

1 AN ACT relating to solid waste.

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

3 ➔Section 1. KRS 224.40-310 is amended to read as follows:

4 (1) For purposes of this section, "waste disposal facility" means a:

5 (a) Contained landfill;

6 (b) *Residual landfill;*

7 (c) *Solid waste incinerator;*

8 (d) *Waste-to-energy facility;*

9 (e) *Hazardous waste incinerator;*

10 (f) *Landfill;*

11 (g) Construction/demolition debris landfill except for a landfill for the disposal of
12 sand, soil, rock, gravel, bridge debris, and other materials extracted as part of
13 a public road construction project funded wholly or in part with state funds;~~;~~
14 ~~residual landfill; solid waste incinerator; waste to energy facility; or a~~
15 ~~hazardous waste incinerator, landfill,] or~~

16 (h) Other site or facility for the land disposal of hazardous waste.

17 (2) No permit to construct or expand, when the expansion results in substantial
18 additional capacity, a waste disposal facility shall be issued until:

19 (a) A complete application has been submitted to and approved by the cabinet;
20 ~~{and}~~

21 (b) Notice of the application has been published, as provided for in subsections
22 (4) and (5) of this section, at the expense of the applicant in a manner
23 reasonably calculated to inform that portion of the public which is most likely
24 to be affected by the operation of the proposed waste disposal facility. The
25 publication *of notice* shall take place after the cabinet has determined the
26 application to be technically complete and issued a draft permit; *and*

27 (c) *Notwithstanding any provision of law to the contrary, notice of intent to be*

1 licensed by the local county fiscal court pursuant to KRS 68.178 in the
2 county where the waste disposal facility is located not more than sixty (60)
3 days after the draft permit has been issued.

- 4 (3) For a permit application to construct a solid waste landfill or a permit application to
5 expand, when the expansion results in substantial additional capacity, an existing
6 solid waste landfill, the cabinet shall, upon first receiving the applications require
7 immediately the general public notice provided for in subsections (4) and (5)(a) to
8 (d) of this section and upon determining that the application is administratively
9 complete and at the time technical review begins, give special notice of the
10 application to the county judge/executive or mayor of an urban-county government
11 and members of the fiscal court or urban-county council of the county or urban-
12 county government in which the landfill is or will be located. The special notice
13 shall be in the form of an executive summary of the application. Also, at the time
14 technical review begins, the cabinet shall again require the general public notice
15 provided for in subsections (4) and (5)(a) to (d) of this section with the additional
16 information that the executive summary shall be available from the office of the
17 county judge/executive or mayor of an urban-county government. Upon request by a
18 county judge/executive, mayor of an urban-county government, or a member of
19 fiscal court or an urban-county council, the cabinet shall explain the application in a
20 manner that is complete and expeditious. The cabinet shall notify the county
21 judge/executive or mayor of an urban-county government if there will not be a
22 public hearing on the applications. If there will be a public hearing, the cabinet shall
23 notify the county judge/executive or mayor of an urban-county government fifteen
24 (15) days prior to the hearing date.
- 25 (4) At a minimum, publication shall be made at least once by advertisement in a daily
26 or weekly newspaper of general circulation in the locality where the proposed waste
27 disposal facility is to be located.

- 1 (5) The contents of the public notice of an application shall include the following:
- 2 (a) The name and address of the applicant;
- 3 (b) A brief description of the activity for which a permit is being sought;
- 4 (c) A description of the proposed location including a description of the primary
- 5 access routes;
- 6 (d) The name and address of this cabinet; and
- 7 (e) The following statement: "Any person who may be aggrieved by the issuance
- 8 of a permit for this proposed waste disposal facility may file with the cabinet a
- 9 petition which sets forth the grounds of the objection and demand a hearing
- 10 pursuant to KRS 224.10-420(2)." Such hearing shall be held within the county
- 11 where the waste disposal facility is proposed.
- 12 (6) No permit to construct or expand, when the expansion results in substantial
- 13 additional capacity, a waste disposal facility shall be issued until at least thirty (30)
- 14 days have expired following publication of the application. The applicant for a
- 15 permit shall establish the date of publication by a verified affidavit from the
- 16 newspaper which publishes the advertisement. If a hearing is requested, no permit
- 17 to construct or expand, when the expansion results in substantial additional
- 18 capacity, a waste disposal facility shall be issued prior to a final order of the
- 19 secretary. In the case of hazardous waste incinerators, landfills, and other sites or
- 20 facilities for the land disposal of hazardous waste, no permit shall be approved or
- 21 issued prior to notification of the cabinet by the local unit of government of its
- 22 actions pursuant to subsection (7) of this section.
- 23 (7) The fiscal court of the county, urban-county government, or governing body of an
- 24 incorporated municipality wherein a hazardous waste incinerator, landfill, or other
- 25 site or facility for the land disposal of hazardous waste is proposed, shall conduct a
- 26 public hearing after public notice has been given in accordance with KRS Chapter
- 27 424 and shall vote to approve or disapprove the hazardous waste incinerator,

