Kansas Administrative Regulations

Department of Health and Environment

Article 29.—Solid Waste Management—Part 10. Financial Requirements.

28-29-2201. Insurance for solid waste disposal areas and processing facilities.

Except as provided in subsection (d), each owner or operator of a permitted solid waste disposal area or processing facility shall secure and maintain liability insurance for claims arising from injuries to other parties, including bodily injury and property damage. (a) Amount of liability coverage.

(1) The permit application shall be reviewed by the department to determine the amount of insurance coverage that the owner or operator shall secure and maintain for each disposal area or processing facility, based on the types of waste disposed and on the location, area, and geological characteristics of the site.

(2) Each owner or operator shall maintain insurance that shall provide coverage, including completed operations coverage, in the amount determined by the department but with commercial general liability limits not less than $1,000,000 for each occurrence and $1,000,000 for the annual aggregate.

(3) Each owner or operator shall maintain a policy that shall provide that the deductible amount be first paid by the insurer upon establishment of the legal liability of the insured, with full right of recovery from the insured. The deductible amount shall not exceed 2.5% of the policy limit for single occurrences.

(b) Insurance provider.

(1) Each owner or operator shall maintain a liability insurance policy that shall be issued by an insurance company authorized to do business in Kansas or through a licensed insurance agent operating under the authority of K.S.A. 40-246b, and amendments thereto.

(2) Each owner's or operator's liability insurance policy shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance

pursuant to K.S.A. 40-216 and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto.

(c) Proof of insurance.

(1) Each owner or operator shall furnish, at the following times, a certificate or memorandum of insurance to the department for the department's approval, showing specifically the coverage and limits together with the name of the insurance company and insurance agent:

(A) Before the department issues the permit and before any development work is started; and

(B) before each annual renewal of the permit during the active life of the area or facility.

(2) If any of the coverage set forth on the certificate or memorandum of insurance is reduced, canceled, terminated, or not renewed, the owner or operator or insurance company shall furnish the department with an appropriate notice of the action no fewer than 30 days before the effective date of the reduction, cancellation, termination, or nonrenewal.

(d) Governmental entities. Any owner or operator that is a governmental entity as defined in K.S.A. 75-6102, and amendments thereto, and is subject to provisions of the Kansas tort claims act, and amendments thereto, may provide to the department a statement or other evidence of its intention to fund liability judgements in the manner provided in K.S.A. 75-6113, and amendments thereto, in lieu of providing evidence of purchased insurance covering liability for accidental occurrences.

(e) Variances. Any owner or operator may request that the department evaluate the hazard or hazards involved and may request a variance, under K.A.R. 28-29-2, from the insurance method or specific insurance coverage amounts prescribed in this regulation if all the following conditions are met:

(1) The solid waste management activity is conducted solely on the premises where the wastes are generated.

(2) The owner or operator performs the waste management activity.

(3) The owner or operator is the owner of the property where the activity is conducted.

(4) The owner or operator is able to demonstrate other financial responsibility satisfactory to the department. This demonstration shall be made by adding the required liability coverage amount to the costs of closure and postclosure care assured by the corporate financial test method as specified in K.A.R. 28-29-2108, or the corporate guarantee method as specified in K.A.R. 28-29-2109.

(Authorized by K.S.A. 2001 Supp. 65-3406; implementing K.S.A. 2001 Supp. 65-3407; effective March 22, 2002.)

***** Authenticated Kansas Administrative Regulation *****