

Contaminated Soils Forum

October 20, 1999

Tampa, Florida

DEP Staff Notes

October 20, 1999

Doug Jones, Contaminated Soils Forum (CSF) Co-Chair, began the meeting.

The DEP staff notes from the June 6 and 7, 1999, CSF meeting were approved without correction.

Note: References to focus group papers, reports or presentation materials are found throughout these notes. If the individual or group responsible for generating the materials has provided an electronic copy to the DEP Staff, it has been placed on the DEP website at <http://www.dep.state.fl.us/dwm/programs/csf>. If you cannot locate the materials on the website, then please contact the presenter or group for a copy of their materials.

Selection of New Co-Chair:

Dr. Bob DeMott was selected as Co-Chair.

Next Meeting Scheduled:

The week of January 31, 2000, is being considered for the next CSF. The location is Jacksonville. Details will be forthcoming as to the date and location in Jacksonville.

Applicability of Florida Sunshine Act:

A request was made to modify the agenda to include discussion and status of the applicability of the Sunshine Act to the CSF. The agenda was modified as requested. Doug Jones stated that a written request was submitted to the department's Office of General Counsel (OGC) for a formal response to the applicability of the Sunshine Act. The Division of Waste Management (DWM) is waiting for a response. Several attendees indicated that the CSF successes and the open-dialogue format were made possible due to the "informal" process in which the CSF has operated to date. The informal arrangement of the meeting encourages participation especially due to the voluntary nature of the CSF participation. Doug Jones will continue to follow up on the written request to OGC.

Status of Methodology Focus Group (MFG) by Dr. Bob DeMott and Dr. Chris Saranko:

Dr. Bob DeMott gave a brief history behind the creation of the MFG. During the 1998 rule making process for Brownfields, the science used to derive cleanup target levels (CTLs) was changing and several of the parameters and resources used were not the latest. The MFG was asked to review and look closer at the latest science and try to determine if changes to existing CTLs would be necessary. David Ludder in an earlier request to the MFG and the department requested the group to readdress the calculation of body weight, exposed surface area and how other default parameters were calculated. Dr. DeMott continues to research the “uncertainty” in the process of deriving CTLs. (For further details see the September MFG minutes or the minutes of the July CSF meeting.)

The MFG next meeting is December 16, 1999, in Orlando at the DEP’s Central District Office. For future updates, directions, and a copy of the agenda please visit the website at: <http://www.dep.state.fl.us/dwm/programs/csf>.

Update on Bioavailability Study of Arsenic

Bill Hinkley requested an update of the DEP’s bioavailability study of arsenic that the University of Florida (“UF”) is conducting. Doug Jones indicated that the 1998 Legislature appropriate \$250,000 to conduct the study. The UF has sorted out some initial challenges and preliminary results are expected in December 1999. Ed Zillioux questioned whether or not the amount appropriated was adequate to determine “definitive” answers. Doug Jones responded that, if the study results indicate the need, the DEP would likely seek additional funding to conduct additional studies. There was further discussion centered on the assumption that arsenic is assumed to be 100% bioavailable at this time until completion of the study. Because Dr. Roberts was not in attendance, many of the specific questions concerning the study were deferred to a later date when Dr. Roberts can participate.

Update on the Background Concentrations of Trace Metals in Florida Surface Soils:

During the arsenic bioavailability study discussion, several participants asked about the status of a study on background concentrations of trace metals. For the latest on this research, visit the website at: http://www.floridacenter.org/default_links.htm.

Look for the following research study:

Background Concentrations of Trace Metals in Florida Surface Soils

(Continuation Study)

Drs. Lena Ma, Arthur Hornsby and Willie Harris
University of Florida

Status of Site-Specific Natural Background Document:

Wilbur Mayorga presented an update on the technical guidance document: *Determination of Natural Background Concentrations*. This technical guidance document is intended to provide basic guidelines for the development of a site-specific, natural background sampling and analysis plan. These guidelines are applicable to most sites; however, alternative guidelines may be necessary for large, complex sites. Any comments or suggestions on the document should be directed to Mr. Mayorga. The latest draft copy can be downloaded at the website: <http://www.dep.state.fl.us/dwm/programs/csf>. The anticipated date for finalizing the technical document is December 1999.

The DEP, UF and Miami-Dade DERM continue to work on guidelines for determining anthropogenic background at a site.

During this discussion, there was an announcement of an **Arsenic Task Force** comprised of the DEP, Department of Health, Department of Agriculture and Consumer Services, UF, and others to discuss issues related to arsenic. For information on meeting dates or how one may participate please contact Ligia Mora-Applegate. Her e-mail address is Ligia.Mora-Applegate@dep.state.fl.us or her phone number is 850-488-3935.