1 landfill, or other site or facility for the land disposal of hazardous waste within
2 thirty (30) days after the hearing described in subsections (5) and (6) of this section.
3 If no hearing is requested under the provisions of subsections (5) and (6) of this
4 section, the fiscal court, urban-county government, or governing body of an
5 incorporated municipality, shall conduct a public hearing and vote to approve or
6 disapprove the hazardous waste incinerator, landfill, or other site or facility for the
7 land disposal of hazardous waste within sixty (60) days following publication of the
8 application. In making a determination the fiscal court, urban-county government,
9 or governing body of an incorporated municipality shall consider the social and
10 economic impacts of the proposed hazardous waste incinerator, landfill, or other
11 site or facility for the land disposal of hazardous waste on the affected community,
12 including changes in property values, community perception, and other psychic
13 costs; costs and availability of public services, facilities, and improvements required
14 to support the incinerator, landfill, or other site or facility and protect public health,
15 safety, and the environment; and the relationship of the proposed hazardous waste
16 incinerator, landfill, or other site or facility for the land disposal of hazardous waste
17 to local planning and existing development. After a fiscal court, urban-county
18 government, or governing body of an incorporated municipality has voted to
19 approve or disapprove a hazardous waste incinerator, landfill, or other site or
20 facility for the land disposal of hazardous waste, the court, urban-county
21 government, or governing body of an incorporated municipality shall so notify the
22 cabinet in writing within ten (10) days. If a hazardous waste incinerator, landfill, or
23 other site or facility for the land disposal of hazardous waste is disapproved by the
24 court, urban-county government, or governing body of an incorporated
25 municipality, the reasons for disapproval shall be set forth clearly and concisely,
26 and recorded in the minutes. No permit shall be issued by the cabinet if a fiscal
27 court, urban-county government, or governing body of an incorporated municipality

1 disapproves the hazardous waste incinerator, landfill, or other site or facility for the
2 land disposal of hazardous waste in the manner prescribed herein.

3 (8) Upon first receiving a permit application to modify a solid waste landfill by
4 reducing or eliminating any term or condition pertaining to the liner system, the
5 cabinet shall require immediately the general public notice provided for in
6 subsections (4) and (5) of this section.

7 (9) The provisions of subsection (7) of this section shall not apply to:

8 (a) A proposed regional integrated waste treatment and disposal demonstration
9 facility and any on-site remedial action facility authorized pursuant to the
10 Comprehensive Environmental Response, Compensation, and Liability Act of
11 1980, as amended;

12 (b) An existing hazardous waste incinerator having all required permits or
13 authorizations as of March 4, 1988, but subsection (7) of this section shall
14 apply to any incinerator unit proposed for construction at an existing facility
15 for which construction commenced after March 4, 1988, and to proposed
16 hazardous waste incinerators for which a permit application has been filed but
17 has not been issued as of March 4, 1988; and

18 (c) On-site incineration of hazardous waste by the generator of the waste at the
19 site of the waste generation including waste generated at another facility
20 owned and operated by that generator or wholly-owned subsidiary.

21 (10) An application to construct a solid waste landfill shall consist of three (3) parts: a
22 notice of intent to apply for a solid waste permit; an administrative application; and
23 a technical application. Nothing in this section shall prohibit an applicant from
24 submitting more than one (1) part at one (1) time.

25 (a) An applicant proposing to construct a solid waste landfill shall submit to the
26 cabinet a notice of intent to apply for a solid waste permit. The notice of intent
27 shall contain information specified by the cabinet. The cabinet shall within

1 thirty (30) working days of receipt notify the applicant by certified mail, return
2 receipt requested, of the approval or disapproval of the applicant's notice of
3 intent. If the notice of intent is not complete, the cabinet shall state in writing
4 the information necessary to complete the notice of intent and the thirty (30)
5 day time period shall be tolled until such time as the applicant responds. The
6 cabinet shall notify the applicant of the approval or disapproval of the
7 applicant's notice of intent by certified mail, return receipt requested. If the
8 cabinet disapproves a notice of intent to apply for a solid waste permit, it shall
9 state in writing its reasons for the disapproval.

10 (b) The applicant shall submit an administrative application for a solid waste
11 landfill consistent with the notice of intent to apply for a solid waste permit.
12 The administrative application shall contain information specified by the
13 cabinet. The cabinet shall within sixty (60) working days of receipt notify the
14 applicant by certified mail, return receipt requested, of the approval or
15 disapproval of the applicant's administrative application. If the administrative
16 application is not complete, the cabinet shall state in writing the information
17 necessary to complete the administrative application and the sixty (60) day
18 time period shall be tolled until such time as the applicant responds. The
19 cabinet shall notify the applicant of the approval or disapproval of the
20 applicant's administrative application by certified mail, return receipt
21 requested. If the cabinet disapproves an administrative application to apply for
22 a solid waste permit, it shall state in writing its reasons for the disapproval.

