

401 KAR 102:020. General requirements for a Property Management Plan for Brownfield Redevelopment Program.

RELATES TO: KRS 224.1-400, 224.1-405, 224.1-415, 224.80, 40 C.F.R. Part 312

STATUTORY AUTHORITY: KRS 224.1-415

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.1-415 authorizes the Brownfield Redevelopment Program and authorizes the cabinet to administer the program. This administrative regulation establishes the general requirements for the property management plan required so that the cabinet may concur in writing that the future use of the property is in accordance with KRS 224.1-415(2)(b) as part of the Brownfield Redevelopment Program.

Section 1. Property Management Plan. A property management plan shall include:

- (1) A description of the historical and current use of the property;
- (2) A description of the intended future use of the property;
- (3) All available information related to:
 - (a) Known releases of petroleum governed by KRS 224.1-405;
 - (b) Known releases of a hazardous substance, or pollutant or contaminant governed by KRS 224.1-400; and
 - (c) The potential presence or perceived presence of a release of a hazardous substance, or pollutant or contaminant or petroleum that occurred prior to acquisition of the property;
- (4) A map that identifies the location of all known hazardous substances, or pollutants or contaminants, or petroleum on the property;
- (5) A map that identifies known locations on the property where usage, processes, or activities, that occurred prior to acquisition, indicate the potential presence or perceived presence of a release of a hazardous substance, or pollutant or contaminant or petroleum;
- (6) A description of all known engineering controls, institutional controls, site characterization activities or remedial actions, if any, currently in place or proposed, by the applicant or a responsible party, to enable the cabinet to make a determination in accordance with KRS 224.1-415(2)(b).
 - (a) A schedule to submit to the cabinet, information and documents related to the implementation of engineering controls, institutional controls, site characterization activities or remedial actions, implemented by the applicant subsequent to the cabinet's issuance of a Notification of Concurrence; and
 - (b) A schedule to periodically inspect and verify to the cabinet that engineering controls and institutional controls, remain in place and are effective;
- (7) A description of the methods employed and data collected to ensure that the property use shall not:
 - (a) Interfere with the remediation of the release as required by the cabinet;
 - (b) Increase the impacts of the release on human health and the environment; or
 - (c) Expose the public and environment to unacceptable harm; and
- (8) A certification statement from a professional engineer or professional geologist, licensed in accordance with KRS Chapter 322 or KRS Chapter 322A, that the property management plan meets the requirements of subsection (7) of this section.

Section 2. Amendments to the Property Management Plan. (1) The applicant shall submit an amended property management plan if the methods employed in the currently approved property management plan are inadequate to ensure that the use of the property shall not:

- (a) Interfere with the remediation of the release as required by the cabinet;

- (b) Increase the impacts of the release on human health and the environment; or
- (c) Expose the public and environment to unacceptable harm.
- (2) The amended property management plan shall include:
 - (a) A description of any change to the intended future use of the property;
 - (b) All available information related to releases not previously identified in the currently approved property management plan and all approved amended property management plans;
 - (c) A revised schedule to periodically inspect and verify to the cabinet that engineering controls and institutional controls, remain in place and are effective;
 - (d) A description of the methods employed and data collected to ensure that the property use shall not:
 - 1. Interfere with the remediation of the release as required by the cabinet;
 - 2. Increase the impacts of the release on human health and the environment; or
 - 3. Expose the public and environment to unacceptable harm; and
 - (e) A certification statement from a professional engineer or professional geologist, licensed in accordance with KRS Chapter 322 or KRS Chapter 322A, that the property management plan meets the requirements of Section 1(7) of this administrative regulation.
- (3) Within sixty (60) days of receipt of an amended property management plan, the cabinet shall:
 - (a) Issue a letter of approval if the cabinet determines the amended property management plan meets the requirements of Section 1(7) of this administrative regulation; or
 - (b) Notify the applicant of required changes for approval.
- (4) The applicant shall implement the amended property management plan upon approval of the cabinet. Implementation of the amended property management plan shall not occur until cabinet approval is obtained. (40 Ky.R. 907; 1304; eff. 2-3-2014; Crt eff. 8-13-2018.)