

Pennsylvania MOA Flow Chart

1. Facility elects to enroll in One Cleanup program; submits electronic NIR

2. DEP & EPA assign project managers who contact facility

3. Meeting/call for three parties to agree on approach;
Likely site visit; Draft Environmental Indicator Form completed

4A. DEP LEAD (Simple)

4B. DEP LEAD (SHS,SSS)

4C. EPA LEAD (SSS)

5A. Site Characterization &
Cleanup, as appropriate

5B/C. Site Characterization; Risk Assessment
as appropriate; EPA concurrence

6. Follow up work and Environmental Indicator Complete

7. Proposed Final Report meeting/call

8. Submit Act 2 Cleanup Plan or Final Report, as appropriate

9. DEP final approval; Act 2 release; EPA review and concurrence

10. EPA prepares Statement of Basis and Public Comment

11B/C. Cleanup implemented, as appropriate

12B/C. Postremediation Care Plan;
Financial Assurance, as appropriate

13. RCRA Corrective Action obligation complete

EPA/DEP Memorandum of Agreement Flowchart Description

1. Facility elects to enroll in One Cleanup Plan; Submits Notice of Intent to Remediate

Any site that is listed for RCRA Corrective Action can choose to participate. Simply check the optional box on the web electronic Notice of Intent to Remediate (NIR) at:

https://www.dep.state.pa.us/wm_apps/NIR/NIR_Submission/default.htm

2. DEP & EPA assign project managers

Upon receipt of the NIR, DEP will contact EPA, a project manager will be assigned from both agencies, and an agency lead will be determined. The lead project manager will contact the facility.

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

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

4. Three possible paths to proceed A, B & C

Independent of the path followed, the overall objective of the investigation is to determine the source(s) and extent of contamination. Therefore, all potentially affected media and identified substances must be included in the investigation and cleanup process. The remediator's efforts must address the entire property as well as off-site contamination, if contamination from the site extends the property boundary.

4A. DEP Lead (Simple)

This approach is appropriate when:

- sufficient data suggests that there is no groundwater contamination above drinking water standards or the soil contaminant concentrations exceeding the soil to groundwater numeric values;
- there is no plan for the property to be sub-divided prior to the completion of the remediation of the whole property;
- the site is not already undergoing corrective action under an EPA program; and
- the remediator intends to use background or the statewide health standard for all media.

4B. DEP Lead (SHS, SSS)

For those sites that do not meet all of the criteria in 4A, above, DEP will generally be the lead. However for these sites, EPA intends to participate earlier in the process to ensure that RCRA Corrective Action goals are met concurrently with the DEP process.

4C. EPA Lead (SSS)

For those sites where EPA and the facility have a long established relationship or the facility is already working under an order, permit or other agreement, the remediator may follow the Act 2 process, but EPA will generally be the lead.

5A. Site Characterization and Cleanup

The remediator will investigate and cleanup the property in accordance with routine Act 2 administrative and technical requirements.

5B/C. Site Characterization, Risk Assessment as appropriate and EPA concurrence

The remediator will complete an investigation. When DEP is the lead, DEP will coordinate with EPA to assure RCRA concerns are met. Typically, any RCRA concerns can be addressed through discussion and further clarification of factors that assure protection of human health and the environment. For certain situations, additional information may be needed to resolve any questions and assure such protection. If required by either Act 2 or RCRA, a risk assessment would be completed to determine if physical remediation is necessary. (Risk assessment could indicate that risk is already acceptable.) EPA will provide concurrence via a meeting or teleconference briefing. If extraordinary new information exists, it potentially could result in the site becoming an EPA lead.

6. Follow up Work and Environmental Indicator

The draft environmental indicator determination must be revised by the remediator to address all pathways and incorporate data obtained through the Act 2 site characterization. EPA will finalize the completed environmental indicator. Sites following path 4A, may go directly to step 8.

7B/C. Proposed Final Report meeting/call

The purpose of this contact is to confirm that all parties understand and agree on either the appropriate remedy or the demonstration of attainment. (PADEP term?? Is that the same as final cleanup goals or media cleanup objective??)

8. Submit Act 2 Cleanup Plan or Final Report, as appropriate

Since either or both the Statewide health and site-specific standards may be used, the next step is either to submit a Cleanup Plan or a Final Report. Both DEP and EPA will review the Cleanup Plan or Final Report. The site-specific and RCRA processes provide for a Cleanup Plan. If the Cleanup Plan utilizes either institutional or engineering controls, the plan must include a Post Remediation Care Plan. The Post Remediation Care Plan may include activities such as inspection, maintenance and reporting procedures for a cap, or just routine reexamination to confirm the continued presence of the institutional control. Some remedies may require financial assurance.

9. DEP final approval, Act 2 release and EPA concurrence

DEP will send the remediator an Act 2 release. Even if EPA requires additional information, the Act 2 process will proceed normally. Although generally accepting the Act 2 approval, EPA will review the site information to prepare the Statement of Basis and notify the facility if there are any outstanding issues that must be addressed to meet EPA's requirements.

10. EPA Prepares Statement of Basis; Public Comment

EPA will prepare a Statement of Basis, provide for a public notice and comment period, respond to any comments received, and prepare a Final Decision. Sites following path 4A, may skip to step 13.

11. Cleanup Implemented, as appropriate

If active remediation is required, the remediator will install the remedy, maintain it and monitor it until final cleanup goals are achieved. Institutional controls described in the remedy decision document must be put in-place.

12. Postremediation Care Plan; Financial Assurance, as appropriate

DEP and EPA will review and provide comments as necessary to the Postremediation Care Plan. For certain remedies, EPA may require financial assurance to ensure long term operation, maintenance and monitoring of the remedy.

13. RCRA Corrective Action obligation complete

EPA will provide the remediator with a no further action letter when the final cleanup goals for all contaminated media are achieved. If contaminated media above residential standards remain, the remedy must continue to comply with the Post-Remedial Care Plan.