

1 9VAC20-160-10. Definitions.

2 The following words and terms when used in this chapter shall have the following meanings
3 unless the context clearly indicates otherwise.

4 "Applicant" means a person who has applied to the program but is not a participant.

5 "Authorized agent" means any person who is authorized in writing to fulfill the requirements
6 of this program.

7 "Carcinogen" means a chemical classification for the purpose of risk assessment as an
8 agent that is known or suspected to cause cancer in humans, including but not limited to a
9 known or likely human carcinogen or a probable or possible human carcinogen under an EPA
10 weight-of-evidence classification system.

11 "Certificate" means a written certification of satisfactory completion of remediation issued by
12 the department pursuant to § 10.1-1232 of the Code of Virginia.

13 "Completion" means fulfillment of the commitment agreed to by the participant as part of this
14 program.

15 "Contaminant" means any man-made or man-induced alteration of the chemical, physical or
16 biological integrity of soils, sediments, air and surface water or groundwater including, but not
17 limited to, such alterations caused by any hazardous substance (as defined in the
18 Comprehensive Environmental Response, Compensation and Liability Act, 42 USC § 9601(14)),
19 hazardous waste (as defined in 9VAC20-60), solid waste (as defined in 9VAC20-81), petroleum
20 (as defined in Articles 9 (§ 62.1-44.34:8 et seq.) and 11 (§ 62.1-44.34:14 et seq.)) of the Virginia
21 State Water Control Law, or natural gas.

22 "Cost of remediation" means all costs incurred by the participant pursuant to activities
23 necessary for completion of voluntary remediation at the site, based on an estimate of the net
24 present value (NPV) of the combined costs of the site investigation, report development,
25 remedial system installation, operation and maintenance, and all other costs associated with
26 participating in the program and addressing the contaminants of concern at the site.

27 "Department" means the Department of Environmental Quality of the Commonwealth of
28 Virginia or its successor agency.

29 "Engineering controls" means physical modification to a site or facility to reduce or eliminate
30 potential for exposure to contaminants. These include, but are not limited to, stormwater
31 conveyance systems, pump and treat systems, slurry walls, vapor mitigation systems, liner
32 systems, caps, monitoring systems, and leachate collection systems.

33 "Environmental covenant" means a servitude arising under an environmental response
34 project that imposes activity and use limitations pursuant to the Uniform Environmental
35 Covenants Act (§ 10.1-1238 et seq. of the Code of Virginia).

36 "Hazard index (HI)" means the sum of more than one hazard quotient for multiple
37 contaminants or multiple exposure pathways or both. The HI is calculated separately for
38 chronic, subchronic, and shorter duration exposures.

39 "Hazard quotient" means the ratio of a single contaminant exposure level over a specified
40 time period to a reference dose for that contaminant derived from a similar period.

41 "Incremental upper-bound lifetime cancer risk" means a conservative estimate of the
42 incremental probability of an individual developing cancer over a lifetime as a result of exposure
43 to the potential carcinogen. Upper-bound lifetime cancer risk is likely to overestimate "true risk."

44 "Institutional controls" means legal or contractual restrictions on property use that remain
45 effective after remediation is completed and are used to reduce or eliminate the potential for
46 exposure to contaminants. The term may include, but is not limited to, deed, land use, and
47 water use restrictions and environmental covenants.

48 "Land use controls" means legal or physical restrictions on the use of, or access to, a site to
49 reduce or eliminate potential for exposure to contaminants or prevent activities that could
50 interfere with the effectiveness of remediation. Land use controls include but are not limited to
51 engineering and institutional controls.

52 "Monitored natural attenuation" means a remediation process that monitors the natural or
53 enhanced attenuation process.

54 "Natural attenuation" means the processes by which contaminants break down naturally in
55 the environment. Natural attenuation processes include a variety of physical, chemical, or
56 biological processes that, under favorable conditions, act without human intervention to reduce
57 the mass, toxicity, mobility, volume, or concentrations of contaminants in soil or groundwater.

58 "Noncarcinogen" means a chemical classification for the purposes of risk assessment as an
59 agent for which there is either inadequate toxicological data or is not likely to be a carcinogen
60 based on an EPA weight-of-evidence classification system.

61 "Owner" means any person currently owning or holding legal or equitable title or possessory
62 interest in a property, including the Commonwealth of Virginia, or a political subdivision thereof,
63 including title or control of a property conveyed due to bankruptcy, foreclosure, tax delinquency,
64 abandonment, or similar means.

