

Date: January 20, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
County Mayor *Daniella Levine Cava*

Subject: Resolution Approving Amendment No. 1 to Contract No. GC911 with the Florida Department of Environmental Protection for Storage Tank System Compliance Verification

Agenda Item No. 8(L)(4)

Recommendation

It is recommended that the Board of County Commissioners (Board) approve Amendment No.1 to Contract No. GC911 with the Florida Department of Environmental Protection (FDEP), which provides funding to the County for storage tank system compliance verification services and authorize the Mayor’s or Mayor’s designee to execute the amendment. Amendment No. 1 (Amendment) is attached as Exhibit 1 to the resolution.

Scope

This contract relates to countywide storage tank compliance inspections and construction inspections, as well as enforcement activities.

Fiscal Impact/Funding Source

This Amendment is not anticipated to require additional funding and will be revenue neutral to the Department of Regulatory and Economic Resources, Division of Environmental Resources Management (DERM). Under FDEP Contract No. GC911, FDEP compensates the County for the costs associated with implementation of Storage Tank System Compliance Verification Program activities performed pursuant to the contract.

Track Record/Monitor

The Assistant Director, Lee Hefty, in the Department of Regulatory and Economic Resources, Division of Environmental Resources Management (DERM), will monitor the proposed Amendment.

Background

On December 5, 2017, the Board approved Resolution No. R-1181-17, ratifying the execution of Contract No. GC911 with FDEP. Under that contract, Miami-Dade County, through DERM, provides countywide storage tank compliance verification services such as routine compliance inspections, construction inspections, enforcement actions for violations of state and local law, and subsequent inspections to verify corrective action. Miami-Dade County is compensated on a combination fee schedule/cost reimbursement basis for a maximum amount of \$5,277,366.00 over the 10-year term of the contract. The work performed under this contract is carried out through the execution of task assignments from FDEP for a specific amount of funds to cover the inspection activities for the year. The expenditure of funds is tracked on a monthly basis and should the need arise, FDEP will make additional funds available for any necessary work that exceeds the projected total under that task assignment, such as additional construction inspections. The 2017 contract replaced a similar contract which successfully ran for a 10-year term from 2007 to 2017.

DERM received Amendment No. 1 to Contract No. GC911 from FDEP which would amend the 2017 contract by (1) establishing provisions to set aside funds for travel and training from the 10 year contract amount not to exceed \$32,000; (2) allowing Miami-Dade County to seek reimbursement for expenses related to training in new technology and program management changes; and (3) providing that FDEP can unilaterally change the various guidance documents that are part of the contract, pursuant to rule changes or FDEP policy. According to FDEP, FDEP wants to be able to change these guidance documents unilaterally in order to facilitate the implementation of changes to the procedures outlined in the guidance documents without prompting amendments to the contract.

Because the Amendment would allow FDEP to unilaterally change annual task assignments and applicable guidance documents, there is a risk that one of these unilateral revisions by FDEP could potentially be inconsistent with County regulations or available County resources. This contract does not allow the County to terminate before the 2027 contract expiration date, but the contract does include a dispute resolution process that the County could pursue if needed.

The County does not anticipate that these contract provisions will be an issue because the County and FDEP have maintained a good working relationship under similar agreements for many years, with no reason to believe that inconsistent expectations should occur. Indeed, since the 1980s, Miami-Dade County has partnered with FDEP to perform this work under similar contracts. FDEP relies on such local government compliance verification contracts to carry out the very critical tasks of ensuring that storage tank systems are maintained in order to protect our water supply and prevent discharges that result in contamination and costly environmental clean-ups. To date, the County and FDEP have maintained a good working relationship with no history of conflicts or lack of performance by either party.

In addition, the County contacted FDEP with various questions about this contract and Amendment, and FDEP confirmed, in writing, that the County is a Level 2 contractor with enforcement authority and that Attachment B contains the applicable provisions for the scope of work and level of enforcement actions required for such contractors. In their letter, FDEP also indicated that they were not aware of any noncompliance issues by the County with the terms of the contract. With respect to the enforcement provisions that are also governed by this contract, the County has been in close communications with FDEP to explain the enforcement procedures employed by the County and based on those discussions, FDEP has informed the County that the County’s enforcement activities are acceptable.


The 2017 Contract No. GC911, as approved under Resolution No. R-1181-17, together with the 2017 technical and guidance documents, is attached as Exhibit 2 to the resolution, for reference purposes. Of those technical and guidance documents, only Attachments A and B, and Guidance Document F, have been revised by FDEP, and those revised Attachments are included, together with the Amendment, as Exhibit 1 to the resolution. In addition, one of the 2017 guidance documents, a manual for using the storage tank inspection software called the Florida Inspection Reporting Storage Tanks (FIRST) User Guide, is not included with this resolution because of its length and is instead available via the FDEP website at:

<https://floridadep.gov/waste/permitting-compliance-assistance/content/compliance-contracts>.

Delegation of Authority

This resolution would authorize the County Mayor or County Mayor’s designee to execute the Task Assignments for this contract, provided that there is no additional fiscal impact to the County. This resolution would also authorize the County Mayor or County Mayor’s designee to execute amendments only for extensions of time and to receive additional funds as may become available from FDEP.

The proposed Amendment to Contract No. GC911 is recommended for approval by the Board.




Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: January 20, 2021

FROM: 
Gen Bonzon-Keenan
Successor County Attorney

SUBJECT: Agenda Item No. 8(L)(4)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(4)
1-20-21

RESOLUTION NO. _____

RESOLUTION APPROVING AMENDMENT NO.1 TO CONTRACT NO. GC911 BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND MIAMI-DADE COUNTY RELATED TO STORAGE TANK SYSTEM COMPLIANCE VERIFICATION WITH A MAXIMUM REIMBURSEMENT AMOUNT OF \$5,277,366.00 OVER A 10-YEAR TERM; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AMENDMENT NO. 1 TO CONTRACT NO. GC911; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE TASK ASSIGNMENTS AND EXECUTE AMENDMENTS FOR EXTENSIONS OF TIME AND TO ACCEPT ADDITIONAL FUNDS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Approves Amendment No.1 to Contract No. GC911 with the Florida Department of Environmental Protection with a maximum reimbursement amount of \$5,277,366.00 over the 10-year term, in substantially the form attached hereto as Exhibit 1 and made a part hereof, related to storage tank system compliance verification within Miami-Dade County. Contract No. CG911 is attached hereto as Exhibit 2.

Section 2. Authorizes the County Mayor or County Mayor's designee to execute Amendment No. 1 to Contract No. GC911.

Section 3. Authorizes the County Mayor or County Mayor's designee to (1) execute task assignments, provided that there is no additional fiscal impact to the County, and (2) execute amendments to Contract No. GC911 only for extensions of time and for additional funds that may become available from the FDEP.

The foregoing resolution was offered by Commissioner ,
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of January, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Abbie Schwaderer-Raurell

EXHIBIT 1

DEP CONTRACT NO. GC911 AMENDMENT NO. 1

THE CONTRACT as entered into on the 29th day of June, 2017, between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (“DEPARTMENT”), an agency of the State of Florida, and MIAMI-DADE COUNTY, through Miami-Dade County’s Division of Environmental Resources Management (“CONTRACTOR”), is hereby amended.

RECITALS

WHEREAS, the Department entered into the Contract with the Contractor to perform compliance inspections within the jurisdictional (geographical) boundaries of Miami-Dade County.

WHEREAS, language in the Contract references a scrivener error regarding terms to perform compliance inspections incorrectly stated as, "including facilities registered to the Contractor", and the parties wish to hereby correct this error.

WHEREAS, the Contract terms regarding issuing a Task Assignment Notification Form (TA), Task Assignment Change Order Form (TACO), a MyFloridaMarketPlace (MFMP) Purchase Order (PO), and/or MFMP Change Order (CO), which is referenced within the Contract are authorizations issued by the Department to the Contractor for a work assignment and instructions regarding performance of a compliance inspection, and may also be issued as it relates to other Department responsibilities such as communications regarding training and regulatory guidance, as more fully described within the Contract and attachments thereto.

WHEREAS, the parties hereby confirm their original intent, as a part of consideration for services rendered by the Contractor, and the Department’s responsibilities under the terms of this Contract, the Department training and travel costs incidental thereto are not to exceed \$32,000.

WHEREAS, the parties hereby confirm their understanding, the Department’s various Guidance documents referenced within the Contract are subject to change over the life of the Contract and may be updated and/or amended from time-to-time pursuant to Federal statute, Florida statute, Florida Administrative Code, and/or Department policy. The Contractor is responsible for knowing and applying the current applicable Guidance standard established for the services provided during the work assignment time period. The Contractor is responsible to provide quality services, technically accurate, and in coordination with all reports and other services required in compliance with the Guidance documents current and applicable at the time a work assignment is performed.

WHEREAS, the parties hereby confirm their understanding, it was their original intent regarding the Department’s responsibility as originally outlined in Attachment A, Scope of Work-Level One, Task #34 and Attachment B, Scope of Work-Level Two, Task #38, it is the Department’s responsibility to reimburse Contractor on a cost-reimbursement basis as authorized and pre-approved by the Department for incidental expenses particular to providing training in new technology and program management changes as necessary to the “Environmental Specialist I level or higher”, and for Contractor’s inspectors as it relates to such training and program management changes, which includes authorized travel cost incidental thereto as pre-approved by the Department, in accordance with Section 112.061, Florida Statute, Chapter 69I-42, Florida Administrative Code (FAC), and/or the Reference Guide for State Expenditures compiled by the Department of Financial Services regarding allowable travel and incidental expenses.

NOW THEREFORE, in consideration of the foregoing Recitals, the Contract, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

Recitals. The Recitals set forth hereinabove are true and correct and are incorporated herein by reference.

1. All references within the Contract regarding use of and issuance of a Task Assignment Notification Form (TA), Task Assignment Change Order Form (TACO), a MyFloridaMarketPlace (MFMP)

Purchase Order (PO), and/or MFMP Change Order (CO), and specifically within Section 2.A. WORK, are authorizations issued by the Department to the Contractor for a work assignment and instructions regarding performance of a compliance inspection, and may also be issued as it relates to other Department responsibilities such as communications regarding training and regulatory guidance's, as more fully described within the Contract and attachments thereto.

2. Section 5.A. COMPENSATION. is hereby modified to confirm the parties' original intent, as a part of consideration for services rendered by the Contractor, and the Department's responsibilities under the terms of this Contract, the Department training and travel costs incidental thereto shall not exceed \$32,000 and stated as follows:

A. As consideration for the services rendered by Contractor under the terms of this Contract, the Department shall pay the Contractor on a combination fee-schedule/cost-reimbursement basis not to exceed \$5,277,336.00, which includes the cost reimbursement not to exceed \$32,000 for Department training and travel costs incidental thereto. For the monthly operation and maintenance services as well as repair and emergency service calls, the Contractor shall be compensated on a fee-schedule basis at the rates specified in the Scope Guidance Document H, Contractual Service Payment Calculation, attached hereto and made apart hereof. It is understood that fee schedule amounts include all costs necessary to perform the monthly operation and maintenance services as well as repair and emergency service calls including, but not limited to, labor, fringe benefits, overhead, supplies, and travel to and from inspection sites, but do not include reimbursement for equipment purchases. Equipment purchases costing \$1,000.00 or more shall be reimbursed on a cost-reimbursement basis and must be pre-approved by the Department.

3. Section 8. TRAVEL. is hereby modified to clarify the parties' original intent: "Travel costs are included in the fee schedule amounts of this Contract when Contractor's travel cost are associated with travel to and from an inspection site and not as it relates to travel to and from a Department established venue for meetings, training and/or program regulatory guidance sessions held for the Contractor". As such, under the terms of this Contract, all pending and future approved travel and/or training expenses incurred by the Contractor for a meeting, training and/or for a program regulatory guidance session established by the Department shall be reimbursed to the Contractor on a cost-reimbursement basis in amounts pursuant to Section 112.061, Florida Statute, Chapter 69I-42, Florida Administrative Code (FAC), and/or the Reference Guide for State Expenditures compiled by the Department of Financial Services regarding allowable travel and incidental expenses.

4. **Section 41. MYFLORIDAMARKETPLACE TRANSACTION FEE.** is hereby deleted in its entirety and replaced with the following:

MYFLORIDAMARKETPLACE TRANSACTION FEE. The State of Florida, through their Department of Management Services, has instituted MyFloridaMarketPlace ("MFMP"), a statewide electronic procurement system. Pursuant to subsection 60A-1.031(3), Florida Administrative Code, the Contract shall be exempt from the MFMP transaction fee.

5. **Attachment A, Scope of Work, Storage Tank System Compliance Assistance, Section #28** is hereby revised to add the following:

The parties hereby confirm their understanding, all references within the Contract regarding use of and issuance of the Department's various Guidance documents carry with it the original understanding and intent of the parties that the Guidance documents are subject to change over the life of this Contract, and may be updated and/or amended from time-to-time pursuant to Federal statute, Florida statute, Florida Administrative Code, and/or Department policy. The Contractor is responsible for knowing and applying the current applicable Guidance standards as established at the time the work is conducted. The Contractor is responsible to provide quality

services, technically accurate, and in coordination with all reports and other services required in compliance with the Guidance documents current and applicable at the time a work assignment is performed.

6. **Attachment A, Scope of Work, Storage Tank System Compliance Assistance, Section #34 DEPARTMENT RESPONSIBILITIES** is hereby revised to clarify the parties' original intent to add the following:

The Department is responsible to reimburse Contractor on a cost-reimbursement basis for travel and incidental expenses particular to providing training in new technology and program management changes as necessary to the "Environmental Specialist I level or higher", and for Contractor's inspectors as it relates to such training and program management changes, which includes authorized travel cost incidental thereto as pre-approved by the Department. Cost reimbursement for travel will be reimbursed in accordance with Section 112.061, Florida Statute, Chapter 69I-42, Florida Administrative Code (FAC), and/or the Reference Guide for State Expenditures compiled by the Department of Financial Services regarding allowable travel and incidental expenses.

7. **Attachment B, Scope of Work, Storage Tank System Compliance Assistance, is deleted from the Contract as originally stated and replaced with Attachment B, Scope of Work, Storage Tank System Compliance Assistance and Enforcement Action, Level 2 Contractors as issued under Task Assignment #2 and Change Order Form, GC911-2, Change Order No. 1 and attached hereto, with the addition of the following language added to Sections # 31 and Section #37, and incorporated herein:**

31. ... All references within the Contract regarding use of and issuance of the Department's various Guidance documents carry with it the original understanding and intent of the parties that the Guidance documents are subject to change over the life of this Contract, and may be updated and/or amended from time-to-time pursuant to Federal statute, Florida statute, Florida Administrative Code, and/or Department policy. The Contractor is responsible for knowing and applying the current applicable Guidance standards established at the time the work is conducted. The Contractor is responsible to provide quality services, technically accurate, and in coordination with all reports and other services required in compliance with the Guidance documents current and applicable at the time a work assignment is performed.

37. ... The Department is responsible to reimburse Contractor on a cost-reimbursement basis for travel and incidental expenses particular to providing training in new technology and program management changes as necessary to the "Environmental Specialist I level or higher", and for Contractor's inspectors as it relates to such training and program management changes, which includes authorized travel cost incidental thereto as pre-approved by the Department. Cost reimbursement for travel will be reimbursed in accordance with Section 112.061, Florida Statute, Chapter 69I-42, Florida Administrative Code (FAC), and/or the Reference Guide for State Expenditures compiled by the Department of Financial Services regarding allowable travel and incidental expenses.

8. All references within the Contract regarding use of the terms "including facilities registered to the Contractor" as it relates to performance of compliance inspections is a scrivener error and is hereby deleted.

In all other respects, the Contract of which this is an Amendment, and Attachments relative thereto, shall remain in full force and effect and are hereby ratified, approved and confirmed by the DEPARTMENT and the CONTRACTOR, as of the date of this Amendment.

In the event of a conflict between this Amendment and the Contract, incorporating by reference any and all previous Amendments (as applicable), this Amendment shall control.

It is understood and agreed by the DEPARTMENT and the CONTRACTOR that this Amendment is binding upon the DEPARTMENT and CONTRACTOR and their successors and assigns.

This Amendment may be executed in counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same Amendment.

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WHEREFORE, the parties have caused this Amendment to be duly executed the day and year last written below.

"CONTRACTOR" *

**MIAMI-DADE COUNTY
MIAMI-DADE COUNTY DERM**

By: _____

Title:

Date: _____

FEID Number

"DEPARTMENT"

**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

By: _____

Secretary or Designee

Date: _____

DEP, Contract Manager

Print Name

Approved as to form and legality:

Carolyn Ciarravella, Esq. ^{1/11/2019}
DEP Attorney

*For Contracts with governmental boards/commissions: If someone other than the Chairman signs this Amendment, a resolution, statement, or other document authorizing that person to sign on behalf of the Contractor must accompany this Contract.

ATTACHMENTS

Attachment B

Scope of Work, Storage Tank System Compliance Assistance and Enforcement Action, Level 2 Contractors, Task Assignment 2 and TACO, Change Order 1 (with additional updated language for Sections # 31 and #37 as stated above)

ATTACHMENT A (REVISED)

ATTACHMENT A

SCOPE OF WORK

STORAGE TANK SYSTEM COMPLIANCE ASSISTANCE

Level 1 Contractors

WORK DESCRIPTION

1. The Contractor shall perform routine compliance inspections within the jurisdictional (geographical) boundaries of the specified counties as required by an executed Task Assignment(s) at the following Chapter 376, Florida Statutes (F.S.), facilities: storage tanks regulated pursuant to Sections 376.30 – 376.317, F.S. (excluding cattle dip vats, dry-cleaning facilities and designated Brownfields) and Chapters 62-761 and 62-762, Florida Administrative Code (F.A.C.). In addition, the Contractor shall perform closure inspections, installation inspections, discharge inspections, pre-approved re-inspections, pre-approved component inspections, and pre-approved complaint inspections as applicable, in accordance with each Task Assignment. All inspections shall be performed by an individual(s) with professional qualifications equivalent to an Environmental Specialist II level or higher. Beginning on the effective date of this Contract, the Contractor is authorized to enter private property in order to carry out inspections pursuant to Sections 403.091 and 403.858, F.S. However, an authorized facility representative must safely access all storage tank system components for inspection by the Contractor, and must demonstrate operational functionality of electronic equipment. This Scope of Work provides the minimum services the Department is seeking. The specific Tasks, Deliverables, Performance Measures, and Deliverable due dates will be included in each issued Task Assignment.

TASKS

2. Inspections must be performed in accordance with each executed Task Assignment.
 - A. Perform routine compliance inspections of facilities listed on each executed Task Assignment. Facilities not listed for inspection during the current executed Task Assignment will be prioritized to be inspected during subsequent Task Assignments.
 - B. Perform all tank closure inspections at regulated storage tank systems and past closure activities that have been discovered as having taken place without notification to ensure that the system is properly closed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
 - C. Perform all tank installation inspections at new installations of regulated tank systems and past installations that have been discovered as having taken place without notification to ensure that the system is properly constructed and installed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
 - D. Perform a discharge inspection at all facilities with known or suspected discharges within fourteen (14) calendar days of receipt of notification.
 - E. Re-inspections may only be performed, for payment, if the Contractor receives approval through STR_VARIABLES@FloridaDEP.gov prior to the inspection, that it is warranted. Re-inspections are to be billed as a Compliance Assistance – Re-inspection.
 - F. Component inspections may only be performed, for payment, if the Contractor receives approval through STR_VARIABLES@FloridaDEP.gov prior to the inspection, that it is warranted. Component inspections are to be billed as a Compliance Assistance – Component

- G. Respond to complaints concerning regulated facilities, once the Contractor receives approval through STR_Variables, by performing a complaint inspection. These inspections may also be directed by the Department Task Manager. Inspection findings concerning regulated facilities shall be documented in a complaint inspection report activity in Florida Inspection Reporting for Storage Tanks (FIRST). Complaint inspections not involving a regulated facility shall be documented in writing and/or as directed by the Department Task Manager.
3. Inspector responsibilities shall include:
- A. Contacting facility owners, operators, and/or other authorized representatives verbally or in writing, to schedule inspections. The Department Task Manager may require written notification of inspections if verbal methods have proven unsatisfactory. For routine compliance inspections, the Contractor shall provide outreach to each facility prior to the inspection by contacting the facility at least five (5) calendar days in advance of the inspection, reminding the facility to view the inspection videos on the Department's website prior to the upcoming inspection, and discussing recent previous inspections at the facility noting any violations cited. This outreach is to be documented in FIRST in a Phone or Electronic Communication Activity, depending on how the contact was made.
 - B. Conducting inspections with the owners, operators, and/or other authorized representatives of facilities for the purpose of determining compliance with Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F. S.
 - C. Distributing registration forms or providing directions for the use of the Electronic Self Service Application Portal (ESSA) on the Department's website to all facilities that are determined by the Contractor to need registration updates.
 - D. All inspection activities shall be documented using the FIRST database and FIRST equipment in accordance with the minimum standards referenced in the "FIRST User's Guide" (Guidance Document B).
 - E. All inspection reports shall be completed in accordance with the "Level of Effort Guidance" (Guidance Document F). The date and manner of the issuance of the inspection report to the facility owner/operator shall be documented in FIRST. This may be accomplished with the completion of one or more supporting activities in FIRST, such as a Non-Compliance Project Letter Activity, Compliance Assistance Letter Activity, Issue Document Activity, and/or Electronic Communication Activity.
 - F. Responding to requests for public assistance both in the office and during inspections.
 - G. Verify all registration information is accurate.
4. Perform Level 1 Compliance Assistance Actions.
- A. These actions shall include investigation and documentation of violations of Chapters 62-761 and 62-762, F.A.C., or the county's equivalent regulations, preparation of Compliance Assistance letters and related activities in accordance with the "Storage Tank System Program Violation List" (Guidance Document A) and "Level of Effort Guidance" (Guidance Document F).
 - B. An individual(s) in a position equivalent to an Environmental Specialist II level or higher shall conduct Level 1 Compliance Assistance activities. Compliance Assistance letters may be prepared and sent by an individual(s) at the Environmental Specialist I level under the direction of an individual at the Environmental Specialist II level or higher.
 - C. All Compliance Assistance letters shall be on Department forms, in Department format, or have Department approval. Compliance Assistance letters shall be issued through FIRST in accordance with the "FIRST User's Guide" (Guidance Document B) to ensure that the letters are posted to the OCULUS document management system.

- D. If there is any indication that Compliance Assistance actions are not being performed in accordance with "Level of Effort Guidance" (Guidance Document F); the Department Task Manager may request the submission of a Corrective Action Plan (CAP), and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager. The Department Task Manager shall be responsible for reviewing the CAP and notifying the Contractor if the CAP is approved or in need of revision.
- E. The Contractor must maintain the administrative organization, staff, financial and other resources necessary to effectively administer the requirements of this Attachment. Failure to do so is a material breach of this Contract.
- F. This Attachment specifically does not include actions associated with the cleanup or enforcement of Contractor-owned or operated petroleum storage systems or any discharge(s) associated with them.

ASSESSMENT OF PERFORMANCE LEVELS

- 5. The Contractor shall perform inspections as directed in paragraph 4, above, and assess performance levels monthly to determine its progress towards completion of each Task Assignment. Upon discovery of any problems that would delay or prevent the timely progress and completion of each Task Assignment, the Contractor shall notify the Department Task Manager.
- 6. Following the effective date of each Task Assignment, the Contractor must have completed the following percentage of the required routine compliance inspections unless otherwise indicated in the Task Assignment:
 - A. After four (4) months, thirty three percent (33%) of inspections must have been completed.
 - B. After eight (8) months, sixty six percent (66%) of inspections must have been completed.
 - C. After twelve (12) months, one hundred percent (100%) of inspections must have been completed.
- 7. If the actual number of completed inspections falls below these levels, then the Contractor must submit a CAP to the Department Task Manager, and associated invoices will be held by the Department Contract Manager until these completion percentages are subsequently reached.
- 8. If there is any indication that other required inspections or activities are not being performed, the Department Task Manager may request the submission of a CAP and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager.
- 9. The Department Task Manager shall be responsible for reviewing all CAPs and notifying the Contractor if the CAP is approved or in need of revision.
- 10. A completion rate of 100 percent is required for those activities described in Paragraph 1, above, and as set forth in each Task Assignment, unless otherwise indicated in the Task Assignment.
- 11. The Department shall authorize the Contractor to provide services under this Contract utilizing the Task Assignment Notification Form, attached to the Contract as Attachment C. The Contractor acknowledges that no work shall be performed until a Task Assignment authorizing work has been fully executed by the Department and the Contractor. If, during the term of an executed Task Assignment, a modification of the Task Assignment is needed, the Department may issue a new Task Assignment Form clearly marked with the original task number and the appropriate amendment

number, detailing the revised description of the work to be performed. As with the original Task Assignment, all amendments to Task Assignments must be executed by both the Department and the Contractor prior to the work being performed.

SCOPE REQUIREMENTS

12. The Contractor shall administer the compliance verification program, provide technical assistance, and perform Level 1 Compliance Assistance actions. Data generated from all inspections conducted under the direction of the Department shall be entered into FIRST, and completed, prior to the submittal of an invoice to the Department Contract Manager.
13. The Contractor shall comply with all provisions of this Contract, verify facility compliance with Chapter 376, F.S., and Chapters 62-761 and 62-762, F.A.C., and be knowledgeable of the differences between the state and federal environmental statutes and rules applicable to underground storage tanks.
14. The Contractor shall require that qualified individuals perform field inspections and that they receive training on Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F.S.
15. The Contractor shall provide a sufficient number of qualified staff to satisfactorily complete all the responsibilities included in this Contract. All individuals hired after the effective date of this Contract shall possess qualifications equivalent to Department position levels as specified in this Contract.
16. The Contractor shall determine the accurate latitude and longitude coordinates for each regulated facility inspected using Department-approved procedures and ensure the proper entry of this data into the Department inspection database.
17. The Contractor shall review reports, forms, and documents filed by facility owners, operators, or authorized representatives, including documents for tank install, tank closure, incident, discharge, return to compliance, Underground Storage System Installation and Removal Form for Certified Contractors, Limited Closure Report Form, and Closure Integrity Evaluation Report Form to ensure that the facility is in compliance with Chapter 376, F.S., and Chapters 62-761 and 62-762, F.A.C. The Contractor shall review closure reports filed by facility owners, operators, or authorized representatives to ensure that the Department's "Instructions for Conducting Sampling During Aboveground Storage Tank Closure" (Guidance Document C1) and "Instructions for Conducting Sampling During Underground Storage Tank Closure" (Guidance Document C2) have been followed. In cases where these requirements have not been met, the Contractor shall initiate Level 1 Compliance Assistance actions to compel compliance. In cases where these requirements have been met and none the of Department's cleanup target levels have been exceeded, the Contractor shall issue a Closure Report Review Letter for the system described in the Closure Report indicating the Closure Report meets the requirements of Chapter 62-761 and/or 62-762, F.A.C. In cases where cleanup target levels have been exceeded and it has been determined to be a new discharge, the Contractor shall prepare and send a Site Assessment Report (SAR) request letter to the facility owner and operator, if appropriate. The SAR request letter may be incorporated with Closure Report Review Letter. In addition, the Contractor shall provide notification to the Department District Office within thirty (30) days of the determination of a new discharge at a facility.
18. The Contractor shall prepare and send a Site Assessment Report request letter to the facility owner and operator, if appropriate, in cases where a new discharge has been discovered related to a regulated storage tank system, but unrelated to a closure as discussed in paragraph 17., above. In addition, the Contractor shall provide notification to the Department District Office within thirty (30) days of the determination of a new discharge at a facility.

19. The Contractor shall maintain its paper files on regulated facilities that were composed prior to the FIRST database implementation, as well as documentation from the facility that may not be available in FIRST or OCULUS, such as closure reports. In the event a case referral to the Department District Office for further enforcement is necessary, a copy of any documents pertinent to the case that are not available in FIRST shall be submitted to the Department District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document G).
20. Facility files must be kept until the site has been determined closed. Once the facility has been closed for five (5) years, the records may be transmitted electronically to the Department Contract Manager in Tallahassee for preservation, unless the Contractor is subject to more stringent local record retention requirements. Copies can be maintained by the Contractor at the Contractor's expense. If, for any reason, the Department's contractual arrangement with the Contractor to perform the inspection program (through this Contract or any future contracts) ceases, the Contractor shall return all original facility files to the Department Contract Manager in Tallahassee within 30 calendar days of Contract expiration or termination.
21. The Contractor shall provide attendance of at least one program staff member at scheduled meetings, conferences, and teleconferences. The Department Task Manager may authorize attendance at a location other than the District Office. The Contractor shall provide attendance of additional staff members as requested by the Department.
22. The Contractor shall ensure that all field personnel receive the health and safety training required to meet OSHA standards (an initial 24 or 40-hour course within 6 months of employment under this Contract, followed by an annual 8-hour refresher course).
23. The Contractor shall supervise the Local Compliance Program with an individual at a minimum equivalent to the Department's Environmental Specialist III personnel category.
24. The Contractor shall provide copies of applicable rules, inspection forms, and other program/public assistance information to the public and regulated interests. However, this provision does not authorize photocopying of reference documents in violation of copyright law.
25. The Contractor shall maintain financial books, records, and documents directly pertinent to performance under this Contract in accordance with generally accepted accounting principles consistently applied. All books, records, and documents pertinent to performance under this Contract shall be maintained for the entire term of this Contract and for five years following the expiration or termination of this Contract. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the entire term of this Contract and for five years following the expiration or termination of this Contract. A penalty of 8.3% of the current Task Assignment amount will be assessed for each year that shows insufficient record keeping.
26. The Contractor shall not allocate funding to non-program activities outside the scope of this Contract or any Task Assignment. Sections 376.3071 and 376.11, F.S., prohibit the use of Inland Protection Trust Fund moneys for purposes other than those specified in these sections.
27. Access to Department databases shall be made by using an Internet connection. Therefore, the Contractor is responsible for subscribing to and paying for all charges related to use of the services of a reputable Internet service provider. The Contractor must have a dedicated Internet line for FIRST.
28. Guidance Documents. The Contractor agrees that the services required under this Contract shall be performed in accordance with the guidance documents listed below and in accordance with the provisions of this Contract. The Guidance Documents are available online. To access the Guidance Documents please follow the link: <https://floridadep.gov/waste/permitting-compliance-assistance/content/compliance-contracts>.

The Contractor hereby acknowledges receipt of the following guidance documents:

- A. Guidance Document A----- Storage Tank System Program Violation List.
 - B. Guidance Document B----- Florida Inspection Reporting for Storage Tanks (FIRST) User Requirements. Please visit the following website to download: [https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid=11.3384454.1\]&\[profile=DWM Historical Repository\]](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=11.3384454.1]&[profile=DWM Historical Repository])
 - C. Guidance Document C1----- Instructions for Conducting Sampling During Aboveground Storage Tank Closure
Guidance Document C2----- Instructions for Conducting Sampling During Underground Storage Tank Closure
 - D. Guidance Document D1----- Compliance Verification Program Local Program Review Form
Guidance Document D2----- Contractual Review Form
 - E. Guidance Document E----- Contractual Services Invoice
 - F. Guidance Document F----- Level of Effort Guidance
 - G. Guidance Document G----- Guidelines for Case Referrals
 - H. Guidance Document H----- Contractual Service Payment Calculation
 - I. Guidance Document I----- DEP Directive 923 Settlement Guidelines for Civil and Administrative Penalties
29. The Contractor shall provide a written response within forty-five (45) days to the Program Review findings conducted in accordance with paragraph 37, below, and at a minimum, provide details on any corrective actions that will be implemented.
30. The Contractor shall submit a satisfactory Corrective Action Plan to the Department Task Manager upon notification of a score below seventy-five (75) on the Program Review within fourteen (14) calendar days of notification of the score. Because a score below seventy-five (75) reflects an unacceptable level of performance, if the Contractor receives a score below seventy-five (75) may result in contract termination.
31. The Contractor is responsible for the professional quality, technical accuracy, and coordination of all reports and other services furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its reports and other services.

DEPARTMENT RESPONSIBILITIES

32. The Department shall serve in an advisory capacity to the Contractor. The Department shall make legal interpretations of Department rules, which shall be binding with respect to the Contractor's ordinances to the extent that those ordinances adopt the provisions of Chapters 62-761 and 62-762, F.A.C., as required by this Contract.
33. The Department shall review completed inspection reports when and as deemed necessary.
34. The Department shall provide program and regulatory guidance for the Contractor. The Department shall provide training in new technology and program management changes as necessary.
35. The Department shall conduct enforcement activities for violations of Chapters 62-761 and 62-762, F.A.C., when case referrals are properly made and forwarded to the District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document G).
36. The Department shall provide information to the Contractor about Department registered storage tank system equipment and alternate procedures (waivers, variances, or registrations).

37. At least once annually, the Department shall perform a Program Review using the "Compliance Verification Program Local Program Review Form" (Guidance Document D1), and provide a copy of the Program Review findings to the Contractor upon completion of the Program Review. The Department may conduct inspections, including accompanied inspections and follow-up inspections, at any reasonable time. In addition, the Department may also conduct facility file reviews through FIRST at any time. The Department Task Manager may perform additional program reviews, as deemed necessary, to insure the required performance of the Contractor. The Department Task Manager may forgo a Program Review for the next Task Assignment for a Contractor that receives a score of 95 or greater on the Program Review during the current Task Assignment.

PAYMENTS

38. The Contractor shall submit invoices on a monthly basis. Each invoice shall be submitted using the "Contractual Services Invoice" (Guidance Document E). Each invoice is due no later than the 15th day of the month following the month of services. The invoice shall be submitted electronically to the Department Contract Manager at STR_Invoices@FloridaDEP.gov and copied to the Department Task Manager Reimbursement requests for the purchase of non-expendable equipment costing \$1,000 or more must include copies of invoices or receipts to document the charges.

REPORTS AND DELIVERABLES

39. Prior to the submittal of each month's invoice to the Department Contract Manager, the Contractor shall complete and submit electronically the "Payment Calculation Sheet" (Guidance Document H) for the month to the Department Task Manager no later than the 10th day of the month following the month of services. The Department Task Manager shall review the monthly Payment Calculation Sheet for accuracy and completeness and shall return the approved Payment Calculation Sheet to the Contractor for submittal with the monthly invoice to the Department Contract Manager in Tallahassee, Florida for processing. If the Contractor fails to perform as directed by the terms of this Contract, the Department shall return the unpaid invoice to the Contractor documenting the areas in which the Contractor has failed to meet its contractual obligations.

MANAGEMENT

40. The Department Contract Manager is Roger Ruiz, Phone (850) 245-8854. The Contractor's Contract Manager is **XXXXXXXXXX**, Phone **XXX-XXX-XXXX**. Each Task Assignment will identify the Department Task Manager and the Contractor's Task Manager. All matters relating to a specific Task Assignment shall be directed to the Department Task Manager for appropriate action or disposition. All matters relating to this Contract shall be directed to the Department Contract Manager.

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ATTACHMENT B (REVISED)

ATTACHMENT B

SCOPE OF WORK

STORAGE TANK SYSTEM COMPLIANCE ASSISTANCE AND ENFORCEMENT ACTIONS

Level 2 Contractors

WORK DESCRIPTION

1. The Contractor shall perform routine compliance inspections within the jurisdictional (geographical) boundaries of the specified counties as required by an executed Task Assignment(s) at the following Chapter 376, Florida Statutes (F.S.), facilities: storage tanks regulated pursuant to Sections 376.30 – 376.317, F.S. (excluding cattle dip vats, dry-cleaning facilities and designated Brownfields) and Chapters 62-761 and 62-762, Florida Administrative Code (F.A.C.). In addition, the Contractor shall perform closure inspections, installation inspections, discharge inspections, pre-approved re-inspections, pre-approved component inspections, and pre-approved complaint inspections as applicable, in accordance with each Task Assignment. All inspections shall be performed by an individual(s) with professional qualifications equivalent to an Environmental Specialist II level or higher. Beginning on the effective date of this Contract, the Contractor is authorized to enter private property in order to carry out inspections pursuant to Sections 403.091 and 403.858, F.S. However, an authorized facility representative must safely access all storage tank system components for inspection by the Contractor and must demonstrate operational functionality of electronic equipment. This Scope of Work provides the minimum services the Department is seeking. The specific Tasks, Deliverables, Performance Measures, and Deliverable due dates will be included in each issued Task Assignment.

TASKS

2. Inspections must be performed in accordance with each executed Task Assignment.
 - A. Perform routine compliance inspections of facilities listed on each executed Task Assignment. Facilities not listed for inspection during the current executed Task Assignment will be prioritized to be inspected during subsequent Task Assignments.
 - B. Perform all tank closure inspections at regulated storage tank systems and past closure activities that have been discovered as having taken place without notification to ensure that the system is properly closed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
 - C. Perform all tank installation inspections at new regulated tank system installations and past installations that have been discovered as having taken place without notification to ensure that the system is properly constructed and installed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
 - D. Perform a discharge inspection at all facilities with known or suspected discharges within fourteen (14) calendar days of receipt of notification.
 - E. Re-inspections may only be performed, for payment, if the Contractor receives approval through STR_Variables prior to the inspection, that it is warranted. Re-inspections are to be billed as a Compliance Assistance – Re-inspection.
 - F. Component inspections may only be performed, for payment, if the Contractor receives approval through STR_VARIABLES@FloridaDEP.gov prior to the inspection, that it is warranted. Component inspections are to be billed as a Compliance Assistance – Component.
 - G. Respond to complaints concerning regulated facilities, once the Contractor receives approval

through STR_VARIABLES@FloridaDEP.gov, by performing a complaint inspection. These inspections may also be directed by the Department Task Manager. Inspection findings concerning regulated facilities shall be documented in a complaint inspection report activity in Florida Inspection Reporting for Storage Tanks (FIRST). Complaint inspections not involving a regulated facility shall be documented in writing and/or as directed by the Department Task Manager.

3. Inspector responsibilities shall include:
 - A. Contacting facility owners, operators, and/or other authorized representatives verbally or in writing, to schedule inspections. The Department Task Manager may require written notification of inspections if verbal methods have proven unsatisfactory. For routine compliance inspections, the Contractor shall provide outreach to each facility prior to the inspection by contacting the facility at least five (5) calendar days in advance of the inspection, reminding the facility to view the inspection videos on the Department's website prior to the upcoming inspection, and discussing recent previous inspections at the facility noting any violations cited. This outreach is to be documented in FIRST in a Phone or Electronic Communication Activity, depending on how the contact was made.
 - B. Conducting inspections with the owners, operators, and/or other authorized representatives of facilities for the purpose of determining compliance with Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F. S.
 - C. Distributing registration forms or providing directions for the use of the Electronic Self Service Application Portal (ESSA) on the Department's website to all facilities that are determined by the Contractor to need registration updates.
 - D. All inspection activities shall be documented using the FIRST) database and FIRST equipment in accordance with the minimum standards referenced in the "FIRST User's Guide" (Guidance Document B).
 - E. All inspection reports shall be completed in accordance with the "Level of Effort Guidance" (Guidance Document F). The date and manner of the issuance of the inspection report to the facility owner/operator shall be documented in FIRST. This may be accomplished with the completion of one or more supporting activities in FIRST, such as a Non-Compliance Project Letter Activity, Compliance Assistance Letter Activity, Issue Document Activity, and/or Electronic Communication Activity.
 - F. Responding to requests for public assistance both in the office and during inspections.
 - G. Verify all registration information is accurate.
4. Perform Level 1 Compliance Assistance and Level 2 enforcement actions in accordance with Exhibit A, Storage Tank System Compliance Assistance and Enforcement Actions, attached hereto and made a part hereof.
 - A. Level 1 Compliance Assistance actions.
 - (1) These actions shall include investigation and documentation of violations of Chapters 62-761 and 62-762, F.A.C., or the county's equivalent regulations, preparation of Compliance Assistance letters and related activities in accordance with the "Storage Tank System Program Violation List" (Guidance Document A) and "Level of Effort Guidance" (Guidance Document F).

- (2) An individual(s) in a position equivalent to an Environmental Specialist II level or higher shall conduct Level 1 Compliance Assistance activities. Compliance Assistance letters may be prepared and sent by an individual(s) at the Environmental Specialist I level under the direction of an individual at the Environmental Specialist II level or higher.
- (3) All Compliance Assistance letters shall be on Department forms, in Department format, or have Department approval. Compliance Assistance letters shall be issued through FIRST in accordance with the "FIRST User's Guide" (Guidance Document B) to ensure that the letters are posted to the OCULUS document management system.
- (4) If there is any indication that Compliance Assistance actions are not being performed in accordance with "Level of Effort Guidance" (Guidance Document F); the Department Task Manager may request the submission of a Corrective Action Plan (CAP), and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager. The Department Task Manager shall be responsible for reviewing the CAP and notifying the Contractor if the CAP is approved or in need of revision.

