

Kansas Administrative Regulations

Department of Health and Environment

Article 68.—Kansas Drycleaner Environmental Response Act

28-68-5. Application for ranking of contaminated dry-cleaning site.

Any contaminated dry-cleaning site may be ranked by the department to establish priorities for fund expenditures based on information the department has at the department's disposal, information contained in an application to the department, or both. If an applicant desires to have a contaminated dry-cleaning site ranked that has not been ranked previously, the applicant shall submit to the department a completed, signed application on a form provided by the department.

(a) If the applicant is not the real property owner, the applicant shall provide proof that the real property owner has been notified of the application.

(b) If the property is leased, and the applicant is not the lessee, the applicant shall provide proof that the lessee has been notified of the application.

(c) The application shall contain the following information, as well as all other known information concerning environmental contamination at the contaminated dry-cleaning site;

(1) The applicant shall provide an analysis of one ground water sample which demonstrates that a release has occurred. The sample shall be taken as follows:

(A) from a water supply well;

(B) from a monitoring well;

(C) using hydraulic push probe sampling equipment; or

(D) using some other sample collection device approved by the department.

Departmental approval for use of an alternate sampling device shall be granted upon demonstration that the alternate sampling device collects samples of quality equal to or greater than samples collected as described in paragraphs (A) through (C).

(E) The sample shall be collected and analyzed not more than one year prior to the day the application is received by the department. The analysis shall be performed by a laboratory which is certified for such analyses by the department. If the application is to

accompany a request for reimbursement, as set forth in K.A.R. 28-68-7, the sample analysis indicating the highest level of contamination ever recorded at the site shall be submitted.

(F) With prior approval from the department, an analysis of a representative soil sample may be substituted for the groundwater sample analysis.

(2) Each applicant shall submit, if available, one of the following:

(A) a geologic well log or logs from at least one monitoring or supply well; or

(B) hydrogeologic information from the contaminated dry-cleaning site where the ground water sample or soil sample was collected.

(3) The applicant shall state the distance to the nearest known private domestic well, public water supply well, surface water, or other receptor.

(4) The applicant shall provide a description of the present use of the ground water in the area where the sample was collected.

(d) Any applicant may request that the department provide a written exemption from submittal of certain information set forth in subsection (c). An exemption may be granted by the department if the information:

(1) is not necessary for ranking; or

(2) is readily available to the department.

(e) The information set forth in subsection (c) shall be used by the department to rank the contaminated dry-cleaning site in relation to other contaminated dry-cleaning sites to aid in establishing priorities for fund expenditures as set forth in K.A.R. 28-68-8.

(f) The reasonable, direct costs incurred by the applicant to collect the information required by subsection (c) only shall be credited to payment of the deductible set forth in K.A.R. 28-68-6. On request by the department, the applicant shall furnish invoices or other supporting information containing sufficient detail for the department to determine that the costs were incurred to collect the information and that the costs were paid.

(g) The completed application shall be reviewed and a determination of eligibility shall be made by the department.

(h) A written notice of the determination of eligibility shall be sent by the department to the applicant as soon as a determination is made. If the site is determined ineligible

for the fund, the notice of the determination shall state the reason or reasons for ineligibility.

(Authorized by and implementing K.S.A. 1995 Supp. 65-34,143; effective Jan. 3, 1997.)

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