

Kansas Department of Health and Environment  
**Bureau of Waste Management Policy 2011-P6**  
related to

**Variances to the Local Government Financial Test**  
effective July 22, 2011

**Purpose**

This policy describes the factors involved in granting a variance when a local government entity does not meet all of the criteria for using the local government financial test for financial assurance.

**Background**

K.A.R. 28-29-2101 and 28-29-2102 require each owner or operator of a solid waste disposal area to assure payment of closure and post closure costs and, if applicable, corrective action costs. Municipal solid waste landfills (MSWLFs) that are owned by a city or county commonly use the local government financial test to provide this financial assurance. K.A.R. 28-29-2110 describes the criteria local government must meet to pass the financial test, including four financial ratios that relate to revenue and expenses. If a local government fails the financial test, an alternate form of financial assurance must be provided, which would most likely be a purchased financial instrument.

The national economic situation has produced severe declines in both state and local revenues, and some local government entities have had difficulty meeting all of the financial test ratios. Purchasing a financial instrument would merely add to the local government's financial difficulties. K.A.R. 28-29-2 allows KDHE to grant a variance when "exceptional circumstances make strict conformity with these regulations impractical or not feasible."

**Action**

If a facility is using the local government financial test to provide financial assurance and the local government cannot meet the ratios of K.A.R. 28-29-2110(c)(2) and (c)(5)(C), the facility may request a variance pursuant to K.A.R. 28-29-2. KDHE will evaluate each facility's request individually, including the following factors:

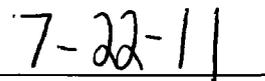
- Whether economic conditions create an exceptional circumstance that make strict conformity with K.A.R. 28-29-2110 not feasible for the local government entity;
- The potential impact of deviations from the financial ratios given in the regulation; and
- Options available to address the specific situation.

BWM will review this information on an annual basis for each facility that is granted a variance.

This policy shall remain in effect until it is revoked or is rendered obsolete by amendments to the solid waste laws or regulations.



William L. Bider  
Director, Bureau of Waste Management



Date