

## SUGGESTED SUBSTITUTE

Final Version: 02/29/24 4:14 p.m.

### ENERGY AND ENVIRONMENT CABINET Department for Environmental Protection Division of Waste Management

#### 401 KAR 45:020. Types of special waste permits.

RELATES TO: KRS ~~224.1~~[224.04], 224.10, 224.40, 224.46, 224.50, 224.70, 224.99

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.50-760(1)(d) ~~authorizes~~**[Chapter 224 requires]** the cabinet to ~~promulgate~~**[adopt]** administrative regulations for the management~~[, processing, and disposal of]~~ special wastes. KRS 224.40-305 requires persons who establish, construct, operate, maintain, or ~~allow~~**[permit]** the use of a waste site or facility to obtain a permit. ~~[This chapter establishes the permitting standards for special waste sites or facilities, and the standards applicable to all special waste sites or facilities.]~~This administrative regulation ~~establishes~~**[sets forth]** the classification of special waste sites or facilities for permitting~~[ purposes]~~.

Section 1. Overview. This administrative regulation ~~establishes~~**[sets forth]** the type of permit a person ~~shall~~**[is required to]** obtain prior to engaging in the disposal or management of special waste.~~[The transition period for complying with requirements of this chapter is contained in Section 4 of this administrative regulation.]~~

Section 2. Permit Types. This section establishes the ~~[following]~~types of special waste site or facility permits.~~[:]~~

(1) Formal permit. A formal permitting process ~~shall be~~**[is]** established that ~~shall include~~**[includes]** the submittal of a complete application, review of the application, and permit issuance or denial by the cabinet. A formal permit shall be obtained by persons engaged in~~[ the following activities]~~:

(a) Special waste landfill, ~~which shall be~~**[This is]** a category of waste site or facility designed and operated to accept for disposal a limited number of special wastes that are characterizable. The administrative and technical requirements for a special waste landfill ~~shall be as established~~**[are found]** in 401 KAR 45:030 and~~[ 401 KAR] 45:110; and~~~~[:]~~

(b) Landfarming and composting, ~~which shall be~~**[This is]** a category of special waste site or facility that landfarms or composts special waste.

1. A special waste ~~[landfarming or]~~composting site or facility that manages municipal wastewater treatment sludge ~~shall be~~**[is]** classified as a Type A or Type B facility according to the metal concentrations of the sludge and volume of sludge accepted at the site as ~~established~~**[specified]** in ~~[Section 2 of]~~401 KAR 45:100, ~~Section 2.~~**[A Type B facility may be exempt from some of the requirements of a formal permit as specified in Section 2 of 401 KAR 45:100.]**

2. Other special waste landfarming or composting ~~shall include~~**[is]** the category of site or facility that manages special waste, other than municipal wastewater treatment sludge, which ~~shall be~~**[is]** classified ~~as established~~**[using parameters set forth]** in this administrative regulation and~~[ additional parameters]~~ based upon the source, chemical and physical characteristics of the waste, volume of waste, and its potential for adverse impact on human health or the environment. Other special waste landfarming or composting facilities shall be classified as either a Type A or Type B facility in accordance with~~[ Section 2 of] 401 KAR 45:100, Section 2.~~

3. Landfarming of biosolids, ~~is~~ the application to the land of sludges from the treatment of domestic sewage or sewage sludge from a treatment facility, ~~shall be and is~~ managed in accordance with 401 KAR 45:105.

(2) Permit-by-rule. This ~~shall be is~~ a category of waste site or facility permit for certain special waste management practices ~~established listed~~ in 401 KAR 45:060, ~~which shall be that are~~ deemed to have a permit without the owner or operator having made application or registration with the cabinet.

(3) Registered permit-by-rule. This ~~shall be is~~ a category of waste site or facility permit for certain special waste management practices ~~established listed~~ in 401 KAR 45:070, ~~which shall be that are~~ deemed to have a permit without further action by the cabinet upon acknowledgement by the cabinet of a complete registration by the owner or operator.

(4) Emergency permit. This ~~shall be is~~ a category of special waste site or facility permit for the short-term storage or disposal of special waste generated during certain emergency situations. ~~These permits shall be are~~ issued in accordance with 401 KAR 45:135.

(5) Research, development, and demonstration permit. This ~~shall be is~~ a category of special waste or facility permit to demonstrate unproven technology. ~~These permits shall be are~~ issued in accordance with 401 KAR 45:135.

Section 3. Special Waste Formal Permit Phases. The application process to obtain a formal permit shall consist of two (2) phases. ~~as follows:~~

(1) Upon approval of a permit application, the cabinet shall issue a construction permit that authorizes the owner or operator to commence construction of a site or facility in accordance with the terms and conditions of the construction permit. ~~and~~

(2) Upon completion of the construction phase, the owner or operator shall notify the cabinet ~~that construction of the special waste site or facility is complete~~, in accordance with ~~Section 1(11) of~~ 401 KAR 45:140, ~~Section 1(11)~~ ~~that construction of the site or facility is complete~~. The cabinet shall inspect the site or facility to ensure compliance with all construction permit requirements ~~and~~, upon execution of financial assurance and the submission of a fee ~~established in specified in Section 2(1)(d) of~~ 401 KAR 45:250, ~~Section 2(1)(d)~~, the cabinet shall issue a ~~construction and operation~~ ~~construction/operation~~ permit.

~~[Section 4.] [Transition from Solid Waste Site or Facility Permits to Special Waste Site or Facility Permits.]~~

~~[(1)] [Within six (6) months of June 24, 1992, any person that possesses a solid waste landfill or landfarming permit that disposes of special waste as defined in KRS 224.50-760 issued before the effective date of this administrative regulation shall file a notice with the cabinet that states the operator's intent to meet the requirements of this chapter by July 1, 1993.]~~

~~[(2)] [After July 1, 1993, no person shall operate a special waste landfill or special waste landfarming facility unless one (1) of the paragraphs of this subsection is satisfied and the owner or operator has complied with subsection (1) of this section:]~~

~~[(a)] [The facility owner or operator possesses a permit issued or continued under 401 KAR Chapters 47 and 48;]~~

~~[(b)] [The facility owner or operator possesses a permit issued or modified to meet the technical standards of this chapter;]~~

~~[(c)] [An application for a permit modification for closure or conversion to a different classification under this chapter has been filed with the cabinet within twelve (12) months of June 24, 1992, and the cabinet has not yet rendered a decision with respect to the complete application; or]~~

~~[(3)] [An owner or operator of a site or facility that was previously regulated as a solid waste registered permit-by-rule, but is now regulated as a special waste registered permit-by-rule under 401 KAR 45:070,~~

~~shall be deemed to have a special waste registered permit-by-rule without having to resubmit a registration.]~~

~~[(4)] [An owner or operator of a site or facility that was previously regulated as a solid waste permit-by-rule, but is now regulated as a special waste registered permit-by-rule, shall register with the cabinet in accordance with 401 KAR 45:070 by December 31, 1992.]~~

~~[Section 5.] [Solid Waste Facility Applications Pending on the Effective Date of this Administrative Regulation. Applications pending on June 24, 1992, shall be revised to meet all requirements of this chapter prior to being determined technically complete.]~~

~~[Section 6.] [Closure Criteria for Sites or Facilities Not Applying for a Special Waste Permit. Any person disposing of special waste under a solid waste landfill or landfarming permit issued before June 24, 1992, who elects to cease operation at the facility by July 1, 1993, shall comply with the closure requirements of the solid waste permit and 401 KAR Chapters 47 and 48.]~~

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