**Section 740.625 Voidance of No Further Remediation Letter**

a) *The No Further Remediation Letter shall be voidable if the* remediation *site activities are not managed in full compliance with the provisions of* Title XVII of the Act, this Part, *or the approved Remedial Action Plan or remediation objectives upon which the issuance of the No Further Remediation Letter was based. Specific acts or omissions that may result in voidance of the No Further Remediation Letter include, but shall not be limited to:*

1) *Any violation of institutional controls or land use restrictions, if applicable;*

2) *The failure of the owner, operator, RA, or any subsequent transferee to operate and maintain preventive or engineering controls or to comply with a groundwater monitoring plan, if applicable;*

3) *The disturbance or removal of contamination that has been left in place in accordance with the Remedial Action Plan.* Access to soil contamination may be allowed if, during and after any access, public health and the environment are protected consistent with the Remedial Action Plan;

4) *The failure to comply with the recording requirements of* Section 740.620 of this Part;

5) *Obtaining the No Further Remediation Letter by fraud or misrepresentation*;

6) *Subsequent discovery of contaminants not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation Letter was based, that pose a threat to human health or the environment*;

7) *The failure to pay the No Further Remediation Assessment required under* Section 740.615(b) of this Part; [415 ILCS 5/58.10(e)]

8) The failure to pay in full the applicable fees under the Review and Evaluation Services Agreement within 45 days after receiving a request for final payment under Section 740.310 of this Part;

9) The failure to comply with the requirements of Section 740.621 of this Part for No Further Remediation Letters issued to IDOT remediation sites located in IDOT rights-of-way;

10) The failure to comply with the requirements of Section 740.622 of this Part or the failure to record a No Further Remediation Letter perfected in accordance with Section 740.622 within 45 days following transfer of the Federally Owned Property subject to the No Further Remediation Letter to any entity that will not remain or become a Federal Landholding Entity; or

11) The failure to comply with the notice or confirmation requirements of 35 Ill. Adm. Code 742.1010(b)(3), 742.1015(b)(5) or 742.1015(c).

b) *If the Agency seeks to void a No Further Remediation Letter, it shall provide notice to the current title holder of the* remediation *site and to the RA at his or her last known address.* [415 ILCS 5/58.10(f)]

1) *The notice shall specify the cause for the voidance and describe facts in support of that cause*. [415 ILCS 5/58.10(f)]

2) The Agency shall mail notices of voidance by registered or certified mail, date stamped with return receipt requested.

c) *Within 35 days after the receipt of the Notice of Voidance, the RA or current title holder* of the remediation site *may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of* the *Act. If the Board fails to take final action within 120 days, unless such time period is waived by the petitioner, the petition shall be deemed denied and the petitioner shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of the Act. The Agency shall have the burden of proof in any such action*. [415 ILCS 5/58.10(f)(1)]

1) *If the Agency's action is appealed, the action shall not become effective until the appeal process has been exhausted and a final decision reached by the Board or courts*. [415 ILCS 5/58.10(f)(3)]

A) *Upon receiving a notice of appeal, the Agency shall file a notice of lis pendens with the Office of the Recorder or the Registrar of Titles for the county in which the* remediation *site is located. The notice shall be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site.* [415 ILCS 5/58.10(f)(4)]

B) *If the Agency's action is not upheld on appeal, the notice of lis pendens shall be removed in accordance with Illinois law within 45 days after receipt of the final decision of the Board or the courts*. [415 ILCS 5/58.10(f)(4)]

2) *If the Agency's action is not appealed, the Agency shall submit the notice of voidance to the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site*. [415 ILCS 5/58.10(f)(2)]

(Source: Amended at 26 Ill. Reg. 7197, effective April 25, 2002)