

Kansas Department of Health and Environment
Bureau of Waste Management Policy 08-04

related to

**Public Review and Comment for Changes to Cover Frequency
and Gas Monitoring Frequency at Small Landfills**

effective December 11, 2008

revised June 18, 2009

Purpose

The purpose of this policy is to remedy the current conflict between Kansas and Federal regulations concerning the requirement for public review and comment when a small landfill requests alternative frequencies for placement of cover and monitoring of explosive gasses.

Background

In order to maintain Federal authorization for administering the solid waste program in Kansas, the State must have regulations and policies in place that are at least as stringent as the Federal regulations.

Federal regulations 40 CFR 258.21 and 258.23 allow the Secretary of the Kansas Department of Health and Environment (KDHE) to establish alternate frequencies for the application of “daily” cover and the monitoring of explosive gasses at small landfills. A small landfill is one that accepts, on a yearly average, less than 20 tons of municipal solid waste per day. One of the criteria that must be met before an alternate frequency can be established is a public review and comment period.

State regulation K.A.R. 28-29-108(s) contemplates the establishment of alternate frequencies for cover application and gas monitoring, but does not specifically require public review and comment. If the alternate frequencies are included as part of the permit application, the public review and comment would take place as part of the permit approval process. However, if an alternate frequency is requested after the permit is issued, there is no regulatory provision requiring public review and comment.

Action

Kansas intends to amend K.A.R. 28-29-108(s) to include a requirement for public review and comment. Until this regulatory change can be implemented, KDHE policy will require public review and comment each time a small landfill requests permit modification for a cover frequency other than that established in K.A.R. 28-29-108(b) or a gas monitoring frequency other than that established in K.A.R. 28-29-108(e).

This policy shall remain in effect until it is revoked or is rendered obsolete by the amendment of K.A.R. 28-29-108(s) to require public review and comment.



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June 18, 2009