Updates on Policy Sub-Groups

Cleanup Focus Group (CFG): Mike Petrovich gave a brief summary of the July CFG meeting held in Tallahassee. At the meeting, the DEP indicated that the department might move forward on legislation to apply RBCA to all sites ("Global RBCA"). However, at that time DEP staff had not yet received approval to do so. The CSF as a group indicated that this is an important issue and if the DEP decides to move forward with a proposal, the CSF should be informed. Doug Jones stated the DEP would keep the CSF informed when the OK was given.

Geoff Smith summarized the July CFG meeting into six areas. There was consensus on the first five areas but not on the last one:

1. RBCA principles should apply to all cleanup programs;
2. Application of RBCA principles will require legislative action;
3. DEP should not be a "soil cop";
4. Any statutory change should not change liability under existing law;
5. Any new SCTL will not be retroactively applied at sites; and
6. The application of a risk range.

One other issue that was discussed was how RBCA should apply to reuse and recycling. This issue will require further discussion. No consensus was reached.

Reuse Focus Group (RFG): Bill Hinkley presented the RFG update. Bill gave a presentation on the Chromated Copper Arsenate (CCA) Treated Wood Industry. A copy of the presentation is available at the website:

<http://www.dep.state.fl.us/dwm/programs/csf>.

Updates on Science Sub-Groups

Communication Focus Group (CommFG): Dr. Joe Sekerke presented the CommFG update. The group is working on a plan on how to communicate the risk to residents living close to a RBCA cleanup site. The approach is to use community leaders and DEP staff to form a team. The team would be trained in RBCA terminology and inform the residents on the application of a RBCA cleanup. One approach would be the use of a videotape of a training seminar to distribute to residents. The CommFG is searching for a funding source to assist in production of the video and travel expenses. A pilot project is anticipated to cost \$20, 000 to \$30,000.

Ecological Risk Focus Group (ERFG): Diana Davis gave the update for this group. The ASTM 3rd Revision of Ecological Risk Assessment is under review. A full report will be presented at the next CSF.

Discussion re: Short-term Goals for the CSF and for Focus Groups

There was discussion regarding any proposed legislative language to apply RBCA principles to other non-program sites. The CSF requested that when any proposed language is approved that the CSF receive a copy.

One participant asked when the guidance memorandum on the applicability of Chapter 62-777, F.A.C., SCTLs to non-program sites will be finalized. The memorandum was issued on September 22, 1999. A copy of the memorandum can be downloaded at the website: <http://www.dep.state.fl.us/dwm/documents.htm>.

Questions on how RBCA principles will apply to reuse and recycling will require further discussion within the CSF.

The MFG continues to work on previously identified issues regarding the derivation of cleanup target levels. The MFG meets on December 16 to finalize the issues.

The issue regarding the applicability of the Florida Sunshine Law to CSF is still unresolved.

Mike Sole indicated that the "Registry of Institutional Controls" is still under review and development and a status update will be available at the next meeting.

Contaminated Soils Forum

June 7-8, 1999
Tallahassee, Florida

DEP Staff Notes

June 7, 1999

Doug Jones, Contaminated Soils Forum (CSF) Co-Chair, began the meeting and explained that Co-Chair Tim Varney was unable to attend this meeting.

The minutes from the December 2-3, 1998 CSF meeting were approved without correction.

Note: References to focus group papers, reports or presentation materials are found throughout these notes. If the individual or group responsible for generating the materials has provided an electronic copy to the DEP Staff, then we have placed it on our website at <http://www.dep.state.fl.us/dwm/programs/csf>. If you cannot locate the materials on the website, then please contact the presenter or group for a copy of their materials.

Roger Register gave an update on the rulemaking efforts that resulted from the CSF's recommendation to adopt the "Unified Rule"; i.e., one rule containing the Cleanup Target Levels (CTL's) for all three programs (Brownfields, Drycleaning and Petroleum). Roger explained that the rule, Chapter 62-777, F.A.C., along with all the related program rules, was adopted by the Environmental Regulation Commission on May 26, 1999. (Note: FYI...the effective date of the rules is August 5, 1999. The rules can be downloaded from their respective program websites at <http://www.dep.state.fl.us/dwm/programs.htm>).