23 (c) The applicant shall submit a technical application for a solid waste landfill
24 consistent with the administrative application. The technical application shall
25 contain information specified by the cabinet. The cabinet shall within ninety
26 (90) working days of receipt notify the applicant by certified mail, return
27 receipt requested, of the approval or disapproval of the applicant's technical

1 application. If the technical application is not complete, the cabinet shall state
2 in writing the information necessary to complete the technical application and
3 the ninety (90) day time period shall be tolled until such time as the applicant
4 responds. The cabinet shall notify the applicant of the approval or disapproval
5 of the applicant's technical application by certified mail, returned receipt
6 requested. If the cabinet disapproves a technical application to apply for a
7 solid waste permit, it shall state in writing its reasons for the disapproval.

8 (d) The permit review process, from the date of receipt of the notice of intent to
9 the date the cabinet issues a draft permit to construct a solid waste landfill, or
10 denies the application, shall not exceed three hundred sixty-five (365)
11 calendar days, unless the cabinet and applicant agree otherwise. Failure of the
12 cabinet to either issue a draft permit, or deny the application, within three
13 hundred sixty-five (365) calendar days shall be deemed an order appealable
14 pursuant to the provisions of KRS 224.10-420.

15 (e) If the cabinet does not request additional information or notify the applicant of
16 the disapproval of the notice of intent or administrative application for a solid
17 waste landfill within the time periods specified in this subsection, that portion
18 of the application under review shall be deemed complete and approved,
19 unless the cabinet and applicant agree otherwise.

20 (11) During construction of a liner system in a solid waste landfill, the cabinet shall
21 periodically conduct inspections to verify that construction is being made in
22 accordance with administrative regulations adopted by the cabinet and conditions
23 contained in the permit. Except as otherwise provided in this section, the permittee
24 shall not commence installation of any synthetic liner prior to a final inspection of
25 any soil liner. The cabinet shall respond to any request for an inspection within two
26 (2) working days of the request. If the cabinet fails to inspect within two (2)
27 working days, the permittee may proceed to the next phase of construction,

1 including installation of a synthetic liner, after submitting certification from a
2 registered professional engineer that construction has been completed in accordance
3 with applicable regulations and permit conditions. All inspections conducted for the
4 cabinet shall be performed by a professional engineer registered in Kentucky.

5 (12) An applicant who is issued a permit to construct or expand, when the expansion
6 results in substantial additional capacity, a solid waste landfill shall be issued a
7 permit to operate in the areas included under the construction permit without further
8 action when:

9 (a) The applicant submits a certification by an engineer registered in Kentucky
10 that the liner system and facilities are constructed in accordance with the
11 approved plans and specifications;

12 (b) A registered professional engineer for the cabinet inspects the facility and
13 verifies in writing within ten (10) days of the submission of the engineer
14 certification that the facility has been developed according to plans and that
15 necessary equipment is available to operate the facility; and

16 (c) The required financial responsibility for closure has been established using
17 any of the mechanisms required by KRS 224.40-650 in an amount determined
18 by an approved closure plan and cost estimate.

19 (13) A permit issued pursuant to this section shall carry with it the right of successive
20 renewal upon expiration with respect to areas within the boundaries of the existing
21 permit. The permittee may request renewal and such renewal shall be issued unless
22 it is established and written findings are made by the cabinet that:

23 (a) The terms and conditions of the existing permit, this chapter, or applicable
24 administrative regulations adopted by the cabinet are not being satisfactorily
25 met;

26 (b) The permittee has not provided evidence that any performance bond in effect
27 will continue in full force and effect for any renewal requested as well as any

- 1 additional bond the cabinet might require;
- 2 (c) Any additional revised or updated information required by the cabinet has not
- 3 been provided.
- 4 (14) Any permit renewal shall be for a term not to exceed the period of original permit.
- 5 Application for permit renewal shall be made at least one hundred eighty (180) days
- 6 prior to the expiration of the existing permit. At the time of filing an application for
- 7 permit renewal, the cabinet shall publish a notice in a daily or weekly newspaper of
- 8 the largest circulation in the county where the solid waste landfill is located. The
- 9 notice shall include the following:
 - 10 (a) The name and address of the applicant;
 - 11 (b) Identification of the permit for which the renewal is sought; and
 - 12 (c) A statement informing the public of a thirty (30) day period in which public
 - 13 comments may be submitted to the cabinet on whether the renewal of the
 - 14 permit should be approved pursuant to subsection (13) of this section.
- 15 (15) The cabinet shall not adopt any regulation or standard or allow any exemption
- 16 which applies to privately-owned solid waste management facilities more
- 17 stringently than it applies to publicly- or municipally-owned solid waste
- 18 management facilities.