

## HOUSE BILL No. 2064

By Committee on Agriculture and Natural Resources

Requested by Leo Henning on behalf of the Department of Health and  
Environment

1-22

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1 AN ACT concerning the department of health and environment; relating to  
2 solid waste disposal; removing the current solid waste permit exception  
3 for the disposal of solid waste generated by drilling oil and gas wells  
4 through the practice of land-spreading; amending K.S.A. 65-3407c and  
5 repealing the existing section.  
6

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

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

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

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

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

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

3 (B) Proposed plans to redevelop the building site which would be  
4 impacted by on-site disposal of debris.

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

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

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

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

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

43 ~~(8) (A) Dispose of solid waste generated by drilling oil and gas wells~~

1 by land-spreading in accordance with best management practices and  
2 maximum loading rates established in rules and regulations adopted by the  
3 secretary.

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

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

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

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

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

30 (i) Administering the land-spreading application and approval  
31 process;

32 (ii) monitoring compliance; and

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

34 (E) The seller of any property where land-spreading has occurred  
35 within the previous three years pursuant to this paragraph shall disclose  
36 such land-spreading and the date thereof to any potential purchaser of such  
37 property prior to closing.

38 (F) On or before January 1, 2014, the secretary, in coordination with  
39 the state corporation commission, shall adopt rules and regulations  
40 governing land-spreading of waste generated by drilling oil and gas wells.  
41 In developing such rules and regulations, the secretary and the state  
42 corporation commission shall seek advice and comments from  
43 groundwater management districts and other groups or persons

- 1 knowledgeable and experienced in areas related to this paragraph.
- 2 ~~(G) On or before January 30 of each year, the state corporation-~~
- 3 ~~commission, in coordination with the Kansas department of health and~~
- 4 ~~environment, shall present a report to the senate standing committees on~~
- 5 ~~natural resources, utilities and ways and means and to the house standing~~
- 6 ~~committees on agriculture and natural resources, energy and environment~~
- 7 ~~and appropriations. Such report shall include, but not be limited to,~~
- 8 ~~information concerning the implementation and status of land-spreading~~
- 9 ~~procedures and the costs associated with the regulation of land-spreading~~
- 10 ~~pursuant to this paragraph.~~
- 11 (b) The secretary shall consider the following factors when
- 12 determining eligibility for an exemption to the solid waste permitting
- 13 requirements under this section:
  - 14 (1) Potential impacts to human health and the environment.
  - 15 (2) Urgency to perform necessary work.
  - 16 (3) Costs and impacts of alternative waste handling methods.
  - 17 (4) Local land use restrictions.
  - 18 (5) Financial resources of responsible parties.
  - 19 (6) Technical feasibility of proposed project.
  - 20 (7) Technical capabilities of persons performing proposed work.
- 21 (c) The secretary may seek counsel from local government officials
- 22 prior to exempting activities from solid waste permitting requirements
- 23 under this section.
- 24 Sec. 2. K.S.A. 65-3407c is hereby repealed.
- 25 Sec. 3. This act shall take effect and be in force from and after its
- 26 publication in the statute book.