

2012 Kansas Statutes

65-3431. Duties and functions of secretary; standards; permits; fees. The secretary is authorized and directed to:

(a) Adopt such rules and regulations, standards and procedures relative to hazardous waste management as may be necessary to protect the public health and environment and enable the secretary to carry out the purposes and provisions of this act.

(b) Report to the legislature on further assistance needed to administer the hazardous waste management program.

(c) Administer the hazardous waste management program pursuant to provisions of this act.

(d) Cooperate with appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out the duties under this act.

(e) Develop a statewide hazardous waste management plan.

(f) Provide technical assistance, including the training of personnel, to industry, local units of government and the hazardous waste management industry to meet the requirements of this act.

(g) Initiate, conduct and support research, demonstration projects and investigations and coordinate all state agency research programs with applicable federal programs pertaining to hazardous waste management.

(h) Establish policies for effective hazardous waste management.

(i) Authorize issuance of such permits and orders, conduct inspections and collect samples or require information and copy records or data as may be necessary to implement the provisions of this act and the rules and regulations and standards adopted pursuant to this act.

(j) Conduct and contract for research and investigations in the overall area of hazardous waste storage, collection, transportation, treatment, recovery and disposal including, but not limited to, new and novel procedures.

(k) Adopt rules and regulations establishing criteria for identifying the characteristics of hazardous waste and for listing hazardous waste. The secretary shall prepare and keep current a listing of hazardous wastes and set of characteristics based on the rules and regulations adopted pursuant to this subsection. The listing shall identify, but need not be inclusive of, all the hazardous waste subject to the provisions of this act. The criteria for identification and listing shall be consistent with the criteria for identification and listing adopted by the administrator of the United States environmental protection agency under the authority vested in the administrator by the Resource Conservation and Recovery Act of 1976 (42 USC 6921) as amended by the Solid Waste Disposal Act of 1980 (P.L. 94-482, October 21, 1980), and as amended by the Hazardous and Solid Waste Act of 1984 (P.L. 98-616, November 8, 1984).

(l) Adopt rules and regulations establishing: (1) Appropriate measures for monitoring generators, transporters and facilities during operation, during closure and after closure of such facilities to insure compliance with the rules and regulations adopted under this act and any permit issued under this act; (2) procedures to suspend operation of such generators, transporters or facilities as may be required to protect the public health and safety or the environment; and (3) appropriate measures to insure that any use of a hazardous waste facility after closure will not endanger the public health or safety or the environment.

(m) Adopt rules and regulations establishing standards for hazardous waste generators including, but not limited to, notification of hazardous waste generation, reporting, recordkeeping, labeling, containerization, source separation, storage, manifests, monitoring, sampling and analysis and manner of filing notifications, reports and manifests.

(n) Adopt rules and regulations prescribing the form of the manifest and requiring such manifest to accompany any hazardous waste collected, transported, treated, recovered or disposed of, and prescribing the contents of the manifest which shall include, but not be limited to, the quantity and composition of the hazardous waste, generator, transporter, destination, facility and the manner of signing and filing of the manifest and for the maintenance of records.

(o) Adopt rules and regulations establishing standards for routes used for transporting hazardous waste within the state with the concurrence of the state corporation commission. Such standards shall be consistent with those of the United States department of transportation and the state corporation commission, with respect to transportation of hazardous materials. Motor vehicles which are used for the transportation of hazardous waste in accordance with this act shall be exempt from the requirements of K.S.A. 66-1,108 *et seq.*, and amendments thereto, and any rules and regulations adopted thereunder pertaining to routes which shall be under the jurisdiction of the secretary as provided in this act including any rules and regulations adopted thereunder. Otherwise such motor vehicles shall be subject to the requirements of K.S.A. 66-1,108 *et seq.*, and amendments thereto, and any rules and regulations adopted thereunder.

(p) Adopt rules and regulations establishing standards for transporters of hazardous waste including, but not limited to, notification of hazardous waste transport, manifests, labeling, recordkeeping and the filing of reports.

(q) Adopt rules and regulations establishing standards and procedures to protect public health and the environment from any release of hazardous waste into the environment and to insure the prompt correction of any such release and damage resulting therefrom by the person transporting, handling or managing such hazardous waste.

(r) Adopt rules and regulations requiring that, for such period of time as the secretary shall specify, any assignment, sale, conveyance or transfer of all or any part of the real property upon which a hazardous waste facility is or has been located shall be subject to such terms and conditions as to the use of such property as the secretary shall specify to protect human health and the environment.

(s) Adopt rules and regulations establishing a permit system which includes standards for hazardous waste facilities and procedures for implementation of a permit system for the construction, alteration or operation of a hazardous waste facility including, but not limited to, content of applications, evidence of financial responsibility, existing hydrogeological characteristics, environmental assessment, training of personnel, maintenance of operations, qualifications of ownership, continuity of operation, public notification and participation and compliance with those standards established pursuant to subsection (t).

