211.350 On-site sewage disposal systems -- Electronic database -- Reports -- Regulations -- Issuance of permits -- Site evaluations and approval of system designs by local health department or licensed professional engineer -- Notices of release for electrical wiring -- Fees -- Farmstead sewage disposal systems.

(1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems that have a surface discharge. The cabinet shall create and maintain an electronic database for Kentucky on-site wastewater systems information, which for each system shall include but not be limited to permit application date, permit application status, system installation date, system type, latitude and longitude of system, records of system plan and site evaluations, inspection dates, and the condition of system at time of inspection. The cabinet shall within twenty-four (24) months of July 12, 2006, annually report to the Governor and the Legislative Research Commission on the status of on-site systems statewide, including numbers and types of systems, summaries of conditions of systems, geographic distribution, observations of trends, and recommendation for future protection of public health and safety with on-site sewage disposal systems.

(2) The Department for Public Health shall maintain a current list of approved and experimental on-site wastewater treatment technologies and shall make this list available, and guidance and expertise, to local health departments, which will provide it to on-site wastewater professionals and permit applicants.

(3) Site evaluations shall be completed by the local health department within fifteen (15) working days of receipt of the application. If further information is required, the local health department shall promptly notify the applicant and shall have an additional ten (10) working days after that submittal of additional information in which to evaluate and issue or deny the permit. It shall be the responsibility of the property owner or owner's agent to protect and maintain the suitability of an approved site and to notify the local health department for a reinspection if site conditions substantively change. If a site previously determined to be suitable is thereafter declared unsuitable by the local health department, remedial measures shall be provided in writing to the property owner or owner's agent within fifteen (15) working days.

(4) After the conclusion of the site evaluation, the local health department shall, upon request, provide a list of all options that may be approved for the property, including new and emerging technologies. It shall be the responsibility of the owner of advanced treatment, alternative, experimental, or new and emerging technology systems to contract with a management entity, certified system operator, or trained system operator to develop and implement an approved operations and maintenance plan specific to, and appropriate for, the approved system.

(5) No person, firm, or corporation shall construct, install, alter, or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the local health department. In lieu of inspection and certification by the local health department a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky may perform site evaluations and

approve system designs for an on-site sewage disposal system for the person, firm, or corporation and apply for the permit from the local health department. The final systems installation inspection shall be performed by the local health department as soon as practicable. All applicable provisions of KRS Chapter 322 shall govern the licensed professional engineer. A professional engineer shall not perform site evaluations, approve system designs, or certify system installations of an on-site sewage disposal system on property owned by himself, an employee, or a partner of an engineering firm by which he is employed, or on property owned by the engineering firm. Nothing in this section shall be construed to deny a farmstead owner the right to obtain a permit. Except for farmstead owners on their own property, the construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.

(6) A local health department that issues a permit for an on-site sewage disposal system based on the site evaluation or system design of a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky shall not be held liable for any defects or failures of the on-site sewage disposal system due to the site evaluation or system design.

(7) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit if the cabinet or local health department through a duly authorized inspector, employee, agent, or licensed professional engineer in private practice licensed by the Commonwealth of Kentucky finds that the system was not constructed, installed, or altered in conformance with the permit and regulations issued by the cabinet.

(8) No certified electrical inspector acting under authority of KRS 227.491 shall issue the certificates of approval of temporary or permanent electrical wiring unless the inspector has in his or her possession a notice of release as described in paragraphs (a) and (b) of this subsection. The inspector shall record the number of the notice of release on the certificate of approval. The person requesting approval of electrical wiring shall be responsible for obtaining the release from the local health department and providing it to the electrical inspector. This requirement shall only apply to dwellings, mobile homes, manufactured housing, buildings, or other structures that are constructed or installed after July 15, 1998. This requirement shall not apply to structures that do not have sewage waste fixtures or to those that are connected to a sewage waste disposal system approved by the Energy and Environment Cabinet. Nothing in this section shall be construed to deny the continued use of any electrical service connected to wiring approved prior to July 15, 1998.

(a) An initial notice of release to allow temporary electrical power for construction shall be issued to the property owner or owner's agent by the local health department upon the application for a site evaluation.

(b) A final notice of release to allow for permanent electrical power shall be issued to the property owner or owner's agent by the local health department upon approval of an on-site sewage disposal plan.

(c) This section shall not apply to any county that has adopted the Uniform State Building Code and has and enforces on-site sewage disposal permitting.

(9) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of soils tests and other information as directed by the cabinet by regulation. If the site evaluation or approval of the system design is performed by a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky, the application shall be accompanied by a statement by the engineer that he has met the requirements of the regulations issued by the cabinet for site evaluation and system design. Any action to deny an application shall be subject to appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(10) The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.

(11) Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992, shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.

(12) Nothing in this section shall authorize or allow the cabinet to inspect or take enforcement action against on-site sewage disposal systems installed on farmsteads prior to July 15, 1992, or modifications to those systems unless the actions are determined in writing by the cabinet, upon a written, verified complaint, to be necessary to prevent imminent harm or damage to the safety, life, or health of a person. In this instance, the cabinet shall deliver to the landowner a copy of the written determination and the verified complaint prior to the commencement of the inspection or enforcement action.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 310, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 191, sec. 1, effective July 12, 2006. -- Amended 2001 Ky. Acts ch. 117, sec. 1, effective March 19, 2001. -- Amended 1998 Ky. Acts ch. 570, sec. 1, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 105, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 216, sec. 2, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 372, sec. 2, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 354, sec. 1, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 387, sec. 1, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 392, sec. 1, effective July 15, 1982.