

Proposed

**STATE OF KANSAS
Department of Health and Environment**

Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment, Division of Environment, Bureau of Waste Management (BWM), will conduct a public hearing at 10 a.m. Tuesday, September 27, in the Prairie Conference Room, third floor of the Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider the adoption of proposed new solid waste regulation K.A.R. 28-29-1a concerning modifications to obsolete references and text. A summary of the proposed regulation and the estimated economic impact follows:

Summary of the Regulation:

K.A.R. 28-29-1a. In a recent rulemaking, many of the hazardous waste regulations were either modified or revoked and replaced with new regulations. Due to these changes, the references to the hazardous waste regulations that are found in the solid waste regulations are no longer accurate. The hazardous waste rulemaking also revised the classification of hazardous waste generators, so use of the old generators names in the solid waste regulations is no longer correct. In addition, some air and water regulations referenced in the solid waste regulations have been revoked. This proposed new regulation serves to correct obsolete terms and references that appear throughout the solid waste regulations until the individual regulations containing the terms and references can be amended.

Economic Impact:

The proposed regulation does not subject the regulated community to any additional requirements or costs. There is no increase in costs to the agency or to other governmental agencies or units.



The time period between the publication of this notice and September 30 serves as the required public comment period of at least 60 days for the purpose of receiving written public comments on the proposed regulatory action. All interested parties may submit written comments prior to 5 p.m. September 30 to Christine Mennicke, Kansas Department of Health and Environment, Bureau of Waste Management, 1000 SW Jackson, Suite 320, Topeka, 66612, by fax to (785) 296-8909, or by e-mail to cmennicke@kdheks.gov. During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed regulatory action as well as an opportunity to submit their written comments. In order to give all parties an opportunity to present their views, it may be necessary to require each participant to limit any oral presentation to five minutes.

Copies of the proposed regulation and the corresponding regulatory impact statement may be obtained on the BWM Web site at www.kdheks.gov/waste/ or by contacting Christine Mennicke at (785) 296-0724 or cmennicke@kdheks.gov. Questions pertaining to the proposed regulation should be directed to Christine Mennicke.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and the corresponding regulatory impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Christine Mennicke.

Robert Moser, MD

Secretary of Health and Environment



Proposed

28-29-1a. Modification of obsolete references and text. The following modifications shall be made to article 29:

(a) In K.A.R. 28-29-23(t), "K.A.R. 28-31-3" shall be replaced with "K.A.R. 28-31-261."

(b) In K.A.R. 28-29-23a(c)(8), the phrase "K.A.R. 28-31-3 and K.A.R. 28-29-4" shall be replaced with "K.A.R. 28-31-261."

(c) In K.A.R. 28-29-27(g)(3), "K.A.R. 28-31-9" shall be replaced with "K.A.R. 28-31-270."

(d) In K.A.R. 28-29-102, the following modifications shall be made:

(1) In paragraph (l)(2)(A), "K.A.R. 28-15-11" shall be replaced with "K.A.R. 28-16-28b(fff)."

(2) In paragraph (l)(2)(B), "K.A.R. 28-15-11" shall be replaced with "K.S.A. 65-162a, and amendments thereto."

(e) In K.A.R. 28-29-108, the following modifications shall be made:

(1) In subsection (a), the phrase "K.A.R. 28-31-3 and K.A.R. 28-31-4" shall be replaced with "K.A.R. 28-31-261."

(2) In paragraph (h)(1), "K.A.R. 28-19-47" shall be replaced with "K.A.R. 28-19-647."

(f) In K.A.R. 28-29-109(b)(6) and (7)(B)(i), "K.A.R. 28-31-3" shall be replaced with "K.A.R. 28-31-261."

(g) In K.A.R. 28-29-300(a)(5), "K.A.R. 28-31-4" shall be replaced with "K.A.R. 28-31-261."



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K.A.R. 28-29-1a, page 2

(h) In K.A.R. 28-29-1100, the following modifications shall be made:

(1) In paragraph (b)(1), "K.A.R. 28-31-4 (b)" shall be replaced with "K.A.R. 28-31-261."

(2) In paragraph (b)(3), the following modifications shall be made:

(A) " 'Small quantity generator' " shall be replaced with " 'Conditionally exempt small quantity generator.' "

(B) "K.A.R. 28-31-2" shall be replaced with "K.A.R. 28-31-260a."

(3) In paragraph (b)(4), the phrase "defined by the United States department of transportation and adopted by reference in K.A.R. 28-31-4 (e)" shall be replaced with "as listed in 49 CFR 173.2, as in effect on October 1, 2009, which is hereby adopted by reference."

