

**224.46-830 Certificate of environmental safety and public necessity -- Application -
- Factors considered -- Presentation of findings -- Appeals.**

- (1) No person shall construct or operate a regional integrated waste treatment and disposal demonstration facility without having first obtained from the board a certificate of environmental safety and public necessity for the siting of a facility. A person desiring a certificate of environmental safety and public necessity shall submit an application to the board only after the secretary has declared the intent to issue a construction permit for a regional integrated waste treatment and disposal demonstration facility. A construction permit for a regional integrated waste treatment and disposal demonstration facility pursuant to KRS 224.46-520 shall not be issued before the certificate of environmental safety and public necessity has been obtained. Applications shall be submitted and processed and a certificate shall be issued in accordance with procedures established under regulations promulgated by the board pursuant to KRS 224.46-825.
- (2) In issuing a certificate of environmental safety and public necessity, the board shall consider the following factors:
 - (a) The social and economic impacts of the proposed facility on the affected community including changes in property values, community perception and other psychic costs;
 - (b) Costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;
 - (c) The relationship of the proposed facility to local planning and existing development; the relationship of the proposed facility to any state-owned commercial low level nuclear waste disposal site, to major transportation arteries and to existing state primary and secondary roads, and to the hydrology of the area;
 - (d) The location of the proposed facility in relationship to the existing industries in the Commonwealth that generate large volumes of hazardous waste and to the areas projected to be areas of generation of large volumes of hazardous waste based on known potential industrial locations within the Commonwealth, so as to minimize the transportation distance between the major generators of hazardous waste and the proposed facility. The cabinet shall provide the board with data concerning said existing and projected areas of hazardous waste generation in the Commonwealth;
 - (e) The impact of the proposed facility on public safety and provisions made to minimize the risk to public health and safety;
 - (f) The consistency of the proposed facility with the state's hazardous waste management needs and any state hazardous waste management plan established under KRS 224.10-100(24);
 - (g) The policies, findings and purposes contained in KRS 224.43-810.
- (3) No certificate of environmental safety and public necessity shall be issued until the board has presented its findings at a meeting of the interim joint committee of the Legislative Research Commission with jurisdiction in the area of hazardous waste

management or if the General Assembly is in session, at a joint meeting of the House and Senate standing committees with jurisdiction in the area of hazardous waste management. The board shall notify the chairperson or chairpersons of said appropriate joint committees in writing of its intent to issue a certificate of environmental safety and public necessity. The chairperson or chairpersons shall call a meeting of said joint committee within thirty (30) days of the date of receipt of such notification by the board to hear the findings of the board.

- (4) All other provisions of state or local law or ordinance to the contrary notwithstanding, the issuance of a certificate of environmental safety and public necessity by the board and the issuance of applicable permits by the cabinet shall constitute the exclusive governmental approval or land use determination required for the siting, location or use of a regional integrated waste treatment and disposal demonstration facility. Any facility holding a certificate of environmental safety and public necessity shall be exempt from regulation under KRS 67.083 and KRS Chapter 100. The board and the cabinet may set standards for monitoring, operations, maintenance, record keeping, closure, post-closure, and liability coverage for the release or escape of waste into the environment that are more stringent than requirements for other hazardous waste facilities in order to evaluate the integration and operation of the technologies in use at the site, to assure proper maintenance, and to protect public health and the environment.
- (5) Appeals may be taken from the issuance or denial of certificates of environmental safety and public necessity. Such appeals shall be taken to the Franklin Circuit Court within thirty (30) days from the board's decision of issuance or denial. The party or parties affected by the issuance or denial of the certificate shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The board shall be named respondent, and service shall be had on the chairperson of the board. Summons shall issue upon the petition directing the board to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that such record is its entire original record or a true copy thereof, which shall be filed by the clerk of the Circuit Court and such record shall then become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal may, upon notice to the parties and upon proper showing and in the discretion of the court, be permitted to intervene. Upon hearing of the appeal, the findings of the board shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and decision of the board.

Effective: July 13, 1984

History: Amended 1984 Ky. Acts ch. 111, sec. 111, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 279, sec. 4, effective July 15, 1982.

Formerly codified as KRS 224.2207.