

**Review of Petroleum Restoration Program
Deductible Collections**

Division of Waste Management

Report: A-1920DEP-014

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

October 29, 2019

3900 Commonwealth Boulevard, MS 40
Tallahassee, Florida 32399-3000
<https://floridadep.gov>





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The Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted a review of Division of Waste Management (Division) Petroleum Restoration Program (PRP) deductible collections under the Florida Petroleum Liability and Restoration Insurance Program (PLRIP) and Abandoned Tank Restoration Program (ATRP). This review was conducted as a result of the Fiscal Year (FY) 2019-2020 Annual Audit Plan.

Scope and Objectives

The scope included current PRP deductible collection processes and collection activity as of June 30, 2019. The objective was to evaluate management oversight and determine whether PRP deductible collection processes are in compliance with Sections 376.3072, 376.305, and 17.20, Florida Statutes (F.S.), as well as Chapter 62-769, Florida Administrative Code (F.A.C.) and Department Accounts Receivable Collections and Write-off Standards.

Methodology

This review was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors, and under the authority of Section 20.055, F.S. Preliminary research for this review was conducted during a related review of active eligible State-funded petroleum cleanup facilities with limited activity. Our procedures included review of the Department's authority under statutes and rule, as well as Department guidance in the Accounts Receivable Collections and Write-off Standards. We also obtained financial information and activities regarding deductible collections and interviewed PRP and Division of Administrative Services staff.

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Background

Section 376.3072, F.S., provides funding for eligible facilities under PLRIP. The amount of eligible funding is based on the facility's discharge circumstances. According to the statute, the Department will pay for eligible restoration costs less specified deductibles. Section 376.305, F.S., outlines that financial assistance is provided for cleanup of sites that have abandoned petroleum storage tank systems. Participating sites are subject to a deductible as determined by Chapter 62-769 F.A.C. For coverage under ATRP, Chapter 62-769 F.A.C., states that, *eligible responsible persons are subject to the restoration coverage deductible of \$500.00.*

PRP Standard Operating Procedures (SOP) Chapter 3, outlines procedures for deductible collections by the Department and directs that deductibles must be collected before doing any work on a facility with noted exceptions. Deductible collections are deposited in the Inland Protection Trust Fund. Object code 002267 has been established for PLRIP deductible revenue, and object code 002268 has been established for ATRP deductible revenue. During FY 2018-2019, the Department received \$484,813 in revenue under these object codes. As of June 30, 2019, the Department had received \$13,978,489 under these object codes since 1997. Per the outstanding receivables report obtained from the Division of Administrative Services, as of June 30, 2019, deductible receivables referred to collections were \$46,180.32, and \$108,012.75 had been written off.

Results and Conclusions

Department Authority Regarding Deductibles

Sections 376.3072, and 376.305, F.S., and Chapter 62-769 F.A.C., authorize the Department to provide funding for restoration costs, depending on discharge circumstances, less

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specified deductibles for facilities eligible under PLRIP and ATRP. However, Sections 376.3072, and 376.305, F.S., and Chapter 62-769 F.A.C., do not state that the Department has the authority to collect these deductibles.

Based on our inquiry, the PRP Administrator indicated that Chapter 62-769.200(4), F.A.C., which was repealed in 1996, *defined "Deductible Amount" as the amount a participating owner or operator shall be obligated to pay per incident for restoration and for covered losses under the restoration insurance program or abandoned tank restoration program. When the statues [sic] specified that owners were paid for cleanup work through Reimbursement, the Department reimbursed the owner and the deductible was reduced from the reimbursement check. With the move from Reimbursement to Preapproval the process dictates ((376.3076(6), F.S.)) that the Department scopes all work and pays the contractor's directly for work performed. With that change to process that no longer enabled the Department to deduct the money from payment to the owner, in accordance with the definition in the rule, the Department required the participating owner or operator to pay the Deductible.* Although the Division has been soliciting and collecting deductibles since the prior preapproval program, Sections 376.3072, and 376.305, F.S., and Chapter 62-769 F.A.C., do not appear to give the Department this authority.

The Department's Accounts Receivable Collections and Write-off Standards and Procedures defines Account Receivable or Account as, *An amount due from applicants, vendors, contractors, employees or other responsible parties for goods and/or services furnished by the Department or for use of Department facilities, as well as, amounts assessed and due under consent orders, judgments or settlements. These amounts include fees for permits and*

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registrations; fines; penalties; damages and reimbursements of cost for enforcement actions brought on behalf of the Department or as a result of an accident involving Department owned property; or any amount that becomes legally due to the Department. Within the Department's Legislative Budget Request Schedule 1 *Detail of Revenues by Trust Fund*, revenue object codes established for deductible collections are titled as *Other Licenses and Permits*, with Section 376.3071, F.S., listed as the statutory authority for the revenue. This statute does not specify the Department's authority for PLRIP and ATRP deductible collection.

Department Deductible Collection Processes

The Division has tasked an Administrative Services Contractor with the process of deductible solicitation, and tracking. The process for deductible collection is under the direction of the PRP Deductible Collection Coordinator. The cost for deductible collection and tracking subtask under the current year Task Assignment is \$58,820, which is based on an estimated number of solicitation letters at \$117.64 each. From the Division's process of soliciting and collecting deductibles, we reviewed a sample of facilities receiving deductible solicitation letters and noted the following.