(4) In subsection (c), each occurrence of the term "K.A.R. 28-31-16" shall be replaced with "K.A.R. 28-31-279 and K.A.R. 28-31-279a."

(5) In subsection (d), "[s]mall quantity generator" shall be replaced with "Conditionally exempt small quantity generator."

(6) In subsections (d) and (e), each occurrence of the term "SQG" shall be replaced with "CESQG."

(i) In K.A.R. 28-29-1102, the following modifications shall be made:

(1) Paragraphs (b)(2)(C), (b)(2)(C)(i), and (b)(2)(C)(ii) shall be replaced with the following text: "All HHW that is transferred for treatment, storage, or disposal shall be manifested as hazardous waste. All applicable hazardous waste codes for each waste shall be listed on the manifest, using all available information. HHW facilities shall not be required to submit samples for laboratory testing in order to determine hazardous waste codes."



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(2) In paragraph (b)(2)(D), "K.A.R. 28-31-14" shall be replaced with "K.A.R. 28-31-268."

(3) Paragraph (b)(2)(E) shall be replaced with the following text: "All HHW that is transferred for treatment, storage, or disposal shall be prepared for transportation off-site as hazardous waste."

(4) In paragraph (b)(2)(F)(i), "K.A.R. 28-31-15" shall be replaced with "K.A.R. 28-31-273."

(j) In K.A.R. 28-29-1103(c), the phrase "meeting the USDOT manufacturing and testing specifications for transportation of hazardous materials, as adopted by reference in K.A.R. 28-31-4(e)" shall be replaced with "that are compatible with the waste."

(k) In K.A.R. 28-29-1107(a)(2)(D), "small quantity generator" shall be replaced with "conditionally exempt small quantity generator." (Authorized by and implementing K.S.A. 65-3406; effective P-_____.)



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Kansas Department of Health and Environment
Regulatory Impact Statement
pursuant to K.S.A. 77-416

Proposed New Regulation K.A.R. 28-29-1a
July 2011

Executive Summary of Proposed New Regulation

This proposed new regulation serves to correct obsolete terms and references that appear throughout the solid waste regulations until the individual regulations containing the terms and references can be amended.

In a recent rulemaking, many of the hazardous waste regulations were either modified or revoked and replaced with new regulations. Due to these changes, the references to the hazardous waste regulations that are found in the solid waste regulations are no longer accurate. The hazardous waste rulemaking also revised the classification of hazardous waste generators, so use of the old generators names in the solid waste regulations is no longer correct. In addition, some air and water regulations referenced in the solid waste regulations have been revoked.

Environmental Benefit Statement

1) Need for proposed amendments and environmental benefit likely to accrue.

a. Need.

This regulation will allow proper interpretation of the solid waste regulations until the individual regulations that contain obsolete terms and references can be amended.

b. Environmental benefit.

This regulation provides no environmental benefit.

2) When applicable, a summary of the research or data indicating the level of risk to the public health or the environment being removed or controlled by the proposed regulations or amendments.

Not applicable.

3) If specific contaminants are to be controlled by the proposed regulation or amendment, a description indicating the level at which the contaminants are considered harmful according to current available research.

Not applicable.

Economic Impact Statement

1) Are the proposed regulations or amendments mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?

No.

2) Do the proposed regulations or amendments exceed the requirements of applicable federal law?

No.



3) Description of costs to agencies, to the general public and to persons who are affected by, or are subject to, the regulations:

a. Capital and annual costs of compliance with the proposed regulations or amendments and the persons who will bear those costs.

There will be no capital or annual costs to comply with this regulation.

b. Initial and annual costs of implementing and enforcing the proposed regulations or amendments, including the estimated amount of paperwork, and the state agencies, other governmental agencies or other persons or entities who will bear the costs.

There will be no initial or annual costs to implement or enforce this regulation.

c. Costs which would likely accrue if the proposed regulations or amendments are not adopted, the persons who will bear the costs and those who will be affected by the failure to adopt the regulations.

If this regulation is not adopted, the regulated community will have difficulty in properly interpreting and complying with the affected regulations.

d. A detailed statement of the data and methodology used in estimating the costs used in the statement.

Not applicable.

e. Description of any less costly or less intrusive methods that were considered by the agency and why such methods were rejected in favor of the proposed regulations.

There were no less intrusive or less costly methods available for consideration by KDHE to achieve the purposes of the proposed new regulation.

f. Consultation with League of Kansas Municipalities, Kansas Association of Counties, and Kansas Association of School Boards.

Municipalities, counties, and school boards will not incur any costs as a result of the regulatory changes, however a copy of this Regulatory Impact Statement will be sent to each of these organizations at the start of the public comment period.

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Kansas Association of School Boards
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