

Kansas Administrative Regulations

Department of Health and Environment

Article 73.—Environmental Use Controls Program

28-73-3. Environmental use control agreements.

(a) If the secretary approves an application for environmental use controls, an environmental use control agreement for the eligible property shall be issued by the secretary in a standardized format that contains all of the following components, as applicable to that eligible property:

(1) A description of the control, restriction, prohibition, or limitation that constitutes each of the environmental use controls proposed by the applicant in the application package and approved by the secretary;

(2) a legal description of the eligible property;

(3) authorization for the department and the department's contractors to have access to the eligible property as required by the act;

(4) a statement of the funding requirements established by the secretary as specified in the act or, for category 3 property, a reference incorporating the long-term care agreement required by K.S.A. 65-1,226 and amendments thereto and K.A.R. 28-73-4;

(5) for category 3 property, a statement indicating whether financial assurance is required, as specified in K.S.A. 65-1,224, and amendments thereto, K.A.R. 28-73-1, and K.A.R. 28-73-5;

(6) the length of time during which the environmental use control agreement is to be in effect;

(7) a description of any monitoring, inspection, or maintenance requirements;

(8) a description of the specific terms and conditions that are to be applied as part of the environmental use controls for the eligible property;

(9) a description of the enforcement provisions that are authorized by K.S.A. 65-1,229, and amendments thereto;

(10) a list of any local, state, or federal government restrictions, prohibitions, or zoning requirements that pertain to the eligible property;

(11) an acknowledgment of the environmental use control agreement that is to be endorsed with the seal of the register of deeds in and for the county where the eligible property is located, pursuant to K.S.A. 19-1206, and amendments thereto; and

(12) a description of any other requirements established for the eligible property by the secretary to ensure the protection of public health and safety and the environment.

(b) Upon approval of an application, the following documents shall be sent to the applicant by the secretary:

(1) A letter approving the application; and

(2) the environmental use control agreement with the notarized signature of the secretary.

(c) In order for the environmental use control agreement to be effective, upon receipt of the agreement the applicant shall return to the secretary the environmental use control agreement with the notarized signature of the applicant and the seal of the register of deeds indicating that the agreement has been recorded as required by K.S.A. 65-1,225, and amendments thereto. The applicant shall submit with the agreement any payment necessary to fulfill the funding requirements established by the environmental use control agreement.

(d) The recorded copy of the environmental use control agreement shall be tracked by the department as specified in K.S.A. 65-1,230, and amendments thereto.

(Authorized by K.S.A. 2004 Supp. 65-1,232; implementing K.S.A. 2004 Supp. 65-1,224, 65-1,225, 65-1,226, and 65-1,228; effective April 7, 2006.)

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