

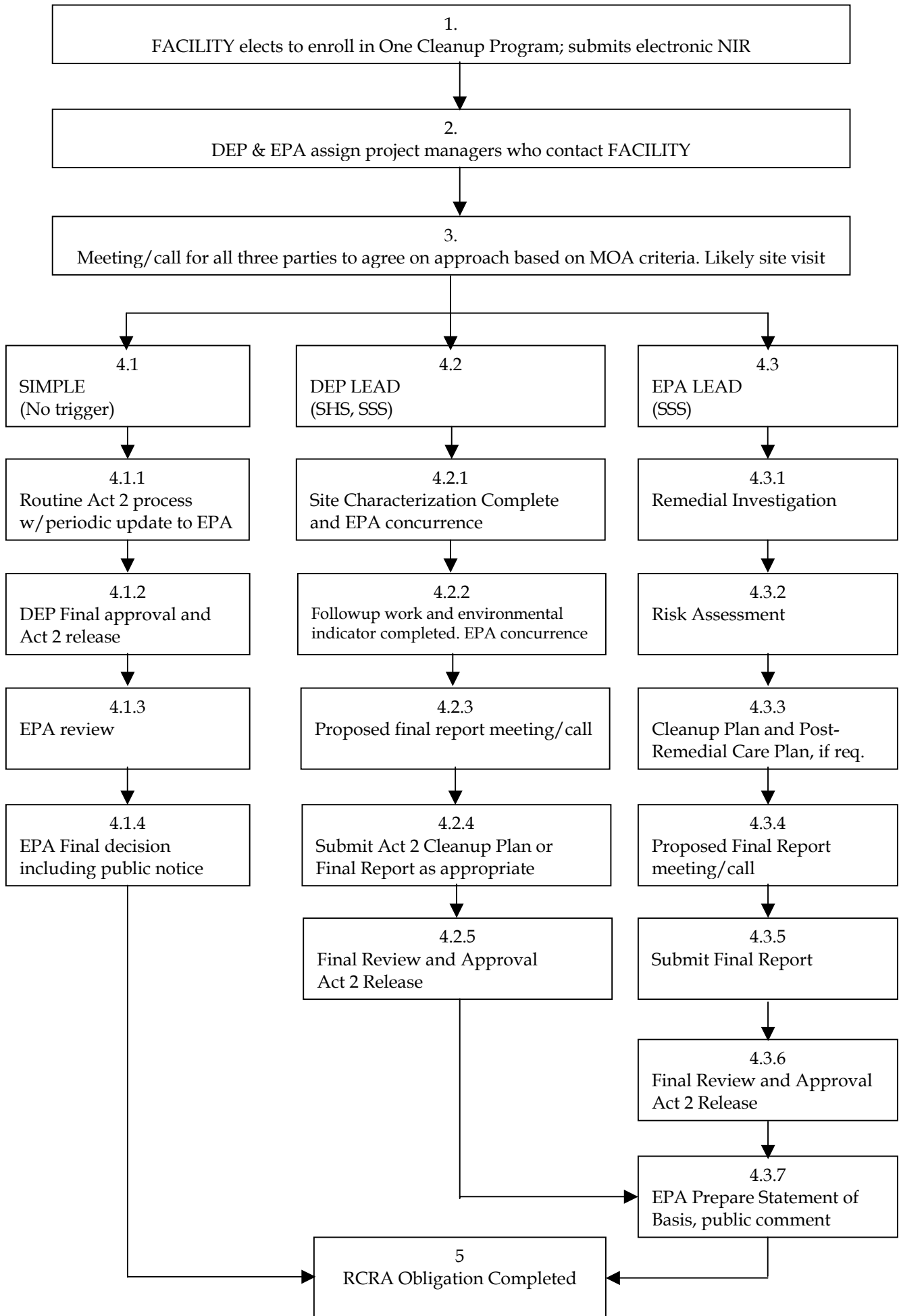
EPA Region 3/ Pa Dept of Environmental Protection
Streamlining the Process for the One Cleanup Program
Under RCRA

September 2005

On April 21, 2004, Pennsylvania Environmental Protection Secretary Kathleen A. McGinty and EPA Region III Administrator Donald Welsh signed an agreement that makes Pennsylvania's Land Recycling Program the first in the nation to serve as a "one-stop shop" for state and federal standards guiding the cleanup of brownfield sites. The Memorandum of Agreement (MOA) clarifies how sites remediated under Pennsylvania's brownfields program may also satisfy requirements for three key federal laws: the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response Compensation Liability Act (CERCLA), commonly referred to as Superfund, and the Toxic Substances Control Act (TSCA).

Since the signing of the MOA, sites subject to RCRA Corrective Action have been able to satisfy their RCRA obligations and, concurrently obtain liability relief under Pennsylvania's Act 2. Now, the Land Recycling Program and the EPA Region 3 RCRA program have developed a streamlined process to guide these joint efforts. Key features are: a lead project manager to serve as a single point of contact for the client, the simplification of process steps on most projects, and much faster approvals.