65 "Participant" means a person who has received confirmation of eligibility and has remitted
66 payment of the phase 2 registration fee.

67 "Person" means an individual, corporation, partnership, association, a governmental body, a
68 municipal corporation, or any other legal entity.

69 "Post-certificate monitoring" means monitoring of environmental or site conditions stipulated
70 as a condition of issuance of the certificate.

71 "Program" means the Virginia Voluntary Remediation Program.

72 "Property" means a parcel of land defined by the boundaries in the deed.

73 "Reference dose" means an estimate of a daily exposure level for the human population,
74 including sensitive subpopulations, that is likely to be without an appreciable risk of deleterious
75 effects during a lifetime.

76 "Registration fee" means the ~~fee fees~~ paid to apply for, obtain eligibility for, enroll in, and
77 participate in the Voluntary Remediation Program, ~~based on 1.0% of the total cost of~~
78 ~~remediation at a site, not to exceed the statutory maximum.~~

79 "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging,
80 injecting, escaping, leaching, dumping, or disposing of any contaminant into the environment.

81 "Remediation" means actions taken to clean up, mitigate, correct, abate, minimize,
82 eliminate, control, contain, or prevent a release of a contaminant into the environment in order
83 to protect human health and the environment. Remediation may include, when appropriate and
84 approved by the department, land use controls, natural attenuation, and monitored natural
85 attenuation.

86 "Remediation level" means the concentration of a contaminant with applicable land use
87 controls that is protective of human health and the environment.

88 "Restricted use" means any use other than residential.

89 "Risk" means the probability that a contaminant will cause an adverse effect in exposed
90 humans or to the environment.

91 "Risk assessment" means the process used to determine the risk posed by contaminants
92 released into the environment. Elements include identification of the contaminants present in the
93 environmental media, assessment of exposure and exposure pathways, assessment of the
94 toxicity of the contaminants present at the site, characterization of human health risks, and
95 characterization of the impacts or risks to the environment.

96 "Site" means any property or portion thereof, as agreed to and defined by the participant and
97 the department, which contains or may contain contaminants being addressed under this
98 program.

99 "Termination" means the formal discontinuation of participation in the Voluntary Remediation
100 Program without obtaining a certificate.

101 "Unrestricted use" means the designation of acceptable future use for a site at which the
102 remediation levels, based on either background or standard residential exposure factors, have
103 been attained throughout the site in all media.

104 **9VAC20-160-55. Registration fees for applications received prior to January 29, 2014.**

105 A. For applicants that submitted an application that was received by the department prior to
106 January 29, 2014, the registration fee submitted and any registration fee refund sought shall be
107 in accordance with the requirements of this section. [On and after July 1, 2014, any addition of
108 acreage to a site participating in the program based upon an application subject to registration
109 fees under this section shall require a new application for the additional acreage, which shall be
110 subject to registration fees pursuant to the requirements of 9VAC20-160-65.]

111 B. The registration fee shall be at least 1.0% of the actual cost of the remediation at the site,
112 not to exceed \$5000. To determine the appropriate registration fee, the applicant shall provide
113 an estimate of the anticipated total cost of remediation and remit that amount. Or as an
114 alternative to providing an estimate, the applicant may elect to pay the maximum registration
115 fee.

116 C. If the participant did not elect to remit the statutory maximum registration fee, the
117 participant shall provide the department with the actual total cost of the remediation prior to
118 issuance of a certificate. The department shall calculate any balance adjustments to be made to
119 the initial registration fee. Any negative balance owed to the department shall be paid by the
120 participant prior to the issuance of a certificate. Any overpayment to be refunded to the
121 participant shall be remitted by the department with issuance of the certificate.

122 D. If the participant elected to remit the maximum registration fee and an overpayment has
123 been made, the department shall refund any balance owed to the participant after receiving the
124 actual total cost of remediation. If no remedial cost summary is provided to the department
125 within 60 days of the participant's receipt of the certificate, the participant will have waived the
126 right to a refund.

