

## Response to Comments

On August 6, 2013, the Kansas Department of Health and Environment (KDHE) held a public hearing in Room 530 of the Curtis State Office Building, Topeka, Kansas to consider the proposed adoption of new solid waste regulations K.A.R. 28-29-1600 through 28-29-1608 concerning land-spreading of drilling waste.

The comment period began with the publication of the Notice of Hearing on Proposed Administrative Regulations in the *Kansas Register* on June 6, 2013 and ended on August 9, 2013. The organizations and people that submitted formal comments during the public comment period are shown in the following table.

Organization	Name	Format	Date Received
Kansas Corporation Commission	Barry Metz	letter	6/20/2013
Joint Committee on Administrative Rules and Regulations	Raney L. Gilliland	letter	7/29/2013
Kansas Corporation Commission	John McCannon	verbal	8/6/2013

Copies of the comment letters can be found as an attachment to the Report of the Hearing Officer. The comments received and KDHE's responses follow:

### ▪ The Kansas Corporation Commission

**Comments:** The Kansas Corporation Commission is the agency charged with implementing and enforcing the proposed regulations. As such our staff was fully involved with KDHE in drafting the regulations.

In our opinion the proposed regulations ensure that land-spreading of drilling waste will be conducted in a sage manner, which will protect human health and the soil and water resources of the state.

Land-Spreading of drilling waste will provide oil and gas operators a safe alternative for disposal of drilling wastes in addition to burial in place and disposal at an approved landfill.

We support the adoption of the proposed land-spreading regulations.

**Response:** KDHE agrees with these comments.

**Action:** No change will be made to the regulations based on this comment.

- **The Joint Committee on Administrative Rules and Regulations** considered the proposed regulations at its meeting on July 22, 2013.

**Comments:** General. The Committee asks what happens if a land-spreading operation has been approved and not completed by July 1, 2015? The provisions of KSA 2012 Supp. 65-3407c(a)(8) authorizing an exemption under the Solid Waste Act expire on that date.

KAR 28-29-1601. This rule and regulation appears to involve action only by the Kansas Corporation Commission. The Committee requests clarification regarding the authority to extend the approval past July 1, 2015 without the issuance of a solid waste permit.

**Response:** In the 2015 legislative session, KDHE will propose amending KSA 65-3407c to remove paragraph (a)(8)(G), which states that the drilling waste provisions of KSA 65-3407c(a)(8) will expire on July 1, 2015. If for some reason the expiration language is not removed, KDHE and the KCC will inform anyone with an active approval that they may not land-spread after July 1, 2015.

KDHE is waiting until the 2015 legislative session to propose this change in case any other legislative changes are required based on KCC's and KDHE's experience implementing the land-spreading program.

**Action:** No change will be made to the regulations based on this comment.

#### ▪ **The Kansas Corporation Commission**

**Comments:** I am John McCannon. I am a litigation counsel for the Kansas Corporation Commission and I am here to make comments today on behalf of the Kansas Corporation Commission. Although these regulations are Kansas Department of Health and Environment regulations the KCC is the agency charged with administering the day-to-day implementation of the regulations and approving and overseeing the actual land-spreading operations themselves. The regulations give oil and gas operators another alternative to get rid of drilling waste in a safe manner other than taking it to an approved landfill or burial in place. Land-spreading can be a very economic way and safe way to dispose of drilling waste. We were involved in the drafting and getting the regulations together and we feel that the regulations cover just about every aspect of land-spreading and they adequately protect water and the environment and on behalf of the KCC I would recommend approval of the regulations. Thank you. I have filed a written statement.

**Response:** KDHE agrees with these comments.

**Action:** No change will be made to the regulations based on this comment.

#### ▪ **Other**

The following post-hearing changes were made to the regulation as a result of review by KDHE staff and subsequent review by the Department of Administration:

- In KAR 28-29-1602, all three occurrences of the term “grain crops” have been changed to “crops”; and
- In KAR 28-29-1602, a missing period was added after “K.A.R” in paragraph (e)(13)(F).