B. Level 2 enforcement actions.

- (1) These actions shall include initiation and completion of administrative and judicial enforcement actions as lead party; preparing, delivering, and executing enforcement documents including Warning Letters, Consent Orders, Notices of Violation, and Final Orders; taking lead responsibility in the discovery process; determining appropriate judicial remedies, including civil penalties, injunctive relief, and assessment of damages; and performing post-judgment enforcement activities.
 - (2) All Level 2 enforcement actions shall be conducted under the supervision of an attorney licensed to practice law in the State of Florida and employed by the Contractor.
 - (3) All enforcement documents shall be on Department forms, in Department format, or have Department approval unless documents are being filed as part of a legal proceeding in which case the rules of procedure for the body before which the legal proceeding is taking place shall apply.
 - (4) Any penalties assessed under this Exhibit shall be in accordance with "DEP Directive 923: Settlement Guidelines for Civil and Administrative Penalties" (Guidance Document I).
 - (5) The Contractor must perform the enforcement actions specified in this Exhibit under its own ordinances. Therefore, the Contractor must have and maintain provisions adopting Chapters 62-761 and 62-762, F.A.C., or their equivalent and penalty authority equivalent to that set forth in Sections 403.141 and 403.161, F.S., as their own local ordinances during the term of this Contract. Failure to maintain such requirements shall result in the unilateral termination of this Contract by the Department.
5. The Contractor must maintain the administrative organization, staff, financial and other resources necessary to effectively administer the requirements of this Attachment. Failure to do so is a material breach of this Contract.
 6. This Attachment specifically does not include actions associated with the cleanup or enforcement of Contractor-owned or operated petroleum storage systems or any discharge(s) associated with them.
 7. If there is any indication that enforcement actions are not being performed or are inadequate, the Department Task Manager may request the submission of a CAP and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager. The Department Task Manager shall be responsible for reviewing the CAP and notifying the Contractor if the CAP is approved or in need of revision.

ASSESSMENT OF PERFORMANCE LEVELS

8. The Contractor shall perform inspections as directed in paragraph 4, above, and assess performance levels monthly to determine its progress towards completion of each Task Assignment. Upon discovery of any problems that would delay or prevent the timely progress and completion of each Task Assignment, the Contractor shall notify the Department Task Manager.
9. Following the effective date of each Task Assignment, the Contractor must have completed the following percentage of the required routine compliance inspections unless otherwise indicated in the Task Assignment:
 - A. After four (4) months, thirty three percent (33%) of inspections must have been completed.
 - B. After eight (8) months, sixty six percent (66%) of inspections must have been completed.
 - C. After twelve (12) months, one hundred percent (100%) of inspections must have been completed.
10. If the actual number of completed inspections falls below these levels, then the Contractor must submit a CAP to the Department Task Manager, and associated invoices will be held by the Department Contract Manager until these completion percentages are subsequently reached.
11. If there is any indication that other required inspections or activities are not being performed, the Department Task Manager may request the submission of a CAP and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager.
12. The Department Task Manager shall be responsible for reviewing all CAPs and notifying the Contractor if the CAP is approved or needs revision.
13. A completion rate of 100 percent is required for those activities described in Paragraph 1, above, and as set forth in each Task Assignment, unless otherwise indicated in the Task Assignment.
14. The Department shall authorize the Contractor to provide services under this Contract utilizing the Task Assignment Notification Form, attached to the Contract as Attachment C. The Contractor acknowledges that no work shall be performed until a Task Assignment authorizing work has been fully executed by the Department and the Contractor. If, during the term of an executed Task Assignment, a modification of the Task Assignment is needed, the Department may issue a new Task Assignment Form clearly marked with the original task number and the appropriate amendment number, detailing the revised description of the work to be performed. As with the original Task Assignment, all amendments to Task Assignments must be executed by both the Department and the Contractor prior to the work being performed.

SCOPE REQUIREMENTS

15. The Contractor shall administer the compliance verification program, provide technical assistance, and perform level 1 Compliance Assistance actions. Data generated from all inspections conducted under the direction of the Department shall be entered into FIRST, and completed, prior to the submittal of an invoice to the Department Contract Manager.
16. The Contractor shall comply with all provisions of this Contract, verify facility compliance with Chapter 376, F.S., and Chapters 62-761 and 62-762, F.A.C., and be knowledgeable of the differences between the state and federal environmental statutes and rules applicable to underground storage tanks.
17. The Contractor shall require that qualified individuals perform field inspections and that they receive training on Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F.S.

18. The Contractor shall provide a sufficient number of qualified staff to satisfactorily complete all the responsibilities included in this Contract. All individuals hired after the effective date of this Contract shall possess qualifications equivalent to Department position levels as specified in this Contract.
19. The Contractor shall determine the accurate latitude and longitude coordinates for each regulated facility inspected using Department-approved procedures and ensure the proper entry of this data into the Department inspection database.
20. The Contractor shall review reports, forms, and documents filed by facility owners, operators, or authorized representatives, including documents for tank install, tank closure, incident, discharge, return to compliance, Underground Storage System Installation and Removal Form for Certified Contractors, Limited Closure Report Form, and Closure Integrity Evaluation Report Form to ensure that the facility is in compliance with Chapter 376, F.S., and Chapters 62-761 and 62-762, F.A.C. The Contractor shall review closure reports filed by facility owners, operators, or authorized representatives to ensure that the Department's "Instructions for Conducting Sampling During Aboveground Storage Tank Closure" (Guidance Document C1) and "Instructions for Conducting Sampling During Underground Storage Tank Closure" (Guidance Document C2) have been followed. In cases where these requirements have not been met, the Contractor shall initiate Level 1 Compliance Assistance actions to compel compliance. In cases where these requirements have been met and none of the Department's cleanup target levels have been exceeded, the Contractor shall issue a Closure Report Review Letter for the system described in the Closure Report indicating the Closure Report meets the requirements of Chapter 62-761 and/or 62-762, F.A.C. In cases where cleanup target levels have been exceeded and it has been determined to be a new discharge, the Contractor shall prepare and send a Site Assessment Report (SAR) request letter to the facility owner and operator, if appropriate. The SAR request letter may be incorporated with Closure Report Review Letter. In addition, the Contractor shall provide notification to the Department Task Manager within thirty (30) days of the determination of a new discharge at a facility.
21. The Contractor shall prepare and send a Site Assessment Report request letter to the facility owner and operator, if appropriate, in cases where a new discharge has been discovered related to a regulated storage tank system, but unrelated to a closure as discussed in paragraph 20., above. In addition, the Contractor shall provide notification to the Department District Office within thirty (30) days of the determination of a new discharge at a facility.
22. The Contractor shall maintain its paper files on regulated facilities that were composed prior to the FIRST database implementation, as well as documentation from the facility that may not be available in FIRST or OCULUS, such as closure reports. In the event a case referral to the Department District Office for further enforcement is necessary, a copy of any documents pertinent to the case that are not available in FIRST shall be submitted to the Department District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document G).
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- G. Guidance Document G----- Guidelines for Case Referrals
- H. Guidance Document H----- Contractual Service Payment Calculation
- I. Guidance Document I----- DEP Directive 923 Settlement Guidelines for Civil and Administrative Penalties

32. The Contractor shall provide a written response within forty-five (45) days to the Program Review findings conducted in accordance with paragraph 40, below, and at a minimum, provide details on

any corrective actions that will be implemented.

33. The Contractor shall submit a satisfactory Corrective Action Plan to the Department Task Manager upon notification of a score below seventy-five (75) on the Program Review within fourteen (14) calendar days of notification of the score. Because a score below seventy-five (75) reflects an unacceptable level of performance, if the Contractor receives a score below seventy-five (75) may result in contract termination.
34. The Contractor is responsible for the professional quality, technical accuracy, and coordination of all reports and other services furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its reports and other services.

DEPARTMENT RESPONSIBILITIES

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36. The Department shall review completed inspection reports when and as deemed necessary.
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39. The Department shall provide information to the Contractor about Department registered storage tank system equipment and alternate procedures (waivers, variances, or registrations).
40. At least once annually, the Department shall perform a Program Review using the "Compliance Verification Program Local Program Review Form" (Guidance Document D1), and provide a copy of the Program Review findings to the Contractor upon completion of the Program Review. The Department may conduct inspections, including accompanied inspections and follow-up inspections, at any reasonable time. In addition, the Department may also conduct facility file reviews through FIRST at any time. The Department Task Manager may perform additional program reviews, as deemed necessary, to insure the required performance of the Contractor. The Department Task Manager may forgo a Program Review for the next Task Assignment for a Contractor that receives a score of 95 or greater on the Program Review during the current Task Assignment.

PAYMENTS

41. The Contractor shall submit invoices on a monthly basis. Each invoice shall be submitted using the "Contractual Services Invoice" (Guidance Document E). Each invoice is due no later than the 15th day of the month following the month of services. The invoice shall be submitted electronically to the Department Contract Manager at STR_Invoices@dep.state.fl.us and copied to the Department Task Manager. Reimbursement requests for the purchase of non-expendable equipment costing \$1,000 or more must include copies of invoices or receipts to document the charges.

REPORTS AND DELIVERABLES

42. Prior to the submittal of each month's invoice to the Department Contract Manager, the Contractor shall complete and submit electronically the "Payment Calculation Sheet" (Guidance Document H) for the month to the Department Task Manager no later than the 10th day of the month following the month of services. The Department Task Manager shall review the monthly Payment Calculation Sheet for accuracy and completeness and shall return the approved Payment Calculation Sheet to

the Contractor for submittal with the monthly invoice to the Department Contract Manager in Tallahassee, Florida for processing. If the Contractor fails to perform as directed by the terms of this contract, the Department shall return the unpaid invoice to the Contractor documenting the areas in which the Contractor has failed to meet its contractual obligations.

MANAGEMENT

43. The Department Contract Manager is Roger Ruiz, Phone (850) 245-8854. The Contractor's Contract Manager is **XXXXXXXXXXXX**, Phone **(XXX) XXX-XXXX**. Each Task Assignment will identify the Department Task Manager and the Contractor's Task Manager. All matters relating to a specific Task Assignment shall be directed to the Department Task Manager for appropriate action or disposition. All matters relating to this Contract shall be directed to the Department Contract Manager.

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GUIDANCE DOCUMENT F (REVISED)

PERMITTING & COMPLIANCE ASSISTANCE PROGRAM STORAGE TANK SYSTEM COMPLIANCE VERIFICATION PROGRAM LEVEL OF EFFORT GUIDANCE LEVEL 1 AND LEVEL 2 PROGRAMS

PURPOSE:

This enforcement guidance is provided for the Level 1 (Compliance Assistance) and Level 2 (Compliance Assistance with Self-Enforcement) contracted local tanks programs to clarify the process for violation citation and subsequent compliance assistance actions.

VIOLATION TYPES:

Violation types in the storage tank program:

- 1) Significant Non-Compliance - A (SNC-A)
These violations are considered top priority due to their potential for harm to the environment. *They are identified in the "Significance" column of the Storage Tank System Program Violation List (Guidance Document A of the Contract Scope of Work - see [Compliance Contracts](#)).*
- 2) Significant Non-Compliance - B (SNC-B)
These violations are considered high priority due to their potential for harm to the environment. *They are identified in the "Significance" column of the Storage Tank System Program Violation List (Guidance Document A of the Contract Scope of Work - see [Compliance Contracts](#)).*
- 3) Minor
These violations are considered a lower priority. *They are identified in the "Significance" column of the Storage Tank System Program Violation List (Guidance Document A of the Contract Scope of Work - see [Compliance Contracts](#)).*

SNC-A VIOLATIONS:

The following "Level of Effort" is required on SNC-A violations at the local program level for Level 1 Contractors. Level 2 Contractors will enforce violations according to local ordinances. See attached Flowchart for County Compliance and Referral Actions.

- 1) Upon discovery of a SNC-A violation, the local program shall cite the violation in FIRST (Florida Inspection Reporting Storage Tanks) and notify the facility owner/operator no later than 72 hours of the violation discovery. Then, the local program shall finish the inspection, send the inspection report to the facility (property) owner AND operator (if a separate party) with a Non-Compliance Letter (NCL). The Level 1 Contractor will send the NCL indicating

that the matter is being referred to the DEP District office and refer the facility to the DEP District office within 14 calendar days.

- 2) Violations referred to the DEP District office shall be in accordance with [Guidance Document G](#), Guidelines for Case Referrals, of the Contract Scope of Work – see [Compliance Contracts](#). The local program shall ensure that FIRST is up-to-date and appropriate documents are attached in accordance with the FIRST User’s Guide.

SNC-B & MINOR VIOLATIONS:

The following “Level of Effort” is required on SNC–B and Minor violations at the local program level for Level 1 Contractors. Level 2 Contractors will enforce violations according to local ordinances. See attached Flowchart for County Compliance and Referral Actions.

- 1) Upon discovery of a SNC-B or Minor violation, the local program shall cite the violation in FIRST and notify the facility owner/operator within 72 hours of the violation discovery. Then, the local program shall finish the inspection and issue a Compliance Assistance Offer (CAO) Letter to the facility owner/operator within 14 calendar days.

For violations that cannot otherwise be corrected, such as for gaps in monthly visuals or testing, which occurred three consecutive months or less, the violation shall be closed with the issuance of the CAO Letter to the facility owner/operator within 14 calendar days.

- 2) If the facility owner/operator responds that the violation has been corrected, and the facility provides documentation (photographs, manifests, and/or repair receipts), the violation may be closed and a Return to Compliance Letter should be issued. If the documentation appears to be insufficient, local program may request a Compliance Assistance inspection from the Division of Waste Management who may authorize a Compliance Assistance inspection. The local program may also request a Compliance Assistance inspection to document resolution of violations for those facilities at which there has been a poor compliance history (including those referred for enforcement) or where access was denied to the facility or components.

A Compliance Assistance inspection may not be conducted unless the Division of Waste Management approves the Compliance Assistance inspection through STR_VARIABLES@FloridaDEP.gov prior to it being conducted.

- 3) The owner/operator is given up to 90 calendar days to resolve the violation at the local program level. If at the 90-calendar day mark, the violation remains unresolved, the Level 1 Contractor shall refer the violation to the DEP District office. The 90-day clock begins on the date of the site inspection.

Even if the violation is in the process of resolution and is being accomplished in a manner that is acceptable to both the Level 1 Contractor and DEP, the violation should be referred at the 90-day mark to DEP District office. Upon referral, the District will take the lead on enforcement. The District may request assistance from the County during the enforcement process, but the District will be the principal contact with the owner/operator from this point forward.

- 4) Violations referred to the DEP District office by the Level 1 Contractor shall be in accordance with [Guidance Document G](#), Guidelines for Case Referrals, of the Contract Scope of Work – see [Compliance Contracts](#). The local program shall ensure that FIRST is up-to-date and appropriate documents are attached in accordance with the FIRST User’s Guide.

AREAS OF CONCERN (AOCs):

FIRST allows an inspector to cite any rule citation and identify as either an Area of Concern (AOC) or a Violation during an inspection. If a violation of the rule is discovered during the inspection, then a Violation should be cited. If the inspector has determined that the issue has not reached the point of being a violation of the rule, but there is a concern, then an AOC should be cited.

It should be noted that all AOCs cited in an inspection are automatically closed in FIRST upon the inspection report being finished.

FLOWCHART FOR COUNTY COMPLIANCE AND REFERRAL ACTIONS

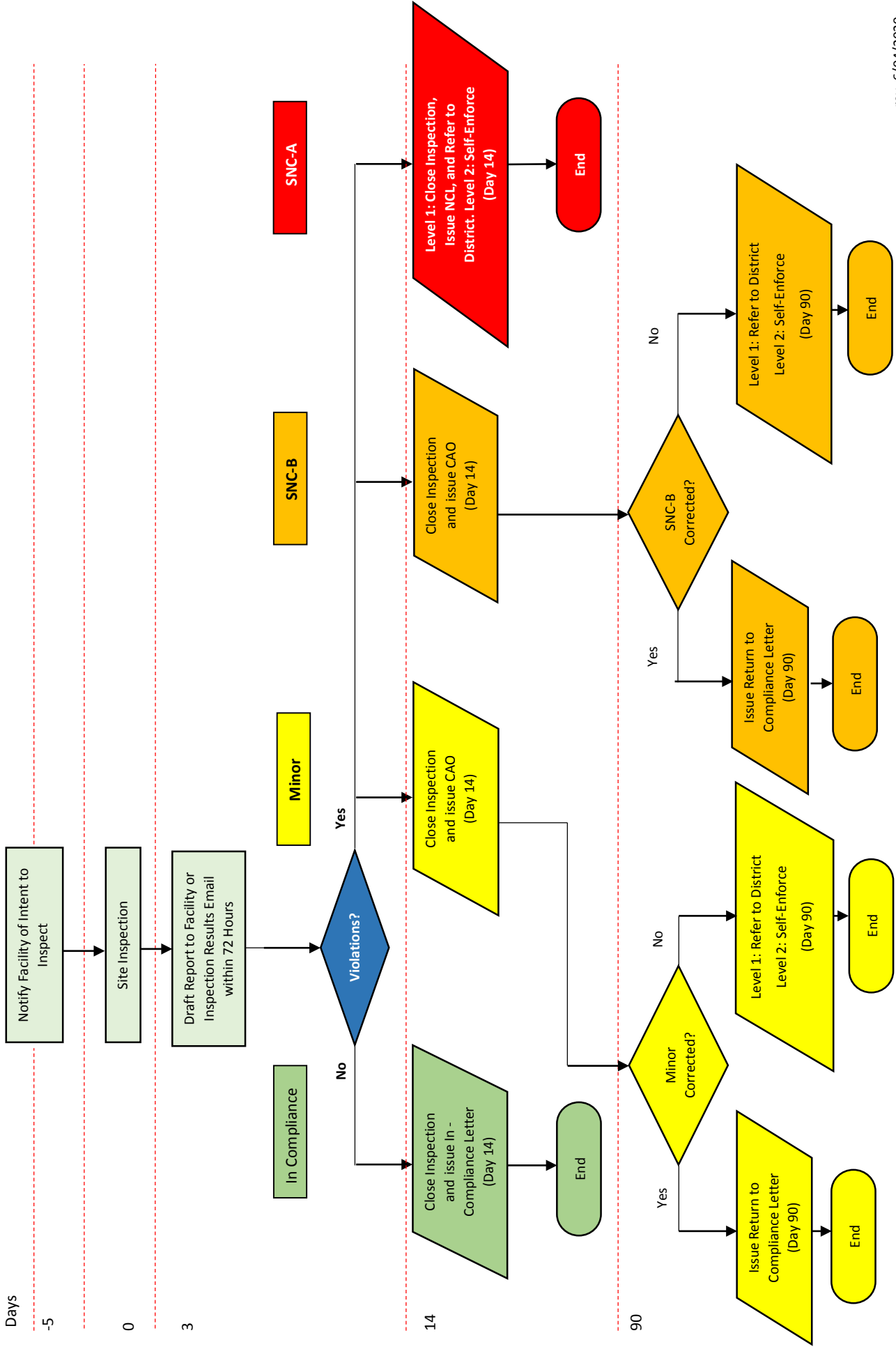


EXHIBIT 2

DEP Contract No. GC911

CONTRACT

THIS CONTRACT is entered into between the **FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION** (Department), whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 and **MIAMI-DADE COUNTY**, through Miami-Dade County's Division of Environmental Resources Management whose address is 701 NW 1st Court, Suite 700, Miami, Florida, 33136, (Contractor), to perform compliance inspections within the jurisdictional (geographical) boundaries of the specified counties, including facilities registered to the Contractor as required by an executed Task Assignment(s).

NOW, THEREFORE, the parties agree as follows:

SERVICES AND PERFORMANCE

1. **SERVICES.** Department does hereby retain, and Contractor agrees to perform compliance inspections within the jurisdictional (geographical) boundaries of Miami-Dade County, including facilities registered to the Contractor as required by an executed Task Assignment(s) and Contractor's response thereto, incorporated herein by reference, and in accordance with **Attachment A**, Scope of Work - Level 1 and if applicable **Attachment B**, Scope of Work – Level 2 (Scope) and all exhibits and Attachments named and incorporated herein by reference. Contractor has been determined to be a vendor to the Department under this Contract.

2. **WORK.**

A. Contractor shall provide the services specified in the Scope (Work). Department shall authorize all work assignments by Task Assignment Notification Form (TA) or Task Assignment Change Order Form (TACO) (copies attached hereto and made a part hereof as **Attachment C** and **D** respectively), or by issuing a MyFloridaMarketPlace (MFMP) Purchase Order (PO) or MFMP Change Order (CO).

B. Contractor, or its subcontractors if authorized under this Contract, shall not commence Work until the Contract, and any necessary Amendments or Change Orders, have been fully executed by both Department and Contractor. Contractor, or its subcontractors if authorized under this Contract, shall not commence Work until either 1) a TA/TACO has been fully executed, by both Department and Contractor, or 2) a PO or PO Change Order(CO) has been issued.

C. In the event services are required that are within the general description of services, but are not specifically set out in the Scope, Department and Contractor reserve the right to negotiate the Task Assignments covering performance of those required services.

D. There is no minimum amount of Work guaranteed as a result of this Contract. Any and all Work assigned will be at the sole discretion of the Department.

E. Department reserves the right to not authorize any Work, and may suspend or terminate for cause any Work assigned to Contractor under this contract, if and in the event that the Department and Contractor (or any of its affiliates or authorized subcontractors) are adverse in any litigation, administrative proceeding or alternative dispute resolution, until such adverse relationship is resolved either by agreement or by final non-appealable order of a court.

3. **STANDARD OF CARE FOR PERFORMANCE.**

A. Contractor shall perform as an independent contractor and not as an agent, representative, or employee of the Department.

B. Contractor shall perform the services in a proper and satisfactory manner as determined by the Department. Any and all such equipment, products or materials necessary to perform these services, or requirements as further stated herein, shall be supplied by the Contractor.

C. Contractor shall provide competent, suitably qualified personnel. Contractor must notify the Department's Contract Manager of any changes in the personnel identified in this Contract. Notification

shall include a detailed explanation of the need to change personnel and the Contractor's documentation that proposed replacement personnel have equal or greater qualifications and experience.

D. Contractor shall perform the services in a manner consistent with that level of care and skill ordinarily exercised by other contractors performing the same or similar services under similar circumstances at the time performed.

4. TERM OF CONTRACT.

A. Initial Term. This Contract shall begin July 1, 2017, and shall remain in effect for a period of ten (10) years, inclusive.

B. Renewal Term. An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

This Contract may be renewed, in writing, on the same terms and conditions as the original Contract and any amendments thereto, for a period no greater than the term above, or three (3) years, whichever is longer. All renewals are contingent upon satisfactory performance by Contractor. Renewals may be for the entire period or in increments.

This Contract may not be renewed.

COMPENSATION

5. COMPENSATION.

A. As consideration for the services rendered by Contractor under the terms of this Contract, the Department shall pay the Contractor on a combination fee-schedule/cost-reimbursement basis not to exceed \$5,277,336.00. For the monthly operation and maintenance services as well as repair and emergency service calls, the Contractor shall be compensated on a fee-schedule basis at the rates specified in the Scope **Guidance Document H**, Contractual Service Payment Calculation, attached hereto and made apart hereof. It is understood that fee schedule amounts include all costs necessary to perform the work outlined herein including, but not limited to, labor, fringe benefits, overhead, supplies, and travel, but do not include reimbursement for equipment purchases. Equipment purchases costing \$1,000.00 or more shall be reimbursed on a cost-reimbursement basis and must be pre-approved by the Department.

B. CONTRACTOR SHALL NOT COMMENCE WORK ON ANY SERVICES THAT WILL EXCEED THE COMPENSATION AMOUNT OF THE CONTRACT UNLESS AND UNTIL THE CONTRACT IS AMENDED. It is the Contractor's responsibility to know when the authorized compensation amount of the Contract will be reached.

6. **ANNUAL APPROPRIATION.** Department's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Florida Legislature. Authorization for continuation and completion of Work and payment associated therewith may be rescinded with proper notice at the discretion of the Department if state or federal appropriations are reduced or eliminated.

7. PAYMENT METHOD.

A. Contractor shall submit invoices as specified in **Attachment A** and **B**, under Payments section.

B. All invoices submitted must have sufficient detail for a proper pre-audit and post-audit review.

C. Department must approve the final deliverable(s) before the Contractor may submit a final invoice and any forms.

D. Each invoice, including appropriate supporting documentation as required herein, shall be submitted via email to the following:

Florida Department of Environmental Protection
PCAP Program
Attn: Department Contract Manager
Email address: STR_Invoices@dep.state.fl.us

Copy: Department District Task Manager and DEP Contract Manager

8. **TRAVEL.** An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

- Travel is not authorized under this Contract.
- Travel costs are included in the fee schedule amounts of this Contract.
- Travel costs shall be paid on a cost-reimbursement basis in accordance with the paragraph contained herein of this Contract.

9. **EQUIPMENT.** Upon satisfactory completion of this Contract, the Contractor may retain ownership of the non-expendable personal property or equipment purchased under this Contract prior to the execution of an Amendment of said Contract. The following terms shall apply:

- A. The Contractor is responsible for any loss, damage, or theft of, and any loss, damage or injury caused by the use of, non-expendable personal property or equipment purchased with state funds and held in his possession for use in a contractual arrangement with the Department.
- B. In the event that the Department determines a need to loan equipment needed for the completion of services under this Contract to the Contractor, a Department Property Loan Agreement shall be completed and maintained in the Contract file.
- C. The Contractor shall have title to and use of any vehicle previously purchased under a former Contract, by its authorized employees only, for the authorized purposes of this Contract as long as the required work is being satisfactorily performed. In the event that this Contract is terminated for any reason, or the use of the vehicle is no longer needed (such as completion of the Contract), title of the vehicle shall be transferred to the Department.
- D. The Contractor is responsible for the implementation of adequate maintenance procedures to keep the non-expendable personal property or equipment in good operating condition.
- E. If the Contractor fails to perform its obligations under this Contract, the Contractor shall deliver possession and custody of all such equipment to the nearest District Office location, unless otherwise agreed, within thirty (30) calendar days of Contract termination.

10. **PROMPT PAYMENT.**

A. Department's Contract Manager shall have five (5) business days, unless a greater period is specified herein, to inspect and approve an invoice. Department shall submit a request for payment to DFS within twenty (20) business days; and DFS shall issue a warrant within ten (10) business days thereafter. Days are calculated from the latter of the date the invoice is received or services received, inspected, and approved. Invoice payment requirements do not start until a proper and correct invoice has been received. Invoices which have to be returned to the Contractor for correction(s) will result in an uncompensated delay in payment. A Vendor Ombudsman has been established within DFS who may be contacted if a Contractor is experiencing problems in obtaining timely payment(s) from a State agency. The Vendor Ombudsman may be contacted at (850) 413-5516, per Section 215.422, F.S.

B. If a warrant in payment of an invoice is not issued within forty (40) business days after receipt of a correct invoice and receipt, inspection, and approval of the goods and services, the Department shall pay the Contractor interest at a rate as established by Section 55.03(1), F.S., on the unpaid balance of the invoice. Interest payments of less than \$1 will not be issued unless Contractor requests such payment. The interest rate for each calendar year for which the term of this Contract is in effect can be obtained from DFS' Vendor Ombudsman at the telephone numbers provided above, or the Department's Procurements Section at (850) 245-2361, per Section 215.422, F.S.

11. **RELEASE OF CLAIMS.** Upon payment for satisfactory completion of any portion of the Work, the Contractor shall execute and deliver to the Department a release of all claims against the Department arising under, or by virtue of, the Work, except claims which are specifically exempted by the Contractor to be set forth therein (**Contractor Release**, using **Attachment E**, Contractor Affidavit/Release of Claims). Receipt by the Department of the Contractor's Release is a condition of final payment under this Contract. Unless otherwise provided in this Contract, by State law or otherwise expressly agreed to by the parties to this Contract, final payment or settlement upon termination of this Contract shall not constitute a release or waiver of the Department's claims against the Contractor, or the Contractor's sureties, subcontractors, successors or assigns under this Contract or as against applicable performance and payment bonds.

12. **PHYSICAL ACCESS AND INSPECTION.** As applicable, the Department personnel shall be given access to and may observe and inspect Work being performed under this Contract, including by any of the following methods:

A. Contractor shall provide access to any location or facility on which the Contractor is performing Work, or storing or staging equipment, materials or documents;

B. Contractor shall permit inspection of any facility, equipment, practices, or operations required in performance of any Work; and,

C. Contractor shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any Work or legal requirements.

PARTY REPRESENTATIVES

13. **NOTICE.** All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient.

14. **IDENTIFICATION OF CONTRACT MANAGERS.** All matters shall be directed to the Contract Managers for appropriate action or disposition. Any changes to the Contract Manager information identified below must be noticed, in writing, to the other party within ten (10) calendar days of the change. Either party may provide notice to the other party by email identifying a change of a designated Contract Manager and providing the new contact information for the newly designated Contract Manager. Such notice is sufficient to effectuate this change without requiring a written amendment to the Contract. Department and the Contractor Contract Managers and contact information are provided below:

<u>Contractor</u>	<u>Department</u>
Miami-Dade County Miami-Dade County DERM 701 NW 1 st Court, Suite 700 Miami, Florida 33136 Attn: Rashid Istambouli, P.E. Phone Number: (305) 372-6907 Email: istamr@miamidade.gov	Department of Environmental Protection Division of Waste Management 2600 Blair Stone Road, MS 4500 Tallahassee, Florida 32399-2400 Attn: Roger Ruiz Phone Number: (850) 245-8854 Email: roger.ruiz@dep.state.fl.us

15. **CHANGE ORDERS AND AMENDMENTS.** Department may at any time, by written order designated to be a Change Order, make any change in the Work within the general scope of this Contract (e.g., specifications, method or manner of performance, requirements, etc.). All Change Orders are subject to the mutual agreement of both parties as evidenced in writing. Any change which causes an increase or decrease in Contractor's cost or time shall require an appropriate adjustment and modification by Amendment to this Contract. Following execution of this Contract, any future Amendments or Change Orders may be executed by the Department representative with appropriate delegated authority.

CONSEQUENCES FOR FAILURE TO PERFORM

16. **DISPUTE RESOLUTION.** Any dispute concerning performance of the Contract shall be decided as follows:

A. All claims or disputes (Claims) must be presented to the Department in writing within thirty (30) days of the date such Claim arises (Notice of Dispute). The Notice of Dispute shall set out in detail all aspects of the disputed matters to be resolved, including the specific relief sought by the Contractor. Claims not presented by Notice of Dispute to Contract Manager shall be deemed waived by the Contractor.

B. The parties shall make a good faith attempt to resolve Claims which may arise from time to time by informal conference within ten (10) days of the Notice of Dispute.

C. Within ten (10) days of the informal conference, the Department shall provide Contractor a detailed written response to the Claim. A formal conference of the parties shall be convened no later than thirty (30) days following the Department's response to the Notice of Dispute, unless the parties mutually agree in writing to a longer period of time within which to schedule a formal conference.

1) All persons necessary to resolution of the claim or disputed matter shall attend the formal conference.

2) Minutes of the formal conference shall be taken, recorded, transcribed, and signed by the Department and the Contractor. Any terms of settlement and/or resolution reached shall be signed by all persons authorized to resolve the Claim.

D. Either party may request mediation of unresolved Claims, with the party seeking mediation to bear the expense of mediation.

E. Any Claim not resolved at formal conference or mediation, may be the subject of a complaint filed in a court of competent jurisdiction in Leon County, Florida.

17. **FINANCIAL CONSEQUENCES FOR UNSATISFACTORY PERFORMANCE.**

A. No payment will be made for deliverables deemed unsatisfactory by the Department. In the event that a deliverable is deemed unsatisfactory by the Department, the Contractor shall re-perform the services needed for submittal of a satisfactory deliverable, at no additional cost to Department, within thirty (30) days of being notified of the unsatisfactory deliverable.

B. If a satisfactory deliverable is not submitted within the specified time frame, the Department may, in its sole discretion: 1) assess liquidated damages if specified in the Contract or its attachments; 2) request from the Contractor agreement to a reduction in the amount payable; 3) suspend all Work until satisfactory performance is achieved, or 4) terminate the Contract for failure to perform.

18. **CORRECTIVE ACTION PLAN.** In the event that deliverables are unsatisfactory or are not submitted within the specified timeframe, the Department Contract Manager may, by letter specifying the failure of performance under the Contract, request that a proposed Corrective Action Plan (CAP) be submitted by the Contractor to the Department. All CAPs must be able to be implemented and performed in no more than sixty (60) days.

A. A CAP shall be submitted within ten (10) calendar days of the date of the letter request from the Department. The CAP shall be sent to the Department Contract Manager for review and approval. Within ten (10) calendar days of receipt of a CAP, the Department shall notify the Contractor in writing whether the CAP proposed has been accepted. If the CAP is not accepted, the Contractor shall have ten (10) calendar days from receipt of the Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain the Department approval of a CAP as specified above shall result in the Department's termination of the Contract for cause as authorized in the Contract.

B. Upon the Department's notice of acceptance of a proposed CAP, the Contractor shall have ten (10) calendar days, or longer if specified in the approved CAP, to commence implementation of the accepted plan. Acceptance of the proposed CAP by the Department does not relieve the Contractor of any of its obligations under the Contract. In the event the CAP fails to correct or eliminate performance

deficiencies by the Contractor, the Department shall retain the right to require additional or further remedial steps, or to terminate the Contract for failure to perform. No actions approved by the Department or steps taken by the Contractor shall estop the Department from subsequently asserting any deficiencies in performance. Contractor shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to the Department as requested by the Department Contract Manager.

C. Failure to respond to a Department request for a CAP shall result in suspension or termination of the Contract.

19. **PAYMENT AND PERFORMANCE BONDS.** An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

- No Payment or Performance bonds are required.
- Contractor shall provide executed Payment and Performance Bonds naming the Department as obligee, issued by a surety acceptable to the Department, in the amount(s) of \$_____.
- Contractor may be required to provide executed Payment and/or Performance Bonds naming the Department as obligee, issued by a surety acceptable to the Department, in an amount of up to one hundred and twenty percent (120%) of the total anticipated cost of any Work.

20. **LIQUIDATED DAMAGES.** An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

- No liquidated damages will be assessed.
- In addition to other remedies elsewhere in this Contract, and as provided by law, unless otherwise stipulated in the Scope, the Contractor hereby covenants and agrees to pay liquidated damages to the Department as follows:
 - A. Contractor acknowledges that time is of the essence for all services provided under this Contract, and whereas the actual damages to be suffered by late performance are incapable of accurate calculation, the parties agree to the following as a reasonable estimation thereof as liquidated damages. In addition to any other provisions of this Contract, in the event that the deliverable identified in the Scope, is not completed and submitted by the close of business on the date the deliverable is due, the compensation amount stated for that portion of the Work may be reduced by five percent (5%) per week for each week the deliverable is late, with the total amount of the liquidated damages not to exceed the total compensation amount of the Scope deliverable.
 - B. The date of submission shall be the date of receipt by the Department.
 - C. If no Department receipt date appears or the date is illegible, the date of submission shall be deemed to be five (5) days prior to receipt by the Contract Manager.
 - D. If completion is or will be justifiably delayed due to reasons as set out in paragraph contained herein, the Department may grant an extension of time as evidenced by a properly executed Amendment.
 - E. If the deliverable(s) fail to comply with the requirements of this Contract, or if questions arise from review and the Contractor is so notified and requested to respond, the Contractor shall furnish the required additions, deletions, or revisions in accordance with the Scope at no additional cost to the Department.
 - F. If the additions, deletions, and revisions are not submitted to the Department's Contract Manager in accordance with the Scope, the compensation stated for that portion of the Work may be reduced by five percent (5%) for each week that the requested deliverable is late, as specified. The total reduction shall not exceed the total amount of the Work.

- G. Contractor's failure to respond to a request to correct the deliverables will result in termination of the Work and **forfeiture** of any unpaid balance for such deliverables. Additionally, the Department, at its discretion, may re-assign future Work.

21. RETAINAGE

A. Department reserves the right to establish the amount and application of retainage on the Compliance Routine Inspection (CRI) Work to a maximum of ten percent (10%). Any retainage to be applied shall be specified in the Task Assignment. Retainage shall be withheld from each payment to the Contractor pending satisfactory completion of CRI performance criteria listed in Task Assignment and approval of all deliverables.

B. Department reserves the right to withhold payment of retainage for the Contractor's failure to meet performance criteria listed in the Task Assignment. Department shall provide written notification to the Contractor of the Department's intent to withhold retainage on the Routine Compliance Inspection Work in the Task Assignment. Contractor's failure to rectify the identified deficiency within the timeframe stated in the Department's notice will result in forfeiture of retainage by the Contractor.

C. If the Contractor fails to perform the requested Scope, or fails to perform the Compliance Routine Inspection Work in a satisfactory manner, Contractor shall forfeit its right to payment for the Compliance Routine Inspection Work and the retainage called for under the Task Assignment. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed.

D. No retainage shall be released or paid for uncompleted Compliance Routine Inspection Work while a Contract is suspended.

E. Except as otherwise provided above, the Contractor shall be paid the retainage associated with the Work, provided the Contractor has completed the work and submits an invoice for retainage held in accordance with paragraph contained herein above.

LIABILITY

22. **INSURANCE.** To the extent required by law, the Contractor will be self-insured against, or will secure and maintain during the life of this Contract and any renewals, Workers' Compensation Insurance for all of its employees connected with the work of this project. The Contractor shall require any and all subcontractors, if authorized under this Contract, to provide Workers' Compensation Insurance for all employees unless such employees are covered by the protection afforded by Contractor. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Contract is not protected under the Workers' Compensation statute, the Contractor shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of its employees not otherwise protected.

23. **INDEMNIFICATION.** The Contractor and the Department shall each be solely responsible for the negligent or wrongful acts of its respective employees and agents acting within the scope of their employment. Further, each party shall bear its own costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by its employees and agents acting within the scope of their employment. However, nothing contained herein shall constitute a waiver by the Contractor or the Department of its sovereign immunity or waiver or modification of Section 768.28, F.S.

THIRD PARTIES

24. **SUBCONTRACTING.** An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

- Contractor shall not subcontract any work under this Contract.

- ☒ A. Contractor shall not subcontract any work under this Contract without the prior written consent of the Department's Contract Manager. Department reserves the right to reject any proposed subcontractor based upon the Department's prior experience with subcontractor, subcontractor's reputation, or the Department's lack of adequate assurance of performance by subcontractor. Contractor agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract.
- B. Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract, regardless of whether the Department has approved such subcontract or subcontractor. Contractor shall be solely liable to its subcontractor(s) for all expenses and liabilities incurred under any subcontract. Any subcontracts made under or in performance of this Contract must include the same conditions specified in this Contract, with the exception of insurance requirements (paragraph contained herein), and shall include a release of any rights, claims or liabilities against the Department. The level of insurance to be carried by subcontractors performing work under this Contract shall be at the discretion of Contractor.

25. **NONASSIGNABILITY.** Contractor shall not sell, assign or transfer any of its rights, duties or obligations under this Contract (its **Rights and Duties**), without the prior written consent of the Department. Contractor shall remain liable for performance of its Rights and Duties, regardless of any assignment to or assumption by any third party, notwithstanding any approval thereof by the Department. However, the Department may expressly release the Contractor from any and all Rights and Duties through a novation accompanying an approved assignment. Department may assign the Department's Rights and Duties, but shall give prior written notice of its intent to do so to the Contractor. The foregoing notwithstanding, the Contractor hereby assigns to the State any and all claims it has with respect to the Contract under the antitrust laws of the United States and the State.

26. **THIRD PARTY BENEFICIARIES.** This Contract is neither intended nor shall it be construed to grant any rights, privileges or interest in any third party without the mutual written agreement of the parties hereto.

SUSPENSION AND TERMINATION

27. **SUSPENSION.**

A. Department may order the Contractor in writing to suspend, delay or interrupt all or any part of the Work for failure to perform, or as otherwise specified herein, such period of time as the Department may determine to be appropriate for any of the following reasons:

- 1.) Contractor fails to timely and properly correct deficiencies in or performs unsatisfactory work;
- 2.) Contractor's or subcontractor's insurer or surety notifies the Department that any of its required insurance or bonds has lapsed or will lapse, and the Contractor fails to provide replacement insurance or bonds acceptable to the Department before the insurance or bond cancellation or termination date;
- 3.) Contractor or subcontractor materially violates safety laws or other constraints;
- 4.) Department determines that there is a threat to the public health, safety or welfare that necessitates such suspension; or
- 5.) For the convenience of the Department.

B. If the performance of all or any part of the Work is suspended, delayed or interrupted for an unreasonable period of time by an act of the Department in administration of the Work, or by the Department's failure to act within a reasonable time to review or approve an invoice, the Department shall provide an equitable extension of the time allowed to complete the Work and modify the Scope

accordingly. However, no adjustment shall be made under this clause for any suspension, delay or interruption if and to the extent that:

1.) Performance would have been suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor; or

2.) Equitable adjustment is provided for (or excluded) under any other provision of this Contract.

C. Contractor shall not be compensated for Work performed subsequent to a notice of suspension by Department.

28. TERMINATION.

A. Department may terminate this Contract at any time for cause, in the event of the failure of the Contractor to fulfill any of its obligations. Prior to termination, the Department shall provide ten (10) calendar days written notice of its intent to terminate for cause, including the reasons for such, and shall provide the Contractor an opportunity to consult with the Department regarding the reason(s) for termination. Contractor may be afforded the possibility of curing any default at the sole discretion of the Department.

B. The Department may terminate this Contract without cause and for its convenience by giving thirty (30) calendar days written notice to the Contractor. Termination for convenience shall not entitle either party to any indirect, special or resulting damages, lost profits, costs or penalties, and the Contractor shall be entitled only to recover those amounts earned by it for authorized deliverables completed up to the date of termination (or as may be agreed to in writing by the Department for completion of all or any portion of the Work in process).

GENERAL CONDITIONS

29. **ATTORNEY'S FEES.** In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorney's fees and costs.

30. **CONFLICT OF INTEREST.** Contractor covenants and warrants that it presently has no interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance of this Contract or the Services required hereunder.

31. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local rules and regulations in providing services to the Department under this Contract including, but not limited to, local health and safety rules and regulations. This provision shall be included in all subcontracts issued as a result of this Contract.

32. DISQUALIFICATION.

A. The employment of unauthorized aliens by the Contractor/vendor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Contract. Contractor shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Contract.