127 **9VAC20-160-60. Registration fee fees for applications received on or after January 29,**
128 **2014 and prior to July 1, 2014.**

129 A. In accordance with § 10.1-1232 A 5 of the Code of Virginia, the applicant shall submit a
130 registration fee to defray the cost of the program. For applicants submitting an application that is
131 received by the department on or after January 29, 2014 and prior to July 1, 2014, the
132 registration fee submitted and any registration fee refund sought shall be in accordance with the
133 requirements of this section. [On and after July 1, 2014, any addition of acreage to a site
134 participating in the program based upon an application subject to registration fees under this
135 section shall require a new application for the additional acreage, which shall be subject to
136 registration fees pursuant to the requirements of 9VAC20-160-65.]

137 B. The preliminary registration fee shall be \$5,000. Payment shall be required after eligibility
138 has been verified by the department and prior to technical review of submittals pursuant to
139 9VAC20-160-80. Payment shall be made payable to the Commonwealth of Virginia and remitted
140 to Virginia Department of Environmental Quality, P.O. Box 1104, Receipts Control, Richmond,
141 VA 23218.

142 C. Failure to remit the required registration fee within 90 days of the date of eligibility
143 determination shall result in the loss of eligibility status of the applicant. The applicant must
144 reestablish his eligibility for participation in the program and the eligibility of the site, unless the
145 department agrees to extend the period for remitting the registration fee. Once eligibility is lost
146 for failure to remit the registration fee pursuant to this subsection, the applicant shall submit a
147 new application in order to reestablish his eligibility for participation in the program and the
148 eligibility of the site and shall be subject to the registration fees under the provisions of 9VAC20-
149 160-65.

150 D. Upon completion of remediation and issuance of the certificate pursuant to 9VAC20-160-
151 110, the participant whose final cost of remediation is less than \$500,000 may seek a refund of
152 a portion of the preliminary registration fee. The refund amount shall be reconciled as the
153 difference between the preliminary registration fee and the final registration fee amounts.

154 1. In order to receive a refund, the participant shall provide the department with a
155 summary of the final cost of remediation within 60 days of issuance of a certificate. The
156 final registration fee amount for such projects shall be calculated as 1.0% of the final
157 cost of remediation. The department shall review the summary, calculate the refund
158 amount due, and issue a refund to the participant.

159 2. If no summary of the final cost of remediation is provided to the department within 60
160 days of issuance of the certificate, the final registration fee amount shall be equal to the
161 preliminary registration fee amount, and no portion of the preliminary registration fee
162 shall be refunded.

163 3. Concurrence with the summary of the final cost of remediation does not constitute
164 department verification of the actual cost incurred.

165 E. No portion of the preliminary registration fee will be refunded if participation is terminated
166 pursuant to the provisions of 9VAC20-160-100.

167 **9VAC20-160-65. Registration fees for applications received on or after July 1, 2014.**

168 A. In accordance with § 10.1-1232 A 5 of the Code of Virginia, the applicant shall submit a
169 registration fee to defray the cost of the program. For applications received by the department
170 on and after July 1, 2014, the registration fee shall be remitted in three phases as required by
171 this section.

