



# Maryland Department Of The Environment Voluntary Cleanup Program

## Attachment Five No Further Requirements Determination Sample Letter

MARYLAND DEPARTMENT OF THE ENVIRONMENT  
Waste Management Administration  
Voluntary Cleanup Program

### NO FURTHER REQUIREMENTS DETERMINATION

**Date of Issue:**

**Description of Property**

Name:  
Address:

**Voluntary Cleanup Program Participant**

Name:  
Contact:  
Status:

*This No Further Requirements Determination is issued pursuant to Maryland law authorizing a Voluntary Cleanup Program for properties contaminated by controlled hazardous substances or oil (Section 7-501 et seq. of the Environment Article, Annotated Code of Maryland).*

**The Maryland Department of the Environment, hereinafter referred to as “the Department,” determines it has no further requirements related to the investigation of controlled hazardous substances or oil at the (specify acreage) acre (site name) property, located at the above address in (Town, County), Maryland, if the property is used for Tier (specify 1, 2, 3) purposes and compliance is maintained with the land use requirements specified herein.**

**THE MARYLAND DEPARTMENT OF THE ENVIRONMENT CERTIFIES THAT:**

The Department may not bring an enforcement action against (Applicant) at the eligible property.

(Applicant) is released from further liability for the remediation of the eligible property for those contaminants identified in the environmental assessment of the eligible property. Pursuant to Section 7-506 of the Environment Article, Annotated Code of Maryland, the environmental assessment of the property includes established site assessment standards and follows principles established by the American Society of Testing and Materials that demonstrates to the satisfaction of the Department that the assessment has been conducted in accordance with those standards and principles.

(Applicant) is not subject to a contribution action instituted by a responsible person for the contamination identified in the environmental assessments of the property.

This No Further Requirements Determination does not:

1. Subject to the provisions of Section 7-505 of the Environment Article, Annotated Code of Maryland, prevent the Department from taking action against any person to prevent or abate an imminent or substantial endangerment to the public health or the environment at the above property;
2. Remain in effect if the No Further Requirements Determination is obtained through fraud or material misrepresentation;
3. Affect the authority of the Department to take any action against a responsible person concerning undiscovered contamination; or

4. Affect the authority of the Department to require additional cleanup for future activities at the site that result in contamination by hazardous substances or oil.

### LAND USE CONTROLS

**If this No Further Requirements Determination is conditioned on certain uses of the property or on the maintenance of certain conditions, the participant shall record this No Further Requirements Determination in the land records of the local jurisdiction within 30 days of receipt.**

Check one:

\_\_\_\_\_ This No Further Requirements Determination is not conditioned on certain uses of the property or on the maintenance of certain conditions.

\_\_\_\_\_ This No Further Requirements Determination is conditioned on certain uses of the property (Tier 2A or 3A) or on the maintenance of certain conditions (Tier 1B, 2B or 3B).

**Tier 1 (Residential):** Planned use of the property that allows exposure and access by all populations including infant, children, elderly, and infirmed populations.

- **A (Unrestricted):** No land use controls are imposed on the property. Tier 1A properties typically include single and multi-family dwellings.
- **B (Restricted):** One or more land use controls are imposed as a condition of residential use of the property. Tier 1B properties typically include hospitals and health care facilities, education facilities, day care facilities, playgrounds and other recreational areas.

**Tier 2 (Commercial):** Planned use of the property that allows exposure and access by the general public, workers, and other expected users, including customers, patrons, or visitors. Commercial purposes allow access to the property and duration consistent with a typical business day. Tier 2 properties typically include shopping centers, retail businesses, vehicle service stations, medical offices, hotels, office space, religious institutions, restaurants, and apartment buildings that have commercial use on the first floor.

- **A (Unrestricted):** No land use controls are imposed on the property for commercial use.
- **B (Restricted):** One or more land use controls are imposed as a condition of commercial use of the property.

**Tier 3 (Industrial):** Planned use of the property by workers over the age of 18, adult workers and construction workers, and other potential expected users. Industrial purposes allow access to the property at a frequency and duration consistent with a typical business day. Tier 3 properties typically include manufacturing facilities, maritime facilities, metal working shops, oil refineries, chemical and other material plants.

