
San Francisco Bay Regional Water Quality Control Board

February 19, 2014
File Nos. 43S0128 & 43S0120 (RWP)

TDY Industries, LLC
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Thermo Fisher Scientific, Inc.
ATTN: Mr. Mark Rollins mark.rollins@thermofisher.com
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SUBJECT: Approval of *Work Plan Addendum for Vapor Intrusion Evaluation of Residential Buildings in the Off-Property Study Area* for Former Teledyne/Spectra-Physics Site, Mountain View, Santa Clara County

Dear Mr. Bertaut and Mr. Rollins:

This letter responds to your February 7, 2014, *Work Plan Addendum for Vapor Intrusion Evaluation of Residential Buildings in the Off-Property Study Area* (Addendum). As explained below, I approve the Addendum and require you to submit a report documenting implementation of the Addendum.

Background

You submitted the September 24, 2010, *Work Plan to Evaluate Potential Vapor Intrusion in the Off-Property Study Area* (Workplan) and were in the process of implementing the Workplan.

However, our December 20, 2013, letter (Letter) required you to submit a workplan to address new technical information that prompted us to require further evaluation of potential vapor intrusion. You then submitted the Addendum.

Addendum Summary

The Addendum incorporates the Workplan by reference and proposes the following additional activities to evaluate vapor intrusion:

- Sampling off-property residential indoor air in the previously established areas overlying the plume with groundwater-TCE levels higher than 50 micrograms per liter in cold weather.
- Requesting the removal of potential indoor sources from residences.
- Using passive sorbent samplers with a one- or two-week sampling period during the first phase of evaluation and following up with Method TO-15 Summa canisters with a 24-hour period if indoor air results indicate vapor intrusion is occurring.

- Comparing the indoor air testing results with outdoor air levels, USEPA's interim indoor air short-term response action levels, and long-term screening levels for trichloroethene.
- Using Method TO-15 Summa canisters with a 24-hour sampling period if cis-1,2-dichloroethene is detected at significant levels that indicate vinyl chloride may be present but not accurately measured with the passive sorbent sampler.
- Evaluating all analytical results to determine if sufficient lines of evidence have been collected to demonstrate that vapor intrusion is not a risk for residential occupants.
- Conducting a screening evaluation with the removal of secondary sources, resampling with the passive sorbent sampler using with a two-week sampling period, and analyzing the samples using Method TO-17 if indoor air concentrations exceed long-term or short-term levels and an indoor source is suspected.
- Installing a vapor intrusion mitigation system if the indoor air results indicate vapor intrusion is occurring and exceed the long-term screening levels or short-term response action levels.

Regional Water Board Response

The Addendum satisfies the Letter. I hereby approve it.

You are required to submit a report by **May 15, 2014**, documenting the implementation of the Addendum. The report should evaluate the sampling results and make recommendations for the next phase of vapor intrusion investigation, if necessary.

This requirement for a report is made pursuant to Water Code Section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

If you have any questions, please contact Roger Papler of my staff at (510) 622-2435 [e-mail rpapler@waterboards.ca.gov].

Sincerely,

Bruce H. Wolfe
Executive Officer

Attachment: 13267 Fact Sheet
cc w/Attachment: Mailing List

MAILING LIST

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San Francisco Bay Regional Water Quality Control Board

Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

Revised January 2014

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.