



**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BUREAU OF ENVIRONMENTAL REMEDIATION**



ENVIRONMENTAL USE CONTROL PROGRAM

--APPLICATION TO PARTICIPATE--

INTRODUCTION

Effective July 1, 2003, the State of Kansas promulgated a statute establishing **Environmental Use Controls**, H.B. 2247 to address environmental contamination in a cost effective manner that is protective of human health and environment. This application has been developed by the Kansas Department of Health and Environment (KDHE) to facilitate the implementation of H.B. 2247. This application package (application form and instructions) provides the mechanism for land owners and other eligible parties to apply for Environmental Use Controls.

APPLICATION AND INFORMATION SUBMITTED

The completed application is a request by the applicant to voluntarily restrict the use of a property in order to protect the public health and environment from known contamination which exceeds department standards for unrestricted residential use. The application and information on file at KDHE will be used by KDHE to determine if a property is eligible for the establishment of Environmental Use Controls in accordance with H.B. 2247.

WHERE TO SEND APPLICATION

Send completed application and supporting information to:

**Environmental Use Control Program
Remedial Section
Kansas Department of Health and Environment
Bureau of Environmental Remediation
1000 SW Jackson, Suite 410
Topeka, Kansas 66612-1367**

KDHE REVIEW AND RESPONSE TO AN APPLICATION

KDHE has **60 days** from receipt of a complete application to determine if a property is eligible for the establishment of Environmental Use Controls. Incomplete applications may be returned to the applicant with specific identification of incomplete items. The applicant has 30 days to submit a revised and/or completed application to KDHE. If the application is complete upon resubmittal, KDHE will finish its review and provide the eligibility determination to the applicant. **It is very important to ensure an application is completed in accordance with the instructions the first time!**

QUESTIONS ON ELIGIBILITY AND/OR COMPLETING THE APPLICATION

Call Rick Bean, Section Chief, Remedial Section at (785)296-1675 or Frank Arnwine, Unit Chief, Voluntary Cleanup Program at (785) 296-1665.

APPLICATION INSTRUCTIONS

SECTION I. PROPERTY INFORMATION

Name of Site	Provide the name of the site. The site name is the name that has been used to identify the site in previous correspondence, agreements, orders, etc.
Property Location	Provide a street address of the property. Also include the legal description of the property and/or a tax lot number, if one exists, which identifies the property. Tax lot numbers may be obtained from the city or county tax appraiser's office.
Legal Survey	A legal survey or accurate legal description of the property or portion of the property subject to the application must be included in the application package. If the exact portion of the property to be restricted cannot be determined at the time of application a more general site map indicating the approximate location of the applicable portion of the property should be included in the application package, with the understanding that a legal survey identifying the exact portion of the property will be required prior to implementing the Environmental Use Control.
Current Use	Describe the current activities at the property. For example: <i>"no current activities"</i> or <i>"parking lot"</i> .
Future Use	If known, describe the intended future use of the property.
Surrounding Land Use	Check all boxes describing the land use in the area surrounding and immediately adjacent to the property. If the adjacent properties have several different land uses a map may be necessary to document the surrounding land usage.
Current Zoning	Provide the current zoning of the property.
Zoning Responsibility	Identify the local government entity responsible for zoning the property.

SECTION II. APPLICANT INFORMATION

Applicant	The individual, trust, firm, joint stock company, public or private cooperation, limited liability company or partnership, government, or other organization that is applying for an Environmental Use Control.
Applicant Contact	Provide the name of the person making application for an Environmental Use Control. The applicant contact can be the owner of the property or the owner's legal representative. The applicant contact can also be a representative with legal authority for a trust, firm, joint stock company, public or private cooperation, limited liability company or partnership, government, or other organization that is applying for an Environmental Use Control.
Contact Information	Provide the applicant contact's mailing address and direct telephone number; include a fax number and email address if available.
Applicant's Interest	If the applicant is not the owner of the property, the applicant must provide notarized authorization from the property owner to apply for the Environmental Use Control. The authorization should include the owner's name and contact information, the applicant's name and contact information, a brief description of the proposed Environmental Use Control, and the owner's signature verifying their authorization of the proposed Environmental Use Control to be placed on their property.
Owner Information	As stated on the application form, if the applicant is not the owner of the property, identify the property owner and provide the requested information.