- 172 B. Phase 1 of the registration fee shall be an application fee in the amount of \$2,000.
- 173 1. Payment of a phase 1 registration fee is required for each application received by the
174 department on or after July 1, 2014.
- 175 2. The phase 1 registration fee is due when the application is submitted and shall be
176 made payable to the Treasurer of Virginia.
- 177 3. The phase 1 registration fee shall be submitted separately from the application
178 package and remitted to Virginia Department of Environmental Quality, P.O. Box 1104,
179 Receipts Control, Richmond, VA 23218.
- 180 4. An application is not administratively complete until the phase 1 registration fee is
181 received by the department. Review of an application for eligibility in accordance with
182 9VAC20-160-20 and 9VAC20-160-30 shall not commence until the application is
183 administratively complete.
- 184 C. Phase 2 of the registration fee shall be an eligibility fee in the amount of \$7,500.
- 185 1. Payment of the phase 2 registration fee shall be required after eligibility has been
186 verified by the department and prior to technical review of submittals pursuant to
187 9VAC20-160-80. Upon receipt of the phase 2 registration fee the site and applicant shall
188 be considered by the department to be participating in the program.
- 189 a. A phase 2 registration fee shall be required from the applicant for each site that
190 has been determined to be eligible for participation in the program based upon an
191 application received by the Department on or after July 1, 2014.
- 192 b. A separate phase 2 registration fee is required for each section of a phased
193 remediation project that requires a separate eligibility determination or requires a
194 separate Certificate issued for that section pursuant to 9VAC20-160-110.
- 195 c. No phase 2 registration fee shall be required for a site that has been determined to
196 be eligible for participation in the program based upon an application received by the
197 Department prior to July 1, 2014 [unless changes are made to the application on or
198 after July 1, 2014 that require a new or revised eligibility determination made
199 pursuant to the provisions of 9VAC20-160-30 and 9VAC20-160-40. On and after
200 July 1, 2014, any change to the site that requires a new or revised eligibility
201 determination makes the site subject to a new phase 2 registration fee under this
202 subsection].
- 203 2. Payments of phase 2 registration fees shall be made payable to the Treasurer of
204 Virginia, shall include the VRP ID number assigned by the department, and shall be
205 remitted to Virginia Department of Environmental Quality, P.O. Box 1104, Receipts
206 Control, Richmond, VA 23218. The phase 2 registration fees shall be remitted to the
207 department within 90 days after date of the eligibility determination unless the
208 department agrees to extend the period for remitting the phase 2 registration fee.
- 209 3. Failure to remit the required phase 2 registration fee in accordance with subdivision 2
210 of this subsection within 90 days after the date of eligibility determination shall result in
211 the loss of eligibility status of the applicant and the site. After such loss of eligibility, the
212 applicant must reestablish eligibility in order to participate in the program.
- 213 a. The Department shall mail notification of nonpayment of the phase 2 registration
214 fee and pending loss of eligibility at least 30 days prior to loss of the applicant's (and
215 the site's) eligibility.

216 b. If eligibility is lost as a result of failure to remit a phase 2 registration fee, the
217 applicant shall pay new phase 1 and phase 2 registration fees as part of
218 reestablishing eligibility.

219 D. Phase 3 of the registration fee shall be an annual program cost defrayment fee in the
220 amount of \$4,500. If a site has been determined to be eligible for participation in the Voluntary
221 Remediation Program based upon an application received by the Department on or after July 1,
222 2014 and is participating in the Voluntary Remediation Program, a phase 3 registration fee shall
223 be assessed for that site as follows:

224 1. On November 1 of each calendar year, any site participating in the program on that
225 day shall be assessed a phase 3 registration fee if the application on which the eligibility
226 determination was based was received by the Department in a calendar year prior to
227 that year. For example:

228 a. Any site participating in the program on November 1, 2015 based upon an
229 application that had been received by the Department in calendar year 2014 (on or
230 after July 1, 2014) will be assessed a phase 3 registration fee and will be billed for
231 that assessment on March 1, 2016.

232 b. Any eligible site participating in the program on November 1, 2017 based upon an
233 application that had been received by the Department in calendar years 2014 (on or
234 after July 1, 2014), 2015, or 2016 will be assessed a phase 3 registration fee to be
235 billed on March 1, 2018.

236 c. Sites that are not participating in the program including sites that have not yet
237 been determined to be eligible to participate in the program, sites that have had a
238 Certificate issued pursuant to 9VAC20-160-110 prior to November 1st, and sites that
239 have been terminated from participation in the program pursuant to 9VAC20-160-100
240 prior to November 1st, are not subject to a phase 3 registration fee assessment for
241 that calendar year and will not be billed on March 1 of the following year.

242 2. The phase 3 registration fee is not prorated for participation in the program for
243 portions of calendar years.

244 3. The phase 3 registration fee assessed for an eligible site shall be billed to the
245 applicant on March 1st of the calendar year following the November 1st assessment.

246 4. The assessed phase 3 registration fee is due on April 1 of the billing year and shall be
247 made payable to the Treasurer of Virginia, shall include the VRP ID number assigned by
248 the department, and shall be remitted to Virginia Department of Environmental Quality,
249 P.O. Box 1104, Receipts Control, Richmond, VA 23218.

250 5. The phase 3 registration fees shall be remitted to the department by the due date
251 specified in subdivision 4 of this subsection unless extended by the department.

252 a. Failure to remit a required phase 3 registration fee within 30 days of the due date
253 shall be cause for termination from the program in accordance with 9VAC20-160-100
254 A 4.

255 b. The department shall mail notification of nonpayment of the phase 3 registration
256 fee and intent to terminate participation in accordance with 9VAC20-160-100 to the
257 participant at least 30 days prior to termination.

