

Revisions to Ch. 62-772, FAC, Procurement Procedures for the Petroleum Restoration Program, Effective 4-6-16

- **Link to Rule :** <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=62-772>
 - **62-772.300** - The Contractor Performance Evaluations (CPE) have been updated and simplified.
 - All of the following CPE Documents can be found by following the link below and scrolling to the **Contractor Performance Evaluations** section
<http://www.dep.state.fl.us/waste/categories/pcp/pages/templates.htm>
 - CPE form:
 - Site Owner/Responsible Party Contractor Performance Survey form:
 - Instructions:
 - **62-772.401** - Alternative Contractor Recommendation/Assignment procedures have been implemented that change some circumstances under which a participant or applicant may recommend an ATC to perform cleanup work. A new provision allows participants or applicants that agree to a Conditional Closure to also recommend an ATC to perform cleanup work. A Conditional Closure Agreement has been developed that must be executed to exercise this option.
 - Conditional Closure Agreement: Located at the bottom of the following page:
<http://www.dep.state.fl.us/waste/categories/pcp/pages/programs.htm>

Statutory Revisions related to PRP, Effective 7-1-16

- **Section 376.305 - ATRP** (Abandoned Tank Restoration Program):
 - The June 30, 1996 application deadline no longer applies. An owner of a facility may apply to the ATRP (1) where the storage of petroleum products for consumption, use, or sale at the facility ended on or before March 1, 1990, (2) there is petroleum product contamination from properly closed abandoned petroleum storage system(s), and (3) the contamination is not otherwise eligible for the Petroleum Cleanup Participation Program. Additionally, knowledge of the polluting condition when title was acquired no longer disqualifies an owner from eligibility for ATRP and evidence of due diligence is no longer required for eligibility. Please see Section 376.305(6), Florida Statutes for all statutory requirements.
 - Link to Section 376.305: for ATRP - see subsection (6):
http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.305.html
- **Section 376.3071 – link to Statute:**
http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.3071.html
 - **Uses of the Fund** (subsections (4)(q)) - Deletes July 1, 2016 deadline date (i.e., makes permanent) for DEP not requiring deductibles, copays, and LCARs for State Lands.
 - **“Reopener Clause”** (subsection (4), last paragraph before section (5)) - Clarifies that issuance of an SRCO does not alter a site’s eligibility for funding if DEP determines that site

conditions are not protective of human health under actual or proposed circumstances of exposure.

- **Institutional Control Costs** (sub-paragraph (5)(b)4) - Allows payments for the following items related to Institutional Control Costs for Conditional Closures:
 - i. PLS
 - ii. Specific Purpose Survey
 - iii. Obtaining a title report
 - iv. Recording Fees
- **LSSI (Low-Scored Site Initiative)** (subparagraph 12(b))
 - i. Link to LSSI guidance document and LSSI Application:
<http://www.dep.state.fl.us/Waste/categories/pcp/pages/screening.htm>
 - ii. Raises assessment funding cap from \$30k to \$35K
 - iii. Allows for up to \$35k of limited remediation (LRA) funding if will likely result in closure
 - iv. Expands timeframe for work completion from 6 to 15 months
 - v. Raises annual cap from \$10 to 15 mil
 - vi. Adjusts the criteria to meet an LSSI NFA:
 - 1. Expands soil OVA language
 - 2. Changes monitoring requirement from up to 6 to up to 12 months
 - 3. Allows contamination to extend beneath a transportation facility for which the DEP has approved, and the governmental entity owning the transportation facility has agreed to institutional controls.
 - 4. Expands the previous ¼ acre maximum of a groundwater plume to the source property boundaries
 - 5. Adds that the GW plume is not a threat to any permitted potable water supply well
 - vii. New LSSI Application & Contractor Selection Sheet (LSSI Application)
 - 1. Effective July 1, 2016, requests for participation in the LSSI must be submitted by the property owner or a responsible party who provides evidence of authorization from the property owner. To address this change in the statute, the DEP has updated the LSSI Application. The applicant must submit the cost proposal with the LSSI Application.
 - 2. Property owners and responsible parties of eligible sites that are currently funded from Work Orders issued before July 1, 2016 are not required to provide an updated LSSI Application at this time. However, an updated LSSI Application will be required for these sites if the issuance of a Fiscal Year 2016-2017 LSSI work order is necessary to implement a proposed and accepted limited remedial strategy. The LSSI Application should be submitted to the address stated on the LSSI Application.
 - 3. For the LSSI Applications that were previously submitted but an LSSI Work Order was not issued prior to July 1, 2016, an updated LSSI Application must be submitted if the previously submitted one was not signed and authorized by the owner.
 - 4. Please note that photocopies and digital copies of the updated LSSI Application will not be accepted.

