



# **Petroleum Restoration Program (PRP) Eligibility, Agreements, & The Alphabet Soup of Programs**

**Blake Miller & Bill Newmyer, P.G.**

# Introduction

## Topics:

- Petroleum Restoration Program Historical Overview.
- Eligibility Programs (i.e., when the state pays to clean up petroleum contamination.)
- Funding Mechanisms & Agreements (that don't go through the Contracts Unit but there has been input regarding templates).
- How this impacts site managers.

# Introduction

**Site** – contaminated site as defined in section 376.301, Florida Statute, Chapter 62-780.

**Contaminated site** - any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment. 376.301, F.S.

**Facility** - A non-residential location containing, or which contained, any underground stationary tank or tanks which contain hazardous substances or pollutants and have individual storage capacities greater than 110 gallons, or any aboveground stationary tank or tanks which contain pollutants which are liquids at standard ambient temperature and pressure and have individual storage capacities greater than 550 gallons. 376.301, F.S.



# PRP Overview

- Regulation of Underground Storage Tanks (USTs) began in the early 1980's.
  - The Water Quality Assurance Act of 1983.
    - Prohibited petroleum discharges.
    - Required cleanup of petroleum discharges.
- In 1986 The Inland Protection Trust Fund (IPTF) was created to fund the cleanup of program eligible discharges – tax on importing oil into the state.
- Initial eligible cleanup work was funded under a reimbursement program.
- In 1996, the Petroleum Restoration Program (PRP) was tasked to implement the Preapproval program for funding program eligible discharges.

# PRP Eligibility Programs

## Early Detection Incentive Program (EDI): 1986-1988

- Petroleum contamination reported to the department between June 30, 1986, and December 31, 1988 (tied to **contamination at the facility**).
- No Deductible and no statutory funding cap.
- EDI does not pay for the cost of cleaning up any discharges discovered after the date of the application to the EDI Program.
- See the Order and Subsection 376.3071(10), F.S.





# PRP Eligibility Programs

## **Petroleum Liability and Restoration Insurance Program (PLRIP) 1988-1998**

- **Incident** (versus location) specific. Insurance program.
- Eligibility requirements includes a PLRIP funding cap and deductible.
  - Discharges reported to the department from July 1, 1993, to December 31, 1993, the Department of Environmental Protection (DEP) shall pay up to \$1.2 million of eligible restoration costs.
  - Discharges reported to the department from January 1, 1994, to December 31, 1996, DEP shall pay up to \$400,000 of eligible restoration costs.
  - Discharges reported to the department from January 1, 1997, to December 31, 1998, DEP shall pay up to \$300,000 of eligible restoration costs.
- See the Florida PLRIP order, Section 376.3072, F.S. & Section 376.3071, F.S., respectively.





# PRP Eligibility Programs

## Abandoned Tank Restoration Program (ATRP)

- ATRP was created in 1990 to address petroleum contamination at **facilities** that were out of the business of storing petroleum products.
- To be eligible for ATRP, a **facility** (non-residential location) cannot have stored petroleum products for consumption, use, or sale since March 1, 1990, and the petroleum storage systems from which the discharge occurred must be closed pursuant to department rules.
- No statutory funding cap. Deductible **\$0.00**.
- See Subsection 376.305(6), F.S. and Chapter 62-769, Florida Administrative Code.





# PRP Eligibility Programs

## Innocent Victim Petroleum Storage System Restoration (IVPSSR)

- In 2005, the Legislature created Section 376.30715, F.S., IVPSSR, as a subset of the ATRP program (later ATRP filing deadline removed making IVPSSR a program few people apply for, they choose ATRP instead).
- Must have been acquired by the current owner prior to July 1, 1990, and had ceased operating as a petroleum storage or retail business prior to January 1, 1985, then it could be eligible for financial assistance pursuant to Subsection 376.305(6), notwithstanding Subsection 376.305(6)(a), F.S.





# PRP Eligibility Programs

## Petroleum Cleanup Participation Program (PCPP)

- Provides rehabilitation funding assistance for properties contaminated by discharges of petroleum or petroleum products from a petroleum storage system occurring before January 1, 1995.
- PCPP has a \$400K funding cap, with a supplemental funding of up to an additional \$100k if needed to reach No Further Action (NFA).
- Requires a 25% co-savings to the Department from owner/Responsible Party (RP)
  - Cost share, cost savings by Agency Term Contractor (ATC) reducing rates, or Risk Management Option (RMO) 1 – RMO 2 cost savings
- Requires a Limited Contamination Assessment Report (LCAR) and PCPP agreement.





