



***The Importance of Meeting Assessment Requirements without Addendum Reports***

Recently Broward County's Pollution Prevention and Remediation Division (Division) has seen an increase in the number of Addendum reports that have been required to complete site assessment activities at contaminated sites. Therefore, we feel it is necessary to reiterate the requirements concerning Site Assessment Reports (SARs) and our expectations for the timely completion of site assessment activities. It is our goal to reduce the number of addendum reports and the amount of time taken to complete site assessment.

Throughout this article, we will refer to the regulations concerning Petroleum Contaminated sites: Chapter 62-770, Florida Administrative Code (F.A.C.). The regulations concerning sites contaminated with Dry Cleaning Solvents (Ch. 62-782, F.A.C.) and other contaminants (Ch. 62-780, F.A.C.) contain similar language. The regulations can be accessed from the following Florida Department of Environmental Protection (FDEP) website: [http://www.dep.state.fl.us/waste/quick\\_topics/rules/default.htm](http://www.dep.state.fl.us/waste/quick_topics/rules/default.htm).

Once contamination has been confirmed at a site, the objective of Site Assessment, as described by Section 62-770.600, F.A.C., is to determine the source, extent, and potential for migration of contaminants in the soil and groundwater, and to conduct a preliminary evaluation of the current and potential risk to human health and the environment. The regulations require that a site assessment must be initiated within 30 days of discovery of the contamination, and a SAR must be submitted within 270 days of discovery of contamination. Section 62-770.600(4), F.A.C., describes the tasks necessary to complete site assessment activities and Section 62 770.600(8)(a), F.A.C., describes the information required in a SAR. Section 62-770.600(8)(b), F.A.C., requires that a SAR must summarize conclusions regarding site assessment objectives and include one of the following:

1. A No Further Action (NFA) Proposal may be included if the site meets the NFA criteria,
2. A Natural Attenuation Monitoring Plan (NAM Plan) may be included if the site meets the criteria,
3. A Risk Assessment work plan or a recommendation to prepare a Risk Assessment, or,
4. A recommendation to prepare a Remedial Action Plan (RAP) must be included unless one of the above recommendations is included.

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Therefore, a SAR must include an NFA Proposal, a NAM Plan (not a recommendation to prepare a NAM Plan), a work plan or recommendation for a Risk Assessment, or a recommendation to prepare a RAP. A SAR that is submitted without one of these items is incomplete and can not be approved.

In order to fulfill the requirements of Section 62-770.600(8)(b), F.A.C., the extent of the contamination must be fully delineated. This is the phase of site assessment that appears to cause the most delays and addendum reports, so we would like to clarify some (but not all) of the requirements:

- Soil contamination must be defined in the unsaturated zone to cleanup target levels (CTLs) in all horizontal directions. A SAR must include site maps showing all soil sampling locations and illustrating the horizontal and vertical extent of soil contamination.
- Groundwater contamination must be defined to CTLs in all horizontal directions. A SAR must include site maps showing all groundwater sampling locations and illustrating the extent of groundwater contamination using isoconcentration lines for each significant contaminant.
- If necessary, groundwater contamination must be defined in all vertical directions. In general, vertical investigation of groundwater at intervals below the water table must be conducted if contaminant concentrations are above Natural Attenuation Default Concentrations, if the contamination may affect a public wellfield, or if a significant downward groundwater gradient is present, although additional site conditions will influence this requirement. One "deep" monitoring well may not be enough to delineate the contamination horizontally at lower depth intervals. For additional information, please refer to the FDEP guidance document titled 'Standard Operating Procedures PCS-006, Design, Installation and Placement of Monitoring Wells' (effective May 2, 2005) at:  
[http://www.dep.state.fl.us/waste/quick\\_topics/publications/pss/pcp/MW-SOP-Final-Ap15.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/pss/pcp/MW-SOP-Final-Ap15.pdf)

A SAR is not complete unless all of these investigation requirements have been fulfilled. Therefore, it is not appropriate for a Responsible Party to submit a SAR with the conclusion that additional investigation is necessary. The full delineation of all contamination should be completed within the required deadlines before the submittal of the SAR. If questions arise during the assessment, we encourage Responsible Parties and their consultants to contact the Division to discuss the issues before the submittal deadline. Expedited investigation methods and laboratory turn-around-times may be considered to help meet the deadline.

