

## HOUSE BILL No. 2659

By Committee on Energy and Environment

2-12

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1 AN ACT concerning the secretary of health and environment; relating to  
2 the land spreading of oil and gas drilling waste; rules and regulations;  
3 amending K.S.A. 2013 Supp. 65-3407c and repealing the existing  
4 section.  
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2013 Supp. 65-3407c is hereby amended to read as  
8 follows: 65-3407c. (a) The secretary may authorize persons to carry out  
9 the following activities without a solid waste permit issued pursuant to  
10 K.S.A. 65-3407, and amendments thereto:

11 (1) Dispose of solid waste at a site where the waste has been  
12 accumulated or illegally dumped. Disposal of some or all such waste must  
13 be identified as an integral part of a site cleanup and closure plan  
14 submitted to the department by the person responsible for the site. No  
15 additional waste may be brought to the site following the department's  
16 approval of the site cleanup and closure plan.

17 (2) Perform temporary projects to remediate soils contaminated by  
18 organic constituents capable of being reduced in concentration by  
19 biodegradation processes or volatilization, or both. Soil to be treated may  
20 be generated on-site or off-site. A project operating plan and a site closure  
21 plan must be submitted to the department as part of the project approval  
22 process.

23 (3) Dispose of demolition waste resulting from demolition of an  
24 entire building or structure if such waste is disposed of at, adjacent to or  
25 near the site where the building or structure was located. Prior to the  
26 department's authorization, written approval for the disposal must be  
27 obtained from the landowner and the local governmental or zoning  
28 authority having jurisdiction over the disposal site. The disposal area must  
29 be covered with a minimum of two feet of soil and seeded, rocked or  
30 paved. The final grades for the disposal site must be compatible with and  
31 not detract from the appearance of adjacent properties. In addition to the  
32 factors listed in subsection (b), the secretary shall consider the following  
33 when evaluating requests for off-site disposal of demolition waste:

34 (A) Public safety concerns associated with the building or structure  
35 proposed to be demolished.

36 (B) Proposed plans to redevelop the building site which would be

1 impacted by on-site disposal of debris.

2 (C) The disposal capacity of any nearby permitted landfill.

3 (4) Dispose of solid waste generated as a result of a transportation  
4 accident if such waste is disposed of on property adjacent to or near the  
5 accident site. Prior to the department's authorization, written approval for  
6 the disposal must be obtained from the landowner and the local  
7 governmental or zoning authority having jurisdiction over the disposal  
8 site. A closure plan must be submitted to the department as part of the  
9 authorization process.

10 (5) Dispose of whole unprocessed livestock carcasses on property at,  
11 adjacent or near where the animals died if: (A) Such animals died as a  
12 result of a natural disaster or their presence has created an emergency  
13 situation; and (B) proper procedures are followed to minimize threats to  
14 human health and the environment. Prior to the department's authorization,  
15 written approval for the disposal must be obtained from the landowner and  
16 the local governmental or zoning authority having jurisdiction over the  
17 disposal site.

18 (6) Dispose of solid waste resulting from natural disasters, such as  
19 storms, tornadoes, floods and fires, or other such emergencies, when a  
20 request for disposal is made by the local governmental authority having  
21 jurisdiction over the area. Authorization shall be granted by the department  
22 only when failure to act quickly could jeopardize human health or the  
23 environment. Prior to the department's authorization, written approval for  
24 the disposal must be obtained from the landowner and the local  
25 governmental or zoning authority having jurisdiction over the disposal  
26 site. The local governmental authority must agree to provide proper  
27 closure and postclosure maintenance of the disposal site as a condition of  
28 authorization.

29 (7) Store solid waste resulting from natural disasters, such as storms,  
30 tornadoes, floods and fires, or other such emergencies, at temporary waste  
31 transfer sites, when a request for storage is made by the local  
32 governmental authority having jurisdiction over the area. Authorization  
33 shall be granted by the department only when failure to act quickly could  
34 jeopardize human health or the environment. Prior to the department's  
35 authorization, written approval for the storage must be obtained from the  
36 landowner and the local governmental or zoning authority having  
37 jurisdiction over the storage site. The local governmental authority must  
38 agree to provide proper closure of the storage and transfer site as a  
39 condition of authorization.

