

401 KAR 47:160. Application procedures.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-305

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 requires the cabinet to adopt rules and administrative regulations for the management, processing or disposal of solid wastes. KRS 224.40-305 requires that persons engaging in the management, processing and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This administrative regulation sets forth the requirements for application procedures.

Section 1. General Application Requirements.

(1) Permit application. A permit application consists of three (3) parts: notice of intent to apply for a solid waste permit; administrative application; and technical application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign and submit an application to the cabinet as described in 401 KAR 47:170 through 401 KAR 47:190 and 401 KAR Chapter 48.

(2) Completeness. The cabinet shall not issue a permit before receiving a complete application for a permit except for permits-by-rule or emergency permits. An application for a permit is complete when the cabinet receives an application, including any supplemental information, which shall be completed to the satisfaction of the cabinet.

(3) Information requirements. All applicants for permits shall provide the applicable information in compliance with 401 KAR 47:170 through 401 KAR 47:190 and 401 KAR Chapter 48 to the cabinet, using the application forms provided by the cabinet.

(4) Number of copies.

(a) For the purpose of reviews, three (3) original copies of the application shall be submitted to the cabinet. The application shall be compiled such that it conforms to an eight and one-half (8.5) by eleven (11) inch document. The applicant shall submit two (2) rolled sets of full scale engineering drawings.

(b) For issuance of the permit, the applicant shall provide one (1) original application and four (4) copies, incorporating all changes, bound such that they conform to an eight and one-half (8.5) by eleven (11) inch document. The applicant shall also submit the following sets of engineering drawings:

1. Two (2) full scale sets folded to eight and one-half (8.5) by eleven (11) inches;
2. Two (2) full scale sets rolled;
3. Two (2) one-half (0.5) scale sets.

Section 2. Existing Solid Waste Sites or Facilities and Registered Permits-by-rule. Owners or operators of solid waste sites or facilities in existence on the effective date of this administrative regulation which close under a registered permit-by-rule shall, at a minimum, comply with the corrective action requirements in 401 KAR 48:300.

Section 3. New Solid Waste Sites or Facilities.

(1) No person shall begin physical construction of a new solid waste site or facility without having submitted a permit application and received a solid waste permit.

(2) An applicant for a solid waste landfill or landfarming permit after the effective date of this administrative regulation shall submit to the cabinet a notice of intent to apply for a solid waste permit which contains the information specified in 401 KAR 47:170 or 401 KAR 48:200.

(3) The applicant shall submit an administrative application for a solid waste site or facility in accordance with the approved notice of intent to apply for a solid waste permit

and the implementation of the approved site investigation plan. The administrative application shall contain the information as specified in 401 KAR 47:180.

(4) The applicant shall submit a technical application in accordance with the approved administrative application and the requirements of 401 KAR 47:190 and Chapter 48.

(5) The site shall be designed in accordance with the approved conceptual design, any variances given preliminary approval, and the applicable requirements of 401 KAR 47:190 and 401 KAR Chapter 48.

(6) If at any time the cabinet determines that the proposed site cannot meet the requirements of 401 KAR Chapters 47 and 48, the cabinet may deny the permit.

(7) The cabinet shall take action on applications for solid waste sites and facilities within the following time frames as appropriate:

- (a) Notice of intent to apply thirty (30) working days;
- (b) Administrative application sixty (60) working days; and
- (c) Technical application ninety (90) working days.

(8) If the application is incomplete, the cabinet shall notify the applicant in writing of the deficiencies. Failure to submit the required information within 180 days shall be grounds for denial. Periods of deficiency correction shall not be counted against the review time frames specified in subsection (7) of this section.

Section 4. Issuance of a Solid Waste Site or Facility Permit.

(1) The cabinet shall issue a construction permit for no more than five (5) years if, after completing the review of a complete solid waste site or facility permit application, it finds that the applicant for the permit has met all the requirements for application and the requirements of KRS 224.40-310 and 401 KAR Chapters 47 and 48.

(2) The applicant shall maintain a construction permit in full force and effect until all facilities have been constructed and approved by the cabinet, including closure of the facility.

(3) A construction/operation permit shall be issued by the cabinet when:

- (a) The applicant notifies the cabinet, in writing, that liner system and facility construction has been completed;
- (b) A representative of the cabinet inspects the site and verifies in writing within thirty (30) days of the inspection that the site has been developed according to plans and that necessary equipment is available to operate the site;
- (c) The required financial responsibility in 401 KAR 48:310 for closure has been established using any of the mechanisms required by KRS 224.40-650 in an amount determined by an approved closure plan and cost estimate;
- (d) The applicant submits a certification by an engineer registered in Kentucky that the site liner system and facilities are constructed in accordance with the approved plans and specifications; and
- (e) A notice has been published as required by KRS 224.855 and 401 KAR 47:140.

