

Kentucky Division of Waste Management Annual Report Fiscal Year 2008



Commonwealth of Kentucky
Energy and Environment Cabinet
Department for Environmental Protection
Division of Waste Management

www.waste.ky.gov
www.recycle.ky.gov



FROM THE DIRECTOR



The Division of Waste Management began publishing an annual report of its activities in Fiscal Year 2006. This is the third edition of our annual report and the information provided within represents activities and accomplishments for Fiscal Year 2008 (July 1, 2007, to June 30, 2008). While there are from time to time new tasks added to our list of responsibilities, our challenges remain to be much the same from year to year: 1) be a leader and assist others in the minimization of waste generation and land disposal of wastes, 2) to increase recycling and the beneficial reuse of materials that might otherwise be disposed, 3) to continue the closure and remediation of historic landfills, Superfund sites, hazardous waste sites and underground storage tank facilities, and 4) to conduct timely review of permit applications for solid waste and hazardous waste facilities.

In calendar year 2007, the division successfully updated its hazardous waste regulations for the first time since 1997. At the time of the writing of this report, division staff is devoting significant efforts to the review of the solid waste regulations that may lead to some proposed updates to those regulations in the future. Also, the Underground Storage Tank Branch is currently updating its regulations to be consistent with the requirements of the Federal Energy Act of 2005. Finally, the division is formulating regulations pertaining to the clean up of clandestine methamphetamine labs. As the division continues its efforts related to regulatory evaluations and revisions, it will seek input from affected stakeholders to address concerns that may arise from this process.

This report contains information that measures the progress our programs have made regarding the management of solid and hazardous waste and clean up of releases to the environment. Also, the report identifies areas where we need improvement or additional focus. In this year's report we have also included some site specific case studies as points of interest and an essay on the progression of the hazardous waste and Superfund cleanup programs over the last 30 years.

I trust that the report provides useful information to interested stakeholders and I look forward to continued progress and success in 2009.

Sincerely,

Anthony R. Hatton, P.G., Director
Kentucky Division of Waste Management

Division of Waste Management Annual Report

Fiscal Year 2008

TABLE OF CONTENTS

Executive Summary	iv
Introduction.....	8
Solid Waste.....	9
a. Municipal Solid Waste Generated in Kentucky	
b. Household Solid Waste (collection/disposal)	
c. Disposal Costs	
d. Permitting Solid Waste Facilities	
1. Permits/Backlog	
c. Historic Landfills	
Recycling	16
a. Amount of Waste Recycled	
b. E-Scrap	
c. State Government Recycling Program	
1. Paper	
2. Metals	
3. Plastics	
4. Glass	
d. Waste Tire Program	
e. Crumb Rubber	
f. Kentucky Pride Program	
g. Litter Abatement (Kentucky Pride Fund)	
h. Household Hazardous Waste	
i. Illegal Open Dumps (Kentucky Pride Fund)	
Hazardous Waste	25
a. Hazardous Waste Generated (shipped off-site-treated on-site)	
b. Hazardous Waste Permitting	
1. Permits Pending	
2. Backlog	
c. Blue Grass Army Depot	

Field Operations Branch	28
a. Regional Offices	
1. Inspections	
2. Letter of Warnings	
3. Notice of Violations	
4. Compliance Rates	
b. Emergency Responses	
 Underground Storage Tanks (UST)	 30
a. Clean ups Conducted/Clean ups Remaining	
b. Advance Tank Test Training	
c. UST Approvals	
1. Reviews	
2. Pending Reviews	
 Superfund	 32
a. Superfund Sites	
1. New	
2. Sites Characterized and Remediated	
3. Sites under State oversight	
b. Brownfield Program	
c. Non-UST Petroleum (Petroleum Cleanup Section)	
d. Federal Superfund Site	
e. Methamphetamine Cleanup Program	
 Program Planning and Administration	 40
a. Policy and Budget	
b. Regulation Development Division-wide	
c. 2008 Legislative Session	
 Acknowledgments.....	 42

EXECUTIVE SUMMARY

The largest division of the Department for Environmental Protection with 276 staff positions, the Division of Waste Management consists of seven branches: Solid Waste Branch, Recycling and Local Assistance Branch, Hazardous Waste Branch, Field Operations Branch, Underground Storage Tank Branch (USTB), Superfund Branch and Program Planning and Administration Branch.

Selected achievements and challenges for Fiscal Year 2008:

- The Hazardous Waste Branch updated 148 regulations that became effective on June 13, 2007. As a result, on May 1, 2008, the division submitted an updated authorization for program approval to the U.S. Environmental Protection Agency (EPA).
- The division is in the process of performing a comprehensive review of its regulations in three major program areas: solid waste, underground storage tanks and hazardous waste. In Fiscal Year 2009, the division plans to propose new regulatory amendments to update these three programs. Solid waste regulations scheduled for amendment to introduce information that has been changed since the last promulgation effort and to update in accordance with statute. The USTB program plans to incorporate changes in response to the Federal Energy Policy Act of 2005. Hazardous waste will be incorporating 40 C.F.R. Part 267, standardized permitting and rule makings through July 1, 2008.
- The Solid Waste Branch continues to maintain a zero permit backlog.
- Kentucky's recycling rate on common household items (aluminum, cardboard, steel, plastic, newspaper, glass and paper) increased from 27 percent in 2006 to 31 percent in 2007. The average recycling rate in the Southeast Region in 2006 was 22 percent, while the national average was 28.5 percent. *(The national recycling rate for 2007 had not been released at the time of publication.)*
- Approximately 87 percent of Kentucky households have door-to-door garbage collection service.
- There are approximately 2,170 known underground storage tank clean up projects to be completed in Kentucky.
- In Fiscal Year 2008, the division reimbursed counties more than \$2.2 million for the clean up of 531 illegal open dumps. The average cost to clean each dumpsite was \$4,143.
- Since 2005, there has been an 18 percent decline in the amount of litter collected from roadways. In 2007, counties cleaned more than 162,000 miles of roadway, collecting 26,000 fewer bags than in 2006.
- 183 Superfund sites, of varying sizes and complexities, have been characterized and/or remediated within the last year.

- Mercury collection events were held by 12 counties with some events serving several counties. The events amassed 1,870 pounds of mercury and mercury-containing equipment.
- The Blue Grass Chemical Activity Destruction Pilot Plant (BGCAPP) design of the facility is at 83 percent design completion.
- Eight historic landfill construction projects for closure/remediation have been completed. Two of the completed projects have been recognized with awards. The city of Leitchfield-Millwood Landfill project won Project of the Year in 2007 for the Environmental Category from the Kentucky Chapter of the American Public Works Association. In 2008, the city of Manchester Landfill project received a National Recognition Award from the American Council of Engineering Companies (ACEC) and also received a Grand Award from the Kentucky chapter of ACEC. Total costs for all eight projects including site characterization, design, and construction is over \$27 million.
- The Division of Waste Management awarded 26 recycling grants, totaling \$2.3 million from the Kentucky Pride Fund.
- The crumb rubber grant program awarded 50 grants totaling \$1.2 million.
- In 2007, Kentucky recovered more than 1.1 million passenger tire equivalents.
- The Government Recycling Section recycled 3,422,645 pounds (1,711 tons) of paper, newsprint and cardboard, approximately 300 pounds per state employee.
- Electronic scrap (e-scrap) collection is growing in the state, with approximately 31 counties offering some type of e-scrap collection. More than 2,400 tons of e-scrap was collected in 2007.
- The Energy and Environment Cabinet is working with the Justice and Public Safety Cabinet and the Cabinet for Health and Family Services to develop regulations for methamphetamine contaminated properties cleanup.

◆ Division Of Waste Management Highlight

Trends in Kentucky Waste Site Clean ups By Dale Burton – Kentucky Division of Waste Management

In the course of less than 30 years, clean ups of soil and groundwater have gone from being rare to commonplace and are now performed with a high level of expertise. The federal Hazardous Waste law, Resource Conservation and Recovery Act (RCRA), was passed in 1976, and the federal Superfund law, the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), was enacted in 1980. From those humble beginnings, we have seen a widespread change in perception by industry and the public to where everyone recognizes the importance of minimizing waste spills and the importance of a clean environment. Over the years, hundreds of waste spill sites have been investigated and cleaned up.

Industry, environmental consultants, and regulatory agencies have gone through a very steep learning curve. In the early 1980s, there was little information regarding the risk of industrial chemicals and solvents on human health and the environment. As a result, most early clean ups consisted of removing contamination in soil and groundwater to non-detectable levels, when possible, (for man-made chemicals) or background levels (for naturally-occurring heavy metals). As time went on, all parties gained more experience and expertise with conducting site investigations and clean ups, and better information became available regarding risk assessment.

The clean up process evolved through the 1990s, and responsible parties (RPs) began to request approval for clean ups to risk-based levels. After several attempts in the 1990s to promulgate regulations to standardize this approach, state cleanup regulations were approved in 2004 pursuant to a statute passed in 2001 which established EPA Region 9 numeric standards as the screening levels for site clean up.

In addition, some corrective actions proposed clean up to risk-based levels based upon future land use of the site. This led to the broad new field of institutional controls. Institutional controls consist of one or both of land use controls and engineering controls. Land use controls are self-explanatory: they are restrictions on the land use of the property where the waste site is located. Engineering controls consist of any kind of physical barrier that prevents a risk to human health or the environment, such as a landfill cap or a fence.

Initially, regulatory agencies were very reluctant to allow risk-based cleanups which required land use controls, because there was little assurance that those controls would be maintained and verified over the years (some contaminated sites will probably require controls in perpetuity). In addition, the regulatory agency generally had little or no authority to enforce any violations of land use controls.

Beginning in approximately 1997, the division began allowing RPs to use land use controls under a restrictive covenant placed in the deed for the site. These early covenants were called Declarations of Restrictions. These were approved on a case-by-case basis until the Uniform Environmental Covenants statute (KRS 224.80) was passed by the General Assembly in 2005. The statute laid out a uniform process for implementing land use controls in Kentucky using environmental covenants that are recorded in the county records and referenced in the deed. The statute also provided the cabinet with the authority to enforce violations of the covenant.

As of June 2008:

- 23 sites have final, recorded environmental covenants. Four of those sites have multiple covenants.
- About a dozen more sites have covenants in the planning or drafting stages.
- Approximately 66 sites had the older "declaration of restrictions" placed on the property.
- Roughly 20 additional sites had deed "notices" placed in the county records for those properties. Deed notices are advisory only and have no strict legal meaning.

Thus, we have gone from essentially zero sites with institutional controls in 1990 to about 100 such sites in 2008. While this flexibility is clearly a benefit in providing a path forward for sites that cannot achieve cleanup to pristine conditions, this flexibility is also being used at some sites where it is simply a more convenient or expedient avenue for the RP to achieve final approval for the site clean up. There are long-term policy and financial implications for the increasing use of institutional controls at waste cleanup sites, including:

- Long-term (in some cases, perpetual) need for agency funding to review these sites annually to ensure that prohibited activities are not taking place on these sites with environmental problems. There is not a specific funding mechanism in place to assure an ongoing source of funds for these reviews.
- Funding and personnel to take legal or remedial action, if necessary.
- The need to ensure that potential purchasers and developers have up-to-date information regarding sites that have institutional controls and a full understanding of the importance of maintaining the institutional controls over time.
- Potential long-term liability for the state if institutional controls fail and there is not a financially viable party to correct the failure of the institutional controls. Note: there are also similar liability concerns for sites which require long-term remediation, such as pumping and treating contaminated groundwater, which are independent of institutional control concerns.

In summary, clean up of waste sites have evolved greatly over the past 30 years, to where there is now a relatively high level of expertise and consistency. The Environmental Covenant statute has greatly improved the standardization and long-term integrity of sites which are not cleaned up for unrestricted use, but several long-term challenges remain to be addressed.

INTRODUCTION

The Division of Waste Management (division)) is one of six divisions of the Department for Environmental Protection in the Energy and Environment Cabinet (EEC). The department strategic plan, developed in June 2008, describes the mission of the agency:

“Protect and enhance Kentucky's environment to improve the quality of life for all Kentuckians.”

To accomplish this mission, the department has developed a set of objectives to be implemented by each division. The objectives and tactics germane to this division are:

Department Goal #1: Reduce and/or maintain elimination of division permit and data entry backlogs.

Tactic 1.1: Maintain progress towards reducing and/or maintaining zero permit and data entry backlogs.

Department Goal #2: Protect human health and enhance Kentucky's land resources.

Tactic 2.1: Restore or manage contamination at sites with known or suspected releases to soil or groundwater.

Tactic 2.2: Encourage reduced waste generation and disposal by promoting beneficial reuse, recycling, waste minimization and pollution prevention.

