

Kansas Administrative Regulations

Department of Health and Environment

Article 71.—Voluntary Cleanup and Property redevelopment Program

28-71-10. "No further action" determination.

(a) For the purposes of the regulations in this article of the department's regulations, the term "no further action" determination shall mean that the secretary has determined, pursuant to K.S.A. 65-34,161 et seq. and amendments thereto, that no further action is necessary at the property subject to the voluntary agreement.

(b) Each voluntary party shall demonstrate to the department that the following conditions have been met to receive a "no further action" determination for class one contamination:

(1) The owner or operator of the property, or both parties, submit a complete application to the department, including environmental site assessments and investigation reports.

(2) A determination that the contamination on the property resulted from an off-property source is made by the secretary.

(3) A determination that there is no on-site source of contamination, including soil contamination, is made by the secretary.

(4) The owner or operator of the property, or both parties, document that the past and current use of the property did not contribute to the contamination of soils, surface water, or groundwater.

(c) Each voluntary party shall demonstrate to the department that the following conditions have been met to receive a "no further action" determination for class two contamination:

(1) No contamination was detected.

(2) Contamination was detected, and following review of the environmental site assessment, investigation reports, and remediation reports, or a combination of these, the secretary has determined that contamination levels do not present significant risk to

human health and the environment and, based on those levels, are less than applicable federal or state standards or site-specific cleanup levels as specified in K.A.R. 28-71-11.

(3) Contamination does not exceed acceptable contaminant concentrations as determined by the secretary in a site-specific qualitative risk analysis that evaluates the property and surrounding properties as a whole.

(d) Each voluntary party shall demonstrate to the department that the following conditions have been met to receive a "no further action" determination for class two contamination with conditions:

(1) Site conditions described in paragraph (c)(2) or (c)(3) have been met.

(2) Secretary-approved controls, including institutional controls, environmental use controls, a risk management plan, or a combination of these restricting the use of a property, are in place to ensure continued protection of human health and the environment.

(Authorized by K.S.A. 65-34,163; implementing K.S.A. 2016 Supp. 65-34,169; effective June 26, 1998; amended Sept. 29, 2017.)

***** Authenticated Kansas Administrative Regulation *****