

Kansas Administrative Regulations

Department of Health and Environment

Article 74.—Risk Management Program

28-74-4. Risk management plan agreement.

(a) Pursuant to K.S.A. 2015 Supp. 65-34,176 and amendments thereto, a risk management plan agreement shall be required for each site.

(b) Upon approval of a risk management plan, a risk management plan agreement shall be issued by the secretary and shall include the following information:

(1) A description of site conditions and specification of any monitoring, inspection, or maintenance requirements proposed by the participant and approved by the secretary;

(2) a description of the area within the site to which the risk management plan applies;

(3) authorization for agents of the department to have access to the site as necessary to monitor and inspect all risk management plan activities, as required by the act;

(4) identification of the one-time payment to reimburse the department for all direct and indirect costs incurred by the department in implementing and administering the risk management plan required by K.S.A. 2015 Supp. 65-34,176, and amendments thereto;

(5) a description of the specific terms and conditions that shall be applied as part of the risk management plan for the area within the site to which the risk management plan applies; and

(6) a description of the enforcement provisions authorized by K.S.A. 2015 Supp. 65-34,176, and amendments thereto.

(c) The risk management plan agreement shall be effective with the signature of the secretary.

(d) Any participant may request a transfer of the obligations specified in the risk management plan agreement to another person. The following requirements for each transfer shall be met:

(1) Each participant requesting a transfer shall provide written notice to the department indicating that both the participant and the transferee agree to the transfer.

(2) A review of site conditions and consideration of the transferee's capacity to implement the risk management plan shall be factors in the secretary's determination of approving the transfer.

(3) The automatic transfer of risk management plan agreement obligations shall be prohibited. The participant and the transferee shall comply with the risk management plan agreement until an amendment conveying the responsibilities from the participant to the transferee has been executed.

(e) A long-term care agreement as required by K.S.A. 65-1,226, and amendments thereto, may replace a risk management plan agreement for a site where environmental use controls are established in conjunction with a risk management plan if the long-term care agreement meets the requirements of the risk management plan.

(f) If site conditions change or new information that could warrant additional action becomes available, a risk management plan agreement shall not absolve any party of environmental liability associated with the site under state and federal law.

(Authorized by and implementing K.S.A. 2015 Supp. 65-34,176; effective May 13, 2016.)

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