Tactic 2.3: Assure proper management and disposal of waste.

The approach therefore is to first minimize waste generation. Secondly, emphasis is placed on the reclamation and recycling of waste that is generated. Lastly, requirements are designed to assure that the remaining waste is disposed of properly.

Also, the strategic plan is geared towards the restoration of lands that are impacted from releases when wastes are *not* managed properly. In the report sections that follow, division activities designed to address these primary issues—waste generation, recycling, collection/disposal, and site remediation—are highlighted.

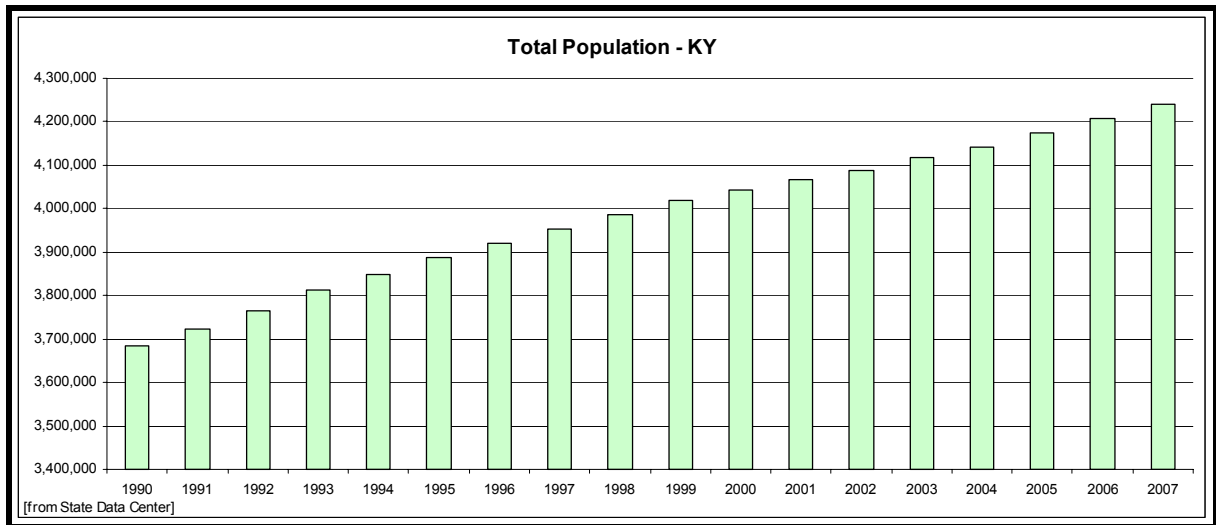
SOLID WASTE

<http://www.waste.ky.gov/branches/sw/>

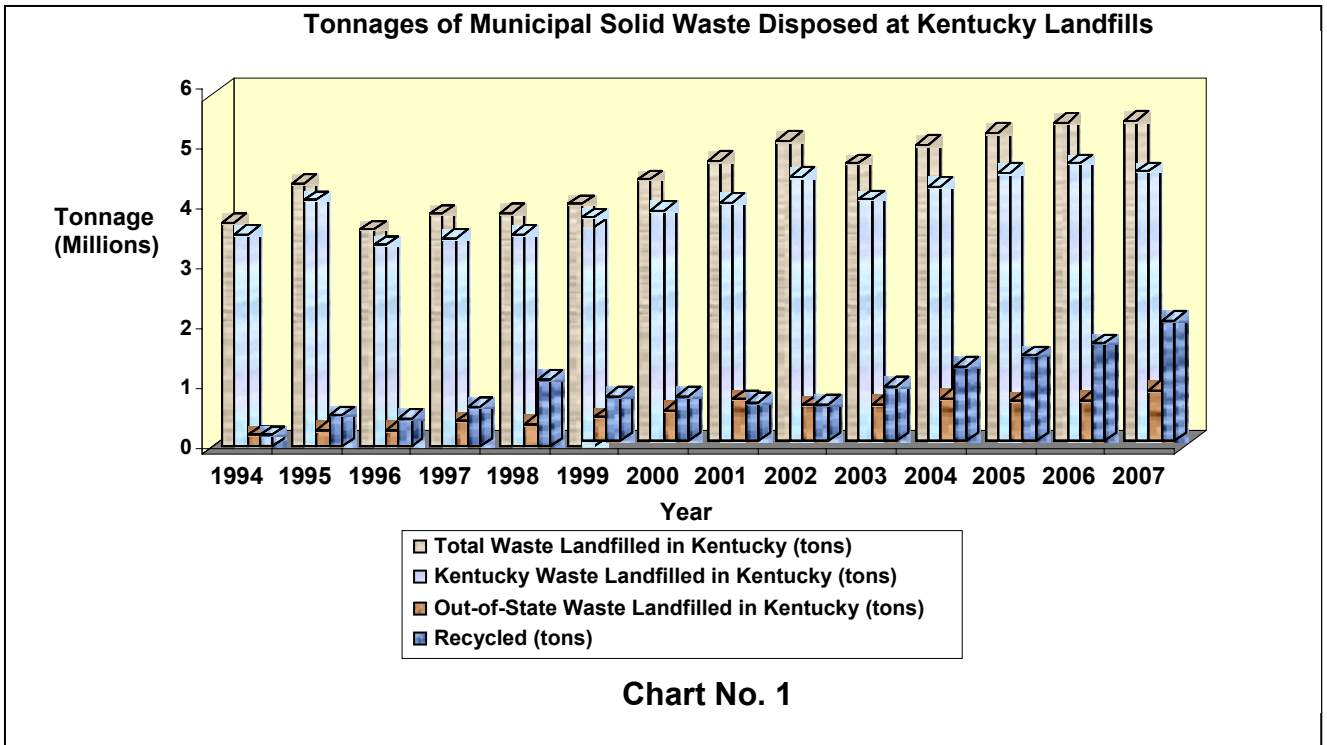
The Solid Waste Branch is responsible for the review and issuance or denial of permits for solid waste and special waste landfills, landfarming and composting facilities and registrations for permit-by-rule facilities.

The mission of the Solid Waste Branch is to assure proper solid and special waste management practices through the implementation of comprehensive permitting, monitoring and training.

All counties in Kentucky offer a system of universal waste collection. Universal waste collection means that collection service is made available to households, either through curbside collection or through drop-off centers/collection centers/transfer stations for use by households. The total population in Kentucky is increasing, which will lead to the amount of waste generated in the state increasing. The charts below show these trends of increasing population as well as increasing amounts of waste being generated.



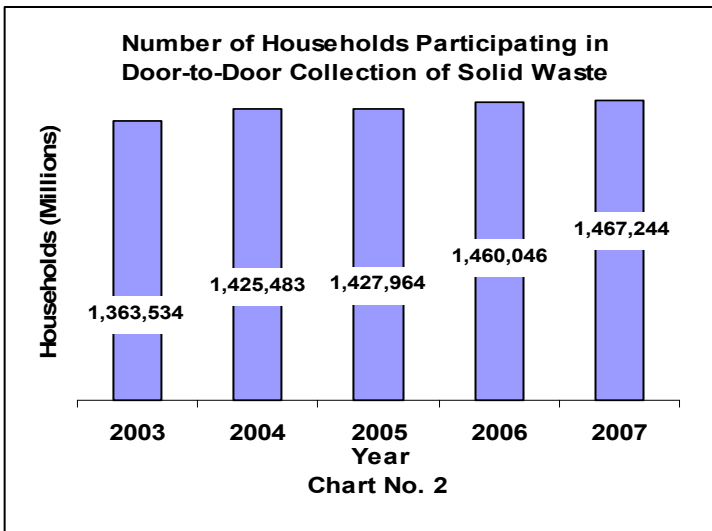
In 2007, Kentucky experienced a 3 percent decrease in Kentucky waste disposal in Kentucky landfills and a 25 percent increase in the amount of out-of-state waste disposed in Kentucky landfills, based on information provided by the county solid waste coordinators. This increase is attributed to the lower disposal cost and lower tipping fees compared to surrounding states. Kentucky exported 6 percent of its waste to out-of-state landfills, an increase from 4 percent in 2006. Kentucky's total waste generation rate for 2007 increased by 5 percent while the total population increased by less than 1 percent.



The average cost for waste disposed at Kentucky landfills in 2007 was \$29.62 per ton. Chart No. 1 illustrates the comparison of tonnages of in-state, out-of-state and the combined total of municipal solid waste received at landfills and the amount in tons of recycled materials in Kentucky, beginning with the base year 1994.

Municipal Solid Waste Collection Programs

Each Kentucky county has established a universal waste collection program. Universal waste collection is available to households through curbside collection (door-to-door) or self-hauls to a convenience center, transfer station, or contained landfill.



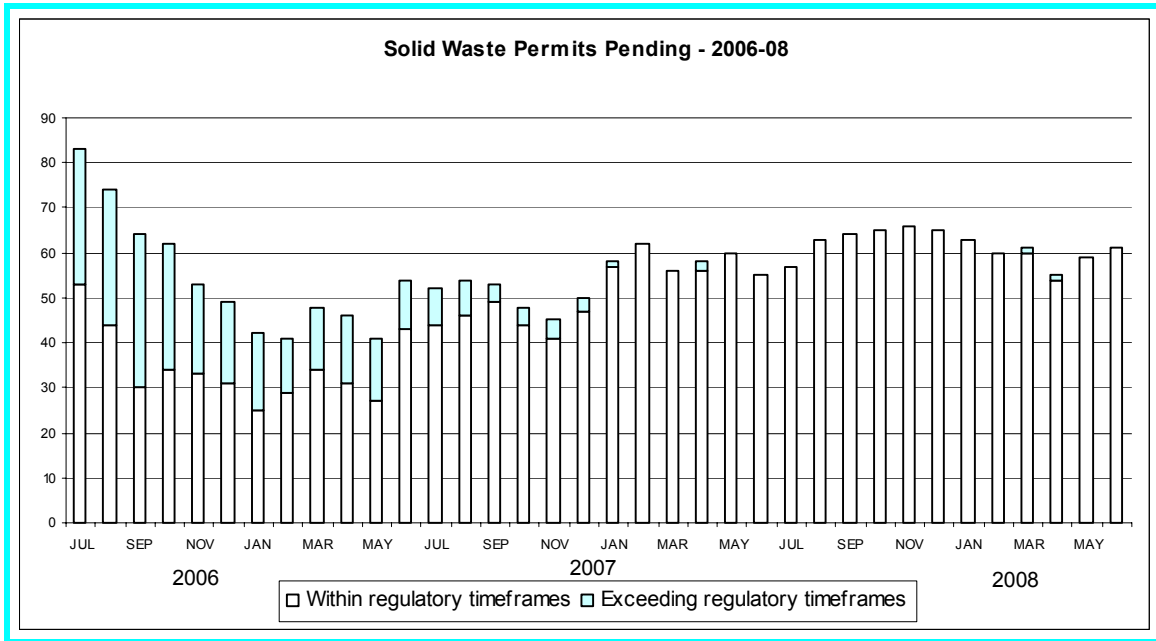
Since 2003, participation in door-to-door collection service has increased 7 percent. Since the division began gathering data in 1993, participation in door-to-door collection

service has increased 44 percent. Chart No. 2 shows the number of households participating in collection system from 2003 to 2007.

The average participation rate for collection systems in 2007 is 87.05 percent, which means approximately 13 percent of households (219,115 households) are disposing of their garbage illegally or are not accounted for by current tracking methods. Self-haul to a transfer station or convenience center is a legal method of disposal. However, most counties have difficulty tracking customers to these type facilities.

Solid Waste Permitting:

The Solid Waste Branch is continuing to maintain a zero permit backlog.



This chart shows a decreasing trend in both the number of pending permit applications, and the number of permits being issued beyond regulatory timeframes. The more rapid reduction in backlogged items in the early part of the backlog elimination effort was due to the branch addressing easier applications first, coupled with the elimination of applications backlogged for administrative reasons.

◆ Solid Waste Branch Highlight

Historic Landfills:

Before waste management was regulated in Kentucky, most towns or cities had a common location where garbage, and a vast array of other materials, was disposed. These “old town dumps” were the de facto landfill for the area, and they were rarely operated in a manner consistent with better and current standards. Also, in most cases they were not properly capped to prevent migration of contaminated leachate and other pollutants. Hundreds of these sites are scattered across the state (there are approximately 620 sites according to the division’s records).

The Historic Landfill program was established as a section within the Solid Waste Branch in 2003 to address proper closure and remediation of these "old town dumps." Closure/remediation work is presently on-going at several sites across the state. Funding for the program is through a one-time bond issuance of \$25 million, plus an annual amount of \$2.5 million collected from the Environmental Remediation Fee receipts (KRS 224.43-505). The \$25 million bond has since been expended and the program is operating using the \$2.5 million annually provided for in the statute.

