

**GUIDELINES FOR THE
PETROLEUM CLEANUP PARTICIPATION PROGRAM (PCPP) AND
THE ABANDONED TANKS RESTORATION PROGRAM (ATRP)
ABILITY TO PAY ANALYSIS** (updated 5-18-17)

I. PROCEDURES FOR THE PCPP/ATRP

- 1) The Petroleum Restoration Program (PRP) shall be responsible for the initial receipt of the required financial information identified in Part II from applicants for the Petroleum Cleanup Participation Program (PCPP) and facility owners for Abandoned Tanks Restoration Program (ATRP).
- 2) The assigned Site Manager with the PRP shall provide the ATP Coordinator for the Division of Waste Management (Division) with a copy of the application, financial documents identified in Part II, the estimated cost of a limited Contamination Assessment Report (LCAR) and Petroleum contaminant remediation for the PCPP site or the cost of closing abandoned petroleum storage systems for the ATRP within ten days of receipt by the Department.
- 3) The ATP Coordinator shall maintain records of the applications as they are received from the PRP. A database for both ATRP and PCPP will be maintained by the ATP Coordinator which includes the name of the applicant, the name of the facility, the facility number, the address of the eligible applicant and facility, the date of submission, status of the application, , the determination of whether or not the applicant shows an Ability to Pay the original cost share agreement, and the date of completion of the analysis.
- 4) The ATP coordinator will also evaluate the submitted ATP application for completeness. If the application is insufficient, the ATP Coordinator will contact the Site Manager to request the necessary information required for an Ability to Pay analysis. The applicant shall submit the required information to the Site Manager within 60 days upon receipt of the request. A follow-up letter by the Site Manager will be mailed certified to the applicant if no response is received within 40 days. If the applicant does not respond within 60 days of receipt of the Department's initial information request, the Site Manager shall write a report identifying the applicant's non- response and forward a "no finding" in relation to the ability to pay to the ATP Coordinator. A copy of this report shall be submitted to the applicant.
- 5) The ATP Coordinator will coordinate and forward the complete ATP application and package to the economic analyst at the FDEP Office of Inspector General (OIG) via a Transmittal Form with a link to the confidential database containing the application and financial documents.

- 6) Within 60 days of submittal of complete financial disclosure documents required in Part II to the economic analyst, a written report of the analysis shall be submitted to the ATP Coordinator. The report shall include the completed financial analysis and the amount to be paid by the PCPP applicant including their ability or inability to perform an LCAR. In the case of ATRP, the report shall include a determination on whether or not the facility owner can pay the closure cost. . This determination will be delivered electronically via the Transmittal Form with a link to the report in the confidential database. The ATP Coordinator will log the OIG's ATP determination and will forward a copy of the report to the Site Manager electronically via the Transmittal Form. The Site Manager will then notify the applicant of the finding.
- 7) All questions, telephone inquiries, and correspondence relating to the Ability to Pay analysis shall be forwarded to the Site Manager or ATP Coordinator for action.

II. LIST OF INFORMATION REQUIRED

A. CORPORATION

1. Publicly Traded Corporation --preferably audited by a CPA
 - Last 3 years corporate income tax returns
 - Last 3 years audited financial statements
2. Not Publicly Traded Corporation --preferably reviewed by a CPA
 - Last 3 years corporate income tax returns
 - Last 3 years corporate financial statements preferably reviewed by a CPA

B. PARTNERSHIP

- Last 3 years partnership income tax returns
- Last 3 years financial statements preferably reviewed by a CPA
- Financial statement of net worth and revenues and expenses from each general partner preferably reviewed by a CPA.
- Last 3 years income tax returns of each general partner

C. SOLE PROPRIETORSHIP/INDIVIDUAL

- Last 3 years personal income tax returns
- Financial statement of net worth, income, and expenses preferably reviewed by a CPA.

D. NON-PROFIT CORPORATION

- Last 3 years income tax returns
- Last 3 years financial statement preferably reviewed by a CPA.

E. MUNICIPALITIES

-Most current financial statement audited by a CPA.

**F. BANKRUPT CORPORATION, SOLE PROPRIETORSHIP,
PARTNERSHIP AND NONPROFIT CORPORATION**

Corporation and Partnerships

- a copy of notice of the order for relief of bankruptcy if it was filed under Chapter 7 and the Trustee's final report and account, or
- a copy of the Plan of Reorganization and the Order Confirming the Plan if it was filed under Chapter 11.

Individuals/ Sole Proprietorships

- Order of Discharge if bankruptcy was filed under Chapter 7 or
- an Order Confirming Plan in the case of Chapters 11 and 13.

Abandoned Sites Acquired Through Foreclosure, Tax Deed, Gift or Inheritance

Last 3 years financial statements and last 3 years Corporate Income Tax Returns of new owner for corporation, partnership, or nonprofit corporation.

- Last 3 years Income tax Returns, and Financial Statement of net worth, income and expenses of new owner for sole proprietorships.

III. METHODOLOGY

Techniques in financial analysis shall be used in the analysis to determine whether or not the applicant can pay 25% of the total cleanup cost under the PCPP or how much the applicant should pay if he/she cannot afford the full 25% of the cleanup cost. The same techniques shall be used for the ATRP to determine whether or not the eligible applicant can pay the closure cost. Details of the ratios are found in Appendix I.