APPLICATION INSTRUCTIONS

SECTION III. NATURE OF POTENTIAL CONTAMINATION

Identified Contaminants	Check the appropriate boxes for all categories of contaminants that have been identified at the property. Check the "Other" box and list any other contaminants identified on the property for which descriptors are not provided.
Media Contaminated	Indicate the contaminated environmental media at the property.
Reference Documents	Reference any relevant reports, decision documents, studies, plans, etc. in order to provide the department with a list of documents that fully describes the environmental status of the property.
KDHE Cleanup Program	Check the appropriate box to indicate the KDHE program through which the contamination on the property is being addressed.
Description of Remedy	Provide a brief description of the proposed remedy for the contamination at the property. The description should include any planned, ongoing, or completed remediation at the property and how the Environmental Use Control will be used as part of the remedy.
Contaminant Levels	Check the appropriate box to indicate if contaminant levels on the property have been or will be left at levels above residential limits for unrestricted use at the completion of the proposed remedy. An Environmental Use Control may not be necessary if the property will be remediated to levels that allow unrestricted residential use.

SECTION IV. REQUESTED RESTRICTIONS/REQUIREMENTS/FREQUENCY

Requested Restrictions	Check the appropriate boxes for all restrictions that the applicant is volunteering to place on the property. Check the "Other" box and list any other requested restrictions for which descriptors are not provided. The restrictions applied to the property will be specified in a property specific Environmental Use Control Agreement after the application has been approved by the department.
Post-Remediation Requirements	Check the appropriate boxes for all the requirements necessary to maintain the requested restrictions. Check the "Other" box and list any other applicable requirements for which descriptors are not provided.
Monitoring/Inspection Frequency	Check the appropriate box for the anticipated monitoring or inspection frequency necessary for ensuring the requested restrictions are being maintained. Check the "Other" box and list any other anticipated monitoring or inspection frequencies if that frequency is not provided.
Inspection Access	Verify that KDHE will be allowed access to the property for the purpose of inspecting the property to ensure the requested restrictions are being maintained. The application will be approved only if KDHE is allowed access to the property.
Funding	In accordance with H.B. 2247, the applicant shall provide funding to the department for inspecting, administrating, and tracking the Environmental Use Control for the property. The amount of funding required is based upon the property size, contaminant mobility/toxicity, maintenance requirements, and inspection frequency and will be determined by the department after review and approval of the application. After approval of the application, KDHE will either request a one-time payment that will not exceed \$10,000 or a long-term care agreement will be negotiated to provide the necessary funding. No money is required with the initial submittal of the application. Please check the appropriate box to indicate the preferred payment schedule.

SECTION V. APPLICATION TO PARTICIPATE TERMS/APPLICATION SIGNATURE

Participation Terms	Environmental Use Controls can only be applied to a property after adequate characterization and remediation, and only when it has been demonstrated to KDHE's satisfaction that the application of an Environmental Use Control will provide for protection of public health and the environment. There are certain considerations that may preclude KDHE's approval of an Environmental Use Control including, but not limited to, inadequate characterization, identified sensitive receptors, extremely toxic and/or mobile contaminants, or excessively elevated concentrations of contaminants, etc.
Application Signature	The Applicant Contact as defined in Section II must sign the application.



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BUREAU OF ENVIRONMENTAL REMEDIATION



Application for an
ENVIRONMENTAL USE CONTROL
for property located in the State of Kansas

Application Form Instructions: Please type or print legibly. Incomplete applications may be returned to the applicant. If any of the information requested is not applicable, please enter "NA" in the blank.

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SECTION I. PROPERTY INFORMATION

Name of Site: _____

Property Address: _____

City (or Township): _____ County: _____ Zip Code: _____

Township _____ South Range _____ (E/W) Section _____ Quarter(s) _____

Tax Lot # _____ Property Size (in acres) _____

Has a legal survey been conducted on the portion of property subject to this application?

Yes No

Please include a copy of the legal survey and a map that clearly depicts the property boundaries.

Current use of property: _____

Future use of property (if known): _____

Land use surrounding property (check most applicable description or combination of descriptions):

Residential Industrial Commercial Agricultural Other (explain) _____

Current zoning of property: _____

Local governmental entity responsible for zoning this property: _____

SECTION II. APPLICANT INFORMATION

Applicant: _____

Applicant Contact: _____ Title: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: (____) _____ Fax: (____) _____ Email: _____

Applicant's interest in or relation to property (check all that apply):

Owner of property

*Entity with written authorization from the owner

***Please attach a notarized letter of authorization for EUC application from the owner.**

If Applicant is not the owner of the property, provide the following information:

Owner's Name: _____ Organization: _____

Owner's Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: (____) _____ Fax: (____) _____

Kansas Department of Health and Environment/Bureau of Environmental Remediation
APPLICATION FOR AN ENVIRONMENTAL USE CONTROL

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SECTION III. DESCRIPTION OF CONTAMINATION

Contaminant Type identified at the property (check all that you are aware of):

