



Policy and Procedures Manual
Revised February 2019

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1.0 INTRODUCTION

The Agricultural Chemical Cleanup Program (ACCP) program was established in 1993 under s. 94.73, Wis. Stats to ease the financial burden associated with the cleanup of agricultural chemicals. This Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) program was created to clean up pesticide and fertilizer spills and prevent groundwater contamination, and to reimburse responsible persons (RPs) for eligible cleanup costs. **ATCP 35, Wis. Adm. Code**, is the rule that details the cleanup and reimbursement process.

The ACCP program is within the Bureau of Agrichemical Management, Agrichemical Section, and managed by staff within the Environmental Quality Unit. The ACCP program is comprised of three sub-program areas: 1) acute spill response, 2) long-term clean ups and 3) reimbursement. The following procedures discuss the specific steps involved within the Long-term clean ups and reimbursement program areas. The acute spill response program has a separate policy and procedures manual.

2.0 LONG-TERM CLEAN UP CASES

Step 1: Initial Case Assignments

When the ACCP program began, DATCP identified approximately 650 agrichemical dealership sites with potential for contamination based on historical land use. Compliance Section field staff identified sites to investigate at the beginning of each year. A hydrogeologist (hydro) was then assigned to each site. The hydro and field staff worked together to perform a Remedial Case Initiation (RII) (i.e. an initial site investigation) at each assigned site. Because most of the agrichemical dealership sites have been screened and evaluated for potential contamination, or investigations have been completed, RII's are no longer schedule in advance, but may still be performed as described below.

Step 2: Site Initiation

Historically, the most common method by which sites were initiated was through initial site investigations (RII's) as described above. Though no longer scheduled in advance, RII will be performed in the event that field staff encounter obvious signs of contamination (i.e. stained soil or stressed vegetation). RII may also be performed in response to a complaint, violation, or to document an unreported spill.

Other methods for site initiation include notification of agrichemical contamination at a property from outside the Department. This can result from Department of Natural Resources (DNR) sampling, or when the responsible person (RP) hires an environmental consultant to perform a site assessment as part of a property sale or transfer. In each situation, samples are collected and documentation is assembled which identifies the possible source areas and contamination at the site.

A long-term case may also result from an acute spill (see above section titled “Acute Spill Response”). If this happens, the following steps 3 through 6 have already been taken as a result of the spill, so go to step 7.

Step 3: Data Intake and Assessment

If department staff conduct the investigation, the field staff will send a narrative to their supervisor, who in turn enters the preliminary site information into the Case Tracking System (CTS). All CTS users completed some training, and step by step instruction are available as guidance. A system administrator will assist users to ensure data is entered correctly.

After reviewing the narrative, the compliance supervisor provides the narrative to the ACCP program manager (PM). At the same time, the samples collected are being analyzed at the DATCP lab. A set of sample results are provided to both the PM and the field staff.

If someone outside the department does the sampling, they would send in a site assessment report to the PM documenting their investigative findings.

Once the PM receives a complete report (narrative plus sample results or site assessment report), the PM will determine if the contaminant concentration warrant additional investigation at the site. If this is not clear to the PM, then the PM, along with the assigned hydro will determine if additional work is warranted. Field staff may also be consulted at so that this determination will be based upon the quality of the investigation and the field staff knowledge of past practices at the site.

In general, a Responsible Person (RP) letter (see example “RP letter” in Appendix 1) will be issued if any one of the following occur:

- 1) Pesticide levels above 5 ppm.
- 2) Nitrate + ammonia levels above 300 ppm.
- 3) A number of pesticides at low levels.
- 4) Low levels in many locations at a site.

Step 4: Data Entry

All sites initiated by the PM, case manager, or field staff are assigned a case number. Once the sample results and a narrative are received by the PM, a case folder is set up and case information is entered into CTS. If incorrect data is found on CTS database, the person who discovered the error should notify the PM for review before the making the correction to the CTS.

A case number may also be assigned in response to a site assessment report submitted by someone outside the Department if site results suggests that additional work is necessary. The case number will be assigned using the current year, PM ID

number, and date of the site assessment report. The PA will set up a case file and enter required information into the CTS.

If the site assessment report indicates that no additional investigation or remediation is necessary, the PM or assigned hydro will send a letter indicating that no further investigation will be required (see example in Appendix 2). These reports are filed in the corresponding case file.