A. FOR CORPORATIONS

1. FINANCIAL RATIOS

Liquidity

- Current ratio
- Quick Ratio
- Beaver's Ratio

Efficiency

- Average Collection Period
- Inventory Turnover

- Fixed Asset Turnover
- Total Asset Turnover

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Leverage

- Debt Ratio
- Time Interest Earned

Profitability

- Gross Profit Margin
- Net Profit Margin
- Return on Assets
- Return on Equity

Viability

- Altman Z' -Score

2. NET WORTH ANALYSIS

The networth of the firm can be sold or used as a collateral to access money from a financial institution. However, some of the assets of the firm may have lower market values when they are sold, liquidated or used as collateral. Thus, the methodology that shall be used in ability to pay

determination shall be based on adjusted networth using the following assumptions:

- a) The contaminated site will be valued up to 50% of its net book value.
- b) Inventories will be valued at 90% of its net book value.
- c) Adjustments on stockholder's equity will be made according to reduction in asset valuation.
- d) All other accounts will be valued at 100% book value.
- e) The adjusted networth will be the difference between the adjusted total assets and total liabilities.

3. CASH FLOW STATEMENT

If the results of the test using financial ratios are poor, an analysis of the cash flow statement shall also be made in order to determine increases and decreases of funds. This is important in order to determine whether the amount of cash that the firm is generating is sufficient to pay the required participation on a short-term basis even if the firm shows that it is incurring some losses.

4. ABEL MODEL

The ABEL model is financial model that was developed by the USEPA to determine the probability of a firm to pay for cleanup costs, civil penalties, and economic benefits of noncompliance. This model is based on a discounted cash flow which projects the firm's probability to pay a specific amount based on its current operations. There are certain default values inherent in the model. However, these values can be adjusted to reflect a more realistic scenario. The output of the model depends upon the veracity of the data that was used to generate the output.

Since the Department's role is determine how much the firm should pay under the PCPP based on its current financial status, it is necessary to adjust the specified amount by reducing it until the probability reaches 70%. This process is called sensitivity analysis. Below 70% probability, the Department shall waive the required participation payment unless the firm shows positive networth that can be used to access funds from a bank or a positive cash flow.

The sensitivity analysis technique is not applicable to the ATRP. The estimated closure cost will not be adjusted when using the ABEL model. But the 70% probability criterion shall still be used as a basis for determining ability to pay the closure cost.

B. SOLE PROPRIETORSHIP/INDIVIDUAL

There are two ways by which a sole proprietor or an individual's ability to pay is determined: his net cash flow and/or networth. His net cash flow shall be based on his total monthly income less his total monthly expenses. If he generates a positive cash flow, then that amount can be used to pay part of the required participation.

The determination of his cash flow is based on the concept that he can liquidate some of his assets or use them to borrow money from the bank in order to pay the required participation. To reflect a more realistic scenario, the contaminated site shall be valued up to 50% of its book value; inventory shall be valued at 90% of its book value; one vehicle with the highest value will not be included in the total asset calculation and also in the ability to pay analysis in order to provide the facility owner with some mobility; and, all other accounts shall be valued at 100% book value. The amount to be paid by the sole proprietor/individual shall be based on his monthly cash flow and his adjusted net worth.

C. PROVISIONS FOR EXCESS CLEANUP COSTS

In order to provide provisions for the possibility of the actual cleanup costs exceeding the estimated cleanup costs, the Department shall also determine the maximum amount that the eligible applicant can pay and also the 25% required participation to be included in the report for the PCPP. This will allow the Department to make the necessary adjustments to the required participation. For the ATRP, the Department shall determine the maximum amount that the facility owner can pay and compare it with the closure cost.

By law, the State shall only pay up to a maximum of \$300,000 for a PCPP site. The PCPP applicant shall be responsible for any costs exceeding this amount. For the ATRP, the state shall pay for the whole closure cost if the facility owner applicant is determined to be financially incapable of paying the cost of closing of abandoned tanks.

APPENDIX I
GLOSSARY OF FINANCIAL RATIOS

LIQUIDITY

Current ratio	=	Current Assets/Current Liabilities
Quick Acid Ratio	=	(Current Assets - Inventory)/Current Liabilities
Beaver's Ratio	=	Annual Cash flow/Total Liabilities

EFFICIENCY

Ave. Collection Period	=	Accts. Receivable/Average Daily Sales
Inventory Turnover	=	Costs of Goods Sold/Inventory
Fixed Asset Turnover	=	Annual Sales/Net Fixed Assets
Total Asset Turnover	=	Annual Sales/Total Assets

LEVERAGE

Debt Ratio	=	Total Liabilities/Total Assets
Times Interest Earned	=	Earnings before Interest and Tax/Interest

PROFITABILITY

Gross Profit Margin	=	(Annual Sales-Cost of Goods Sold)/Annual Sales
Net Profit Margin	=	Net Income/Annual Sales
Return on Assets	=	Net Income/Total Assets
Return on Equity	=	Net Income/ Shareholders' Equity

VIABILITY

Altman Z-Score	=	Comprehensive weighted index of financial ratios
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