

224.01-465 Effect of letter -- Limitations -- Contents -- Application -- Voidable circumstances -- Recording.

- (1) The cabinet's issuance of a No Further Remediation Letter signifies a release from further responsibilities for a remediation plan approved under KRS 224.01-460 and any further responsibilities under KRS 224.01-400 to undertake any other remedial action on the site. The issuance of a No Further Remediation Letter shall be considered prima facie evidence that the site does not constitute a threat to human health and the environment and does not require additional remediation under KRS 224.01-400, if the site is utilized in accordance with the terms of the No Further Remediation Letter.
- (2) A No Further Remediation Letter issued pursuant to KRS 224.01-460(4) shall be limited to and include all of the following:
 - (a) An acknowledgment that the requirements of the remediation plan were satisfied or are being satisfied;
 - (b) A description of the location of the property by reference to a legal description or a plat showing the property's boundaries;
 - (c) The remediation objectives, specifying, as appropriate, any monitoring requirements or any land use limitation imposed as a result of the remediation efforts;
 - (d) A statement that the cabinet's issuance of the No Further Remediation Letter signifies that the performance of the approved remediation plan has secured release from further responsibilities under KRS 224.01-400 and is considered prima facie evidence that the site does not constitute a threat to human health and the environment and does not require further remediation under KRS 224.01-400, if the site is utilized in accordance with the terms of the No Further Remediation Letter;
 - (e) A prohibition against the use by the public entity of the property in a manner inconsistent with any land use limitation imposed as a result of the remediation efforts without additional appropriate remedial activities and a requirement that if the public entity conveys the property to a third party the deed contains binding land use limitations in accordance with the remediation plan; and
 - (f) A description of any preventive, engineering, and institutional controls required in the remediation plan and notification that failure to manage and maintain the controls in full compliance with the terms of the remediation plan may result in avoidance of the No Further Remediation Letter.
- (3) The No Further Remediation Letter shall apply to the property in favor of the following persons:
 - (a) The public entity to which the No Further Remediation Letter was issued;
 - (b) Any mortgagee or trustee, or their assignee, transferee, or any successor in interest, of a deed of trust of the public entity property;
 - (c) Any successor in interest of the public entity;

- (d) Any transferee of the public entity whether the transfer was by sale, bankruptcy proceeding, partition, settlement, or adjudication of any civil action, charitable gift, or bequest; and
 - (e) Any financial institution, or their successor in interest, that after the date the No Further Remediation Letter was issued acquire the ownership, operation, management, or control of the property through foreclosure, or under the terms of a security interest held by the financial institution, or under the terms of an extension of credit made by the financial institution.
- (4) The No Further Remediation Letter shall be voidable if the site is not managed in full compliance with KRS 224.01-460 and this section or the approved remediation plan upon which the issuance of the No Further Remediation Letter was based, or if the cabinet determines that any facts upon which the remediation plan was based, were unknown at the time the No Further Remediation Letter was issued, or were known but not disclosed or false.
- (5) The public entity shall record the No Further Remediation Letter with the county clerk of the county in which the property is located.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 194, sec. 71, effective July 15, 1996.