

**65-34,169. Determination no further action required; issuance; void, when.** (a) After an applicant completes the requirements of this act, the department may determine that no further remedial action is required. Within 60 days after such completion, unless the applicant and the department agree to an extension of the time for review, the department shall provide written notification that a no further action determination has been made.

(b) (1) The department may consider in issuing this determination that contamination or a release of contamination originates from a source on adjacent property upon which the necessary action which protects human health and the environment is or will be taken by a viable and financially capable person or entity which may or may not be legally responsible for the source of contamination.

(2) The department shall provide written notification of a no further action determination.

(3) The issuance of a no further action determination by the department applies only to identified conditions on the property and is based upon applicable statutes and rules and regulations that exist as of the time of completion of the requirements.

(c) The department may determine that the no further action determination, under this section is void if:

(1) There is any evidence of fraudulent representation, false assurances, concealment or misrepresentation of the data in any document to be submitted to the department under this act;

(2) the applicant agrees to perform any action approved by the department and fails to perform such action;

(3) the applicant's willful and wanton conduct contributes to known environmental contamination; or

(4) the applicant fails to complete the voluntary actions required in the voluntary cleanup plan.

(d) If a no further action determination is not issued by the department, the department shall promptly provide the applicant with a written statement of the reasons for denial.

**History:** L. 1997, ch. 137, § 9; July 1.