Once the required information is entered into the CTS, the case information, remediation, customer and premise data entry screens are reviewed by the PM. The PM then reviews the data entered to ensure information in the case file folder has been accurately entered, in particular the premise and customer screens.

Step 5: Case Assignment

The PM reviews the technical file information and assigns a hydro as the case manager for overall project management. They discuss the possible options for the first step in the cleanup process. The most likely options available include 1) sending a RP letter requesting a site investigation, 2) collecting additional soil samples, or 3) closing the case and sending a letter indicating no further investigation is required.

Step 6: Project Initiation

If the assigned case manager decides to send a “RP letter”, the RP will be contacted prior to sending the letter to notify the RP in advance. After the RP letter is received, an on-site meeting may be set up with the RP to discuss the scope of work for a site investigation, inform the RP of clean up expectations, explain how to proceed with clean up, and answer questions about the ACCP program. The specific list of items to be discussed at that initial meeting can be seen on the checklist in Appendix 3. The RP will normally have a timeline of 30 days from the date of the on-site meeting to hire a consultant or 30 days from the date they receive the RP letter if no on-site meeting is held. They have an additional 15 days to submit an investigative workplan.

Step 7: Project Management: Consistent Case Oversight and Case Progress

Case managers are responsible for providing consistent case oversight for long-term cases to ensure these cases progress towards closure in a cost effective and timely manner. The following sections describe procedures ACCP staff utilize to the program objectives are achieved.

3.0 CONSISTENT CASE OVERSIGHT

To provide consistent case oversight, a number of methods are used to ensure the program is administered consistently between case managers. These methods include the following:

- **Informal “Roundtable” Discussions:** These informal discussions often occur on a daily basis and may involve the case manager, the ACCP Financial Coordinator, EES field staff, and other EQ Unit staff. These discussions generally revolve around a specific issue that arises while a case manager was reviewing a workplan, report, cost estimate or bid or while the ACCP Financial Coordinator was reviewing a reimbursement claim.
- **Case Status Tracking:** Each case manager has their own method for tracking the status of their cases. Information recorded by case managers include review and approval of workplans, reports, or cost estimates (including bids). This information is updated monthly in the ACCP workplan.
- **EQ Unit Meetings:** These normally occur bi-weekly or monthly and involve all EQ Unit staff. Unit meetings are held to identify and discuss issues within the program. Individual case decisions may also be discussed at these meetings. , so others are aware and can use similar approaches if they find the same problem arising at one of their sites.
- **Case Status Review Meetings:** These normally occur on a bimonthly basis and involve the PM and the case manager. They involve a more comprehensive case discussion to assess the status of each case and discuss solutions for making sure problem cases progress.
- **Program Evaluations and Audits:** These occur on an annual or biannually and involve program managers and other Bureau staff. These evaluations are performed to ensure program goals and objectives are being achieved. They can also be used to identify, discuss and resolve major program issues, and improve program efficiencies.

4.0 CASE PROGRESS

The following procedures may be used to ensure cases progress in a cost effective and timely manner. The ACCP enforcement guide for dealing with remediation cases that are not meeting project deadlines.

- **Meetings with the RP:** These meetings occur as needed and may include the case manager, the consultant, EES field staff, the RP, and sometimes other Bureau staff depending upon technical issues and the severity of any regulatory issue. These meetings are typically held when the RP is unwilling to progress with clean up, or at major decision points in the cleanup process (i.e. excavation and landspreading, groundwater monitoring, groundwater remediation).
- **Meetings with the Consultant:** These meetings occur as needed and may involve the case manager, and the PM. They are generally used to discuss reoccurring problems or issues with the consulting firm for one or more cases.

These meetings are used to make the consultant aware of program expectations for workplans/reports, or to ensure program rules are followed.

- **Workplan and Report Review:** The case manager and field staff review submitted documents to ensure the cases are handled as consistently as possible and in compliance with the regulations. The case manager prepares a response which is typically shared with the EES, other hydrogeologist, or the PM. These reviews occur in the order in which workplans and reports are submitted
- **Cost Estimate and Bid Review:** The case manager reviews each cost estimate to determine if costs are reasonable and necessary. To ensure maximum eligibility, cost estimates must be approved before the work can be implemented.
- **Field Staff Oversight Documentation:** When the field staff are on-site observing a remedial activity, they have been asked to document that activity by using the Activity Report.
- **Landspreading (LS) Applications and Permits:** The case manager conducts an initial review of the LS application and prepares a draft LS permit. Every LS permit is then reviewed and approved by the PM. A permit number is issued and recorded at this time to track the LS permit. The case manager also keeps track of Post-Application report submitted to the department.