- **A (Unrestricted):** No land use controls are imposed on the property for industrial use.
- **B (Restricted):** One or more land use controls are imposed as a condition for industrial use of the property.

**Land Use Controls means any restriction or control that serves to protect human health and the environment by limiting use of or exposure to any portion of the property, including water resources. These controls may include:**

- Engineering controls are remedial actions directed toward containing or controlling the migration of contaminants through the environment. These include, but are not limited to, stormwater conveyance systems, slurry walls, liner systems, caps, leachate collection systems, pump and treat systems, and groundwater recovery systems.
- Institutional controls are legal or administrative tools designed to prevent or reduce human or exposure to remaining contamination and to prevent activities that may result in increased exposure to or spread of such contamination.

**LAND USE REQUIREMENTS**

As set forth below, the use of the property is for:

- Restricted Residential (Tier 1B) purposes;
- Restricted Commercial (Tier 2B) purposes; or
- Restricted Industrial (Tier 3B) purposes.

The restricted use of the property requires compliance with the following land use requirements:

**DEPARTMENT NOTIFICATION**

All notifications to the Department required herein shall be in writing and addressed to the attention of the Division Chief, voluntary Cleanup Program, Waste Management Administration, Maryland Department of the Environment, currently located at 1800 Washington Boulevard, Baltimore, Maryland 21230.

**ONE-CALL SYSTEM NOTIFICATION**

If this No Further Requirements Determination is conditioned on certain uses of the property or on the maintenance of certain conditions, the participant shall send a copy of this document to a one-call system, as defined in Section 12-101 of the Public Utility Companies Article. The copy of this No Further Requirements Determination should be sent within 30 days of the effective date to the attention of MISS UTILITY, c/o General Manager, currently located at 7223 Parkway Drive, Suite 100, Hanover, Maryland 21076.

The obligation for the participant to send a copy of the No Further Requirements Determination does not negate the obligation of the owner, as defined in Section 12-101 (f) of the Public Utility Companies Article, to become a member of the one-call system under Title 12 of the Public Utilities Companies Article. Additional information may be obtained by calling 410-712-0056.

**TRANSFER OF OWNERSHIP**

If ownership of the property, or any portion thereof, is transferred, the property owner shall notify the Department at least five (5) business days prior to the transfer. In addition, any successor in interest must submit a written certification to the attention of the Division Chief of the Voluntary Cleanup Program that the successor in interest has a copy of this No Further Requirements Determination, including the land use requirements for the property.

The owner of the property and any successors in interest in the property subject to this No Further Requirements Determination shall continue to be protected from liability in the event of any violation of the conditions placed on the use of this property, provided the owner of the property and any successors in interest did not cause or contribute to the violation.

This No Further Requirements Determination does not prevent the Department from taking action against any person who uses the property for any use other than the use specified herein.

If an owner of the property wants to change the use of the property to a new use that is consistent with the appropriate planning and zoning authority of the appropriate county or municipality, the owner is responsible for the cost of cleaning up the property to the appropriate standard as determined by the Department.

**ANY OTHER USE OF THE PROPERTY OR FAILURE TO COMPLY WITH THE LAND USE CONTROLS SPECIFIED**

**HEREIN MAY RESULT IN THIS NO FURTHER REQUIREMENTS DETERMINATION BECOMING VOID.**

\_\_\_\_\_

**(Insert name of Director)** \_\_\_\_\_  
 Waste Management Administration Date

STATE OF MARYLAND, \_\_\_\_\_ OF \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ before me, the undersigned Notary Public of said State, personally appeared (**Insert name of Director**), who acknowledged himself to be the Director, Waste Management Administration, Maryland Department of the Environment, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized Director of said Administration by signing his name as Director of said Administration.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**OWNER'S CERTIFICATION AND STATEMENT OF INTENT**

I, \_\_\_\_\_, as the current owner of the property identified in this No Further Requirements Determination, hereby intend that the restrictions on the use of the \_\_\_\_\_ property, as well as the land use requirements set forth in this No Further Requirements Determination, shall run with the land and are binding on all successors and assigns.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner

\* \* \* \* \*

STATE OF MARYLAND, \_\_\_\_\_ OF \_\_\_\_\_, TO WHIT:

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006 before me, the undersigned Notary Public of said State, personally appeared \_\_\_\_\_, who acknowledged himself to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same by signing his name.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_