B. Contractor is required to use the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all employees used by the Contractor under this Contract, pursuant to State of Florida Executive Order No.: 11-116. Also, the Contractor shall include in related subcontracts, if authorized under this Contract, a requirement that subcontractors performing work or providing services pursuant to this Contract utilize the E-Verify system to verify employment eligibility of all employees used by the subcontractor for the performance of the Work.

C. If Contract value exceeds one (1) million dollars, Contractor certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, Contractor agrees to observe the requirements of Section 287.135, F.S., for applicable sub-agreements entered into

for the performance of work under this Contract. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Contract for cause if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of the Contract. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

33. EXECUTION IN COUNTERPARTS. This Contract, and any Change Orders or Amendments thereto, may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a.pdf format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or.pdf signature page were an original thereof.

34. FORCE MAJEURE. Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees, subcontractors or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, hurricanes, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Department in writing of the delay or potential delay and describe the cause of the delay either 1) within five (5) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or 2) if delay is not reasonably foreseeable, within ten (10) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted by the Contractor against the Department. Contractor shall not be entitled to an increase in the price or payment of any kind from the Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to the Department, in which case the Department may 1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to the Department with respect to products subjected to allocation, or 2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or 3) terminate the Contract in whole or in part.

35. FORUM SELECTION, SEVERABILITY, AND CHOICE OF LAW. This Contract has been delivered in the State of Florida and shall be construed in accordance with substantive and procedural laws of Florida. Wherever possible, each provision of this Contract shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Contract shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Contract. Any action in connection with this Contract shall be brought in a court of competent jurisdiction located in Leon County, Florida.

36. GOVERNMENTAL RESTRICTIONS. If the Contractor believes that any governmental restrictions require alteration of the material, quality, workmanship or performance of the products offered under this Contract, the Contractor shall immediately notify the Department so in writing, identifying the specific restriction and alteration. Department reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Department. Contractor's failure to timely notify the Department of its asserted belief shall constitute a waiver of such claim.

37. **HEADINGS.** The headings contained herein are for convenience only, do not constitute a part of this Contract and shall not be deemed to limit or affect any of the provisions hereof.

38. **INTEGRATION.** This Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Department and the Contractor. Any alterations, variations, changes, modifications or waivers of provisions of this Contract shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Contract, unless otherwise provided herein. No oral agreements or representations shall be valid or binding upon the Department or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Department. Contractor may not unilaterally modify the terms of this Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. Department's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

39. **INTERPRETATION OF CONTRACT.**

A. Where appropriate: the singular includes the plural and vice versa; references to statutes or regulations include all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to; unless otherwise indicated references to Rules are to the adopted rules in the Florida Administrative Code; the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation"; unless otherwise indicated references to sections, appendices or schedules are to this Contract; words such as "herein," "hereof" and "hereunder" shall refer to the entire document in which they are contained and not to any particular provision or section; words not otherwise defined which have well-known technical or construction industry meanings, are used in accordance with such recognized meanings; references to Persons include their respective permitted successors and assigns and, in the case of Governmental Persons, Persons succeeding to their respective functions and capacities; and words of any gender used herein shall include each other gender where appropriate.

B. Contractor acknowledges and agrees that it has independently reviewed this Contract with legal counsel, and that it has the requisite experience and sophistication to understand, interpret and agree to the particular language of the terms. Accordingly, if an ambiguity in (or dispute regarding the interpretation of) this Contract shall arise, the Contract shall not be interpreted or construed against the Department, and, instead, other rules of interpretation and construction shall be used

40. **MODIFICATIONS REQUIRED BY LAW.** Department reserves the right to revise this Contract to include additional language required by Federal agency(ies) or other sources awarding funding to the Department in support of this Contract, if applicable, and to include changes required by Florida Administrative Code rule changes.

41. **MYFLORIDAMARKETPLACE TRANSACTION FEE.** The State of Florida, through DMS, has instituted MyFloridaMarketPlace, a statewide e-procurement system. Pursuant to Rule 60A-1.032(1), Florida Administrative Code, payments under this Contract are exempt from the MyFloridaMarketPlace transaction fee.

42. **NONDISCRIMINATION.**

A. Contractor certifies that no person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Contract.

B. Contractor certifies that neither it nor any affiliate is or has been placed on the discriminatory vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on

leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services ("DMS") is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.

C. Contractor shall comply with the Americans with Disabilities Act.

43. **NON-SOLICITATION.** Contractor covenants and warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Contract.

44. **NON-WAIVER OF RIGHTS.** No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by the other party under this Contract, shall impair any such right, power or remedy of either party; nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

45. **ORDER OF PRECEDENCE.** In the event of a conflict in terms between any of the components of this Contract, the order of precedence for resolving such conflict shall be as follows (1 being the highest precedence):

1. Body of this Contract;
2. Scope;
3. All other attachments to this Contract; and
4. Documents, agreements and exhibits incorporated herein by reference.

46. **OWNERSHIP OF DOCUMENTS.** All plans, specifications, maps, computer files, databases and/or reports prepared or obtained under this Contract, as well as data collected together with summaries and charts derived therefrom, shall be considered works made for hire and shall be and become the property of the Department upon completion or termination of this Contract, without restriction or limitation on their use, and shall be made available upon request to the Department at any time during the performance of such services and/or upon completion or termination of this Contract. Upon delivery to the Department of said document(s), the Department shall become the custodian thereof in accordance with Chapter 119, F.S. Contractor shall not copyright any material and products or patent any invention developed under this Contract.

47. **P.R.I.D.E.** When possible, the Contractor agrees that any articles which are the subject of, or required to carry out, this Contract shall be purchased from P.R.I.D.E. as specified in Chapter 946, F.S., if available, in the same manner and under the same procedures set forth in Section 946.515(2) and (4), F.S.; and for purposes of this Contract the person, firm or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with P.R.I.D.E. are concerned.

The "Corporation identified" is PRISON REHABILITATIVE INDUSTRIES AND DIVERSIFIED ENTERPRISES, INC. (P.R.I.D.E.) which may be contacted at:

P.R.I.D.E.
12425 28th Street, North
St. Petersburg, Florida 33716-1826
Toll Free: 1-800-643-8459
Website: <http://www.pride-enterprises.org/>

48. **PUBLIC ENTITY CRIMES.** A person or affiliate (as defined) who has been placed on the convicted vendor list following a conviction for a public entity crime may not perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount for Category Two (as defined in Section 287.017,

F.S.), for a period of 36 months from the date of being placed on the convicted vendor list, pursuant to Section 287.133, F.S. Contractor certifies that neither it nor any affiliate has been placed on such convicted vendor list, and shall notify the Department within five (5) days of its, or any of its affiliate's, placement thereon.

49. PUBLIC RECORDS.

A. Contractor shall comply with Florida Public Records law under Chapter 119, F.S. Records made or received in conjunction with this Contract are public records under Florida law, as defined in Section 119.011(12), F.S. Contractor shall keep and maintain public records required by the Department to perform the services under this Contract.

B. This Contract may be unilaterally canceled by the Department for refusal by the Contractor to either provide to the Department upon request, or to allow inspection and copying of all public records made or received by the Contractor in conjunction with this Contract and subject to disclosure under Chapter 119, F.S., and Section 24(a), Article I, Florida Constitution.

C. If Contractor meets the definition of "Contractor" found in Section 119.0701(1)(a), F.S.; [i.e., an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency], then the following requirements apply:

1. Pursuant to Section 119.0701, F.S., a request to inspect or copy public records relating to this Contract for services must be made directly to the Department. If the Department does not possess the requested records, the Department shall immediately notify the Contractor of the request, and the Contractor must provide the records to the Department or allow the records to be inspected or copied within a reasonable time. If Contractor fails to provide the public records to the Department within a reasonable time, the Contractor may be subject to penalties under s. 119.10, F.S.

2. Upon request from the Department's custodian of public records, Contractor shall provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

3. Contractor shall identify and ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the Department.

4. Upon completion of the Contract, Contractor shall transfer, at no cost to Department, all public records in possession of Contractor or keep and maintain public records required by the Department to perform the services under this Contract. If the Contractor transfers all public records to the Department upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to Department, upon request from the Department's custodian of public records, in a format that is accessible by and compatible with the information technology systems of Department.

D. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS by telephone at (850) 245-2118, by email at publicservices@dep.state.fl.us, or at the mailing address below.

**Department of Environmental Protection
Office of the Ombudsman & Public Services
Attn: Public Records Request
3900 Commonwealth Blvd, MS 49
Tallahassee, Florida 32399**

50. RECORD KEEPING AND AUDIT.

A. Contractor shall maintain books, records and documents directly pertinent to performance under this Contract in accordance with United States generally accepted accounting principles (**US GAAP**) consistently applied. Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Contract and for five (5) years following Contract completion or termination. In the event any work is subcontracted, the Contractor shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.

B. The Contractor understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the Department's Inspector General in any investigation, audit, inspection, review, or hearing. The Contractor will comply with this duty and ensure that its subcontracts issued under this Contract, if any, impose this requirement, in writing, on its subcontractors.

51. REMEDIES. All rights and remedies provided in this Contract are cumulative and not exclusive of any other rights or remedies that may be available to the Department, whether provided by law, equity, statute, in any other agreement between the parties or otherwise. Department shall be entitled to injunctive and other equitable relief, including, but not limited to, specific performance, to prevent a breach, continued breach or threatened breach of this Contract. No remedy or election hereunder shall be deemed exclusive. A failure to exercise or a delay in exercising, on the part of the Department, any right, remedy, power or privilege hereunder shall not operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

52. RESPECT OF FLORIDA. When possible, the Contractor agrees that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, F.S., in the same manner and under the same procedures set forth in Section 413.036(1) and (2), F.S.; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for the state agency insofar as dealing with such qualified nonprofit agency is concerned.

The "nonprofit agency" identified is RESPECT of Florida which may be contacted at:

RESPECT of Florida.
2475 Apalachee Parkway, Suite 205
Tallahassee, Florida 32301-4946
(850) 487-1471
Website: www.respectofflorida.org

53. TAX EXEMPTION. Contractor recognizes that the Department is an agency of the State of Florida, which by virtue of its sovereignty is not required to pay any taxes on the services or goods purchased under the terms of this Contract. Department does not pay Federal excise or sales taxes on direct purchases of tangible personal property. Department will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages.

54. WARRANTY OF ABILITY TO PERFORM. Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any

other state or the federal government. Contractor shall immediately notify the Department in writing if its ability to perform is compromised in any manner during the term of this Contract and any renewals.

55. **WARRANTY OF AUTHORITY.** Each person signing this Contract warrants that he or she is duly authorized to do so and to bind the respective party to this Contract.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed, the day and year last written below.

MIAMI-DADE COUNTY
MIAMI-DADE COUNTY DERM

By: [Signature]
Title: [insert title] Deputy Mayor

Date: 6/29/2017

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: [Signature]
Secretary or designee

Date: 6-26-17

FEID No. 59-600573

List of attachments/exhibits included as part of this Contract:

<u>Specify Type/Letter</u>	<u>Description</u>
Attachment A	Scope of Work - Level One (7 pages)
Attachment B	Scope of Work - Level Two (8 pages)
Attachment C	Task Assignment Notification Form
Attachment D	Task Assignment Change Order Form (2 pages)
Attachment E	Contractor Affidavit/Release of Claims Form

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ATTACHMENT A

SCOPE OF WORK

STORAGE TANK SYSTEM COMPLIANCE ASSISTANCE

WORK DESCRIPTION

1. The Contractor shall perform routine compliance inspections within the jurisdictional (geographical) boundaries of the specified counties as required by an executed Task Assignment(s) at the following Chapter 376, F.S., facilities: storage tanks regulated pursuant to Sections 376.30 – 376.317, F.S. (excluding cattle dip vats, dry-cleaning facilities and designated Brownfields) and Chapters 62-761 and 62-762, F.A.C. In addition, the Contractor shall perform closure inspections, installation inspections, discharge inspections, re-inspections, and complaint inspections as applicable, in accordance with each Task Assignment. All inspections shall be performed by an individual(s) in a position equivalent to an Environmental Specialist I level or higher. Beginning on the effective date of this Contract, the Contractor is authorized to enter private property in order to carry out inspections pursuant to Sections 403.091 and 403.858, Florida Statutes. However, an authorized facility representative must safely access all storage tank system components for inspection by the Contractor, and must demonstrate operational functionality of electronic equipment. This Scope of Work provides the minimum services the Department is seeking. The specific Tasks, Deliverables, Performance Measures, and Deliverable due dates will be included in each issued Task Assignment.

TASKS

2. Inspections must be performed in accordance with each executed Task Assignment.
 - A. Perform routine compliance inspections of facilities listed on each executed Task Assignment. Facilities not listed for inspection during the current executed Task Assignment will be prioritized to be inspected during subsequent Task Assignments.
 - B. Perform all closure inspections at known storage tank system closure activities (limited to Tanks, Sumps, Spill Containment Systems, Spill Buckets, Integral Piping and Bulk Product Piping and any other components as directed) and of past closure activities that have been discovered as having taken place without notification to ensure that the system or system component is properly closed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
 - C. Perform all installation inspections of known new installations and of past installations (limited to Tanks, Sumps, Spill Containment Systems, Spill Buckets, Integral Piping and Bulk Product Piping and any other components as directed) that have been discovered as having taken place without notification to ensure that the system or system component is properly constructed and installed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
 - D. Perform a discharge inspection at all facilities with known or suspected discharges within fourteen (14) calendar days of receipt of notification.
 - E. Re-inspections may only be performed for payment as needed to verify compliance of items identified as requiring a re-inspection, as referenced in the "Storage Tank System Program Violation List" (Guidance Document A). For all other violations, a re-inspection may only be performed for payment if the Contractor and the Department Task Manager agree, prior to the inspection, that it is warranted.

- F. Respond to complaints concerning regulated facilities, and/or as directed by the Department Task Manager by performing a complaint inspection. Inspection findings concerning regulated facilities shall be documented in a complaint inspection report activity in FIRST. Complaint inspections not involving a regulated facility shall be documented in writing and/or as directed by the Department Task Manager.
3. Inspector responsibilities shall include:
- A. Contacting facility owners, operators, and/or other authorized representatives verbally or in writing, to schedule inspections. The Department Task Manager may require written notification of inspections if verbal methods have proven unsatisfactory. For routine compliance inspections, the Contractor shall provide outreach to each facility prior to the inspection by contacting the facility at least five (5) calendar days in advance of the inspection, reminding the facility to view the inspection videos on the Department's website prior to the upcoming inspection, and discussing recent previous inspections at the facility noting any violations cited. This outreach is to be documented in FIRST in a Phone or Electronic Communication Activity, depending on how the contact was made.
 - B. Conducting inspections with the owners, operators, and/or other authorized representatives of facilities for the purpose of determining compliance with Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F. S.
 - C. Distributing registration forms or providing directions for the use of the Electronic Self Service Application Portal (ESSA) on the Department's website to all facilities that are determined by the Contractor to need registration updates.
 - D. All inspection activities shall be documented using the Florida Inspection Reporting for Storage Tanks (FIRST) database and FIRST equipment in accordance with the minimum standards referenced in the "FIRST User's Guide" (Guidance Document B).
 - E. All inspection reports shall be completed in accordance with the "Level of Effort Guidance" (Guidance Document F). The date and manner of the issuance of the inspection report to the facility owner/operator shall be documented in FIRST. This may be accomplished with the completion of one or more supporting activities in FIRST, such as a Non-Compliance Project Letter Activity, Issue Document Activity, and/or Electronic Communication Activity.
 - F. Responding to requests for public assistance both in the office and during inspections.
4. Perform Level 1 Compliance Assistance Actions.
- A. These actions shall include investigation and documentation of violations of Chapters 62-761 and 62-762, F.A.C., or the county's equivalent regulations, preparation of Compliance Assistance letters and related activities in accordance with the "Storage Tank System Program Violation List" (Guidance Document A) and "Level of Effort Guidance" (Guidance Document F).
 - B. An individual(s) in a position equivalent to an Environmental Specialist II level or higher shall conduct Level 1 Compliance Assistance activities. Compliance Assistance letters may be prepared and sent by an individual(s) at the Environmental Specialist I level under the direction of an individual at the Environmental Specialist II level or higher.
 - C. All Compliance Assistance letters shall be on Department forms, in Department format, or have Department approval.
 - D. Compliance Assistance letters shall be issued through FIRST in accordance with the "FIRST User's Guide" (Guidance Document B) to ensure that the letters are posted to the OCULUS document management system.

- E. If there is any indication that Compliance Assistance actions are not being performed in accordance with "Level of Effort Guidance" (Guidance Document F); the Department Task Manager may request the submission of a Corrective Action Plan (CAP), and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager. The Department Task Manager shall be responsible for reviewing the CAP and notifying the Contractor if the CAP is approved or in need of revision.
- F. The Contractor must maintain the administrative organization, staff, financial and other resources necessary to effectively administer the requirements of this Attachment. Failure to do so is a material breach of this Contract.
- G. This Attachment specifically does not include actions associated with the cleanup or enforcement of Contractor-owned or operated petroleum storage systems or any discharge(s) associated with them.

ASSESSMENT OF PERFORMANCE LEVELS

- 5.. The Contractor shall perform inspections as directed in paragraph 4, above, and assess performance levels monthly to determine its progress towards completion of each Task Assignment. Upon discovery of any problems that would delay or prevent the timely progress and completion of each Task Assignment, the Contractor shall notify the Department Task Manager.
- 6. Following the effective date of each Task Assignment, the Contractor must have completed the following percentage of the required routine compliance inspections unless otherwise indicated in the Task Assignment:
 - A. After four (4) months, thirty three percent (33%) of inspections must have been completed.
 - B. After eight (8) months, sixty six percent (66%) of inspections must have been completed.
 - C. After twelve (12) months, one hundred percent (100%) of inspections must have been completed.
- 7. If the actual number of completed inspections falls below these levels, then the Contractor must submit a CAP to the Department Task Manager, and associated invoices will be held by the Department Contract Manager until these completion percentages are subsequently reached.
- 8. If there is any indication that other required inspections or activities are not being performed, the Department Task Manager may request the submission of a CAP and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager.
- 9. The Department Task Manager shall be responsible for reviewing all CAPs and notifying the Contractor if the CAP is approved or is in need of revision.
- 10. A completion rate of 100 percent is required for those activities described in Paragraph 1, above, and as set forth in each Task Assignment, unless otherwise indicated in the Task Assignment.
- 11. The Department shall authorize the Contractor to provide services under this Contract utilizing the Task Assignment Notification Form, attached to the Contract as Attachment C. The Contractor acknowledges that no work shall be performed until a Task Assignment authorizing work has been fully executed by the Department and the Contractor. If, during the term of an executed Task Assignment, a modification of the Task Assignment is needed, the Department may issue a new Task Assignment Form clearly marked with the original task number and the appropriate amendment

number, detailing the revised description of the work to be performed. As with the original Task Assignment, all amendments to Task Assignments must be executed by both the Department and the Contractor prior to the work being performed.

SCOPE REQUIREMENTS

12. The Contractor shall administer the compliance verification program, provide technical assistance, and perform level 1 Compliance Assistance actions. Data generated from all inspections conducted under the direction of the Department shall be entered into FIRST, and completed, prior to the submittal of an invoice to the Department Contract Manager.
13. The Contractor shall comply with all provisions of this Contract, verify facility compliance with Chapter 376, F.S., and Chapters 62-761 and 62-762, and be knowledgeable of the differences between the state and federal environmental statutes and rules applicable to underground storage tanks.
14. The Contractor shall require that qualified individuals perform field inspections and that they receive training on Chapters 62-761 and 62-762, and Chapter 376, F.S.
15. The Contractor shall provide a sufficient number of qualified staff to satisfactorily complete all the responsibilities included in this Contract. All individuals hired after the effective date of this Contract shall possess qualifications equivalent to Department position levels as specified in this Contract.
16. The Contractor shall determine the accurate latitude and longitude coordinates for each regulated facility inspected using Department-approved procedures and ensure the proper entry of this data into the Department inspection database.
17. The Contractor shall review closure reports filed by facility owners, operators, or authorized representatives to ensure that the Department's "Instructions for Conducting Sampling During Aboveground Storage Tank Closure" (Guidance Document C1) and "Instructions for Conducting Sampling During Underground Storage Tank Closure" (Guidance Document C2) have been followed. In cases where these requirements have not been met, the Contractor shall initiate Level 1 Compliance Assistance actions to compel compliance. In cases where these requirements have been met and none of the Department's cleanup target levels have been exceeded, the Contractor shall issue a Closure Report Review Letter for the system or component described in the Closure Report indicating the Closure Report meets the requirements of Chapter 62-761 and/or 62-762, F.A.C. In cases where cleanup target levels have been exceeded and it has been determined to be a new discharge, the Contractor shall prepare and send a Site Assessment Report request letter to the facility owner and operator, if appropriate. In addition, the Contractor shall provide notification to the Department Task Manager within thirty (30) days of the determination of a new discharge at a facility.
18. The Contractor shall prepare and send a Site Assessment Report request letter to the facility owner and operator, if appropriate, in cases where a new discharge has been discovered related to a regulated storage tank system, but unrelated to a closure as discussed in paragraph 13., above. In addition, the Contractor shall provide within thirty (30) days of the determination of a new discharge at a facility.
19. The Contractor shall maintain its paper files on regulated facilities that were composed prior to the FIRST database implementation, as well as documentation from the facility that may not be available in FIRST, such as closure reports. In the event a case referral to the Department District Office for further enforcement is necessary, a copy of any documents pertinent to the case that are not available in FIRST shall be submitted to the Department District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document G).
20. Facility files must be kept until the site has been determined closed. Once the facility has been closed for five (5) years, the records may be transmitted electronically to the Department Contract Manager

in Tallahassee for preservation, unless the Contractor is subject to more stringent local record retention requirements. Copies can be maintained by the Contractor at the Contractor's expense. If, for any reason, the Department's contractual arrangement with the Contractor to perform the inspection program (through this Contract or any future contracts) ceases, the Contractor shall transmit electronic copies of all documents to the Department Contract Manager.

21. The Contractor shall provide attendance of at least one program staff member at scheduled meetings, conferences, and teleconferences. The Department Task Manager may authorize attendance at a location other than the District Office. The Contractor shall provide attendance of additional staff members as requested by the Department.
22. The Contractor shall ensure that all field personnel receive the health and safety training required to meet OSHA standards (an initial 24 or 40-hour course within 6 months of employment under this Contract, followed by an annual 8-hour refresher course).
23. The Contractor shall supervise the Local Compliance Program with an individual at a minimum equivalent to the Department's Environmental Specialist III personnel category.
24. The Contractor shall provide copies of applicable rules, inspection forms, and other program/public assistance information to the public and regulated interests. However, this provision does not authorize photocopying of reference documents in violation of copyright law.
25. The Contractor shall maintain financial books, records, and documents directly pertinent to performance under this Contract in accordance with generally accepted accounting principles consistently applied. All books, records, and documents pertinent to performance under this Contract shall be maintained for the entire term of this Contract and for five years following the expiration or termination of this Contract. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the entire term of this Contract and for five years following the expiration or termination of this Contract. A penalty of 8.3% of the current Task Assignment amount will be assessed for each year that shows insufficient record keeping.
26. The Contractor shall not allocate funding to non-program activities outside the scope of this Contract or any Task Assignment. Sections 376.3071 and 376.11, F.S., prohibit the use of Inland Protection Trust Fund (IPTF) and Florida Coastal Protection Trust Fund (FCPTF) moneys for purposes other than those specified in these sections.
27. Access to Department databases shall be made by using an Internet connection. Therefore, the Contractor is responsible for subscribing to and paying for all charges related to use of the services of a reputable Internet service provider. The Contractor must have a dedicated Internet line for FIRST.
28. Guidance Documents. The Contractor agrees that the services required under this Contract shall be performed in accordance with the guidance documents listed below and in accordance with the provisions of this Contract. The Guidance Documents are available online. To access the Guidance Documents please follow the link:
<http://www.dep.state.fl.us/waste/categories/tanks/pages/compliance.htm>.

The Contractor hereby acknowledges receipt of the following guidance documents:

- A. Guidance Document A -- Storage Tank System Program Violation List.
- B. Guidance Document B -- Florida Inspection Reporting for Storage Tanks (FIRST) User Requirements. Please visit the following website to download:
http://www.dep.state.fl.us/waste/categories/tanks/pages/first_users_guide.htm
- C. Guidance Document C1 -- Instructions for Conducting Sampling During Aboveground Storage Tank Closure

- Guidance Document C2-- Instructions for Conducting Sampling During Underground Storage Tank Closure
- D. Guidance Document D1 -- Compliance Verification Program Local Program Review Form
- Guidance Document D2 -- Contractual Review Form
- E. Guidance Document E -- Contractual Services Invoice
- F. Guidance Document F -- Level of Effort Guidance
- G. Guidance Document G -- Guidelines for Case Referrals
- H. Guidance Document H -- Contractual Service Payment Calculation
- I. Guidance Document I -- DEP Directive 923 Settlement Guidelines for Civil and Administrative Penalties

29. The Contractor shall provide a written response within forty-five (45) days to the Program Review findings conducted in accordance with paragraph 37, below, and at a minimum, provide details on any corrective actions that will be implemented.
30. The Contractor shall submit a satisfactory Corrective Action Plan to the Department Task Manager upon notification of a score below seventy-five (75) on the Program Review within fourteen (14) calendar days of notification of the score. Because a score below seventy-five (75) reflects an unacceptable level of performance, if the Contractor receives a score below seventy-five (75) may result in contract termination.
31. The Contractor is responsible for the professional quality, technical accuracy, and coordination of all reports and other services furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its reports and other services.

DEPARTMENT RESPONSIBILITIES

32. The Department shall serve in an advisory capacity to the Contractor. The Department shall make legal interpretations of Department rules, which shall be binding with respect to the Contractor's ordinances to the extent that those ordinances adopt the provisions of Chapters 62-761 and 62-762, F.A.C., as required by this Contract.
33. The Department shall review completed inspection reports when and as deemed necessary.
34. The Department shall provide program and regulatory guidance for the Contractor. The Department shall provide training in new technology and program management changes as necessary.
35. The Department shall conduct enforcement activities for violations of Chapters 62-761 and 62-762, F.A.C., when case referrals are properly made and forwarded to the District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document G).
36. The Department shall provide information to the Contractor about Department registered storage tank system equipment and alternate procedures (waivers, variances, or registrations).
37. At least once annually, the Department shall perform a Program Review using the "Compliance Verification Program Local Program Review Form" (Guidance Document D), and provide a copy of the Program Review findings to the Contractor upon completion of the Program Review. The Department may conduct inspections, including accompanied inspections and follow-up inspections, at any reasonable time. In addition, the Department may also conduct facility file reviews through FIRST at any time. The Department Task Manager may perform additional program reviews, as deemed necessary, to insure the required performance of the Contractor. The Department Task Manager may forgo a Program Review for the next Task Assignment for a Contractor that receives a score of 95 or greater on the Program Review during the current Task Assignment.

PAYMENTS

38. The Contractor shall submit invoices on a monthly basis. Each invoice shall be submitted using the "Contractual Services Invoice" (Guidance Document E). Each invoice is due no later than the 15th day of the month following the month of services. The invoice shall be submitted electronically to the Department Contract Manager at STR_Invoices@dep.state.fl.us and copied to the Department Task Manager. Reimbursement requests for the purchase of non-expendable equipment costing \$1,000 or more must include copies of invoices or receipts to document the charges.

DOCUMENTATION

39. Prior to the submittal of each month's invoice to the Department Contract Manager, the Contractor shall complete and submit electronically the "Payment Calculation Sheet" (Guidance Document H) for the month to the Department Task Manager no later than the 10th day of the month following the month of services. The Department Task Manager shall review the monthly Payment Calculation Sheet for accuracy and completeness and shall return the approved Payment Calculation Sheet to the Contractor for submittal with the monthly invoice to the Department Contract Manager in Tallahassee, Florida for processing. If the Contractor fails to perform as directed by the terms of this Contract, the Department shall return the unpaid invoice to the Contractor documenting the areas in which the Contractor has failed to meet its contractual obligations.

MANAGEMENT

40. The Department Contract Manager is Roger Ruiz, Phone (850) 245-8854. The Contractor's Contract Manager is Rashid Istambouli, P.E., Phone (305) 372-6907. Each Task Assignment will identify the Department Task Manager and the Contractor's Task Manager. All matters relating to a specific Task Assignment shall be directed to the Department Task Manager for appropriate action or disposition. All matters relating to this Contract shall be directed to the Department Contract Manager.

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ATTACHMENT B

SCOPE OF WORK

STORAGE TANK SYSTEM COMPLIANCE ASSISTANCE AND ENFORCEMENT ACTIONS

WORK DESCRIPTION

1. The Contractor shall perform routine compliance inspections within the jurisdictional (geographical) boundaries of the specified counties as required by an executed Task Assignment(s) at the following Chapter 376, F.S., facilities: storage tanks regulated pursuant to Sections 376.30 – 376.317, F.S. (excluding cattle dip vats, dry-cleaning facilities and designated Brownfields) and Chapters 62-761 and 62-762, F.A.C., In addition, the Contractor shall perform closure inspections, installation inspections, discharge inspections, re-inspections, and complaint inspections as applicable, in accordance with each Task Assignment. All inspections shall be performed by an individual(s) in a position equivalent to an Environmental Specialist I level or higher. Beginning on the effective date of this Contract, the Contractor is authorized to enter private property in order to carry out inspections pursuant to Sections 403.091 and 403.858, Florida Statutes. However, an authorized facility representative must safely access all storage tank system components for inspection by the Contractor, and must demonstrate operational functionality of electronic equipment. This Scope of Work provides the minimum services the Department is seeking. The specific Tasks, Deliverables, Performance Measures, and Deliverable due dates will be included in each issued Task Assignment.

TASKS

2. Inspections must be performed in accordance with each executed Task Assignment.
 - A. Perform routine compliance inspections of facilities listed on each executed Task Assignment. Facilities not listed for inspection during the current executed Task Assignment will be prioritized to be inspected during subsequent Task Assignments.
 - B. Perform all closure inspections at known storage tank system closure activities (limited to Tanks, Sumps, Spill Containment Systems, Spill Buckets, Integral Piping and Bulk Product Piping and any other components as directed) and of past closure activities that have been discovered as having taken place without notification to ensure that the system or system component is properly closed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
 - C. Perform all installation inspections of known new installations and of past installations (limited to Tanks, Sumps, Spill Containment Systems, Buckets, Integral Piping and Bulk Product Piping and any other components as directed) that have been discovered as having taken place without notification to ensure that the system or system component is properly constructed and installed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
 - D. Perform a discharge inspection at all facilities with known or suspected discharges within fourteen (14) calendar days of receipt of notification.
 - E. Re-inspections may only be performed for payment as needed to verify compliance of items identified as requiring a re-inspection, as referenced in the "Storage Tank System Program Violation List" (Guidance Document A). For all other violations, a re-inspection may only be performed for payment if the Contractor and the Department Task Manager agree, prior to the inspection, that it is warranted.
 - F. Respond to complaints concerning regulated facilities, and/or as directed by the Department Task Manager by performing a complaint inspection. Inspection findings concerning regulated

facilities shall be documented in a complaint inspection report activity in FIRST. Complaint inspections not involving a regulated facility shall be documented in writing and/or as directed by the Department Task Manager.

3. Inspector responsibilities shall include:
 - A. Contacting facility owners, operators, and/or other authorized representatives verbally or in writing, to schedule inspections. The Department Task Manager may require written notification of inspections if verbal methods have proven unsatisfactory. For routine compliance inspections, the Contractor shall provide outreach to each facility prior to the inspection by contacting the facility at least five (5) calendar days in advance of the inspection, reminding the facility to view the inspection videos on the Department's website prior to the upcoming inspection, and discussing recent previous inspections at the facility noting any violations cited. This outreach is to be documented in FIRST in a Phone or Electronic Communication Activity, depending on how the contact was made.
 - B. Conducting inspections with the owners, operators, and/or other authorized representatives of facilities for the purpose of determining compliance with Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F. S.
 - C. Distributing registration forms or providing directions for the use of the Electronic Self Service Application Portal (ESSA) on the Department's website to all facilities that are determined by the Contractor to need registration updates.
 - D. All inspection activities shall be documented using the Florida Inspection Reporting for Storage Tanks (FIRST) database and FIRST equipment in accordance with the minimum standards referenced in the "FIRST User's Guide" (Guidance Document B).
 - E. All inspection reports shall be completed in accordance with the "Level of Effort Guidance" (Guidance Document F). The date and manner of the issuance of the inspection report to the facility owner/operator shall be documented in FIRST. This may be accomplished with the completion of one or more supporting activities in FIRST, such as a Non-Compliance Project Letter Activity, Issue Document Activity, and/or Electronic Communication Activity.
 - F. Responding to requests for public assistance both in the office and during inspections.
4. Perform Level 1 Compliance Assistance and Level 2 enforcement actions in accordance with Exhibit A, Storage Tank System Compliance Assistance and Enforcement Actions, attached hereto and made a part hereof.
 - A. Level 1 Compliance Assistance actions.
 - (1) These actions shall include investigation and documentation of violations of Chapters 62-761 and 62-762, F.A.C., or the county's equivalent regulations, preparation of Compliance Assistance letters and related activities in accordance with the "Storage Tank System Program Violation List" (Guidance Document A) and "Level of Effort Guidance" (Guidance Document F).
 - (2) An individual(s) in a position equivalent to an Environmental Specialist II level or higher shall conduct Level 1 Compliance Assistance activities. Compliance Assistance letters may be prepared and sent by an individual(s) at the Environmental Specialist I level under the direction of an individual at the Environmental Specialist II level or higher.
 - (3) All Compliance Assistance letters shall be on Department forms, in Department format, or have Department approval.

- (4) Compliance Assistance letters shall be issued through FIRST in accordance with the "FIRST User's Guide" (Guidance Document B) to ensure that the letters are posted to the OCULUS document management system.
- (5) If there is any indication that Compliance Assistance actions are not being performed in accordance with "Level of Effort Guidance" (Guidance Document F); the Department Task Manager may request the submission of a Corrective Action Plan (CAP), and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager. The Department Task Manager shall be responsible for reviewing the CAP and notifying the Contractor if the CAP is approved or in need of revision.

B. Level 2 enforcement actions.

- (1) These actions shall include initiation and completion of administrative and judicial enforcement actions as lead party; preparing, delivering, and executing enforcement documents including Warning Letters, Consent Orders, Notices of Violation, and Final Orders; taking lead responsibility in the discovery process; determining appropriate judicial remedies, including civil penalties, injunctive relief, and assessment of damages; and performing post-judgment enforcement activities.
 - (2) All Level 2 enforcement actions shall be conducted under the supervision of an attorney licensed to practice law in the State of Florida and employed by the Contractor.
 - (3) All enforcement documents shall be on Department forms, in Department format, or have Department approval unless documents are being filed as part of a legal proceeding in which case the rules of procedure for the body before which the legal proceeding is taking place shall apply.
 - (4) Any penalties assessed under this Exhibit shall be in accordance with "DEP Directive 923: Settlement Guidelines for Civil and Administrative Penalties" (Guidance Document I).
5. The Contractor must perform the enforcement actions specified in this Exhibit under its own ordinances. Therefore, the Contractor must have and maintain provisions adopting Chapters 62-761 and 62-762, F.A.C., or their equivalent and penalty authority equivalent to that set forth in Sections 403.141 and 403.161, F.S., as their own local ordinances during the term of this Contract. Failure to maintain such requirements shall result in the unilateral termination of this Contract by the Department.
 6. The Contractor must maintain the administrative organization, staff, financial and other resources necessary to effectively administer the requirements of this Attachment. Failure to do so is a material breach of this Contract.
 7. This Attachment specifically does not include actions associated with the cleanup or enforcement of Contractor-owned or operated petroleum storage systems or any discharge(s) associated with them.
 8. If there is any indication that enforcement actions are not being performed or are inadequate, the Department Task Manager may request the submission of a CAP and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager. The Department Task Manager shall be responsible for reviewing the CAP and notifying the Contractor if the CAP is approved or in need of revision.

ASSESSMENT OF PERFORMANCE LEVELS

9. The Contractor shall perform inspections as directed in paragraph 4, above, and assess performance levels monthly to determine its progress towards completion of each Task Assignment. Upon

discovery of any problems that would delay or prevent the timely progress and completion of each Task Assignment, the Contractor shall notify the Department Task Manager.

10. Following the effective date of each Task Assignment, the Contractor must have completed the following percentage of the required routine compliance inspections unless otherwise indicated in the Task Assignment:
 - A. After four (4) months, thirty three percent (33%) of inspections must have been completed.
 - B. After eight (8) months, sixty six percent (66%) of inspections must have been completed.
 - C. After twelve (12) months, one hundred percent (100%) of inspections must have been completed.
11. If the actual number of completed inspections falls below these levels, then the Contractor must submit a CAP to the Department Task Manager, and associated invoices will be held by the Department Contract Manager until these completion percentages are subsequently reached.
12. If there is any indication that other required inspections or activities are not being performed, the Department Task Manager may request the submission of a CAP and may recommend to the Department Contract Manager to hold invoices until such actions are being performed to the satisfaction of the Department Task Manager.
13. The Department Task Manager shall be responsible for reviewing all CAPs and notifying the Contractor if the CAP is approved or needs revision.
14. A completion rate of 100 percent is required for those activities described in Paragraph 1, above, and as set forth in each Task Assignment, unless otherwise indicated in the Task Assignment.
15. The Department shall authorize the Contractor to provide services under this Contract utilizing the Task Assignment Notification Form, attached to the Contract as Attachment C. The Contractor acknowledges that no work shall be performed until a Task Assignment authorizing work has been fully executed by the Department and the Contractor. If, during the term of an executed Task Assignment, a modification of the Task Assignment is needed, the Department may issue a new Task Assignment Form clearly marked with the original task number and the appropriate amendment number, detailing the revised description of the work to be performed. As with the original Task Assignment, all amendments to Task Assignments must be executed by both the Department and the Contractor prior to the work being performed.

SCOPE REQUIREMENTS

16. The Contractor shall administer the compliance verification program, provide technical assistance, and perform level 1 Compliance Assistance actions. Data generated from all inspections conducted under the direction of the Department shall be entered into FIRST, and completed, prior to the submittal of an invoice to the Department Contract Manager.
17. The Contractor shall comply with all provisions of this Contract, verify facility compliance with Chapter 376, F.S., and Chapters 62-761 and 62-762, and be knowledgeable of the differences between the state and federal environmental statutes and rules applicable to underground storage tanks.
18. The Contractor shall require that qualified individuals perform field inspections and that they receive training on Chapters 62-761 and 62-762, and Chapter 376, F.S.
19. The Contractor shall provide a sufficient number of qualified staff to satisfactorily complete all the responsibilities included in this Contract. All individuals hired after the effective date of this Contract shall possess qualifications equivalent to Department position levels as specified in this Contract.

20. The Contractor shall determine the accurate latitude and longitude coordinates for each regulated facility inspected using Department-approved procedures and ensure the proper entry of this data into the Department inspection database.
21. The Contractor shall review closure reports filed by facility owners, operators, or authorized representatives to ensure that the Department's "Instructions for Conducting Sampling During Aboveground Storage Tank Closure" (Guidance Document C1) and "Instructions for Conducting Sampling During Underground Storage Tank Closure" (Guidance Document C2) have been followed. In cases where these requirements have not been met, the Contractor shall initiate Level 1 Compliance Assistance actions to compel compliance. In cases where these requirements have been met and none the of Department's cleanup target levels have been exceeded, the Contractor shall issue a Closure Report Review Letter for the system or component described in the Closure Report indicating the Closure Report meets the requirements of Chapter 62-761 and/or 62-762, F.A.C. In cases where cleanup target levels have been exceeded and it has been determined to be a new discharge, the Contractor shall prepare and send a Site Assessment Report request letter to the facility owner and operator, if appropriate. In addition, the Contractor shall provide notification to the Department Task Manager within thirty (30) days of the determination of a new discharge at a facility.
22. The Contractor shall prepare and send a Site Assessment Report request letter to the facility owner and operator, if appropriate, in cases where a new discharge has been discovered related to a regulated storage tank system, but unrelated to a closure as discussed in paragraph 13., above. In addition, the Contractor shall provide within thirty (30) days of the determination of a new discharge at a facility.
23. The Contractor shall maintain its paper files on regulated facilities that were composed prior to the FIRST database implementation, as well as documentation from the facility that may not be available in FIRST, such as closure reports. In the event a case referral to the Department District Office for further enforcement is necessary, a copy of any documents pertinent to the case that are not available in FIRST shall be submitted to the Department District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document G).
24. Facility files must be kept until the site has been determined closed. Once the facility has been closed for five (5) years, the records may be sent to the Department Contract Manager in Tallahassee for preservation, unless the Contractor is subject to more stringent local record retention requirements. Copies can be maintained by the Contractor at the Contractor's expense. If, for any reason, the Department's contractual arrangement with the Contractor to perform the inspection program (through this Contract or any future contracts) ceases, the Contractor shall return all original facility files to the Department Contract Manager in Tallahassee within 30 calendar days of Contract expiration or termination.
25. The Contractor shall provide attendance of at least one program staff member at scheduled meetings, conferences, and teleconferences. The Department Task Manager may authorize attendance at a location other than the District Office. The Contractor shall provide attendance of additional staff members as requested by the Department.
26. The Contractor shall ensure that all field personnel receive the health and safety training required to meet OSHA standards (an initial 24 or 40-hour course within 6 months of employment under this Contract, followed by an annual 8-hour refresher course).
27. The Contractor shall supervise the Local Compliance Program with an individual at a minimum equivalent to the Department's Environmental Specialist III personnel category.

