

Kansas Department of Health and Environment
Bureau of Waste Management Policy 03-01

related to

Construction at Solid Waste Processing Facilities
and Solid Waste Disposal Areas
Prior to Permit Issuance/Modification

January 10, 2003

Purpose & Applicability

This Policy is intended to clarify and publish the Bureau's position with regard to construction activities on new units at solid waste processing facilities and solid waste disposal areas (hereinafter collectively referred to as "solid waste facilities"). The Policy applies to solid waste facilities for which solid waste permits have not been issued or modified by the state to cover the proposed processing and/or disposal units. The Policy applies to new solid waste facilities as well as existing permitted solid waste facilities where the proposed units are outside of the existing permitted areas or otherwise outside the scope of the existing permit (i.e., where a permit modification is required). In this Policy, "unit" means a discrete part of solid waste facility where the processing or disposal function occurs, such as a transfer station building or a landfill phase. "Solid waste processing facility", "solid waste disposal area", and "person" shall have the meanings provided in K.S.A. 65-3402(c), (d) and (e), respectively.

Background

Kansas Statutes Annotated (K.S.A.) 65-3407(a) stipulates that "Except as otherwise provided by K.S.A. 2001 Supp. 65-3407c and amendments thereto, no person shall construct, alter or operate a solid waste processing facility or a solid waste disposal area of a solid waste management system, except for clean rubble disposal sites, without first obtaining a permit from the secretary."

A common scenario is for permit applicants (including applicants for permit modifications) to inquire if they may construct the processing or disposal units for which an application has been submitted. In keeping with the above cited rule the Bureau has directed parties without solid waste permits (or without properly modified permits) not to construct the solid waste processing or disposal units, but the Bureau has not attempted to prohibit general site construction that is not regulated by this Department. The Bureau has indicated that such general site construction is subject to local government approval, federal and state approvals (if required), and performed at the owner's risk.

Actions

Any construction of solid waste processing or disposal units that are not permitted at the date of occurrence of the activity shall be considered in non-compliance with K.S.A. 65-3407(a), and subject

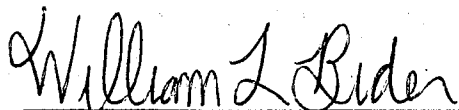
to appropriate enforcement action. Unless otherwise stipulated, K.S.A. 65-3407(a) shall be considered to apply to the following activities:

- Excavation of waste disposal units
- Excavation of borrow soil for waste disposal units
- Construction or preparation of subgrade, base, or liners for waste disposal units
- Excavation for waste processing building foundations
- Construction of waste processing buildings (or parts thereof)
- Mobilization or assembly of pre-manufactured waste processing equipment or buildings (or parts thereof)
- Construction, installation, mobilization, or stockpiling of appurtenances, equipment, or materials directly related to the waste processing or waste disposal units including but not limited to: leachate storage area secondary containment; leachate pumps; leachate pipes and manholes; leachate storage tanks; low permeability soil; geomembrane liner; geosynthetic clay liner; leachate drainage or liner protection media (sand, gravel, geotextile, etc.); signs specific to solid waste facilities; and scales

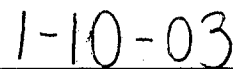
Unless otherwise stipulated, K.S.A. 65-3407(a) shall be considered not applicable to the following activities:

- Soil borings or other typical subsurface investigation
- Drilling and installation of groundwater monitoring wells
- Mobilization of equipment and portable construction trailers
- Clearing
- Grubbing
- Surface grading
- Constructing roads
- Constructing and operating drainage, storm water management, and erosion control facilities
- Constructing and operating utilities
- Installing fence
- Installing overall construction site control signage (e.g., "no trespassing", safety-related signs)
- Landscaping
- Quarrying

Activities shall be performed in accordance with local, state, and federal approvals (if required). All activities undertaken prior to permit issuance or permit modification shall be solely at the owner's risk, regardless of whether or not the activities meet with other governmental approvals. Activities not specifically addressed in this Policy shall be considered by the Bureau on a case-by-case basis.



William L. Bider
Director, Bureau of Waste Management



Date