

Corrective Action, in Focus

Christine Kump-Mitchell, P.E.

Corrective Action and Groundwater Unit Chief, Waste Management Program

Corrective Action, In Focus

- Corrective Action Universe
- EPA Corrective Action Performance Measures
- No Further Corrective Action and Release from Corrective Action Universe
- RCRA FIRST: An Alternative to Traditional Corrective Action

Corrective Action Universe

- 71 Baseline Facilities
 - 29 Meet Corrective Action Objectives
 - 24 Permitted Facilities for Corrective Action
 - 7 Corrective Action Orders on Consent
 - 5 Letters of Agreement (LOA)
 - 3 Other enforcement mechanisms (Consent Decrees, Trust Agreements)
 - 3 Subject to Corrective Action, No regulatory mechanism

Corrective Action Universe continued

- 25 Non-Baseline Facilities
 - 5 Meet Corrective Action Objectives
 - 1 Letter of Agreement
 - 1 Corrective Action Order on Consent
 - 2 RCRA FIRST
 - 11 Subject to Corrective Action, No Regulatory Mechanism

EPA Corrective Action Performance Measures

- CA400 – Final Remedy Selected
- CA550 – Remedy Constructed
- CA725YE – Environmental Indicator Human Exposures Under Control
- CA750YE – Environmental Indicator Migration of Contaminated Groundwater Under Control
- CA800YE – Ready for Anticipated Use
- CA900 – Performance Standards Attained

EPA Performance Measures: How are we doing?

	Final Remedy Selected (CA400)	Final Remedy Constructed (CA550)	Human Exposures Under Control (CA725)	Migration of Groundwater Under Control (CA750)	Ready for Anticipated Use (CA800)	Performance Standards Attained (CA900)
Currently Attained	53 (74%)	50 (70%)	65 (91%)	61 (86%)	32 (45%)	29 (41%)
Projected completion FY26		4		1	3	
FY26 non- baseline facilities	2		2	2	1	1

No Further Action and Release from Corrective Action Universe Procedures continued

- File Review
 - Are there any data gaps?
- Complete Environmental Indicator Forms
 - CA725 Current Human Exposures Under Control
 - CA750 Migration of Contaminated Groundwater Under Control
- Contact Facility
 - Are they aware they are subject to corrective action?
 - Discuss next steps
- Are activity and use limitations needed?
 - If yes, prepare draft environmental covenant
 - Facility files environmental covenant with the county recorder of deeds.

No Further Action and Release from Corrective Action Universe Procedures

- Concurrence from EPA to release facility from Corrective Action
- Prepare Statement of Basis
 - Proposed remedy decision document
- 30 Day Public Comment Period
- Final No Further Action Release and Approval
 - Once public comment period has ended and comments, if any, have been addressed
- Complete CA 800 Ready for Anticipate Use



What is RCRA FIRST?

- Resource Conservation and Recovery Act (RCRA) Facilities Investigation Remedy Selection Track (FIRST)
- The RCRA FIRST approach was designed to improve the efficiency of the RCRA facility investigation and remedy selection process
- Developed in a collaborative effort between the EPA, authorized states, and industry experts

The RCRA FIRST Approach:

- Addresses the root causes of delay, such as:
 - Unclear or non-specific investigation or cleanup objectives
 - Lack of specific opportunity and process to elevate differences among involved parties early in the process
- Starts with multi-party understanding of the objectives in investigation and remedy selection phases
- Enhances communication among project participants
- Promotes the principal of “done right the first time” and avoids re-do loops
- Advances critical decision making through rapid elevation to resolve disputes
- Stays within the technical and regulatory framework of the corrective action program

RCRA FIRST is not:

- A replacement for an existing Permit, Order, or LOA for corrective action
- A replacement for applicable statutory or regulatory requirements
- A regulation or legally binding, in and of itself

Three Phases of the RCRA FIRST Approach

- Investigation Planning (3-6 Months)
 - Develop the Corrective Action Framework (CAF) Document
 - In person meeting and site visit
 - Draft and Approve the RCRA Facility Investigation (RFI) Work Plan
 - Integrate a phased approach up front
- Investigation Completion (2-5 Years)
 - Conduct the RFI
 - Regular update meetings to discuss status, changes, or additional phases
 - Convene a meeting and elevate to upper management if progress in the RFI is stalled