40 (8) (A) Dispose of solid waste generated by drilling oil and gas wells  
41 by land-spreading in accordance with best management practices and  
42 maximum loading rates developed by the secretary and published on the  
43 department website.

1 (B) For any area that annually receives more than 25 inches of  
2 precipitation, as determined by the department, any solid waste disposed  
3 of by land-spreading shall be incorporated into the soil. No land-spreading  
4 shall occur on any area where the water table is less than 10 feet or on any  
5 area where there is documented groundwater contamination as determined  
6 by the department.

7 (C) (i) Each separate land-spreading location shall require submission  
8 of an application to land-spread drilling waste, complete with all  
9 information required on the application form developed by the secretary.  
10 The contents of the application form shall include, but are not limited to,  
11 the land-spreading location, soil characteristics, waste characteristics,  
12 waste volumes, drilling mud additives, land-spreading method and post-  
13 land-spreading report. A separate land-spreading application and a post-  
14 land-spreading report shall be submitted for each location.

15 (ii) For the purposes of protecting the health, safety and property of  
16 the people of the state, and preventing surface and subsurface water  
17 pollution and soil pollution detrimental to public health or to the plant,  
18 animal and aquatic life of the state, a land-spreading application may not  
19 be approved for the same location unless a minimum of three years has  
20 passed since the previous land spreading occurred.

21 (iii) A fee of \$250 shall be paid to the state corporation commission  
22 with each drilling waste land-spreading application. The fee shall be  
23 remitted to the state treasurer in accordance with K.S.A. 75-4215, and  
24 amendments thereto, to be credited to the conservation fee fund.

25 (D) The secretary and the state corporation commission shall enter  
26 into a memorandum of agreement for the purposes of:

27 (i) Administering the land-spreading application and approval  
28 process;

29 (ii) monitoring compliance; and

30 (iii) establishing mechanisms for enforcement and remedial actions.

31 (E) On or before January 1, 2014, the secretary, in coordination with  
32 the state corporation commission, shall adopt rules and regulations  
33 governing land-spreading of waste generated by drilling oil and gas wells.  
34 In developing such rules and regulations, the secretary and the state  
35 corporation commission shall seek advice and comments from  
36 groundwater management districts and other groups or persons  
37 knowledgeable and experienced in areas related to this paragraph.

38 ~~(F) On or before January 30, 2013 and 2014, the state corporation~~  
39 ~~commission shall present a report to the senate standing committees on~~  
40 ~~natural resources and ways and means and to the house standing~~  
41 ~~committees on agriculture and natural resources and appropriations. Such~~  
42 ~~report shall include, but not be limited to, information concerning the~~  
43 ~~implementation and status of land-spreading procedures and the costs~~

1 ~~associated with the regulation of land spreading pursuant to this~~  
2 ~~paragraph.~~

3 ~~(G) The provisions of this paragraph shall expire on July 1, 2015.~~

4 (b) The secretary shall consider the following factors when  
5 determining eligibility for an exemption to the solid waste permitting  
6 requirements under this section:

7 (1) Potential impacts to human health and the environment.

8 (2) Urgency to perform necessary work.

9 (3) Costs and impacts of alternative waste handling methods.

10 (4) Local land use restrictions.

11 (5) Financial resources of responsible parties.

12 (6) Technical feasibility of proposed project.

13 (7) Technical capabilities of persons performing proposed work.

14 (c) The secretary may seek counsel from local government officials  
15 prior to exempting activities from solid waste permitting requirements  
16 under this section.

17 Sec. 2. K.S.A. 2013 Supp. 65-3407c is hereby repealed.

18 Sec. 3. This act shall take effect and be in force from and after its  
19 publication in the statute book.