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 - E. Guidance Document E -- Contractual Services Invoice
 - F. Guidance Document F -- Level of Effort Guidance
 - G. Guidance Document G -- Guidelines for Case Referrals
 - H. Guidance Document H -- Contractual Service Payment Calculation
 - I. Guidance Document I -- DEP Directive 923 Settlement Guidelines for Civil and Administrative Penalties
33. The Contractor shall provide a written response within forty-five (45) days to the Program Review findings conducted in accordance with paragraph 38, below, and at a minimum, provide details on any corrective actions that will be implemented.
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unacceptable level of performance, if the Contractor receives a score below seventy-five (75) may result in contract termination.

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37. The Department shall review completed inspection reports when and as deemed necessary.
38. The Department shall provide program and regulatory guidance for the Contractor. The Department shall provide training in new technology and program management changes as necessary.
39. The Department shall conduct enforcement activities for violations of Chapters 62-761 and 62-762, F.A.C., when case referrals are properly made and forwarded to the District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document G).
40. The Department shall provide information to the Contractor about Department registered storage tank system equipment and alternate procedures (waivers, variances, or registrations).
41. At least once annually, the Department shall perform a Program Review using the "Compliance Verification Program Local Program Review Form" (Guidance Document D), and provide a copy of the Program Review findings to the Contractor upon completion of the Program Review. The Department may conduct inspections, including accompanied inspections and follow-up inspections, at any reasonable time. In addition, the Department may also conduct facility file reviews through FIRST at any time. The Department Task Manager may perform additional program reviews, as deemed necessary, to insure the required performance of the Contractor. The Department Task Manager may forgo a Program Review for the next Task Assignment for a Contractor that receives a score of 95 or greater on the Program Review during the current Task Assignment.

PAYMENTS

42. The Contractor shall submit invoices on a monthly basis. Each invoice shall be submitted using the "Contractual Services Invoice" (Guidance Document E). Each invoice is due no later than the 15th day of the month following the month of services. The invoice shall be submitted electronically to the Department Contract Manager at STR_Invoices@dep.state.fl.us and copied to the Department Task Manager. Reimbursement requests for the purchase of non-expendable equipment costing \$1,000 or more must include copies of invoices or receipts to document the charges.

REPORTS AND DELIVERABLES

43. Prior to the submittal of each month's invoice to the Department Contract Manager, the Contractor shall complete and submit electronically the "Payment Calculation Sheet" (Guidance Document H) for the month to the Department Task Manager no later than the 10th day of the month following the month of services. The Department Task Manager shall review the monthly Payment Calculation Sheet for accuracy and completeness and shall return the approved Payment Calculation Sheet to the Contractor for submittal with the monthly invoice to the Department Contract Manager in Tallahassee, Florida for processing. If the Contractor fails to perform as directed by the terms of this

Contract, the Department shall return the unpaid invoice to the Contractor documenting the areas in which the Contractor has failed to meet its contractual obligations.

MANAGEMENT

45. The Department Contract Manager is Roger Ruiz, Phone (850) 245-8854. The Contractor's Contract Manager is Rashid Istambouli, P.E., Phone (305) 372-6907. Each Task Assignment will identify the Department Task Manager and the Contractor's Task Manager. All matters relating to a specific Task Assignment shall be directed to the Department Task Manager for appropriate action or disposition. All matters relating to this Contract shall be directed to the Department Contract Manager.

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Attachment C

Florida Department of Environmental Protection Task Assignment Notification Form for MIAMI-DADE COUNTY

Contract No. GC911 Task No. xx Amendment No. Date xxx

Performance Period: Effective the date of execution of this Task Assignment or July 1, 2017, whichever is later, and shall remain in effect until June 30, 2018.

Description: (Additional Pages May Be Utilized)

The Contractor shall complete the following services in accordance with the requirements in DEP Contract No. GC911

- Conduct routine compliance inspections at the xx facilities storage tank systems within Miami-Dade County, identified in Exhibit #1, by May 31, 2xxx.
- Perform all re-inspections per Guidance Document A to confirm compliance within Miami-Dade County. Comply with the **Revised Invoice Procedure** (Page 2)
- Utilize the new **Contractual Services Invoice Form** for all monthly invoices (Guidance Document E)
- Compensation will only occur for routine annual compliance inspections conducted at the facilities explicitly identified in the revised **Payment Calculation Sheet** (Guidance Document H)

The Contractor must perform all Enforcement Actions in accordance with Guidance Document F (Level of Effort). Guidance Document F available online at:

<http://www.dep.state.fl.us/waste/categories/tanks/pages/compliance.htm>.

All Guidance documents referenced in the Contract's Scope of Work are available online at:

<http://www.dep.state.fl.us/waste/categories/tanks/pages/compliance.htm>.

Order of Inspection and Substitutions of facilities on Exhibit #1:

Contractor is to conduct routine inspection in order provided in Exhibit #1. Substitutions of facilities are authorized with sites listed on the substitution list on Exhibit #1. The Contractor wishing to substitute a facility shall email department at STR_Invoices@dep.state.fl.us stating the facility and reason for the substitution. The Department will notify via email authorizing the substitution. Copies of authorizations shall be retained by the Contractor for the remainder of the Contract.

Performance Criteria:

- 1. Number of days to return to compliance for facilities receiving routine inspections**
- 2. Percent of facilities returned to compliance for facilities receiving routine inspections**

FDEP will determine levels of performance based on routine inspections completed before May 1, 2xxx. This will allow for the sixty day return to compliance rate to be determined before July 1, 2xxx.

Payment schedule: Compensation will occur on a monthly basis, per the fee schedule listed in Exhibit #2. Invoices are due no later than the 15th day of the month proceeding work activity. The Contractor must submit a signed 'Contractual Services Invoice' noting the quantity and location of inspections.

Retainage reimbursement criteria for the amount retained per Paragraph 21 of the Contract:

- Half (50%) of the amount retained will be returned to Contractor having an average return to compliance in less than 45 days for facilities receiving routine inspections.
- Half (50%) of the amount retained will be returned to Contractor having an average return to compliance rate of 95% or higher for facilities receiving routine inspections.
- Forty percent (40%) of the amount retained will be returned to Contractor having an average return to compliance rate between 45 and 60 days for facilities receiving routine inspections.
- Forty percent (40%) of the amount retained will be returned to Contractor having an average return to compliance rate of between 90% and up to 95% for facilities receiving routine inspections.
- Thirty percent (30%) of the amount retained will be returned to Contractor having an average return to compliance rate between 61 days and 75 days for facilities receiving routine inspections.
- Thirty percent (30%) of the amount retained will be returned to Contractor having an average return to compliance rate of between 85% and up to 90% for facilities receiving routine inspections.
- Twenty percent (20%) of the amount retained will be returned to Contractor having an average return to compliance rate between 76 days and 90 days for facilities receiving routine inspections.
- Twenty percent (20%) of the amount retained will be returned to Contractor having an average return to compliance rate of between 80% and up to 85% for facilities receiving routine inspections.
- NO retainage will be returned to Contractor having either: more than ninety (90) days as average time to return to compliance for facilities receiving routine inspections; or having an average of less than 80% of facilities receiving routine inspections returned to compliance.

Invoice Procedure

Review of Inspections: The Payment Calculation Sheet shall be submitted by the Contractor to the appropriate DEP District Office. The District will review in [Florida Inspection Reporting of Storage Tanks \(FIRST\)](#) each variable inspection listed on the Payment Calculation Sheet to ensure that the inspection is correctly invoiced. The District will ensure that each routine compliance inspection on the Payment Calculation Sheet is also listed on the task assignment facilities list. Upon completion of the review, the District shall report via email to the Permitting and Compliance Assistance Program's Contract Manager and the Contractor that the review of the inspections has been completed and of any known contractual obligations that have not been met.

Invoice Submission: All invoices with verified and approved Payment Calculation Sheet by the appropriate DEP District Office will be directly submitted by the Contractor to the Permitting and Compliance Assistance Program's Contract Manager by the 15th of each month. Submission of invoice shall be via email to: STR_Invoices@dep.state.fl.us. The email shall consist of a single PDF package. The order of documents in the complete PDF package shall be as follows:

- 1) Contractual Services Invoice
- 2) Verified Payment Calculation Sheet (please make sure the month of services rendered appears below the "Invoice Period")
- 3) FIRST Report (Compliance and Activity by Date Range)
- 4) Tracking Form (Monthly percentage of Routine Inspections Completed)



Florida Department of Environmental Protection

TASK ASSIGNMENT FORM

Required Signatures: **Adobe Signature**

FDEP Contract No:	Task Assignment No:	Date:	DEP Task Manager:
Project:			
Contractor Name:			
Contractor Representative:	Phone:	Email:	
FDEP Contract Manager:	Phone:	Email:	
Task Description:			
Deliverables:			
Performance Measures:			
Financial Consequences:			



Florida Department of Environmental Protection

TASK ASSIGNMENT FORM

Schedule:

Start Date:	Completion Date:
Fixed Price Cost:	Cost Reimbursement not to exceed:
Total Task Value:	

Signatures and Date:

1.	_____	_____	_____
	Task Manager, FDEP	Signature	Date
2.	_____	_____	_____
	Contract Manager, FDEP	Signature	Date
3.	_____	_____	_____
	Budget Representative, FDEP	Signature	Date
4.	_____	_____	_____
	Contractor, Contract Manager	Signature	Date
5.	_____	_____	_____
	Contract Authority, FDEP	Signature	Date

Encumbrance Information:

Budget Entity	Project #	Grant #	Org Code	Category & Year	Fund	Special Category	Object Code	EO	Amount
Total:									

ATTACHMENT D

Florida Department of Environmental Protection

TASK ASSIGNMENT CHANGE ORDER FORM



Required Signatures: **Adobe Signature**

Task Assignment Number: _____ Date: _____ Change Order No. _____

Contractor Name: _____

Contractor Representative: _____

DEP Contract Manager: _____

Description of Change (Use additional sheets if necessary):

Change in Task Amount

Item	Cost Reimbursement	Fee Schedule	Total
Original Task Amount:			
Task amount prior to this change order:			
Net increase/decrease in task amount:			
Task amount with all change orders:			

Change in Task Time

Original task completion date:	
Completion date prior to this change:	
Net increase/decrease in task period:	
Completion date with all change orders:	



Florida Department of Environmental Protection

TASK ASSIGNMENT CHANGE ORDER FORM

Change in Funding Information

Org. Code	E.O.	Object Code	Budget Entity	Special Category	Grant #	Year	Amount

CONTRACTOR

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Contract Manager Date

Contract Manager Date

APPROVED:

Budget Representative Date

Contractual Authority Date

cc: Procurement Section (MS93)
Bureau of Finance & Accounting (MS78) - 2 copies

**ATTACHMENT E
CONTRACTOR AFFIDAVIT / RELEASE OF CLAIMS FORM**

This affidavit must be completed and signed by the Contractor when requesting final payment for a Florida Department of Environmental Protection (Department) authorized Task Assignment. The signature of the Contractor shall be notarized as set forth below. Final payment for a Task Assignment will not be released until this form is accepted by the Department.

The undersigned certifies as follows:

1. I, _____ am the _____ of
(name of person appearing) (title of person appearing)

(name of Contractor) with the authority to
make this statement on behalf;
2. _____ ("the Contractor") entered into an
(name of company or person)
Agreement with the Department to perform certain work under Task Assignment No. _____.
3. Contractor has completed the work in accordance with the aforementioned Work Assignment, including all attachments. Thereto.
4. All subcontractors have been paid in full.
5. Upon receipt by Contractor from Department of final payment under the aforementioned Work Assignment, Contractor releases Department from any and all claims of Contractor and any of its subcontractors and vendors that may arise under, or by virtue of, the Task Assignment, except those claims that may be specifically exempt and set forth under the terms of this Contract. Exemptions claimed must be attached to this affidavit and reference the Task Assignment number. Any exemptions not attached are waived.

(signature of authorized Contractor representative)

----- **Notarization of Signature of Contractor (required)** -----

State of _____ County of _____

Sworn to and subscribed before me by _____ this _____ day of _____, 20____.

Personally known

Produced Identification. Type of ID: _____

(Notary's Signature)

My Commission Expires: _____

Notary Public, State of _____

Commission Number (if applicable) _____

GUIDANCE DOCUMENT A

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4000	62-761.100	62-761.100(3)	Site access to the facility and individual storage tank systems or system components, subject to safety considerations, shall be provided for compliance inspections conducted at reasonable times and with notice by phone or email. The facility owner or operator shall provide an authorized facility representative to unlock and open any covers, manways, and release detection equipment associated with the storage tank system or system component and demonstrate operational functionality of electronic equipment.	Minor	Inspection	No reasonable access provided.	1122
4001	62-761.350	62-761.350(1)	Owners or operators shall identify and designate for each in-service underground storage tank system facility, including unmanned facilities, at least one named individual for each class of operator – Class A, Class B, and Class C.	Minor	Review	Operator Training records not available.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4001	62-761.350	62-761.350(1)(c)	An individual may be designated as a Class A operator for one or more facilities. An individual may be designated as a Class B operator for one or more, but not to exceed 50 facilities. An individual Class C operator must be specifically trained for each facility.	Minor	Review	Operator Training records not available.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4001	62-761.350	62-761.350(1)(d)	<p>During hours of operation, facilities must have at least one certified operator (either a Class A, Class B, or Class C operator) present at the facility, except when a facility is unmanned. A facility is considered unmanned when during the normal course of business, and after hours of operation, there is routinely no Class A, B, or C operator present at the facility who could respond to alarms or emergencies related to the storage tank systems. (Examples of unmanned facilities include, but are not limited to, card lock or card access fueling stations, telecommunication towers or utility transfer stations serviced by emergency generator storage tank systems, and unattended storage tank systems located at industrial facilities.) Unmanned facilities must have weather resistant signage clearly visible from any dispenser which instructs users with regard to basic safety procedures, provides the customer with a 24-hour telephone number to contact a Class A, B, or C Operator for the facility and provides instruction on contacting local emergency responders.</p>	Minor	Review	Operator Training records not available.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4001	62-761.350	62-761.350(3)(b)2.	Class A and Class B operators must ensure that site-specific emergency response procedures are maintained in an easily accessible location at the facility which is immediately available to the Class C operator, and that site-specific notices that include the location of emergency shut-off devices and appropriate emergency contact telephone numbers are posted in a prominent area at the facility that is easily visible to the Class C operator. For the purposes of this subsection, the phrase "easily accessible location" means located in a place and manner that allows a Class C operator quick and immediate access to site-specific emergency response procedures.	Minor	Review	Operator Training records not available.	
4001	62-761.350	62-761.350(5)(a)	Deadlines. By October 13, 2018, owners or operators of underground storage tank system facilities must designate at least one Class A, Class B, and Class C operator for each facility who has completed an approved operator training course.	Minor	Review	Operator Training records not available.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4001	62-761.350	62-761.350(5)(b)	By October 13, 2018, Class A or Class B operators shall be designated by a facility owner or operator within 30 calendar days of assuming operation and maintenance responsibilities at the facility.	Minor	Review	Operator Training records not available.	
4001	62-761.350	62-761.350(5)(c)	By October 13, 2018, Class C operators shall be designated by a facility owner or operator, prior to assuming unsupervised responsibility for responding to emergencies at the facility.	Minor	Review	Operator Training records not available.	
4001	62-761.350	62-761.350(7)	Documentation. Owners and operators of underground storage tank system facilities, except unmanned facilities, must maintain required training certification documentation as described in this rule on-site and must provide it upon request to the county or Department. Documentation may be maintained electronically off-site if that facility has the capability of producing a clear printed copy which can be provided to the Department within 72 hours. Owners and operators of unmanned underground storage tank system facilities must provide documentation as requested by the Department.	Minor	Review	Operator Training records not available.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4002	62-761.400	62-761.400(1)(b)	For new facilities, which are facilities that began construction after January 11, 2017, a completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), January 11, 2017, hereby adopted and incorporated by reference, shall be submitted in electronic or paper format to the Department no later than 30 days prior to installation. For facilities with existing registered storage tank systems, a completed Registration Form shall be submitted in electronic or paper format to the Department no later than seven days prior to regulated substances being put into any new storage system.	Minor	Review	For a new system, Registration Form not submitted.	1001
4003	62-761.400	62-761.400(1)(c)	A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), January 11, 2017, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than 21 days after installation of a storage tank system, storage tank, or integral piping.	Minor	Review	For Installation, Certified Contractors Form not submitted.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4004	62-761.400	62-761.400(2)	For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:	Minor	Review	Registration Form not submitted for change in service or closure.	1001
4004	62-761.400	62-761.400(2)(a)	A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status or closure.	Minor	Review	Registration Form not submitted for change in service or closure.	1001
4005	62-761.400	62-761.400(2)(b)	A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 21 days after removal of a storage tank system.	Minor	Review	For Closure, Certified Contractors Form not submitted.	
4006	62-761.400	62-761.400(3)	A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:	Minor	Review	Following owner change or discovery of unregistered facility, Registration Form not submitted.	1001, 1009
4006	62-761.400	62-761.400(3)(a)	Any change in the owner or operator of a facility or of a storage tank system.	Minor	Review	Following owner change or discovery of unregistered facility, Registration Form not submitted.	1001, 1009

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4006	62-761.400	62-761.400(3)(b)	Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline); and	Minor	Review	Following owner change or discovery of unregistered facility, Registration Form not submitted.	1001, 1009
4006	62-761.400	62-761.400(3)(c)	The discovery of an unregistered storage tank system.	Minor	Review	Following owner change or discovery of unregistered facility, Registration Form not submitted.	1001, 1009
4007	62-761.400	62-761.400(4)	Registration fees.	Minor	Review	Registration fees not paid.	1002
4007	62-761.400	62-761.400(4)(a)	Registration fees are due from the tank or facility owner or operator, as indicated in this subsection, for all storage tank systems required to be registered. Registration fees for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.	Minor	Review	Registration fees not paid.	1002

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4007	62-761.400	62-761.400(4)(b)	A fee of \$50.00 per tank shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.	Minor	Review	Registration fees not paid.	1002
4007	62-761.400	62-761.400(4)(c)	A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system by July 1 each year.	Minor	Review	Registration fees not paid.	1002
4007	62-761.400	62-761.400(4)(d)	A fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced. The fee shall be paid within 30 days after receipt of an invoice by the Department.	Minor	Review	Registration fees not paid.	1002
4007	62-761.400	62-761.400(4)(e)	A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.	Minor	Review	Registration fees not paid.	1002
4007	62-761.400	62-761.400(4)(f)	Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have delinquent registration fees.	Minor	Review	Registration fees not paid.	1002

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4008	62-761.400	62-761.400(5)	Unless a valid registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f), F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators, and suppliers are each responsible for compliance with this provision. For the purposes of this Rule, motor fuels mean petroleum products, including petroleum products blended with biofuels, used for the operation of a motor or engine.	SNC-B	Review	Placard not displayed.	1003
4009	62-761.400	62-761.400(7)	Delivery prohibitions.	SNC-B	NCLI	Placard revocation due to Administrative Action.	
4009	62-761.400	62-761.400(7)(a)	No owner, operator, or supplier shall deposit any motor fuels into a storage tank system regulated under this Chapter unless that owner or operator has a valid, current registration placard issued by the Department covering that storage tank system. For the purposes of this Rule, motor fuels mean petroleum products, including petroleum products blended with biofuels, used for the operation of a motor or engine.	SNC-B	NCLI	Placard revocation due to Administrative Action.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4009	62-761.400	62-761.400(7)(b)	It is an affirmative defense to the imposition of an administrative penalty for a violation of paragraph (a) of this subsection that the owner, operator, or supplier delivering a regulated substance into a storage tank system relied on registration information for the storage tank system obtained from the Department's website not more than 30 days before the date of delivery.	SNC-B	NCLI	Placard revocation due to Administrative Action.	
4010	62-761.405	62-761.405(1)	For installations:	Minor	NCLI	For installation, notification not received in a timely manner.	1005, 1007
4010	62-761.405	62-761.405(1)(a)	For the purposes of this subsection, installation shall mean the date that the storage tank system or system component placement or construction will begin.	Minor	NCLI	For installation, notification not received in a timely manner.	1005, 1007
4010	62-761.405	62-761.405(1)(b)	Notification shall be received by the County in writing or electronic format between 30 and 45 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.	Minor	NCLI	For installation, notification not received in a timely manner.	1005, 1007

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4010	62-761.405	62-761.405(1)(c)	Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.	Minor	NCLI	For installation, notification not received in a timely manner.	1005, 1007
4011	62-761.405	62-761.405(2)	For change in service status and closure:	Minor	NCLI	For change in service status and closure, notification not received in a timely manner.	1006, 1009
4011	62-761.405	62-761.405(2)(a)	Notification shall be received by the county in writing or electronic format between 30 and 45 days before the initiation of the work related to the change in service status or closure unless the county agrees to a shorter time period.	Minor	NCLI	For change in service status and closure, notification not received in a timely manner.	1006, 1009
4011	62-761.405	62-761.405(2)(b)	Notification shall also be received by the county in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.	Minor	NCLI	For change in service status and closure, notification not received in a timely manner.	1006, 1009

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4011	62-761.405	62-761.405(2)(c)	A Closure Integrity Evaluation Report Form for USTs 62-761.900(7), (Closure Integrity Report), effective date, January 2017, hereby adopted and incorporated by reference, as prepared in accordance with paragraph 62-761.800(3)(a), F.A.C., must be provided to the county with the notification of closure or change in service from a regulated substance to a non-regulated substance.	Minor	NCLI	For change in service status and closure, notification not received in a timely manner.	1006, 1009
4011	62-761.405	62-761.405(2)(d)	Notification shall be received by the county in writing or electronic format at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol or greater than 20 percent biodiesel.	Minor	NCLI	For change in service status and closure, notification not received in a timely manner.	1006, 1009

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4012	62-761.405	62-761.405(3)	Notification of the discovery of an incident shall be made to the county in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), effective date, January 2017, hereby adopted and incorporated by reference, within 72 hours of the discovery or before the close of the County's next business day; however, an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur.	Minor	NCLI	For an incident, notification not received in a timely manner.	1010

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4013	62-761.405	62-761.405(4)	Except as provided in subsection 62-761.440(5), F.A.C., notification of the discovery of a discharge shall be made to the county in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, January 2017, hereby adopted and incorporated by reference, within 24 hours of the discovery or before the close of the county's next business day unless the discovery is a non-petroleum de minimis discharge referenced in Rule 62-780.550, F.A.C., or a petroleum or petroleum product de minimis discharge referenced in subsection 62-780.560(1), F.A.C. A de minimis discharge is exempt from the notification requirements as long as the discharge is removed and properly treated or properly disposed, or otherwise remediated pursuant to the applicable provisions of Chapter 62-780, F.A.C.	SNC-B	NCLI	For a discharge, notification not received in a timely manner.	1011

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4014	62-761.420	62-761.420(2)	Financial responsibility shall be maintained and demonstrated to the county or Department for all storage tank systems until the storage tank systems are properly closed pursuant to subsections 62-761.800(2) and (3), F.A.C., and the Closure Report or the Limited Closure Report Form for USTs 62-761.900(8), effective date, January 2017, hereby adopted and incorporated by reference, is submitted to and approved by the county or the Department. Pursuant to Section 376.309(1), F.S., the facility owner is required to establish and maintain evidence of financial responsibility and is liable in event of noncompliance. If the facility owner, facility operator, tank owner, and tank operator are separate persons, then evidence of financial responsibility may be demonstrated if one of those persons obtains financial responsibility on behalf of the facility owner.	SNC-B	Review	No financial responsibility instrument or expired instrument.	1004

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4015	62-761.420	62-761.420(3)	The demonstration of financial responsibility for storage tank systems shall be made in accordance with reference guideline <i>Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST), Financial Responsibility</i> , 40 CFR Part 280, Subpart H, July 2015, incorporated by reference in paragraph 62-762.300(2)(m), F.A.C., and obtained in paragraph 62-761.210(2)(n), F.A.C. However, Department Form 62-761.900(3) effective date, January 2017, Financial Mechanisms for Storage Tanks, hereby adopted and incorporated by reference, and available in Rule 62-761.900, F.A.C., can be used in lieu of the United States Environmental Protection Agency's financial mechanisms. Holders of financial responsibility mechanisms and facility owners are encouraged to permanently maintain evidence of financial responsibility and all correspondence with respect to coverage and claims.	Minor	Review	Incorrect paperwork for financial responsibility.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4015	62-761.420	62-761.420(4)	The appropriate part(s) of Form 62-761.900(3) shall be used when demonstrating proof of financial responsibility under this rule, and will satisfy the Certification of Financial Responsibility requirements of 40 CFR 280.111(b)(11). Facility owners shall ensure that copies of the current financial responsibility document(s) are available for inspection at the facility where the storage tank system(s) is located or at their place of business. Records kept off-site shall be made available for inspection by the Department or County within five business days from the receipt of the Department's or county's request.	Minor	Review	Incorrect paperwork for financial responsibility.	
4016	62-761.430	62-761.430(2)	If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.	SNC-B	NCL	Incident not investigated within 24-hours or by next business day.	1010, 1137

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4017	62-761.430	62-761.430(4)	In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or county. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system or system component shall be placed out-of-service until such time the investigation is completed and resolved.	Minor	Review	Incident investigation leading to discharge not completed within 14 days, and/or no DRF or written confirmation not received after 14-day investigation period.	
4017	62-761.430	62-761.430(5)	At the end of the 14 day time period to investigate the incident, or at the end of the alternate time period approved by the Department or county, either a DRF or a written confirmation and explanation that the incident was not a discharge, including documentation showing that contamination is the manifestation of a previously reported discharge, shall be submitted to the county in writing or electronic format.	Minor	Review	Incident investigation leading to discharge not completed within 14 days, and/or no DRF or written confirmation not received after 14-day investigation period.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4018	62-761.430	62-761.430(6)	The removal of any release of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within 30 days of discovery.	SNC-B	Inspection	Removal of regulated substance from a release not initiated within three days and completed within 30 days of discovery.	1139
4019	62-761.430	62-761.430(8)	All incidents, as identified in subsection 62-761.430(1), F.A.C., regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.	Minor	NCLI	All incident records, including test results not kept until storage tank system closure.	
4020	62-761.440	62-761.440(2)	Upon discovery of a discharge, the owner or operator shall report the discharge to the county on a DRF within 24 hours or before the close of the county's next business day. If, however, this discovery is thought to be a previously reported discharge, the owner or operator will have 30 days to investigate and submit supporting documentation or a DRF.	SNC-B	NCLI	Discharge not reported with 24-hours, or by next business day.	1011, 1141, 1146

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4021	62-761.440	62-761.440(3)	Copies of laboratory analytical results that confirm a discharge shall be submitted to the county within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.	Minor	Review	Analyticals not submitted with 24 -hours or next business day. OVA readings are not considered confirmation of discharge.	1012
4022	62-761.440	62-761.440(6)	Discharge response. When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:	SNC-A	Inspection	Actions not taken immediately to contain, remove, and abate the discharge.	1140, 1142, 1143, 1144, 1145, 1147, 1148
4022	62-761.440	62-761.440(6)(a)	Fire, explosion, and vapor hazards shall be identified and mitigated;	SNC-A	Inspection	Actions not taken immediately to contain, remove, and abate the discharge.	1140, 1142, 1143, 1144, 1145, 1147, 1148

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4022	62-761.440	62-761.440(6)(b)	Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;	SNC-A	Inspection	Actions not taken immediately to contain, remove, and abate the discharge.	1140, 1142, 1143, 1144, 1145, 1147, 1148
4022	62-761.440	62-761.440(6)(c)	Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source or cause of the discharge is unknown unless the storage tank system has been properly placed out-of-service in accordance with subsection 62-761.800(1), F.A.C.;	SNC-A	Inspection	Actions not taken immediately to contain, remove, and abate the discharge.	1140, 1142, 1143, 1144, 1145, 1147, 1148

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4022	62-761.440	62-761.440(6)(d)	The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of determining that the component is discharging, the storage tank system shall not operate, dispense, nor accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;	SNC-A	Inspection	Actions not taken immediately to contain, remove, and abate the discharge.	1140, 1142, 1143, 1144, 1145, 1147, 1148
4022	62-761.440	62-761.440(6)(e)	If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;	SNC-A	Inspection	Actions not taken immediately to contain, remove, and abate the discharge.	1140, 1142, 1143, 1144, 1145, 1147, 1148
4022	62-761.440	62-761.440(6)(f)	If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and,	SNC-A	Inspection	Actions not taken immediately to contain, remove, and abate the discharge.	1140, 1142, 1143, 1144, 1145, 1147, 1148

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4022	62-761.440	62-761.440(6)(g)	If the storage tank system component that was found to be discharging will not be repaired or replaced, the component shall remain isolated from the storage tank system. In cases where the component cannot be isolated from the storage tank system, the system shall remain out-of-service or shall be closed in accordance with Rule 62-761.800, F.A.C.	SNC-A	Inspection	Actions not taken immediately to contain, remove, and abate the discharge.	1140, 1142, 1143, 1144, 1145, 1147, 1148
4023	62-761.500	62-761.500(1)	General requirements.	SNC-B	Inspection	Failure of secondary containment to meet standards including: impervious spill containment, liners, allowing for release detection, allow for monitoring point, and hydrant pit secondary containment.	1014, 1016, 1017, 1019, 1021, 1022, 1029, 1030, 1034, 1035, 1036, 1037, 1066

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4023	62-761.500	62-761.500(1)(b)	Secondary containment.	SNC-B	Inspection	Failure of secondary containment to meet standards including: impervious spill containment, liners, allowing for release detection, allow for monitoring point, and hydrant pit secondary containment.	1014, 1016, 1017, 1019, 1021, 1022, 1029, 1030, 1034, 1035, 1036, 1037, 1066
4023	62-761.500	62-761.500(1)(b)1.	The materials used for secondary containment shall be:	SNC-B	Inspection	Failure of secondary containment to meet standards including: impervious spill containment, liners, allowing for release detection, allow for monitoring point, and hydrant pit secondary containment.	1014, 1016, 1017, 1019, 1021, 1022, 1029, 1030, 1034, 1035, 1036, 1037, 1066

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4023	62-761.500	62-761.500(1)(b)1.a.	Impervious to the regulated substance being stored in the storage tank system and able to withstand deterioration from external environmental conditions;	SNC-B	Inspection	Failure of secondary containment to meet standards including: impervious spill containment, liners, allowing for release detection, allow for monitoring point, and hydrant pit secondary containment.	1014, 1016, 1017, 1019, 1021, 1022, 1029, 1030, 1034, 1035, 1036, 1037, 1066
4023	62-761.500	62-761.500(1)(b)1.b.	Non-corrosive or of corrosion-protected materials or technologies; and,	SNC-B	Inspection	Failure of secondary containment to meet standards including: impervious spill containment, liners, allowing for release detection, allow for monitoring point, and hydrant pit secondary containment.	1014, 1016, 1017, 1019, 1021, 1022, 1029, 1030, 1034, 1035, 1036, 1037, 1066

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4023	62-761.500	62-761.500(1)(b)1.c.	Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.	SNC-B	Inspection	Failure of secondary containment to meet standards including: impervious spill containment, liners, allowing for release detection, allow for monitoring point, and hydrant pit secondary containment.	1014, 1016, 1017, 1019, 1021, 1022, 1029, 1030, 1034, 1035, 1036, 1037, 1066
4024	62-761.500	62-761.500(1)(b)2.	For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system.	Minor	Inspection	Secondary containment interfering with operation of the cathodic protection system.	
4025	62-761.500	62-761.500(1)(b)3.	Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.	Minor	Inspection	Not allowing for monitoring point.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4026	62-761.500	62-761.500(1)(b)4.	If factory-made single-walled spill containment systems or single-walled sumps are installed on the system, a containment integrity test shall be performed before the component is placed into service in accordance with Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities. For field-fabricated components the tests shall be at least for 24 hours in accordance with manufacturer's requirements.	Minor	Review	Factory-made single-walled spill containment systems not installed to allow for release detection.	
4026	62-761.500	62-761.500(1)(b)5	An interstitial integrity test shall be performed on the storage tank after it is delivered and installed at the facility and before the storage tank is placed into service. This test shall be performed in accordance with manufacturer's requirements or with the following document hereby adopted and incorporated by reference.	Minor	Review	Factory-made single-walled spill containment systems not installed to allow for release detection.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4026	62-761.500	62-761.500(1)(b)6	An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11, 2011 Edition, and PEI/RP1200-12, 2012 Edition, before the integral piping is placed into service.	Minor	Review	Factory-made single-walled spill containment systems not installed to allow for release detection.	
4026	62-761.500	62-761.500(1)(b)7	If double-walled spill containment systems or double-walled sumps are installed on the system, an interstitial integrity test shall be performed in accordance with PEI/RP1200-12, 2012 Edition, before the component is placed into service.	Minor	Review	Factory-made single-walled spill containment systems not installed to allow for release detection.	
4027	62-761.500	62-761.500(1)(c)	Cathodic protection.	Minor	Inspection	Cathodic protection test station/method and operation does not meet standards. Or, secondary containment interferes with the cathodic protection system.	1018, 1019

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4027	62-761.500	62-761.500(1)(c)1.	Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(f), F.A.C. Cathodic protection test stations shall provide direct access to the soil electrolyte in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.	Minor	Inspection	Cathodic protection test station/method and operation does not meet standards. Or, secondary containment interferes with the cathodic protection system.	1018, 1019
4028	62-761.500	62-761.500(1)(c)3.	Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.	Minor	Inspection	Field installed cathodic protection not installed by or under direction of a Corrosion Professional.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4028	62-761.500	62-761.500(1)(c)4.	Cathodic protection is not required for any field-fabricated primary storage tank that has been installed within a former single-walled storage tank as a means to upgrade to secondary containment. However, the former single-walled storage tank, which has now become the secondary containment must be protected from corrosion.	Minor	Inspection	Field installed cathodic protection not installed by or under direction of a Corrosion Professional.	
4029	62-761.500	62-761.500(1)(c)5.	Supplemental anodes that are added to a sti-P3® tank after, January 11, 2017, shall be installed in accordance with the following document, regardless of the date of installation of the storage tank system or storage tank system component: Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, STI R972, Revised December 2010.	Minor	Inspection	Supplemental anodes are not installed in accordance with guidelines.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4030	62-761.500	62-761.500(1)(d)	Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with materials that are compatible with, the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol, biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems. Storage tank systems and system components containing ethanol blends greater than 10 percent or biodiesel blends greater than 20 percent must demonstrate compatibility through registration of the storage tank system and system components in accordance with subsection 62-761.850(2), F.A.C.	SNC-B	Review	The primary and secondary wall linings are not compatible with the regulated substance.	
4031	62-761.500	62-761.500(1)(e)	All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.	Minor	Inspection	Not installed according to manufacturer's instructions.	1025
4032	62-761.500	62-761.500(1)(f)	All storage tank systems shall be installed in accordance with the following reference guidelines, hereby adopted and incorporated by reference.	SNC-B	Inspection	Not installed according to reference standards.	1026

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4032	62-761.500	62-761.500(1)(f)1.	Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, April 2011.	SNC-B	Inspection	Not installed according to reference standards.	1026
4032	62-761.500	62-761.500(1)(f)2.	Flammable and Combustible Liquids Code, NFPA 30, 2015 Edition, incorporated by reference in paragraph 62-761.300(2)(v), F.A.C.	SNC-B	Inspection	Not installed according to reference standards.	1026
4032	62-761.500	62-761.500(1)(f)3.	Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2015 Edition. To obtain this reference from the publisher, see paragraph 62-761.210(2)(g), F.A.C.;	SNC-B	Inspection	Not installed according to reference standards.	1026
4032	62-761.500	62-761.500(1)(f)4.	Process Piping, ASME B31.3, 2014 Edition. To obtain this reference from the publisher, see paragraph 62-761.210(2)(c), F.A.C.; and	SNC-B	Inspection	Not installed according to reference standards.	1026
4032	62-761.500	62-761.500(1)(f)5.	Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 2011 Edition. To obtain this reference from the publisher, see paragraph 62-761.210(2)(j), F.A.C.	SNC-B	Inspection	Not installed according to reference standards.	1026

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4033	62-761.500	62-761.500(1)(g)	Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with the following manufacturer's specifications, hereby adopted and incorporated by reference, and available from the Department address in subsection 62-761.210(1), F.A.C.:	SNC-B	Inspection	Not installed according to reference standards.	1025
4033	62-761.500	62-761.500(1)(g)1.	Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems, UL 1856, June 2013 Edition. To obtain this reference from the publisher, see paragraph 62-761.210(2)(m), F.A.C.; and,	SNC-B	Inspection	Not installed according to reference standards.	1025
4033	62-761.500	62-761.500(1)(g)2.	NLPA Standard 631, Chapters A and B, 1991. To obtain this reference from the publisher, see paragraph 62-761.210(2)(i), F.A.C.	SNC-B	Inspection	Not installed according to reference standards.	1025

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4034	62-761.500	62-761.500(1)(h)	If the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation, a Certified Contractor shall perform the installation of storage tank systems containing pollutants, including: tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensers	Minor	Review	Work not performed by a certified contractor.	1027, 1109

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4035	62-761.500	62-761.500(1)(i)	Whenever storage tanks or integral piping are installed or relocated after January 11, 2017, a survey drawing of installed tanks and underground integral piping signed and sealed by a professional land surveyor or professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The survey drawing of the work completed, along with any changes made to the original specifications during the construction process, shall include all construction and equipment design specifications including exact dimensions, geometry and locations of the storage tanks or integral piping installed. Surveys are not required for tanks that are retrofitted with internal secondary containment.	Minor	Review	Survey of ground contact and underground components not conducted or maintained.	
4036	62-761.500	62-761.500(2)	Storage tank installation.	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4036	62-761.500	62-761.500(2)(a)	All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030
4036	62-761.500	62-761.500(2)(b)	Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document: Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, May 2006, 2nd Edition, available from the publisher at UL, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847)272-8800, or from the publisher's website at www.ul.com/, or the Department address listed in subsection 62-761.210(1), F.A.C.; or these tanks shall be certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4036	62-761.500	62-761.500(2)(c)	Cathodically protected double-walled steel tanks shall be registered in accordance with subsection 62-761.850(2), F.A.C., and shall be:	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030
4036	62-761.500	62-761.500(2)(c)1.	Constructed in accordance with the following documents: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, July 1998, 9th Edition, and External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, January 2007, 3rd Edition, hereby adopted and incorporated by reference	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030
4036	62-761.500	62-761.500(2)(c)2.	Constructed in accordance with the following document: sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Revised November 2015, Steel Tank Institute (STI), hereby adopted and incorporated by reference	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4036	62-761.500	62-761.500(2)(c)3.	Constructed in accordance with reference document STI R972, Revised December 2010, incorporated by reference in subparagraph 62-761.500(1)(c)5, F.A.C.; or	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030
4036	62-761.500	62-761.500(2)(c)4.	Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed, and designed by a Corrosion Professional in accordance with the following document: Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, hereby adopted and incorporated by reference	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4036	62-761.500	62-761.500(2)(d)	Double-walled steel tanks coated with fiberglass reinforced plastic shall be constructed in accordance with UL 58, July 1998, UL 1746, January 2007, and Specification for External Corrosion Protection of FRP Composite Steel USTs – ACT-100®, STI F894, Revised November 2015, or these tanks shall be certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C. STI F894, Revised November 2015, is hereby adopted and incorporated by reference	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030
4036	62-761.500	62-761.500(2)(e)	Jacketed steel tanks shall be constructed in accordance with UL 1746, January 2007, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019,1021, 1026, 1030

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4036	62-761.500	62-761.500(2)(f)	Double-walled storage tanks that meet the above performance requirements, or other double-walled storage tanks that are constructed of equivalent material, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019, 1021, 1026, 1030
4036	62-761.500	62-761.500(2)(g)	Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.	SNC-B	Inspection	Storage tanks not installed according to manufacturer's instructions or reference standards.	1025, 1026, 1014, 1015, 1016, 1018, 1019, 1021, 1026, 1030
4037	62-761.500	62-761.500(2)(h)	Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:	Minor	Inspection	Underground tank relocation requirements not met, or reused tanks not properly recertified.	1023, 1024
4037	62-761.500	62-761.500(2)(h)1.	Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this subsection; or	Minor	Inspection	Underground tank relocation requirements not met, or reused tanks not properly recertified.	1023, 1024

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4037	62-761.500	62-761.500(2)(h)2.	Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this subsection; and,	Minor	Inspection	Underground tank relocation requirements not met, or reused tanks not properly recertified.	1023, 1024
4037	62-761.500	62-761.500(2)(h)3.	Show proof of recertification which shall be provided to the Department and county prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.	Minor	Inspection	Underground tank relocation requirements not met, or reused tanks not properly recertified.	1023, 1024
4038	62-761.500	62-761.500(3)	Integral piping.	SNC-B	Inspection	New piping not in contact with soil not installed to standards or without secondary containment.	1038, 1039, 1043, 1034, 1035
4038	62-761.500	62-761.500(3)(a)	All integral piping, including remote fill piping that is in contact with the soil, shall have secondary containment, with the exception of vertical fill piping equipped with a drop tube.	SNC-B	Inspection	New piping not in contact with soil not installed to standards or without secondary containment.	1038, 1039, 1043, 1034, 1035

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4038	62-761.500	62-761.500(3)(b)	All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.	SNC-B	Inspection	New piping not in contact with soil not installed to standards or without secondary containment.	1038, 1039, 1043, 1034, 1035
4038	62-761.500	62-761.500(3)(c)	All integral piping that is not in contact with the soil shall meet the construction requirements in subparagraphs 62-761.500(3)(d)2. through 5., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.	SNC-B	Inspection	New piping not in contact with soil not installed to standards or without secondary containment.	1038, 1039, 1043, 1034, 1035
4039	62-761.500	62-761.500(3)	Construction requirements.	SNC-B	Inspection	Piping in contact with soil not installed to standards.	1036, 1037, 1038, 1039, 1041