The Division understands that unforeseen circumstances sometimes prevent the completion of the SAR before the deadline. In these cases, Section 62-770.800(4), F.A.C., states that the Responsible Party may request an extension. The extension request must be made in writing at least 20 days before the deadline. The request must state the amount of additional time requested and provide documentation supporting the "good cause" for the request. The regulations define good cause as "unanticipated events outside the control of the responsible party." Please note that "good cause" does not include the need to perform additional assessment. The Division can consider extension requests for additional investigations that require permits, off-site access agreements, or other delays provided the Responsible Party can demonstrate that they applied for the permits or requested off-site access in a timely manner.

Section 62-770.490, F.A.C., concerns professional certifications of reports by Professional Geologists (P.G.s) and Professional Engineers (P.E.s). This issue was addressed in the March/April 2004 edition of this newsletter, which is available on the Division's website at: [http://www.broward.org/pprd/cs\\_remediationtimes.htm](http://www.broward.org/pprd/cs_remediationtimes.htm).

The following is an example of language that is appropriate for certification of a SAR:

"I, John White, P.E. #12345, certify that I currently hold an active license in the state of Florida and am competent through education or experience to provide the engineering service contained in this report. I further certify that, in my professional judgment, this report meets the requirements of Section 62-770.600 for Site Assessment, and was prepared by me or under my responsible charge. Moreover, I certify that ABC Environmental, Inc. holds an active certificate of authorization #67890 to provide the engineering service."

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Please note that the Division requires the licensed professional to certify that the SAR meets the requirements for site assessment. If the licensed professional routinely certifies reports that do not fulfill these requirements, the Division may be obligated to report the professional to the appropriate licensing boards for disciplinary action.

The requirements for the timely completion of site assessment activities and submittal of a complete, accurate Site Assessment Report are in place to protect human health and the environment. In Broward County this is particularly applicable to the drinking water supply, which primarily consists of the shallow Biscayne aquifer. Prompt completion of the site assessment is often beneficial to Responsible Parties as well. Highly mobile contaminants such as MTBE can migrate quickly, and delays in completing site assessment can result in a larger groundwater contamination plume that requires more extensive - and expensive - remediation. If there are any questions regarding these requirements, please contact the Division's Project Manager for the contaminated site.

Please also note that in the March/April 2007 Edition of the *Broward Environmental Remediation Times*, the Division also provided technical and administrative tips which would assist in the timely reviews of assessment and remediation documents. If you have any questions regarding this article, please contact Mr. Paul Waite, E.I., at (954) 519-1467 or [pwaite@broward.org](mailto:pwaite@broward.org).

## Enforcement of Laboratory Requirements – A Follow-up

The Division presented a summary in the March/April 2007 edition of the *Broward Environmental Remediation Times* explaining the requirement that the Contractor verify certification of Laboratories per Chapter 62-160, Florida Administrative Code. The Division has processed a number of work orders for the Preapproval Cleanup Program since that time and would like to offer the following additional points for clarification:

1. When the certification paragraph is provided in a work order proposal, the consultant must individually list all methods that will be used in that work order and verify that each and every method will be properly certified. This can most easily be accomplished by including a small table listing the analytical method (i.e, EPA 8260), specifying the particular analytes for which the method will be used (i.e VOAs), and listing the laboratory name, address, and certification number.
2. If a contractor wishes to switch methods for a group of analytes, such as EPA Method 8260 to EPA Method 8021b for VOAs, a verbal authorization for a change in scope of work (VCO) is required in advance of the analysis to document and approve this change.
3. It should also be noted that the certification language provided by the Florida Department of Environmental Protection and included in the Division's earlier article **can not** be changed by the Contractor.

