

EXECUTIVE SUMMARY

CONTAMINATED SOIL SOURCE REMOVAL GUIDELINES FOR PREAPPROVAL PROGRAM (FUNDED) SITES

The Bureau of Petroleum Storage Systems (BPSS) has published an updated version of the Preapproval Program Guidelines for Contaminated Soil Source Removal. Two versions of program guidance on this subject have been published previously, the most recent being September 6, 2001. This phase of site rehabilitation represents the single largest expenditure for many sites being cleaned up with funding from the Inland Protection Trust Fund (IPTF). Soil source removal is also the only site rehabilitation activity in which substantial expenditures may be necessary for items and activities such as site restoration and removing and replacing UST systems that may not constitute site rehabilitation by themselves but may be deemed integral to site rehabilitation and therefore determined necessary to carry out site rehabilitation. Such integral costs commonly benefit the owner of the facility or responsible party for the storage tank system as they may have tank compliance upgrade and related expenses they would otherwise incur paid for by the FDEP as part of the site rehabilitation.

The petroleum cleanup preapproval program has seen increased frequency of source removals that include tank removal/replacement costs and related site restoration costs because of the impending UST secondary containment compliance deadline of December 31, 2009, and this trend is expected to continue to increase over the next three years. Because of the potentially large expenditures for this program task, and the necessity to have greater consistency and accountability for expenditures, the BPSS is continuing its efforts to improve our accountability and consistency in making technical determinations of scope of the soil source removal and allowable costs by publishing this newest revision to the guidance.

The updated guidelines are significantly lengthier than the previous publication at approximately 20 pages compared to eight pages of the previous publication. However, most of the new material does not represent new requirements but it is rather a more detailed explanation and elaboration on existing requirements with examples. The following is an overview of the seven sections to the new guidance and three attachments and explanation as to whether the requirements contained within each section are existing requirements and procedures, new requirements or procedures, or a more detailed explanation of existing requirements and procedures.

I. Introduction, Purpose, Intent, Related Statutes – This is a new section added to the guidance but does not contain any new procedures and requirements. It explains the reason for the guidance and identifies the governing statutes of Chapter 376, F.S., that are relevant to the procedures and requirements of the guidance.

II. Allowable Scope of Source Removal without a RAP or LSRAP – This is a new section which includes two subsections. 1) For the most part the first subsection reiterates and elaborates upon a concept that appears in the existing guidance, that is, that under certain circumstances that may be considered an emergency event, some of the procedures and requirements of the rest of the guidance, including the requirement to complete the site assessment and prepare a RAP prior to proposing a source removal greater than 200 cubic yards may, in limited circumstances, be waived in the interest of expeditious implementation of a necessary source removal. 2) The second subsection titled “Small Limited-Scope Source Removals without a RAP or LSRAP” is a discussion of a concept that appears in the current guidelines but with greater elaboration and identification of specific limitations. The concept that a source removal of less than 200 cubic yards can be proposed without first preparing a RAP is consistent with the previous guidance. However, the previous guidance specified that such source removals without prior approval could not include items for which the owner would receive any non-cleanup related benefits but did not explain what sorts of items could be included. The new guidance includes a list of seven categories of items that are allowable and describes other items that are strictly not allowed to be included in such source removals without first obtaining approval in a RAP.

III. **Level of Effort (compensation) for LSRAP** – This is a new section which, along with Attachment C, specifies the compensation levels for various categories of RAPs that may be necessary for different types and scopes of source removals. The current Preapproval Program SOP includes some information on this topic but there is greater detail now included in Attachment C.

IV. **Minimum Site Assessment Data Necessary for LSRAP for Source Removal** – This is a repeat of a section that already appears in the current guidelines. Some editing, reorganization, and reformatting have been done for clarification and a new provision has been added to emphasize the importance of giving serious consideration to Level I Alternative Closure options for soil CTLs for the larger scope source removals.