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4039	62-761.500	62-761.500(3)(d)1.	Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, March 2006, 2nd Edition, or shall be certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.	SNC-B	Inspection	Piping in contact with soil not installed to standards.	1036, 1037, 1038, 1039, 1041

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4039	62-761.500	62-761.500(3)(d)2.	Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.34, 2014 Edition. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632, 3rd Edition, May 1996, (Reaffirmed, June 2002); Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2013 (formerly RP0169), 2013 Edition; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Revised January 2006, hereby adopted and incorporated by reference, and available from the Department or individual addresses given in subsections 62-761.210(1) and (2), F.A.C.	SNC-B	Inspection	Piping in contact with soil not installed to standards.	1036, 1037, 1038, 1039, 1041

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4039	62-761.500	62-761.500(3)(d)3.	Metallic double-walled integral piping constructed of nonferrous materials, such as copper, does not require cathodic protection and shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, 2015 Edition, Flammable and Combustible Liquids Code, Piping System.	SNC-B	Inspection	Piping in contact with soil not installed to standards.	1036, 1037, 1038, 1039, 1041
4039	62-761.500	62-761.500(3)(d)4.	Metallic single-walled vertical fill piping does not require cathodic protection and shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, 2015 Edition, Flammable and Combustible Liquids Code, Piping Systems.	SNC-B	Inspection	Piping in contact with soil not installed to standards.	1036, 1037, 1038, 1039, 1041
4039	62-761.500	62-761.500(3)(d)5.	Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.	SNC-B	Inspection	Piping in contact with soil not installed to standards.	1036, 1037, 1038, 1039, 1041
4040	62-761.500	62-761.500(3)(e)	Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.	Minor	Inspection	Integral piping not installed with slope to a low point monitoring system or allows for release detection.	1036, 1037, 1038, 1039, 1041

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4041	62-761.500	62-761.500(3)(f)	Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, 2015 Edition, <i>Motor Fuel Dispensing Facilities and Repair Garages, Requirements for Dispensing Devices</i> . These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12, 2012 Edition, at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.	Minor	Inspection	Shear valve not installed properly.	1036, 1040, 1041

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4042	62-761.500	62-761.500(3)(g)	All storage tank systems located at an elevation that produces a gravity head on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, 2015 Edition, <i>Flammable and Combustible Liquids Code, Tank Openings Other Than Vents</i> , and located as close as practical to the storage tank, regardless of the date of installation of the storage tank system. In addition, anti-siphon valves shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, 2015 Edition, <i>Motor Fuel Dispensing Facilities and Repair Garages, Marine Fueling – Storage</i> , regardless of the date of installation of the storage tank system.	Minor	Inspection	Small diameter piping with gravity head not properly installed or meeting standards.	1036, 1040, 1041
4043	62-761.500	62-761.500(3)(h)	Pressurized integral piping systems connected to dispensers shall be installed with a method of leak detection that can detect a leak within one hour, and can include a mechanical line-leak detector or an electronic line leak detector, or another device registered in accordance with subsection 62-761.850(2), F.A.C.	SNC-B	Inspection	Pressurized integral piping connected to dispensers not installed with leak detection method.	1058, 1059, 1060, 1066, 1067

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4044	62-761.500	62-761.500(3)(i)	Storage tank systems using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with subsection 62-761.850(2), F.A.C., shall be designed and installed under the direction of a Corrosion Professional.	Minor	Review	Corrosion protection system with vapor corrosion inhibitors not installed by a Corrosion Professional.	
4045	62-761.500.	62-761.500.(4)	Spill containment systems.	SNC-B	Inspection	Storage tank system not installed with a spill containment system at each tank fill connection. Does not meet performance requirements.	1014
4045	62-761.500	62-761.500.(4)(a)	Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C	SNC-B	Inspection	Storage tank system not installed with a spill containment system at each tank fill connection. Does not meet performance requirements.	1014

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4046	62-761.500	62-761.500(4)(b)	Fillbox covers, regardless of the date of installation of the storage tank system, shall be marked or the fill connection tagged and facility signage shall be prominently displayed in accordance with the following documents hereby adopted and incorporated by reference, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.	Minor	Inspection	Fillbox covers not marked according to requirements.	1032
4047	62-761.500	62-761.500(4)(c)	Single-walled spill containment systems shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.	Minor	Inspection	Single-walled spill containment systems not installed to allow for release detection.	1014, 1016
4048	62-761.500	62-761.500(4)(d)	Double-walled spill containment systems shall be installed to allow for interstitial monitoring in accordance with Rule 62-761.600, F.A.C.	Minor	Inspection	Double-walled spill containment system does not allow for interstitial monitoring.	1014, 1016
4049	62-761.500	62-761.500(5)	Dispensers and dispenser sumps.	Minor	Inspection	Dispensers not installed and maintained according to standards.	1015

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4049	62-761.500	62-761.500(5)(a)	The dispensers used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30, 2015 Edition, incorporated by reference in paragraph 62-761.300(2)(v), F.A.C., and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Motor Fuel Dispensing Facilities and Repair Garages, Marine Fueling of NFPA 30A, 2015 Edition.	Minor	Inspection	Dispensers not installed and maintained according to standards.	1015
4050	62-761.500	62-761.500(5)(b)	Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.	SNC-B	Inspection	Dispensers not installed with a dispenser sump, or allow for release detection.	1015

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4051	62-761.500	62-761.500(5)(c)	Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser	Minor	Inspection	Dispenser sumps not installed to allow for release detection.	
4052	62-761.500	62-761.500(6)	Piping sumps.	SNC-B	Inspection	Piping sumps not meeting performance requirements or installed to allow for release detection.	1015, 1016, 1017
4052	62-761.500	62-761.500(6)(a)	Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.	SNC-B	Inspection	Piping sumps not meeting performance requirements or installed to allow for release detection.	1015, 1016, 1017
4053	62-761.500	2-761.500(6)(b)	Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.	Minor	Inspection	Piping sumps not installed to allow for release detection.	
4054	62-761.500	62-761.500(7)	Overflow protection.	SNC-B	Inspection	Overflow or spill not prevented.	1031

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4054	62-761.500	62-761.500(7)(a)	Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.	SNC-B	Inspection	Overfill or spill not prevented.	1031
4055	62-761.500	62-761.500(7)(b)1.	Storage tank systems shall be equipped with an overfill device that:	SNC-B	Inspection	Overfill that shuts off/restricts flow or triggers alarm not provided.	1031, 1033, 1116
4055	62-761.500	62-761.500(7)(b)1.	Automatically shuts off flow to the storage tank when the storage tank is no more than 95 percent full;	SNC-B	Inspection	Overfill that shuts off/restricts flow or triggers alarm not provided.	1031, 1033, 1116

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4055	62-761.500	62-761.500(7)(b)2.	Restricts flow to the storage tank when the storage tank is no more than 90 percent full and does not fill the storage tank beyond 95 percent capacity. Flow restrictors, such as ball float valves, used in vent lines may not be used when overflow protection is installed or replaced after January 11, 2017. Flow restrictors installed before January 11, 2017, may only be used if the storage tank system meets the requirements of Section 7 of PEI/RP100-11, 2011 Edition, Recommended Practices for Installation of Underground Liquid Storage Systems, UST Overflow Equipment Verification, Inspection and Testing; or	SNC-B	Inspection	Overflow that shuts off/restricts flow or triggers alarm not provided.	1031, 1033, 1116
4055	62-761.500	62-761.500(7)(b)3.	Alerts the transfer operator when the tank is no more than 90 percent full by triggering an alarm and does not fill the tank beyond 95 percent capacity.	SNC-B	Inspection	Overflow that shuts off/restricts flow or triggers alarm not provided.	1031, 1033, 1116
4056	62-761.500	62-761.500(7)(d)	Storage tank systems with capacities of 2,000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overflow protection requirements provided that the tanks are never filled beyond 80 percent capacity.	SNC-B	Review	Tanks filled without mated tight fill adaptor connection filled beyond 80 percent capacity.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4057	62-761.500	62-761.500(7)(e)	Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C., and an operability test shall be performed annually at intervals not exceeding 12 months to ensure proper operation	Minor	Review	Overfill devices not tested annually.	1117
4058	62-761.600	62-761.600(1)	General requirements.	SNC-A	Inspection	Cannot detect a release from any portion of the system.	1058, 1062, 1067, 1068, 1074, 1079, 1092
4058	62-761.600	62-761.600(1)(a)	Storage tank systems shall have a method, or combination of methods, of release detection that can detect a new release from any portion of the storage tank system.	SNC-A	Inspection	Cannot detect a release from any portion of the system.	1058, 1062, 1067, 1068, 1074, 1079, 1092
4058	62-761.600	62-761.600(1)(a)	For any storage tank system without a method, or combination of methods, of release detection in accordance with this rule, the owner or operator shall immediately provide a method of release detection, or shall immediately empty and place the storage tank system out-of-service, or close the storage tank system in accordance with subsection 62-761.800(2), F.A.C.	SNC-A	Inspection	Cannot detect a release from any portion of the system.	1058, 1062, 1067, 1068, 1074, 1079, 1092

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4058	62-761.600	62-761.600(1)(a)	Any component of a storage tank system with an interstice shall have a method of interstitial monitoring which shall be conducted in accordance with this rule. Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.	SNC-A	Inspection	Cannot detect a release from any portion of the system.	1058, 1062, 1067, 1068, 1074, 1079, 1092
4059	62-761.600	62-761.600(1)(d)	Except as otherwise specified this rule, the release detection method or combination of methods used at a facility shall be performed at least once every calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.	SNC-B	Review	Release detection not tested or visually inspected once a month. Aboveground piping not visually inspected.	1062, 1078

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4059	62-761.600	62-761.600(1)(e)	<p>Visual inspections. At least once a month, but not exceeding 35 days, every component of a storage tank system that contains, transfers, or stores, or is designed to contain, transfer, or store regulated substances that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of a storage tank system that reveals uncontrolled pitting corrosion, structural damage, leakage, or other similar problems is considered a positive response. The positive response shall be recorded as part of the release detection records. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. The positive response shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C., if it is determined that a release has occurred. A monthly visual inspection is not required for any system component using an electronic release detection method; however, piping and dispenser sumps that use an electronic release detection method must also be visually inspected.</p>	SNC-B	Review	Release detection not tested or visually inspected once a month. Aboveground piping not visually inspected.	1062, 1078

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4060	62-761.600	62-761.600(1)(f)	Electronic and mechanical release detection devices shall be:	Minor	Inspection	Release detection not installed, operated, and maintained per manufacturer's instructions and standards.	1059, 1060, 1061
4060	62-761.600	62-761.600(1)(f)1.	Installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.;	Minor	Inspection	Release detection not installed, operated, and maintained per manufacturer's instructions and standards.	1059, 1060, 1061
4061	62-761.600	62-761.600(1)(f)2.	Registered in accordance with subsection 62-761.850(2), F.A.C., except controllers or annunciators that are used to display leak detection test results are not required to be registered.	Minor	Review	Electronic and mechanical release detection devices not installed, calibrated, operated and maintained per manufacturer's instructions.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4062	62-761.600	62-761.600(1)(g)	Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status, and testing results related to potential releases shall be printed from any electronic release detection device and kept, or be provided to the county or Department upon request through electronic documentation. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status, and testing results	SNC-B	Review	Electronic release detection devices not inspected monthly.	1062, 1063, 1099
4063	62-761.600	62-761.600(1)(h)	Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable.	SNC-B	Inspection	Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4064	62-761.600	62-761.600(1)(i)	Storage tank systems that store fuel solely for use by emergency power generators installed prior to January 11, 2017, must meet the release detection requirements of Rule 62-761.600, F.A.C., on or before October 13, 2018. Storage tank systems that store fuel solely for use by emergency power generators installed after January 11, 2017, must meet the release detection requirements of Rule 62-761.600, F.A.C., at installation.	SNC-A	Inspection	Emergency power generator storage tank systems installed prior to rule do not meet release detection requirements by October 13, 2018.	
4065	62-761.600	62-761.600(2)	Storage Tanks.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094
4065	62-761.600	62-761.600(2)(a)	One or more of the following release detection methods shall be used:	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4065	62-761.600	62-761.600(2)(a)1.	Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels cannot be maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4065	62-761.600	62-761.600(2)(a)2.	Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels cannot be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4065	62-761.600	62-761.600(2)(a)3.	Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels cannot be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4065	62-761.600	62-761.600(2)(a)4.	Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid, other than condensate, in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094
4065	62-761.600	62-761.600(2)(a)5.	Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4065	62-761.600	62-761.600(2)(a)6.	Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094
4065	62-761.600	62-761.600(2)(a)6.a.	Pressure readings shall be able to detect a 50 percent change from one month to the next, or any change in pressure exceeding 50 percent of the initial level or of a pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge, and for vacuum systems, any complete loss of vacuum or positive pressure reading. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4065	62-761.600	62-761.600(2)(a)6.b.	Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation, hereby adopted and incorporated by reference.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094
4065	62-761.600	62-761.600(2)(a)7.	Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of groundwater or surface water, other than condensate, or regulated substances in the interstice is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4065	62-761.600	62-761.600(2)(a)8.	Visual monitoring of liners. This method shall be able to detect the presence of liquid at a low point of the liner. The accumulation of water or condensation in the low point of the liner shall not interfere with the ability to detect regulated substances. Any unexplained presence of regulated substances in the liner is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Inspection	Release detection methods do not meet monitoring requirements.	1093, 1094
4066	62-761.600	62-761.600(3)	Integral piping with secondary containment.	SNC-B	Review	Release detection devices for integral piping do not meet general standards.	1080, 1103, 1104
4066	62-761.600	62-761.600(3)(a)	One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.	SNC-B	Review	Release detection devices for integral piping do not meet general standards.	1080, 1103, 1104

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4066	62-761.600	62-761.600(3)(b)	In addition, pressurized integral piping in contact with the soil shall be equipped with a release detection system that can detect a leak within one hour. One of the following methods shall be used:	SNC-B	Review	Release detection devices for integral piping do not meet general standards.	1080, 1103, 1104
4066	62-761.600	62-761.600(3)(b)1.	Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gallons per hour (gph) with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 pounds per square inch (psi) and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Review	Release detection devices for integral piping do not meet general standards.	1080, 1103, 1104

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4066	62-761.600	62-761.600(3)(b)2.	<p>Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Monthly release detection printed tapes from automatic tank gauges for electronic line leak detectors are not required to be kept as records to demonstrate compliance, but a positive response from an electronic line leak detector must be recorded and investigated in accordance with Rule 62-761.430, F.A.C.</p>	SNC-B	Review	Release detection devices for integral piping do not meet general standards.	1080, 1103, 1104

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4066	62-761.600	62-761.600(3)(b)3.	Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of 10 gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	SNC-B	Review	Release detection devices for integral piping do not meet general standards.	1080, 1103, 1104
4067	62-761.600	62-761.600(4)	Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third-party certification by a Nationally Recognized Testing Laboratory.	Minor	Review	Release detection devices not tested annually.	1117

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4068	62-761.700	62-761.700(1)	Repairs.	Minor	Inspection	Not repaired component or piping which has or could cause a discharge or release.	1105, 1110
4068	62-761.700	62-761.700(1)(a)	Repairs shall be performed, as necessary, if any component of a storage tank system has:	Minor	Inspection	Not repaired component or piping which has or could cause a discharge or release.	1105, 1110
4068	62-761.700	62-761.700(1)(a)1.	A release or discharge or contributed to a release or discharge of a regulated substance; or	Minor	Inspection	Not repaired component or piping which has or could cause a discharge or release.	1105, 1110
4068	62-761.700	62-761.700(1)(a)2.	An operational or structural problem that could potentially result in a release or discharge, or lead to the presence of groundwater or surface water in the interstice of a double-walled storage tank or integral piping.	Minor	Inspection	Not repaired component or piping which has or could cause a discharge or release.	1105, 1110
4069	62-761.700	62-761.700(1)(b)	The storage tank system shall immediately cease operating, dispensing, and accepting deliveries if:	SNC-B	Inspection	Not taken out of operation until repair is made.	1106
4069	62-761.700	62-761.700(1)(b)1.	Repairs are required for any component of a storage tank system; and	SNC-B	Inspection	Not taken out of operation until repair is made.	1106

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4069	62-761.700	62-761.700(1)(b)2.	The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shutdown of electrical generating units serviced by the storage tank system.	SNC-B	Inspection	Not taken out of operation until repair is made.	1106
4070	62-761.700	62-761.700(1)(c).	Repairs shall be made:	Minor	Inspection	Not repaired per applicable standards.	1107
4070	62-761.700	62-761.700(1)(c)1.	To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and,	Minor	Inspection	Not repaired per applicable standards.	1107
4070	62-761.700	62-761.700(1)(c)2.	In accordance with manufacturer's specifications and applicable reference guidelines.	Minor	Inspection	Not repaired per applicable standards.	1107

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4071	62-761.700	62-761.700(1)(d)	If repairs are needed for any primary or secondary tank or piping system walls, or any interstitial spaces of storage tank system components, the repaired components shall be integrity tested for liquid tightness before being placed back into operation	Minor	Inspection	Integrity test not completed before being placed into operation or service.	1102, 1108, 1126, 1127
4072	62-761.700	62-761.700(2)	Cathodic protection.	Minor	Review	Cathodic protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil or within metallic interstitial spaces using vapor corrosion inhibitor technologies.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4072	62-761.700	62-761.700(2)(a)	Cathodic protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil or within metallic interstitial spaces using vapor corrosion inhibitor technologies.	Minor	Review	Cathodic protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil or within metallic interstitial spaces using vapor corrosion inhibitor technologies.	

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4073	62-761.700	62-761.700(2)(b)	Inspection and testing requirements	Minor	Inspection	Cathodic protection not operated and maintained to provide continuous protection. System not inspected 6 months after installation or repair and annually/3 years. Impressed current system not inspected every 2 months.	1111, 1112, 1113

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4073	62-761.700	62-761.700(2)(b)1.	Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2013, incorporated by reference in subparagraph 62-761.500(3)(d)2., F.A.C., and SP0285-2011, incorporated by reference in subparagraph 62-761.500(2)(c)4., F.A.C.; or STI R051-06 Cathodic Protection Testing Procedures for sti-P3® UST's, (R051), Revised January 2006, as applicable, regardless of the date of installation of the storage tank system. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.	Minor	Inspection	Cathodic protection not operated and maintained to provide continuous protection. System not inspected 6 months after installation or repair and annually/3 years. Impressed current system not inspected every 2 months.	1111, 1112, 1113

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4073	62-761.700	62-761.700(2)(b)2.	Storage tank systems with impressed current systems shall be inspected at intervals not exceeding 60 days. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1,440 hours in one year shall be immediately taken out-of-service and assessed within 30 days by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.	Minor	Inspection	Cathodic protection not operated and maintained to provide continuous protection. System not inspected 6 months after installation or repair and annually/3 years. Impressed current system not inspected every 2 months.	1111, 1112, 1113
4074	62-761.700	62-761.700(2)(c)	Records of the continuous operation of impressed current systems and all cathodic protection inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.	Minor	Review	Records for operation of impressed current systems not complete.	1114

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4075	62-761.700	62-761.700(2)(d)	Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:	Minor	Inspection	Cathodic protection systems that do not meet requirements not repaired in 90 days or closed.	
4075	62-761.700	62-761.700(2)(d)1.	Be repaired within 90 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or	Minor	Inspection	Cathodic protection systems that do not meet requirements not repaired in 90 days or closed.	
4075	62-761.700	62-761.700(2)(d)2.	Be closed in accordance with subsection 62-761.800(2), F.A.C.	Minor	Inspection	Cathodic protection systems that do not meet requirements not repaired in 90 days or closed.	
4076	62-761.700	62-761.700(3)	Operation and maintenance.	Minor	Inspection	Failure to allow for/perform breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4076	62-761.700	2-761.700(3)(a)	Integrity testing.	Minor	Inspection	Failure to allow for/perform breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120
4076	62-761.700	62-761.700(3)(a)1.	The integrity of secondary containment systems and interstitial spaces, regardless of the date of installation of the storage tank system or storage tank system component, shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications or PEI/RP1200-12, 2012 Edition, incorporated by reference in subparagraph 62-761.500(1)(b)5., F.A.C. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed in accordance with the following schedule:	Minor	Inspection	Failure to allow for/perform breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4076	62-761.700	62-761.700(3)(a)1.a.	Double-walled storage tanks and piping shall be tested at the time of installation and at the time of any subsequent repair;	Minor	Inspection	Failure to allow for/performance breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120
4076	62-761.700	62-761.700(3)(a)1.b.	Below-grade piping sumps shall be tested by October 13, 2018, and every three years thereafter;	Minor	Inspection	Failure to allow for/performance breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120
4076	62-761.700	62-761.700(3)(a)1.c.	Below-grade dispenser sumps shall be tested by October 13, 2018, and every three years thereafter;	Minor	Inspection	Failure to allow for/performance breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120
4076	62-761.700	62-761.700(3)(a)1.d.	Double-walled spill containment systems shall be tested by October 13, 2018, and every three years thereafter;	Minor	Inspection	Failure to allow for/performance breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120
4076	62-761.700	62-761.700(3)(a)1.e.	All single-walled spill containment systems shall be tested within one year of the January 11, 2017, and at intervals not exceeding every 12 months thereafter; and,	Minor	Inspection	Failure to allow for/performance breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4076	62-761.700	62-761.700(3)(a)1.f.	Single-walled storage tanks or integral piping installed within liners are exempt from this requirement.	Minor	Inspection	Failure to allow for/performance breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120
4076	62-761.700	62-761.700(3)(a)2.	Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.	Minor	Inspection	Failure to allow for/performance breach of integrity test, tightness test for integral piping.	1020, 1028, 1119, 1120
4077	62-761.700	62-761.700(3)(b)	Water removal.	Minor	Review	Spill containment, dispenser liners, and piping sumps not accessible. Water or regulated substances not removed.	1115

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4077	62-761.700	62-761.700(3)(b)1.	Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.	Minor	Review	Spill containment, dispenser liners, and piping sumps not accessible. Water or regulated substances not removed.	1115
4077	62-761.700	62-761.700(3)(b)2.	Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in accordance with Chapter 62-740, F.A.C.	Minor	Review	Spill containment, dispenser liners, and piping sumps not accessible. Water or regulated substances not removed.	1115

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4078	62-761.710	62-761.710(1)	All records, whether in paper or electronic format, shall be dated and available for inspection by the Department or county. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five business days of receipt of the Department's or county's request. Site access to the facility shall be provided for compliance inspections conducted at reasonable times.	Minor	Review	Permanent records not available within 5 working days notice.	1122
4079	62-761.710	62-761.710(2)	Records of the following, generated on or after January 11, 2017, are required to be kept for three years. Records of the following, generated before January 11, 2017, are required to be kept for two years:	Minor	Review	Records requiring 3 years documentation period not kept by facility.	1123
4079	62-761.710	62-761.710(2)(a)	Repair, operation, and maintenance records;	Minor	Review	Records requiring 3 years documentation period not kept by facility.	1123
4079	62-761.710	62-761.710(2)(b)	All release detection results, including a record or summary of the alarm history, sensor status, and testing results for electronic systems, performed in accordance with paragraph 62-761.600(2)(e), F.A.C.;	Minor	Review	Records requiring 3 years documentation period not kept by facility.	1123

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4079	62-761.710	62-761.710(2)(c)	All test data and results gathered during annual operability tests and integrity tests; and,	Minor	Review	Records requiring 3 years documentation period not kept by facility.	1123
4079	62-761.710	62-761.710(2)(d)	Records of the types of fuels stored per tank.	Minor	Review	Records requiring 3 years documentation period not kept by facility.	1123
4080	62-761.710	62-761.710(3)	Records of the following shall be maintained until storage tank system closure:	Minor	Review	Records required for life of system not kept by facility.	1091, 3075
4080	62-761.710	62-761.710(3)(a)	Manufacturer's instructions for operation, maintenance, and testing for release detection equipment;	Minor	Review	Records required for life of system not kept by facility.	1091, 3075
4080	62-761.710	62-761.710(3)(b)	Records of storage tank system installations, replacements, recertifications, and upgrades;	Minor	Review	Records required for life of system not kept by facility.	1091, 3075
4080	62-761.710	62-761.710(3)(c)	Records of installation, maintenance, inspections, and testing of cathodic protection systems in accordance with NACE and STI standards;	Minor	Review	Records required for life of system not kept by facility.	1091, 3075
4080	62-761.710	62-761.710(3)(d)	Survey drawings as specified in paragraph 62-761.500(1)(i), F.A.C.;	Minor	Review	Records required for life of system not kept by facility.	1091, 3075
4080	62-761.710	62-761.710(3)(e)	A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430, F.A.C.;	Minor	Review	Records required for life of system not kept by facility.	1091, 3075

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4080	62-761.710	62-761.710(3)(f)	A copy of all DRFs;	Minor	Review	Records required for life of system not kept by facility.	1091, 3075
4080	62-761.710	62-761.710(3)(g)	A copy of all documents required in Rule 62-761.800, F.A.C., if the location continues as a facility;	Minor	Review	Records required for life of system not kept by facility.	1091, 3075
4080	62-761.710	62-761.710(3)(h)	Records to demonstrate insurance as the method of financial responsibility for storage tank systems shall be maintained in permanent form if no contamination has been reported or if no Site Rehabilitation Completion Order (SRCO) has been issued pursuant to Chapter 62-780, F.A.C. Records demonstrating other methods of financial responsibility for storage tank systems shall be maintained for the duration of the effective period of that financial responsibility method; and,	Minor	Review	Records required for life of system not kept by facility.	1091, 3075
4080	62-761.710	62-761.710(3)(i)	Records documenting compliance with compatibility of storage tank systems and system components storing regulated substances containing ethanol blends greater than 10 percent and biodiesel blends greater than 20 percent in accordance with paragraphs 62-761.405(2)(d), 62-761.500(1)(d), and 62-761.850(2)(g), F.A.C.	Minor	Review	Records required for life of system not kept by facility.	1091, 3075

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4081	62-761.710	62-761.710(4)	Records of current training certificates for designated Class A, B, and C operators shall be maintained for as long as the operators are designated for that facility.	Minor	Review	Records of current training certificates for designated Class A, B, and C operators shall be maintained for as long as the operators are designated for that facility not kept.	
4082	62-761.800	62-761.800(1)	Out-of-service storage tank systems.	Minor	Inspection	Requirements not met for out of service systems, including liquids and sludges not removed from tank(s).	1125, 1129
4082	62-761.800	62-761.800(1)(b)	Facility owners and operators of out-of-service storage tank systems shall:	Minor	Inspection	Requirements not met for out of service systems, including liquids and sludges not removed from tank(s).	1125, 1129

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4082	62-761.800	62-761.800(1)(b)1.	Continue to operate and maintain corrosion protection in accordance with subsection 62-761.700(2), F.A.C.;	Minor	Inspection	Requirements not met for out of service systems, including liquids and sludges not removed from tank(s).	1125, 1129
4082	62-761.800	62-761.800(1)(b)2.	Continue to maintain and demonstrate financial responsibility pursuant to Rule 62-761.420, F.A.C.;	Minor	Inspection	Requirements not met for out of service systems, including liquids and sludges not removed from tank(s).	1125, 1129
4082	62-761.800	62-761.800(1)(b)3.	Leave vent lines open and functioning;	Minor	Inspection	Requirements not met for out of service systems, including liquids and sludges not removed from tank(s).	1125, 1129
4082	62-761.800	62-761.800(1)(b)4.	Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of regulated substances remains in the storage tank; and,	Minor	Inspection	Requirements not met for out of service systems, including liquids and sludges not removed from tank(s).	1125, 1129

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4082	62-761.800	62-761.800(1)(b)5.	Secure or close off the system to outside access.	Minor	Inspection	Requirements not met for out of service systems, including liquids and sludges not removed from tank(s).	1125, 1129
4083	62-761.800	62-761.800(1)(c)	Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually but not to exceed 12 months, unless the tank system contains no regulated substances. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch, or 0.3 percent by weight, in the storage tank or any liquid, other than condensate, in the interstice is discovered, facility owners and operators must follow the procedures for incidents pursuant to Rule 62-761.430, F.A.C.	Minor	Inspection	Out of service storage tank systems interstice and liquid level not monitored annually.	1125

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4084	62-761.800	62-761.800(1)(d)	Release detection device annual operability testing, containment and interstitial integrity testing, and annual overfill protection device testing are not required while the system is properly out-of-service. All aforementioned testing shall be up-to-date in accordance with this chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems installed after January 11, 2017, that have been out-of-service for more than 730 days shall perform interstitial integrity testing of the storage tank and integral piping before adding regulated substances to the storage tank system.	Minor	Inspection	Out of service storage tank systems not tested annually for operability.	1125
4085	62-761.800	62-761.800(1)(e)	Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of 10 continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2)(b), F.A.C.	SNC-B	Review	Storage tanks systems with secondary containment designated out of service greater than 10 years.	1121, 1128

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4086	62-761.800	62-761.800(2)	Closure of storage tank systems.	SNC-B	Inspection	USTs not closed with 90 days of discovery, or not meeting requirements, unable to be repaired or no FR.	1132
4086	62-761.800	62-761.800(2)(a)	The following storage tank systems must be closed in accordance with the provisions of this subsection:	SNC-B	Inspection	USTs not closed with 90 days of discovery, or not meeting requirements, unable to be repaired or no FR.	1132
4086	62-761.800	62-761.800(2)(a)1.	A storage tank system that fails to meet or, if required, is not modified to meet the Storage Tank System Requirements of Rule 62-761.500, F.A.C., within 90 days of discovery.	SNC-B	Inspection	USTs not closed with 90 days of discovery, or not meeting requirements, unable to be repaired or no FR.	1132
4086	62-761.800	62-761.800(2)(a)2.	A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this chapter shall be taken out-of-service. If it cannot be repaired within 365 days after being taken out-of-service, it shall be permanently closed.	SNC-B	Inspection	USTs not closed with 90 days of discovery, or not meeting requirements, unable to be repaired or no FR.	1132

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4086	62-761.800	62-761.800(2)(a)3.	A storage tank system where financial responsibility is not maintained and demonstrated, pursuant to Rule 62-761.420, F.A.C., within 90 days of termination of the financial mechanism.	SNC-B	Inspection	USTs not closed with 90 days of discovery, or not meeting requirements, unable to be repaired or no FR.	1132
4087	62-761.800	62-761.800(2)(b)	Closure of storage tank systems shall be performed by:	Minor	Inspection	Storage tank system closure requirements not met.	1130, 1131, 1133, 1134
4087	62-761.800	62-761.800(2)(b)1.	Conducting a Closure Integrity Evaluation as defined in subsection 62-761.200(10), F.A.C., and completing the Closure Integrity Evaluation Report Form for USTs 62-761.900(7) (Closure Integrity Report), incorporated by reference in paragraph 62-761.405(2)(c), F.A.C. The form shall be submitted in writing or electronic format to the appropriate county;	Minor	Inspection	Storage tank system closure requirements not met.	1130, 1131, 1133, 1134
4087	62-761.800	62-761.800(2)(b)2.	Removing all liquids and accumulated sludges. The removal and disposal of all liquids and accumulated sludges may be required according to other local, state, and federal requirements;	Minor	Inspection	Storage tank system closure requirements not met.	1130, 1131, 1133, 1134
4087	62-761.800	62-761.800(2)(b)3.	Removing by a Certified Contractor or disconnecting and capping all integral piping;	Minor	Inspection	Storage tank system closure requirements not met.	1130, 1131, 1133, 1134

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4087	62-761.800	62-761.800(2)(b)4.	Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents, hereby adopted and incorporated by reference, and available from the addresses given, regardless of the date of installation of the storage tank system: Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996. In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances in accordance with API Recommended Practice 1604, 3rd Edition, March 1996 (Reaffirmed, November 2001). Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and,	Minor	Inspection	Storage tank system closure requirements not met.	1130, 1131, 1133, 1134
4087	62-761.800	62-761.800(2)(b)5.	Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes.	Minor	Inspection	Storage tank system closure requirements not met.	1130, 1131, 1133, 1134

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4088	62-761.800	62-761.800(3)	Closure Integrity Report, Closure Report, and Limited Closure Report Requirements.	Minor	Review	Closure Integrity Report and Evaluation not completed and submitted in a timely fashion.	1135
4088	62-761.800	62-761.800(3)(a)	Closure Integrity Report.	Minor	Review	Closure Integrity Report and Evaluation not completed and submitted in a timely fashion.	1135
4088	62-761.800	62-761.800(3)(a)1.	A Closure Integrity Evaluation, as defined in subsection 62-761.200(10), F.A.C., must be performed no more than 45 days prior to closure, replacement, or change in service from a regulated substance to a non-regulated substance for all double-walled storage tanks, double-walled integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil. A Closure Integrity Report must be completed to document the findings of the Closure Integrity Evaluation.	Minor	Review	Closure Integrity Report and Evaluation not completed and submitted in a timely fashion.	1135

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4088	62-761.800	62-761.800(3)(a)2.	A Closure Integrity Evaluation requires a visual assessment of the interstitial space of double-walled tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil to determine if there are any products or pollutants or any water other than condensate present within the interstice. Other methods approved by the manufacturer or the Department such as vacuum, pressure, or inert gases may be used instead of visual observations.	Minor	Review	Closure Integrity Report and Evaluation not completed and submitted in a timely fashion.	1135
4088	62-761.800	62-761.800(3)(a)3.	A Closure Integrity Evaluation for single-walled piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil requires a hydrostatic test or another test approved by the manufacturer.	Minor	Review	Closure Integrity Report and Evaluation not completed and submitted in a timely fashion.	1135
4088	62-761.800	62-761.800(3)(a)4.	The county must be provided with a copy of the Closure Integrity Report as part of the notification process pursuant to subsection 62-761.405(2), F.A.C.	Minor	Review	Closure Integrity Report and Evaluation not completed and submitted in a timely fashion.	1135

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4088	62-761.800	62-761.800(3)(a)5.	<p>A failed Closure Integrity Evaluation requires the reporting of the failed evaluation as an incident in accordance with subsection 62-761.405(3), F.A.C., and the investigation of the incident in accordance with subsection 62-761.430, F.A.C. If sampling is necessary to determine whether a discharge has occurred, then an investigation shall be conducted during closure in accordance with Instructions for Conducting Sampling During Underground Storage Tank Closure, April 2016 Edition, hereby adopted and incorporated by reference, and available at http://www.flrules.org/Gateway/ref-erence.asp?No=Ref-07662, or the Department address given in paragraph 62-761.210(1)(e), F.A.C., or the Department's website at http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm, regardless of the date of installation of the storage tank system or system component being closed.</p>	Minor	Review	Closure Integrity Report and Evaluation not completed and submitted in a timely fashion.	1135

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4088	62-761.800	62-761.800(3)(a)6.	The owner or operator who does not conduct a Closure Integrity Evaluation before the storage tank system or system component has been removed or closed in-place, regardless of the date of installation of the storage tank system or system component, shall conduct an investigation at the time of closure in accordance with Instructions for Conducting Sampling During Underground Storage Tank Closure, April 2016 Edition.	Minor	Review	Closure Integrity Report and Evaluation not completed and submitted in a timely fashion.	1135
4089	62-761.800	62-761.800(3)(b)	Closure Report. In cases where an investigation is conducted at the time of closure in accordance with <i>Instructions for Conducting Sampling During Underground Storage Tank Closure</i> , April 2016 Edition, a Closure Report shall be submitted in writing or electronic format to the County within 60 days of completion of the closure, replacement, or change in service from a regulated substance to a non-regulated substance. The Closure Report shall be prepared in accordance with <i>Instructions for Conducting Sampling During Underground Storage Tank Closure</i> , April 2016 Edition.	SNC-B	Review	Closure assessment, sampling not performed and submitted within 60 days.	1135, 1136, 1137

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4090	62-761.800	62-761.800(3)(c)	Limited Closure Report. In cases where a Closure Integrity Evaluation passed or where a failed Closure Integrity Evaluation was investigated prior to closure and it was demonstrated that a discharge did not occur, Form 62-761.900(8), Limited Closure Report Form for USTs, incorporated by reference in subsection 62-761.420(2), F.A.C., shall be submitted in writing or electronic format to the county within 60 days of completion of the closure, replacement, or change in service from a regulated substance to a non-regulated substance.	SNC-B	Review	Closure assessment not performed.	1135
4091	62-761.850	62-761.850(1)	Alternative procedure requirements.	Minor	Review	Facility not in compliance with Alternate Procedure.	1149

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4091	62-761.850	62-761.850(1)(a)	Any person subject to the provisions of this chapter may request in writing a determination by the Secretary or the Secretary's designee that any requirement of this chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of alternative procedures or requirements on Form 62-761.900(4), Alternative Procedure Form, effective date, January 2017, hereby adopted and incorporated by reference.	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(b)	The request shall set forth at a minimum the following information:	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(b)1.	The specific storage tank system or facility for which an exception is sought;	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(b)2.	The specific provisions of this chapter from which an exception is sought;	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(b)3.	The basis for the exception;	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(b)4.	The alternative procedure or requirement for which approval is sought;	Minor	Review	Facility not in compliance with Alternate Procedure.	1149

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4091	62-761.850	62-761.850(1)(b)5.	Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the state as the specific provisions of this chapter from which an alternative procedure is sought established requirement; and,	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(b)6.	Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(b)7.	If an alternative procedure or requirement is not able to be sought under subparagraph 5. or 6., then documentation that demonstrates that the specific provisions of this chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters, or groundwaters of the State as the established requirement.	Minor	Review	Facility not in compliance with Alternate Procedure.	1149

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4091	62-761.850	62-761.850(1)(c)	The Department shall issue an Order within 60 days of the receipt of a completed Alternative Procedure Form either:	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(c)1.	Approving the request with any conditions necessary to meet the requirements of paragraph 62-761.850(1)(b), F.A.C., or	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(c)2.	Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(d)	The Department's order shall be Agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. The Department's failure to timely issue an Order does not grant or approve the request.	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(e)	The provisions of this rule do not preclude the use of any other applicable relief provisions.	Minor	Review	Facility not in compliance with Alternate Procedure.	1149
4091	62-761.850	62-761.850(1)(f)	Facilities where an alternative procedure was previously approved by the Department may continue to operate using the conditions of the alternative procedure issued by the Department.	Minor	Review	Facility not in compliance with Alternate Procedure.	1149

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4092	62-761.850	62-761.850(2)	Registration of storage tank system equipment and release detection systems and methods.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(a)	Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(b)	Any storage tank system equipment installed after January 11, 2017, must be registered with the Department in accordance with this subsection. Upon discovery, non-registered storage tank system equipment installed after January 11, 2017, must be removed within 90 days, unless registration is applied for or obtained and listed within the 90 day time period.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4092	62-761.850	62-761.850(2)(c)	Equipment previously approved by the Department under the former Equipment Approval process and installed prior to January 11, 2017, can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed and installed.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(d)	Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(9), Storage Tank Equipment Registration Form, (Equipment Registration Form) effective date, January 2017, hereby adopted and incorporated by reference. The following storage tank system equipment is exempt from registration:	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(d)1.	Dispensers, dispenser islands, nozzles, and hoses;	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(d)2.	Manhole and fillbox covers;	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4092	62-761.850	62-761.850(2)(d)3.	Valves and ball float valves;	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(d)4.	Cathodic protection test stations;	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(d)5.	Integral piping not in contact with soil, unless the integral piping extends over or into surface waters;	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(d)6.	Vent lines; and,	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(d)7.	Gauges used for vacuum and pressure monitoring.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4092	62-761.850	62-761.850(2)(e)	Equipment registration requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will meet the appropriate performance requirements contained in this chapter. Any approvals or denials received from other states or countries shall be included in the registration request to the Department.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(f)	A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(f)1.	A technical evaluation of the equipment;	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(f)2.	Test results that verify that the equipment will function as designed;	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(f)3.	A professional certification or determination that the equipment meets the performance requirements contained in this chapter.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4092	62-761.850	62-761.850(2)(f)4.	Integrity test requirements and procedures;	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(f)5.	Annual operability testing procedure for the equipment or release detection system or method; and,	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(f)6.	Copies of the manufacturer's instructions to maintain the manufacturer's warranty.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(g)	For storage tank systems or system components that are compatible with ethanol blends greater than 10 percent or biodiesel blends greater than 20 percent, compatibility must be demonstrated to the Department by a third-party in paragraph (f) of this subsection or manufacturer approval. Manufacturer approval must be in writing, indicate an affirmative statement of compatibility, specify the range of biofuel blends the equipment or system component is compatible with, and be from the equipment or system component manufacturer.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4092	62-761.850	62-761.850(2)(h)	Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection prior to being used.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(i)	The storage tank system equipment and release detection systems and methods registered with the Department under this subsection must be renewed by the equipment manufacturer every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(j)	The Department shall only place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration if:	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150

Violation ID	Rule Root	Rule Number(s)	Citation	Significance	Reevaluation	Short description	Old Violation Code
4092	62-761.850	62-761.850(2)(j)1.	The information submitted to the Department is not in accordance with this subsection;	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(j)2.	The equipment does not perform in field application as certified in the third-party certification by a Nationally Recognized Testing Laboratory, or	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150
4092	62-761.850	62-761.850(2)(j)3.	The equipment is not constructed in accordance with the approved registration or applicable Reference Guidelines.	Minor	Review	Equipment not approved by DEP before installation or use.	1081, 1150

*Instructions for Conducting Sampling During Aboveground
Storage Tank Closure*

**Permitting and Compliance Assistance Program
Division of Waste Management
Florida Department of Environmental Protection**

April 2016

[Incorporated in subparagraph 62-762.801(2)(b)5., F.A.C.]