- **PCPP (Petroleum Cleanup Participation Program)** (subsection 13)
 - i. The December 31, 1998 application deadline for submittal of an owner’s written report of the contamination incident no longer applies. PCPP is a cost-sharing clean-up program providing rehabilitation funding assistance for property currently contaminated by discharges of petroleum or petroleum products from a petroleum storage system occurring before January 1, 1995.
 - ii. Additionally, the Department may approve supplemental funding for the eligible discharge of up to \$100,000 for additional remediation and monitoring if such remediation and monitoring is necessary to achieve a determination of “No Further Action.” Please see Section 376.3071(13), Florida Statutes for all statutory requirements.

- **Section 376.30713: Advanced Cleanup (AC):**
 - AC bundle requirement lowered from 20 to 5 sites
 - Raises annual cap from \$15 to \$25 mil
 - Require Site Access approval in advance
 - Allows owner/RP to “reserve” sites for the subsequent AC application period by submitting a newly created Voluntary Cost Share Agreement
 - VCSA & Attachment A: Located at the bottom by following the link: <http://www.dep.state.fl.us/waste/categories/pcp/pages/pac.htm>

 - Link to Section 376.30713: http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.30713.html

- **Innovative Technology (ITech):**
 - See The ITech language below.
 - Link to Statute: <http://laws.flrules.org/2016/66>

Page 252-3 is the Innovative Technology language. Chapter 2016-66, Laws of Florida.

1671 FIXED CAPITAL OUTLAY
 PETROLEUM TANKS CLEANUP
 FROM INLAND PROTECTION TRUST FUND. 118,000,000

From the funds in Specific Appropriation 1671, up to \$5,000,000 in nonrecurring funds from the Inland Protection Trust Fund may be used by the Department of Environmental Protection for cleanup of petroleum contamination sites using contractors that employ non-traditional or innovative technologies approved by the department. During Fiscal Year 2016-2017, the department shall identify at least one petroleum contamination site that is conducive to rehabilitation using such non-traditional or innovative petroleum cleanup technologies. The department shall select contractors that employ such non-traditional or innovative technologies, using a competitive solicitation process, to perform the site rehabilitation. Within 180 days after completion of the

site rehabilitation work for the site(s) selected by the department as required above, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing each site selected for rehabilitation using such non-traditional or innovative technology and the result of the rehabilitation. Specifically, the report shall detail the level of cleanup achieved, the length of time that it took to achieve a no further action order or to meet an established cleanup target level, and the overall cost of the rehabilitation.

http://laws.flrules.org/files/Ch_2016-062.pdf

Chapter 2016-62, LOF is the implementing language for the General Appropriations Act (above) and mentions applicability of funding caps. Section 94 (page 67) says:

Section 94. In order to implement the proviso language associated with Specific Appropriation 1671 of the 2016-2017 General Appropriations Act relating to the cleanup of petroleum contamination sites, the Department of Environmental Protection may not require payment of program copayments and may not require submission of the limited contamination assessment report as provided in s. 376.3071(13)(c), Florida Statutes. The use of funds appropriated in the 2016-2017 fiscal year may not be applied towards the funding limits provided in sections 376.3071(13) and 376.3072(2), Florida Statutes. This section expires July 1, 2017.

PRP will be screening recommendations for appropriate ITech candidate sites. If you have a potential site to recommend, please submit the site name, Facility ID, and a description of why this site is a good candidate for the ITech project to James Fletcher (James.Fletcher@dep.state.fl.us). Include details of the extent of contamination, lithologic and hydrologic summary, and a description of previous remedial action performed and its effectiveness. The site must have:

- an approved assessment with recent data, &
 - valid Site Access Agreement
-
- All PRP Eligibility forms have been updated and can be located at the link below:
 - <http://www.dep.state.fl.us/waste/categories/pcp/pages/programs.htm>