

IS YOUR PETROLEUM CLEANUP PROGRAM SITE ALREADY ELIGIBLE FOR STATE OF FLORIDA FUNDED CLEAN UP?

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In 1986, The Inland Protection Trust Fund (IPTF) was created by the State of Florida (State) legislature to enable the Florida Department of Environmental Protection (FDEP) to respond to incidents of petroleum contamination without delay. The IPTF is derived from a tax on every barrel of petroleum or petroleum product produced in, or imported into, the State. This tax revenue is the source of the majority of the FDEP's petroleum cleanup funding programs, generally known as "the Petroleum Cleanup Program."

Though the State no longer provides assistance for newly reported discharges, there are six possible ways a site can obtain State funding assistance and a site may qualify for more than one. The first four ways to obtain State funding is by already being enrolled and determined eligible in one of the four Petroleum Cleanup Programs, only one of which can apply to a specific discharge:

Early Detection Incentive Program (EDI)(1986)

This was the first State assisted cleanup program and provides for 100% State funding for cleanup if the property owners report releases. The application period ended in late 1988.

Petroleum Liability & Restoration Insurance Program (PLRIP)(1989)

This was intended for active facilities. The State underwrote the restoration of insurance coverage for new discharges and subject to various caps and deductibles depending on the date the discharge occurred. The State coverage ended on December 31, 1998.

Abandoned Tank Restoration Program (ATRP) (1990)

This program was created to address contaminated facilities that were out of business as of March, 1990, and provides for 100% State funding. Although the ATRP application period ended in June 1996, the window is open indefinitely for property owners who are unable to pay for closure of abandoned tanks.

Petroleum Cleanup Participation Program (PCPP) (1996)

This was created to include sites that were excluded from all previous opportunities for State assistance. The program is only for discharges reported prior to 1995, and the application deadline was the end of 1998. The responsible party must pay a percentage of cleanup costs and prepare a limited assessment at their own expense.

Generally, once cleanup program funding eligibility is assigned to a site for a discharge, it remains with the site regardless of changes in real property or storage tank ownership. However, the FDEP looks first to the current property owner for payment of any required deductible or co-payments.

In addition to these four Petroleum Cleanup Programs, a fifth way to obtain State funding assistance is if a Consent Order provides for some level of State funding assistance based on ability to pay. Lastly, Preapproved Advanced Cleanup (PAC), though not a separate eligibility program, provides a mechanism for obtaining funding assistance for an already eligible site in advance of the site's priority score.

A common aspect of the initial four eligibility programs is the order in which petroleum contamination assessments and remedial cleanups are performed. They are based on each site's *priority score*. The priority score for each petroleum site was established in accordance with criteria set forth in Chapter 62 771, FAC, "Petroleum Contamination Site Priority Ranking Rule." This rule awards points based upon the site's potential threat to human health, public welfare and the environment. The priority score is therefore a number that represents the relative threat the site poses to potential receptors, with a higher score representing a greater threat. On July 1, 1995, the *priority score funding threshold* was set at 70 points, meaning that only eligible petroleum cleanup sites with a priority score of 70 points or more were entered into state funded assessment and remediation. Over the last 13 years, this priority score funding threshold has been lowered (and raised) to accommodate more and more sites as cleanup on many of the initially funded sites was completed. Currently, the priority score funding threshold is 37.

Because of this funding system, a facility with an incorrect score may be excluded from state funded assessment and remediation that would otherwise increase the facility's property value.

So, how is this priority score derived? Surprisingly, the magnitude and extent of contamination has relatively little impact on the score, and it is quite possible to have a large and/or highly contaminated site with a low priority score. Because the priority score represents the relative threat posed to potential receptors, the most important criterion is the site's location in relation to public and private drinking water wells. A low priority score indicates that there are no known receptors for that contamination, so its relative threat is less than that of a site that may be less contaminated but is closer to receptors.

All program sites were assigned a priority score when they initially became eligible for funding assistance. Potable well survey data from the Florida Department of Health (DOH) was used in support of priority score. There are two common scoring mistakes that occurred for some sites. The first common error is an improper site location (latitude/longitude) that causes the site to be farther from a receptor. The second common mistake is the omission of nearby residential potable well receptors that are not in the DOH well survey data.

These errors can have a big impact on a site's priority score, especially when given that the current priority score funding threshold is 37 points. For example, an uncontaminated municipal or community well field with greater than 100,000 gallons per day permitted capacity having just one well located within ½ mile of a site could increase that site's priority score by 30 points (if previously no such wells were found within ½ mile of the site). In addition, if just one private well (constructed prior to the date of contamination discovery) is located within ¼ mile of a site, it could increase that site's priority score by 20 points (if previously no such wells were found within ¼ mile of the site). Other factors that can increase the score are wells being located downgradient of a site, or if a well field's 1 foot draw down contour is shown to encompass the site (regardless of the well field's distance from the site).

Because errors can reduce a site's priority score below the funding threshold, significant delays to the State funded cleanup can occur as a result. Eliminating known contamination issues often increases a site's property value and it is important for the property owner or the confirmed responsible party to take action should they suspect the priority score for a site is too low. The site score can be re-evaluated, if requested in writing to the FDEP by the property owner or the confirmed responsible party. This request must include supporting documentation such as maps, photos, and/or well permits. Chastain-Skillman, Inc. can assist the property owner or the confirmed responsible party with this process if they choose Chastain-Skillman, Inc. as the designated cleanup contractor for the respective site(s). This can be accomplished by signing FDEP's *Contractor Designation Form & Real Property Owner/Responsible Party Affidavit* (CDF), which Chastain-Skillman, Inc. can prepare and submit for the property owner or the confirmed responsible party.

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