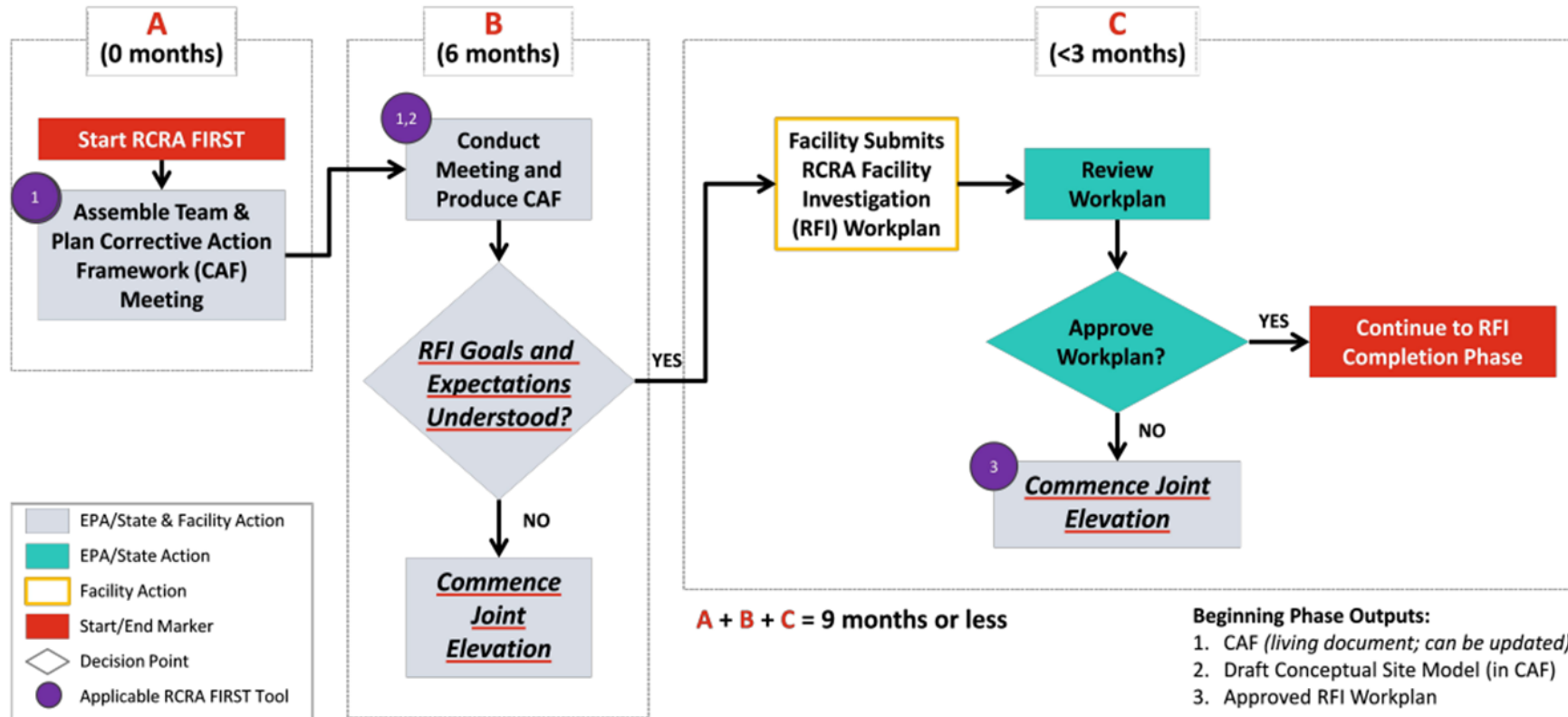
Three Phases of the RCRA FIRST Approach Continued

- Remedy Selection (1-2 years)
 - In person meeting to confirm the Corrective Action Objects
 - Is a Corrective Measures study needed?
 - No - go straight to statement of basis and remedy decision
 - Modified - Clear path forward and remedy
 - Full - Present multiple remedy alternatives
 - Continue update meetings to discuss status, comments, interim corrective actions
 - Select and Finalize the Remedy



