



Joint Meeting

State Affairs Committee

Representative Stephen L. "Steve" Precourt, Chair

Agriculture & Natural Resources Subcommittee

Representative Matthew H. "Matt" Caldwell, Chair

Thursday, September 26, 2013

9:00 AM

Morris Hall (17 HOB)

**Will Weatherford
Speaker**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

State Affairs Committee

Start Date and Time: Thursday, September 26, 2013 09:00 am
End Date and Time: Thursday, September 26, 2013 12:00 pm
Location: Morris Hall (17 HOB)
Duration: 3.00 hrs

JOINT MEETING WITH AGRICULTURE & NATURAL RESOURCES SUBCOMMITTEE

Presentation on Florida's Petroleum Cleanup Program by the Department of Environmental Protection

Public Comment

NOTICE FINALIZED on 09/19/2013 14:58 by Love.John

Florida Department of Environmental Protection



Petroleum Restoration Program

Jeff Littlejohn, P.E.
Deputy Secretary for Regulatory Programs

House State Affairs Committee and House Agriculture &
Natural Resources Subcommittee
September 26, 2013





Background

- Clean Groundwater is Critical in Florida:
 - >90% of Drinking Water
 - >70% of Industrial Water
 - >50% of Agricultural Water
- Florida's groundwater is especially vulnerable to contamination



Background

- Regulation of Petroleum Storage Tanks began in 1984 with the creation of the Federal Underground Storage Tank Program
- Florida followed suit with its own law in 1986 entitled the State Underground Petroleum Environmental Response Act (SUPER Act).



Background

- In 1986, the Legislature created the Early Detection Incentive Program (EDI) and the Inland Protection Trust Fund (IPTF) to fund the cleanup of petroleum contamination.
- More than 25,000 sites reported
- IPTF is funded by an excise tax on petroleum products imported to the state.



Background

- The original Petroleum Restoration Program operated as a Reimbursement Program
- By 1996, the Program was in arrears for \$0.5 billion in unpaid reimbursement claims.
- In 1996, a report by the Attorney General documented abuse, inefficiencies and fraud, leading to major changes to the Program.



Background

- 1996 Program overhaul:
 1. Cleanup sites in priority order
 2. Risk-based corrective action principles
 3. Use “preapproved contractors”
 4. Tasks approved by the Department
 5. Reimbursed at fixed rates



Current Status

- Total number of sites 25,192

As of August 2013:

- Eligible sites cleaned up 7,100
 - Eligible sites underway 3,500
 - Eligible sites awaiting clean up 6,700
- =====

Total eligible for state funding 17,300

- Remaining 7,800 sites are to be cleaned up by owners without state-funds.



Recent Events

- Department review of all programs undertaken.
- In 2012, concerns surfaced about the financial operation and effectiveness of the Program.
 1. Inspector General review
 2. 2013 Proviso and the Implementing Bill
- Significant changes made



Inspector General

1. Contractor Selection by Site Owners
 - Fails to meet Government Auditing Standards
 - Lack of internal controls to prevent fraud
 - Opportunity for manipulation, remuneration
 - Recommended DEP solicit and award contracts
2. Subcontractor Selection
 - Subs related to Prime Contractor
 - Informal bid process not followed
 - Unqualified subs, further subcontracting
 - Recommended DEP control process



Inspector General

3. Site Manager / Field Inspector Oversight
 - Site Managers do not visit sites
 - Inadequate oversight of field conditions
 - Inadequate number of field inspections
 - Recommended new expectations set
4. State Owned Equipment
 - Excessive costs, incentive to overpay
 - Lack of accountability/controls
 - Low incentive to maintain equipment
 - Recommended stricter controls or switch to equipment leasing



Inspector General

5. Cost Sharing Agreements
 - Lack of accountability
 - Recommended tracking of cost-share payments
6. Ability to Pay
 - Lack of accountability
 - Owners have provided incomplete or information, omitted property and assets
 - Overpaying for financial reviews from CPA firms for level of service provided
 - Recommended OIG assume duties



