



Ohio Revised Code

Section 122.654 Determining compliance with applicable cleanup standards.

Effective: July 26, 2001

Legislation: House Bill 3 - 124th General Assembly

(A) Except as provided in division (G) of this section, an applicant who has entered into an agreement with the clean Ohio council under section 122.653 of the Revised Code shall employ a certified professional to determine if the brownfield cleanup or remediation project complies with applicable cleanup standards. The certified professional shall make this determination in accordance with Chapter 3746. of the Revised Code and rules adopted under it. If the certified professional determines that the cleanup or remediation complies with the applicable cleanup standards, the certified professional shall prepare a no further action letter.

Upon completion of a no further action letter, the certified professional shall send a copy of the letter to the applicant. The letter shall be accompanied by both of the following:

- (1) A written request that the applicant notify the certified professional as to whether the applicant wishes to submit the no further action letter to the director of environmental protection;
- (2) A written notice informing the applicant that the original no further action letter may be submitted to the director only by a certified professional and that the person may receive a covenant not to sue under Chapter 3746. of the Revised Code and rules adopted under it in connection with the cleanup or remediation only if the no further action letter is submitted to the director on the applicant's behalf by the certified professional.

In addition, the certified professional shall send a copy of the no further action letter to the clean Ohio council and to the director.

Promptly after receipt of the letter, request, and notice, the applicant shall send written notice to the certified professional informing the certified professional as to whether the applicant wishes to submit the no further action letter to the director and shall send a copy of the notice to the clean Ohio council. If the applicant's notice indicates that the applicant wishes to have the no further action letter submitted to the director, promptly after receipt of the notice, the certified professional shall submit



the original no further action letter to the director by certified mail on behalf of the applicant. In addition, the certified professional shall send written notice to the clean Ohio council informing the council that the original no further action letter has been submitted to the director. If the applicant notifies the certified professional that the applicant does not wish to submit the no further action letter to the director, the certified professional shall send the original no further action letter to the applicant promptly after receiving the notice.

(B) If the certified professional determines that the cleanup or remediation does not comply with applicable cleanup standards, the certified professional shall send to the applicant and the clean Ohio council written notice of that fact and of the certified professional's inability to issue a no further action letter for the property.

(C) If the director receives a copy of a no further action letter from a certified professional, the director shall review the letter and determine if the cleanup or remediation complies with applicable cleanup standards. The director shall prepare a written report of the director's determination and send a copy of the report to the clean Ohio council.

(D) If the director receives an original no further action letter from a certified professional on behalf of an applicant, the director shall issue or deny a covenant not to sue under Chapter 3746. of the Revised Code and rules adopted under it except as otherwise specifically provided in sections 122.65 to 122.659 of the Revised Code.

(E) A certified professional shall maintain all documents and data prepared or acquired by the certified professional in connection with a cleanup or remediation for not less than ten years after the date of issuance of a no further action letter or after the notice required under division (B) of this section has been sent, whichever is applicable. The clean Ohio council and the director may request a certified professional to provide the council and the director with documents and data for purposes of sections 122.65 to 122.659 of the Revised Code.

No certified professional shall fail to comply with this division or a request made under it.

(F) The clean Ohio council and the director may request an applicant to provide the council or the director with documents and data for purposes of sections 122.65 to 122.659 of the Revised Code.



No applicant shall fail to comply with a request made by the council or the director under this division.

(G) For purposes of sections 122.65 to 122.659 of the Revised Code, Chapter 3746. of the Revised Code and rules adopted under it apply except as otherwise specifically provided under those sections.

(H) For cleanup or remediation of a brownfield that is subject to closure or corrective action requirements established in rules adopted under section 3734.12 of the Revised Code, an applicant who has entered into an agreement with the clean Ohio council under section 122.653 of the Revised Code shall send to the director documentation that demonstrates that the cleanup or remediation complies with the applicable cleanup standards. The director shall review the documentation and determine if the cleanup or remediation complies with the applicable cleanup standards. For purposes of the cleanup or remediation, the applicant also shall obtain any necessary review or approval from the director. The director shall prepare a written report of the director's determination and send a copy of the report to the clean Ohio council.