordance with 401 KAR 39:090, Section 2; or

(c) Been granted a hazardous waste site or facility permit by the cabinet.

(11) A person shall not engage in the storage, treatment, or disposal of hazardous waste without first obtaining construction or operation permits from the cabinet in accordance with KRS 224.46-520(1).

(12) Issuance of a federal permit to own or operate a hazardous waste site or facility shall not relieve the owner or operator of the responsibility to comply with the requirements of 401 KAR Chapter 39.

(13) All permit forms or permit submissions to the cabinet shall include:

- (a) One (1) original and two (2) paper copies of the form;
- (b) One (1) electronic copy, which shall be an exact match to the original;
- (c) Up to seven (7) additional copies of the application, if requested by the cabinet for public review;
- (d) The Agency Interest (AI) number, if known; and
- (e) A signature of the authorized representative.

(14) In addition to 40 C.F.R. 270.43, the cabinet may terminate a permit during its term or deny a permit renewal application for a violation of any requirement of KRS Chapter 224 or 401 KAR Chapter 39.

(15) In addition to 40 C.F.R. 270.50, a permit for the nerve agents established in KRS 224.50-130 and Section 3 of this administrative regulation shall be reviewed by the cabinet five (5) years after the date of permit issuance or reissuance and shall be modified if necessary, as established in Section 5 of this administrative regulation.

(16) The permittee shall have paid the applicable fees due as established in KRS 224.46 and 401 KAR 39:120.

(17) Except for closure, post-closure, and corrective action permit applications, failure to submit a requested application on time, or to submit in full the information required by 401 KAR Chapter 39, shall result in denial of the application in accordance with this administrative regulation.

(18) Past performance of the owner or operator shall be considered in the review and in the determination of any requirement for specialized conditions pursuant to KRS 224.40-330.

(19) The provisions of 401 KAR Chapter 39 shall be compatible with and complementary to each other. If an administrative regulation is found to be contradictory, the more stringent provision shall apply.

(20) The citations to Sections 301, 307, and 402 of the Clean Water Act shall also include any applicable Kentucky requirements as established in 401 KAR Chapter 5.

(21) The citations to Sections 60, 61, and 63 of the Clean Air Act shall also include any applicable Kentucky requirements as established in 401 KAR Chapters 50 through 65.

(22) The citations to the Safe Drinking Water Act shall also include any applicable Kentucky requirements as established in 401 KAR Chapters 6, 8, 9, and 10, and 805 KAR Chapter 1.

(23) In addition to 40 C.F.R. 258 and Subtitle D, 401 KAR Chapters 45, 47, and 48 shall apply.

(24) In addition to RCRA, Subtitle C, KRS 224.46 shall apply.

(25) In addition to RCRA, Section 3008h, KRS 224.10-100(18), KRS 224.99-010(5), and KRS 224.46-530 shall apply.

Section 7. Incorporation by Reference.

(1) "Part A Application Addendum", DWM 7058A, June 2017, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Waste Management, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

(3) This material may also be obtained on the division's Web site at eec.ky.gov/environmental-protection/waste.

(10 Ky.R. 256; 616; eff. 12-2-1983; 15 Ky.R. 371; 1034; 1263; eff. 10-26-1988; 16 Ky.R. 624; 1200; eff. 1-9-1990; 44 Ky.R. 299, 1244; eff. 12-7-2017; Crt eff. 9-5-2018; 1349,

2621; eff. 4-5-2019; TAm eff. 5-7-2019; 47 Ky.R. 2095; eff. 8-5-2021.)