(t) Adopt rules and regulations establishing minimum standards for the design, location, construction, alteration, operation, termination, closing and long-term care of hazardous waste facilities, including, but not limited to, notification of hazardous waste treatment, storage or disposal, general facility standards, contingency plans, emergency procedures, manifest system, recordkeeping, inspections, monitoring, reporting, closure and postclosure plans and financial requirements. The operator of the facility shall be responsible for long-term care of

the facility for 30 years after closure of the facility except that the secretary may modify the long-term care requirements for any facility when all hazardous waste is removed from the facility at closure. The secretary may extend the long-term care responsibility of any operator of a facility as the secretary may deem necessary to protect the public health and safety or the environment. Any person acquiring rights of possession or operation of any hazardous waste facility permitted by the secretary at any time after the facility has begun to accept waste and prior to the end of the required period of long-term care shall be subject to all of the requirements, terms and conditions of the permit for the facility including all requirements relating to long-term care of the facility. The sale or acquisition of a hazardous waste facility during the long-term care period shall be subject to the assignment of long-term care responsibilities as determined by the secretary.

(u) Adopt rules and regulations establishing a schedule of annual fees to be paid to the secretary by: (1) Persons owning or operating hazardous waste facilities; (2) hazardous waste transporters; or (3) hazardous waste generators producing or bringing into existence hazardous waste in Kansas. The fees shall be for monitoring facilities both during and after operation, for monitoring generators of hazardous waste in Kansas and for monitoring the transportation of hazardous wastes. The fees shall be sufficient to reimburse the cost of the state in performing these monitoring responsibilities. The fee established under this subsection for each hazardous waste facility shall not exceed \$50,000 annually. In setting fees, the secretary may exempt those fees which would be payable by generators for hazardous waste which is treated to recover substantial amounts of either energy or materials from hazardous wastes. The secretary shall remit any moneys collected from such fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the hazardous waste management fund created by K.S.A. 65-3491, and amendments thereto.

(v) (1) Adopt rules and regulations establishing a schedule of fees to be paid to the secretary by applicants for permits to construct, modify or operate a hazardous waste facility. The fees established under this subsection shall not exceed \$175,000 for each application submitted. These fees shall be based upon resources required to review the application, the type of facility, quantity of waste processed, type of waste processed, degree of hazard and potential impact upon human health and environment.

(2) The secretary shall remit any money collected pursuant to this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the hazardous waste management fund created by K.S.A. 65-3491, and amendments thereto.

(w) (1) Adopt rules and regulations establishing a schedule of fees to be paid to the secretary by off-site hazardous waste facilities at which hazardous waste is treated and off-site hazardous waste facilities at which hazardous waste is disposed and will remain after closure. In establishing fees, the secretary shall give consideration to the degree of hazard, energy content, quantity of waste, costs of treatment or disposal and estimated future receipts. Fees shall be in an amount not to exceed \$.01 per pound of hazardous waste treated, or burned for energy or material recovery. In no event shall the fees established under this subsection exceed the following annual calendar year caps: \$60,000 for a facility which burns hazardous waste for energy or material recovery only; \$200,000 for a facility which burns hazardous waste for treatment or disposal only. Facilities which burn hazardous waste for: (A) Energy or material recovery; and (B) treatment or disposal shall be subject to a total facility cap of \$200,000, which includes a separate cap of \$60,000 for hazardous wastes which are burned for energy or material recovery. The secretary shall establish a differential fee schedule for hazardous wastes based upon waste characteristics which is consistently applied to all facilities which burn hazardous wastes. In all other cases, fees shall be in an amount not to exceed \$.05 per pound of hazardous waste disposed.

(2) The secretary shall remit any money collected pursuant to this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the hazardous waste management fund created by K.S.A. 65-3491, and amendments thereto, except that 25% of any such deposit shall be deposited to the credit of the hazardous waste collection fund created by K.S.A. 65-3460, and amendments thereto.

(x) Encourage, coordinate or participate in one or more waste exchange clearing houses for the purpose of promoting reuse and recycling of industrial wastes.

(y) Adopt rules and regulations establishing the criteria to specify when a change of principal owners or management of a hazardous waste facility occurs and under what circumstances and procedures a new permit shall be required to be issued to the transferees of a facility which was permitted to the transferor.

(z) Adopt rules and regulations concerning the generation, transportation, storage, blending, marketing, burning and types of hazardous waste for which any method, technique or process to recover energy will be considered hazardous waste treatment. Such rules and regulations should specify a minimum heat value of the waste so as to ensure that a legitimate energy recovery will occur and should consider other characteristics of the waste which are appropriate to ensure that such method, technique or process for energy recovery will not pose a threat to the public health or environment.

History: L. 1981, ch. 251, § 2; L. 1983, ch. 286, § 5; L. 1984, ch. 240, § 2; L. 1985, ch. 218, § 2; L. 1986, ch. 240, § 1; L. 1987, ch. 295, § 6; L. 1989, ch. 48, § 87; L. 1991, ch. 198, § 1; L. 1992, ch. 272, § 7; L. 1993, ch. 274, § 5; L. 1996, ch. 253, § 16; L. 1996, ch. 253, § 17; L. 1999, ch. 44, § 1; L. 2000, ch. 103, § 7; L. 2001, ch. 5, § 248; July 1.