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INSTRUCTIONS FOR CONDUCTING SAMPLING DURING CLOSURE

INTRODUCTION

This document establishes procedures for conducting and reporting storage tank system closures to meet the requirements of Chapter 62-762, Florida Administrative Code (F.A.C.), Aboveground Storage Tank Systems.

As an integral part of a system or a system component closure performed at an Aboveground Storage Tank (AST) facility a Closure Report or a Limited Closure Report, as applicable, shall be prepared and submitted to the Department or contracted County program as required in subsections 62-762.801, F.A.C., and 62-762.802, F.A.C. The report is to describe the work that was performed at the facility during the system or system component closure, and summarize any data collected at that time.

A Site Assessment in accordance with Chapter 62-780, F.A.C., conducted and approved by the Department will satisfy the requirements of this guideline. However, these guidelines do not meet the criteria to qualify for the issuance of a Site Rehabilitation Completion Order (SRCO) as specified in Chapter 62-780, F.A.C. If a facility intends to demonstrate that all No Further Action requirements of Chapter 62-780, F.A.C., have been met, a Closure Report which meets the Site Assessment requirements of Chapter 62-780, F.A.C., must be prepared and submitted, and the report must be signed and sealed by a Professional Engineer (PE) licensed in the State of Florida or a Professional Geologist (PG) licensed in the State of Florida.

A. Closure Report

In cases where an investigation is required at the time of closure in accordance with this document and as specified in Rule 62-762.801, F.A.C., and 62-762.802, F.A.C., a Closure Report with the following elements and documentation shall be prepared and submitted in writing or electronic format to the County within 60 days of completion of closure.

1. Summary Narrative

The Closure Report shall summarize closure actions and provide:

- a. Information on the procedures (soil field screening procedures, analytical sample collection, etc.) followed during closure;
- b. Information on the dimensions of the excavation(s), depth to groundwater, volume of soil

- excavated, and disposal method for the excavated soil;
- c. Disposition of excavated contaminated soil;
- d. Disposition of removed system components;
- e. Disposition of accumulated sludge / liquids removed from system components; and
- f. Recommendation for no additional actions or for site assessment under Chapter 62-780, F.A.C.

2. Supporting Documentation

- a. A scaled site map showing the area(s) excavated and approximate locations of all samples collected;
- b. Table(s) summarizing all field and analytical results obtained, listing the approximate depth at which each sample was collected;
- c. DEP Form 62-762.901(2) "Storage Tank Facility Registration Form" (due within 10 days after closure);
- d. Copies of laboratory reports.

B. General Sampling Guidelines

All samples must be analyzed using approved methods listed in Chapter 62-780, F.A.C., or methods approved through protocols described in Chapter 62-160, F.A.C.

Composite soil samples cannot be used to meet the requirement of Closure Investigation sampling. Soil samples collected during Closure Investigation must be discrete grab samples. Composite samples are only allowed for analysis of contaminated soil for the purposes of disposal.

Benzo(a)pyrene equivalents must be calculated for soil samples as there are no longer individual direct exposure Cleanup Target Levels (CTLs) for several of the Polycyclic Aromatic Hydrocarbons (PAHs).

Soil samples for volatile analyses must be collected pursuant to EPA Method 5035. However, if the substrate to be sampled consists of large particles such as pea gravel, contains debris or is consolidated, soil samples for volatile analyses may be collected in a bulk jar.

Note: Chapter 62-780, F.A.C., allows Level 1 Risk Management alternative closure options for both

the total recoverable petroleum hydrocarbons (TRPH) CTLs and leachability CTLs, and in accordance with these procedures, further analysis of the soil sample can be run. As such, enough soil should be collected during sampling efforts so that the laboratory can perform additional tests on that soil if necessary. The laboratory should be advised that in the event that contamination is detected which exceeds the TRPH Direct Exposure Residential CTL or TRPH Leachability Based on Groundwater CTL specified in Table II of Chapter 62-777, F.A.C., TRPH fractionation using either the Massachusetts method or the Working Group method should be performed on that soil sample. The laboratory should also be advised that in the event that contamination is detected that exceeds the Department's Leachability Based on Groundwater Criteria Soil CTLs specified in Table II of Chapter 62-777, F.A.C., for any other contaminant of concern, a Synthetic Precipitation Leaching Procedure (SPLP) extraction and analysis of that soil sample should be performed. Additionally, the acceptable holding times for the soil samples need to be met. If TRPH fractionation or SPLP is utilized, the Closure Report needs to be signed and sealed by a PG or PE.

1. Gasoline and Kerosene Analytical Groups

a. Soil Samples

Soil samples obtained during closure of a storage tank system are to be screened in the field using an instrument or method approved by the Department. A sample from the location in each source area (tank farm, integral piping, and dispenser island¹), that yields the highest hydrocarbon measurement is to be analyzed for volatile organic aromatics (VOAs), PAHs and TRPHs. If no positive screening results are obtained, the sample, from each source area, is to be collected from the location within each source area believed to be most likely to have contamination, such as next to a fill port. Only one sample is needed to confirm a new discharge and then the facility enters the site assessment initiation phase under 62-780, F.A.C.

- (1) If an organic vapor analysis instrument with a Flame Ionization Detector (FID) or a Photo Ionization Detector (PID) is used, it must be in the survey mode. PIDs should not be used in situations where humidity will interfere with the instrument's sensitivity (i.e., during rainy periods, measuring moist or wet soil). Readings must be obtained from the headspace of samples in half-filled, 8-ounce or 16-ounce jars. Each soil sample should be obtained from the vadose zone (the area above the water table), brought (if necessary)

¹ Each island is considered a source area. If there are five islands with two dispensers on each island, five samples are to be collected.

to a temperature of between 20°C (68°F) and 32°C (90°F), and the reading obtained five to thirty minutes thereafter. If an FID is used, each soil sample must be split into two jars, and one of the readings must be obtained with the use of an activated charcoal filter unless the unfiltered reading is 10 parts per million (ppm) or less. The total corrected hydrocarbon measurement must be determined by subtracting the filtered reading from the unfiltered reading. Analytical instruments must be calibrated in accordance with the manufacturer's instructions.

- (2) If soil that yields positive field screening results (hydrocarbon measurements greater than 10 ppm) is identified and remains on-site, a grab sample from the location in each source area that yields the highest hydrocarbon measurement must be analyzed for VOAs, PAHs and TRPHs. If the evidence suggests that products from both the Gasoline Analytical Group and Kerosene Analytical Group were released at different locations within a source area, then the sample from each distinct product area with the highest hydrocarbon measurement is to be collected for laboratory analyses.
- (3) If contaminated soil is identified and excavated, a minimum of four or five samples (at least one from the bottom of the excavation if the water table was not reached and at least four from the walls of the excavation) are to be obtained for field screening. The sample that yields the highest hydrocarbon measurement is to be analyzed for VOAs, PAHs and TRPHs. If no positive screening results are obtained, the sample is to be collected from the location believed to be most likely to have contamination. This sampling is in addition to the sampling required in B.1.a., above.

Removal of soil greater than 20 feet of depth and/or in a 20 foot radius laterally from the edge of excavation is allowable provided that an Interim Source Removal Report is submitted in accordance with the requirements of Rule 62-780.500, F.A.C., and is signed and sealed by a PE or PG.

b. Groundwater Samples

Groundwater samples obtained during closure of a tank must be analyzed for all parameters specified in Table C of Chapter 62-780, F.A.C.

2. Used Oil

a. Soil Samples

- (1) Soil samples obtained during closure of a used oil tank are to be inspected for signs of staining or discoloration. If the tank appears to have discharged or if soil contaminated or saturated with used oil is identified and remains on-site, a sample that represents the location believed to be most likely to have contamination must be analyzed for all parameters specified for used oil in Table D of Chapter 62-780, F.A.C.
- (2) If soil visually stained or saturated with used oil is identified and excavated, at least one sample is to be obtained from the bottom of the excavation if the water table was not reached and at least one sample is to be obtained from the wall of the excavation at an equivalent depth of the soil visually stained or saturated with used oil that was removed, and analyzed for those contaminants detected in the sample collected from the most visibly stained area or during pre-burn analyses.

b. Groundwater Samples

Groundwater samples must be analyzed for all parameters specified for used oil in Table D of Chapter 62-780, F.A.C.

C. Sampling Requirements for Storage Tank Removals [see Section E and F for requirements during closure of individual system components]

1. Gasoline and Kerosene Analytical Groups

a. Soil Samples

During the removal of an aboveground storage tank system or component, field screening of soils in accordance with B.1.(a), above shall be conducted in the area of soil contact. The screening locations are to be spaced on a five (5) foot grid pattern, beginning at the edge of the undisturbed soil, with soil collection from ground surface at discrete points at a depth of two feet and five feet below land surface (bls), then continuing at five foot intervals to 20 feet bls, unless groundwater is encountered.

Note: If it is anticipated that a very large sampling area will be required and if an alternate soil sampling frequency is requested, a proposal under subsection 62-762.851(1), F.A.C.,

(Alternative Procedures) can be submitted to the Department for approval under that rule.

b. Groundwater Samples

Groundwater samples must be obtained from a properly constructed temporary monitoring well or a direct push well as discussed below whenever the depth to the groundwater table is less than 20 feet. If the depth to the groundwater table is greater than 20 feet, a groundwater sample is not required if:

- the screening and laboratory results indicated that contaminated soil was not present; or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C.; or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy

Subsequent to backfilling, the temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the soil field screening results. If no soil contamination is found, the well is to be installed near the center of the former tank location. Minimum well construction details for a temporary monitoring well require a sand pack placed around the well screen prior to sampling and the well screen intercepting the groundwater table.

2. Used Oil

a. Soil Samples

When a used oil tank is being removed, a visual inspection of the excavation, of the tank condition and of the removed soil is to be performed to document the integrity of the tank. If the tank appears to have discharged or if soil staining is documented, a soil sample is to be obtained in accordance with Section B.2.(a) above.

b. Groundwater Samples

Groundwater sampling is not required if visual observations or laboratory results from sampling indicate that contaminated soil is not present. However, if the tank appears to have discharged or if soil staining is documented, and the depth to the groundwater table is less than 20 feet, a temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the visual observations of the soil samples. If the depth to the groundwater table is greater than 20 feet, a groundwater sample is not required if:

- the visual observations or laboratory results from sampling indicated that contaminated soil was not present; or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C.; or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

D. Sampling Requirements for Storage Tanks Closed in Place [see Section E and F for requirements during closure of individual system components]

1. Gasoline and Kerosene Analytical Groups

a. Soil Samples

Soil borings must be placed around each aboveground storage tank, with a maximum distance of 20 feet between borings. Each boring is to be placed as close to the tank as possible, with one of the borings placed as close to the fill port as possible while still being beyond the edge of the tank so that the boring can continue to the groundwater table or 20 feet, whichever is less. Soil must be screened at two foot intervals to a depth of 10 feet below land surface and then at 5 foot intervals to the groundwater table, or to a depth of 20

feet below land surface if the water table is not encountered.

Note: If it is anticipated that a very large sampling area will be required and if an alternate soil sampling frequency is requested, a proposal under subsection 62-762.851(1), F.A.C., (Alternative Procedures) can be submitted to the Department for approval under that rule.

b. Groundwater Samples

Groundwater samples must be obtained whenever the depth to the groundwater table is less than 20 feet. If the depth to the groundwater table is greater than 20 feet, a groundwater sample is not required if:

- the screening and laboratory results indicated that contaminated soil was not present; or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C.; or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

When compliance monitoring wells are present, one sample can be obtained from each compliance monitoring well (if only one tank of 2,000 gallon capacity or less is being closed in place, only two temporary monitoring wells are to be installed, at locations suspected to be downgradient and upgradient from the tank). If it is determined that the construction of the compliance wells is not adequate (that is, if the water table does not intersect the screened interval), temporary monitoring wells are to be installed, as specified below.

If there are no compliance monitoring wells present, four temporary monitoring wells are to be installed around the tank field and sampled (if only one tank of 2,000 gallon capacity or less is being closed in place, only two temporary monitoring wells are to be installed, at

locations suspected to be downgradient and upgradient from the tank). Minimum well construction details for a temporary monitoring well require a sand pack placed around the well screen prior to sampling and that the screened interval intercepts the groundwater table.

2. Used Oil

a. Soil Samples

Sample as specified in Section D.1.a. above, with the samples visually inspected to determine if the tank appears to have discharged. If the tank appears to have discharged or if soil staining is documented, a soil sample is to be obtained in accordance with Section B.2.(a) above.

b. Groundwater Samples

If the depth to the groundwater table is less than 20 feet, a temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the visual observations of the soil samples. If no soil staining is documented, the temporary monitoring well is to be installed next to the tank, as close to the fill port as possible. If the depth to the groundwater table is greater than 20 feet, a groundwater sample is not required if:

- visual observations or laboratory results indicated that contaminated soil was not present; or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C.; or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

E. Sampling Requirements for Closure of Integral Piping in Contact with Soil

1. Soil Samples

One soil boring must be placed approximately every 20 feet of product transfer line (piping), with the spacing determined by any evidence of contamination and location of potential sources of leaks, such as fixtures, connections and joints. The boring(s) is/are to be located as close to the transfer line as possible, with the sampling point one foot below the line level, or immediately above the groundwater table, whichever is first encountered.

Note: If it is anticipated that a very large sampling area will be required and if an alternate soil sampling frequency is requested, a proposal under subsection 62-762.851(1), F.A.C., (Alternative Procedures) can be submitted to the Department for approval under that rule.

2. Groundwater Samples

A groundwater sample is not required if:

- the screening and laboratory results indicated that contaminated soil was not present; or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C.; or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

If the results cannot demonstrate that groundwater should not have been affected, then a temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the soil samples.

F. Sampling Requirements for Closure of Piping Sumps, Hydrant System Sumps, Spill Containment Devices and Dispenser Sumps

1. Soil Samples

- a. One soil boring must be placed next to each submersible pump or fill port. Samples for field screening are to be collected approximately every two feet below land surface until the top of

the storage tank, or the groundwater table, whichever is first encountered.

- b. A minimum of one soil boring must be placed directly under each product dispenser or less than three feet from each product dispenser. Samples for field screening are to be obtained approximately every two feet below land surface to a minimum depth of four feet, or to the groundwater table, whichever is first encountered (if the appropriate District or contracted County program determines based on screening results that there is a need to extend any boring below 10 feet, subsequent samples may be collected every five feet). The depth of the soil boring(s) will be dependent upon the hydrocarbon vapors encountered. The ideal location for evaluating soil conditions is directly under the dispenser if the dispenser has been removed and the area is large enough to be accessible.

2. Groundwater Samples

A groundwater sample is not required if:

- the screening and laboratory results indicated that contaminated soil was not present; or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C.; or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

If the results cannot demonstrate that groundwater should not have been affected, then a temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the soil samples.

G. Discharge Reporting Requirements during a Petroleum/Product Tank System Closure

The Department must be notified by the facility owner or operator of the discovery of an unreported discharge on the Discharge Report Form [Department Form 62-762.901(1)] within 24 hours of the discovery or before the close of the Department's next business day. If any one of the following

reporting criteria is met, then the Closure Investigation may be terminated, a Closure Report (prepared according to the guidelines described in Section A – Documentation Requirements, describing the work that was performed at the site and summarizing the data collected at that time) is to be submitted and a formal site assessment initiated in accordance with Chapter 62-780, F.A.C.:

1. Soil contaminated with products classified in the Gasoline Analytical Group or in the Kerosene Analytical Group, that exceeded the default soil CTLs specified in Chapter 62-777, F.A.C., remains on-site; or
2. Soil contaminated with used oil, that exceeded the default soil CTLs specified in Chapter 62-777, F.A.C., remains on-site; or

Note: For G.1. and G.2. above, a DRF does not need to be submitted when the default soil CTLs are exceeded while level 1 alternative closure options (Fractionation and SPLP) are being evaluated. Once the evaluation is complete, if it is demonstrated that the soil is contaminated, then a DRF must be submitted;

3. Free product or a sheen of petroleum products is detected in a monitoring well or in the tank or tank system components excavation area; or
4. Any of the groundwater CTLs specified in Chapter 62-777, F.A.C., has been exceeded.

H. Other Pollutant and High Viscosity Pollutant Storage Tank Systems

Owners or operators of other pollutant ASTs are required to perform a Closure Investigation. The Closure Report must address the particular regulated substance stored in the storage tank system. Sampling methodology must be submitted to the District or contracted County program for approval 30 days before the storage system closure. If the sampling methodology proposed by the Owner or Operator will accurately detect any discharges that may have occurred, the District or contracted County program will notify the owner or operator of the approval within 14 days of receipt of the sampling methodology. Closure Investigation may be conducted in accordance with existing Department-approved closure evaluation protocols and related corrective action protocols approved under other Department programs [e.g., high viscosity pollutants, such as no. 6 Fuel Oil, the use of Closure Sampling Protocol for Aboveground Storage Tank Systems (ASTs) Containing High Viscosity Pollutants, (Appendix A) and Heavy Fuel Oil Discharge Response Actions, FDEP May 2016, (Appendix B)].

Appendix A

Closure Sampling Protocol for Aboveground Storage Tank Systems (ASTs) Containing High Viscosity Pollutants

High viscosity pollutants, such as No. 6 fuel oil, are relatively immobile in the environment and any impacts are typically very localized and limited to surficial soils. Based on the characteristics of high viscosity pollutants, facilities have the option of following these procedures for closure sampling and evaluation an AST system that contained a high viscosity pollutant.

1. Conduct a visual inspection around the perimeter of the tank to determine the presence or absence of soil staining or discoloration indicative of a release of high viscosity pollutants.
2. If no visual staining or discoloration is observed, borings/test trenching will be collected at approximately 50 ft. intervals. Borings/test trenching, whenever possible, will be located in proximity to manways, nozzles, other shell penetrations, floor sumps, etc. If the tank has cathodic protection, any samples will be collected in the range of 7.5 to 10 ft. from the edge of the tank. If the tank does not have cathodic protection, any soil samples will be collected immediately adjacent to the apron of the tank. For underground piping, the facility will collect soil samples at 50 ft. intervals for straight piping and additional samples where there are 90 degree bends in the piping. At each soil boring/test trenching location, samples will be collected at one foot depths from ground surface to 4 ft.-below land surface (ft-bls), and visually inspected and documented.
3. If stained or discolored soil is encountered indicating that a release of high viscosity pollutants has occurred, such soil and a one foot lateral and vertical buffer will be excavated. There shall be no limitation on the volume of soil that may be excavated so long as such excavation activity complies with the requirements of Rule 62-780.550, F. A. C. After excavation, up to four side wall and one bottom soil samples will be collected for TRPH analysis and the Polycyclic Aromatic Hydrocarbons (PAHs) applicable to Heavy Fuel Oil. Based on the FDEP approved *Heavy Fuel Oil Discharge Response Actions* protocol, these PAH constituents associated with #6 oil are phenanthrene, anthracene, flouranthene, benzo (a) anthracene, benzo (b) flouranthene, benzo (k)

flouranthene, benzo (a) pyrene, chrysene and indeno (1,2,3-cd) pyrene. The location of the excavation and confirmatory samples will be documented and any disposal manifests maintained.

4. In the event that TRPH in soil is detected above the TRPH Soil Cleanup Target Levels specified in Table II of Chapter 62-777, F. A.C., TRPH fractionation using the Florida Working Group method will be performed on the sample. If necessary, SPLP analysis may also be performed.

5. If it is determined that a release of high viscosity pollutants may have come into contact with groundwater, the facility will install a temporary groundwater monitoring well or wells as appropriate and a groundwater sample or samples will be collected for TRPH analysis. Also, if SPLP analysis is performed in accordance with Paragraph 4 and the results indicate that leaching of TRPH is occurring above the TRPH Groundwater Cleanup Target Level specified in Table I of Chapter 62- 777, F.A.C., or exceeds the leachability concentrations of Calculated SCTLs for TRPH Fractions (Table C-5 of the 2 Technical Report: Development of Cleanup Target Levels for Chapter 62-777), the facility will install a temporary groundwater monitoring well and collect and analyze a groundwater sample for TRPH.

6. A Closure Report will be generated for each tank within 60 days of data collection. This Closure Report will include a description of site investigation activities, analytical results, photographs of the individual test trench soil profiles, as well as conclusions and recommendations for future activities, if necessary.

Appendix B

Heavy Fuel Oil Discharge Response Actions

Heavy Fuel Oil

Discharge Response Actions

Background

Heavy fuel oil is not a petroleum product as defined in Section 376.301, F.S. Heavy fuel oil includes American Society for Testing and Materials (ASTM) grades number 5 and number 6 residual oils, and intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher. No. 6 fuel oil is far more common than no. 5, and is the principal fuel used by oil-fired power plants. Thus "heavy fuel oil" is frequently used as a synonym for no. 6 residual oil. Heavy fuel oil is a highly viscous oil that has a low propensity to flow. When discharged, it usually results in visual staining of the top 3 to 4 inches of soil in the vicinity of the discharge. The response actions proposed by the Florida Electric Power Coordinating Group, Inc. (FCG) and its member electric utilities takes into consideration the fuel's high viscosity, low propensity to flow, and the staining associated with a discharge.

Applicability

The response actions provided below apply to discharges of heavy fuel oil to a pervious surface. It does not apply to discharges of heavy fuel oil being addressed pursuant to the Clean Water Act. Heavy oil discharged onto impervious surfaces will be recovered. Adherence to this protocol, such that the heavy fuel oil discharge is remediated within 30 days, constitutes compliance with the provisions of Rule 62-780.550, F.A.C. In responding to heavy oil discharges, including those into or near waters of the state, FCG member electric utilities will also comply with all other applicable laws and rules, including applicable notification requirements.

Response Actions

Heavy oil discharge response actions include two types of discharge categories: a new discharge and an existing discharge. A new discharge is defined as a discharge that is known to have occurred within the past 48 hours. An existing discharge is any other heavy oil discharge.

Response actions will be completed within 30 days of discovery of a new or existing discharge. To the extent response actions are not completed within that timeframe, the electric utility will contact the local county storage tank program office or Department of Environmental Protection (Department) district office to develop an appropriate discharge response in accordance with Chapter 62-780, F.A.C.

A. New Discharge Response Protocol

1. New Discharge Not Resulting in Contact with Groundwater

The response actions for a new discharge of any quantity where the discharge did not result in contact with groundwater will be initiated within 48 hours after discovery. Once the source of the discharge is abated or otherwise secured, FCG members will initiate response actions, which include immediate measures to control and abate the discharge.

Soil impacted by heavy fuel oil will be excavated through visual delineation of stained soil. This is typically done using shovels, a backhoe, a track hoe or other appropriate equipment. All visible traces of the heavy oil in the soil will be removed; including a one foot lateral and vertical buffer, unless prevented by a physical obstacle such as a storage tank, building, etc. Excavated soil will be stockpiled on Visqueen or other similar impervious material until loaded into 55 gallon drums, roll-off dumpsters or similar containers. Excavated soil will be secured in a manner that prevents human exposure to contaminated soil and prevents soil exposure to precipitation that may cause surface runoff. All excavated soil will be disposed of or treated within 60 days of completion of field activities in accordance with applicable local, state, and federal regulations. Applicable disposal or treatment documents will be obtained.

2. New Discharge Resulting in Contact with Groundwater

The response actions for a new discharge of any quantity that resulted in contact with groundwater will be initiated within 48 hours after discovery. Once the source of the discharge is abated or otherwise secured, FCG members will initiate response actions, which include immediate measures to control and abate the discharge.

In accordance with paragraph C. below, if a new discharge resulted in contact with groundwater confirmatory laboratory analysis will be conducted of the groundwater to ensure that levels of Polycyclic Aromatic Hydrocarbons (PAHs) applicable to heavy fuel oil as provided in Table A are below the corresponding groundwater cleanup target levels for those PAH constituents in Chapter 62-777, F.A.C., or alternative target levels agreed to with the Department.

To the extent such removal cannot be completed within 30 days, the electric utility will contact the relevant Department district office to develop an appropriate discharge response in accordance with Chapter 62-780, F.A.C.

B. Existing Discharge Response Protocol

The response actions for an existing discharge will be initiated as soon as possible after discovery, but no later than 7 days after discovery.

If the discharge is 25 gallons or less and did not result in contact with groundwater, the response protocol for new discharges in paragraph A. I. will be followed.

If the discharge is 25 gallons or less and resulted in contact with groundwater, the response protocol for new discharges will be followed. Also, in accordance with paragraph C. below, potential groundwater impacts will be addressed.

If the discharge is greater than 25 gallons, or resulted in contact with groundwater (see paragraph C. below), all visible traces of the heavy fuel oil in the soil will be recovered including a one foot lateral and vertical buffer as provided in Section A above and confirmatory laboratory analysis of one composite sample of soil from the bottom of the excavation (unless the bottom is below the water table) and the walls or perimeter of the excavation will be conducted to ensure that all impacted soil has been removed. Also, where the existing discharge resulted in contact with groundwater, the provisions of paragraph C. shall be followed.

Verification cleanup of the soil will be confirmed by ensuring that levels of PAHs applicable to heavy fuel oil as provided in Table A are less than the lower of the direct exposure or leachability soil cleanup target levels for those PAH constituents, or other alternative target levels agreed to with the Department. Removal will continue until applicable PAH constituent levels are below the aforementioned concentrations, unless prevented by a physical obstacle as previously mentioned.

To the extent such removal cannot be completed within 30 days, the electric utility will contact the relevant Department district office to develop an appropriate discharge response in accordance with Chapter 62-780, F.A.C.

C. Groundwater Contact

Heavy fuel oil removal activities in groundwater may include but are not be limited to the use of:

- a. Absorbent pads or booms;
- b. Pumps (skimmer, diaphragm, centrifugal, etc.) with mechanical, electrical or hand- bailed purging operations;
- c. Hand or mechanical bailing;
- d. Fluid vacuum techniques; or
- e. Other applicable techniques or technologies.

Recovered heavy fuel oil will either be burned for energy recovery or disposed of or treated in accordance with applicable local, state, and federal regulations.

If a new or existing discharge resulted in contact with groundwater, after heavy fuel oil removal activities in groundwater have been completed, confirmatory laboratory analysis will be conducted to ensure that PAH levels applicable to heavy fuel oil as provided in Table A are below the applicable groundwater cleanup target levels for PAH constituents in Chapter 62-777, F.A.C., or alternative target levels agreed to with the Department.

D. Documentation

The attached form will be completed by electric utilities for each discharge of heavy fuel oil on a pervious surface and kept on file for a period of five years and made available to the Department upon request.

Table A - PAH Constituents Applicable to Heavy Fuel Oil

Phenanthrene
Anthracene
Fluoranthene
Benz(a)anthracene
Benzo(b)fluoranthene
Benzo(k)fluoranthene
Benzo(a)pyrene
Chrysene
Indeno(1, 2, 3 - cd)pyrene

Summary Document for Heavy Fuel Oil Discharge (on a pervious surface)

Question	Answer
Location(s) of Spill (street address of discharge, if known, facility name and narrative description or illustration indicating where discharge occurred)	
Date of Spill	
Type of Product Discharged	
Volume of Product Discharged (in gallons)	
Volume of Free Product Recovered (in gallons)	
Volume of contaminated soil excavated (tons or cubic yards)	
Disposal or recycling methods for free product	
Disposal or recycling methods for excavated soil	
Disposal methods for other contaminated media or investigative related waste	
A site map or sketch showing locations(s) of free product recovered and the area of soil removed	
Narrative description or illustrations of the approximate dimensions of the excavation - length, width and depth. (All dimensions to be provided in feet)	
Documentation confirming the proper treatment and/or disposal of the free product or contaminated soil. (Attach manifests to report)	
Narrative description or illustration of where samples were taken, screening methods used and analytical results. (Attach to report)	
Other applicable information such as a description of any physical obstacles, if any, preventing complete removal	

Appendix 1

No. 6 Fuel Oil-PAH Analysis and Spill Response Recommendations

PAHs are ubiquitous in the environment, forming whenever organic substances are exposed to high temperatures. They can be broadly separated into three categories: biogenic (formed from natural biological processes including diagenesis); petrogenic (primarily associated with crude oil and natural oil seeps); and pyrogenic (formed in high heat or combustion processes, including incomplete combustion of fuels). PAHs derived from all three categories are likely to be found as contaminants in soils, particularly in urban or industrial areas, but also, for example, in areas where wood-burning stoves (biogenic) and high-volume vehicular traffic (pyrogenic) are present.

Petrogenic PAHs are characterized by low molecular weight compounds with 2 or 3 aromatic rings (i.e., six-carbon fused benzene rings) with a predominance of alkyl substitution (predominantly methyl groups attached to the ring structures). Conversely, pyrogenic PAHs are characterized by high molecular weight compounds typically with 4 to 7 aromatic rings, and much less alkyl substitution. An important toxicological distinction between the two categories is that all known carcinogenic PAHs fall into the high molecular weight, or pyrogenic, category. Atmospheric transport from point sources and the ever-increasing volume of mobile sources ensures the presence of pyrogenic PAHs in nearly all soils in the U.S. and elsewhere in the developed world.

Number (No.) 6 fuel oil, also known as Bunker C fuel, is a refinery by-product, principally the residue of processes in which light and medium crude oils are fractionally distilled and processed to produce gasoline, diesel fuel, and other products. Although derived from a predominately petrogenic source, No. 6 fuel oil may be substantially enriched in 3 to 5-ring PAHs formed in a number of high-temperature petroleum refining processes including catalytic and steam cracking, vacuum distillation, hydrodesulfurization, etc. PAHs in the high-viscosity residuum of the refining process are primarily petrogenic in origin; however, when necessary, low-viscosity blending stocks from the refining operations are blended with residuum to reduce viscosity and improve flowability. This occasional practice has the potential to introduce high-molecular weight pyrogenic PAHs in quantities that are both unpredictable and batch-specific, although the actual concentrations are low. This, along with the petrogenic PAH variability in parent crudes, are why PAH fingerprinting can be used to identify specific sources of fuel oil spills.

To develop a coherent approach to assessing risk from PAHs associated with a spill of residual fuel oil, as well as recommended cleanup criteria, all regulated PAH compounds have been compiled in Table 1. Those not found to be present in No. 6 fuel oil are shaded and all are compared with regulatory endpoints for cleanup action. Composition data for No. 6 fuel oil was compiled by the Total Petroleum Hydrocarbon Criteria Working Group (Potter and Simmons 1998). Data are presented as weight percentages for all fuel constituents reported from a comprehensive search of the literature, and from government, military and oil industry sources.

It is reasonable to assume that any PAHs with maximum reported levels less than 0.02 wt% in No. 6 fuel oil are unlikely to be present at detectable levels in soil or groundwater samples following a fuel spill. That is to say, if these PAHs are detected they would either be at a de minimis level or derived from a

source other than a heavy fuel oil spill, given the plethora of potential PAH sources described above. If this assumption is accepted, only the following PAHs found in soils subjected to a No. 6 fuel oil spill should be considered to be derived from that spill:

Phenanthrene
Anthracene
Fluoranthene
Benz(a)anthracene
Chrysene
Benzo(b)fluoranthene
Benzo(k)fluoranthene

The threshold of 0.02 wt% eliminates inclusion of naphthalene; the remainder of PAHs reported to be present in fuel oil No. 6 (see Table 1) are less abundant in fuel oil #6 than naphthalene. [Some, like benzo(a)pyrene (reported only once in fuel oil No. 6), are an order of magnitude less abundant than naphthalene.] Naphthalene is the most soluble of binuclear aromatics, and orders of magnitude more soluble than PAHs with 3 or 4 aromatic rings. This is further justification for not including naphthalene in the above list since solubility is a major factor in determining the rate of biodegradation.

For decisions on remediation of PAHs in the environment it is also important to consider bioavailability. PAH bioavailability will not be discussed further here, but considerable literature information is available (e.g., National Research Council 2003, Stroo et al., 2005).

Recommendations

For response activities related to a No. 6 fuel oil spill to soil and/or groundwater, it is recommended, with respect to PAHs, to compare only the following PAHs and their respective regulatory criteria.

Phenanthrene
Anthracene
Fluoranthene
Benz(a)anthracene
Chrysene
Benzo(b)fluoranthene
Benzo(k)fluoranthene

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Potter, Thomas L. and Kathleen E. Simmons. 1998. Composition of Petroleum Mixtures. Total Petroleum Hydrocarbon Criteria Working Group Series, Volume 2. Amherst Scientific Publishers, Amherst, Massachusetts.

Stroo, H.F. et al. 2005. Improving risk assessments for manufactured gas plant soils by measuring PAH availability. *Integrated Environmental Assessment and Management*, 1(3):259-266.

Table 1. Compilation of Regulated PAHs, Occurrence in No. 6 Fuel Oil, and Regulatory Characterization and Limits for Spills to Soil in Florida

Priority Pollutants PAHs ¹ (# of aromatic rings)	Reported wt% in No. 6 Fuel Oil ² (avg and range)	USEPA Carcinogenic Potential ³	Florida Groundwater CTLs (ug/L)	Florida Soil CTLs – Res/Cl (mg/kg) ⁴
Naphthalene ⁵ (2)	4.2E-3 2.1E-4 – 1.5E-2	N/C	14	55/300
1-Methylnaphthalene (2)	N/R ⁶	N/A	28	200/1800
2-Methylnaphthalene (2)	N/R	N/C	28	210/2100
Acenaphthylene (2)	N/R	N/C	210	1800/20,000
Acenaphthene (2)	N/R	N/A	20	2400/20,000
Fluorene (2)	N/R	N/A	280	2600/33,000
Phenanthrene (3)	2.1E-2 2.1E-3 – 4.8E-2	N/C	210	2200/36,000
Anthracene (3)	5.0E-3	N/C	2100	21,000/300,000
Fluoranthene (3)	2.4E-2	N/C	280	3200/59,000
Pyrene (4)	2.3E-3	N/C	210	2400/45,000
Benz(a)anthracene (4)	5.5E-2 2.9E-3 – 1.5E-1	B2	0.05	Calculate based on TEF of 0.1 ⁷
Chrysene (4)	6.9E-2 2.9E-3 – 3.1E-1	B2	4.8	Calculate based on TEF of 0.001
Benzo(b)fluoranthene (4)	4.4E-2	B2	0.05	Calculate based on TEF of 0.1
Benzo(k)fluoranthene (4)	4.4E-2	B2	0.5	Calculate based on TEF of 0.01
Benzo(a)pyrene (5)	4.4E-3	B2	0.2	0.1/0.7 (TEF of 1)
Dibenz(a,h)anthracene (5)	N/R	B2	0.005	Calculate based on TEF of 1.0
Benzo(g,h,i)perylene (6)	N/R	N/A	210	2500/52,000
Indeno(1,2,3-cd)pyrene (5)	1.0E-2	B2	0.05	Calculate based on TEF of 0.1

1. Includes all reported constituents of No. 6 fuel oil (unshaded) that also are listed in Chapter 62-777 SCTLs.
2. Total Petroleum Hydrocarbon Criteria Working Group. Vol. 2, Composition of Petroleum Mixtures.
3. B2-probable human carcinogen; N/C- not classifiable; N/A- not available.
4. Chapter 62-777, F.A.C. Contaminant Cleanup Target Levels, Risk Impact Statement Section 120.81(6), Florida Statutes (F. S.). Residential and Commercial Industrial CTLs presented.
5. Naphthalene, although included in the Priority Pollutant list, is a di-aromatic and generally not considered in the same group as polynuclear aromatic hydrocarbons.
6. N/R (shaded) = Not reported in literature as occurring in No. 6 Fuel Oil.
7. For applicable PAHs, benz(a)pyrene equivalent concentrations are calculated as the sum of the individual PAH concentration times its toxic equivalency factor (TEF). This concentration should then be compared with the benz(a)pyrene SCTL.

*Instructions for Conducting Sampling During Underground
Storage Tank Closure*

**Permitting and Compliance Assistance Program
Division of Waste Management
Florida Department of Environmental Protection**

April 2016

[Incorporated by Reference in subparagraph 62-761.800(3)(a)5., F.A.C.]

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INSTRUCTIONS FOR CONDUCTING SAMPLING DURING CLOSURE

INTRODUCTION

This document establishes procedures for conducting and reporting storage tank system closures to meet the requirements of Chapter 62-761, Florida Administrative Code (F.A.C.), Underground Storage Tank Systems.

As an integral part of a system or a system component closure performed at an Underground Storage Tank (UST) facility, a Closure Report or a Limited Closure Report, as applicable, shall be prepared and submitted to the Department or contracted County program as required in Rule 62-761.800, F.A.C. The report is to describe the work that was performed at the facility during the system or system component closure, and summarize any data collected at that time.

A Site Assessment in accordance with Chapter 62-780, F.A.C., conducted and approved by the Department will satisfy the requirements of this guideline. However, these guidelines do not meet the criteria to qualify for the issuance of a Site Rehabilitation Completion Order (SRCO) as specified in Chapter 62-780, F.A.C. If a facility intends to demonstrate that all No Further Action requirements of Chapter 62-780, F.A.C., have been met, a Closure Report which meets the Site Assessment requirements of Chapter 62-780, F.A.C., must be prepared and submitted, and the report must be signed and sealed by a Professional Engineer (PE) licensed in the State of Florida or a Professional Geologist (PG) licensed in the State of Florida.

A. Closure Report

In cases where an investigation is required at the time of closure in accordance with this document and as specified in Rule 62-761.800, F.A.C., a Closure Report with the following elements and documentation shall be prepared and submitted in writing or electronic format to the County within 60 days of completion of closure.

1. Summary Narrative

The Closure Report shall summarize closure actions and provide:

- a. Information on the procedures (soil field screening procedures, analytical sample collection, etc.) followed during closure;
- b. Information on the dimensions of the excavation(s), depth to groundwater, volume of soil excavated, and disposal method for the excavated soil;
- c. Disposition of excavated contaminated soil;
- d. Disposition of removed system components;
- e. Disposition of accumulated sludge / liquids removed from system components; and
- f. Recommendation for no additional actions or for site assessment under Chapter 62-780 F.A.C.

2. Supporting Documentation

- a. A scaled site map showing the area(s) excavated and approximate locations of all samples collected;
- b. Table(s) summarizing all field and analytical results obtained, listing the approximate depth at which

each sample was collected;

- c. DEP Form 62-761.900(2) "Storage Tank Facility Registration Form" (due within 10 days after closure);
- d. DEP Form 62-761.900(5) "Underground Storage System Installation and Removal Form for Certified Contractors" (due no later than 21 days after removal of a storage tank system);
- e. Copies of laboratory reports.

B. General Sampling Guidelines

All samples must be analyzed using approved methods listed in Chapter 62-780, F.A.C., or methods approved through protocols described in Chapter 62-160, F.A.C.

Composite soil samples cannot be used to meet the requirement of Closure Investigation sampling. Soil samples collected during Closure Investigation must be discrete grab samples. Composite samples are only allowed for analysis of contaminated soil for the purposes of disposal.

Benzo(a)pyrene equivalents must be calculated for soil samples as there are no longer individual direct exposure Cleanup Target Levels (CTLs) for several of the Polycyclic Aromatic Hydrocarbons (PAHs).

Soil samples for volatile analyses must be collected pursuant to EPA Method 5035. However, if the substrate to be sampled consists of large particles such as pea gravel, contains debris or is consolidated, soil samples for volatile analyses may be collected in a bulk jar.

Note: Chapter 62-780, F.A.C., allows Level 1 Risk Management alternative closure options for both the total recoverable petroleum hydrocarbons (TRPH) CTLs and leachability CTLs, and in accordance with these procedures, further analysis of the soil sample can be run. As such, enough soil should be collected during sampling efforts so that the laboratory can perform additional tests on that soil if necessary. The laboratory should be advised that in the event that contamination is detected which exceeds the TRPH Direct Exposure Residential CTL or TRPH Leachability Based on Groundwater CTL specified in Table II of Chapter 62-777, F.A.C., TRPH fractionation using either the Massachusetts method or the Working Group method should be performed on that soil sample. The laboratory should also be advised that in the event that contamination is detected that exceeds the Department's Leachability Based on Groundwater Criteria Soil CTLs specified in Table II of Chapter 62-777, F.A.C., for any other contaminant of concern, a Synthetic Precipitation Leaching Procedure (SPLP) extraction and analysis of that soil sample should be performed. Additionally, the acceptable holding times for the soil samples need to be met. If TRPH fractionation or SPLP is utilized, the Closure Report needs to be signed and sealed by a PG or PE.

1. Gasoline and Kerosene Analytical Groups

a. Soil Samples

Soil samples obtained during closure of a storage tank system are to be screened in the field using an instrument or method approved by the Department. A sample from the location in each source area (tank farm, integral piping, dispenser island¹), that yields the highest hydrocarbon measurement is to be analyzed for volatile organic aromatics (VOAs), PAHs and TRPHs. If no positive screening results are obtained, the sample, from each source area, is to be collected from the location within each source area believed to be most likely to have contamination, such as next to a fill port. Only one sample is needed to confirm a new discharge and then the facility enters the site assessment

¹ Each island is considered a source area. If there are five islands with two dispensers on each island, five samples are to be collected.

initiation phase under 62-780, F.A.C

- (1) If an organic vapor analysis instrument with a Flame Ionization Detector (FID) or a Photo Ionization Detector (PID) is used, it must be in the survey mode. PIDs should not be used in situations where humidity will interfere with the instrument's sensitivity (i.e., during rainy periods, measuring moist or wet soil). Readings must be obtained from the headspace of samples in half-filled, 8-ounce or 16-ounce jars. Each soil sample should be obtained from the vadose zone (the area above the water table), brought (if necessary) to a temperature of between 20°C (68°F) and 32°C (90°F), and the reading obtained five to thirty minutes thereafter. If an FID is used, each soil sample must be split into two jars, and one of the readings must be obtained with the use of an activated charcoal filter unless the unfiltered reading is 10 parts per million (ppm) or less. The total corrected hydrocarbon measurement must be determined by subtracting the filtered reading from the unfiltered reading. Analytical instruments must be calibrated in accordance with the manufacturer's instructions.
- (2) If soil that yields positive field screening results (hydrocarbon measurements greater than 10 ppm) is identified and remains on-site, a grab sample from the location in each source area that yields the highest hydrocarbon measurement must be analyzed for VOAs, PAHs and TRPHs. If the evidence suggests that products from both the Gasoline Analytical Group and Kerosene Analytical Group were released at different locations within a source area, then the sample from each distinct product area with the highest hydrocarbon measurement is to be collected for laboratory analyses.
- (3) If contaminated soil is identified and excavated, a minimum of four or five samples (at least one from the bottom of the excavation if the water table was not reached and at least four from the walls of the excavation) are to be obtained for field screening. The sample that yields the highest hydrocarbon measurement is to be analyzed for VOAs, PAHs and TRPHs. If no positive screening results are obtained, the sample is to be collected from the location believed to be most likely to have contamination. This sampling is in addition to the sampling required in B.1.a., above.

