

## **SRCO with Conditions – Step-by-Step Process for PRP Site Managers**

Below are the steps the Site Manager should follow to complete an SCRO with Conditions. Refer to the [Institutional Controls Procedures Guidance webpage](#) for the complete [Institutional Controls Procedures Guidance \(ICPG\)](#) document dated March 2017 including all Attachments which will be referenced throughout this guidance. Review the Flowchart of Restrictive Covenant Approval Process ([ICPG Attachment 1](#)) for a basic understanding of this process. In addition, view the [Conditional Closure Step-by-Step](#) PowerPoint presentation of this process.

1. The No Further Action with Conditions (NFAC) process begins when a Petroleum Restoration Program (PRP) Agency Term Contractor (ATC) submits either a:

- Supplemental Assessment Report (SAR);
- Natural Attenuation Monitoring (NAM) Report; or
- Post Active Remediation Monitoring (PARM) Report recommending an NFAC.

The report containing this recommendation must provide justification for the NFAC recommendation citing how the site qualifies for the NFAC criteria as established by the current applicable Cleanup [Rule 62-780.680\(2\)](#), [FAC or 62-780.680\(3\)](#), [Florida Administrative Code \(F.A.C.\)](#). This report must include a Professional Geologist (PG) or Professional Engineer (PE) seal.

2. Using the IC Checklist ([ICPG Attachment 5](#)), the PG or PE evaluates the proposed recommendation and determines whether the site closure satisfies the provisions of subsections 62-780.680(2) or (3), F.A.C., Risk Management Options (RMO) Levels 2 or 3 (also known as NFAC). If the PRP professional staff does not agree that the site qualifies for one of the RMOs, then the proposed NFAC recommendation is denied.

If the PRP professional staff agrees that the site qualifies for one of the RMOs, the site manager should take the following steps:

- Read the Institutional Control Tips ([ICPG Attachment 2](#)) prior to initiating this process;
- Send a letter to the responsible party (RP)/property owner acknowledging their intent to pursue a conditional closure ([ICPG, Attachment 7](#)) concurring with the recommendation for conditional closure, notifying them about any needed restrictions, and providing information about the location of the Institutional Controls Procedures Guidance document.
- Refer the ATC to the PRP webpage for the web link to the *ICPG* where the Declaration of Restrictive Covenant (DRC) documents are located.

3. The ATC must complete the DRC ([ICPG Attachment 3](#)). The DRC is provided in PDF and Microsoft Word format. Templates [Forms A](#) and [Form B](#) are available.

- Form A should be used if the entire site is being proposed for restrictions.
- Form B should be used if only a portion of the site is being proposed for restrictions.

4. In accordance with Chapter [376.3071\(5\)\(b\)4, Florida Statute](#) (Inland Protection Trust Fund), certain tasks related to site closure with conditions are allowed compensation through PRP funding. A Purchase Order should be prepared for the following scope of work (as needed):

- Professional Land Survey: If the entire property is not being proposed for restriction, the PLS must clearly identify the property boundaries and the proposed area of the property subject to restrictions.
- Title search – The title search will be compensated through a separate contract managed by Team 1. All requests for title searches should be directed to John Wright (or designee) on Team 1.
- Recording fees
- Engineering control design and installation (if warranted): This cost is not allowed if an engineering control already exists.
- Engineering Certification Report: Should include engineering certification for the implementation of engineering controls, including an Engineering Control Maintenance Plan (ECMP) which describes how the engineering control will be monitored and maintained (see the Engineering Control Reporting & Monitoring section, [ICPG Attachment 31](#) for assistance). The PRP Schedule of Pay Item (SPI) # 19-13 should be given to compensate the ATC for the Engineering Certification Report. This equates to the level of effort (LOE) given for a Level 1 Limited Scope Remedial Action Plan. SPI #21-9 through #21-12 can be used for the Professional Engineer's review time. Additional LOE may be given if warranted after discussion with the PRP Professional Engineer Administrator.

Note: Any cost associated with legal representation should not be covered with PRP funding.

5. Ensure that all holders of existing mortgages, easements or recorded leaseholds within the area of any contaminated site are provided an actual notice for which conditional closure is proposed (whether using an RC or alternative approved ICs). A template for the actual notice can be found at [ICPG Attachment 9](#). The Department should be provided complete copies of the notices that have been made, together with proof of delivery of the notice to each interest holder.

