

## **401 KAR 42:335. Financial audits.**

RELATES TO: KRS 61.878(1)(c), 224.60-130(1)(d), (j), (k), 224.60-140(2)(a), (e)

STATUTORY AUTHORITY: KRS 224.60-130(1)(k)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-130(1)(k) requires the establishment of the policy, guidelines, and procedures to perform a financial audit of an owner or operator receiving reimbursement for corrective action services from the Petroleum Storage Tank Environmental Assurance Fund (PSTEAF), or of an entity who contracts or subcontracts for corrective action services at a facility whose owner or operator is eligible for reimbursement from the PSTEAF. This administrative regulation establishes procedures for audits and the penalties for noncompliance.

Section 1. Applicability. An entity shall be subject to financial audit if it is an entity described in KRS 224.60-130(1)(k).

Section 2. Financial Audit Policy and Procedure. (1) The cabinet shall audit an entity if:

(a) A document it is required to submit to the cabinet appears to be fraudulent; or

(b) There is evidence or other reason to believe that the entity has violated a federal or state law or regulation related to its actions.

(2) Upon written request by the cabinet, records, as described in KRS 224.60-130(l)(k), shall be provided to the cabinet during a financial audit.

(3)(a) The cabinet shall notify the subject of the audit, in writing, of the date that the audit is scheduled to begin. The notice shall be sent at least ten (10) working days before the scheduled start of the audit.

(b) A decision to reschedule the audit shall rest solely with the cabinet, and it shall not be rescheduled more than thirty (30) days after the date of the original audit.

(4)(a) If the owner or operator fails to maintain records as required by KRS 224.60-130(1)(k), the cabinet shall recover money reimbursed to the owner or operator for the cost of corrective action at the facility to which the missing documents relate.

(b) If an eligible contractor or subcontractor fails to maintain records as required by KRS 224.60-130(1)(k), the cabinet shall recover any monies paid to the entity pursuant to a contract or agreement to perform a corrective action service at that facility.

Section 3. Improper Use of Reimbursements. (1) If the audit by the cabinet finds an improper, irregular, or illegal use of money received directly or indirectly from the cabinet, or that the money was obtained by fraud or misrepresentation, the cabinet shall report the results of the audit to the proper authorities for civil and criminal investigation.

(3)(a) Failure by an owner or operator to cooperate with an audit shall render the petroleum storage tank owner or operator ineligible for reimbursement. Reimbursements to the owner or operator shall be subject to recovery by the cabinet.

(b) Failure by an entity, who contracts or subcontracts for corrective action services at a facility, to cooperate with an audit shall result in the revocation of eligibility. Reimbursements to that entity, pursuant to a contract for a corrective action service, shall be subject to recovery by the cabinet.

Section 4. Extensions. (1) The owner or operator of a UST system may request an extension to a deadline established by this administrative regulation or established by the cabinet in writing pursuant to this administrative regulation.

(2) The extension request shall be submitted in writing and received by the Underground

Storage Tank Branch of the Division of Waste Management prior to the deadline.

(3) The cabinet shall grant an extension, if the cabinet determines that an extension would not have a detrimental impact on human health or the environment. (25 Ky.R. 1274; 2870; eff. 6-9-1999; Recodified from 415 KAR 1:135; 32 Ky.R. 2143; 33 Ky.R. 759; eff. 9-13-2006; 37 Ky.R. 2738; 38 Ky.R. 549; eff. 10-6-2011; Crt eff. 10-9-2018.)