258 6. No phase 3 registration fee shall be assessed for a site participating in the program
259 based upon an application received by the department prior to July 1, 2014 [unless

~~260 changes are proposed and accepted to the original application after July 1, 2014 that
261 require a new or revised eligibility determination made pursuant to the provisions of
262 9VAC20-160-30 and 9VAC20-160-40. In that case, the site shall become subject to
263 phase 3 registration fees in accordance with this subsection using the date of the revised
264 application. If changes are made to the application that do not require a new or revised
265 eligibility determination, the site shall not become subject to phase 3 registration fees as
266 a result of those changes]~~

~~267 7. Any assessed phase 3 fees shall be remitted to the department before a certificate is
268 issued.~~

~~269 E. The total amount of fees collected by the board shall defray the actual reasonable costs
270 of the program. The director shall take whatever action is necessary to ensure that this limit is
271 not exceeded.~~

~~272 F. No portion of Voluntary Remediation Program registration fees collected pursuant to this
273 section shall be refunded.~~

~~274 G. If a site has been terminated from the program in accordance with 9VAC20-160-100, a
275 new application shall be submitted before the site will be considered for a new eligibility
276 determination and reenrollment into the program. The applicant shall also remit new phase 1
277 and phase 2 registration fees in accordance with this section and no monetary credit will be
278 given for any fees submitted prior to termination.~~

~~279 H. Amendments to a site's certificate or the associated declaration of restrictive covenants
280 issued by the department pursuant to 9VAC20-160-110 shall be subject to registration fees
281 based on the amendments requested. The land owner shall submit a certificate amendment
282 request to the department describing the changes being requested. The department will review
283 the request and notify the land owner of any additional information required and the amount of
284 the registration fee to be remitted as follows:~~

~~285 1. For amendments to the certificate or the associated declaration of restrictive
286 covenants not requiring a technical review by the department, only a phase 1 registration
287 fee shall be required.~~

~~288 2. For amendment requests that require technical review by the department, no phase 1
289 registration fee shall be required, but a reduced phase 2 registration fee in the amount of
290 \$4,500 shall be required. In the event that the amendment request also meets the phase
291 3 registration fee criteria in subsection D of this section based upon the date that the
292 department received the amendment request being the date of the application for such
293 purpose, phase 3 registration fees shall also be billed and remitted.~~

~~294 [I. For a site that has been determined to be eligible for participation in the program based
295 upon an application received by the Department prior to July 1, 2014, a request to change the
296 participant for such site received by the Department on or after July 1, 2014, or the Department
297 making such change, will not in and of itself subject the site to the fees under this section.]~~

298 **9VAC20-160-100. Termination.**

299 A. Participation in the program shall be terminated:

300 1. When evaluation of new information obtained during participation in the program
301 results in a determination by the department that the site is ineligible or that a participant
302 has taken an action to render the site ineligible for participation in the program. If such a
303 determination is made, the department shall notify the participant that participation has

304 been terminated and provide an explanation of the reasons for the determination. Within
305 30 days, the participant may submit additional information, or accept the department's
306 determination.

307 2. Upon 30 days written notice of withdrawal by the participant.

308 3. Upon the participant's failure to make reasonable progress towards completion of the
309 program, as determined by the department, and the participant's subsequent failure to
310 respond appropriately within 30 days to the department's written request for an update of
311 program-related activities and a projected timeline to fulfill the program requirements.

312 4. Upon failure to submit required registration fees in accordance with 9VAC20-160-55
313 (for applications received prior to January 29, 2014), 9VAC20-160-60 (for applications
314 received on or after January 29, 2014 and prior to July 1, 2014) or 9VAC20-160-65 (for
315 applications received on or after July 1, 2014). The department shall mail notification of
316 the department's intent to terminate participation in the program to the participant at
317 least 30 days prior to terminating the site's participation in the program. If the participant
318 fails to remit the required fee within 30 days of the date of such notification, the site's
319 participation in the program shall be terminated. The department reserves the right to
320 collect unpaid fees due to the department pursuant to 9VAC20-160-65.

321 B. The department shall be entitled to receive and use, upon request, copies of any and all
322 information developed by or on behalf of the participant as a result of work performed pursuant
323 to participation in the program, after application has been made to the program whether the
324 program is satisfactorily completed or terminated.