The following is a summary of the Historic Landfill program progress and results:

- Eight landfill construction projects for closure/remediation have been completed. Two of the completed projects have been recognized with awards. The city of Leitchfield-Millwood Landfill project won project of the year in 2007 for the Environmental Category from the Kentucky Chapter of the American Public Works Association. In 2008 the city of Manchester Landfill project received a National Recognition Award from the American Council of Engineering Companies (ACEC) and also received a Grand Award from the Kentucky chapter of ACEC. Total costs for all eight projects including site characterization, design, and construction is over \$27 million.
 - Briar Hill Landfill-Scott County
 - Sims Road Landfill-Scott County
 - Perry County Landfill
 - City of Campbellsville Landfill-Taylor County
 - Old City of Leitchfield Landfill-Grayson County
 - Floyd County Landfill
 - City of Manchester Landfill-Clay County
 - City of Leitchfield-Millwood Landfill-Grayson County
- Three landfill projects are presently under construction. Total costs for all three projects including site characterization, design, and construction is more than \$6 million.
 - Harlan County Fiscal Court Landfill
 - City of Cynthiana Landfill-Harrison County
 - WMU/OCC Landfill-Clark County
- Two landfill projects have completed final designs and all are waiting on funding for construction bid solicitation advertisement. Total construction cost estimate, including engineering oversight, for both projects is approximately \$3 million.
 - City of Richmond Landfill-Madison County
 - FIVCO Landfill-Carter County
- Seven landfill projects are in or near the final design stage and all are expected to have final designs completed by the end of calendar year 2008. Preliminary cost estimates for these seven projects including site characterization, design and closure/remediation is over \$8 million.
 - Raven Run Landfill- Fayette County
 - Billy Glover Landfill-Jessamine County
 - Bullitt County Landfill
 - Marion County Landfill
 - Mercer County Fiscal Court Landfill
 - City of Bowling Green Inert Landfill-Warren County
 - Johnson County Landfill
- Eight landfill projects are under contract with architectural/engineering (A/E) firms to perform full site characterizations. Work has been performed on all eight

projects. However, all eight projects are currently on hold for further work until additional funding is available. At an assumed average cost of \$1 million per site for site characterization, design and closure/remediation, an estimated total cost for these eight projects is \$8 million.

- o Barbourville Landfill-Knox County
- o Letcher County Landfill
- o City of Fulton Landfill-Fulton County
- o Marshall County Landfill
- o City of Franklin Landfill-Simpson County
- o Trigg County Fiscal Court Landfill
- o City of Bardwell Landfill-Carlisle County
- o City of Owensboro Landfill-Daviess County

- Five contracts with five individual A/E firms each performing preliminary site characterizations and rankings on 159 sites are on-going. Four of the five contracts have been completed. This work is being performed to evaluate which sites pose the most environmental risk in order to determine which sites need closure/remediation work performed sooner rather than later. Counties included in this work are listed below alphabetically:

- | | | |
|-----------------|----------------|----------------|
| 1. Ballard | 20. Graves | 39. Menifee |
| 2. Bath | 21. Grayson | 40. Mercer |
| 3. Bell | 22. Greenup | 41. Montgomery |
| 4. Bourbon | 23. Green | 42. Morgan |
| 5. Boyle | 24. Hardin | 43. Muhlenberg |
| 6. Breckinridge | 25. Hart | 44. Owen |
| 7. Bullitt | 26. Henderson | 45. Pulaski |
| 8. Caldwell | 27. Hickman | 46. Robertson |
| 9. Calloway | 28. Hopkins | 47. Rockcastle |
| 10. Carlisle | 29. Johnson | 48. Russell |
| 11. Christian | 30. Knox | 49. Scott |
| 12. Crittenden | 31. Livingston | 50. Simpson |
| 13. Daviess | 32. Logan | 51. Trigg |
| 14. Edmonson | 33. Lyon | 52. Union |
| 15. Franklin | 34. Magoffin | 53. Warren |
| 16. Fulton | 35. Marion | 54. Webster |
| 17. Gallatin | 36. Marshall | 55. Whitley |
| 18. Garrard | 37. McCracken | 56. Woodford |
| 19. Grant | 38. Meade | |

- At an assumed average cost of approximately \$600,000 per site for characterization, design and closure/remediation, an estimated total cost for these 159 sites is more than \$95 million and would require more than 38 years to complete at the current annual funding level of \$2.5 million.
- By projecting the total cost for the remaining 433 sites currently not in progress, it would take more than \$259 million and 103 years to complete closure/remediation activities for these 433 sites at the current annual funding level of \$2.5 million.



City of Manchester Landfill- Constructed Wetland in Progress



City of Manchester Landfill- Constructed Wetland Completed



City of Manchester Landfill- Completed Final Cover Construction



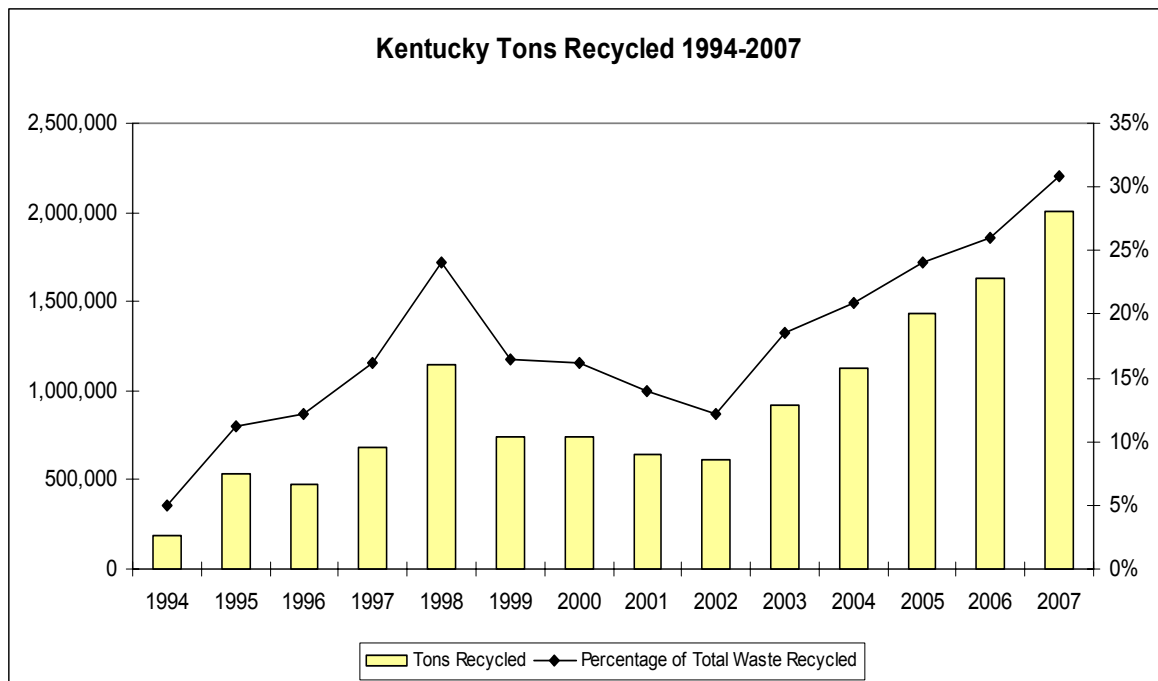
City of Campbellsville Landfill- Completed Closure Construction

Recycling

<http://www.waste.ky.gov/branches/rla/>

The Recycling and Local Assistance Branch (RLA) provides continuous technical assistance and training to public and private entities on solid waste issues and regulatory requirements and promotes individual responsibility and accountability for proper solid waste management.

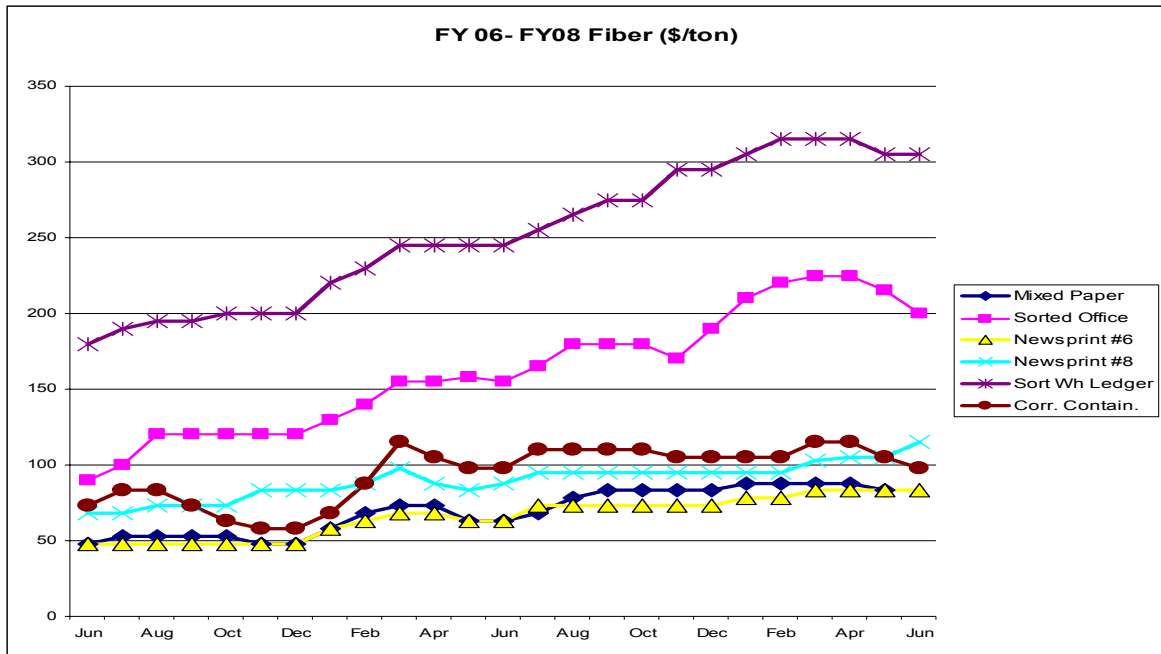
Kentucky's recycling rate on common household items (aluminum, cardboard, steel, plastic, newspaper, glass and paper) increased from 27 percent in 2006 to 31 percent in 2007. The average recycling rate in the Southeast Region in 2006 was 22 percent, while the national average was 28.5 percent. (*The national recycling rate for 2007 had not been released at the time of publication.*) The first recycling grants were awarded in June 2007. As these new recycling programs establish themselves, Kentucky's recycling rates should increase and set an example for other states.



Prices for certain recyclable materials are increasing (PET, steel and aluminum). Recycling commodities prices are holding at solid sustainable levels with some commodities, such as aluminum beverage cans, scrap copper, scrap steel and plastic containers (PET and HDPE) at historic highs. The long-term outlook (over the next five to seven years) is for continued favorable pricing levels to recyclers.

Recycled commodity pricing has been driven by export demand and the outlook for this to continue is good as long as there are no disruptions in the consumer sector growth in China and India, in particular.

Through publication of its *Marketplace* newsletter, the division reports on the prevailing prices paid for aggregate recyclable materials. The following charts show the trends for various commodities.



Note:

"Newsprint #8" means baled sorted newspaper, with no sun exposure, with less slick advertising inserts.

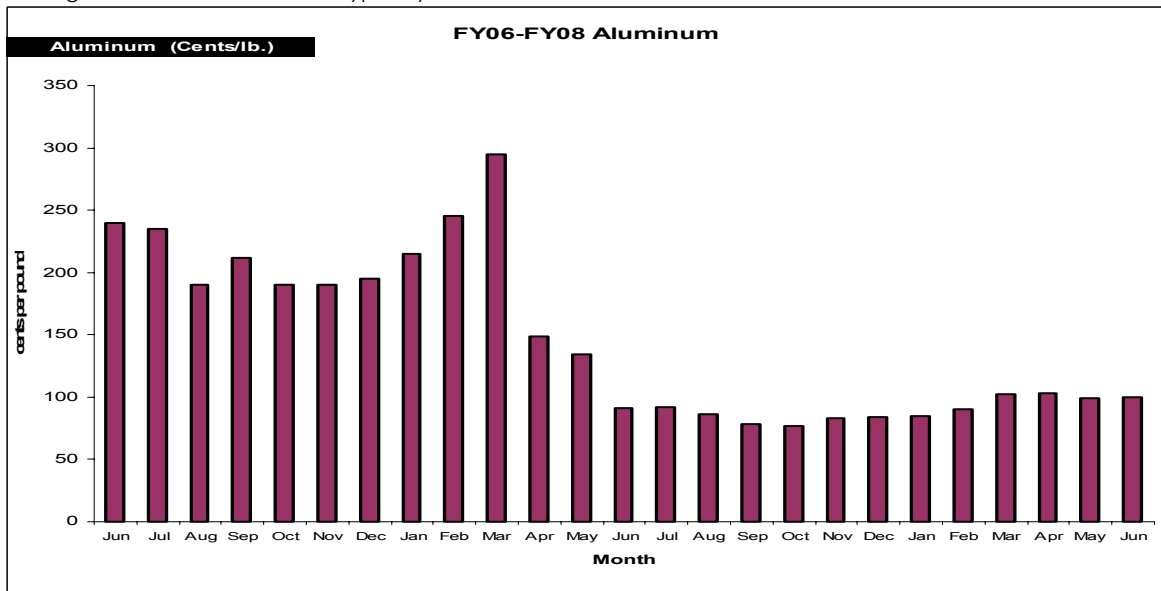
"Newsprint #6" means baled newspaper that typically has advertising slicks in it.