A long-term remediation or a spill case may turn into a compliance case under the following two circumstances:

1. **When an investigation is needed in response to on-going operations.** If a new area of contamination is identified or significant agrichemical rule violations (ATCP 29, 30, 32, 33 or 35) are occurring, then the case will become a compliance case. If the Compliance Section has not been involved, they should be contacted (If not already involved, EES field staff may become involved in the case). EES staff will likely need to conduct a preliminary investigation and prepare a narrative.
2. **When timelines are not being followed.** Each remediation case should have a timeline established for the major milestones. The responsible party and consultant should be made aware of these milestones. If the dates within the timeline are missed, the case manager will follow the ACCP enforcement procedures outlined in Appendix 4.

When a remediation or spill case becomes a compliance case the following steps will normally occur:

- 1.) A pre-compliance meeting will be held between the Compliance Section and the EQ Unit. The purpose of this meeting will be to discuss the course of action for

the case and assign responsibilities which may include the following: gathering additional information; drafting a Special Order or court documents; arranging a compliance meeting, and negotiating the language in the order/court documents. Contact person or persons should be assigned for the enforcement action as well as the remediation effort as needed.

- 2.) The Compliance Section will conduct a compliance meeting with all involved parties. The assigned case manager or spill coordinator will also attend this meeting.
- 3.) Post-compliance meeting will occur to discuss follow up steps that are needed and to assign responsibilities for performing these steps.

Step 8: Case Close Out

The RP may suggest case closure, or the case manager may suggest to the RP that the case is ready for closure. The case manager will then instruct the RP to prepare a case closure request. The request shall be made using the most recent version of the Department of Natural Resources Case Closure request form (Form 4400-2002). This form along with other information and guidance related to case closure can be found at the DNR website (<https://dnr.wi.gov/topic/Brownfields/Professionals.html>). In the event that case closure will require continuing obligations, consultants and RPs are encouraged to discuss the contents of the request with the case manager.

Once a case has reached a point where it can be closed from further action it must be reviewed by the Case Closeout Committee. The Committee is made up of the EQ Unit Supervisor, two EQ unit hydrogeologists, and an EES representative. The procedures and forms for case closeout are included in Appendix 5.

The case manager shall notify the responsible party, landowner, or other affected individual(s) of the closeout committee's decision in writing. That notification may include conditions of closure such as wells abandonment, payment of database registry fees, and modifications to case closure documents. A final case closure letter will be sent after the conditions of closure are met. The case file will then be moved from the Active files to the Closes Cases file. Active cases are filed alphabetically by city name, and closed cases are filed by date closed (i.e. the date of the final case closure letter). All files shall be kept in accordance with the RDA. The Case Tracking System will also be updated by the case manager to reflect the current status of the case

5.0 OPEN RECORDS REQUEST

At any point in the process an open records request can be made for any active or closed long term remediation or spill case. Request can be made to any individual at DATCP, and may be informal (i.e. verbal or email), or formal (in writing). If the request is made through the legal department (legal), the legal department will contact EQ Unit staff, and staff will deliver requested documents to legal. If the request made to EQ staff, EQ staff will inform legal of the request, and then deliver requested documents to legal. All open records request will be performed in accordance with Department policy. Additional information on open records can be found at the DATCP website (https://datcp.wi.gov/Pages/About_Us/PublicRecords.aspx).

The Bureau will maintain a list of documents submitted to legal; the date submitted and date documents are returned to the case manager will be recorded along with the other relevant information (i.e. individual or organization making the request, case number, date request was made).

6.0 REIMBURSEMENT

When the RP or consultant is ready to submit an application for reimbursement from the ACCP fund, they may download an application package from the DATCP website, or contact the ACCP Financial Coordinator to request an application package to be sent by regular mail. Applicants are encouraged to seek assistance from the Financial Coordinator and case manager when completing the reimbursement application.

