
San Francisco Bay Regional Water Quality Control Board

October 30, 2013
File No. 43S1005 (MS)

Northrop Grumman Corporation
Attn: Mr. Joseph Kwan
(joe.kwan@ngc.com)
2980 Fairview Park Drive
Falls Church, VA 22042-4511

SUBJECT: Approval of Vapor Intrusion Evaluation Sampling and Analysis Work Plan, for the former TRW Microwave site located at 825 Stewart Drive, Sunnyvale, Santa Clara County

Dear Mr. Kwan:

This letter responds to your October 29, 2013, Work Plan for Vapor Intrusion Evaluation Sampling and Analysis (Work Plan) for the subject site. As explained below, I approve the Work Plan. In addition, this letter requires you to submit a report on the results of completed tasks described in the Work Plan.

Background

The Regional Water Board regulates the site under Order No. 91-103. Our December 6, 2012, letter required you to submit a work plan for conducting vapor intrusion sampling and analysis at the site.

Summary of Work Plan

The Work Plan proposes conducting investigations and sampling to assess the vapor intrusion pathway at the current site building, and to evaluate the possible future need for a vapor intrusion remedy, by collecting indoor and outdoor (ambient) air and sub-slab soil vapor samples at the site. The Work Plan presents the methods and procedures for collecting multiple lines of evidence to be used for evaluating the vapor intrusion pathway and ensures that data obtained are reliable and usable.

The Work Plan includes the following elements:

- Introduction and project objectives,
- Site background and summary of previous indoor air sampling activities at the Site along with a conceptual site model relating to vapor intrusion,
- A sampling and analysis plan that identifies pre-sampling activities, sampling media, defines the sampling area, and describes the samples to be collected,
- A quality assurance project plan,
- A health and safety plan for the investigation,
- Data validation, evaluation, and reporting, and
- Field work schedule.

Approval of Work Plan

The Work Plan satisfies the requirements of our December 6, 2012, letter. I hereby approve the Work Plan.

Requirement for Report

You are required to submit a report by February 28, 2014, on the results of the completed tasks described in the Work Plan. The completion report should evaluate the need for additional vapor intrusion monitoring and whether vapor mitigation measures may be needed at the site.

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 Max Shahbazian of my staff at (510) 622-4824, or by e-mail at MShahbazian@waterboards.ca.gov.

Sincerely,

Bruce H. Wolfe
Executive Officer

Attachment: Water Code Section 13267
cc with attachment:

Klaus Rowher (Klaus.Rohwer@EquipoiseCorp.com)
Lynne Kilpatrick (lkilpatrick@ci.sunnyvale.ca.us)
Melanie Morash (morash.melanie@epa.gov)
Miriam Gilmer (Miriam.G.Gilmer@usace.army.mil)
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**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 May 2012

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