

**65-3407c. Exemptions from permit requirement; rules and regulations; reports.** (a) The secretary may authorize persons to carry out the following activities without a solid waste permit issued pursuant to K.S.A. 65-3407, and amendments thereto:

- (1) Dispose of solid waste at a site where the waste has been accumulated or illegally dumped. Disposal of some or all such waste must be identified as an integral part of a site cleanup and closure plan submitted to the department by the person responsible for the site. No additional waste may be brought to the site following the department's approval of the site cleanup and closure plan.
  - (2) Perform temporary projects to remediate soils contaminated by organic constituents capable of being reduced in concentration by biodegradation processes or volatilization, or both. Soil to be treated may be generated on-site or off-site. A project operating plan and a site closure plan must be submitted to the department as part of the project approval process.
  - (3) Dispose of demolition waste resulting from demolition of an entire building or structure if such waste is disposed of at, adjacent to or near the site where the building or structure was located. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site. The disposal area must be covered with a minimum of two feet of soil and seeded, rocked or paved. The final grades for the disposal site must be compatible with and not detract from the appearance of adjacent properties. In addition to the factors listed in subsection (b), the secretary shall consider the following when evaluating requests for off-site disposal of demolition waste:
    - (A) Public safety concerns associated with the building or structure proposed to be demolished.
    - (B) Proposed plans to redevelop the building site which would be impacted by on-site disposal of debris.
    - (C) The disposal capacity of any nearby permitted landfill.
  - (4) Dispose of solid waste generated as a result of a transportation accident if such waste is disposed of on property adjacent to or near the accident site. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site. A closure plan must be submitted to the department as part of the authorization process.
  - (5) Dispose of whole unprocessed livestock carcasses on property at, adjacent or near where the animals died if: (A) Such animals died as a result of a natural disaster or their presence has created an emergency situation; and (B) proper procedures are followed to minimize threats to human health and the environment. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site.
  - (6) Dispose of solid waste resulting from natural disasters, such as storms, tornadoes, floods and fires, or other such emergencies, when a request for disposal is made by the local governmental authority having jurisdiction over the area. Authorization shall be granted by the department only when failure to act quickly could jeopardize human health or the environment. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site. The local governmental authority must agree to provide proper closure and postclosure maintenance of the disposal site as a condition of authorization.
  - (7) Store solid waste resulting from natural disasters, such as storms, tornadoes, floods and fires, or other such emergencies, at temporary waste transfer sites, when a request for storage is made by the local governmental authority having jurisdiction over the area. Authorization shall be granted by the department only when failure to act quickly could jeopardize human health or the environment. Prior to the department's authorization, written approval for the storage must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the storage site. The local governmental authority must agree to provide proper closure of the storage and transfer site as a condition of authorization.
  - (8)(A) Dispose of solid waste generated by drilling oil and gas wells by land-spreading in accordance with best management practices and maximum loading rates established in rules and regulations adopted by the secretary.
    - (B) For any area that annually receives more than 25 inches of precipitation, as determined by the department, any solid waste disposed of by land-spreading shall be incorporated into the soil. No land-spreading shall occur on any area where the water table is less than 10 feet or on any area where there is documented groundwater contamination as determined by the department.
      - (C)(i) Each separate land-spreading location shall require submission of an application to land-spread drilling waste, complete with all information required on the application form developed by the secretary. The contents of the application form shall include, but are not limited to, the land-spreading location, soil characteristics, waste characteristics, waste volumes, drilling mud additives, land-spreading method and post-land-spreading report. A separate land-spreading application and a post-land-spreading report shall be submitted for each location.
        - (ii) For the purposes of protecting the health, safety and property of the people of the state, and preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, a land-spreading application may not be approved for the same location unless a minimum of three years has passed since the previous land spreading occurred.
        - (iii) A fee of \$250 shall be paid to the state corporation commission with each drilling waste land-spreading application. The fee shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto, to be credited to the conservation fee fund.
      - (D) The secretary and the state corporation commission shall enter into a memorandum of agreement for the purposes of:
        - (i) Administering the land-spreading application and approval process;
        - (ii) monitoring compliance; and
        - (iii) establishing mechanisms for enforcement and remedial actions.
      - (E) The seller of any property where land-spreading has occurred within the previous three years pursuant to this paragraph shall disclose such land-spreading and the date thereof to any potential purchaser of such property prior to closing.
      - (F) On or before January 1, 2014, the secretary, in coordination with the state corporation commission, shall adopt rules and regulations governing land-spreading of waste generated by drilling oil and gas wells. In developing such rules and regulations, the secretary and the state corporation commission shall seek advice and comments from groundwater management districts and other groups or persons knowledgeable and experienced in areas related to this paragraph.
      - (G) On or before January 30 of each year, the state corporation commission, in coordination with the Kansas department of health and environment, shall present a report to the senate standing committees on natural resources, utilities and ways and means and to the house standing committees on agriculture and natural resources, energy and environment and appropriations. Such report shall include, but not be limited to, information concerning the implementation and status of land-spreading procedures and the costs associated with the regulation of land-spreading pursuant to this paragraph.
- (b) The secretary shall consider the following factors when determining eligibility for an exemption to the solid waste permitting requirements under this section:
- (1) Potential impacts to human health and the environment.
  - (2) Urgency to perform necessary work.
  - (3) Costs and impacts of alternative waste handling methods.
  - (4) Local land use restrictions.
  - (5) Financial resources of responsible parties.
  - (6) Technical feasibility of proposed project.
  - (7) Technical capabilities of persons performing proposed work.
- (c) The secretary may seek counsel from local government officials prior to exempting activities from solid waste permitting requirements under this section.

**History:** L. 1997, ch. 140, § 5; L. 1999, ch. 112, § 2; L. 2001, ch. 127, § 3; L. 2011, ch. 18, § 1; L. 2012, ch. 170, § 1; L. 2015, ch. 35, § 3; July 1.