"Sorted office" means mostly white and colored, groundwood-free copier and printer paper.

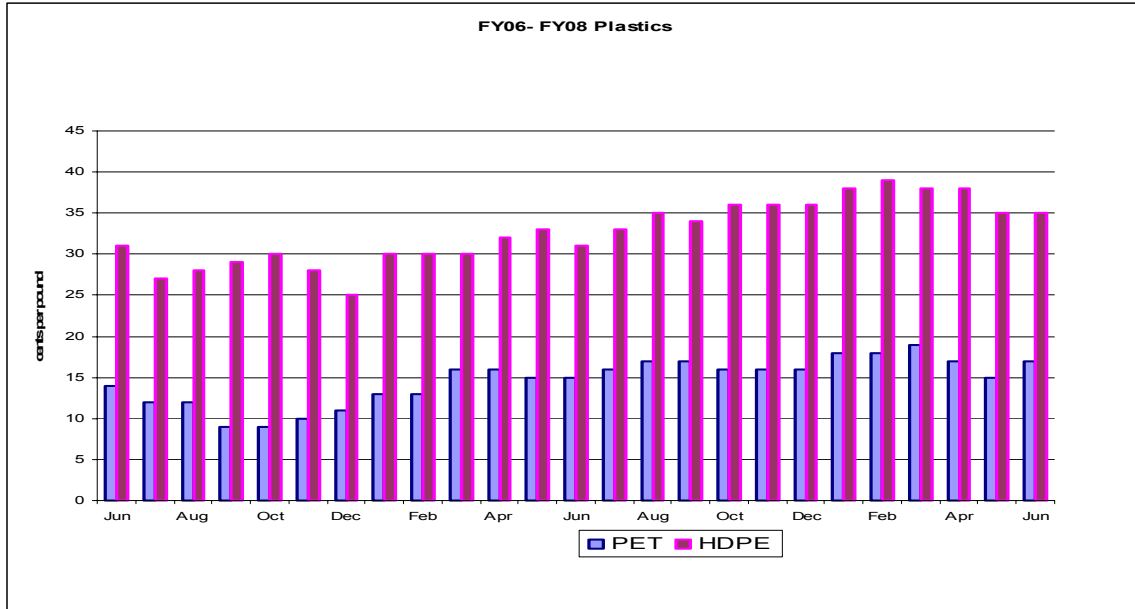
"Mixed paper" means a lesser-grade of material that can include slick advertising inserts, envelopes and other things with gummy surfaces.

"Sorted white ledger" means higher class white paper such as stationery (free of groundwood fiber)

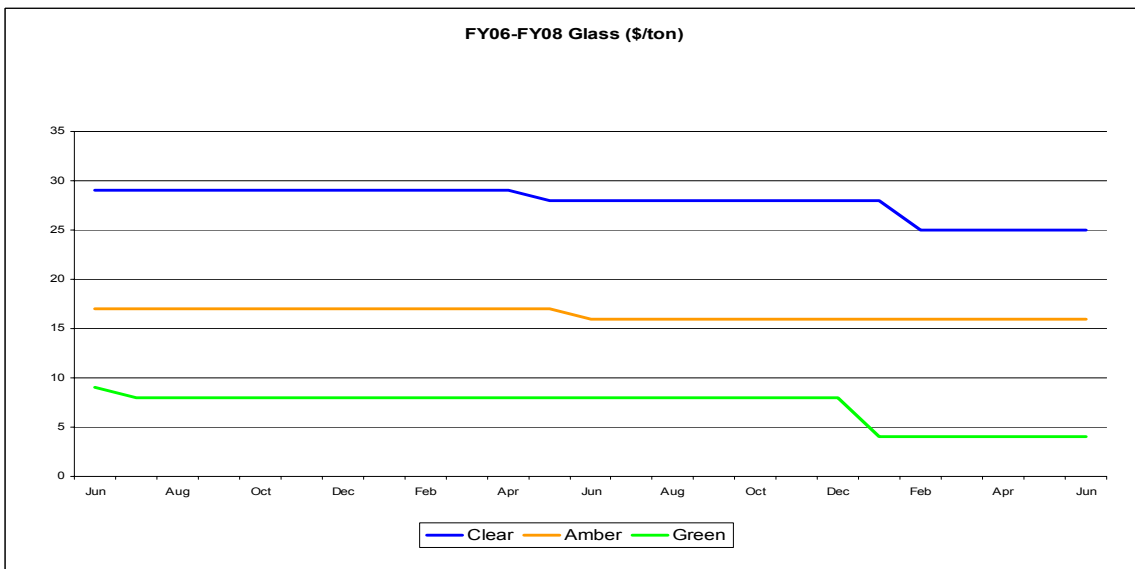
"Corrugated containers" means, typically, cardboard boxes.



Recycling prices for aluminum cans dropped from FY 07 to FY 08. However, for FY 08 the prices remained steady.

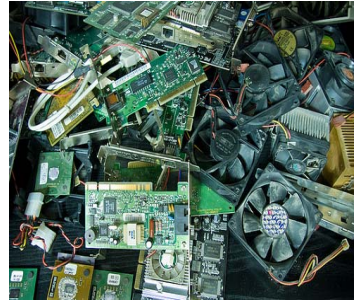


Number one and two plastics, PET typically known as soda bottles and HDPE typically known as milk jugs.



Glass prices, for green glass and clear glass dropped between \$1 and \$2 per ton. Amber glass held steady.

Recycling prices historically fluctuate during a given year. The current pricing trends on all the recycling commodities should encourage recyclers to keep collecting as much volume as possible. More volume commands higher prices from the buyers and buyers typically give preference to recyclers who maintain a steady stream of materials.



Electronic scrap (e-scrap) collection is growing in the state, with approximately 31 counties offering some type of e-scrap collection. Year-round e-scrap drop-off programs are increasing across the state with 10 counties now offering it. Another 21 counties offer some type of e-scrap collection, whether periodic or an annual event. More than 2,400 tons of e-scrap were collected in 2007. The 2008 Recycling Grant program will broaden to include household hazardous waste, e-scrap and mercury collection events.

What is currently happening with e-scrap?

- The e-scrap recycling industry continues to grow at the most rapid rate of any of the recycling industry's segments, while e-scrap continues to be the fastest growing part of the solid waste stream (now estimated to be fully 2 percent of the municipal solid waste stream). Several e-scrap dealers have commenced operations in the state and several regional e-scrap recyclers now service Kentucky.
- The Kentucky General Assembly passed Senate Joint Resolution (SJR) 76 which requires the division to evaluate and report on the status of e-scrap management and recycling in the Commonwealth. The report will include a description of the current activities, a description of e-scrap related programs and requirements from other states, and will make recommendations to promote responsible e-scrap recycling for both resource recovery and protection of the environment. The Kentucky Recycling Interest Group (KRIG), an organization sponsored by the division, is assisting with the evaluation via a subcommittee including electronic manufacturers, e-scrap dealers, community recycling program representatives, business people, and environmentalists.
- In calendar year 2008, the Kentucky Pride Fund provided \$94,387 for household hazardous waste/mercury and e-scrap collection events generally; the e-scrap portion of combined events was accepted at no cost by participating vendors.
- Many producers of electronic devices and non-profit organizations have established "Take Back" programs for scrap electronics. The most notable are: DELL, Best Buy, Hewlett Packard, IBM, the Rechargeable Battery Recycling Corporation (Call2Recycling), and several cell phone producers.
- Several continuous collection events have been initiated including Metro Louisville, Boyle County in partnership with Nelson, Mercer and Lincoln counties, and county programs in Pulaski, Washington, Franklin and Oldham. These programs are connected with vendors who transport collected and packaged electronic items at no cost to the counties.
- Many more counties have regular weekend e-scrap collections including Calloway County during "Make-a-Difference-Day" recycling collections, Madison County, the Northern Kentucky Solid Waste Management Area (Boone, Campbell and Kenton counties), Lexington Fayette Urban County Government, Warren County and the Tri-County Recycling Alliance (Henderson, Webster, Union and McLean counties).

- Televisions are now being accepted without charge at Metro Louisville's Cyber Cycle program. Other communities are working with regional or national companies that no longer charge for accepting or picking up e-scrap in sufficient quantity.

The future of electronic recycling in the state continues to be studied. Impacts of federal legislation regarding e-scrap or state legislation will help shape the future of e-scrap recycling. The division will continue to include e-scrap in grants funded by the Kentucky Pride Fund to the extent that funding is available.

The State Government Recycling Program:

<http://www.waste.ky.gov/branches/ria/State+Government+Recycling+Section.htm>



KRS 224.10-650 establishes a program, administered by the division, for collection and source separation of waste materials generated as a result of state agency operations, including, at a minimum, aluminum, high-grade office paper and corrugated paper.

The government office paper recycling program serves more than 115 building locations in Frankfort collecting office paper, computer paper, newsprint and cardboard. State employees recycled 3,422,645 pounds of waste paper in 2007, approximately 300 pounds per state employee. Confidential document destruction provides a zero cost alternative to state and local governments.

The paper recycling program offers free weekly pickup of office paper and free document destruction for all state offices. The program is self-supporting, utilizing no General Fund dollars.



Waste Tire Program:

<http://www.waste.ky.gov/branches/rla/Recycling+Assistance+Section.htm>



Waste Tire Trust Fund--The Waste Tire Trust Fund was reauthorized in the 2006 General Assembly and will be in effect until July 31, 2010. The fund has been used to conduct waste tires amnesty programs, crumb rubber grants, and market development for the use of waste tires.

The recycled tires are beneficially reused for purposes such as tire-derived fuel and crumb rubber for athletic fields and schools and community parks. In 2007, the Waste Tire Amnesty Program held collection events in the Buffalo Trace, FIVCO, KIPDA, Northern Kentucky and Cumberland Valley Area Development Districts (ADDs) resulting in 1,122,377 passenger tire equivalents (PTEs) being collected and recycled.

Crumb Rubber Grants--From 2004–2007, the cabinet awarded 162 grants totaling more than \$4.6 million to local government and schools for the use of crumb rubber made from recycled tires on athletic fields and playgrounds. Fifty grants totaling \$1.2 million were awarded for crumb rubber projects to be completed during calendar year 2007. During fiscal year 08, 41 grants totaling \$994,133 were awarded for crumb rubber projects.

