Kansas Department of Health and Environment
Bureau of Waste Management Policy 2014-P4

On-Site or Nearby Disposal of Building Demolition Waste Without Prior KDHE Approval

Revised

Purpose

This policy describes the compliance and enforcement procedures that will be followed by the Kansas Department of Health and Environment (KDHE) when a person has initiated on-site or nearby disposal of solid waste resulting from the demolition of a building or structure prior to receiving KDHE approval.

Background

KSA 65-3407c(a)(3) authorizes KDHE to approve of the disposal of building demolition waste on or near the site where the building was located. KDHE has established an application and review process to ensure that any approved Disposal Without a Permit (DWOP) satisfies the requirements set forth in state law and that a record of the disposal is recorded on the property deed.

There are times when KDHE becomes aware that a person has initiated the disposal of building demolition waste without following the required DWOP application procedure. In such situations, one of the following scenarios is typically identified by KDHE inspection staff:

- A person is in the process of burying waste generated from building demolition; or
- The building demolition waste has already been buried.

The disposal may have been "approvable" under the law; however, the responsible party did not follow the KDHE DWOP approval process.

Action

When on-site or nearby disposal of building demolition waste has begun or been completed without KDHE approval, the following will occur:

1. The KDHE inspector will issue a Notice of Non-Compliance (NONC) for the unlawful disposal activity, since no prior approval was obtained from KDHE, and direct the responsible party to cease and desist all disposal activities.

2. The inspector will obtain the answers to the following questions:

   Q1. Does the local government (city or county) prohibit such disposal?
   Q2. Is the demolition waste from more than one residence? (A residence can include the house plus associated outbuildings.)
   Q3. Were any buildings commercial or public use structures and therefore subject to asbestos regulations?
   Q4. Were any CFC-containing appliances, electronics, tires, drums, or other containers in the building when it was demolished?
   Q5. Were any potentially hazardous chemicals in the building when it was demolished?
   Q6. Is the disposal site in a location that is likely to impact public health, create nuisance conditions, or adversely impact the environment (e.g., floodplains, streams, creeks, rivers, lakes, etc.)?
   Q7. Has the responsible party ever applied for a DWOP approval or been cited for unlawful disposal of solid waste?
   Q8. Has any of the demolition waste been burned, other than in an accidental fire that was not started by the responsible party?

3. Based on the answers to the preceding questions, the inspector will determine the next course of action.

   A. If all of the questions above are answered "No":
      i. The inspector will discuss with the responsible party the options available (DWOP or disposal at a permitted solid waste landfill) and provide the responsible party with information on obtaining a DWOP approval, including the DWOP application requirements.
      ii. The NONC will include instructions that the responsible party must, within 7 calendar days, either:
         a) Contact BWM Solid Waste Permits Section (SWP) staff to begin the DWOP approval process; or
         b) Inform the inspector that the waste will be excavated and disposed of at a permitted landfill.
      iii. The inspector will provide case information/deadlines, and any updates, to SWP staff within one business day, unless the responsible party initially informed the inspector that the waste will be excavated and disposed of at a permitted solid waste landfill.
      iv. After the allotted 7 days, SWP staff will inform the inspector whether or not the responsible party has contacted them.
      v. If the responsible party does not contact either SWP staff or the inspector within the allotted 7 days, the inspector will contact the facility for at least one reminder, and if there is still no response, will then refer the case to the BWM Compliance, Assistance and Enforcement (C&E) Unit to assess all facts and make a final enforcement decision.

   B. If the answer to any question is "Yes":
      i. The inspector will obtain additional facts and details regarding the "Yes" answers.
      ii. If the answer to one or more of questions 2 through 7 is "Yes", the inspector will refer the case to the C&E Unit to assess all facts and make a final enforcement decision.

   In general, when any "Yes" answer is given (on questions 1 through 7) the waste must be removed for disposal at a permitted solid waste landfill; however, unusual circumstances could require or justify approval of DWOP.

4. If the waste presents an imminent threat to public health or the environment, the inspector may direct the responsible party to take appropriate interim measures (decided, to the extent possible, in consultation with the C&E Unit). For the purposes of this policy, an imminent threat includes, but is not limited to, a clear impact to the waters of the State of Kansas, a dangerous pit, or excessive dust.

This policy will remain in effect until it is revoked or until it is rendered obsolete by future amendments to solid waste law or regulations.

William L. Bider
Director, Bureau of Waste Management

3-18-15
Date

This policy supersedes the policy dated December 5, 2014.