Presentation of Risk Assessment (RA) Terminology and the How's and Why's of Conducting a RA (presented by Tim Bahr, P.G., and Drs. Steve Roberts and Bob DeMott):

Tim Bahr presented a general overview of Florida's Risk-Based Corrective Action (RBCA) law and rule. There were questions and discussion about whether implementation of the law through the rule meets the legislative intent language stating that Florida's RBCA should be protective of all people under actual circumstances of exposure. Tim explained that the rule does provide for actual circumstances of exposure to be taken into account when brought to the attention of the DEP and the person doing the cleanup; e.g., when a community

relies heavily on fishing for subsistence in a surface water body that may be affected by a contaminated site.

Dr. Roberts presented “Risk Assessment Fundamentals (or RA Made Fun & Exciting!)” and Dr. DeMott presented “An Introduction to Chemical Risk Assessment Approaches (Toxicology 101)”. Drs. Roberts and DeMott both used electronic and hard copy materials during their talks; see these materials for details on their presentations. The audience had the opportunity to ask many questions, and the presentations were well-received.

Updates on Policy Sub-Groups

Cleanup Focus Group (CFG): Mike Petrovich presented the CFG update. See revised CFG Draft Report dated June 1999. Mr. Petrovich mentioned HB 107 and stated he believes this bill revokes the Tomoka case (discussed at previous CSF meetings), but acknowledged the bill had not yet been signed by the Governor. (Note: since the time of this meeting, HB 107 has become law.) This could affect the debate regarding whether DEP has the authority to apply Soil Cleanup Target Levels (SCTL’s) to non-program sites. The CFG will continue to discuss this issue and determine what other issues they can build consensus on.

Reuse Focus Group (RFG): Bill Hinkley presented the RFG update. See revised draft of the RFG paper and table dated June 2, 1999. Mr. Hinkley provided the following list of reuse issues being researched by the Florida Center for Solid & Hazardous Waste Management: Wood Ash, Recovered Screened Material (RSM), CCA Wood, Street Sweepings, Arsenic on Golf Courses, Skeet Ranges, and Background Metals Concentrations. Mr. Hinkley also provided the following Summary of Reuse Activities: RSM Reuse Guidance completed; Waste-to-Energy Ash BUD under development; the Street Sweepings Focus Group; the FIPR Phosphogypsum Project; the Gulf Power Coal Ash Reuse Proposal; and the Drinking Water Treatment Sludges Working Group. He also provided the following Summary of Key Reuse Issues: Statutory Authority; Conflicts with Residuals/Biosolids Numbers; Appropriateness of Using SCTL’s; Accounting for the Benefits of Reuse; and Application of Institutional Controls.

Street Sweepings Focus Group (SSFG): Mary Jean Yon presented the SSFG update. The SSFG met in Orlando in March and in Tallahassee in May and addressed not only street sweepings, but also stormwater sediments and other materials. They discussed options for the regulated community to deal with these materials other than taking them to a lined landfill. The group is also working on a draft research proposal and currently trying to obtain funding from 10 municipalities to help pay for the research.

Updates on Science Sub-Groups

Methodology Focus Group (MFG): Dr. Bob DeMott presented the MFG update. He explained that the group had come up with recommendations on derivation of future cleanup target levels based on a meeting of the MFG held in Tallahassee on June 2, 1999. The MFG came up with a list of suggestions and Dr. DeMott gave the following as highlights of the decisions made at that meeting:

1. Improve the Acute Toxicity Data Base (Dr. Chris Teaf will analyze and report back to the MFG.)
2. Draft technical guidance on the issue of "Background" [Dade Environmental Resources Management (DERM) has provided draft guidance to the MFG for review and comment.]
3. Review exposure assumptions (Dr. Roberts will provide an analytical report on potential changes; e.g., body weight; child aggregate resident; etc.)
4. Clarify the uncertainties involved in calculating the SCTL's (the MFG nominated Dr. Tim Varney w/ help from Dr. DeMott to write a "white paper" on this issue.)
5. Address questions re: implementation of SCTL's; e.g., what do you compare the SCTL's to? What do you sample? Where do you sample? How do you deal with "hot spots"? (The MFG deferred this issue to the Cleanup Focus Group.)
6. Consider improved approaches for leachability testing; i.e., alternatives to TCLP or SPLP (Wilbur Mayorga will address this issue.)
7. Address issue of leachability characterization for inorganics (Dr. Teaf will try to present data to the MFG to develop more leachability SCTL's for inorganics.)
8. Appointed monitor for synergism issues (Dr. Richard Freeman will track data and conferences on this issue.)

Discussion re: Short-term Goals for the CSF and for Focus Groups

There was discussion regarding the DEP's authority to apply RBCA and the SCTL's to non-program sites, and the Cleanup Focus Group agreed to address this issue.