## DEP Petroleum Restoration Program Summary of Eligibility Programs & Some Funding Mechanisms

Program acronym	Full Name	Authorizing Statute	Began	End	Deductible	Funding Cap	Co-Pay	Reference
EDI	Early Detection Incentive Program	376.3071(10) [376.3071(9) until 2014]	7/1/86	12/31/88	No	No	No	1.2.4.1
FPLRIP or PLRIP	Florida Petroleum Liability and Restoration Insurance Program	376.3072	1/1/89	12/31/98	\$500-\$10,000 <sup>1</sup>	\$300,000-\$1,200,000	No	1.2.4.2
ATRP	Abandoned Tank Restoration Program	376.305(6) [376.305(7) from 92-96]	7/1/90	6/30/96 <sup>2</sup>	\$0	No	No	1.2.4.3
IVPSSRP	Innocent Victim Petroleum Storage System Restoration Program	376.30715	7/1/05	n/a	\$0 <sup>3</sup>	No	No	1.2.4.3.3
PCPP	Petroleum Cleanup Participation Program	376.3071(13)	7/1/96 <sup>4</sup>	12/31/98 <sup>5</sup>	No	\$400,000 <sup>6</sup>	25% Max but 0% alternatives available	1.2.4.4
Consent Order	AKA “Hardship” or “Indigent”	376.3071(7)(c) & elsewhere	1986	n/a	<sup>7</sup>	Depends on terms <sup>8</sup>	Depends on terms	1.2.4.6
AC	Advanced Cleanup <sup>9</sup>	376.30713	7/1/96	n/a	Varies <sup>10</sup>	Varies	25% Min	1.2.4.5

<sup>1</sup> PLRIP deductible and cap vary considerably and are specifically set forth in the order of eligibility. Penalties can increase the deductible substantially. Consult order & statute for details.

<sup>2</sup> ATRP remains open if the non-residential location ceased conducting business involving consumption, use, or sale of petroleum products on or before March 1, 1990. Deductible (\$500) rule was repealed in 2020. R. 62-769.800, F.A.C.

<sup>3</sup> IVPSSRP open to a contaminated site acquired by the current owner prior to July 1, 1990, which has ceased operating as a petroleum storage or retail business prior to January 1, 1985. Rarely used, see ATRP.

<sup>4</sup> PCPP created in 1996 but discharges must have occurred prior to 1/1/95.

<sup>5</sup> Discharge must have been reported to FDEP by this date, but these discharges can still be assigned eligibility after this date.

<sup>6</sup> This can be increased to \$500,000 with a site rehabilitation end point will be reached.

<sup>7</sup> Terms for payment will be included in the Consent Order, you must obtain a copy which should be in the DWM Oculus file (if not check with OGC).

<sup>8</sup> Consent Order sites do not have a mandated cap, however, the DEP has complete discretion, unless the order says otherwise, to determine how extensive a cleanup to conduct.

<sup>9</sup> AC is a not a separate eligibility program but a mechanism for obtaining funding assistance for already eligible sites in advance of the site’s priority score.

<sup>10</sup> Only sites eligible for EDI, ATRP, or PLRIP, and PCPP if the 25% co-payment has not been reduced or eliminated, can participate in AC. Any and all deductibles and caps from those programs still apply.



# Site Access Agreements



## Negotiating State Funded Cleanup Access

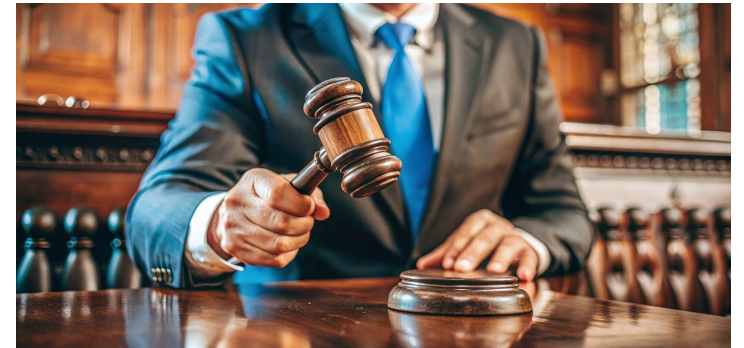
Statutory requirements to participate in state-funded cleanup per Chapter 376.

- i. PRP – Sections 376.305, 376.3071, & 376.3072, F.S.
- a. Site Access Agreements (SAA) State Funded programs have template SAA –
  - i. Standard SAA – PRP Team 2
  - ii. Site Access Orders.



# Consent Orders

- Consent Orders (CO and indigent COs) do not put any contamination into a cleanup program. Each CO must be read to determine terms but often provide DEP the authority to conduct site rehabilitation.
- These were usually enforcement cases in which the DEP (usually at the District level) signed an agreement with a responsible party to settle the enforcement case. Almost never transferable to new Real Property Owner (RPO).
- COs will contain specific details on who will pay how much towards the cost of cleanup and if DEP is to pursue cost recovery.
- DEP is usually not obligated to clean up at all much less to RMO Level 1.