- | | | |
|----------------------------------------------|----------------------------------------------------------------------|---------------------------------|
| <input type="checkbox"/> Solvents/degreasers | <input type="checkbox"/> Pesticides (herbicides, insecticides, etc.) | <input type="checkbox"/> Metals |
| <input type="checkbox"/> Petroleum products | <input type="checkbox"/> Inorganics (salt, soda ash, etc.) | <input type="checkbox"/> PCBs |
| <input type="checkbox"/> Acids/bases | <input type="checkbox"/> Fertilizer (nitrate, ammonia) | <input type="checkbox"/> Sludge |
| <input type="checkbox"/> Paint/paint wastes | <input type="checkbox"/> Other (list) _____ | |

Contaminated media on property:

- Surface Soil Subsurface Soil Ground Water Surface Water Sediments

Please reference any relevant documents that will provide the department with a detailed description of the contamination and the proposed remedy. Attach a listing of additional references if necessary.

Title/Date: _____

Title/Date: _____

Title/Date: _____

Identify the KDHE Cleanup Program currently addressing the property:

- State Cooperative Voluntary Cleanup Brownfields State Water Plan
 Dry Cleaner Trust Fund Above/Underground Storage Tank RCRA
 Other: _____

Please describe the proposed remedy for the property: _____

Will contamination be left on the subject property at concentrations above levels allowing unrestricted residential use following a KDHE approved remediation? Yes No

INTERNAL USE ONLY

Project Code: _____

VCP Agreement Number: _____

Consent Order Number: _____

KDHE Project Manager: _____

Bureau/Section: _____

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SECTION IV. REQUESTED RESTRICTIONS/REQUIREMENTS/FREQUENCY

REQUESTED RESTRICTIONS:

Please check all that apply:

- Restrict excavation, dredging, construction or digging activities.
- Restrict drilling or using water wells for domestic or other purposes.
- Restrict or limit access to property.
- Restrict land use.
- Restrict the type of plant growth or vegetative cover.
- Other Restrictions - Please specify: _____

Please note the restrictions applied for in this application will be specified in a property-specific Environmental Use Control Agreement approved by the department and filed with the Register of Deeds in the county where the subject property is located.

POST-REMEDATION REQUIREMENTS:

Please check all that apply:

- Posting notices, maintaining postings.
- Ground water monitoring.
- Protective structure maintenance (patching, erosional control, regrading, etc.).
- Vegetative maintenance (mowing, watering, planting, etc.).
- Fence maintenance.
- Other Requirements - Please specify: _____

PROPOSED MONITORING/INSPECTION FREQUENCY:

Please check one:

- One inspection every five years.
- Two inspections per year.
- Other - Please specify: _____
- One inspection per year.
- Four inspections per year.

Upon approval of an Environmental Use Control Agreement, does the applicant agree to allow access to KDHE personnel or contractors for the purpose of inspecting the property to ensure the requested restrictions are being maintained?

Yes No*

*Please note this application will not be approved if the response to this question is "NO."

Please indicate the preferred payment schedule for the proposed Environmental Use Control?

- One-time payment
- Long Term Care Agreement (The agreement will specify the amount and frequency of payment).

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SECTION V. APPLICATION TO PARTICIPATE TERMS/APPLICATION SIGNATURE

The undersigned has voluntarily applied to the Kansas Department of Health and Environment (KDHE)/Bureau of Environmental Remediation (BER) to restrict the use of, or activities on the property defined in this application due to residual contamination remaining on the subject property above regulatory limits for unrestricted "residential" use. The undersigned agrees that based on this application the KDHE shall issue an Environmental Use Control Agreement to restrict specific use of, or activities on the subject property. The Environmental Use Control Agreement will contain property-specific restrictions identified in this application as approved by the department, inspection frequencies, access provisions, maintenance requirements, funding requirements and any other requirements associated with this application. The applicant agrees to register an approved, notarized Environmental Use Control Agreement with the Register of Deeds in the county where the property is located.

BER shall determine, and notify the undersigned accordingly, if the subject property is eligible for an Environmental Use Control. If the subject property is determined eligible, the undersigned shall sign an Environmental Use Control Agreement describing the voluntary restrictions requested by the applicant, register the Environmental Use Control Agreement with the Register of Deeds, and submit a notarized copy to the KDHE within 90 days of KDHE approval of this application.

Execution of this application form does not constitute an Environmental Use Control, and the undersigned shall not be bound to proceed with the voluntary restrictions. By completing and signing this application, the undersigned does not admit or assume liability for contamination at the property. The undersigned may terminate this application at any time by notifying BER.

The application should be submitted to : Environmental Use Control Program
Remedial Section
Kansas Department of Health and Environment
Bureau of Environmental Remediation
1000 SW Jackson, Suite 410
Topeka, Kansas 66612-1367

Name: _____ (print or type) Title: _____

Signature: _____ Date: _____