

Kansas Administrative Regulations

Department of Health and Environment

Article 73.—Environmental Use Controls Program

28-73-4. Long-term care agreements for category 3 property.

(a) As provided in K.S.A. 65-1,226, and amendments thereto, a long-term care agreement between the secretary and the applicant shall be required for each category 3 property.

(b) Each long-term care agreement for a category 3 property entered into by an applicant and the secretary as provided by K.S.A. 65-1,226, and amendments thereto, shall include a provision for a funding requirement in an amount that will reimburse the department for all direct and indirect costs incurred by the department in implementing and administering the environmental use control agreement and performing long-term care at the property, including costs for the following departmental activities conducted for the purpose of inspecting, monitoring, investigating, and evaluating environmental use controls and remedial progress at the property:

(1) Reviewing documents related to the site, including the following:

(A) Inspection, monitoring, and progress reports;

(B) operation and maintenance records;

(C) reports related to spills of contaminants at the site;

(D) reports related to permits issued for the eligible property; and

(E) pertinent historical documents;

(2) monitoring and inspecting remediation activities and monitoring wells, protective structures, remedial systems, and any other features directly related to or associated with an environmental use control on the eligible property;

(3) searching and reviewing records and files related to the eligible property, including historical files, county tax records, county property records, and zoning records;

(4) collecting environmental samples, including quality assurance and quality control samples; and

(5) performing laboratory analyses on environmental samples collected to monitor and evaluate remedial progress at the eligible property.

(c) (1) If the applicant is required to provide financial assurance for a category 3 property, the long-term care agreement shall identify the initial amount of financial assurance required and one or more of the financial assurance methods established by the secretary in accordance with K.A.R. 28-73-5, which the applicant shall maintain for the period of time the long-term care agreement is in effect.

(2) The long-term care agreement shall state that, as the amount of the financial assurance or the financial assurance method is revised in subsequent years as provided in K.A.R. 28-73-5, the most recent revised amount or method approved by the secretary shall be deemed to be incorporated into the long-term care agreement and shall supersede any prior amount or method.

(d) The long-term care agreement shall clearly define the requirements that apply to the secretary and the applicant and their respective responsibilities.

(Authorized by K.S.A. 2004 Supp. 65-1,232; implementing K.S.A. 2004 Supp. 65-1,224, 65-1,226, and 65-1,230; effective April 7, 2006.)

***** Authenticated Kansas Administrative Regulation *****