# Settlement Agreements

- Settle a debate, usually settle an eligibility case (DEP denied eligibility but settled for a specified amount of money for cleanup or amount of cleanup).
- Some may have been an enforcement case, but the RP didn't like the title "consent order".
- Settlements will contain specific details on who will pay how much towards the cost of cleanup and if DEP is to pursue cost recovery.
- DEP is usually not obligated to clean up at all much less to RMO Level 1.





# Funding Agreements

## Site Rehabilitation Funding Allocation (SRFA)

- Section 376.30714, F.S., authorizes DEP to enter into Site Rehabilitation Funding Allocation Agreements (SRFAs) with responsible parties for sites with existing contamination eligible for PRP funding at which a new non-eligible discharge occurred after December 31, 1998.
- Requires the applicant to submit a LCAR and application to DEP.







# Funding Agreements

## Site Rehabilitation Funding Allocation (SRFA)

- The allocation can be in a form of a cost share, lump sum RP payment, **milestone payments from DEP**, etc.
- SRFAs do not change any eligibility requirements for the IPTF eligible discharge – **no state funds can be used to address the non-eligible discharge.**





# Funding Agreements

- **The Advanced Cleanup Program (AC) & AC Redevelopment (ACR) (Team 1)** were created to provide an opportunity for site rehabilitation to be conducted on a limited basis in advance of the site's priority ranking at sites eligible for restoration funding under one of the eligibility programs. Ss. 376.30713, & ACR s. 376.30713((2)(b), F.S.
- **Performance Based Cleanups (PBCs)** focus on the completion of milestones on the way to an aggressive, efficient, and successful cleanup of petroleum-contaminated facilities. Payments are made based upon measured progress toward reaching the cleanup goal and require the successful completion of milestones (i.e. reduced contamination by 50% vs. submission of reports).
- **Low-Scored Site Initiative (LSSI) Program** - Voluntary program with limited funding intended to bring low-scored (scored < 29 points) sites to closure via Site Rehabilitation Completion Order (SRCO), LSSI No Further Action, or Conditional SRCO. Ss. 376.3071(12)(b), F.S.

# Other Funding Mechanisms

## Free Product Recovery Initiative (FPRI)

- Authorizes DEP to oversee free product removal at eligible sites in advance of the order established by the priority ranking system for site cleanup activities. Requires the applicant to submit a LCAR and application to DEP.
- The site must have a score below the current program funding threshold.
- Have at least two inches or more of measurable free product in a minimum of two wells/boreholes that are located a minimum of 10 feet apart, with the measurement data less than six months old to justify initiation of product recovery.



# What to Do If You're a Site Manager and Your Site Has a Non-Program Discharge



# Scenario 1

## Newly Assigned Site

- Site Manager File Review:
  - Review STCM for discharge records.
  - Review Oculus for Discharge Report Forms (DRFs), Incident Notification Forms (INFs).
  - Determine what is currently going on at the facility.
- Discovery:
  - 1 eligible and 1 non-program discharge present at the facility.
- Now what do we do?

Co / Facility*	Facility Name and Address		Manager	
1 8518299	SUNSHINE FOOD MART #127		[Manager Name]	
Facility Status	15295 NW US HWY 301		Facility Cleanup Status	
OPEN	WALDO Florida		ONGO	
Discharge Info		Highest Discharge Score		
INACTIVE		57		
Cleanup Info		Discharge Record		
Info Source E EDI		1 of 3		
Lead Agency LP LOCAL PROGRAM		Score Effective Date		
Cleanup Required* R CLEANUP REQUIRED		06/21/2011		
Discharge Info		Discharge Date*		
Combined With		11/03/1987		
Inspection Date		01/22/1988		
Cleanup Status/Date		RA 12/01/1992		
Eligibility and Application Info		Application Received		
11/16/1987		Cleanup Program		
		E R		
		Status		
		E		
		Determination Letter Sent		
		07/24/1989		
		Redetermined?		
		N		

Co / Facility*	Facility Name and Address		Manager	
1 8518299	SUNSHINE FOOD MART #127		[Manager Name]	
Facility Status	15295 NW US HWY 301		Facility Cleanup Status	
OPEN	WALDO Florida		ONGO	
Discharge Info		Highest Discharge Score		
ACTIVE		57		
Cleanup Info		Discharge Record		
Info Source C CLOSURE REPORT		3 of 3		
Lead Agency		Score Effective Date		
Cleanup Required* R CLEANUP REQUIRED				
Discharge Info		Discharge Date*		
Combined With		07/09/2019		
Inspection Date		07/10/2019		
Cleanup Status/Date		VCCR 07/11/2019		
Eligibility and Application Info		Application Received		
		Cleanup Program		
		Lead		
		Status		
		Determination Letter Sent		
		Redetermined?		