V. **RAP or LSRAP Technical Justification for Source Removals That Will Include Tank Removal, Demolition, and Site Restoration Costs** - This is a new section that was created for the specific purpose of emphasizing the importance that RAPs that recommend source removals must be accurate and complete such that the scope of activities and costs are consistent with the actual source removal that will follow. It seems to be intuitive that such would be the case but the FDEP has experienced numerous circumstances of source removal proposals which grossly exceeded the cost estimate in the RAP and/or included substantial “integral cost” items that were not disclosed in the RAP, which is supposed to be the technical basis to justify the site rehabilitation actions that will be conducted and funded by the IPTF. Because of the numerous instances that this has been a problem this section has been added to clarify the limits of variability between the RAP and the subsequent work order proposal that will be tolerated and the consequences of exceeding those limits. There is a new requirement that the source removal work order cannot include any significant “integral cost” items that are not specifically included in the RAP, and the cost specified in the source removal work order proposal may not exceed the cost estimate in the RAP by more than 20%. The consequences of exceeding these limits are that either the FDEP will limit the amount of the work order/integral cost items to those specified in the RAP, or the preapproval contractor will have to do the RAP over at his own expense to provide justification for the additional items and/or costs. There is a new Source Removal Quote/Summary Form that will serve two functions; to estimate costs in the RAP in a standard format and to summarize actual quotes and costs for the RAP implementation work order after the RAP has been approved.

VI. **Allowable Costs Which May Be Considered in Source Removals with RAP if Determined Cost-Effective and Integral to Site Rehabilitation** - This is a new section that describes specific items that may be included in contaminated soil source removals that include tank removal and replacement and/or other site restoration costs. The application of limitations to the scope of tank installation and related site restoration costs may be necessary to ensure that the FDEP’s participation is limited to restoring the property to the condition that existed prior to the soil excavation but does not result in making improvements to the previous site condition other than contamination cleanup. An example may be a case in which the responsible party for a site chooses to repave a larger area than necessary to restore pavement damaged by the soil excavation, in which case the FDEP participation would be prorated based on the area of pavement associated with site restoration for the source removal. The limitation of allowable costs for various items in such circumstances is not an entirely new concept as it has been the general practice within the preapproval program to apply limitations such as those described in this section; however, due to lack of specific guidance heretofore, the limitations have been applied inconsistently. This section includes descriptions of how to determine the FDEP allowable costs for tank installation, dewatering, pavement restoration and canopy removal and replacement so that the boundaries of the FDEP participation will be established in a more consistent manner. This section also establishes a new procedure for compensation of tank installation costs to clarify that the petroleum storage system responsible party, not the FDEP, must be responsible for the successful outcome of the tank installation, and allows the responsible party latitude to select a tank installation contractor of his choosing as long as the FDEP’s contribution is limited to the lowest of three bid quotes.

VII. **25% Cost-Effectiveness Preference for Source Removal** – This section already appears in the current source removal guidance. Minor editing for clarification has been done but there have not been substantive changes. The section describes an allowance to select a remediation strategy involving contaminated soil source removal that is up to 25% more costly than an in situ remediation strategy that does not involve source removal

when the alternatives are compared on a life cycle cost basis. The importance that the cost data presented in the RAP accurately reflect actual costs of the project has been underscored by the provisions of section V above. Please note that the provisions of Section V for maximum permissible cost variation between the RAP phase and work order of up to 20% and the 25% cost preference for an alternative including source removal are not additive. In other words, in no case should the FDEP fund a source removal project which is more the 25% more expensive than what was indicated in the RAP as the cost of the in situ remediation alternative on a life cycle cost basis.

VIII. Timing of Remediation Relative to Facility Upgrade – This section already appears in the current source removal guidance. Minor editing for clarification has been done but there have been no substantive changes. This section encourages coordination between tank facility responsible parties and the FDEP to schedule source removals to coincide with tank upgrade events, either by the FDEP delaying the implementation of remedial action, or encouraging the responsible party to accelerate the tank upgrade schedule when mutually beneficial to the parties.

Attachment A – This is a new addition to the source removal guidance that provides statutory citations that are relevant to FDEP funding (IPTF) of contaminated soil source removals.

Attachment B – This is an abbreviated summary of the requirements and procedures of the main body of the source removal guidance. The purpose of this addition is to provide a more user friendly quick reference document and there are no new procedures or requirements included that do not also appear in the main body of the document.

Attachment C – This is a new addition described in section III of the guidance that provides a standardized level of effort/compensation schedule for various scenarios of source removal RAPs.

Source Removal Quote/Summary Form – This is a table that has been published separately from the Source Removal Guidance along with detailed instructions that is used to provide a standard format for summarizing the estimated items and costs to be included in a contaminated soil source removal RAP. The same form with actual items and costs quotes must also be submitted with the work order proposal for implementing the source removal following RAP approval. The form includes a column for identifying the level of FDEP participation in each item included in the source removal project. Not only will this ensure greater disclosure of all costs at the RAP stage, and verification of consistency of items and costs at the time of work order preparation, but the submittal of summary information in a consistent format will allow the FDEP to compile information and statistics on source removal costs for projects throughout the state.