

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT



INFORMATION SHEET ***For***



THE VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT PROGRAM

WHAT IS A VOLUNTARY CLEANUP PROGRAM?

When a property is contaminated with hazardous substances and other contaminants, there are liabilities associated with the cleanup of the site under Federal Superfund and State laws. These laws apply to any property, regardless of who caused the contamination and when it occurred. Because of these liabilities, commercial and industrial properties with contamination or properties located adjacent to contaminated properties are commonly unattractive to developers, buyers, cities or lenders (“stakeholders”). The existing contamination at these properties tends to discourage the development, redevelopment or enhancement of an area since stakeholders prefer to purchase and develop pristine property without the liabilities associated with environmental contamination. Many states across the nation have developed Voluntary Cleanup Programs to promote the voluntary cleanup and redevelopment of abandoned and idle contaminated properties. These programs have allowed voluntary parties, such as site owners or developers, to approach the state and initiate cleanups on their own. Voluntary Cleanup Programs are cooperative in nature, and provide voluntary parties incentives, rather than enforcement orders to accomplish cleanups. Incentives include some assurance of relief from future state liability at a property, streamlined investigation and cleanup procedures, more expedient and less costly cleanup alternatives and more realistic cleanup goals.

DOES THE STATE OF KANSAS HAVE A VOLUNTARY CLEANUP PROGRAM?

Yes, the Voluntary Cleanup and Property Redevelopment Act was enacted by the Kansas Legislature on July 1, 1997 (Kansas Statutes Annotated 65-34,161 et seq.). The new law and program will be administered by the Kansas Department of Health and Environment (KDHE). Under the new Voluntary Cleanup and Property Redevelopment Program, stakeholders performing a cleanup of contaminated properties that meet the criteria in the law (low to medium priority sites with minimal risk) can receive a “no further action” determination from KDHE to provide some protection from potential liabilities. Adjacent property owners who did not contribute to the contamination may also receive protection from KDHE through such determinations. In addition, KDHE has entered into a Memorandum of Agreement (MOA) with the Environmental Protection Agency (EPA) to provide voluntary parties with assurance of relief from future federal liability at a voluntary party’s property. A streamlined process will be utilized to address these sites in an expeditious manner to encourage the redevelopment or enhancement of such properties. Clearly defined cleanup standards that identify the extent of cleanup will be provided to the voluntary party early in the program so the time and costs involved in cleanup can be determined. The Voluntary Cleanup and Property Redevelopment Program is truly voluntary and is designed for industry and businesses to properly address contamination on their property through a private/state partnership. There are no additional burdens or requirements placed on voluntary parties that participate in the program.

WHO CAN PARTICIPATE IN THE KDHE VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT PROGRAM?

Any person or entity who is capable of obtaining access to a contaminated property for the purposes of conducting investigative or remedial activities, or both, is eligible to apply for the Voluntary Cleanup and Property Redevelopment Program. Applicants can include potential developers, prospective purchasers, owners, operators, municipalities or other units of government. By participating in the program, you can expedite the time of cleanup, with less cost of clean up. If you are responsible for the contamination (as a current landowner you may

be potentially responsible) you can volunteer to cleanup the site to preclude the KDHE or the EPA from directing you to perform cleanup under an applicable state or federal law.

WHY SHOULD I VOLUNTEER TO CLEAN UP A PROPERTY UNDER THIS PROGRAM?

There are tremendous benefits in participating in a voluntary cleanup. As a purchaser or developer of a contaminated property, you will see considerable savings in terms of costs and time for clean up. Purchasing existing sites where infrastructure is already developed is usually much cheaper than buying and developing a new piece of land with minimal infrastructure. In addition, KDHE can provide protection to the voluntary party through “no further action” determinations. Taking a proactive approach to contamination could eliminate costly litigation should KDHE, EPA or neighboring property owners take action relative to the contaminated piece of property.

WHAT TYPE OF PROPERTIES ARE ELIGIBLE TO PARTICIPATE IN THE VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT PROGRAM?

The determination of eligibility will be made on a property-by-property basis. Typically, properties that meet the following criteria are eligible to participate in the program.

- Properties not listed or proposed for listing on the National Priority List of Federal Superfund Sites;
- Properties which are not the subject of current environmental enforcement actions or orders;
- Properties which are not the subject of a Resource, Conservation and Recovery Act corrective action;
- Properties with oil and gas activities which are not regulated by the Kansas Corporation Commission;
- Properties which do not pose an immediate and significant risk of harm to human health or the environment; and
- Properties which do not pose a significant threat to public or private drinking water wells.

WHAT IS THE FIRST STEP?

The first step is to request an application from KDHE. The completed application, a non-refundable \$200 application fee and any assessment reports are submitted to KDHE by the voluntary party for a determination of eligibility. If a property is determined to be eligible, a non-binding voluntary agreement is signed by the voluntary party and KDHE. The voluntary agreement outlines the expectations of both parties. An initial deposit, not-to-exceed \$ 5,000, is required to cover KDHE’s oversight costs. Oversight costs include the cost of labor associated with the review of documents, studies and test results, the collection of split samples, laboratory analyses, travel, per diem and other associated costs. The purpose of oversight by KDHE is to assure that the work is consistent with and satisfies the requirements of the law.

CONTACTS:

For further information concerning the Voluntary Cleanup and Property Redevelopment Program please contact or write to:

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