# Scenario 1

Newly Assigned Site: Discovery: 1 eligible and 1 non-program discharge

- Continue with the file review.
  - Determine the who, what, when and where, if possible.
  - Review eligible discharge's program, ATRP, EDI, PLRIP, PCPP.
    - Review discharge funding caps.
    - Did the eligibility order include any exclusions or comments?
    - PCPP Eligibility cutoff date January 1, 1995.
      - Owners or operators of property that is contaminated by petroleum or petroleum products from a petroleum storage system may apply for PCPP by filing a written report of the contamination incident, including evidence that such incident occurred before January 1, 1995, with the Department.



# Scenario 1

Newly Assigned Site: Discovery: 1 eligible and 1 non-program discharge

- Continue with the file review.
  - Is there already a funding agreement/order in place?
  - Try to determine the location of both discharges.
    - Are they co-mingled, overlapping plumes, same source area?
    - Separate and distinct, plumes located on separate areas of the facility?

# Scenario 1

## Newly Assigned Site: Discovery: Separate and Distinct Plumes

- Proceed with issuing the purchase order.
- Keep the non-program discharge in mind during cleanup activities.
  - Step out soil borings and monitoring wells.
  - Plume migration.
  - If the evidence indicates the non-program discharge is impacting our cleanup we need to follow steps for a co-mingled contamination plume.

# Scenario 1

## Newly Assigned Site: Discovery: Co-Mingled Plumes, Same Source Area

- Is a SRFA Agreement, consent order, settlement agreement in place, if yes, then proceed under the terms and conditions of the agreement, as appropriate.
- Is there a site manager assigned to the non-eligible discharge?
  - If yes, has a LCAR been requested?
- Reach out to the assigned site manager for a timeline/status update.
- Do not issue a Purchase Order (PO) for work at this time. Work with your team leader to identify the next appropriate steps.

# Scenario 1

## Newly Assigned Site: Discovery: Co-Mingled Plumes, Same Source Area

- No funding agreement in place, no Site manager assigned.
- Review the data in OCULUS, Storage Tank and Petroleum Contamination Monitoring (STCM), First Portal.
  - Focus on the time before and after the non-program discharge to create a picture of what was present before and after the non-program discharge.
- Review the outcome – Things to consider:
  - Re-Reporting of the program eligible discharge?
  - No cleanup required?
  - Is assessment needed for the non-program discharge?

# Scenario 1

Newly Assigned Site: Discovery: Co-Mingled Plumes, Same Source Area

- Meet with technical staff and team leader to determine the appropriate recommendation.
- Prepare memo to PRP with recommendation based on review findings. Route through team leader to PRP for handling.
- PRP receives and reviews recommendation memo.
- Outcomes: STCM updated, assessment requested, SRFA Application, enforcement requested, etc.

## **Scenario 2**

### Active Cleanup Site:

- A new discharge occurs during site cleanup at the facility.
- Review OCULUS, STCM, etc. Find out what information you can.
- Follow the same steps as Scenario 1:
  - Is it separate and distinct or overlapping with program eligible contamination?
- If it is separate and distinct, proceed with cleanup activities and evaluate.



# Scenario 2

## Active Cleanup Site:

- Co-mingled/overlapping plumes.
- Work with technical staff and team leader to find a place to stop.
- Review OCULUS and STCM: Has a Site Manager been assigned to the discharge?
  - If so, discuss the current status with them.
- Has the LCAR been submitted?
- If no Site Manager is assigned, perform a review and prepare recommendation memo to PRP.



A low-angle, upward-looking photograph of a dense forest. The image captures the intricate network of tree branches and a thick layer of green leaves. Sunlight filters through the canopy, creating a dappled pattern of light and shadow. The sky is visible in patches between the branches, appearing as a clear, pale blue. The overall composition conveys a sense of height and natural beauty.

**Discussion / Questions?**



# Contact Info

1. PRP Eligibility Programs:
  - a. Ken Busen: Kenneth.Busen@FloridaDEP.gov 850-245-8745
  - b. Jamie Lopez: Jamie.L.Lopez@FloridaDEP.gov 850-245-8925
2. Site Rehabilitation Funding Allocation Agreements:
  - a. Bill Newmyer: Bill.Newmyer@wsp.com 850-629-3919
  - b. Blake Miller: Blake.Miller@wsp.com 850-629-3930