Note: In accordance with Chapter 62-780.220(3)(b), F.A.C., there are certain circumstances when a constructive notice of DRC must be published. A template for the constructive notice is provided in [ICPG Attachment 19](#). Ensure that a copy of the proof of publication is provided to the Site Manager for PRP records. The SRCO cannot be issued until a 30-day public comment period (from the date of publication) has expired. Contact the Office of General Counsel (OGC) attorney at the 30-day point to report whether any comments were received.

6. When the draft DRC document is submitted, prepare a DRC package and route it to the PRP Technical Reviewer for technical review and approval. This package should include:
  - FDEP Routing & Transmittal Slip
  - Declaration of Restrictive Covenant Checklist ([ICPG Attachment 5](#))
  - Site/Project Manager Memorandum to OGC ([ICPG Attachment 6](#))
  - Copy of publication of constructive notice, although this may happen after the DRC package is submitted.

- Restrictive Covenant Package (submitted by the Responsible Party's (RP) representative), including the draft DRC, a title search report, and complete copies of accompanying title documents.
  - Engineering Certification Report and Engineering Certification Report Approval Letter.
  - Note: The P.E. Certification Page must state which cleanup rule is being adopted, i.e., Chapter 62-780.680(2), F.A.C. or 62-780.680(3), F.A.C.
  - Engineering Control Maintenance Plan (ECMP), if applicable.
7. The OGC Contact Person (the Institutional Controls Paralegal) will receive the original signed package from the RP for scanning into the OGC database (similar to Oculus).
  8. The OGC Contact Person will forward the electronic copy of this document to the OGC Legal Reviewer (the Institutional Controls Attorney) for review. The PRP Site Manager must wait for the OGC attorney comments to be sufficiently addressed.
  9. If all requirements are met and the draft DRC is in proper form, the OGC Attorney will directly request that the property owner execute the DRC.
  10. The OGC Contact Person delivers the owner executed DRC with attachments to the Program Administrator for signature.
  11. After signature, mail the DRC to the RP's representative for recordation. The recorded DRC ensures that all owners, present and future, are legally required to comply with the restrictions for as long as the DRC remains unchanged in the land records. A recording stamp will be placed on the original recorded DRC.
  12. The original recorded document remains in the land records of the county where the property is located; the RP will send copies of this document will be sent to OGC and the PRP Site Manager. The OGC Contact Person will scan the document into the OGC Oculus database and the PRP Site Manager will scan it into the Division of Waste Management (DWM) Oculus database. DO NOT DATE STAMP this document. Date stamp the cover page only.
  13. Prepare a Purchase Order for the abandonment of applicable wells. This scope of work may be tasked at any time after the Site Manager is assured that the wells will not be needed for future monitoring. The Site Manager reviews and approves the Well Abandonment Report.
  14. Prepare the SRCO with Conditions for the Program Administrator's signature. The PG or PE seal page should reference either Chapter 62-780.680(2) or 62-780.680(3), FAC. If applicable, it should also reference the establishment of engineering controls. Note: The rule cited on the P.E. seal page must match the rule cited in the SRCO. See [IC PE Certification Example](#).
  15. Complete the [Institutional Controls Registry Data Sheet](#), which must be provided to the GIS & ICR Coordinator in the DWM Director's Office. For further instructions on LSSI sites see the [ICR Data Sheet Instructions for LSSI Sites](#).
  16. Scan all final documents into Oculus.

**OGC Contact Person**

Dan Blackwell  
Research Assistant  
Dan.Blackwell@dep.state.fl.us  
FDEP, Permitting Section,  
Office of the General Counsel  
Phone: 850-245-2287

**PRP PE Technical Reviewer**

James Treadwell, P.E.  
James.Treadwell@dep.state.fl.us  
FDEP, PRP, Team 3  
Phone: 850-245-8862

**PRP Chief Engineer**

John Wright, P.E.  
John.Wright@dep.state.fl.us  
FDEP, PRP, Team 3  
(850) 245-8888

**PRP Legal Reviewer**

Mary Stewart  
Sr. Asst. General Counsel  
Mary.Stewart@dep.state.fl.us  
FDEP, Permitting Section  
Office of General Counsel

**GIS & ICR Coordinator**

Chris Williams  
Christopher.Williams@dep.state.fl.us  
FDEP, DWM, Director's Office  
Phone: (850) 245-8758

**PRP PG Technical Reviewer**

Chris Bayliss, P.G.  
Christopher.J.Bayliss@dep.state.fl.us  
FDEP, PRP, Team 1  
(850) 245-8866