325 **9VAC20-160-110. Certification of satisfactory completion of remediation.**

326 A. The department shall issue a certificate when:

- 327 1. The participant has demonstrated that migration of contamination has been stabilized;
- 328 2. The participant has demonstrated that the site has met the applicable remediation
329 levels and will continue to meet the applicable remediation levels in the future for both
330 onsite and offsite receptors;
- 331 3. All provisions of the approved remedial action plan as applicable have been
332 completed;
- 333 4. All applicable requirements of the regulations have been completed; [and]
- 334 5. The department accepts all work submitted, as set forth in 9VAC20-160-70 [- ; and]
- 335 6. All registration fees due to the department pursuant to 9VAC20-160-55, 9VAC20-160-
336 60, and 9VAC20-160-65 have been received by the department.

337 B. The issuance of the certificate shall constitute immunity to an enforcement action under
338 the Virginia Waste Management Act (§ 10.1-1400 et seq. of the Code of Virginia), the Virginia
339 State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), the Virginia Air Pollution
340 Control Law (§ 10.1-1300 et seq. of the Code of Virginia), or other applicable Virginia law for the
341 releases described in the certificate.

342 C. A site shall be deemed to have met the requirements for unrestricted use if the
343 remediation levels, based on either background or standard residential exposure factors, have
344 been attained throughout the site and in all media. Attainment of these levels will allow the site
345 to be given an unrestricted use classification. No remediation techniques or land use controls
346 that require ongoing management may be employed to achieve this classification.

347 D. For sites that do not achieve the unrestricted use classification, land use controls may be
348 proffered in order to develop remediation levels based on restricted use. The restrictions
349 imposed upon a site may be media-specific, may vary according to site-specific conditions, and
350 may be applied to limit present and future use. All controls necessary to attain the restricted use
351 classification shall be described in the certificate as provided in this section. Land use controls
352 accepted by the department for use at the site are considered remediation for the purposes of
353 this chapter.

354 E. If a use restriction is specified in the certificate, the participant shall cause the certificate
355 to be recorded among the land records in the office of the clerk of the circuit court for the
356 jurisdiction in which the site is located within 90 days of execution of the certificate by the
357 department, unless a longer period is specified in the certificate. If the certificate does not
358 include any use restriction, recordation of the certificate is at the option of the participant. The
359 immunity accorded by the certificate shall apply to the participant and shall run with the land
360 identified as the site.

361 F. The immunity granted by issuance of the certificate shall be limited to the known releases
362 as described in the certificate—]. The immunity is further conditioned upon satisfactory
363 performance by the participant of all obligations required by the department under the program
364 and upon the veracity, accuracy, and completeness of the information submitted to the
365 department by the participant relating to the site. Specific limitations of the certificate shall be
366 enumerated in the certificate. The immunity granted by the certificate shall be dependent upon
367 the identification of the nature and extent of contamination as presented in the Voluntary
368 Remediation Report.

369 G. The certificate shall specify the conditions for which immunity is being accorded,
370 including, but not limited to:

- 371 1. A summary of the information that was considered;
- 372 2. Any restrictions on future use;
- 373 3. Any local land use controls on surrounding properties that were taken into account;
- 374 4. Any proffered land use controls; and
- 375 5. Any post-certificate monitoring.

376 H. The certificate may be revoked by the department in any of the following situations,
377 provided that (i) the department has given the owner written notice of the deficiency and (ii) the
378 owner has failed to cure the deficiency within 60 days of the date of the written notice or some
379 longer period granted by the department.

- 380 1. In the event that conditions at the site, unknown at the time of issuance of the
381 certificate, pose a risk to human health or the environment;
- 382 2. In the event that the certificate was based on information that was false, inaccurate, or
383 misleading; or
- 384 3. In the event that the conditions of the certificate have not been met or maintained.

385 I. The certificate is not and shall not be interpreted to be a permit or a modification of an
386 existing permit or administrative order issued pursuant to state law, nor shall it in any way
387 relieve the participant of its obligation to comply with any other federal or state law, regulation or
388 administrative order. Any new permit or administrative order, or modification of an existing

389 permit or administrative order, must be accomplished in accordance with applicable federal and
390 state laws and regulations.

391 J. The issuance of the certificate shall not preclude the department from taking any action
392 authorized by law for failure to meet a requirement of the program or for liability arising from
393 future activities at the site that result in the release of contaminants.

394 K. The issuance of the certificate by the department shall not constitute a waiver of the
395 Commonwealth's sovereign immunity unless otherwise provided by law.