

65-34,172. Plan; enforcement; use of information as basis of other enforcement actions. (a) Voluntary cleanup plans are not enforceable against an applicant unless the department can demonstrate that an applicant who initiated a voluntary cleanup under an approved plan has failed to fully implement that plan. In that case, the department may require further action if such action is authorized by other state statutes administered by the department or rules and regulations of the department.

(b) Information provided by an applicant to support a voluntary cleanup plan shall not provide the department with an independent basis to seek penalties from the applicant pursuant to applicable statutes or rules and regulations. If, pursuant to other applicable statutes or rules and regulations, the department initiates an enforcement action against the applicant subsequent to the submission of a voluntary cleanup plan regarding the contamination addressed in the plan, the voluntary disclosure of the information in the plan shall be considered by the enforcing authority to mitigate penalties which could be assessed to the applicant.

History: L. 1997, ch. 137, § 12; July 1.