(4) The cabinet may issue a permit subject to special conditions which include, but are not limited to, types of wastes which may be accepted or disposed, source of waste, special operating conditions, schedules for compliance for corrective actions, and the issuance of other applicable permits of the cabinet.

Section 5. Expiration and Renewal of Permits.

(1) The construction/operation permit shall be issued for no more than ten (10) years. A shorter period may be specified. A permit-by-rule shall be perpetual until modified or revoked by the cabinet. A registered permit-by-rule shall be perpetual until modified or revoked by the cabinet. The site may continue operation past the expiration date of a permit only if the owner or operator has complied with the requirements of Section 7 of 401 KAR 47:130. For permits of longer than five (5) year terms issued under this administrative regulation, the cabinet may review the permit during the term. Issued

permits may be reevaluated in accordance with the requirements of KRS Chapters 47 and 48 including reevaluation of the bond. After reevaluation of the permit, the cabinet may require modifications of the permit pursuant to Section 2 of 401 KAR 47:140.

(2) Any solid waste site or facility with an effective construction or construction/operation permit shall submit an application for renewal at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted in writing by the cabinet.

(3) Applications to renew construction and construction/operation permits will be subject to all requirements of 401 KAR Chapters 47 and 48 upon application renewal and shall be subject to public notice pursuant to KRS 224.40-310 and 401 KAR 47:140.

(4) The cabinet, in issuing a renewal, shall consider whether all conditions of the original permit and modifications of permit conditions by agreed order or otherwise have been met. The cabinet may request updated information necessary for reevaluating the permit's suitability for reissuance and impose additional or modified permit conditions when deemed appropriate.

Section 6. Signatures to Permit Applications and Reports.

(1) Applications. All permit applications and modifications shall be signed as follows:

(a) For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

1. 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; or

2. 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 (in second-quarter 1980 dollars); or

(b) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(c) For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes:

1. The chief executive officer of the agency; or

2. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(2) Reports. All reports required by permits, and other information requested by the cabinet, shall be signed by a person described in subsection (1) of this section, or by a duly authorized representative of that person. A person shall be a duly authorized representative only if:

(a) The authorization is made in writing by a person described in subsection (1) of this section;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(c) The written authorization is submitted to the cabinet.

(3) Changes to authorization. If an authorization under subsection (2) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (2) of this section shall be submitted to the cabinet prior to or together with any reports, information, or applications to be signed by an authorized representative.

(4) Certification. Any person signing a document under subsections (1) or (2) of this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for such violations."

Section 7. Confidentiality of Information.

(1) Claims of confidentiality. Any information submitted to the cabinet pursuant to these administrative regulations may be claimed as confidential by the submitter. Any such claim shall be asserted at the time of submission in accordance with KRS 224.10-210 and 400 KAR 1:060. If no claim is made in accordance with 400 KAR 1:060, the cabinet may make the information available to the public without further notice.

(2) Denial of claims of confidentiality. Claims that the name and address of any permit applicant or permittee is confidential shall be denied.

Section 8. General Contents and Application Specifications.

(1) An application for a solid waste permit shall be on a form provided by the cabinet and contain:

- (a) A letter detailing the desired cabinet action or response;
- (b) A table of contents listing all sections of the submittal; and
- (c) Appropriate maps, figures, photographs, and tables to clarify information or conclusions. All material shall be legible.

(2) All maps, plan sheets, drawings, isometrics, cross-sections, and aerial photographs shall meet the following requirements:

- (a) Be of appropriate scale to clearly show all required detail;
- (b) Be numbered, referenced in the narrative, titled, have a legend of all symbols used, contain horizontal and vertical scales (where applicable), and specify drafting or origination dates;
- (c) Use uniform scales;
- (d) Contain a north arrow;
- (e) Use USGS data as a reference for all elevations;
- (f) Contain a survey grid with maximum dimension of 1,000 feet square based on monuments established in the field which shall be referenced to an established site specific bench mark;
- (g) Show original topography and the grid system on plan sheets showing construction, operation, or closure topography; and
- (h) Show survey grid location and reference major plan sheets on all cross-sections.

(16 Ky.R. 1752; 2195; 2357; eff. 5-8-1990; Crt eff. 10-9-2018.)