Upon receipt, the ACCP Financial Coordinator will review the application in accordance with ATCP 35 Wis. Admin. Code requirements¹. Checklists will be developed by the Financial Coordinator to assist with processing each application in accordance with the following steps.

Step 1: Reimbursement Application Intake

Upon receipt, the application cover sheet will be date stamped and the following information will be recorded by the Financial Coordinator:

- The RP name;
- The discharge site name and address;
- The DATCP case number;
- The date the application was submitted and cutoff date, and
- The eligible amount requested for reimbursement.

¹ Additional information to assist applicants with determining eligible and ineligible cost is included in the guidance document entitled *ATCP 35, Wis. Adm. Code, Interpretations and Clarifications*.

A unique application case number will then be assigned. Application case numbers will be assigned using the following naming convention:

YEAR-CASE-SEQ

Where:

YEAR is a four digit number indicating the year in which an application for this discharge site was first received;
CASE is a four digit number indicating the sequential number of discharge site applications received for that year, and
SEQ is a three digit number indicating the sequential number of applications received for each discharge site.

For sites with multiple applications, the YEAR and CASE numbers will remain the same for each discharge site. The SEQ number will be used to distinguish between applications.

The application case number will then be hand written on each application form, and a case file will be set up. The case file will be set up to include the following:

- Correspondence, including but not limited to the following:
 - consultant proposals
 - previously submitted cost estimates, change orders requests, and case manager approvals,
 - questions and opinions,
 - any subsequent correspondence related to the application.
- A case manager review form;
- A map and legal description of the discharge site;
- Application package forms (cover sheet, substitute IRS Form W-9 multiple RP form, insurance form, and if requested the notification form).
- The total reimbursement cost form and copy of the linking spreadsheet;
- Copies of invoices and proof of payment documentation;
- Subcontractor bidding information;
- Consultant bidding and change order information, and
- Other documents submitted with the application or supplemental information needed to process the application.

Step 2: Application Review by Financial Coordinator

The Financial Coordinator will perform a cursory review to ensure the following items are included in the reimbursement package:

- Application Cover Sheet, completed and signed

- IRS Form W-9, Request for Taxpayer Identification Number and Certification
- Multiple Responsible Person Form
- Insurance Information Form, including a letter from the insurer verifying coverage
- Map Of The Discharge Site (plus one of the spill if the discharge is a spill) identifying the property boundaries
- Legal Description Of The Discharge Site (plus one of the spill if the discharge is a spill)
- Total Reimbursement Costs Form
- “Linking” Spreadsheet (linkage of bids to invoices)
- Invoices
- Canceled checks or other information documenting payment
- Summary of Bids, Cost Estimates, and Authorizations – Please include a copy of all bids and estimates you received from your consultant.

If all these items are included the application will be considered complete. In accordance with ATCP 35.08(2) a letter will be sent to the applicant within 10-days to acknowledge receipt of the application. This letter will include general information of the reimbursement process and the anticipated date for review at the next ACCP Council meeting. If needed, this letter will include a request for additional information. A copy of this 10-day notice letter will be placed in the reimbursement case file.

The Financial Coordinator will perform a detailed review to ensure that the application includes all required documentation. The intent of this review is to identify eligible and ineligible costs, and to verify that these amounts are correct. This review will include, but may not be limited to the following:

- Review correspondence related to application, and take note of approved budgets, change orders and proposals from consultants;
- Review invoices and supporting documentation to ensure proof of payment amounts match the invoiced amounts (explanation is needed if invoiced amounts are different than requested amount for reimbursement);
- Verify invoice payment dates to ensure no payments are more than 3 years old, or were made prior to the previous application date.
- Verify that invoiced amounts include no markups;
- Verify that rates for meals, lodging, and mileage are below maximum allowed by State guidelines.
- Verify that consultant labor rates match approved rates included in original proposal and subsequent cost estimates, and
- Review the linking spreadsheet to ensure invoiced amounts match the reimbursement amount requested.

The case manager will also review the application to verify all site work has been completed for the invoiced amounts included in the application. A review form will be signed by the case manager to indicate this review has been completed.

