

**Property Owner Near or Impacted by Contamination Eligible for
Abandoned Tank Restoration Program
Information Sheet**

This Information sheet has information about the **Abandoned Tank Restoration Program (ATRP)** and information regarding the Department's enforcement policy toward a property owner (and its tenants) whose property has been contaminated with petroleum contamination emanating from a nearby source property. Please see the applicable DEP site file (available at <http://floridadep.gov/waste/petroleum-restoration>) for more information about the source property.

The Department will not take enforcement action for cleanup or for cost recovery against an owner of property where contamination eligible for ATRP has migrated from sources outside of the property; provided, that the owner did not cause, contribute to or exacerbate the release of discharge, the real property owner continues to exercise due care in the management of its property such that it does not exacerbate the release, the person causing the release is not contractually related to the nearby property owner, and the property owner is not alternatively liable as a generator or transporter, or as owner/operator of the source. This policy extends to the nearby property owner's (contaminated non-source property owner) successors and lenders. See Section 376.308, Florida Statutes.

To facilitate site rehabilitation, the nearby property owner should grant site access to allow inspections, assessment and remediation of the contamination on the property. Please send such notification to the Department of Environmental Protection, Petroleum Restoration Program, 2600 Blair Stone Road, MS 4580, Tallahassee, Florida 32399-2400. If there are construction activities, on this site, such activities must not cause further spreading of and/or exacerbate the contamination. If any contaminated soil, groundwater or other media are removed it must be properly treated and/or disposed of in accordance with Department rules. For your information, there are OSHA regulations regarding worker safety on contaminated construction sites. Lastly, construction activities should be coordinated with the appropriate DEP District Office.

ATRP discharges are eligible for state funding under the Inland Protection Trust Fund (IPTF). The IPTF pays for the cleanup of the petroleum contamination on the eligible source property in priority order, including restoring the property as nearly as practicable to the conditions that existed prior to the site rehabilitation activities. This eligibility remains with the discharge even if title to the source property is later transferred. Additionally, the state will also pay for the cost of cleanup if the petroleum contamination has migrated onto any nearby properties. That means if there is petroleum contamination at the "non-source" property that originated from a site receiving a state funded cleanup, the state will pay for the cleanup of the eligible petroleum at the non-source property as well as the reasonable costs to restore the property. However, the responsibilities outlined in the previous paragraph still apply, the property owner must provide site access, etc. For more information about conducting a contaminated site cleanup see Rules 62-780 and 62-777, Florida Administrative Code.

For an ATRP site, there are requirements on the source owner prior to the start of site rehabilitation activities. Non-petroleum contamination is not covered by the ATRP eligibility determination; therefore, that contamination will not be addressed with state funding.

Without a full site assessment or investigation and a determination of the source of the contamination, the Department cannot make unqualified determinations or assertion regarding potential liability for contamination that may exist at a property. However, as long as the contamination on the property fits within the conditions set forth above, the property owner need not be concerned with any enforcement action from the Department.