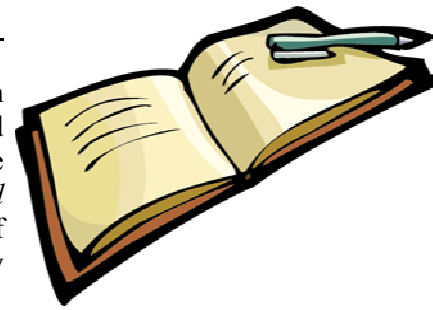


For reference, the Florida Department of Environmental Protection guidance on laboratory verification and certification can be found at the following website:

[http://www.dep.state.fl.us/waste/quick\\_topics/publications/pss/pcp/March12007Guidance/LabCertEnforceProcedure-021207.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/pss/pcp/March12007Guidance/LabCertEnforceProcedure-021207.pdf)

Any questions regarding this article may be directed to John J. Gomolka, P.G. at (954) 519-1279 or [jgomolka@broward.org](mailto:jgomolka@broward.org).

## Preapproval Program Reminders



As a Local Program contracted by the Florida Department of Environmental Protection (FDEP) to oversee the Preapproval Petroleum Cleanup Program (Program), Broward County Pollution Prevention and Remediation Division (Division) staff are responsible for ensuring that Program contractors are following proper procedures. The *Broward Environmental Remediation Times* is an effective avenue for reminding contractors of these procedures so that they can, ultimately, get paid quickly and relatively painlessly for the work they do. Please note the following helpful reminders:

- Section 2p of the Work Order Terms & Conditions attached to each Pre-Approval Work Order dictates that a final invoice be submitted within 60 days of written approval of the final deliverable. Failure to submit the final invoice within this timeframe could result in "the automatic closure of the Work Order and forfeiture of the unpaid balance of the Work Order."
- As imposed by Sections 2a(1) and 2a(2) of the Work Order Terms & Conditions and Section 5.9.3.3 (Switching Subcontractors) of the April 2005 Petroleum Cleanup Preapproval Program Standard Operating Procedures, a Contractor must secure written permission from the FDEP (typically via a Verbal Authorization for Change in Scope of Work (VCO)) prior to switching a first tier subcontractor or vendor on a Work Order if the cost is \$2,500 or more. Switching subcontractors without prior authorization or notification may be considered a breach of Work Order terms and conditions. Violations of this provision could result in forfeiture of payment for the associated work.
- The primary intent of the VCO is to document any increase in scope of work or time extensions for deliverables. Section 6.5.4.2 (Verbal Authorization for Changes in Cost) of the SOP clearly states the VCO "should be signed by both the Site Manager and the Contractor before implementation of the revised scope of work or timeframe. Completion and signature of the form on an 'after-the-fact basis' is not acceptable." The SOP does allow for exceptions to this requirement on a case-by-case basis. Such exceptions, however, are few and are typically the result of well-documented "extenuating circumstances."
- Section 6.5.5 of the SOP states if a deliverable will be late due to circumstances beyond a Consultant's control, then a request for extension of time may be submitted. This extension however, must be made "prior to the deliverable due date in order for it to be granted." Below are examples of extension requests recently received by the Division that, under the proper circumstances, would have been considered valid; however, for the reasons identified, the extensions were instead denied:
  - ☞ The fully executed Work Order was not received by the Consultant in time to allow for completion of the scoped work within the timeframes established by that Work Order. The VCO was submitted to the Division 45 days after receipt of the Work Order, and 10-days after the established due date.
  - ☞ The due date for submittal of an Addendum was established by the Division in a review letter. A VCO to complete the additional field work and extend the deliverable due date was then submitted by the Consultant six weeks after the review letter was issued and two weeks before the Addendum was due. The Division authorized the costs associated with the additional work but did not grant the requested time extension.
  - ☞ Delays were encountered during the permitting process associated with remedial action construction. However, the permit application showed that the permit process had been initiated nine weeks after receipt of the Work Order, the same week that construction activities were scheduled to begin.
  - ☞ Claims were made that delays were associated with obtaining off-site access; however, documentation showed that the off-site property owner was not contacted until two days before drilling activities were scheduled to commence.

If you have any questions about this article or these requirements, please contact Mr. David Singleton, P.G., at (954) 519-1429 or [dsingleton@broward.org](mailto:dsingleton@broward.org). If a specific issue arises where you may need clarification or preauthorization, you are also welcome and encouraged to speak with the Division's project manager assigned to your Program site.