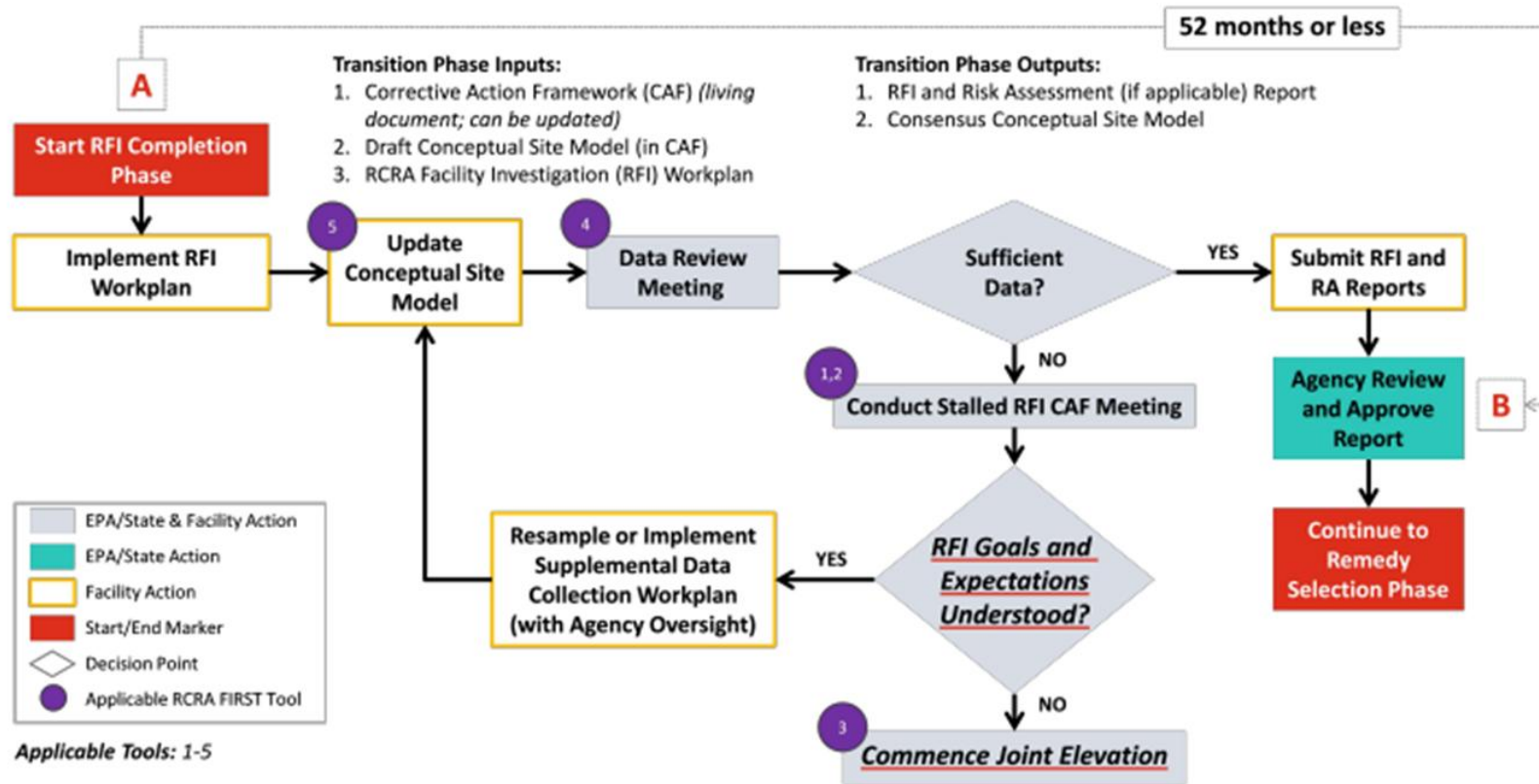
Planning Phase Timeline

Figure 2.1 RCRA FIRST Investigation Planning Phase



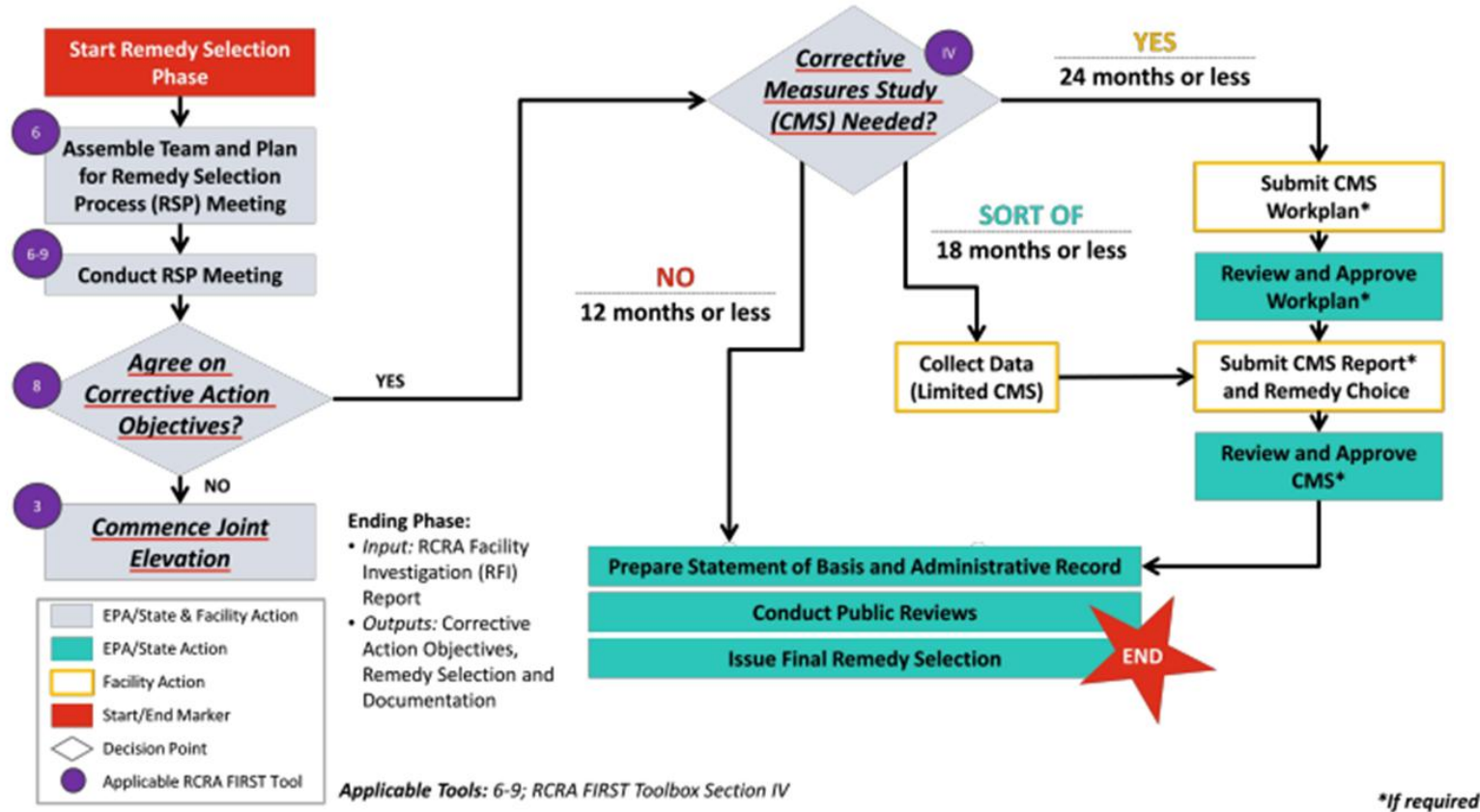
Investigation Completion Timeline

Figure 3.1 RCRA FIRST: Investigation Completion/Stalled RFI Phase Flowchart



Remedy Selection Timeline

Figure 4.1 RCRA FIRST: Remedy Selection Phase Flowchart



RCRA FIRST Advantages

- It's a cooperative process
- Can be significantly faster than following the traditional guidance process
- Parties establish clearly defined goals and timelines at the start, while maintaining flexibility if new information comes to light
- Can, with department consent, be applied retroactively to a facility already undergoing the corrective action process to save time or restart a stalled project

Potential Pitfalls

- Requires the facility and department to be motivated and maintain a high work tempo
- A permit or order may not allow for certain aspects of the process
- Poor communication

Considerations

- Ask if an initial redline review is possible
 - For outlines, this ensures you are on the right track
 - On reports, this can catch typos, factually wrong information, or information that may have been missed
 - Reduces numerous official correspondence cycles
- Be informative on responses
 - Both the department and facility should express what changes they want made, not just say “that’s wrong, revise”.

Useful Links

- For more information on the RCRA FIRST process, please see the visit the links below.

- EPA Toolbox:

<https://www.epa.gov/hw/toolbox-corrective-action-resource-conservation-and-recovery-act-facilities-investigation-remedy>

- ASTSWMO Presentation:

https://astswmo.org/files/Meetings/2024/CA-Workshop/Presentations/RCRA_FIRST.pdf