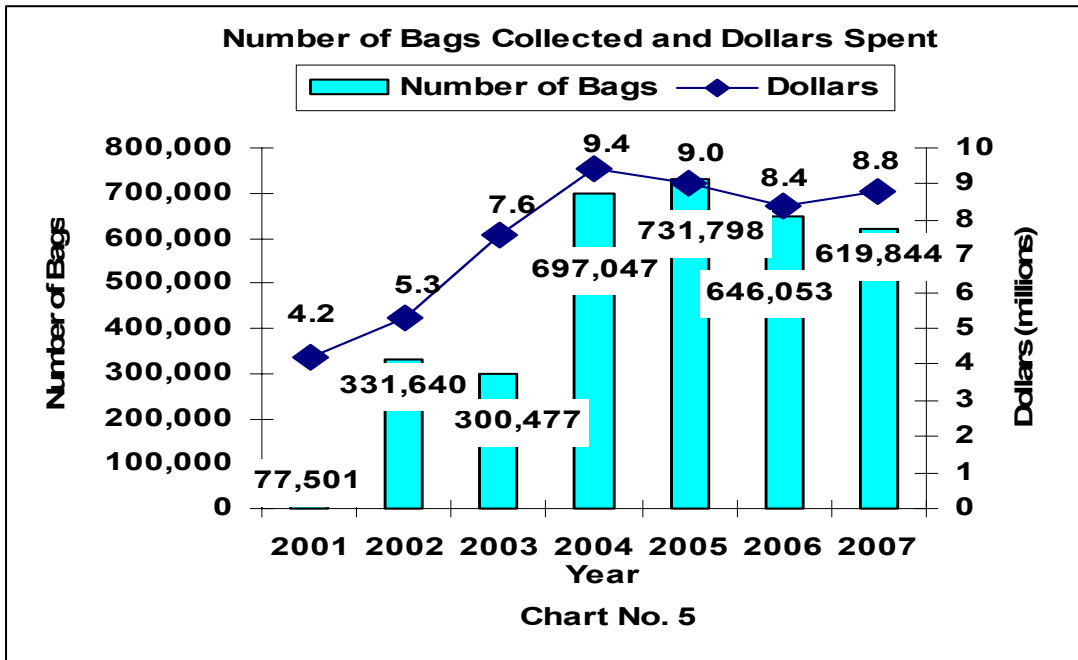
Kentucky Pride Program:

KRS 224.43-500 established the Kentucky Pride Fund to address three facets of solid waste management. First, \$5 million per year is paid to local governments to abate the effects of roadside litter. Next, \$2.5 million per year is devoted to clean ups at landfills (historic landfills) that ceased accepting waste prior to 1992. The balance of the fund each year, roughly \$5 million, is set aside to clean up illegal open dumps. The fund is financed through the “environmental remediation fee” of \$1.75 per ton of waste disposed in Kentucky landfills. The cabinet anticipates growth in recycling infrastructures due in large part to the funding authorized by the General Assembly and the support of local governments.

Litter Abatement—In 2001, the division began tracking the cost of litter activities and the number of bags of litter collected. State litter abatement grant funding (Kentucky Pride Fund) began in fiscal year 2002. The cabinet receives \$5 million annually from the Transportation Cabinet for distribution to counties and incorporated cities for litter abatement activities.

The success of litter abatement campaigns across the Commonwealth is evident in the reduction of litter being picked up along roadways. Since 2005, there has been an 18 percent decline in the amount of litter collected from roadways. In 2007, counties cleaned more than 162,000 miles of roadways collecting 26,000 fewer bags than in 2006.

Litter collection costs totaled \$8,846,568.25, an average cost of 71 cents per pound (\$1,420 per ton). The majority of items found on roadways are plastic bottles and food containers. Litter clean up is costly at \$1,420 per ton when compared to the average landfill disposal rate of \$29.62 per ton.



The chart above reflects the number of bags of litter collected and the amount spent on litter for calendar years 2001-2007.

Household Hazardous Waste Collection:

The division coordinated local events to collect mercury and mercury-containing items. This is an effort by the agency to address household hazardous waste, an under-acknowledged waste stream.



Mercury collection events were held by 12 counties with some of them serving several counties. The events amassed 1,870 pounds of mercury and mercury containing equipment. These events were made possible by the Kentucky Pride Fund. The first recycling grants were awarded in June 2007. The second recycling grants were awarded in June 2008.

Clean up of Illegal Open Dumps

Since 1993 more than 24,000 illegal open dumpsites have been cleaned at a cost of \$60.1 million. Chart No. 3 illustrates the number of dumpsites cleaned, per year, since 2003, using varying sources of funding, both public and private. In 2007, counties cleaned 531 illegal open dumps at a cost of \$2.2 million. The average cost to clean each dumpsite was \$4,143. There were 721 known dumpsites remaining in 2007, 479 of which were identified during the 2007 calendar year.

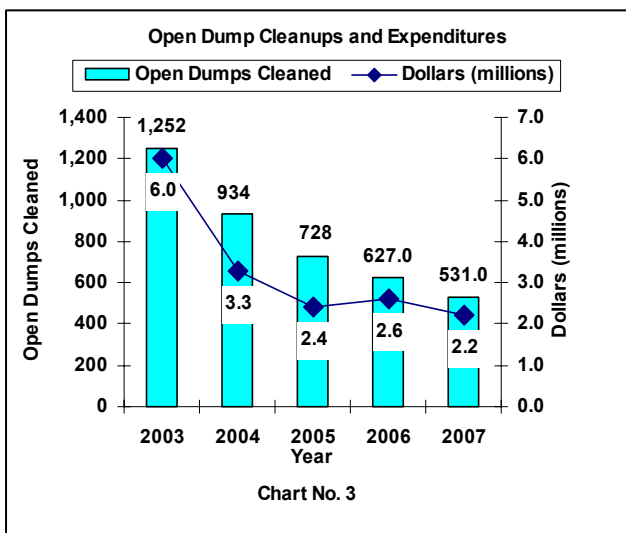
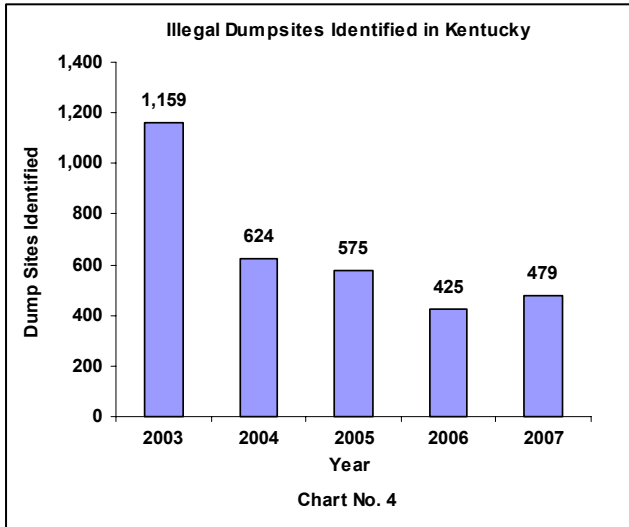


Chart No. 4 illustrates a slight increase in the number of illegal dumps identified since 2007. While new dumpsites are identified every year, this increase may be reflective of counties' increased focus of identifying unknown dumpsites within their communities. Financial assistance, through the Kentucky Pride Fund, has provided counties the incentive and the necessary financial assistance to identify and remove old dumpsites from their communities.

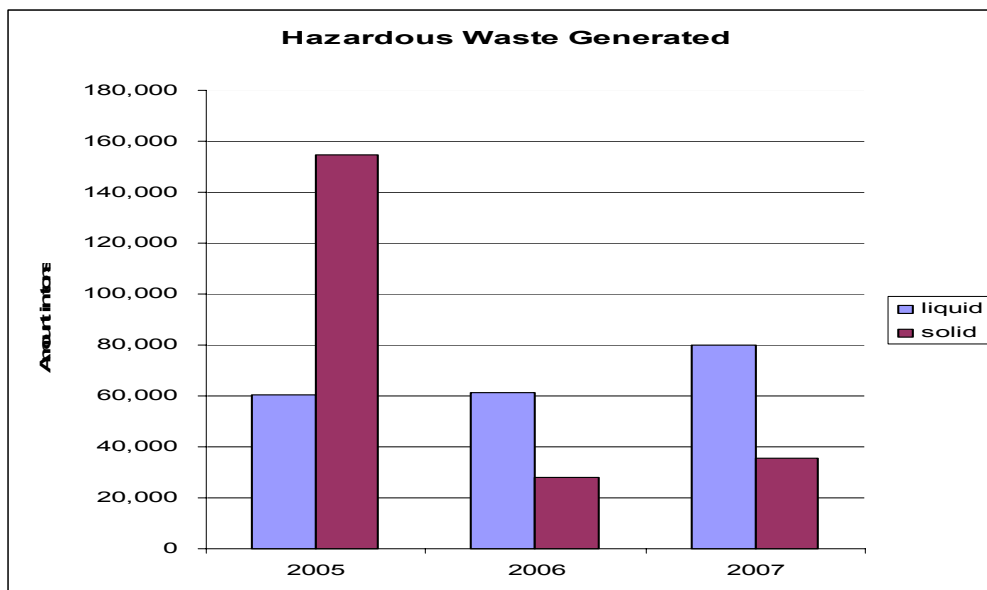


From fiscal year 2005 through fiscal year 2008, the Kentucky Pride Fund has awarded more than \$7 million for the remediation or clean up of dumpsites in Kentucky. The fourth round of illegal open dump grants was awarded in January 2008 for the remediation of 293 dumpsites at a cost of \$3 million.

Hazardous Waste Branch

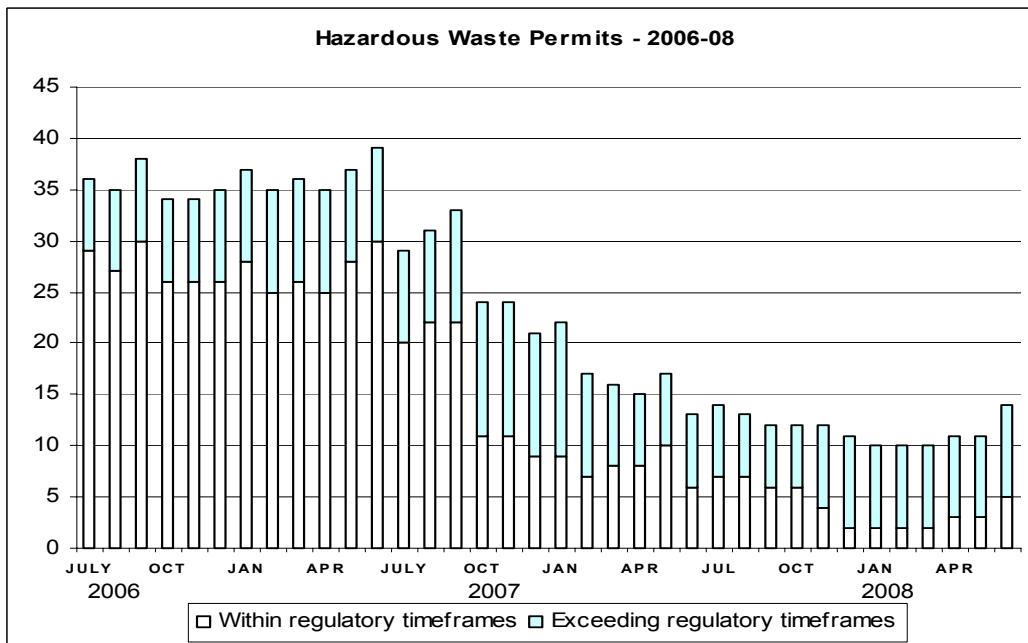
<http://www.waste.ky.gov/branches/hw/>

The Hazardous Waste Branch oversees the management of hazardous waste "from cradle to grave." This involves the promotion of hazardous waste minimization, hazardous waste management and remediation of hazardous waste releases. These activities are accomplished through permitting, corrective action, registration and reporting requirements.

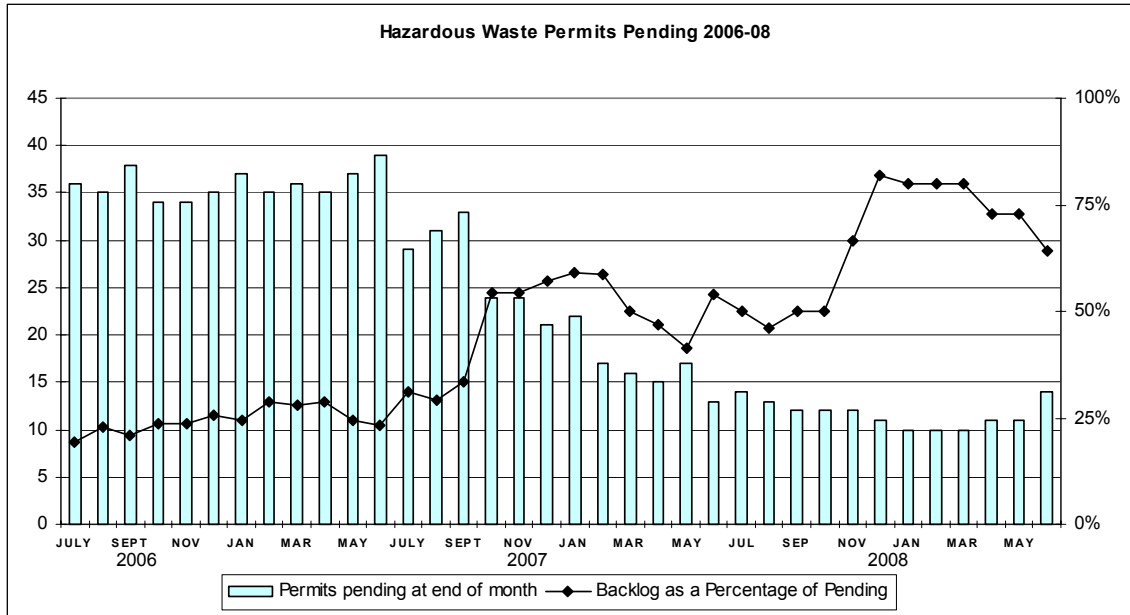


The chart above illustrates the amount of waste generated as reported in the 2005 through 2007 Hazardous Waste Assessments.

