

224.01-518 Voluntary remediation agreed order.

- (1) Once an application is accepted, the applicant and the cabinet shall enter into an agreed order which shall set forth the mutual responsibilities of the parties with respect to the remediation project.
- (2) A voluntary remediation agreed order shall include:
 - (a) The applicant's agreement to:
 1. Identify any hazardous substance and any petroleum released or believed to be released to the environment at the site and provide a characterization plan for the releases or threatened releases adequate to comply with KRS 224.01-400, 224.01-405, 224.01-510 to 224.01-532, and any administrative regulations promulgated pursuant thereto;
 2. Submit to the cabinet on the agreed schedule a characterization report and a corrective action plan complying with KRS 224.01-400, 224.01-405, 224.01-510 to 224.01-532, and any administrative regulations promulgated pursuant thereto within one hundred twenty (120) days after the date the agreed order is entered by the secretary of the cabinet, or such longer period agreed upon by the parties; and
 3. Submit to the cabinet a corrective action report by the date agreed upon by the parties. The corrective action report shall contain a certification by the applicant that the remediation has been completed in accordance with the approved corrective action plan;
 - (b) A general listing of the estimated costs the cabinet expects to incur for its review and oversight of the remediation;
 - (c) The applicant's agreement to reimburse the cabinet for all reasonable actual and necessary costs of review and oversight that exceed the program's application fee, along with a schedule of the applicant's payments to reimburse the cabinet for its costs. The cabinet may waive in whole or in part its right to be reimbursed its costs related to properties of less than three (3) acres if the cabinet determines the waiver will best serve the public interest, in which case the agreed order shall note the waiver determination;
 - (d) The applicant's agreement to complete remediation on the agreed schedule in compliance with the approved corrective action plan;
 - (e) A requirement that records related to the site's remediation be retained and provided to the cabinet on request;
 - (f) A provision that the applicant may withdraw from the agreed order prior to issuance of the covenant not to sue, and have no further obligations thereunder, subject to payment of the cabinet's costs incurred prior to the withdrawal and the cabinet's reservation of its rights; and
 - (g) Any other provisions the cabinet determines are necessary to protect human health, safety, and the environment, or to effectuate the purposes of KRS 224.01-510 to 224.01-532.

- (3) If the applicant and the cabinet are unable to negotiate an agreement in good faith within a reasonable time after negotiations have commenced, either party may withdraw from further negotiations.

Effective: June 21, 2001

History: Created 2001 Ky. Acts ch. 128, sec. 5, effective June 21, 2001.