Attached are the flowchart and description of the new process. Questions on these can be directed to Dave Hess, 717-783-9480 or Paul Gotthold, (215) 814-3410.



EPA/DEP MOA Flowchart Description

1. Facility Elects to enroll in OCP, Submits NIR

Any site that is listed for RCRA Corrective Action can choose to participate, simply check the optional box on the Web electronic NIR.

2. DEP & EPA assign project managers

Upon receipt of NIR, DEP will contact EPA and through discussion, a project manager will be assigned from both agencies and an agency lead will be determined. Assigned Lead Project Manager contacts facility

3. Meeting/call for all three parties to agree on approach

Either a meeting or teleconference will then take place to discuss the site and project particulars. Of particular interest are elements that would effect which path (below) will be applicable. This is largely base on MOA criteria. A site visit may be deemed appropriate. An Environmental Indicator (EI) form should be competed in draft to identify data gaps and help direct the pending site characterization.

4. Three possible paths to proceed

4.1. Simple-

No trigger; DEP lead

- Complete Cleanup
- No GW above MCL
- Soils remediation only (can use the site-specific pathway elimination option).

If any of the following circumstances (triggers) exist, EPA RCRA staff will be involved in further review as outlined in the Agreement.

- (1) **Groundwater plume that exceeds drinking Water standards is migrating past the property boundary**
- (2) **GW in aquifers not used for drinking under Act 2(Non-use aquifer determination)**
- (3) **Pathway elimination (waste left in place).**
- (4) **Properties being sub-divided prior to completion of the remediation of the whole property**
- (5) **Site Currently undergoing corrective action under an EPA program**
- (6) **Remediations that do not include all known substances**

All affected media and identified substances must be included in the process. There may be groundwater contamination but must meet the Act 2 Statewide health standard for used aquifers. All substances identified in soil must meet the Act 2 Statewide health standards assuming used aquifer.

4.1.1 Routine Act 2 process w/ EI and Periodic update to EPA

The cleanup will follow the routine Act 2 process per administrative and technical requirements. In addition the draft EI will be revised to incorporate additional data

obtained through the Act 2 site characterization. This is done by the remediator and finalized by EPA.

4.1.2 DEP Final approval and Act 2 relief.

Upon Act 2 approval, a letter will be sent to the remediator and to EPA Region 3.

4.1.3 EPA Review

Although generally accepting the Act 2 approval, EPA will review the site information to prepare the Final Decision.

4.1.4 EPA Final Decision

EPA will provide for a public notice, a comment period, and a Final Decision.

4.1.5 go to step 5

4.2 DEP Lead (SHS, SSS)

This path allows for remediation to a site-specific standard through a risk assessment or the Statewide health standard.

4.2.1 Site Characterization Complete

Triggers mentioned in 4.1.1 may exist in some cases. Therefore, site characterization must be complete and a standard selected. If any of the screening triggers above are present, DEP will coordinate with EPA to assure RCRA concerns are met. Normally, this can be done through discussion and further clarification of factors that assure human health protection. Additional information may be needed to resolve any questions and assure such protection.

- EPA concurrence via meeting or teleconference briefing. *If extraordinary new information exists, it potentially could result in the site becoming an EPA lead*

4.2.2 Follow-up work and environmental indicator completed

An environmental indicator determination must be completed after site characterization that addresses all pathways. This can be completed by the remediator, but must be finalized by EPA.

4.2.3 Interim Meeting/ Conference Call**

4.2.4 Submit Act 2 cleanup plan or final report as appropriate

Since this path allows either or both of the Statewide health and site-specific standards, the next step is either a final report or a cleanup plan. Note: a post remediation care plan is required if institutional and or engineering controls are being implemented.

The Act 2 process will proceed normally even when EPA requires additional information.

4.2.5 Final review and approval; Act 2 relief

4.2.6 Go to Step 4.3.7

** The purpose of this contact is to confirm that all parties understand and agree on either the appropriate remedy or the demonstration of attainment.

4.3 EPA Lead (SSS)

An EPA lead may be deemed appropriate if EPA and the facility have a long established relationship or the Facility is already working under an Order or other agreement.

4.3.1 Remedial Investigation

An investigation would take place meeting both Act 2 and RCRA requirements.

4.3.2 Risk Assessment

If required by either Act 2 or RCRA, a risk assessment would be completed to determine if physical remediation is necessary. (Risk assessment could indicate that risk is already acceptable.)

4.3.3 Cleanup Plan and Post-remediation care plan, if required

The site-specific and RCRA processes provide for a cleanup plan. If the plan utilizes either institutional or engineering controls, the plan must include post remediation care details. As examples, this may be inspection, maintenance and reporting procedures for a cap, or just routine reexamination to confirm the continued presence of the institutional control.

4.3.4 Meeting or conference call

4.3.5 DEP final approval and Act 2 relief

As normally applied, Act 2 review and approval will take place.

4.3.6 EPA prepares statement of basis; public comment

The EPA RCRA process of statement of basis and public comment will be applied. Public comments rarely result in additional work being required.

4.3.7 Go to step 5

5 RCRA Obligation completed.