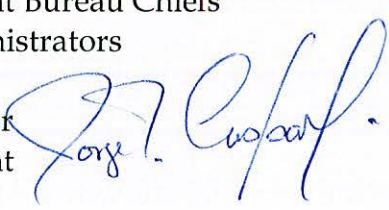


Florida Department of
Environmental Protection

Memorandum

TO: Regulatory District Directors
Division of Waste Management Bureau Chiefs
Waste Program Section Administrators

FROM: Jorge R. Caspary, P.G., Director
Division of Waste Management 

DATE: October 26, 2011

SUBJECT: Guidance for Requests for Additional Site Assessment (RASAs) and Remedial Action Plan Addenda (RAPAs)

The cleanup of contaminated sites is often a long term and iterative process. It is important that the Florida Department of Environmental Protection (DEP) be consistent in managing the Cleanup Programs statewide and that we do everything possible to work with responsible parties in a constructive and cooperative manner to enable them to complete a timely site assessment and cleanup. To accomplish this, the guidance outlined below will be implemented immediately.

This guidance is based on the premise that the responsible party is willing and financially able to perform the tasks necessary to complete a site assessment and remediation pursuant to DEP contaminated site cleanup rules. However, some flexibility is built into the process to enable responsible parties with limited financial or technical resources to work iteratively with DEP, when necessary and appropriate.

Effective immediately, the following procedures will apply to Requests for Additional Site Assessment (RASAs) and Remedial Action Plan Addenda (RAPAs) and similar comment letters:

1st RASA/RAPA: Will require review by the waste or tanks cleanup section supervisor to ensure that either the RASA or RAPA is consistent with statutes, rules, and generally accepted practices in the submittal of geological and engineering data and reports. The RASA or RAPA can be signed by the site manager or by the cleanup section supervisor.

2nd RASA/RAPA: The program administrator must review and sign a 2nd RASA or RAPA.

3rd RASA/RAPA: The district director (districts) or the bureau chief (division) must review and sign the 3rd RASA or RAPA. In addition, each district and the Division of Waste Management must submit a monthly report to the Deputy Secretary for Regulatory Programs on the 3rd and subsequent RASA/RAPAs issued, including an explanation for each.

4th RASA/RAPA: Will require approval of the Director of the Division of Waste Management prior to issuing the 4th or subsequent RASA/RAPA.

All RASAs and RAPAs must be sent to the responsible party, not only consultants and agents, so that the owner/client is aware of the cleanup project's status.

In addition, I am issuing the following general guidance to improve outreach to responsible parties and their consultants, better focus our limited resources on results, and to improve program accountability.

Responsible Parties and Consultant Outreach

One factor that may be contributing to the number of addenda required to complete the site assessment is an incomplete understanding of what is required for a completed assessment. Enhanced training and outreach will be used to provide responsible parties and their consultants with concise, easy to understand guidance on completing an assessment. Components of this outreach will include:

- 1. Encourage pre-assessment planning meetings between the responsible parties and DEP site management staff to improve the submittal of a complete Site Assessment Report (SAR) or Remedial Action Plan (RAP) the first time.**

These meetings should be used to develop consensus about the scope of both tasks. Emphasis should be placed on the minimum information necessary to complete them. To help encourage this early communication and cooperation, the letter that is currently sent to responsible parties informing them of the requirement to perform a site assessment will be modified to include an invitation to a pre-assessment planning meeting. We will also develop a short enclosure with tips on completing the SAR or RAP the first time.

- 2. Develop, present and distribute focused guidance on the requirements for a SAR and RAP.**

Guidance will be developed for consultants and responsible parties to clearly present the intent, purpose and scope of a completed SAR and RAP. The training will be presented via webinar and a stand-alone version will be distributed online.

- 3. Submittal of requests for time extensions.**

Our rules require that the responsible party provide documentation supporting the good cause for a time extension request. In the majority of cases, granting a time extension to submit a SAR or RAP will result in submittal of more complete documents and reduce the

number of comment letters from DEP. The current "request for extension" process can be used to formally authorize the extensions and provide assurance that the responsible party is conscientiously working towards completion of the assessment (see also #3 under "Staff Guidance" below).

Staff Guidance

It is important to ensure that department staff who review SARs and RAPs understand the importance of completing site assessments in fewer steps and in less time. Doing so will require that they focus on site-specific assessment and remedial action plan requirements, communicate deficiencies and recommended improvements clearly to responsible parties and consultants, and allow flexibility in time frames for submittal for responsible parties that demonstrate good faith and diligence.

In addition, we must acknowledge that minor data gaps are not uncommon in a site assessment or remedial action plan and that there is a difference between reasonable versus absolute assurances of the lateral and vertical extent of contamination or engineering conclusions. Comments must be based upon the actual data presented and reasonable extrapolations of that data. Comments must not be based on purely hypothetical, "worst case" scenarios.

A task force will be assembled from the Division of Waste Management and the district offices to provide instruction and use existing rules to develop focused guidance on the following elements:

- 1. Determining the critical elements of a site-specific SAR and RAP.**

Section .600 of all four cleanup rules (i.e., Chapters 62-780, 62-770, 62-782 and 62-785, F.A.C.), and also other factors such as the Bureau of Petroleum Storage Systems Site Assessment Report template and the RAP checklist provide a broad list of goals to be achieved by a SAR or a RAP, an extensive list of tasks that may be necessary to accomplish site-specific assessment goals, and an exhaustive list of elements that may be applicable to the development of a comprehensive SAR. Instruction and guidance will be provided to cleanup staff about how to ensure that SAR reviews are performed to determine whether the information provided is sufficient to facilitate informed risk-based decisions about completing site cleanup and not performed as a checklist exercise to require submittal of information that is not relevant to a specific site or information that is "nice to know". Further, site managers will not be allowed to subsequently bring up new issues on old data; however, issues that were previously not critical to completion of the site assessment may become so based upon new data.

2. How to write comment letters that provide specific suggestions on the additional required work while leaving open the option for the responsible party's consultant to use professional judgment.

The person reviewing a SAR or RAP should be as specific as possible in describing the work that is needed to complete a SAR or RAP that is sufficient to reach reasonable conclusions as well as to meet regulatory requirements. A letter simply stating that the SAR or RAP is incomplete will not be acceptable. Conversely, the consultant must be allowed the flexibility to exercise their professional judgment and site-specific knowledge in following recommendations. Guidance on the required specific elements of comment letters will be developed.

3. When and how to grant time extensions for SAR/RAP submittals.

A request to grant a time extension will not be acceptable unless such request meets the rule criteria and includes the documentation demonstrating good cause [see Rules 62-780.790, 62-782.790 and 62-770.800, F.A.C. Note that such requests for brownfield sites are governed by the terms of the Brownfield Site Rehabilitation Agreement.] Time extension requests should be granted to responsible parties that submit documentation summarizing work completed to date, a good cause justification for the request, and a revised schedule for document submittal. Site managers should verify that all immediate contaminated site risks are being controlled.

Time In-House

The Bureaus will begin tracking more closely the time for DEP to review a submittal compared with the time it takes the responsible party to respond. Along with this monitoring, the Bureau will routinely compare a range of standard review times that have been established for most documents to actual review time. Reviews that exceed the range of review times and have not been completed will be highlighted for attention. In addition, individual performance in relation to a range of standard review times will be monitored. Routine or chronic exceedance of the range of standard review times will be investigated. Workload will be adjusted, training will be provided, or other action will be taken as appropriate.

cc: Jeff Littlejohn, P.E., Deputy Secretary for Regulatory Programs