Hazardous Waste Permitting:



The above chart illustrates the total number of pending permit applications has remained steady since the initial reduction effort began.



Note: Data prior to October 2006 include some submittals and approvals not subject to regulatory timeframes.

As evident in the chart on the bottom of page 24, in September 2006 the number of permits pending at the end of each month dropped considerably. This occurred as procedures were changed for processing the permit applications. The number of pending permits at the end of each month declined steadily as the backlog declined. This resulted from the division initiative to reduce or eliminate the number of permits exceeding the regulatory timeframe.

◆ Hazardous Waste Branch Highlight

Blue Grass Army Depot:

The Blue Grass Army Depot (BGAD) is located in East Central Kentucky, southeast of the cities of Lexington and Richmond. The installation encompasses approximately 14,600 acres, composed of mainly fields and wooded areas. It also contains 1,100 structures including ammo igloos, warehouses, housing and administrative buildings. There are 49 igloos maintained, of which 45 igloos are dedicated to chemical weapons storage mission.

The Army stores safely approximately 2 percent of the nation's original chemical weapons stockpile at the Blue Grass Army Depot in Richmond. There are three types of chemical agents at BGAD. They include a blister agent, known as "mustard" which began in the 1940s and two nerve agents, GB and VX, which began arriving in the 1960s. The "mustard" blister agent is designed to incapacitate, while the GB and VX nerve agents are deadly. To dispose of the aging stockpile, plans are underway to build a chemical weapons destruction facility.

The Army conducted studies to evaluate the potential impacts of the elimination of these weapons using incineration and non-incineration methods. The Department of

Defense selected neutralization followed by supercritical water oxidation, or "SCWO" for use at the Depot based on technical and environmental studies and impact on the community.

Currently, the Blue Grass Chemical Activity Destruction Pilot Plant (BGCAPP) site is busy as work continues. The Hazardous Waste Branch has approved the BGCAPP and Research, Development and Demonstration (RD&D) permit to address the changes in design, equipment, and waste amounts. The current design of the facility is at 83 percent design completion. The Access Control Building was completed in Spring 2008 and is currently being used by BGAD.

The applications for Subpart X, for industrial supercritical water oxidation (iSCWO) for conventional weapons are concurrently being reviewed by EPA and the division. Once the issues are resolved, the division plans to issue a permit for the iSCWO.



Pictured above are BGAD personnel suited for a routine igloo inspection.

Field Operations Branch

<http://www.waste.ky.gov/branches/fo/>

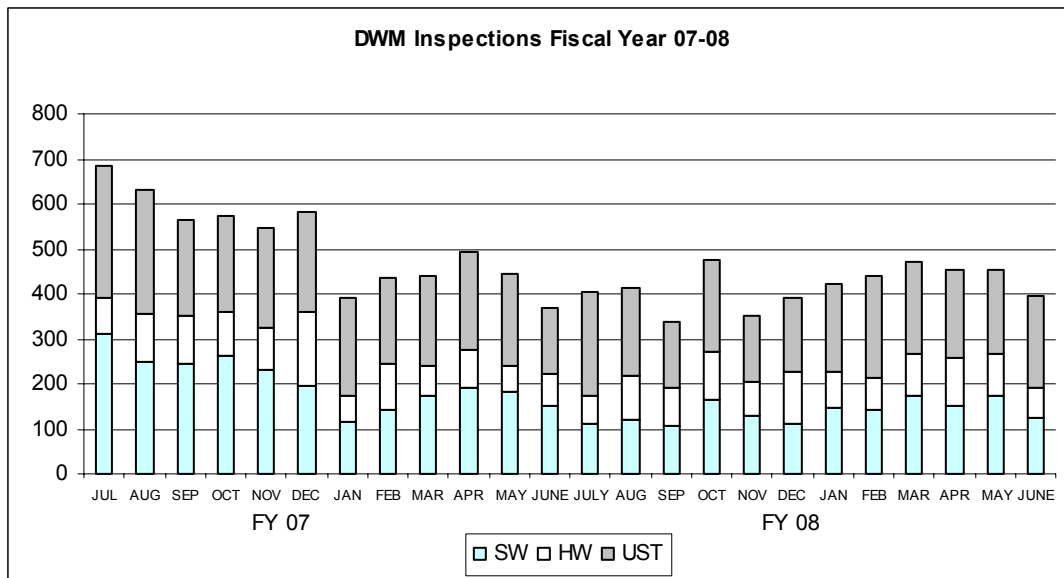
The mission of the Field Operations Branch (FOB) is to identify and abate imminent threats to human health and the environment through fair and equitable inspections, technical assistance and education.

The branch performs inspections at sites managing solid waste, hazardous waste, underground storage tanks and PCBs. The primary duty of a regional inspector is to check the compliance of waste facilities.

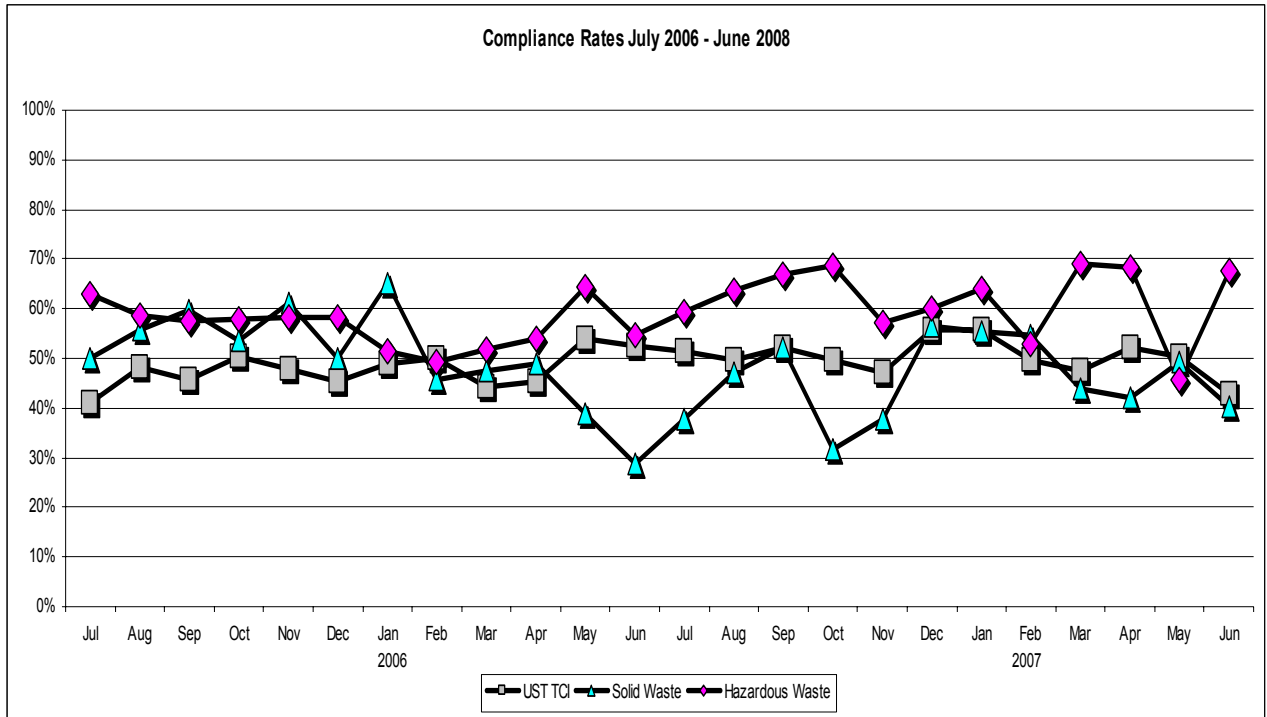
The branch includes a central office and 10 waste management regional offices located throughout Kentucky. Staff from these offices are familiar with the local waste management issues and can respond to questions and concerns.

Compliance and Enforcement:

The 2005 Energy Act Policy, among other things, requires that all UST facilities be inspected on a three-year rotation. In anticipation of the energy bill, the division's FOB initiated a process to inspect all UST facilities that had not been inspected since 1998. The division has already met this requirement for the initial three-year rotation subsequent to the passage of the energy bill.



Note: SW=Solid Waste, HW=Hazardous Waste, UST=Underground Storage Tanks
 Note: Inspection totals include "complaint investigations" in addition to typical inspections of regulated entities



Note: "Compliance rate" means the percent of total inspections where an inspector noted that no violation had occurred; does not include investigations triggered by citizen complaints.

Note: "UST TCI" means a technical compliance inspection for a facility's underground storage tanks.

Kentucky's 42 percent compliance rate for underground storage tanks is below the 68 percent average compliance rate for other EPA Region 4 states. The division met with EPA officials from the Region 4 Office and has established a process in which division representatives will visit other Region 4 states to observe inspection procedures and determine any differences which can be implemented to raise Kentucky's UST compliance rate. There has also been an effort to work with UST owners during inspections. This involves scheduling inspections at times the owner can be present.

Emergency Response:

KRS 224.01-400 establishes the cabinet as the lead agency for hazardous substance, pollutant or contaminant emergency spill response. The Department for Environmental Protection maintains a roster of field staff who serve on the Environmental Response Team (ERT). They are the first to respond to environmental emergencies.

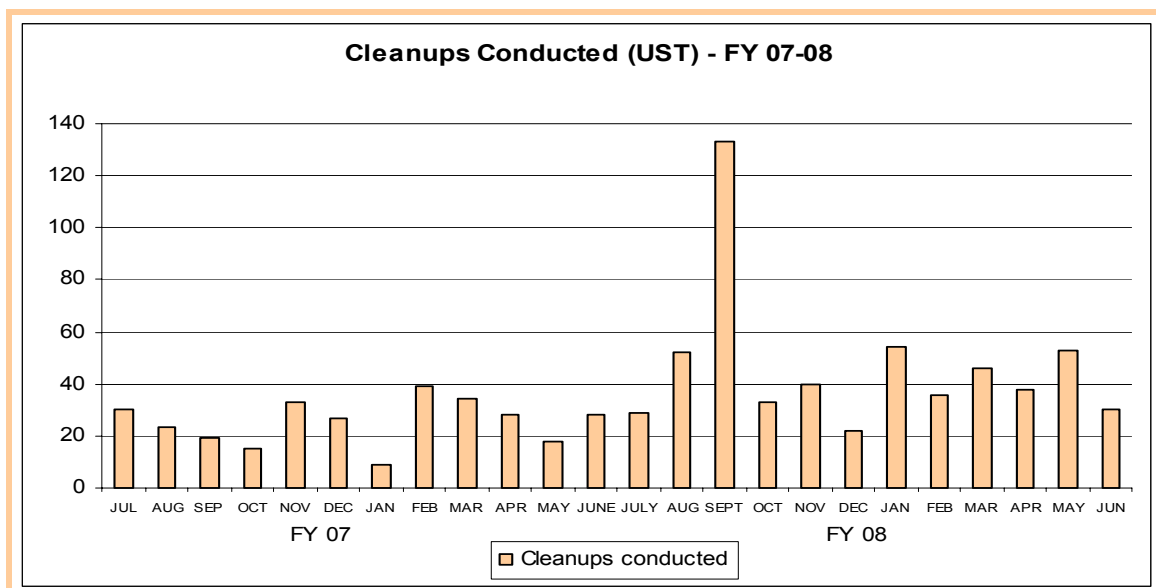
There were 2,206 emergencies and/or incidents reported to ERT between July 1, 2007 and June 30, 2008.

Underground Storage Tank Branch

<http://www.waste.ky.gov/branches/hw/>

The mission is to provide for the prevention, abatement and control of contaminants from regulated underground storage tanks (USTs) that may threaten human health, safety and the environment.

The Underground Storage Tank Branch (USTB) regulates the registration, compliance, closure, inspections and corrective actions of UST systems.



The above chart includes sites that have received a No Further Action letter from the Underground Storage Tank Branch. Currently, the UST program has funding and is issuing a significant number of directive letters requiring clean up.

