

**BUREAU OF ENVIRONMENTAL REMEDIATION/REMEDIAL SECTION
POLICY
PROPERTY ELIGIBILITY FOR ASSESSMENTS
CONDUCTED BY THE BROWNFIELDS PROGRAM**

BER POLICY#BER-RS-BF-001

DATE: January 28, 2004

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Section Chief:

[Signature]

Date: 12/29/05

Bureau Manager:

[Signature]

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ORIGINATOR

Originator: Bridget Wilson

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BACKGROUND:

The Brownfields Program was initiated through approval of a federal grant from the Environmental Protection Agency (EPA) in 1998. The original grant requested funding to conduct and support brownfields activities in the State of Kansas. The grant provided assistance to KDHE to coordinate cooperative efforts to assess and address brownfields sites to facilitate their sustainable reuse. The Remedial Section is responsible for implementation of the Brownfields Program. The program is designed to perform Brownfields Targeted Assessments (Phase I and II investigations as defined by the American Society of Testing and Materials (ASTM)), assist EPA in the review of contractor produced EPA-lead Brownfields Targeted Assessments (BTA), and provide technical assistance to municipalities and the public concerning brownfields issues.

POLICY:

The objective of this policy is to clearly define who may apply to the program and the type of properties that are eligible. The policy will be used by staff to identify and select eligible properties to be addressed with program resources.

CRITERIA:

I. ELIGIBLE APPLICANTS:

The following entities may apply to the program:

- 1) Local units of government;
- 2) Land clearance authorities;
- 3) Regional development councils;
- 4) Redevelopment agencies;
- 5) Tribal organizations;
- 6) Not-For-Profit organizations;
- 7) and other quasi-governmental agencies.

Brownfields Targeted Assessments will also be conducted at the request of persons that are or may be affected by a release or threatened release of a hazardous substance, pollutant, or contaminant, or petroleum at brownfield properties located in the community in which the person works or resides. However, the requesting person must obtain the assistance of one of the above defined eligible applicants to apply for a Brownfields Targeted Assessment.

Note: General complaints, spill reports, and submitted documentation pertaining to environmental contamination at a property (due diligence) are generally referred to various bureau programs for initial response and/or assessment.

II. ELIGIBLE PROPERTIES:

By definition, a “brownfields site” is any piece of real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

The following types of properties or “brownfields sites” are **not** eligible to be addressed under KDHE’s Brownfields program:

- 1) Properties listed or proposed for listing on the NPL;
- 2) Properties subject to CERCLA orders or consent decrees;
- 3) Federal Properties;
- 4) Properties that are the subject of a planned or ongoing removal action;
- 5) Petroleum contaminated properties that have been previously addressed utilizing EPA Leaking Underground Storage Tank (LUST) funds.

III. APPLICATION PROCESS:

Once a Brownfields Targeted Assessment application is received, KDHE staff will review the application to determine if the applicant is eligible. If the applicant is determined to be an eligible applicant, KDHE staff will then review the proposed property to determine if the property meets the definition of a “brownfields site”.

If the applicant and property are determined to be eligible for the program, KDHE staff will review the following pieces of information (included in the application):

- 1) Current use of the property;
- 2) Site history and past uses of the property;
- 3) Anticipated future use.

Information provided in these sections of the application will be used to rank the applications. In the event that more applications are received than funding allows, properties will be assessed according to the relative ranking assigned to the application.

If the application has been approved, the applicant will be notified in writing within seven days of the receipt of the application.