Inspector General

7. Site Owners Changing Contractors
 - Owners offered incentives from contractors
 - Contractor changes without cause
 - Loss of eligibility never imposed on abusers
 - Recommended DEP solicit and award contracts
8. Contracted Team Costs
 - DEP overpaying for services
9. County Programs
 - Costs comparable to DEP staff
 - Performance and process inconsistencies



Proviso and Implementing Bill

- In FY 2013-14, the Legislature appropriated \$125 million for site rehabilitation.
- The Proviso and Implementing Bill limited up to \$50 million to fund task assignments, work orders and contracts entered into prior to June 30, 2013.
- After June 30, 2013, the Department can only enter into competitively procured contracts.
- The balance of the appropriation is subject to approval of the Department's plan by the Legislative Budget Commission and rule adoption.



Improvement Plan

- The LBC met on September 12, 2013, and the Department presented our improvement plan.
- Cornerstones
 - ✓ Retain historical cleanup standards and closure processes.
 - ✓ Regain control of site cleanup process and focus on sites posing the greatest threat.
 - ✓ Implement a new program procurement process to competitively procure qualified contractors to conduct site rehabilitation at state-funded sites.
 - ✓ Revise site priority ranking to improve the effectiveness and efficiency of the program.



LBC Approval

- The LBC approved our plan to move forward.
- Implementation Actions:
 - Develop a new procurement rule and process
 - Revise site priority ranking rules and procedures
 - Develop a strategic spending plan
 - Develop and implement an equipment divestiture plan



Plan Implementation

- Procurement
 - Immediate Objectives
 - Performance Objectives
 - Competitive Balance
 - Contract Assignment
 - Rule Development
 - ❖ Content
 - ❖ Status
- Site priority ranking
 - Issue
 - Status



Strategic 5-Year Plan

- Strategic 5-year plan based on mission in paragraph 376.3071(5)(b), F.S.:
 - ...to protect the health of all people under actual circumstances of exposure by incorporating to the maximum extent feasible, risk-based corrective action principles to achieve protection of human health and safety and the environment in a cost-effective manner.
- 2 Strategic Focus Areas
- Measurable performance objectives



Plan's Strategic Focus Areas

- Focus Area #1 – Refining the actual potential risk posed by a site.
- Focus Area #2 – Incorporating risk and sound science into determining the endpoint of active cleanup.



Performance Objectives FY 2013-14

- Target all sites scored 75 and above
- Close a minimum of 400 sites
- Improve LSSI closure rate to >75%
- Reduce O&M, PARM, MNA expenditures by \$6M
- Reinvest savings in backlog site assessments
- Minimum of 400 site assessments in backlog



Performance Objectives

- FY 2014-15:
 - Site Assessments of 550 sites.
 - Close 600 sites.
- FY 2015-16:
 - Site Assessments of 650 sites.
 - Close 700 sites.
- FY 2016-17:
 - Site Assessments of 750 sites.
 - Close 800 sites.



Equipment Purchases and Divestiture

- **Current Status:**
- 561 systems on project sites.
- Determined that a phased divestiture approach is the most reasonable course of action.
- Determined that 66 systems are in storage.
- Determined that 230 systems are shut down in situ and for at least one year due to the site being in Post Active Remedial Monitoring.
- Project that 161 systems (out of 230) will not be turned back on since active groundwater remediation is no longer expected.
- Capitalized replacement parts expenditures over last three-year period = \$800K
- No longer purchasing systems. New remedial systems will be leased.



Vision

- The Petroleum Restoration Program will:
 1. Provide more fiscal accountability
 2. Lower the cost of site rehabilitation
 3. Address the backlog
 4. Prioritize site cleanup



Conclusions

- The Department has responded to concerns
- Refocused on Program mission
- Reinvigorated Program management
- Systems in place to drive program performance
- Rules under development to solidify changes



Questions?

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