

Florida Specifier

Practical Information For Environmental Professionals

Site owner strategies, options in the DEP Petroleum Restoration Program

By STEVE HILFIKER

This column is intended to help property owners understand the most commonly used options available for contaminated sites eligible for funding through the Florida Department of Environmental Protection's Petroleum Restoration Program.

Site owners have the right to participate in their remediation strategies. Most of the information here also applies to sites that are not currently eligible for funding.

The terms of funding are important and often form the basis of the selected strategy. Risk-based solutions are being used more frequently for sites with funding caps, complicated remediation or circumstances where the owner is seeking a prompt and less intrusive method to close the regulatory file.

There are numerous factors to consider based on the long-term objectives for the site. Professional consultants can help determine the best strategy.

Remediation

The DEP cannot force risk-based corrective action, which is a method to close the regulatory process on a contaminated site by demonstrating that there are no exposure risks.

Since deed restrictions are often involved with RBCA, full remediation to cleanup target levels is the option most owners select.

The most common alternatives to remediation are outlined below. Each may be expanded through pending legislation.

Low-Score Site Initiative

LSSI is a voluntary site assessment that involves no cost to an owner. The owner can select the contractor and the work is limited to \$30,000. Roughly 27 percent of LSSI sites are clean and receive closure through a site rehabilitation completion order.

If soil or off-site groundwater impacts are identified, the site would not qualify for closure but would still be eligible for fund-

ing, as if no LSSI work had been done.

If there are no soil impacts and contaminated groundwater is found within site boundaries, the site would qualify for a no further action letter.

Deed restrictions are only required if impacted soil exists within two feet of land surface. File reopener provisions are included in the closure letters.

Advanced Cleanup Program

This program is for sites that are scored below the priority funding score for remediation, which is currently 30.

With a minimum contribution of 25 percent, owners can submit an application to have their site score waived and obtain remedial funds without waiting for remedial funding.

The 25 percent contribution can be demonstrated by using risk-based corrective action procedures if 20 or more sites are bundled.

Contractor selection

If an owner has a 25 percent cost contribution, they can select their contractor. A pending change to Rule 62-772.401, Florida Statutes, would allow the cost contribution to be demonstrated using RBCA cost savings.

Most sites are directly assigned by the DEP to an approved agency term contractor by using a formula for work distribution.

Limited Site Assessment

There are roughly 5,000 sites now scored below 30. The state wants all of these sites assessed within the next five years.

The DEP is sending letters to site owners to obtain access for assessments, which will be assigned to contractors by the DEP. If LSSI as outlined above is initiated before a LSA purchase order is issued by the PRP, the LSSI work would proceed instead of the LSA.

DEP/FDOTMOU

For sites with impacts that cross into a Florida Department of Transportation right of way but would otherwise qualify for closure, this Memorandum of Understand-

ing establishes criteria that would enable regulatory closure.

Risk management options

The site cleanup rule, Chapter 62-780, Florida Administrative Code, outlines risk management options that can result in a conditional site rehabilitation completion order using risk-based corrective action.

The RMOs typically require prohibitions against water use and engineering controls to prevent exposure to impacts.

These conditions may require a restrictive covenant—a deed restriction—to alert future property purchasers of the controls.

RBCA closure without recording covenants

For sites located in areas where water use is already restricted, deed restrictions may not be required.

DEP Institutional Control Registry

All sites closed via RBCA procedures are added to the Institutional Control Registry maintained on the DEP website.

Ideas have been presented to provide the ICR with more legal authority that could further minimize the need to record restrictive covenants.

Consulting

Since there are now more options than ever to close a discharge file, consulting has never been more important. There are other strategies in addition to these outlined above, and there are many details associated with each of the above options.

The long term objectives for each site should be evaluated by a professional consultant to assist with the selection of the best strategy for each site.

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