



62-780 Liability & Enforcement

Waste Cleanup Workshop

May 25, 2006



Review Purposes

- Attempt to define the universe of sites subject to Global RBCA, Chapter 62-780
- Gain a general understanding of the number of sites that may be ripe for enforcement
- Determine any practical issues that may exist once formal enforcement begins



Review Parameters

- Conducted three-month review of all active/open sites that *may* be subject to 62-780
- Sites outside the enforceability of 62-780 were not reviewed, such as:
 - Executed settlement agreements (i.e., consent orders, voluntary clean up agreements, agreements for specified remediation, consent final judgments, and stipulations)
 - Hazardous waste sites being cleaned up under 62-730, unless the hazardous waste violations had been corrected and the site was transferred to waste clean up for any remaining contamination
- Sites not reviewed due to nature of the site
 - Army Corps of Engineers
 - Gun/shooting ranges
 - Cattle dip vats
 - Sites in which there was a clear EPA lead



Review Parameters

- The primary focus of the review was to locate sufficient information in each file to determine if 62-780 applied
 - PRSRs
 - Contamination
 - Evidence of Liability (Owner/Operator/Discharger)
- Once the file was reviewed, each site was placed in a category depending on whether enforcement could be pursued now or in the near future, whether further information was needed, or whether enforcement was not necessary at this time



Categories

- **Category I:** Sites where the District can begin 780 Enforcement
- **Category II:** Sites where there is insufficient information to determine the next 62-780 task
- **Category III:** Sites where there is insufficient information to determine the status
- **Category IV:** Sites where 780 enforcement is not warranted at this time



Initial Review Site Statistics

District	Total Active Sites	Sites Possibly Subject to 62-780	Category I	Category II	Category III	Category IV
Central District	203	126	30	20	26	47
Southwest District	432	96	37	19	12	17
Southeast District	190	76	18	10	20	14
Northeast District	233	111	38	12	20	25
Northwest District	142	37	8	2	13	36
South FL District	51	22	1	0	12	7
Totals	1251	468	132	63	98	146

**** NOTE: Margin of error for total active sites could be as high as +/- 250 sites**



Implementation Strategy

- District Directors/Mike Sole Approved Plan
- OGC Attorneys Drafted Initial Batch of Non-Compliance Letters
 - Sent to all sites in Category I and every identifiable PRP
 - NO finding of liability
 - Notify PRP of 62-780
 - Detail history of correspondence at site
 - *Request* submittal of a 780 deliverable w/in time certain



Implementation Strategy

- Number of Initial Non-Compliance Letters to be Sent - **49 ***
 - CFD – 7
 - SWD – 12 *
 - SFD – 1
 - NED – 14 *
 - SED – 10
 - NWD – 5
- Good News: Movement in Submittals since OGC Initial Review



Implementation Strategy

- OGC to Complete Letters for Category I Sites
 - SWD – Additional 200 files to review and categorize
 - SWD and NED – Several sites still need letters drafted
- Await Response from 1st Round of Non-Compliance Letters
 - Majority of sites have 60 – 90 days to submit the requested 62-780 deliverable
 - District will then choose on which (if any) to pursue formal enforcement



Implementation Strategy

- OGC to Draft 1st Round of NOVs
 - Attorneys to visit each district where NOV is requested
 - Spend 1 day with WCU staff drafting an NOV
- OGC to Assist Districts with Category II and III Sites
 - Identify PRPs
 - Evidence of Liability
 - Determine where the site is within 62-780



Final Thoughts...

- Additional Attorney and Support Positions in OGC
 - 1 OPS attorney dedicated to 62-780 enforcement
 - 1 SES attorney dedicated to 62-780 enforcement
 - 1 SES senior attorney primarily focused on 62-780 enforcement
 - 1 administrative assistant dedicated to supporting 62-780 attorneys
- Possible Paralegal Support Assistance Positions at District Level (Funding Under Review)
- Maintain Category System in the Future?