

**224.40-315 Requirements for acceptance and approval of permits to construct or expand municipal solid waste disposal facility.**

- (1) No permit to construct or expand a municipal solid waste disposal facility shall be accepted for processing by the cabinet unless the application contains a determination from the governing body for the solid waste management area in which the facility is or will be located concerning the consistency of the application with the area solid waste management plan submitted under KRS 224.43-345(1)(a) to (d) and (l) until January 1, 1993, and the entire plan after January 1, 1993. The governing body for the area shall, within sixty (60) days of receipt of a written request, make the determination after public notice and opportunity for public comment and public hearing. For applications with a notice of intent filed prior to February 26, 1991, the cabinet shall continue to process the application but no permit shall be approved until the governing body for the solid waste management area in which the facility is or will be located has made a determination in accordance with this section.
- (2) No permit to construct or expand a municipal solid waste disposal facility shall be approved unless the applicant affirmatively demonstrates and the cabinet makes a written finding in the preliminary determination made pursuant to KRS 224.40-310(2) that the application conforms to and is consistent with all of the following:
  - (a) The capacity needs identified in the area solid waste management plan;
  - (b) Other elements of the area solid waste management plan, for permit applications filed after approval of those elements;
  - (c) The statewide solid waste reduction and management plan, for permit applications filed after completion of the plan; and
  - (d) Applicable zoning regulations adopted pursuant to KRS Chapter 100.
- (3) If the cabinet approves a permit to construct or expand a municipal solid waste management facility after the governing body for the area has determined the application to be inconsistent with the area solid waste management plan, as part of the written finding the cabinet shall state in detail the reasons why it did not accept the determination of the governing body for the area.
- (4) For the purposes of this section, the term municipal solid waste disposal facility includes, in addition to those facilities defined in KRS 224.01-010(15), any residual or contained landfill or incinerator disposing of industrial solid waste for a fee, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary.

**Effective:** February 26, 1991

**History:** Created 1991 (1st Extra. Sess.) Ky. Acts ch. 12, sec. 17, effective February 26, 1991.

**Formerly codified as** KRS 224.856.

**Legislative Research Commission Note** (10/4/91). The reference to KRS 224.40-310(1) (formerly KRS 224.855(1)) contained in subsection (2) of this statute has been changed by the Reviser of Statutes to KRS 224.40-310(2), pursuant to KRS 7.136. The text of the subsection (1) of the former 224.855 became (2) by 1991 (First Extra. Sess.) Ky. Acts ch. 12, sec. 37.