

Kansas Administrative Regulations

Department of Health and Environment

Article 31.—Hazardous Waste Management Standards and Regulations

28-31-270a. Hazardous waste permits; petition to be granted an exception to the prohibition against underground burial of hazardous waste.

This regulation shall apply to each person that wants to apply for a permit for the underground burial of hazardous waste. For the purposes of this regulation, this person shall be called a "potential applicant."

(a) Exception petition. Before applying for a permit according to the requirements of K.A.R. 28-31-124 through 28-31-124e and 28-31-270, each potential applicant shall submit to the secretary a petition for an exception to the prohibition against the underground burial of hazardous waste, as specified in K.S.A. 65-3458 and amendments thereto.

(b) Contents of the exception petition. Each exception petition shall include the following items:

- (1) A complete chemical and physical analysis of the waste;
- (2) a list and description of all technologically feasible methods that could be considered to treat, store, or dispose of the waste;
- (3) for each method described in paragraph (b)(2), an economic analysis based upon a 30-year time period. The analysis shall determine the costs associated with treating, storing, disposing of, and monitoring the waste during this time period; and
- (4) a demonstration that underground burial is the only economically reasonable or technologically feasible methodology for the disposal of that specific hazardous waste.

(c) Review and public notice for exception petitions. The review and public notice shall be conducted according to the following requirements:

- (1) The potential applicant shall submit the exception petition to the department. If the exception petition is not complete, the potential applicant shall be notified of the specific deficiencies by the department.

(2) Upon receipt of a complete exception petition, a public notice shall be published by the department once each week for three consecutive weeks according to the following requirements:

(A) The notice shall be published in the following publications:

(i) The Kansas register; and

(ii) the official county newspaper of the county in which the proposed underground burial would occur or, if there is no official county newspaper, a newspaper published as provided in K.S.A. 64-101 and amendments thereto.

(B) The public notice shall include the following information:

(i) The name of the potential applicant;

(ii) a description of the specific waste;

(iii) a description of the proposed disposal methods;

(iv) a map indicating the location of the proposed underground burial;

(v) the address of the location where the exception petition and related documents can be reviewed;

(vi) the address of the location where copies of the exception petition and related documents can be obtained;

(vii) a description of the procedure by which the exception petition will be reviewed; and

(viii) the date and location of the public hearing.

(3) A copy of the public notice shall be transmitted by the department to the clerk of each city that is located within three miles of the proposed underground burial site.

(d) Public hearing and public comment period. The public hearing and public comment period shall be conducted according to the following requirements:

(1) The public hearing shall be conducted in the same county as that of the proposed underground burial facility.

(2) The public hearing shall be scheduled no earlier than 30 days after the date of the first public notice.

(3) A hearing officer shall be designated by the secretary.

(4) At the hearing, any person may submit oral comments, written comments, or data concerning the exception petition. Reasonable limits may be set by the hearing

officer on the time allowed for oral statements, and the submission of statements in writing may be required by the hearing officer.

(5) The public comment period shall end no earlier than the close of the public hearing. The hearing officer may extend the public comment period at the hearing.

(6) A recording or written transcript of the hearing shall be made available to the public by the department upon request.

(7) A report shall be submitted by the hearing officer to the secretary detailing all written and oral comments submitted during the public comment period. The hearing officer may also recommend findings and determinations.

(e) Approval or denial of the exception petition. The following procedures shall be followed by the secretary and the department:

(1) If the secretary determines, based on the criteria specified in K.S.A. 65-3458 and amendments thereto, that the exception petition should be approved, an order shall be issued by the secretary. The order may require conditions that the secretary deems necessary to protect public health and safety and the environment.

(2) If the secretary determines that there is not sufficient evidence to approve the exception petition, the potential applicant shall be notified by the department of the reasons why the exception petition is denied.

(3) A public notice of the final decision to approve or deny the exception petition shall be published by the department in the following publications:

(A) The Kansas register; and

(B) the official county newspaper of the county in which the proposed underground burial would occur or, if there is no official county newspaper, a newspaper published as provided in K.S.A. 64-101 and amendments thereto.

(4) A copy of the final decision shall be transmitted by the department to the clerk of each city that is located within three miles of the proposed underground burial site.

(Authorized by K.S.A. 65-3431; implementing K.S.A. 2010 Supp. 65-3458; effective April 29, 2011.)