The Financial Coordinator will then list all eligible and ineligible amounts on the Reimbursement Summary Form (ARM ACM 332). Ineligible costs along with the deductible and copayment amounts will be subtracted to determine the proposed amount for reimbursement. This estimate will include interest from time application is received considered final until the anticipated payment date. The reimbursement summary will then be sent with a cover letter to the applicant, and a copy will be placed in the file. The amount shown on the reimbursement summary is the Departments proposed amount for reimbursement. A revised reimbursement summary will be sent to the applicant if supplemental information that show costs determined to be ineligible are actually eligible is submitted in a timely manner.

Step 3: ACCP Council Meeting

Two weeks prior to the next scheduled ACCP council meeting, all reimbursement summaries for the review period will be placed in an agenda book and sent to Council members for review. In addition to remediation summaries, agenda books will include a table of contents, minutes from the previous council meeting (for approval by Council members), a decision summary from the last meeting, and proposed schedule for the next meeting. The applicant will be notified of the council meeting in the reimbursement summary cover letter, and is welcome, but not required to attend the meeting. During the meeting Council members will approve the Department recommendation, or make an alternative recommendation for consideration by the Bureau Director.

Following approval by the ACCP Council and the Bureau Director, the Financial Coordinator will record these amounts in program databases, and request checks from the Bureau of Finance.

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Appendix 1
Example RP Letter

Month xx, 20xx

M . (RP NAME)
(RP COMPANY NAME)
(RP ADDRESS)
(RP ADDRESS)

Re: Request for Site Investigation, (DISCHARGE SITE FACILITY NAME)
(DISCHARGE CITY), Wisconsin. DATCP Case # (#####)

Dear M . (RP NAME):

Soil samples were collected from several locations at the (CITY) facility on (DATE) by (EES NAME), the Department of Agriculture Trade and Consumer Protection's Environmental Enforcement Specialist for (COUNTY) County. The results indicate that there have been releases of agricultural chemicals at the site. The enclosed site maps and data summary table indicate the locations and concentrations of the agricultural chemicals detected at your facility. The following compounds were detected: SELECT APPROPRIATE {nitrate, ammonia, acetochlor, alachlor, atrazine, chlorpyrifos, cyanazine, dimethenamid, metolachlor, pendimethalin, dicamba, and 2,4-D}. We would like you to conduct an investigation of the site to determine the magnitude and extent of the contamination so that appropriate cleanup measures can be planned.

Many of the costs for the investigation and cleanup may be covered by the Agricultural Chemical Cleanup Program (ACCP), but you will need to follow a few specific rules and procedures to receive reimbursement dollars. We understand that our program can be confusing at times, particularly to someone unfamiliar with it. That's why we've prepared the enclosed materials to help you. The attachment titled "*Regulatory Information*" provides you with information regarding your legal responsibilities. The two folders include information to assist you and your consultant throughout the cleanup and reimbursement process.

Please submit a letter, within 30 days of receipt of this correspondence, informing me of the environmental consulting firm or individual you selected. Enclosed with the letter, please include a copy of the bid proposal from the consultant that you selected to do the work. Within 45 days of your selection of a consultant, a site investigation workplan should be submitted to me for review and approval.

(RP NAME)
Month xx, 20xx
Page 2

The site investigation workplan should describe your plans for determining the vertical and horizontal extent of the known contamination and should assess potential impacts to soil and groundwater. A list of source areas that must be considered is included in the "Investigative Workplan Checklist" in the dark blue folder. The workplan should specify which compounds will be tested for in each potential source area. The list of compounds investigated should include all known contaminants and other potential contaminants recommended by either DATCP or your consultant.

Please send correspondence regarding your investigation and cleanup to my attention. Copies of workplans and reports should also be sent to (EES NAME) at (EES ADDRESS).

(EES FIRST NAME) and I would like to meet with you to discuss the scope of work for this project, to answer your questions about the enclosed materials, and to discuss management practices that would minimize future chemical releases. If you choose to meet with us, the deadline for selecting a consultant can be moved to within 30 days of our meeting.

Our experience has shown that owners and/or managers who are actively involved in the investigation and cleanup of their sites generally complete these tasks more cost effectively and sooner than in cases where they are not involved. Therefore, we encourage you to take an active role in this process. If you have any questions regarding the above requests or any of the enclosed materials please don't hesitate to call me at (608) 224-(YOUR PHONE NUMBER) or email me at (YOUR EMAIL ADDRESS).

