

## Proposed Amendments to Part E Admin Code 1351

10-19-15

### 6.2 Department Response to a Request for No Further Action

6.2.1 The DNREC Tank Management ~~Branch~~ Section shall issue a letter requiring no further action (NFA letter) and documenting that site cleanup objectives have been met. The issuance of the NFA letter ~~no further action approval~~ does not absolve the Responsible Parties from previously incurred or potential future liability.

6.2.2 The ~~no further action~~ NFA letter applies to site conditions at the time that the request for no further action was made. Except as discussed in 6.2.3, once the Department has issued a NFA letter associated with a release, the Department shall not require Responsible Parties to perform additional corrective actions associated with the release unless site conditions, including but not limited to the current or future land use, change or there is new information that the release poses an unacceptable risk to human health, safety, and the environment. ~~the If the risk posed by the site changes in the future, including but not limited to land use changes at the site or surrounding area, the Responsible Parties shall perform additional Remedial Action as necessary to eliminate the risk to human health, safety and the environment.~~

6.2.3 The Department shall not require Responsible Parties to perform additional corrective actions associated with an underground storage tank (UST) system when all of the following conditions have been met: (1) the Department has issued any type of NFA letter, either with conditions for future management or without conditions for future management after the removal or closure in place of the UST System, (2) the UST system was located on a residential property, (3) the underground storage tank associated with the UST system contained heating fuel used for Consumptive Use On the Premises.

6.2.34 Any Person disturbing any residual contamination at the site by digging, boring, excavating, dewatering, or other means, shall submit a contaminated material management plan to the Department for approval prior to work commencing and shall be financially responsible for implementing it.

### **7.0 All Appropriate Inquiry**

7.1 When residential property is purchased by an individual, individuals, or a nonprofit agency as defined by the Internal Revenue Service or State law, a title search and a visual inspection by the purchaser or his or her agent that is intended to locate evidence of a UST system on the property shall constitute all appropriate inquiry pursuant to 7 Del Code, Chapter 74 Section 7406e(2)(b).