

**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
BUREAU OF ENVIRONMENTAL REMEDIATION
REMEDIAL SECTION**

**ANNUAL PROGRAM REPORT
FOR THE
ENVIRONMENTAL USE CONTROL PROGRAM**
Pursuant to the requirements of K.S.A. 65-1,221 et seq.

ACTIVITIES FROM JANUARY 1, 2011 TO DECEMBER 31, 2011

BACKGROUND: On April 21, 2003, Governor Sebelius signed House Bill (HB) 2247. This bill established the use of Environmental Use Controls (EUCs) for property with environmental contamination above unrestricted use standards. The Kansas Department of Health and Environment (KDHE) worked with a stakeholder committee in the fall of 2002 in developing the bill. This committee consisted of the following stakeholders: Kansas Association of Counties, Sierra Club, Kansas Agricultural Remediation Board, Westar Energy, Kansas Agribusiness Retailers Association, Department of the Army, Kansas Natural Resource Council, Kansas Farm Bureau, Kansas Livestock Association, City of Wichita, Petroleum Marketers Association, Kansas Petroleum Council and KDHE. The bill was introduced during the 2003 Legislature and was subsequently passed by the House 111 to 12 and the Senate 34 to 0. HB 2247 became law on July 1, 2003. New sections of HB 2247 are now referred to as Kansas Statutes Annotated (K.S.A.) 65-1,221 through 65-1,235.

Subsequently, as required by K.S.A. 65-1,232, the secretary of KDHE adopted rules and regulations to implement the provisions of the act. KDHE presented draft regulations (Kansas Administrative Regulations (K.A.R.) 28-73-1 through K.A.R. 28-73-7), including the financial assurance guidance document entitled *Procedures for Demonstrating Financial Assurance at Property with Environmental Use Controls* to the Legislative Joint Committee on Administrative Rules and Regulations on January 9, 2006. In response to comments received, K.A.R. 28-73-7 was modified slightly and resubmitted to the Department of Administration and the Attorney General's office for approval. The revised regulations were published in the March 23, 2006 edition of the Kansas Register and went into effect on April 7, 2006.

EUCs, commonly known as institutional controls, are to be used in conjunction with environmental cleanup to restrict or prohibit human activities and property use in such a way as to prevent or reduce exposures to contamination. Some examples of environmental use controls include preventing disturbance of soil caps, covers, berms, etc.; prohibiting the drilling of water wells for domestic or other purposes; restricting and providing notification during utility excavation of an area; restricting use of a property for residential purposes; and, restricting access to the property.

The law provides a mechanism for a landowner with contaminated property to choose to restrict certain activities to mitigate the risk posed to human health and the environment from contamination at their property. The landowner would make application to KDHE for such restrictions. The EUC Program is managed within the KDHE's Bureau of Environmental Remediation (BER).

REPORT SUMMARY: This annual report describes the activities accomplished by the EUC Program for the period of January 1, 2011 to December 31, 2011. In addition, as required by K.S.A. 65-1,233, KDHE will publish an annual summary in the Kansas Register of the number of approved EUC Agreements (EUCAs).

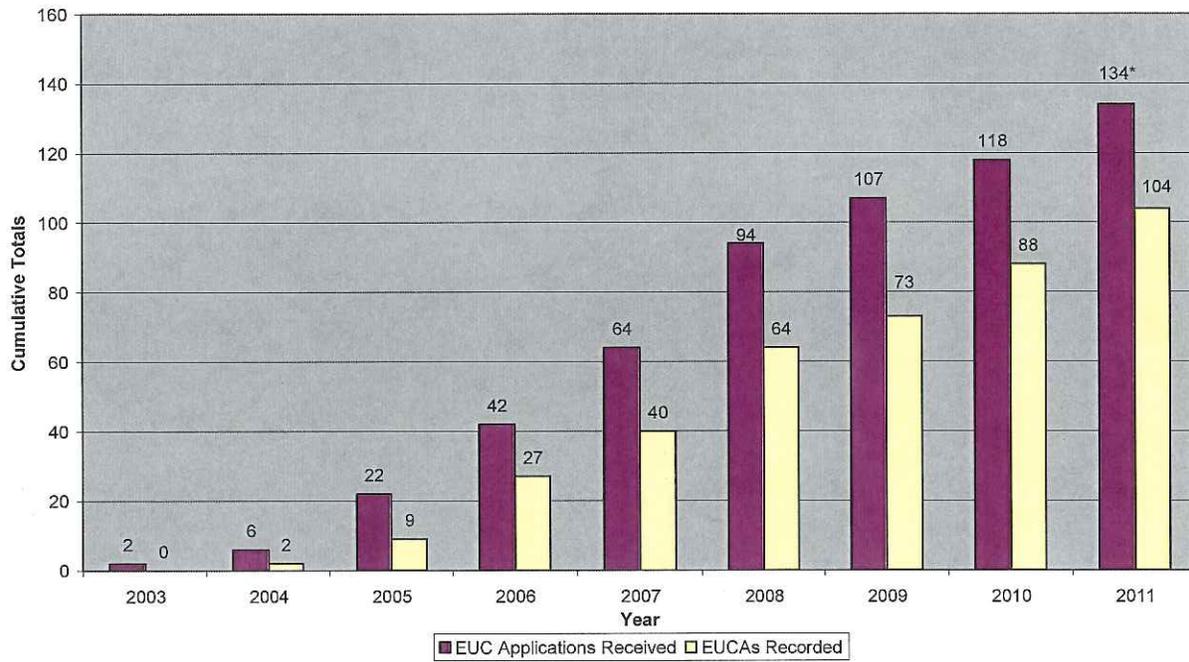
The KDHE EUC program received 15 applications from landowners of environmentally contaminated property in 2011. Landowners formally recorded EUCAs, issued by KDHE, with the appropriate county Register of Deeds on 14 properties in 2011 (including applications received prior to 2011). As of December 7, 2011, a total of 134 applications to participate in the EUC program were received by KDHE with a total of 104 EUCAs officially recorded since inception of the program. In general, the agency anticipates a steady influx of EUC applications in 2012 as awareness of program benefit and utility is maintained.

The EUC program also conducts EUC inspections and tracks Land Use Restrictions to identify and resolve issues at sites with recorded EUC Agreements. In 2011, a total of 36 inspections were conducted by KDHE staff at properties with Land Use Restrictions in place. A total of 19 written inspection reports were received from owners or their authorized representative in 2011. KDHE has developed tracking tables and reports and collates this information on the Identified Sites List which is available on the public website.

<u>TERM</u>	<u>NUMBER OF SIGNED APPLICATIONS RECEIVED</u>	<u>NUMBER OF EUCAs RECORDED</u>
* July 1, 2003, to December 31, 2003	2	0
January 1, 2004, to December 31, 2004	5	2
January 1, 2005, to December 31, 2005	16	7
January 1, 2006, to December 31, 2006	20	18
January 1, 2007, to December 31, 2007	22	13
January 1, 2008, to December 31, 2008	30	24
January 1, 2009, to December 31, 2009	13	9
January 1, 2010, to December 31, 2010	11	17
<u>January 1, 2011, to December 31, 2011</u>	<u>15</u> (as of December 7, 2011)	<u>14</u>
Total	134	104

* Inception of the program

EUC Applications Received and EUCAs Recorded Since Inception of EUC Program



* EUCAs have not been finalized for all applications as some are ineligible or in process.