Removal of soil greater than 20 feet of depth and/or in a 20 foot radius laterally from the edge of excavation is allowable provided that an Interim Source Removal Report is submitted in accordance with the requirements of Rule 62-780.500, F.A.C., and is signed and sealed by a PE or PG.

b. Groundwater Samples

Groundwater samples obtained during closure of a tank must be analyzed for all parameters specified in Table C of Chapter 62-780, F.A.C.

2. Used Oil

a. Soil Samples

- (1) Soil samples obtained during closure of a used oil tank are to be inspected for signs of staining or discoloration. If the tank appears to have discharged or if soil contaminated or saturated with used oil is identified and remains on-site, a sample that represents the location believed to be most likely to have contamination must be analyzed for all parameters specified for used oil in Table D of Chapter 62-780, F.A.C.
- (2) If soil visually stained or saturated with used oil is identified and excavated, at least one sample is to be obtained from the bottom of the excavation if the water table was not reached and at least one sample is to be obtained from the wall of the excavation at an equivalent depth of the soil

visually stained or saturated with used oil that was removed, and analyzed for those contaminants detected in the sample collected from the most visibly stained area or during pre-burn analyses.

b. Groundwater Samples

Groundwater samples must be analyzed for all parameters specified for used oil in Table D of Chapter 62-780, F.A.C.

C. Sampling Requirements for Storage Tank Removals [see Section E and F for requirements during closure of individual system components]

1. Gasoline and Kerosene Analytical Groups

a. Soil Samples

During the removal of an underground storage tank system, field screening of soils in accordance with B.1.(a), above shall be conducted inside the area of the tank pit. The screening locations are to be spaced on a five (5) foot grid pattern, beginning at the edge of the undisturbed soil, with soil collection from ground surface at discrete points at a depth of two feet and five feet below land surface (bls), then continuing at five foot intervals to 20 feet bls, unless groundwater is encountered.

Note: If it is anticipated that a very large excavation will be required and if an alternate soil sampling frequency is requested, a proposal under subsection 62-761.850(1), F.A.C., (Alternative Procedure Requirements) can be submitted to the Department for approval under that rule.

b. Groundwater Samples

Groundwater samples must be obtained from a properly constructed temporary monitoring well or a direct push well as discussed below whenever the depth to the groundwater table is less than 20 feet. If the depth to the groundwater table is greater than 20 feet, a groundwater sample is not required if:

- the screening and laboratory results indicated that contaminated soil was not present, or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C., or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy

Subsequent to backfilling, the temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the soil field screening results. If no soil contamination is found, the well is to be installed near the center of the former tank location. Minimum well construction details for a temporary monitoring well require a

sand pack placed around the well screen prior to sampling and the well screen intercepting the groundwater table.

2. Used Oil

a. Soil Samples

When a used oil tank is being removed, a visual inspection of the excavation, of the tank condition and of the removed soil is to be performed to document the integrity of the tank. If the tank appears to have discharged or if soil staining is documented, a soil sample is to be obtained in accordance with Section B.2.(a) above.

b. Groundwater Samples

Groundwater sampling is not required if visual observations or laboratory results from sampling indicate that contaminated soil is not present. However, if the tank appears to have discharged or if soil staining is documented, and the depth to the groundwater table is less than 20 feet, a temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the visual observations of the soil samples. If the depth to the groundwater table is greater than 20 feet, a groundwater sample is not required if:

- the visual observations or laboratory results from sampling indicated that contaminated soil was not present, or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C., or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

D. Sampling Requirements for Storage Tanks Closed in Place [see Section E and F for requirements during closure of individual system components]

1. Gasoline and Kerosene Analytical Groups

a. Soil Samples

A minimum of four soil borings must be placed around each underground storage tank, with a maximum distance of 20 feet between borings. Each boring is to be placed as close to the tank as possible, with one of the borings placed as close to the fill port as possible while still being beyond the edge of the tank so that the boring can continue to the groundwater table or 20 feet, whichever is less. Soil must be screened at two foot intervals to a depth of 10 feet below land surface and then at 5 foot intervals to the groundwater table, or to a depth of 20 feet below land surface if the water table is not encountered.

b. Groundwater Samples

Groundwater samples must be obtained whenever the depth to the groundwater table is less than 20 feet. If the depth to the groundwater table is greater than 20 feet, a groundwater sample is not required if:

- the screening and laboratory results indicated that contaminated soil was not present, or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C., or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

When compliance monitoring wells are present, one sample can be obtained from each compliance monitoring well (if only one tank of 2,000 gallon capacity or less is being closed in place, only two temporary monitoring wells are to be installed, at locations suspected to be downgradient and upgradient from the tank). If it is determined that the construction of the compliance wells is not adequate (that is, if the water table does not intersect the screened interval), temporary monitoring wells are to be installed, as specified below.

If there are no compliance monitoring wells present, four temporary monitoring wells are to be installed around the tank field and sampled (if only one tank of 2,000 gallon capacity or less is being closed in place, only two temporary monitoring wells are to be installed, at locations suspected to be downgradient and upgradient from the tank). Minimum well construction details for a temporary monitoring well require a sand pack placed around the well screen prior to sampling and that the screened interval intercepts the groundwater table.

2. Used Oil

a. Soil Samples

Sample as specified in Section D.1.a. above, with the samples visually inspected to determine if the tank appears to have discharged. If the tank appears to have discharged or if soil staining is documented, a soil sample is to be obtained in accordance with Section B.2.(a) above.

b. Groundwater Samples

If the depth to the groundwater table is less than 20 feet, a temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the visual observations of the soil samples. If no soil staining is documented, the temporary monitoring well is to be installed next to the tank, as close to the fill port as possible. If the depth to the groundwater table is greater than 20 feet, a groundwater sample is not required if:

- visual observations or laboratory results indicated that contaminated soil was not present, or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C., or

- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

E. Sampling Requirements for Closure of Integral Piping in Contact with Soil

1. Soil Samples

One soil boring must be placed approximately every 20 feet of product transfer line (piping), with the spacing determined by any evidence of contamination and location of potential sources of leaks, such as fixtures, connections and joints. The boring(s) is/are to be located as close to the transfer line as possible, with the sampling point one foot below the line level, or immediately above the groundwater table, whichever is first encountered.

2. Groundwater Samples

A groundwater sample is not required if:

- the screening and laboratory results indicated that contaminated soil was not present, or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C., or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

If the results cannot demonstrate that groundwater should not have been affected, then a temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the soil samples.

F. Sampling Requirements for Closure of Piping Sumps, Spill Containment Devices and Dispenser Sumps

1. Soil Samples

- a. One soil boring must be placed next to each submersible pump or fill port. Samples for field screening are to be collected approximately every two feet below land surface until the top of the storage tank, or the groundwater table, whichever is first encountered.
- b. A minimum of one soil boring must be placed directly under each product dispenser or less than

three feet from each product dispenser. Samples for field screening are to be obtained approximately every two feet below land surface to a minimum depth of four feet, or to the groundwater table, whichever is first encountered (if the appropriate District or contracted County program determines based on screening results that there is a need to extend any boring below 10 feet, subsequent samples may be collected every five feet). The depth of the soil boring(s) will be dependent upon the hydrocarbon vapors encountered. The ideal location for evaluating soil conditions is directly under the dispenser if the dispenser has been removed and the area is large enough to be accessible.

2. Groundwater Samples

A groundwater sample is not required if:

- the screening and laboratory results indicated that contaminated soil was not present, or
- contaminated soil was identified and was left in place requiring the discharge to be reported and a site assessment to be conducted in accordance with Rule 62-780.600, F.A.C., or
- contaminated soil was identified, excavated and results demonstrated that groundwater should not have been affected based on the:
 - degree of contamination,
 - horizontal and vertical extent of contamination in the excavated soil,
 - type of product believed to have been discharged, and
 - site stratigraphy.

If the results cannot demonstrate that groundwater should not have been affected, then a temporary monitoring well is to be installed in the area that represents the location believed to be most likely to have contamination as determined by the soil samples.

G. Discharge Reporting Requirements during a Petroleum/Product Tank System Closure

The Department must be notified by the facility owner or operator of the discovery of an unreported discharge on the Discharge Report Form [Department Form 62-761.900(1)] within 24 hours of the discovery or before the close of the Department's next business day. If any one of the following reporting criteria is met, then the Closure Investigation may be terminated, a Closure Report (prepared according to the guidelines described in Section A – Documentation Requirements, describing the work that was performed at the site and summarizing the data collected at that time) is to be submitted and a formal site assessment initiated in accordance with Chapter 62-780, F.A.C.:

1. Soil contaminated with products classified in the Gasoline Analytical Group or in the Kerosene Analytical Group, that exceeded the default soil CTLs specified in Chapter 62-777, F.A.C., remains on-site; or
2. Soil contaminated with used oil, that exceeded the default soil CTLs specified in Chapter 62-777, F.A.C., remains on-site; or

Note: For G.1. and G.2. above, a DRF does not need to be submitted when the default soil CTLs are exceeded while level 1 alternative closure options (Fractionation and SPLP) are being evaluated. Once the evaluation is complete, if it is demonstrated that the soil is contaminated, then a DRF must be submitted;

3. Free product or a sheen of petroleum products is detected in a monitoring well or in the tank or tank

system components excavation area; or

4. Any of the groundwater CTLs specified in Chapter 62-777, F.A.C., has been exceeded.

H. Hazardous Substance and Other Pollutant Storage Tank Systems

Owners or operators of hazardous substance USTs and other pollutant USTs are required to perform a Closure Investigation. The Closure Report must address the particular regulated substance stored in the storage tank system. Sampling methodology must be submitted to the District or contracted County program for approval 30 days before the storage system closure. If the sampling methodology proposed by the Owner or Operator will accurately detect any discharges that may have occurred, the District or contracted County program will notify the owner or operator of the approval within 14 days of receipt of the sampling methodology. Closure Investigation may be conducted in accordance with existing Department-approved closure evaluation protocols and related corrective action protocols approved under other Department programs [e.g., Heavy Fuel Oil Discharge Response Actions (FDEP April 2007)].

GUIDANCE DOCUMENT D1

Compliance Verification Program Review

PURPOSE

The program review serves to gauge program performance during the course of each task assignment. This program review seeks to ensure effective communication (both written and verbal) between the contractors and DEP.

Each section contains a comment area used to explain deficiencies and to highlight superior performance. DEP's program review will emphasize the Contractor's performance in relation to inspection type, facility type and inspector competence. DEP will use these program reviews during the development of future performance standards. The program reviews will evaluate the entire fiscal year task assignment.

In summary:

1. Provide comments
2. Highlight deficiencies and superior performances
3. Conduct periodic reviews during course of task assignment
4. Provide copies to the contractor and the Contract Manager with the Permitting and Compliance Assistance Program (PCAP) within two weeks of completion.
5. Request response from the contractor within 45 days of issuance of the program review.

Directions for Completing Contract Review Form

Program Management

1. Have the required number of routine compliance inspections been done as required by the Scope of Work in the contract? Have all the applicable inspections: installation, closure, discharge, re-inspections and complaint been conducted, and the reports completed, as specified within the contract?
2. Has the contractor generally met the Level of Effort time frames specified by DEP? Refer to Guidance Document F.
3. Were closure documents received as required and properly reviewed? Were appropriate closure letters sent? Was follow up conducted as needed?
4. Are the Payment Calculation Sheets submitted to the Task Manager electronically by the 10th of the following month, and are the electronic invoices (deliverables) submitted by the 15th of the following month to PCAP? Was the Task Manager copied on the electronic invoice submittal?
5. Have performance deficiencies noted in previous task assignment(s) been addressed and corrected by management or staff?

Data Management

1. Are all FIRST entries relevant to facility status done? This includes such things as site maps, photos, EQ information, registration information, outreach prior to routine compliance inspections, documentation of inspection report delivery, incident data entry, and facility coordinate information.
2. Are the appropriate discharge reporting activities conducted and entered into FIRST and is the Task Manager notified within 30 days of the discovery of a new discharge at a facility?

Staffing

1. Are positions correctly staffed? Have a sufficient number of qualified staff been provided to satisfactorily complete the contract requirements?
2. OSHA training within 6 months of hiring and annually thereafter?
3. Has a contract program representative attended all scheduled meetings, teleconferences and training?
4. Have all inspectors and compliance assistance personnel attended inspector training courses offered by DEP?

Public Assistance

1. Does the contractor provide access to facility files and provide copies of applicable rules, inspection forms, and other program/public assistance information to the public and regulated interests?

Comments

Total all points from the file review and field review forms in the appropriate spaces. All NO answers need to be explained in the comment section where applicable and specific instances of shortcomings in the program documented. Send copy of review to the local program supervisor upon completion of the contract review.

Directions for Completing FIRST Review Form

Inspection Reports

1. Has the registration information been checked to verify if STCM and FIRST are correct? If the information needs to be updated, has the facility representative been directed to correct the information? Has the registration form been forwarded to Tank Registration as needed?
2. Are the violations accurately cited?
3. Are clear and concise appropriate corrective actions stated?
4. Required inspection report information:

All inspections:

- a. Has plain language been used so that the facility representative can understand the findings in the inspection report?
- b. Has the mechanism of financial responsibility been documented?
- c. Have the reviewed records and systems tests fields been completed accurately.
- d. Does the inspection report meet the minimum standards referenced in the FIRST User's Guide and include the following information shown below?

Routine Compliance:

- Date of physical inspection.
- All release detection methods for tanks, piping, and sumps listed. Description of any unusual operating conditions, such as alarms.
- Any forms that were completed during the inspection, or provided to the facility for later update or referral to the Department's website for electronic update.
- A brief description of the inspector's physical inspection results for all accessible system equipment. This may include:
 - Vacuum gauge readings.
 - Results (dry/water/product, etc.) for tank and piping interstices, fill/spill containments, sumps, AST containments.
 - Integrity and conditions of all accessible system components (corrosion; containment integrity; deterioration or deformation, damaged or worn components, etc.)
 - Presence of any current leaks or staining that is indicative of past leaks or overfills.
 - Operating status, hours and amp/volt readings of impressed current rectifier, presence of cp test stations.
- If certain system equipment was not inspected or could not be inspected, reason(s) for the lack of inspection recorded.
- Any requests for and/or receipt of an INF or a DRF based on the records review or physical inspection findings.

Installations:

- The description of activities conducted and observed by the inspector(s). Ensure that the dates and times of these activities and observations are noted.

- The PSSC name and number for UST installations or the name of the contractor performing the AST installation.
- List of all the equipment installed, manufacturer, and EQs. As a reminder, this information also needs to be recorded at the facility level.
- The release detection methods used to demonstrate compliance.
- The testing company name, the method of test performed, and the results.
- Any forms that were completed during the inspection or provided to the facility for later update. If a registration form has not been completed, note that one must be completed and submitted.

Closures:

- The activities conducted and observed by the inspector(s). Ensure that the dates of these activities and observations are noted.
- The PSSC name and number for UST closures or the name of the contractor performing AST closure.
- The equipment closed as well as general condition. Include manufacturer, and EQ numbers, if now known, if this information was not previously known and/or recorded in FIRST. As a reminder, this information also needs to be recorded at the facility level. Update the site map accordingly at the facility level.
- The method(s) used to make the tanks safe for removal (i.e. inerting, induction, etc.)
- Whether any forms were completed during the inspection or provided to the facility for later update. If a registration form has not been completed, note that one must be completed and submitted within 10 days.
- The cleanup status of previous discharges.
- Document whether the closure integrity evaluation report form was submitted as applicable.
- The statement as to whether a closure report or a limited closure report is required, and by what date.
- The name of the consultant performing the closure assessment and the methods of sampling, if applicable.
- The disposal of the tanks, contents, and contaminated soil/groundwater, as applicable.
- The observance of contamination, or lack thereof, during the closure process. Any photographs or sketches describing the contamination encountered should be attached in the Attachments section described above.
- An INF/DRF that is provided by the responsible party during a closure inspection.

Discharge Inspections:

- After notification, was a discharge inspection performed within 14 calendar days?
- The product discharged, including type, amount, and cause of discharge, when possible.

- Actions taken to contain and abate the discharge (tank emptied, repairs, tightness testing, etc.).
- The date the DRF was filed, or a statement that the DRF has not yet been filed, and for what reason.
- The names of any consultants and/or PSSC, with number, if they are involved with response to discharge.
- Any requests to the responsible party to provide soil and/or product disposal manifests.
- Whether a site assessment will be required, if known at the time of the inspection.
- A diagram of the affected area, if the discharge was a visible surface spill.

Reinspections:

- Describe what was re-inspected, what corrective actions were taken and what violations were resolved, if any.
- An INF that is provided by the responsible party during a re-inspection.

Complaints:

- Source and description of complaint received.
- Outcome of complaint.
- An INF that is provided by the responsible party during a complaint inspection.

5. Have photos been taken of physical violations, installations, closures and discharges?
Are the photos properly documented?

Correspondence

1. Have Compliance Assistance/In-Compliance letters been issued per the Level of Effort document?

Follow-up

1. Conducted and Documented:
 - a. Have reinspections been scheduled and conducted as needed?
 - b. Has the resolution of violations been documented (submittals, phone calls, meetings)?
 - c. Have non-compliant facilities that have not returned to compliance been referred for enforcement?
 - d. Have appropriate start-up tests (i.e., hydrostatic, operability, and integrity tests) been provided?
 - e. Have closure documents (Closure Integrity Evaluation Reports, Closure Reports, and Limited Closure Reports) and forms been timely received and reviewed? And, were follow-up letters issued, as applicable (i.e., incomplete/complete) issued)?
 - f. Was a cleanup notification letter issued when appropriate?
 - g. Has every effort been made to get the facility back into compliance prior to referring the facility for enforcement? The degree of effort may be dependent on their enforcement level.
 - h. Have INFs/DRFs been tracked and appropriate follow-up taken?

- i. Have the latitudes/longitudes for new facilities been determined and verified in accordance with DEP approved procedures?

FIRST Information

1. Were activities, comments, and attachments complete?
2. Was all necessary data entry completed? Including:
 - a. For routine compliance inspections, was Outreach conducted prior to the inspection and documented in FIRST in a Phone or Electronic Communication Activity, depending on how the contact was made?
 - b. Was the date and manner of the issuance of the inspection report to the facility owner/operator documented in FIRST in a supporting activity such as a Non-Compliance Project Letter Activity, Issue Document Activity, and/or Electronic Communication Activity?
 - c. EQ information provided for each tank on the Regulatory Information Page.
 - d. Was inspection report completed within 14 days.
3. Does FIRST contain current and historic site photos and site maps, as applicable?

Directions for Completing Field Inspection Review Form

Process

1. Did the inspection report meet the minimum standards referenced in the FIRST User's Guide?
2. Has the registration information been checked to verify if STCM and FIRST are correct? If the information needs to be updated, has the facility representative been directed to correct the information. Has the registration form been forwarded to Tank Registration as needed?
3. Were all necessary records and system tests reviewed?
4. Have photos been taken of physical violations and are the photos properly documented?
5. Have Compliance Assistance/In-Compliance letters been issued per the Level of Effort document?

Performance

1. Were all tank components, including release detection components, inspected?
2. Are the violations accurately cited?
3. Are clear and concise appropriate corrective actions stated?
4. Was proper safety equipment used and were safe work practices used?
5. Was compliance assistance provided as needed?



CONTRACT REVIEW FORM

CONTRACT NUMBER: G

COUNTIES:

DATE:

Compliance Inspection Verification Program Review

		YES	NO	N/A	Pts. avail.	Pts. scored
Program Management						
1	Program inspections meet Scope of Work?				10	
2	Program follows Level of Effort timeframes?				10	
3	Timely receipt/review of closure documents? Letters sent?				4	
4	Payment Calculation Sheets and Invoices timely submitted?				2	
5	Previous task assignment deficiencies corrected?				5	
Data Management						
1	Are all applicable FIRST entries made including such things site maps, photos and EQ information?				2	
2	Appropriate discharge reporting activities conducted and entered into FIRST?				2	
Staffing						
1	Positions correctly staffed?				1	
2	Appropriate OSHA training completed?				1	
3	Attendance at required meetings, telecons and training?				1	
4	Staff attended inspector training courses?				1	
Public assistance						
1	Program info. available to public? Access provided?				1	
Total						
	FIRST Review Attached				40	
	Field Inspection Review Attached				30	
	Total for contract review				100	

Program review conducted by:

Date:

Comments:



FIRST REVIEW FORM

CONTRACTOR NAME:		FACILITY ID NUMBERS								Pts. avail.	Mean score
		Y/N	score	Y/N	score	Y/N	score	Y/N	score		
INSPECTION REPORTS											
	Insp. Type/Inspector										
1	Reg. Info correct/verified									2	#####
2	Violations cited and accurate									3	#####
3	Appropriate corrective actions stated									3	#####
4	All req. inspection rpt info. and items completed									5	#####
5	Appropriate photo taken									2	#####
CORRESPONDENCE											
1	Letter issued per LOE									2	#####
FOLLOW-UP											
1	Conducted/Documented									5	#####
FIRST											
1	Activities, Comments and Attachments Complete?									2	#####
2	Data entry timely completed									4	#####
3	Current/Historic photos/site map									2	#####
Mean Score This Page										#####	

Review Conducted By: _____

Date: _____

Comments:



FIELD INSPECTION REVIEW FORM

Contract Number:

County:

Date:

YES NO N/A Pts. Avail. Pts. Scored

PROCESS:						
1	All required inspection report information and items completed?				5	
2	Reg. Info correct/verified				2	
3	All records and system tests reviewed and documented?				2	
4	Photos taken as needed?				2	
5	Letter issued per LOE?				2	
PERFORMANCE:						
1	inspection of all storage tank/release detection components?				6	
2	All violations cited and accurate?				3	
3	Appropriate corrective actions stated?				3	
4	Proper use of safety equipment/techniques?				3	
5	Compliance Assistance provided as needed?				2	

Total	30	0
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Review Conducted By:

Date:

Comments:

GUIDANCE DOCUMENT E

GUIDANCE DOCUMENT E

CONTRACTUAL SERVICES INVOICE

Invoice No. _____	Contract No. _____	Task No. _____	Date _____	Period of Service <u>7/1/2019</u> to <u>6/30/2020</u>
<u>Vendor:</u> _____ _____ _____ _____		<u>Bill To:</u> Florida Department of Environmental Protection Permitting and Compliance Assistance Program 2600 Blair Stone Road, M.S. 4500 Tallahassee, Florida 32399-2400 Attn.: Tanks Compliance Assistance Accounting		
<u>FEID No.:</u> <u>Telephone:</u> <u>Agent:</u>				
<u>Contractor Use:</u>				
<u>Fixed Price:</u> Contract/Task Amount _____ Less Previously Invoiced _____ Invoice Total _____		<u>Cost Reimbursement (Travel):</u> Contract/Task Amount _____ Less Previously Invoiced _____ Invoice Total _____		
TOTAL AMOUNT OF INVOICE: <u>\$0.00</u>				

Month/Yr.	Routine Inspection Amount	Routine Inspection Invoiced	Variable Invoiced	Invoice Total	Training Travel	Total Previously Invoiced
Jul 2019	\$ 515.50			\$ -		\$ -
Aug 2019	515.50			-		-
Sep 2019	515.50			-		-
Oct 2019	515.50			-		-
Nov 2019	515.50			-		-
Dec 2019	515.50			-		-
Jan 2020	515.50			-		-
Feb 2020	515.50			-		-
Mar 2020	515.50			-		-
Apr 2020	515.50			-		-
May 2020	515.50			-		-
Jun 2020	\$ 515.50			\$ -		\$ -

**PERMITTING & COMPLIANCE ASSISTANCE PROGRAM
STORAGE TANK SYSTEM COMPLIANCE VERIFICATION PROGRAM
LEVEL OF EFFORT GUIDANCE
LEVEL 1 AND LEVEL 2 PROGRAMS**

PURPOSE:

This enforcement guidance is provided for the Level 1 (Compliance Assistance) and Level 2 (Compliance Assistance with Self-Enforcement) contracted local tanks programs to clarify the process for violation citation and subsequent compliance assistance actions.

VIOLATION TYPES:

Violation types in the storage tank program:

- 1) Significant Non-Compliance - A (SNC-A)
These violations are considered top priority due to their potential for harm to the environment. *They are identified in the "Significance" column of the Storage Tank System Program Violation List (Guidance Document A of the Contract Scope of Work - see [Compliance Contracts](#)).*
- 2) Significant Non-Compliance - B (SNC-B)
These violations are considered high priority due to their potential for harm to the environment. *They are identified in the "Significance" column of the Storage Tank System Program Violation List (Guidance Document A of the Contract Scope of Work - see [Compliance Contracts](#)).*
- 3) Minor
These violations are considered a lower priority. *They are identified in the "Significance" column of the Storage Tank System Program Violation List (Guidance Document A of the Contract Scope of Work - see [Compliance Contracts](#)).*

SNC-A VIOLATIONS:

The following "Level of Effort" is required on SNC-A violations at the local program level for Level 1 Contractors. Level 2 Contractors will enforce violations according to local ordinances. See attached Flowchart for County Compliance and Referral Actions.

- 1) Upon discovery of a SNC-A violation, the local program shall cite the violation in FIRST (Florida Inspection Reporting Storage Tanks) and notify the facility owner/operator no later than 72 hours of the violation discovery. Then, the local program shall finish the inspection, send the inspection report to the facility (property) owner AND operator (if a separate party) with a Non-Compliance Letter (NCL). The Level 1 Contractor will send the NCL indicating

that the matter is being referred to the DEP district office, and refer the facility to the DEP district office within 14 calendar days.

- 2) Violations referred to the DEP district office shall be in accordance with [Guidance Document G](#), Guidelines for Case Referrals, of the Contract Scope of Work – see [Compliance Contracts](#). The local program shall ensure that FIRST is up-to-date and appropriate documents are attached in accordance with the FIRST User's Guide.

SNC-B & MINOR VIOLATIONS:

The following "Level of Effort" is required on SNC-B and Minor violations at the local program level for Level 1 Contractors. Level 2 Contractors will enforce violations according to local ordinances. See attached Flowchart for County Compliance and Referral Actions.

- 1) Upon discovery of a SNC-B or Minor violation, the local program shall cite the violation in FIRST and notify the facility owner/operator within 72 hours of the violation discovery. Then, the local program shall finish the inspection and issue a Compliance Assistance Offer (CAO) Letter to the facility owner/operator within 14 calendar days.

For violations that cannot otherwise be corrected, such as for gaps in monthly visuals or testing, which occurred three consecutive months or less, the violation shall be closed with the issuance of the CAO Letter to the facility owner/operator within 14 calendar days.

- 2) If the facility owner/operator responds that the violation has been corrected, and the facility provides documentation (photographs, manifests, and/or repair receipts), the violation may be closed and a Return to Compliance Letter should be issued. If the documentation appears to be insufficient, local program may request a Compliance Assistance inspection from the Division of Waste Management who may authorize a Compliance Assistance inspection. The local program may also request a Compliance Assistance inspection to document resolution of violations for those facilities at which there has been a poor compliance history (including those referred for enforcement) or where access was denied to the facility or components.

A Compliance Assistance inspection may not be conducted unless the Division of Waste Management approves of the Compliance Assistance inspection prior to it being conducted.

- 3) The owner/operator is given up to 90 calendar days to resolve the violation at the local program level. If at the 90-calendar day mark, the violation remains unresolved, the Level 1 Contractor shall refer the violation to the DEP district office. The 90-day clock begins upon the completion of the inspection in FIRST.

Even if the violation is in the process of resolution, and is being accomplished in a manner that is acceptable to both the Level 1 Contractor and DEP, the violation should be referred at the 90-day mark to the DEP. In turn, DEP may then advise the Level 1 Contractor to continue the resolution process with DEP oversight.

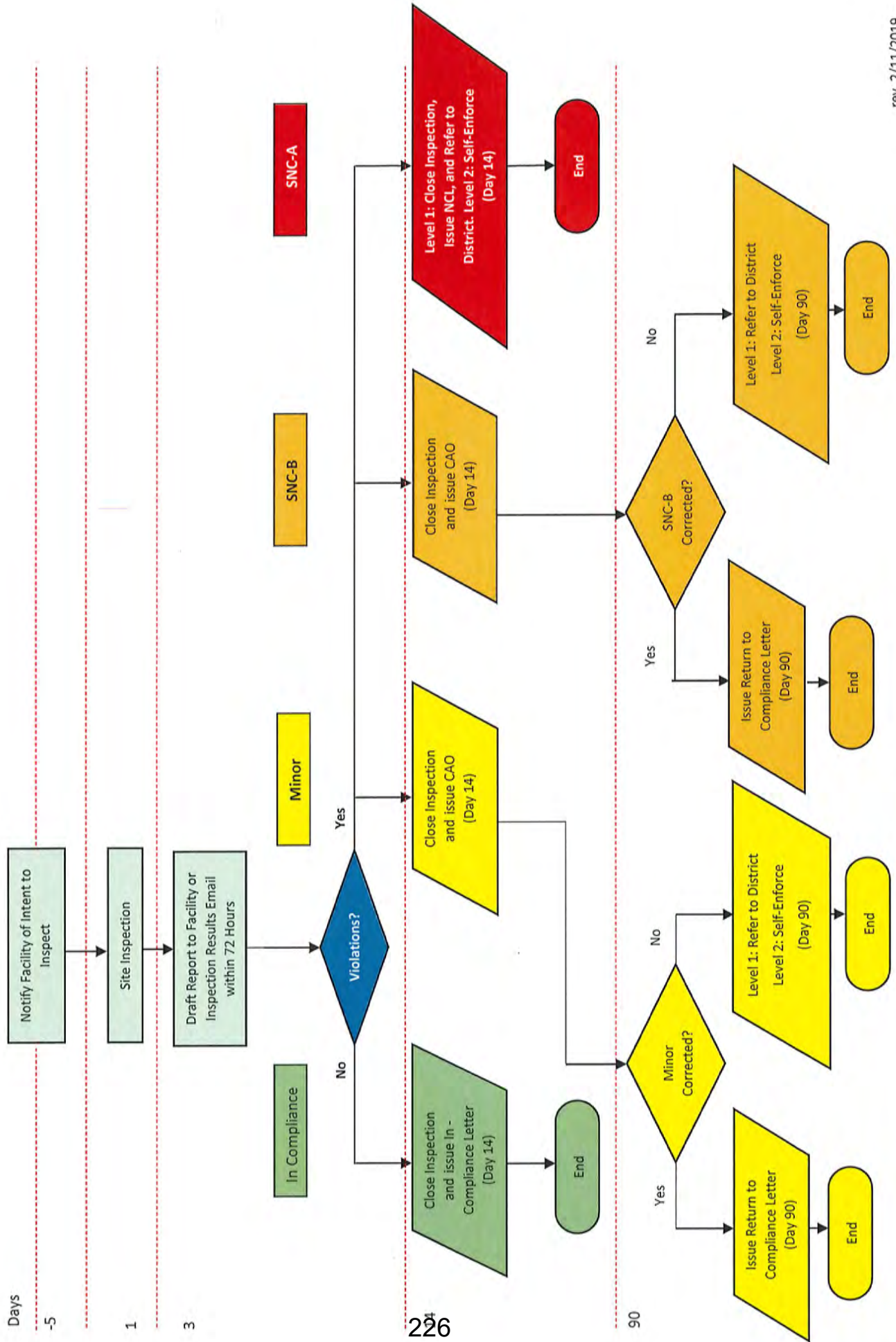
- 4) Violations referred to the DEP district office by the Level 1 Contractor shall be in accordance with [Guidance Document G](#), Guidelines for Case Referrals, of the Contract Scope of Work – see [Compliance Contracts](#). The local program shall ensure that FIRST is up-to-date and appropriate documents are attached in accordance with the FIRST User's Guide.

AREAS OF CONCERN (AOCs):

FIRST allows an inspector to cite any rule citation and identify as either an Area of Concern (AOC) or a Violation during an inspection. If a violation of the rule is discovered during the inspection, then a Violation should be cited. If the inspector has determined that the issue has not reached the point of being a violation of the rule, but there is a concern, then an AOC should be cited.

It should be noted that all AOCs cited in an inspection are automatically closed in FIRST upon the inspection report being finished.

FLOWCHART FOR COUNTY COMPLIANCE AND REFERRAL ACTIONS



**Guidance Document G
Guidelines for Case Referrals**

1. In accordance with the Level of Effort Guidance (Guidance Document F), the CONTRACTOR shall refer facilities to the Department if the facilities don't timely return to compliance through efforts by the CONTRACTOR.
2. The CONTRACTOR shall refer facilities as necessary to the Department through the Enforcement Referral Activities tab within the Enforcement Project in FIRST
3. In addition, the CONTRACTOR shall prepare a memorandum to the DEP Task Manager stating that the CONTRACTOR is referring the case for enforcement. The memorandum should be inserted as an attachment within the Enforcement Referral Activity in FIRST.
4. The memorandum should include the following:
 - a. The facility name and DEP Facility ID Number, and a short summary of the open violations. It should also name the staff that will available for questions, meetings, depositions, hearings, and other enforcement related activities.
 - b. A chronology of events leading to the referral. The chronology should describe any attempts to resolve the non-compliance issues, including telephone logs and other pertinent correspondence between the County and the Responsible Parties.
 - c. Names, telephone numbers, e-mail address if known, and addresses of the RPs, links to the county property appraiser's office websites, the clerk of the courts office websites, and corporate records website are:

County appraisers: <http://floridarevenue.com/property/Pages/LocalOfficials.aspx>.
Clerk of the courts: <https://www.flclerks.com/default.aspx>
Corporate records: <http://dos.myflorida.com/sunbiz/>

These links are helpful in determining ownership interests.
 - d. Copies of all letters or emails that have been sent to or received from the RPs, and that are not available in FIRST. Please note that prior to referring a facility, all potential RPs must have been contacted directly when the issues identified in the initial Compliance Assistance letter have not been timely resolved.
 - e. Copies of photographs of the violations where appropriate and that are not available in FIRST.

GUIDANCE DOCUMENT H

July 1, 2019 - June 30, 2020

CONTRACTUAL SERVICES INVOICE

Payment Calculations

Invoice No.	Contract No.	Date	Invoice Period
Inspection Type or Travel	Value	Quantity	List of Facilities (FAC. ID only) or Traveler Names
Routine	\$ 515.50		Attach FIRST spreadsheet or list traveler names below
UST System Install	\$ 1,425.85		
UST System Install - tank count greater than 10	\$ 2,100.00		
UST System Closure	\$ 920.15		
UST System Closure - tank count greater than 10	\$ 1,350.00		
AST System Install	\$ 712.93		
AST System Closure	\$ 418.25		
Compliance Assistance - Component	\$ 209.12		
Compliance Assistance - Reinspection	\$ 209.12		
Complaint	\$ 209.12		
Discharge	\$ 209.12		
Training			
	Routine Total	\$ -	
	Variables Total	\$ -	
	Invoice TOTAL	\$ -	

Signature

Date

GUIDANCE DOCUMENT I

State of Florida
Department of Environmental Protection
Administrative Directive

DEP 923
Effective: February 14, 2013
Approved by the Secretary

SETTLEMENT GUIDELINES FOR CIVIL AND ADMINISTRATIVE PENALTIES

1. Purpose

These guidelines are provided solely for the use of Department staff in determining what position the agency should take in settlement negotiations concerning civil and administrative penalties. They are intended to provide a rational, fair and consistent method for determining whether the Department should seek a civil penalty in an enforcement action and the appropriate amount of civil and administrative penalties the Department should seek from responsible parties in settling enforcement actions when imposition of a civil penalty is appropriate. These guidelines are not a rule and may not be cited as legal authority for any agency action. These guidelines are not applicable for assessing damages to natural resources. In an appropriate case, monetary relief for actual damages caused to the State's natural resources can be sought in addition to civil or administrative penalties. These guidelines will be periodically reviewed to determine their effectiveness, and whether refinements are needed.

2. Authority

With the enactment of the Environmental Litigation Reform Act (ELRA), the Department has administrative penalty authority for most regulatory programs. The Department now has the authority to impose up to a total of \$10,000 in civil penalties in one administrative action for most regulatory violations as provided in ELRA. This authority is codified at Section 403.121, Florida Statutes.

Independent of ELRA, the Department has statutory authority to assess administrative penalties in Beaches and Coastal Systems cases for up to \$10,000 per day, Section 161.054(1), Florida Statutes, and in State Lands cases for up to \$10,000 per day, Section 253.04(2), Florida Statutes. ELRA does not modify or add to that existing authority. Penalty guidelines for these programs have been adopted by rule.

The Department also has the authority in a judicial proceeding to ask a court to assess penalties of up to \$10,000 per day per violation, Sections 403.141, 376.302, and 373.129(5) Florida Statutes; up to \$25,000 per day per violation for hazardous substance violations, Section 403.726, Florida Statutes; up to \$50,000 per day per violation for hazardous waste violations, Section 403.727, Florida Statutes; up to \$5,000 per day per violation for violations of the Safe

Drinking Water Act, Section 403.860, Florida Statutes; and up to \$5,000 per day per violation for violations involving phosphate mines in Section 378.211(2),(4), Florida Statutes.

3. Introduction

This Department is directed by the Legislature to protect and enhance Florida's water, air, and lands, to protect human health, safety and welfare from adverse environmental conditions, and to manage the state's natural resources. To accomplish these goals, the Legislature has passed laws restricting or prohibiting activities that may cause pollution, harm the resources of the state, or threaten human health or safety. It has also given the Department the authority to adopt environmental standards, to require that persons engaging in certain activities obtain permits or other authorizations before those activities are undertaken, and to take appropriate actions to ensure that all persons comply with the statutory, rule, and permit requirements.

The Department has multiple ways to encourage compliance with the law, and to address non-compliance. Effective education of the public and regulated persons may prevent non-compliance from occurring in many instances. Such education may be in the form of training or outreach efforts. If a violation occurs, the Department may often obtain a return to compliance by informal means. In such cases, education may still be the appropriate remedy, and the Department may establish an environmental education course for such persons. Assisting with a prompt return to compliance without formal enforcement is the preferred means to correct a violation committed by a person who did not know that the person's actions were contrary to law, or whose actions were inadvertent, if the violation caused no more than "minor harm" as identified in the Program's Penalty Guidelines. An inadvertent violation is one that occurs despite the good faith efforts of the responsible party to comply with the applicable requirements.

Once a decision has been made that formal enforcement is appropriate, Department staff must then decide whether a civil penalty is appropriate. Even when formal enforcement is necessary, these guidelines do not require imposition of a civil penalty in every enforcement action. The Department staff involved in pursuing enforcement, with appropriate supervisory review, should use their sound judgment, along with any program specific guidance that is consistent with this policy, to decide when a penalty should be sought. In exercising this judgment, the user should remember that the imposition of penalties is an enforcement tool that is intended to insure immediate and continued compliance by the subject of the action and by others who may face a similar situation in the future. Thus, penalties should be considered in those cases in which it is determined that penalties are needed to ensure that the

responsible party and others similarly situated will be deterred from future non-compliance.

For example, a person – perhaps a homeowner or a person new to a business venture--may have committed a violation out of sheer ignorance. The person may acknowledge the mistake and be willing to correct any problems created by the violation. For this first time violator, the staff may reasonably believe that the violation was inadvertent or occurred because the responsible party was not aware of or did not understand the requirement, and that a civil penalty would not provide a deterrent effect under the circumstances. In general, such cases may be appropriate for education. However, because of the nature of the corrective actions, the Department staff may decide that a consent order would be most appropriate to ensure that the corrective actions are completed or to provide needed authorization to conduct the corrective actions. In such cases, the staff should ensure that impacts on the environment are corrected, while also minimizing the impact of the consent order on the responsible party. Under these circumstances, devices such as conservation easements, institutional controls, etc., should only be required if necessary to achieve the restoration goal. On the other hand, a penalty may be entirely appropriate for a first time violator who knew or had reason to know that the actions were illegal, who refuses to correct the problem that the person created by those illegal actions, or whose violation resulted in harm to the public health or the environment. A penalty should normally be sought against a person with a pattern of non-compliance.

Once you have made a determination that a civil penalty is appropriate, these guidelines should be used in settling both administrative and judicial enforcement actions brought against the persons violating Department statutes or rules. Although ELRA, enacted in the 2001 legislative session, sets specific penalty amounts for certain violations covered under the Act when those violations are pursued with a Notice of Violation, these guidelines provide: (1) direction about the application of the ELRA penalty schedule to the penalty calculation and negotiation process, (2) direction for programs not covered under ELRA, and (3) direction on cases that involve penalties calculated under ELRA that exceed \$10,000.