Another issue referred to the CFG is whether the default SCTL's should be established based on a reasonable worst case scenario to protect all people under actual circumstances of exposure.

One attendee recommended that all focus groups consider whether legislation is needed to address their issues and decide whether recommendations should be made for the 2000 Session. It was noted that timing is a problem with respect to the DEP's legislative agenda because legislative concepts will have to be filed prior to the next CSF meeting.

June 8, 1999

Updates on Science Sub-Groups (continued from Day 1)

Communication Focus Group (CommFG): Dr. Linda Lampl presented the CommFG update. See draft paper entitled "Communications Focus Group: Recommendations and Funding Information" distributed at the meeting. Dr. Lampl summarized the group's recommendations in two categories: (1) Investigating the possibility of the DEP conducting training for communicating risk; and (2) Searching for funding options available for communication and risk outreach.

There was discussion about the possibility of incorporating the presentation by Drs. Roberts and DeMott into the training using a video format with DEP staff and community members as the audience. One suggestion was to include DOH, DCA and DACS staff in the training workshops and the video to answer the questions dealing with issues these agencies address. There was also a recommendation to involve the Community Environmental Health Advisory Board (CEHAB) in this training project.

Another question raised was when the community should get involved; i.e., what trigger or threshold should exist? One attendee questioned whether the community wants/needs to be involved in every petroleum cleanup (thousands around the state), or should community involvement be limited to Superfund sites or Brownfield sites, etc.? The group asked the CommFG to provide criteria for when community involvement is appropriate.

Peer Review Focus Group (PRFG): Doug Jones gave the update for Dr. Roberts, PRFG leader, who had to leave the meeting prior to this time. According to Dr. Roberts, two "camps" are developing within this group and he hopes to develop consensus by the next CSF meeting. If not, he will present the differences and seek input from the larger CSF.

Ecological Risk Focus Group (ERFG): Isabel Johnson gave the update for this group since Dr. Ed Zillioux, ERFG leader, was unable to attend the meeting. She presented a "Position Paper Outline" which included the following: (1) Statement of Purpose; (2) Ecological Risk Assessment Framework Review; (3) Florida-Specific Framework; (4) Utility of Screening Numbers for Ecological Risk Assessment; and (5) Resources for Ecological Risk Assessment (ERA) Design and Review; along with an Appendix: Past ERA Experience in Florida Ecosystems. Ms. Johnson explained that most chapters are drafted, but the entire paper is not yet finished. The group's goal is to have a finished draft paper for the next meeting for the entire CSF to review.

Updates on Application Sub-Groups

Institutional Controls Focus Group (ICFG): Geoff Smith gave the update for this group. See the ICFG Report dated 12/30/98 for latest draft paper. Mr. Smith stated he believes the CSF has exhausted discussions on this issue to date. One recommendation from this group is to draft legislation to amend Florida's Marketable Record Title Act to remedy at least one problem identified with the existing Institutional Controls: durability. Mr. Smith agreed to have draft legislation by the next CSF meeting. The group acknowledged that problems remain regarding enforceability due to lack of resources.

Engineering Controls Focus Group (ECFG): Roger Register presented the update for the ECFG. See the ECFG's "Final Report" dated June 7, 1999. Mr. Register noted that the report is not "final" based on comments he received from the audience to change a reference on page 3 re: bottom barriers. He agreed to make this change. There was discussion regarding whether this focus group needs to continue since they've completed their final report. The consensus was to disband the ECFG for now, and it can be resurrected if necessary.

GIS Tracking Focus Group: Roger Register explained that there has been no activity with this group since the DEP GIS staff gave the demonstration in Orlando. Everyone agreed that the demonstration served its purpose to educate the CSF about GIS capabilities and to provide a Q&A session with the DEP staff; therefore, this focus group can be disbanded until further notice.

Environmental Equity & Justice Focus Group (EEJFG): Ms. Leola McCoy gave this group's update since Dr. Richard Gragg was unable to attend the meeting. Ms. McCoy explained that an EJ model had been developed for EPA Region IV and that it will probably filter down to the eight states. She has written a several page critique of the model pointing out flaws, and Dick Green (EPA) has assured her they will consider her points and revise the model. Ms. McCoy stated she would be working with Dr. Gragg to bring input from all the agencies involved in this issue: DACS, DCA, DOH, DEP, etc.

Meeting Wrap-Up

In planning the next CSF meeting, the group consensus was to have a one-day meeting in Tampa sometime during the last two weeks of October.