Sincerely,

(YOUR NAME)
TITLE

Enc.

cc: (EES NAME), DATCP
Consultant (if involved)

Regulatory Information

Cleanup Requirements

Ch. 292.11, Wis. Stats. (the "spills law"), requires reporting of a spill or discharge to the Division of Emergency Government or the Department of Natural Resources. The law also requires corrective action to restore the environment to the extent practicable. If corrective action is not taken, the Department of Agriculture, Trade and Consumer Protection (DATCP) has the authority under s. 94.73, Wis. Stats., to issue an administrative order requiring specific action. DATCP also has the authority to recover forfeitures for violation of an administrative order.

NR 700 Requirements

Corrective action must be taken in accordance with NR 700, Wis. Adm. Code. NR 700 defines response procedures, the investigative process, remedy selection and case close-out. NR 700 also specifies the qualifications of persons performing environmental work. DATCP will evaluate NR 700 compliance at this cleanup site.

Reimbursement Information

Corrective action costs for cleanup of agricultural chemicals may be eligible for reimbursement. If you anticipate seeking reimbursement, review s. 94.73, Wis. Stats., and ch. ATCP 35, Wis. Adm. Code. These regulations set forth the requirements for competitive bidding, workplan approval, etc., to maintain eligibility for reimbursement.

Workplan Approval

Workplans submitted to the DATCP for approval should include a breakout of unit costs and hourly rates on a per task basis for the consultant and/or other labor, analytical costs, equipment rental and generic services (drilling, excavating, hauling, etc.). Services in excess of \$3,000 must be competitively bid.

If there is imminent danger to human health and safety or the environment, immediate action should be taken to minimize those threats. In those instances, additional measures may be appropriate before an investigation can be completed.

If you have plans for construction at your facility, the investigation and cleanup in these areas should be conducted prior to construction. This will help to ensure that contaminated material is properly disposed of and a building isn't constructed on top of contamination.

Appendix 2

Example “No Further Investigation Required” Letter

Month xx, 20xx

M . (RP NAME)
(RP COMPANY NAME)
(RP ADDRESS)
(RP ADDRESS)

Re: Request for Site Investigation, (DISCHARGE SITE FACILITY NAME)
(DISCHARGE CITY), Wisconsin. DATCP Case # (#####)

Dear M . (RP NAME):

I have reviewed the January 17, 2000, Phase I and II Environmental Site Assessment Report for the former SITE NAME at CITY. Based upon the information provided in the report, additional investigation or cleanup work for agricultural chemicals will not be required at this time. However, if information is made available to us in the future which indicates additional work is necessary, we will require that the appropriate actions be taken.

Please call me at 608/224-4519 if you have any questions.

Sincerely,

NAME
TITLE

cc: EES
Consultant (if involved)

Appendix 3:
RP Meeting Agenda Items

INITIAL CONTACT WITH RP's

Handouts

ATCP 35 - Agricultural Chemical Cleanup Program

Environmental cleanup acronyms and terminology sheet

Request for Proposal

Investigative workplan checklist

Topics for discussion

Responsibilities of Ch. 292 Wis. Stats. (the Spills Law)

General scope of work for a site investigation

Bidding process (consultant selection and contractor bidding)

Contents of NR 700 (the process for site investigation, reporting, and case closure)

Landspreading (the process and how to obtain approval)

Reimbursement process (ATCP 35 Wis. Admin. Code)

Is the RP aware of the following rules (if they apply to them)?

ATCP 29 - Pesticide Use and Control

ATCP 32 - Fertilizer Bulk Storage

ATCP 33 - Pesticide Bulk Storage

Appendix 4

Guidelines for Establishing Deadlines and Enforcement Steps for ACCP Cases

Guidelines for Establishing Deadlines and Enforcement Steps for ACCP cases

INTRODUCTION

The purpose of this guidance is to ensure timely cleanup of contaminated agricultural sites and consistent enforcement of ATCP 35. Wis. Admin. Code. Case managers shall encourage RPs to meet project deadlines voluntarily. However, if RPs are unwilling or unable to meet deadlines, this guidance is intended to help case managers provide direction to RPs so that they can achieve compliance with minimal enforcement action.

This guidance is not intended to set policy or replace professional judgment of case managers. Each cleanup case is unique and may require case specific deadlines and/or enforcement actions depending on the threat to the environment.