◆ Underground Storage Tank Branch Highlight

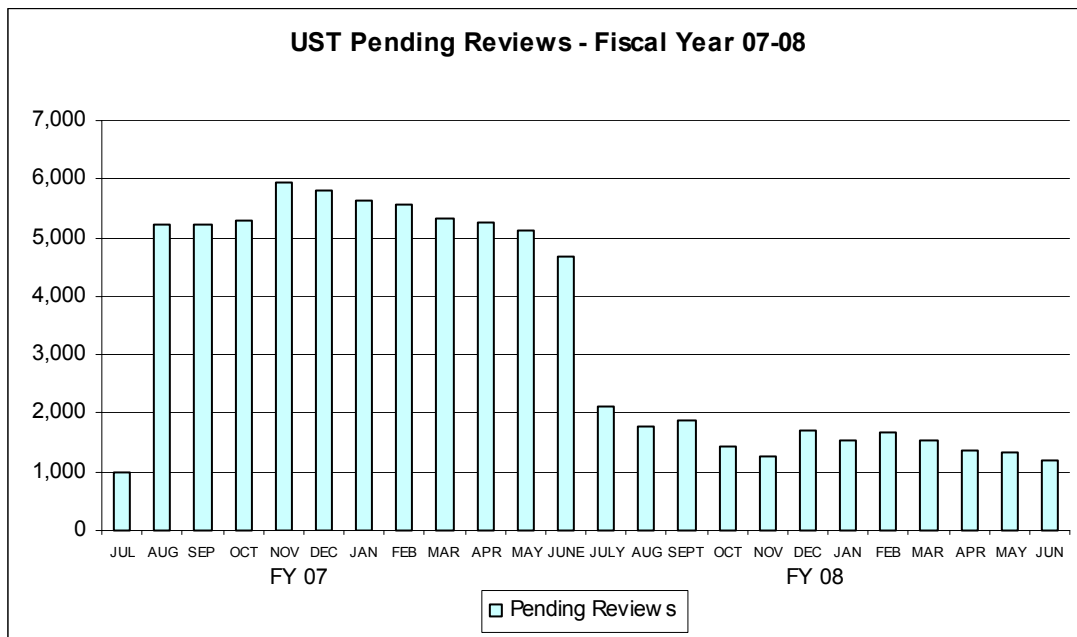
Kentucky inspectors first to receive advanced tank testing training

Advanced underground storage tank inspector training was provided by Petroleum Training Solutions (PTS) November 2007 in Frankfort as a joint project of the Underground Storage Tank and Field Operations branches.

Kentucky was the first state to be trained by this newly formed company and, as far as PTS knows, the first to be trained in these advanced areas of tank testing. Participants were trained on "Petro-Tite" tank and line testing and what to look for when they see companies actually performing this test method in the field.



UST Approval / Reviews:



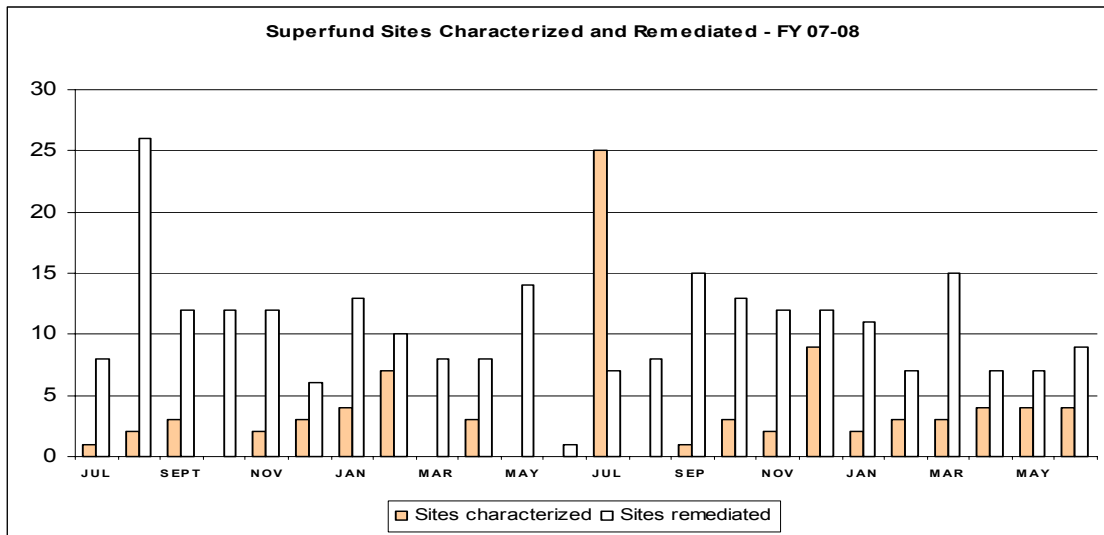
In July 2007 there was a decrease in UST pending reviews. These reviews have remained somewhat steady over the course of the last fiscal year.

Superfund Branch

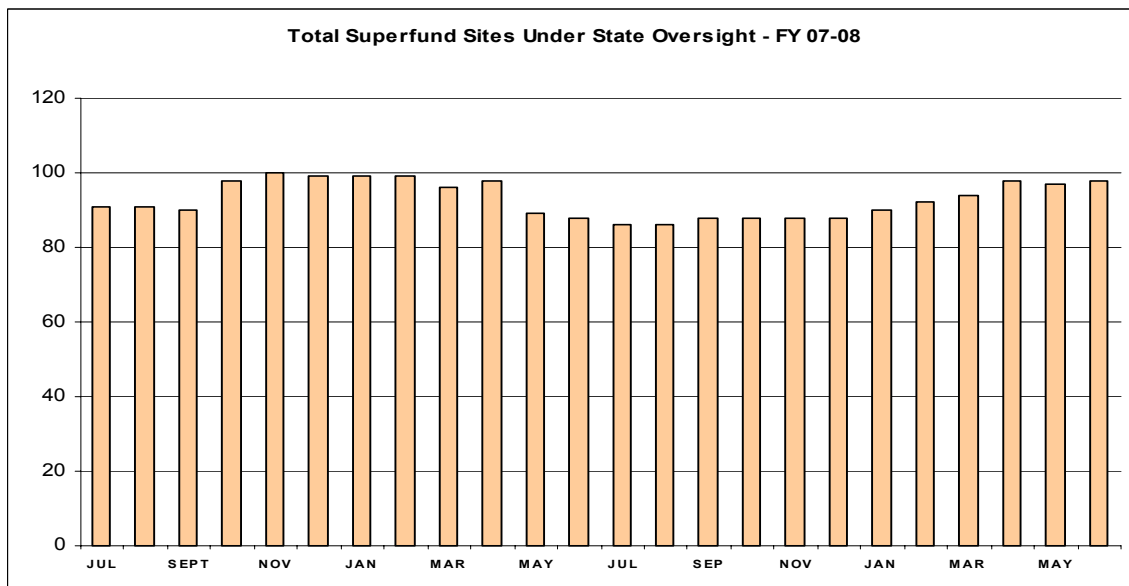
<http://www.waste.ky.gov/branches/sf/>

The program seeks to ensure that contaminated sites are evaluated and cleaned up in a timely manner to reduce risks to human health and the environment. In most cases this means overseeing companies or individuals who have taken responsibility for cleaning up contamination found on their property. In cases where a responsible party cannot be found or is unable to act, the Superfund Branch may take a direct role in cleaning up a site.

Kentucky has a state Superfund program which handles oversight of clean up of hazardous substance releases and non-UST petroleum releases across the commonwealth. The chart below shows the number of sites that the state Superfund program has characterized and remediated.



Note: There were 183 sites that were characterized and remediated in FY 08.



The Superfund Branch must maintain a list of any sites where waste is managed on site through some form of engineering control (such as a cap or structure) or institutional control such as an environmental covenant or deed restriction. The chart, Total Superfund Sites Under State Oversight, shows the number of sites currently in this category. These sites require some form of reporting such as an annual report or five year review as established in statute. For sites that are being managed by using institutional and/or engineering controls, the obligations to continue to manage the releases are indefinite. Therefore, the numbers of total managed sites in Superfund will be constant or continue to increase as new sites are approved for closure under this option.

As noted above, the only way a site can be removed from the managed site list is if additional clean up is performed to restore the site to safely allow for unrestricted residential use. (The Superfund Branch continually assesses its database to maintain the highest integrity data possible. In reviewing the database some sites are discovered that are classified incorrectly and are therefore removed from the list. This is the reason the data graph "dips" from the May to March timeframe.)

Brownfields:

Brownfields are abandoned, idled, or underused industrial and commercial facilities/sites where expansion or redevelopment is complicated by real or perceived environmental contamination. They can be in urban, suburban, or rural areas. The brownfield redevelopment is a joint effort between the division and the Division of Compliance Assistance (DCA). For more information on DCA, see the agency's Web site at <http://www.dca.ky.gov/brownfields/> or call 800-926-8111.

One major success has been helping communities apply for EPA Brownfield Grants. This year, 16 applications were submitted by communities, of which 10 applications from five communities were successful. Kentucky led Region 4 in the number of grant applications per population and was second in our success rate. The total value of these grants was \$2 million. EPA Assistant Administrator Susan Bodine came to Kentucky to make national award announcements and to personally present the awards to the successful communities. Kentucky is recognized for its outstanding outreach efforts.

Another outreach program has been to assist communities by providing free Target Brownfield Assessments (TBA), which is a program designed to help states, tribes, and municipalities minimize the uncertainties of contamination often associated with brownfields. During this year, 10 properties have been chosen to receive this service.

Previously, Kentucky has offered tax incentives to qualified entities that cleaned up property under the Voluntary Environmental Remediation Program (VERP).

VERP allows interested parties to initiate clean ups on a property they wish to purchase and redevelop. As a result, delays and costs to clean up contaminated sites can be reduced, which can speed up redevelopment of the site.

Federal Superfund Case - Maxey Flats:

The Maxey Flats Project (MFP) is a former commercial facility utilized for the disposal of low-level radioactive waste. It was operational from 1963 through 1977. During that time approximately 4.7 million cubic feet of radioactive waste containing more than 2.4

million curies of by product material, 431 kilograms of special nuclear material, and 533,000 pounds of source material were disposed of in numerous trenches within the 45-acre radiological restricted area. To assure proper closure, the commonwealth of Kentucky purchased the facility upon termination of commercial operation and accepted responsibility for monitoring and maintenance of the facility.

Presently the MFP consists of the original 280 acres and approximately 550 acres of buffer zone area. The radiological restricted area consists of approximately 60 acres, 55 acres of which are covered with a geomembrane cap. A security fence surrounds the restricted area and the office complex. The office complex includes two radiochemistry laboratories, a maintenance garage, heavy equipment storage and a contaminated leachate storage structure.



2006 aerial photo

Under the guidance of EPA Region 4, a remedial investigation and feasibility study was conducted from March 1987 through September 1991. The initial remedial phase (IRP) began shortly thereafter and included the remedial actions of:

- extraction, solidification, and disposal on-site of approximately 3 million gallons of trench leachate
- demolition and disposal of structures within the restricted area
- excavation of additional disposal trenches for disposal of site debris and solidified leachate.

Upon completion of the initial remedial activities, the IRP was declared complete in October 2003 by EPA. This initiated the current operation phase known as the Interim Maintenance Period (IMP).

During the IMP, some of the commonwealth of Kentucky's obligations include: compliance with radiological license requirements, facility access control, cap maintenance, trench monitoring, leachate management, environmental monitoring, radiological monitoring, and facility maintenance and monitoring. This is accomplished by a series of EPA-approved work plans. A Maxey Flats Section staff of six is responsible for the operation and maintenance activities at the facility.



More than 3,000 samples are collected, prepared and analyzed annually at MFP for various radiological isotopes



Heavy and agricultural equipment is used routinely to maintain the 800 acre facility

During the 2008 FY, the MFP continued quarterly monitoring of the bedrock wells installed in 2007 for the purpose of evaluating deeper stratigraphic units occurring below the valley floor. Sampling of these wells indicated that the MFP has not impacted this deeper rock unit. Annual monitoring of these wells will be continued by the Kentucky Division of Water as part of the Ambient Groundwater Monitoring Program.

In September 2007, EPA completed the second five-year review of the MFP. The review concluded that the remedy is functioning as designed and that no operation or maintenance deficiencies had occurred. The review also determined that there would be no need to install a groundwater flow barrier in the future as proposed in the Consent Decree, Statement of Work.

In December 2007, EPA conducted a meeting with the cabinet to discuss the second five-year review results and recommended that the MFP may be ready to proceed early with placement of the final cap.

In January 2008, EPA submitted a letter to the division confirming its interest in placing MFP into the Final Closure Period (FCP) earlier than anticipated. Entering the final closure period would involve the placement of a permanent and more protective cap along with the continuation of environmental monitoring and maintenance operations. Currently, the division is evaluating the feasibility and environmental impact of entering into the FCP early.

In April 2008, the MFP hosted its second biennial open house. Although there was a steady rain, the event still drew an attendance of 75. The event included tours, a video presentation, demonstrations and individually addressed questions and concerns of the attendees. The open house generated good media response that included newspaper features and radio interviews.