When formal enforcement is necessary, staff should attempt to negotiate a consent order to resolve all issues, including civil penalties, whenever possible and appropriate, before issuing a notice of violation or filing a judicial complaint. No such notice of violation or complaint should refer to these guidelines. If a settlement cannot be reached and recovering penalties is appropriate, the Department must issue a notice of violation in all cases that are covered under

ELRA that involve only penalties, and that involve penalties in an amount that is \$10,000 or less as calculated under ELRA.

In determining whether the Department should settle a case, file a notice of violation, or go to court for a judicial assessment of penalties, the Department will not only look at the statutory authorizations and requirements, but also at the following: does formal enforcement result in the elimination of any economic benefit gained by the violator as a result of the violation; and beyond that, does formal enforcement provide enough of a financial disincentive to discourage future violations not only by the violator but by others contemplating similar activities? At the same time, this policy should not be used to try to obtain more without litigation than could be obtained as civil penalties in an administrative or a judicial action. It must also be recognized that in some cases the benefits to the Department and public are not worth the costs and effort necessary to recover a penalty. In carrying out the mission of the agency, the District and Division Directors are authorized to deviate from these guidelines consistent with state law. However, penalties which are increased for the reasons cited below are subject to Secretarial approval.

4. Applicability to Program Areas

This policy is designed to apply to all program areas except those overseen by the Board of Trustees, unless otherwise preempted by an interagency agreement or other obligation of the Department. The Department currently has guidance and interagency agreements with the EPA, which are updated from time-to-time. Although such guidance and agreements represent a basis for establishing consistency, they are to not be used as mandates, but rather guidelines, applied on a case-by-case basis.

Most of the Department's programs have developed program specific guidelines for characterizing violations routinely found in their program areas. The program specific guidelines do not provide guidelines for every possible violation that may be discovered. The program specific guidelines are intended to be used in conjunction with these Settlement Guidelines when calculating the appropriate penalties to be sought in cases involving penalties exceeding \$10,000 or in cases involving programs not covered under ELRA. There may be some cases that involve unusual circumstances that have not been factored into the program specific guidelines. The program area should be consulted in these cases so as to enhance state-wide consistency.

5. Penalty Calculation

The initial step in calculating any penalty is to determine whether the program under which the penalty is being assessed is covered by ELRA, and whether the penalty using ELRA exceeds \$10,000. The RCRA, UIC, Asbestos, and Beaches and Coastal Systems programs are not specifically covered by ELRA.

A. If the program is not covered by ELRA:

The penalty should be calculated using: (a) the program specific guidelines to determine how the violation should be characterized; and (b) the guidance below in Sections 6, 7, and 8 to determine the total penalty amount.

B. If the program is covered by ELRA and the penalty does not exceed \$10,000:

1. The civil penalty calculation should start with the application of the specific penalty schedule in ELRA. If the total amount of penalties calculated for all violations using the ELRA penalty schedule is \$10,000 or less, those calculations should be used as a basis for settlement discussions.

2. Once the baseline penalty has been established, a decision must be made as to whether there are any mitigating circumstances involved in the particular case that would warrant downward or upward adjustments of the baseline penalty.

3. Downward adjustments could be made for good faith efforts to comply before or after the discovery of the violation, or for violations caused by circumstances beyond the control of the responsible party which could not have been prevented by due diligence. A downward adjustment could also be made if it is determined, after review of the responsible party's financial information, that the responsible party is unable to pay the baseline penalty.

4. Upward adjustments to the baseline penalty could be made based upon a history of non-compliance as provided in ELRA or for economic benefit gained from the violation. If the upward adjustments together with the ELRA schedule baseline penalty exceeds a total of \$10,000, the penalty must be capped at \$10,000, if the Department is going to pursue the penalty under ELRA.

C. If the calculated penalty using the specific penalty schedule in ELRA exceeds \$10,000:

The penalty should be calculated using: (a) the program specific guidelines to determine how the violation should be characterized; and (b) the guidance below in Sections 6, 7, and 8 to determine the total penalty amount unless a decision is made by the District Director to cap the recovery of penalties at \$10,000 for the particular case. There may be cases in which the calculated penalty marginally exceeds \$10,000 and would not warrant a state court action, if not settled. As a practical matter, those cases should either be settled at \$10,000 or pursued administratively for the maximum allowed under the ELRA. In all cases where a proposed penalty is to exceed \$10,000, a peer review by the Division should be conducted and the proposed penalty must gain Deputy Secretary approval. Proposed penalties established at a value of \$50,000 or more must gain approval by the Secretary.

6. Penalty Matrix

The penalty matrix in Attachments I, II, III, and IV have two factors:

- a. actual (or in some cases potential) environmental harm; and
- b. extent of deviation from a statutory or regulatory requirement.

Subsection a. addresses the actual or potential harm to human health or the environment that may occur as a result of the violation. Generally, penalties that are assessed predominantly for potential harm (where little or no actual harm is done, nor willful intent to violate existed) should not exceed \$10,000. There are three levels of harm within this axis of the matrix:

1. MAJOR: violations that actually result in pollution in a manner that represents a substantial threat to human health or the environment;
2. MODERATE: violations that actually or are reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment;
3. MINOR: violations that actually or are reasonably expected to result in a minimal threat to human health or the environment.

An example of a major violation is a discharge or emission of a pollutant to the air or a water body in a manner which exceeds air or water quality standards by an order of magnitude amount and over a substantial period of time, or where the environment is measurably and substantially affected by the discharge or emission.

Subsection b. addresses the degree to which the violation deviates from Department statutes and rules and thereby upsets the orderly and consistent application of the law. The three levels are classified as follows:

1. MAJOR: the violator deviates from the requirements of the law by a significant extent (e.g. an order of magnitude or more) or the violation was willful and intentional.
2. MODERATE: the violator deviates from the legal requirements of the law significantly but for a short period of time and/or most of the requirements are implemented as intended.
3. MINOR: the violator deviates somewhat from the requirements of the law but most of the requirements are met.

Each box in the penalty matrices contains a range of penalty amounts. If it is determined that the violations were knowing, deliberate or chronic violations, penalties should be calculated by using the top of the applicable ranges.

7. Multiple and Multi-Day Penalties

Violations usually occur in multiples, over extended periods of time. While the policy must be designed to encourage a prompt return to compliance, assessing the full matrix penalty amount for each day of a violation for those cases outside the scope of ELRA could result in an astronomical amount being sought. On the other hand, such a calculation might be useful in setting outside limits if a large economic benefit has been received from the violation. In order to recognize ongoing and multiple violations without unrealistic results, the following applies:

Other than cases where willful or intentional violations have occurred, multiple penalties should not be calculated where a single activity, cause or omission resulted in the exceedances. For example, an accidental water or air release could result in several constituent violations, yet penalties should not be calculated for each individual constituent.

Multi-day penalties may be pursued where daily advantage is being gained by the violator for an ongoing violation; or, where the violation is causing daily adverse impacts to the environment and the violator knew or should have known of the violation after the first day it occurred and either failed to take

action to mitigate or eliminate the violation or took action that resulted in the violation continuing. On the other hand, deference should be given to those rare cases involving regulated entities, whereby the sole alternative to a violation would result in the loss of essential services (e.g. water or electricity) to Florida citizens. Multi-day penalties should be computed by multiplying the appropriate daily penalty calculated or a part thereof by the number of days of noncompliance. Where the impact of the ongoing violation is not significantly detrimental to the environment, a penalty amount that is lower than the matrix amount should be calculated for the violations that occur after the first day. For violations that are significantly detrimental to the environment, a penalty amount at the matrix amount should be calculated for the violations that occur after the first day, up to 30 days of non-compliance. For violations that occur for more than 30 days, judgment should be exercised to determine the appropriate penalty amount to be sought for each additional day of non-compliance that occurs over 30 days. For multi-day hazardous waste violations, staff should consider the guidance provided in EPA's most current RCRA Civil Penalty Policy. Multi-day penalties are also useful when a facility agrees to come into compliance by a specific date. In that case stipulated daily penalties could be required for missing the agreed upon compliance date. Or the overall penalty could be lowered based upon the number of days the violator comes into compliance prior to the compliance date.

An alternative to multiplying the total daily penalty by the number of days of noncompliance for non-ELRA cases that are not significantly detrimental to the environment would be to use one or more of the adjustment factor amounts chosen multiplied by the number of days the adjustment factor is appropriate. For example, assume a total one day penalty of \$8,000 was arrived at by adding \$6,000 derived from the matrix, \$1,000 for lack of good faith before the Department discovered the violation, and \$1,000 for lack of good faith after the Department informed the responsible party of the violation, but you feel the penalty is too low considering the nature of the violation. A multi-day penalty could be calculated, for example, by adding to the total one day penalty (\$6,000) a multiple of \$1,000 times the number of days the violation occurred prior to being discovered by the Department and the violator acted with lack of good faith, and/or by multiplying \$1,000 times the number of days the violation occurred after the Department informed the responsible party of the violation and the violator acted with lack of good faith.

If the above described example involved a violation that took place over a twenty day period with the violator acting with lack of good faith for five days prior to the Department discovering the violation, and the violator acting with lack of

good faith for ten days after being informed of the violation by the Department, the total penalty could be calculated as follows:

- a. One day penalty - \$6,000 (without adjustments), plus
- b. A multi-day penalty using the adjustment factor amount for lack of good faith prior to the Department discovering the violation times the number of days lack of good faith was demonstrated by the violator - $\$1,000 \times 5 = \$5,000$, plus
- c. A multi-day penalty using the adjustment factor amount for lack of good faith after the violator was informed of the violation by the Department times the number of days lack of good faith was demonstrated by the violator - $\$1,000 \times 10 = \$10,000$.
- d. Total penalty proposed for settlement: $\$6,000 + \$5,000 + \$10,000 = \$21,000$.

It is important in using daily penalties of this type that the amount be sufficient to discourage the violator from continuing a violation by making it more expensive to pay the daily penalty than to come into compliance. Also, if the case is within the scope of ELRA, multi-day penalties should be pursued consistent with ELRA.

8. Adjustment Factors

The attached Penalty Computation Worksheet sets out the steps you should follow in calculating a penalty based upon the matrix and adjustment factors. After you have calculated the penalty amount derived from the matrix, you should consider the adjustment factors and determine whether any or all of them should be used. When applying adjustment factors, a penalty can be reduced to zero or increased up to the statutory maximum per day allowed for the particular violation.

Good Faith Efforts to Comply/Lack of Good Faith Prior to Discovery of the Violation by the Department: This adjustment factor can be used to increase or decrease the amount of penalties derived from the penalty matrix. This adjustment factor allows you to consider what efforts the responsible party made prior to the Department's discovering a violation to comply with applicable regulations. Some examples of lack of good faith are:

- a. The responsible party knew it was not complying with the Department's regulations.
- b. The responsible party claims it did not know it was not complying with the Department's regulations, but because of the nature of the responsible party's business and the length of time the business was operating, it is reasonable to assume that the responsible party should have known about the Department's regulations.
- c. The violation was caused by an uninformed employee or agent of the responsible party, and the responsible party knew or should have known about the Department's regulations and made no or little effort to train, educate or inform its employees or agents.

Some examples of good faith efforts to comply are:

- a. The violation was caused by the responsible party's employees or agents despite the responsible party's reasonable efforts to train, educate or inform its employees or agents.
- b. The violation was caused by the responsible party as a result of a legitimate\misinterpretation of the Department's regulations.
- c. The violation occurred after a Department regulation was changed and compliance was required, but the responsible party had been making reasonable efforts to bring its operation into compliance with the new Department regulation.
- d. The responsible party took action on its own to mitigate the violation once it discovered that a violation had occurred.
- e. Once the responsible party discovered the violation, it made changes to its operation on its own to prevent future violations from occurring.
- f. The responsible party has demonstrated that it is implementing an acceptable pollution prevention plan.
- g. The responsible party has demonstrated that it is operating in accordance with a DEP Ecosystem Management Agreement.

Good Faith Efforts to Comply/Lack of Good Faith after the Department Informed the Responsible Party of the Violation: This adjustment factor

can be used to increase or decrease the amount of penalties derived from the penalty matrix. Some examples of good faith efforts to comply are:

- a) Once the responsible party was notified of the violation by the Department, it took immediate action to stop the violation and mitigate any effects of the violation.
- b) Once the responsible party was notified of the violation by the Department, it cooperated with the Department in reaching a quick and effective agreement for addressing the violation.

Some examples of lack of good faith efforts to comply are:

- a. The responsible party took affirmative action that was in violation of the Department's regulation after being notified by the Department that such action constituted a violation of the Department's regulation.
- b. The responsible party failed to take action to stop an ongoing violation or to mitigate the effects of a violation after being notified by the Department that it was in violation of a Department regulation.
- c. The responsible party ignores the Department's requests to negotiate a settlement.

History of Non-Compliance: This adjustment factor can be used to increase the amount of penalties derived from the penalty matrix or ELRA schedule. This adjustment factor may be used if a violation has occurred within a five year period previous to the occurrence of the current violation and a consent order, final order, judgment, judicial complaint or notice of violation was issued for the violation; the previous violations involved any of the programs regulated by the Department; and the previous violations involved a penalty obtained or being pursued where at least one of the violations was deemed as major for either the "environmental harm" or "extent of deviation from requirement" categories and was in the amount of \$2,000 or more. For ELRA cases, the history of non-compliance prior to June of 2001 cannot be considered.

Economic Benefit of Non-Compliance (requires Deputy Secretary approval): Economic benefits can be both passive, such as avoided costs gained from inaction, where the benefits come from the money saved from avoiding or delaying costs of compliance; and active, such as increased profits or revenue gained from actions taken in violation of Department statutes or rules where the benefits would not have been gained, if the facility had only been

operated in compliance. In certain situations a responsible party could both actively and passively gain economic benefit from violating Department statutes or rules. Other than in ELRA cases, the statute does not specifically authorize the recovery of economic benefits gained by the violator.

Passive economic benefits usually consist of the money that was made or that could have been made by an alternate use of the money that should have been expended to bring the facility into compliance. Assuming the responsible party will be forced to spend money to come into compliance as a result of the enforcement action, the minimum economic benefit associated with avoiding or delaying costs can be determined by calculating the amount of interest that was or could have been earned on the amount of money that should have been spent to bring the facility into compliance. The amount of this form of economic benefit will depend upon the amount of money that should have been spent, the period of time the costs were avoided or delayed, and the prevailing interest rate. A common example of economic benefits gained from avoiding or delaying costs is the situation in which an owner or operator of a regulated source of pollution fails to purchase a pollution control device needed to operate the facility in compliance with pollution control laws.

Active economic benefits usually consist of any increase in profits, revenue gained or reduction in costs that are directly attributable to the activity conducted in violation of Department statutes or rules. Increased profits and/or a reduction of costs, for example, can occur when a facility that is required to operate with a pollution control device is operated without the use of the pollution control device in order to increase the production or reduce the costs of production. Increased profits can also be gained when action is taken such as constructing and operating a facility without obtaining the required permits in order to make money from the operation of the facility sooner than would have been allowed. A possible example could involve a situation in which the developer of a shopping center conducts dredging and filling activities, constructs a stormwater facility or runs water and sewer lines without waiting to obtain permits so that the construction of the shopping center can meet a deadline for opening.

In addition to adjusting ELRA penalties by considering economic benefit, in non-ELRA cases the economic benefit adjustment factor can be used to increase the amount of penalties derived from the penalty matrix. There may be cases that arise in which the economic benefit gained by the violator exceeds the amount of money that can be recovered in civil penalties authorized by law. For example, three days of circumvention of a pollution control device could result in increased profits, revenue gained and/or a reduction in costs amounting to more than

\$30,000, the statutory amount that would be allowed for three days of violations for which a \$10,000 penalty per day can be imposed. Other than in ELRA cases, the statute does not specifically authorize the recovery of economic benefits gained by the violator. The statute does allow for penalties to be imposed in an amount that ensures immediate and continued compliance, and unless the economic benefit from the violation is taken away by the penalties, the penalties will not ensure immediate and continued compliance. Therefore, economic benefits that are not de minimis may be included in all penalty calculations up to the amount allowed by the applicable statutory per day penalty cap. For example, if a violation occurs for 10 days and the statute allows for the imposition of a penalty up to \$10,000 per day, and the matrix penalty calculated for the violations is \$60,000, the amount of economic benefit gained by the violator may be added to the matrix penalty up to the statutory maximum penalty of \$100,000. Continuing with the example, if the matrix penalty calculated for the violations is \$60,000, and the economic benefit to the violator from the violations is \$30,000, the penalty sought may be as high as \$90,000. If the matrix penalty calculated for the violations is \$60,000 and the economic benefit to the violator from the violations is \$50,000, the Department would be limited to pursuing a penalty of \$100,000. Staff should consider capturing the economic benefit gained by one or more violations by using the statutory penalty cap for the total of all violations.

For non-ELRA cases, the statute provides that a penalty may be calculated in an amount sufficient to ensure future compliance. Since one factor to ensure future compliance is to eliminate the economic benefits of non-compliance, the approach described for ELRA cases may be applied to the calculation of non-ELRA civil penalties where appropriate.

In some cases it may be very difficult to determine the economic benefits of non-compliance, or the amount of the benefits may be insignificant. For any significant economic benefits the District staff should request that OGC assist in the development of an appropriate amount by use of EPA's computer model for calculating economic benefits (BEN) or by use of some other accepted economic method. The request should be directed to OGC or the appropriate department financial analyst.

Ability to Pay: This adjustment factor may be used to decrease or increase the amount of penalties derived from the penalty matrix. This adjustment factor may be used to decrease the amount of penalties derived from the ELRA schedule. The violator has the burden of providing to the Department all of the financial information needed to determine ability to pay. If sufficient information is not provided by the violator, an ability to pay adjustment decreasing the

penalty may not be considered. Like economic benefits, ability to pay may be a difficult matter to determine by the District staff. If the District staff needs assistance in determining ability to pay, a request should be made by the District staff to OGC to assist in the ability to pay determination by use of EPA's computer model for determining ability to pay (ABEL) or by use of some other accepted financial method.

Other Unique Factors: This adjustment factor can be used to increase or decrease the amount of penalties derived from the penalty matrix, or to decrease the amount of penalties to be pursued in an ELRA case, but may not be used to increase the amount of penalties that can be pursued in an ELRA case. This adjustment factor is intended to provide the District with flexibility to make adjustments in a particular case based upon unique circumstances that do not clearly fit within the other adjustment factors. When it is used, the unique circumstances justifying its use must be specifically explained on the penalty worksheet, and a peer review by the Division should be conducted.

9. In-Kind Penalties

Once the settlement amount has been established, staff should make the violator aware of the opportunity to propose, and should consider if proposed, an in-kind penalty project by the violator as a way of reducing the total cash amount owed the Department. The in-kind penalty project is not designed to give the violator credit for the cost of corrective actions that he would be required to undertake anyway, but only to offset all or some portion of the cash settlement in a mutually satisfactory manner. So long as the financial impact upon the violator is equivalent to that established pursuant to these settlement guidelines, the Department is encouraged to work cooperatively to find alternative ways that the violator may pay the penalty.

In-kind penalties should only be considered in the following circumstances:

- a) If the responsible party is a government entity, such as a federal agency, state agency, county, city, university, or school board, including a port or airport, or
- b) If the responsible party is a private party proposing an environmental restoration or enhancement project, or
- c) If the responsible party is a private party proposing an in-kind project that does not involve environmental restoration or enhancement for a calculated penalty of \$10,000 or more.

In-kind penalties are limited to the following specific options:

- a. **Material and/or Labor Support for Environmental Enhancement or Restoration Projects.** Preference should be given to proposals that involve participation in existing or proposed government sponsored environmental enhancement or restoration projects such as SWIM projects. The responsible party shall be required to place appropriate signs at the project site during the implementation of the project indicating that the responsible party's involvement with the project is the result of a Department enforcement action. Once the project has been completed as required by the Consent Order, the sign may be taken down. However, the responsible party should not be allowed to post a sign at the site after the project has been completed indicating that the reason for the project being completed was anything other than a DEP enforcement action. For most environmental enhancement or restoration projects conducted on private property, the responsible party should provide a conservation easement to the Department for the land on which the restoration project took place. For an environmental enhancement or restoration project on public land, the responsible party may need to provide a conservation easement to the Department for private land adjoining the environmental enhancement or restoration project if it is required to protect the completed restoration project.
- b. **Environmental Information/Education Projects.** Any information or education project proposed must demonstrate how the information or education project will directly enhance the Department's pollution control activities. An example of an acceptable information or education project is one that involves training, workshops, brochures, PSAs, or handbooks on what small quantity generators of hazardous waste need to do to comply with RCRA. The information or education projects must not include recognition of the development of the projects by the responsible parties.
- c. **Capital or Facility Improvements.** Any capital or facility improvement project proposed must demonstrate how the capital or facility improvement project will directly enhance the Department's pollution control activities. An example of an acceptable capital or facility improvement project is one that involves the construction of a sewer line to hook up a failing package plant, owned and operated by an insolvent third party, to a regional sewage treatment plant. An example of an

unacceptable capital or facility improvement project is one that involves the planting of upland trees and shrubs.

- d. **Property.** A responsible party may propose to donate environmentally sensitive land to the Department as an in-kind penalty. Any proposals concerning the donation of land to the Department as an in-kind penalty must receive prior approval from the Department's Division of State Lands. The DEP may require proposals concerning the donation of land to another government entity or non-profit organization to include a conservation easement involving the donated property.

If an in-kind penalty is used in lieu of a cash penalty, the value of the in-kind penalty should be 1 and 1/2 times the amount of the penalty if paid in cash. Department staff should not be involved in choosing vendors or agents used by the responsible party in implementing an in-kind project. No in-kind penalty project should include the purchase or lease of any equipment for the Department.

10. Pollution Prevention Projects

Whenever practicable, enforcement staff should affirmatively consider and discuss with responsible parties the option of offsetting civil penalties with pollution prevention projects. Responsible parties should be provided materials on the definition of a pollution prevention project, the nature of preferred pollution prevention projects, a description of the information that would need to be submitted by the responsible party to the Department for a pollution prevention project to be approved, and a description and sample of a pollution prevention plan that would be attached as an exhibit to a consent order or settlement agreement.

Pollution Prevention Project in the context of enforcement is defined as a process improvement that can be classified in one of the following three categories:

- a. Source Reduction - Source reduction involves eliminating the source of pollution. It is accomplished when chemicals or processes that produce pollution are eliminated or replaced with chemicals or processes that cause less pollution. The ideal source reduction project is to produce goods with no pollution. This has the most benefit for the environment, and usually requires the greatest change in the production process. Source reduction can be as sweeping as terminating the production of products that cannot be manufactured without pollution, or it can be as

mundane as eliminating an unneeded cleaning step. Other examples of source reduction include:

- (1) Replacing a vapor degreaser with a re-circulating, water based cleaning process;
- (2) Using darker wood to eliminate solvents in ordinary staining;
- (3) Using UV cure paint to eliminate the solvents in ordinary paint;
- (4) Using a painted or plastic surface instead of chrome plated surface such as those found on lawnmower handles and the "Euro-look" cars and bumpers;
- (5) Eliminating the release of CFC by sending electronic parts for sterilization to a plant that can use pure ethylene oxide instead of the more common ethylene oxide/freon mix;
- (6) Keeping supplies and stock out of the weather to eliminate cleaning between processes;
- (7) Having a vendor use a no-clean rust inhibitor on incoming parts;
and
- (8) Using propylene carbonate instead of acetone to clean tools used in fiberglass parts manufacturing.

b. Waste Minimization - Waste minimization involves the conservation of materials that are the source of pollution. This is accomplished when releases of chemicals to the environment are reduced. The ideal situation is a no-loss process. Waste minimization can be as expensive as replacing a regular vapor degreaser with one that has an airlock, or it can be as simple as using large, refillable containers to reduce the amount of material disposed of on the walls of emptied containers. Other examples include:

- (1) Using High Volume Low Pressure paint guns in place of High Pressure Low Volume paint guns in a painting line to reduce paint loss.
- (2) Using electrostatics with painting to reduce paint loss.

- (3) Keeping containers of liquids covered and cool to minimize evaporation.
 - (4) Using processes less likely to produce spills.
 - (5) Using rollers instead of sprayers to reduce evaporation loss from atomization.
 - (6) Adjusting floating lid tanks to keep fixed volume tanks full, reducing evaporation.
 - (7) Using counter current rinsing to reduce water use.
 - (8) Reducing dragout to minimize chemical depletion.
- c. On-Site Recycling - On-site recycling involves the reuse of materials that are the source of pollution. Process - chemicals are reused directly in the process or are revived in some manner and reused in either their original process or in some other operation within the facility. The ideal is total reuse of materials. On-site recycling can be as complex as an ion exchange system for the recovery of dissolved metals in a rinse water, or it can be as simple as a batch solvent still for the recycling of a cleaner. Other examples include:
- (1) Using a cart that rolls up to a vehicle, filters oil or coolant and returns the clean fluid to the vehicle;
 - (2) Using a solvent still to clean solvent for reuse;
 - (3) Filtering machining fluids for reuse;
 - (4) Installing a paint gun cleaner that filters and recirculates the cleaning solvent;
 - (5) Using electrowinning to remove dissolved metals from plating rinse water and allowing the water to be reused;
 - (6) Capturing solvent vapors from printing operations for their distillation and reuse.
- d. Pollution prevention does NOT include:

- (1) Off-site recycling such as sending used process water to be reused at a golf course, sending used motor oil or coolant off-site for reclamation or incineration, off-site solvent recovery, or regeneration of ion exchange columns;
- (2) Treatment such as: wastewater treatment to remove contaminants prior to disposal, evaporation of a waste stream to remove water from contaminants, sludge de-watering to reduce volume, air stack scrubbers to remove gaseous contaminants or catalytic incinerators to remove VOCs from air;
- (3) Disposal such as: landfilling or incineration.

Before a pollution prevention project should be approved to offset civil penalties, the responsible party must submit a waste audit report to the Department. The responsible party should be given the option of preparing the report on his or her own, by hiring a consultant or by requesting the help of the Department's Pollution Prevention Program staff. The waste audit report must include: 1) a waste audit of the facility or of the process or processes that are relevant to the proposed pollution prevention project; 2) a pollution prevention opportunity penalty calculation; and 3) a conceptual pollution prevention proposal.

The Department retains the option to approve or disapprove the submitted conceptual proposal depending upon the environmental merits of the proposal. The Divisions should provide programmatic guidance to the enforcement staff concerning the nature of preferred pollution prevention projects. Potential or actual economic benefits gained by the responsible party should not be used as a basis for denying an otherwise acceptable proposal for a pollution prevention project.

Once a conceptual pollution prevention project has been approved, the responsible party must prepare a pollution prevention project plan that must, when applicable, include information on the following: design, construction, installation, testing, training, maintenance/operation, capital/equipment costs, monitoring, reporting, and scheduling of activities.

No costs expended by a responsible party on a pollution prevention project that are necessary to bring the facility into compliance with

current law should be used to offset civil penalties. The following costs associated with pollution prevention projects can be used to offset up to 100% of civil penalties on a dollar for dollar basis:

- a. Preparation of a pollution prevention plan.
- b. Design of a pollution prevention project.
- c. Installation of a pollution prevention project.
- d. Construction of a pollution prevention project.
- e. Testing of a pollution prevention project.
- f. Training of staff concerning the implementation of a pollution prevention project.
- g. Capital/equipment needed for a pollution prevention project.

The following costs should not be used to offset a civil penalty:

- a. Cost incurred in conducting a waste audit and preparing a waste audit report (includes waste audit, opportunity assessment and conceptual proposal).
- b. Maintenance and operation costs involved in implementing a pollution prevention project.
- c. Monitoring and reporting costs.

A responsible party should not be given the opportunity to bank or transfer pollution prevention credits to offset future civil penalties.

Whenever possible, approval of specific pollution prevention projects should be obtained prior to entering into a consent order or settlement agreement. District Directors or Division Directors are authorized to approve pollution prevention proposals. If the specifics of a pollution prevention plan cannot be worked out in time to meet EPA timelines for taking formal enforcement action, the responsible party can be given the option of paying the civil penalty in cash or having a pollution prevention project reviewed and approved by a time certain to be identified in a consent order or settlement agreement.

For all approved pollution prevention projects, the responsible party must maintain/operate the pollution prevention project for a time certain after initial implementation, and must be required to submit at least one report discussing the status of implementation and the pollution prevention results of the project.

11. Review by the Office of General Counsel

In addition to any unique case identified by a Division or District Director, cases which exceed certain threshold penalties should be reviewed for legal defensibility by OGC. These three situations are:

- a. The case involves a proposed penalty of \$25,000 or more for non-RCRA cases.
- b. The case involves a proposed penalty of \$50,000 or more for RCRA cases.
- c. The case involves a proposed cash penalty of \$10,000 or more to be satisfied with an in-kind proposal that does not involve environmental enhancement or restoration.

All above-described penalty proposals should be submitted to the Office of General Counsel using the Department's form penalty authorization memo and routed to the Chief Deputy General Counsel for review to determine whether the penalty proposals are consistent with this policy.

12. Procedure for Implementation

In order for these guidelines to be implemented properly, adequate record keeping must be followed. The penalty determination matrices are attached.

Also attached is the penalty computation worksheet. This worksheet should be used in all cases in which a penalty is calculated and proposed, and (following applicable peer reviews) should be sent along with the draft Consent Order that is to be reviewed by OGC for final approval. If the penalty being sought includes an adjustment and/or a multi-day determination, fill out both Part I and Part II.

If the penalty amount calculated as the Total Penalties for all Violations in Part I is reduced after meeting with the responsible party, a new penalty computation worksheet or Part III of the penalty computation worksheet must be filled out. If the penalty is being reduced based upon new information concerning the facts or law relied upon to determine the number or character of the violations for which penalties are being sought, a new penalty computation worksheet should be

filled out reflecting the changes in the violations for which penalties are being sought or the characterization of the violations. If the penalty is being reduced for other reasons, Part III of the penalty computation worksheet must be filled out and signed and dated by the Director of District Management.

A narrative explanation should also be prepared in all cases to be reviewed by the Chief Deputy General Counsel to explain how the penalty proposal was reached, and in all cases in which the program specific guidelines are not being followed. This should be completed at the time the penalty is calculated and forwarded with the penalty computation worksheet.

Responsible Office: Office of General Counsel

ATTACHMENTS:

Penalty Calculation Matrix (Potable Water Cases),
(ATTACHMENT I)

Penalty Calculation Matrix (Cases other than PW, HS
or HW)
(ATTACHMENT II)

Penalty Calculation Matrix (Hazardous Substance Cases)
(ATTACHMENT III)

Penalty Calculation Matrix (Hazardous Waste Cases)
(ATTACHMENT IV)

Penalty Computation Worksheet,
(ATTACHMENT V)

ATTACHMENT I

PENALTY CALCULATION MATRIX*
(Potable Water Cases)

EXTENT OF DEVIATION FROM REQUIREMENT

E N V I R O N M E N T A L H A R M		MAJOR	MODERATE	MINOR
	MAJOR	\$5,000 to \$ 4,000	\$4,999 to \$3,000	\$2,999 to \$2,300
	MODERATE	\$2,299 to \$1,600	\$1,599 to \$1,000	\$999 to \$600
MINOR	\$999 to \$500	\$500 ¹⁾	\$500 ¹⁾	

1) – Environmental Education may be an acceptable substitute

ATTACHMENT II

PENALTY CALCULATION MATRIX
 EXTENT OF DEVIATION FROM REQUIREMENT
 (For Cases other than PW, HS, or HW)

E N V I R O N M E N T A L H A R M		MAJOR	MODERATE	MINOR
	MAJOR	\$10,000 to \$ 8,000	\$7,999 to \$6,000	\$5,999 to \$4,600
	MODERATE	\$4,599 to \$3,200	\$3,199 to \$2,000	\$1,999 to \$1,200
MINOR	\$1,199 to \$ 500	\$500 ¹⁾	\$500 ¹⁾	

1) – Environmental Education may be an acceptable substitute

ATTACHMENT III

PENALTY CALCULATION MATRIX
 EXTENT OF DEVIATION FROM REQUIREMENT
 (Hazardous Substance Cases)

E N V I R O N M E N T A L H A Z A R D S		MAJOR	MODERATE	MINOR
	MAJOR	\$25,000 to \$ 20,000	\$19,999 to \$15,000	\$14,999 to \$11,000
	MODERATE	\$10,999 to \$ 8,000	\$7,999 to \$5,000	\$4,999 to \$3,000
MINOR	\$2,999 to \$1,500	\$1,499 to \$500 ³⁾	\$500 ³⁾	

This matrix should be used whenever the following two conditions exist:

- 1) The violation creates an imminent hazard as defined in Section 403.726(3), Florida Statutes: “If any hazardous substance creates an immediate and substantial danger to human health, safety, or welfare or to the environment.”
- 2) The violation involves the release, discharge of a hazardous substance as defined in Section 403.703(29), Florida Statutes. Florida’s definition of a hazardous substance refers to the federal definition of a hazardous substance under CERCLA. The CERCLA definition of a hazardous substance includes a list of substances that can be found at 40 CFR 302.4. In addition to the list of hazardous substances, hazardous substances can include any toxic pollutant listed under Section 307(a) of the Clean Water Act, any substance designated pursuant to Section 311(b)(2)(A) of the Clean Water Act, and any hazardous air pollutant listed under Section 112 of the Clean Air Act. The list of hazardous air pollutants should only be used as a basis for pursuing hazardous substance penalties if the pollutants have been released or discharged to the ground, surface water or ground water. All hazardous wastes are hazardous substances. If the violation involves a hazardous waste, the hazardous waste matrix should be used for that violation.
- 3) Environmental Education may be an acceptable substitute

ATTACHMENT IV

PENALTY CALCULATION MATRIX
 EXTENT OF DEVIATION FROM REQUIREMENT
 (Hazardous Waste Cases)

E N V I R O N M E N T A L H A Z A R D O U S W A S T E C A S E S		MAJOR	MODERATE	MINOR
	MAJOR	\$37,500 to \$ 28,330	\$28,330 to \$21,250	\$21,250 to \$15,580
	MODERATE	\$15,580 to \$11,330	\$11,330 to \$7,090	\$7,090 to \$4,250
MINOR	\$4,250 to \$2,130	\$2,130 to \$710 ¹⁾	\$710 to \$150 ¹⁾	

Note: If the violation involving a hazardous waste results in human injury or death, or involves the deliberate disposal to the ground, surface water or groundwater, the \$50,000 per day statutory maximum penalty may be pursued.

1) – Environmental Education may be an acceptable substitute

ATTACHMENT V
PENALTY COMPUTATION WORKSHEET

Violator's Name: _____

Identify Violator's Facility _____

Name of Department Staff Responsible for the Penalty Computations:

Date: _____

PART I - Penalty Determinations

	Violation Type	ELRA Schedule	ENVIRONMENTAL Harm	Extent of Dev.	Matrix Amount	Multi-day	Adjustments	Total
1	_____	_____	_____	_____	_____	_____	_____	_____
2	_____	_____	_____	_____	_____	_____	_____	_____
3	_____	_____	_____	_____	_____	_____	_____	_____
4	_____	_____	_____	_____	_____	_____	_____	_____
5	_____	_____	_____	_____	_____	_____	_____	_____
6	_____	_____	_____	_____	_____	_____	_____	_____
7	_____	_____	_____	_____	_____	_____	_____	_____
8	_____	_____	_____	_____	_____	_____	_____	_____
9	_____	_____	_____	_____	_____	_____	_____	_____

Total Penalties for all Violations: _____

Director of District Management
Division Director
Peer reviewed by Division: Yes () No ()

Date

Deputy Secretary (if required by these guidelines)

Date

DEP Secretary (if required by these guidelines)

Date

ATTACHMENT V

Part II - Multi-day Penalties and Adjustments

ADJUSTMENTS Dollar Amount

Good faith/Lack of good faith prior to discovery: _____

Justification: _____

Good faith/Lack of good faith after discovery: _____

Justification: _____

History of Non-compliance: _____

Justification: _____

Economic benefit of non-compliance: _____

Justification: _____

Ability to pay: _____

Justification: _____

Total Adjustments: _____

MULTI-DAY PENALTIES Dollar Amount

Number of days adjustment factor(s) to be applied: _____

Justification: _____

Or

Number of days matrix amount is to be multiplied: _____

Justification: _____

ATTACHMENT V

Part III - Other Adjustments Made After Meeting with the
Responsible Party

ADJUSTMENT	Dollar Amount
Relative merits of the case:	_____
Resource considerations:	_____
Other justification: _____	

Date

Director of District Management or Division
Director

Guidelines for Characterizing Storage Tank Violations

Revision date: June 28, 2013

Introduction

Department of Environmental Protection (DEP) Directive 923 is the Department's controlling enforcement document. These guidelines are intended to complement Directive 923 to determine the appropriate amount of administrative penalties to seek when settling enforcement actions. These guidelines are intended to provide a rational, fair, and consistent method to determine the appropriate enforcement response for storage tank violations.

Administrative Penalties (ELRA)

Under the Environmental Litigation and Reform Act (ELRA), the Department can seek an administrative penalty for certain violations pursuant to s. 403.121(2), Florida Statutes (F.S.). Administrative penalty amounts are stipulated by statute and cannot not exceed \$10,000 per assessment when calculated in accordance with the applicable sections of 403.121, F.S. For additional details, see DEP Directive 923.

Violation (statutory language)	ELRA Base Penalty	Cite (F.S.)
Failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed.	\$5,000	403.121(3)(g)
Improper disposal of contaminated media from a storage tank system release or discharge (such as spreading contamination from stockpiled soil).	\$5,000	403.121(3)(g)
Failure to satisfy financial responsibility requirements.	\$5000	403.121(4)(a)
Depositing motor fuel into an unregistered storage tank system.	\$2,000	403.121(3)(g)
Failure to maintain required release detection.	\$2,000	403.121(3)(g)
Failure to properly install a storage tank system.	\$2,000	403.121(3)(g)
Failure to submit required notification to the department.	\$1,000	403.121(4)(e)
Failure to properly operate, maintain, or close a storage tank system.	\$1,000	403.121(3)(g)
Failure to timely upgrade a storage tank system.	\$3,000	403.121(3)(g)
Failure to conduct or maintain required release detection.	\$2,000	403.121(3)(g)
Failure to timely investigate a suspected release.	\$2,000	403.121(3)(g)
Failure to timely assess or remediate petroleum contamination (such as failure to remove stockpiled soil after 30 / 60 / 90 days).	\$2000	403.121(3)(g)
Failure to conduct required monitoring or testing.	\$2,000	403.121(4)(d)

Guidelines for Characterizing Storage Tank Violations

Violation (statutory language)	ELRA Base Penalty	Cite (F.S.)
Failure to prepare, submit, maintain, or use required reports or other required documentation.	\$500	403.121(4)(f)
Failure to submit or maintain required documentation.	\$500	403.121(4)(f)
Failure to prepare, submit, maintain, or use required documentation.	\$500	403.121(4)(f)
Failure to comply with any other departmental regulatory statute, regulation or requirement.	\$500	403.121(5)

Civil Penalty Calculation Matrix for Storage Tank Violations

Matrix Factor Considerations

The Department's Penalty Matrix identifying what types of violations fall into what quadrants for cases other than Potable Water, Hazardous Substances, or Hazardous Waste, should be referenced from Attachment II of Directive 923. Remember, in order to place a violation in the 'Major' row for Environmental Harm, the violation must have actually resulted in pollution in a manner that represents a substantial threat to human health or the environment. Moderate violations are those violations that actually or are reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. Minor violations are those violations that actually or are reasonably expected to result in a minimal threat to human health or the environment.

Peer Review and Penalty Amount Approvals

In all cases where a proposed solid waste penalty exceeds \$10,000, a peer review by the Division of Waste Management is required and the Deputy Secretary must approve the proposed penalty. The Secretary must approve proposed penalties of \$50,000 or more.

Matrix Factors—General Prohibition

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	1. Storage of Pollutants that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> 1. Failure to empty a damaged storage system, where necessary, in a timely manner to contain, remove, and abate the discharge and to prevent further discharge to the environment. 2. Failure to satisfy financial responsibility requirements within more than 180 days of due date.

Guidelines for Characterizing Storage Tank Violations

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Moderate	<ol style="list-style-type: none"> Storage of Pollutants that actually or are reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> Depositing motor fuel into an unregistered storage tank system. Improper disposal of contaminated media from a storage tank system release or discharge. Failure to properly install a storage tank system. Failure to submit required Discharge Reporting Form [DEP Form # 62-761.900(1)] to the department. Failure to properly operate, maintain, or close a storage tank system for more than one inspection or other verification. Failure to timely upgrade a storage tank system. Failure to conduct or maintain required release detection. Failure to timely investigate a suspected release. Failure to satisfy financial responsibility requirements within less than 180 days of due date. Failure to timely assess or remediate petroleum contamination (such as failure to remove stockpiled soil after 30/60/90 days). Failure to conduct required monitoring or testing for more than one inspection or other verification.
Minor	<ol style="list-style-type: none"> Failure to operate or close a storage tank facility in accordance with the rule that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> Failure to prepare, submit, maintain, or use required reports or other required documentation, other than a Discharge Reporting Form [DEP Form # 62-761.900(1)]. Failure to comply with any other departmental regulatory statute, regulation or requirement.

Multi-Day Penalties and Adjustment Factors

DEP Directive 923 discusses when and how to assess multi-day penalties. The directive also sets out various adjustment factors to be used when calculating a penalty based on the matrix. These factors include:

- Knowing, deliberate, or chronic violations.
- Good faith efforts to comply (or lack of good faith efforts to comply) either prior to or after Department discovery of the violation.
- History of noncompliance.
- Economic benefit of noncompliance.
- Ability to pay.
- Other unique factors.

In-Kind Penalties and Pollution Prevention Projects

In-Kind Penalties and Pollution Prevention Projects should be considered as provided in Directive 923.