ESTABLISHING DEADLINES AND ENFORCEMENT STEPS

Deadlines should be established based upon the needs of the project in accordance with the timelines listed below. General guidelines for establishing deadlines are as follows:

- Notify DATCP that an environmental consultant has been hired within **30 days** following receipt of the RP letter;
- Alternatively, set up a meeting with the case manager within **15 days** following receipt of the RP letter, and then notify DATCP that an environmental consultant has been hired within **30 days** of the meeting;
- Submit the investigation / remediation workplan within **45 days** following consultant selection;
- Implement work plan within **45 days** following approval;
- Submit report within **90 days** following completion of field work, and
- Prepare a workplan for additional investigation or remedial action within **45 days** following DATCP comments on site investigation report.

If a deadline is missed, document the reason the deadline was missed. If adequate justification is provided, establish a new deadline for the task and proceed. If delays cannot be justified, then establish a new deadline for the task and give verbal warning to the appropriate person. Verbal warnings may be given to the same person once or twice. Details of verbal warning (date, reason, etc.) should be documented in the project case file.

If project deadlines continue to be missed after receiving verbal warnings, more incentives may be needed to ensure that the project will progress in the future, and a written warning should be issued. A written warning notice can be sent by the case manager and should include a letter detailing the problem, the previously missed deadlines, a summary of past warnings, and the new deadline(s) for compliance. The letter should also notify the recipient that failure to comply with the new deadlines may jeopardize ACCP eligibility and that the next enforcement action, if needed, will be an administrative order outlining strict deadlines for the project.

If deadlines continue to be missed after receiving a written warning, an administrative order can be issued. Send a letter to requiring attendance at a compliance conference. In that letter, inform the RP that they should be prepared to enter into an order to direct the progress of the case. This request should also state the current problem and summarize past warnings and notices issued to the RP.

Appendix 5

ACCP Case Closeout Procedures and Forms

ACCP CASE CLOSE-OUT PROCEDURES

All long-term remediation cases involving pesticide or fertilizer contamination of soil and/or groundwater shall be closed out by the "Closeout Committee". The Committee shall consist of the Environmental Quality (EQ) Unit Supervisor, two EQ Unit hydrogeologist, and one EES representative.

It is up to the Case Manager to decide when the case will be presented for closeout. If a responsible person or consultant requests case closeout, the case manager may present the case to the Committee. Procedures for submitting a case to the Committee are listed below:

Before the Closeout Meeting

- (1) The Case Manager shall contact the DATCP investigator and the appropriate DNR contact (if applicable) to review the case and collect their input about the closeout of the case and offer them the chance to attend the meeting.
- (2) The Case Manager shall prepare a written summary of the case. The summary should include, but may not be limited to the following: persons involved (case manager, consultant, RP), facility history, investigation history, site geology and groundwater flow conditions, soil and groundwater impacts (initial and residual), potential receptors, and recommendation for case closure (list continuing obligations if proposed). Attach figures showing soil sample locations, monitoring well, extent of the excavation, plume extent and groundwater flow direction. Also attach table(s) or graph(s) indicating, pre and post-remediation concentrations. The case manager may also complete the Case Close Out Request Form (Form ARM ACM 341).

During the Closeout Meeting

- (1) The Case Manager shall verbally present the case and justification for closeout to the Closeout Committee.
- (2) Closeout of a case requires concurrence of all committee members.
 - (a) If the Closeout Committee does not close the case, they should recommend additional work and list those recommendations on the Case Close Out Signature Page (Form ARM ACM 341). These recommendations should be completed prior to re-submitting the case for closeout.
 - (b) The Closeout Committee may close a case provided some conditions are met. Conditions of closure should be listed on the Case Close Out Signature Page (Form ARM ACM 341). The case manager is responsible for assuring that any conditions of closure are addressed.

After the Closeout Meeting

- (1) The case manager shall notify, in writing, the responsible party, landowner, or other affected individual(s) of the closeout committee's decision. The letter may include a list of conditions of closure such as wells abandonment, payment of database registry fees, and modifications to case closure documents.
- (2) After the final case closure letter is sent, closed cases shall be filed by closeout date and kept for the timeframe indicated in the appropriate RDA.
- (3) The Case Tracking System should then be updated by the Case manager to reflect the current status of the case.

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