The open house provided both formal and informal information to the public concerning Maxey Flats Project operations, environmental monitoring and radiation awareness

In conjunction with the open house, an Earth Day celebration was included that involved discussion of environmental responsibility and planting of several trees. Local Girl Scout Troop 59 participated in the Earth Day celebration along with other children attending the open house.



The Earth Day celebration included participation from several adults and many children

Future actions for the MFP include maintaining and periodically replacing the geomembrane cap, re-contouring the capped disposal area as needed to enhance the management of surface water, evaluating the burial trench's natural subsidence, and based on these findings, determining when a final cap design can be initiated, and installing a final engineered, multi-layered cap.

State Superfund Priority List Site Summary

Derby Tank and Car Cleaning-Capital Construction Project C1HA
Ekron, Meade County

Background

Derby Tank and Car Cleaning is a former railcar and tanker cleaning/re-furbishing facility that operated near Ekron, from 1974 to 1994. Prior to this, the 42-acre site was a brandy and bourbon distillery from around the late 1880s to the 1960s. Some of the remaining distillery structures were utilized by Derby Tank Car. However, most of the structures have been razed with only the concrete foundations remaining.

With the passage of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in 1980, Derby Tank Car was added to the inventory of sites to be assessed for potential federal Superfund cleanup through the pre-remedial investigation

process known as the PA/SI program. Through the screening process it was determined that the site was subject to regulatory authority under the 1976 Resource Conservation and Recovery Act (RCRA), and was closed with a recommendation of no further CERCLA response in 1987. After a change in ownership in 1989, the business closed and was abandoned in 1994 following the death of the principal owner.

Since the site was officially abandoned with no viable responsible party, it now fell under the remedial authority granted under CERCLA. With the development of Kentucky's state-funded remedial program in 1991 that roughly mirrored federal CERCLA (Superfund), Kentucky assumed the lead in investigating Derby Tank Car for potential remediation under its Hazardous Waste Management Fund. A series of interim removal actions was conducted from 1995 to 2003 including the containerization, bulking and off-site disposal of residual wastes consisting of corrosive/caustics, heavy metals, petroleum-based solvents and non-hazardous animal by products. To more thoroughly characterize the environmental impact resulting from the site operations, a Capital Construction project account was established in 2004 to secure the services of an environmental engineering firm to conduct a phased pre-remedial investigation.

The investigation process culminated with a remedial plan and corresponding bid solicitation for environmental contractors in January 2008. Nine environmental contracting firms submitted bids with the low bid of \$742,887.50 submitted by Early Environmental Contracting of Shelbyville. Due to a governor's Executive Order which required the review of all state contracts, approval to proceed was delayed until review by the Exceptions Committee. Notice to proceed was granted by the Finance Cabinet in late February with an effective contract date of March 3, 2008.

Remedial Action

The remedial project focused on six major tasks; 1) Installing a secure and permanent perimeter fence, 2) filling and capping remaining subsurface building foundations and process units; 3) removing and off-site disposing of contaminated soil beneath and around certain building foundations; 4) removing and off-site disposing of a "waste cell" which was the principal subsurface containment basin for tank and rail car clean-out residue, 5) removing, cleaning and disposing of residual waste from sumps and piping, and 6) installing a nine-acre soil cap consisting of 1 to 1.5 feet of compacted soil and establishment of a vegetative cover. The substantial completion date was June 30, 2008, with a contract expiration date of Nov. 28, 2008. Based on a final walk through and review of completed "punch-list" items, the project was determined complete on Aug. 1, 2008, well ahead of schedule. Since Smith Road, the primary transit route, had a designated 18-ton weight limit, a variance was secured from Meade County Judge/Executive Harry Craycroft with the understanding that the Energy and Environment Cabinet (formerly Environmental and Public Protection) will make the necessary repairs based on pre-construction conditions. Significant damage to Smith Road has occurred and currently negotiations are on-going with the Finance Cabinet to contract the necessary repairs. Subsequent road repairs will be conducted as soon as a separate contract can be arranged through the Finance Cabinet.



Derby Tank Car Project –prewater removal (before)



Derby Tank Car Project –prewater removal (after clean up)

◆ Superfund Branch Highlight

The implementation of House Bill 94 Methamphetamine (meth) Lab Clean up.

Kentucky's methamphetamine (meth) cleanup law, introduced by Rep. Tanya Pullin as House Bill (HB) 94, was passed during the 2007 Kentucky Legislative Session, and became effective on June 26, 2007. The law defined the roles and responsibilities for state and local agencies in the identification and clean up of illegal meth labs across the commonwealth. The primary purpose of the law, codified in statutes as KRS 224.01-410, is to ensure that "inhabitable properties" are properly decontaminated by certified cleanup contractors to a specific standard, so they can be safely re-occupied by future buyers or tenants. The law defines an inhabitable property as "...any building or structure and any related curtilage, water, water system, or sewer system used as a clandestine meth drug lab that is intended to be primarily occupied by people, including a mobile home, that may be sold, leased, or rented for any length of time. Inhabitable property shall not include a hotel, as defined in KRS 219.011." The

decontamination standard is 0.1 micrograms meth per 100 square centimeters on surface areas.

The meth cleanup law requires the following steps be taken to address meth labs:

- 1) Kentucky State Police (KSP) or local law enforcement makes an arrest for meth manufacturing. KSP conducts the initial cleanup response actions including containerizing and removing all gross chemical wastes associated with meth production from the property.
- 2) KSP notifies the local health department of the discovery of a meth lab in an inhabitable property.
- 3) The local health department for that county or area will post a Notice of Meth Contamination on each exterior door of the inhabitable property. The notice shall duly warn the public, owners and renters of the possible contamination of the property and the health hazards posed by the meth contamination. The notice shall remain posted until the property has been decontaminated by a certified contractor in accordance with the law.
- 4) The property owner works with a certified contractor from the list of certified contractors maintained by the division to perform the clean up.
- 5) The contractor issues a Contractor's Certificate of Decontamination (CCD) to the Division of Waste Management. In the CCD, the contractor documents and self-certifies that the decontamination actions performed at the former meth lab property meet the standards in the law.
- 6) The division issues a release letter to the property owner and the local health department.
- 7) The local health department removes the notice from the property.

The division's role in implementing the new meth cleanup law generally consists of three primary tasks: 1) to certify contractors through establishing a meth lab cleanup contractors certification program; 2) to develop decontamination guidelines and provide technical assistance to contractors, property owners, and citizens; and 3) to review CCD reports and issue release letters for the decontaminated properties.

In the 2008 legislative session, HB765 modified the statute so the law now:

1. Requires the division to promulgate regulations relating to decontamination standards and clean up requirements for methamphetamine contaminated properties.
2. Establishes a tiered response system for clean up of contaminated sites.
3. Changes financial assurance requirements for certified contractors based on the tier level for which they want to be certified to clean and grandfathers in contractors who were certified before the effective date of this bill.
4. Makes the EEC responsible for notifying owners of contaminated property who lease or rent the inhabitable property information about federal income tax deductions or credits available to compensate for damage done to the property in commission of a crime, including methamphetamine production done by someone other than the owner.

Information on the meth cleanup law, Kentucky's cleanup guidance for meth labs, how to become a certified contractor and other important information related to clandestine drug lab cleanups is available on the division's meth decontamination Web page <http://www.waste.ky.gov/branches/sf/Meth.htm>

Program Planning and Administration Branch

<http://www.waste.ky.gov/branches/ppa/>

The mission of the Program Planning and Administration (PPA) Branch is to promote sound waste management programs by providing administrative and operational support to all branches in the division through efficient and effective financial administration, personnel management and regulatory development.

File Room Imaging

The division sends and receives numerous documents each day that need to be maintained in the division's central file room. Since 2003, the division has been scanning these documents and storing them in our departmental database. In 2006, the use of scanned images as official files was approved by the Kentucky Department for Libraries and Archives (KDLA). Since receiving that approval, the division has begun recycling the paper copies of scanned documents. As a result, most open records requests can now be answered electronically. The records are also secure from fires and floods. Additionally, instead of continuing to expand, the file room reduced its storage space to less than two-thirds of what it was in October 2006.

Regulation Development

The division is pleased to report great progress in this effort. As of May 1, 2008, PPA sent a program reauthorization for Hazardous Waste to the EPA. The UST regulation revisions, effective Sept. 13, 2006, have changed the way clean ups are financed through the Petroleum Storage Tanks Environmental Assurance Fund

Currently, the division is in the process of performing a comprehensive review of its regulations in the areas of solid waste and underground storage tanks. In 2008 the division plans to propose new regulatory amendments to update these two programs. The solid waste regulations are on track to be amended to introduce information that has been changed since the last promulgation effort. The UST program plans to incorporate changes in response to the Federal Energy Policy Act of 2005. The Hazardous Waste regulations are going to be updated to incorporate federal rule makings through July 1, 2008.

The division is also working on an update to a Recycling and Local Assistance regulation that will incorporate changes introduced in Senate Bill 50 from the 2006 legislative session. PPA is also promulgating regulations relating to decontamination standards and clean up requirements for methamphetamine contaminated properties.

2008 Legislative Session

There were several pieces of legislation from the 2008 legislative session that had an impact on the division. The following are brief summaries of legislation that passed and signed by Governor Steve Beshear during the 2008 Legislative Session.

- **HB 765 methamphetamine lab clean up:** This bill now requires the division to promulgate regulations relating to decontamination standards and clean up requirements for methamphetamine contaminated properties. It also establishes a tiered response system for clean up of contaminated sites. The financial assurance for certified contractors will be based on the tier level for which they want to be certified to clean and grandfathered in contractors that were certified before the effective date of this bill. The division will promulgate regulations for the above items, including the guidance document that has already been

developed and the certified contractor program currently in place. The EEC is also responsible for notifying owners of contaminated property who lease or rent the inhabitable property information about federal income tax deductions or credits available to compensate for damage done to the property in commission of a crime, including methamphetamine production done by someone other than the owner.

- **HB 233 Plastic Containers:** Allows labeling of plastic containers that are made of predominantly the same resin to be labeled with the same code. The bill modifies KRS 224.50-585 to add language which would allow multi-layer plastic barrier bottles to be labeled as #1 (PETE – polyethylene terephthalate) for the purposes of recycling. However, when these barrier resins are combined they are not compatible with the predominant resin. Combining resins in plastic containers is in conflict with the labeling standards developed by the National Recycling Coalition. The bill requires a manufacturer of a plastic bottle or container that is constructed with a layer made of material different from that constituting the primary resin to provide documentation from the Association of Postconsumer Plastic Recyclers (APR) that confirms that the bottle meets or exceeds the APR Critical Guidance Document and APR General Guidance Document Bottle-to-Bottle protocol. After receipt and review of satisfactory documentation, the cabinet shall provide a letter of approval and designation of the resin code that may be used. The division's Recycling Assistance Section will be responsible for these reviews and determinations.
- **SB 69 Hazardous Waste Management Fund reauthorization:** Reduces the assessment fee for hazardous waste burned for energy recovery by 50 percent with a transfer of funds from the Petroleum Storage Tank Environmental Assurance Fund (PSTEAF) if the annual receipts are less than \$1.8 million. These assessments fund emergency response activities, State Superfund site cleanup program, and clean up state-lead Superfund, No Further Remedial Action Planned (NFRAP), and brownfield sites where there is no viable potentially responsible party. The statute extends the assessment until June 30, 2016. The statute continues to require the cabinet to transfer 20 percent of funds received to the pollution prevention fund. The division will transfer the funds from PSTEAF annually once the assessments have been processed for the year. The bill requires a biennial report to the Legislative Research Commission (LRC) beginning two years after the effective date on revenues and expenditures of the Hazardous Waste Management Fund.
- **SB 243 Special Waste Designation for Coal Gasification:** Identifies wastes from coal gasification facilities as special wastes, provided testing deems them low-hazard wastes. This bill will require the cabinet to review test results which demonstrate that the wastes are actually low-hazard. The Solid Waste Branch will be doing the review of the test results submitted to the cabinet.
- **SJR 76 Electronic Waste Disposal Report (e-scrap):** Requires the division to develop a comprehensive report on electronic waste disposal and recycling. The report will analyze other states' electronic waste disposal and recycling programs and any legislation used in the management of electronic waste. The division will use this analysis to develop recommendations to promote responsible electronic waste disposal and recycling. The report is due to LRC by Dec. 15, 2008.

Research is currently being conducted and information is being compiled to address what other states are doing, and where Kentucky would like to go.

ACKNOWLEDGMENTS

Governor Steve Beshear

Secretary Leonard K. Peters
Deputy Secretary Henry "Hank" List

This *Annual Report* is intended to provide a concise set of facts and measurements to support environmental decision-making. We welcome your questions and comments to the contacts below:

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