- The facilities' original PLRIP and ATRP applications did not specify that property owners were responsible for paying deductibles to the Department. There are no known updated eligibility agreements executed or applications due when property ownership changes.
- Multiple deductible solicitation letters for PLRIP and ATRP have been sent to prior and current property owners and at differing addresses. Deductible solicitation letters for PLRIP indicated that payment was due to the Department as required under Section

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376.3072, F.S. Deductible solicitation letters for ATRP indicated that payment was due to the Department as required under Section 376.305(6), F.S. These statutes do not specify that payment of deductibles is owed to the Department.

We obtained a list of 26 written off PRP deductible accounts totaling \$108,012.75 as of June 30, 2019, from the Division of Administrative Services. Of the 26 accounts, four were included in the Division's report of PRP deductible accounts receivable as of June 30, 2019. Of the four, a recent deductible invoice had been sent to the facility owner for one (ID 8840777) on July 24, 2019. Several facilities included in the list of written off accounts had been closed; however, one (ID 8512502) had been eligible for closure since 2008 pending payment of the deductible.

We also obtained a list of 16 accounts referred to collections totaling \$44,770.48¹ as of June 30, 2019 from the Division of Administrative Services. Of the 16 accounts, one (ID 8630674) had been eligible for closure since 2016 pending payment of the deductible. In addition, two of the 16 accounts represented collection referral of the prior and current owner of one facility (ID 9400243) for the same deductible.

Section 17.20, F.S., requires that no later than 120 days after the date on which an account or other claim was due and payable, and after exhausting other lawful measures available to the agency, each agency shall report delinquent accounts receivable as directed by the Chief Financial Officer to collections. The Division's list of accounts receivable provided to

¹ This amount was subsequently revised to \$46,180.32 per the Division of Administrative Services' account reconciliation adjustment.

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the Division of Administrative Services included 75 accounts. Of these, 10 included a first notice date prior to July 1, 2016, but did not list a due date, and were not included on the list of accounts referred to collections or list of accounts written off. We noted two recent instances where collection invoices had been sent to two different owners for the same facility (IDs 8944984, 8509300). The list of accounts receivable documented “Closure Pending” as the reason for deductible request for 31 accounts. Per comments documented in the list spreadsheet, several property owners had disputed responsibility for payment.

Our finding and recommendation are included in the remainder of this report.

Finding and Recommendation

Finding: Deductible Collection Processes

Sections 376.3072, and 376.305, F.S., and Chapter 62-769 F.A.C., authorize the Department to provide funding for restoration costs, depending on discharge circumstances, less specified deductibles for eligible facilities under PLRIP and ATRP. However, the statutes and rule do not state that the Department has the authority to collect these deductibles, but rather directs that the Department pay for restoration costs up to certain amounts, less specified deductibles.

During FY 2018-2019, the Department received \$484,813 in revenue under object codes 002267 and 002268, which were established for PRP deductibles. As of June 30, 2019, the Department had received \$13,978,489² in revenue under these object codes since 1997. A

² The object codes established for deductibles were also used by PRP to record revenues from sources unrelated to deductibles. As such, this amount includes revenue historically solicited by PRP for other program circumstances including owner cost share payments under the Petroleum Cleanup Participation Program.

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process for billing and collecting deductibles from facility owners eligible for restoration funding under PLRIP and ATRP has been established in the Department for over 20 years without clear statutory authority. While deductible collections have been deposited in the Inland Protection Trust Fund, the practice of collecting, rather than withholding deductible amounts negatively impacts the Department's annual budget for funding petroleum restoration activities.

According to account information obtained from the Division of Administrative Services, as of June 30, 2019, PRP deductible receivables referred to collections were \$46,180.32, and \$108,012.75 had been written off. From the information contained in the Division's lists of accounts receivable, accounts referred to collections, and accounts written off, PRP's collection practices were not applied consistently among facility accounts, included duplicative efforts, and were not managed consistent with collection requirements under Section 17.20, F.S. PRP deductible collection activities had also prevented or delayed several eligible facilities from achieving closure.

Recommendation

Going forward, the Division should take steps to ensure approved funding for cleanup activities on facilities eligible under the PLRIP and ATRP is administered in conformance with Sections 376.305 and 376.3072, F.S., as well as Chapter 62-769 F.A.C. This authority specifies that the Department will pay eligible restoration costs, less certain deductibles, but does not clearly indicate that the Department has authority to collect those deductibles. As such, the Division should discontinue the practice of soliciting, tracking, and collecting PRP deductibles. The Division should ensure that revenue is only collected for purposes in which the Department has clearly established statutory authority. The Division, in coordination with the Division of

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Administrative Services, should also take steps to notice and request assistance from the Chief Financial Officer for correction of accounts referred to collections.

To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our review was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The review was conducted by Courtney Allen and supervised by Valerie J. Peacock.


Please address inquiries regarding this report to the OIG's Audit Director by telephone at (850) 245-3151. Copies of final reports may be viewed and downloaded via the internet at <https://floridadep.gov/oig/internal-audit/content/final-audit-reports>. Copies may also be obtained by telephone (850) 245-3151, by fax (850)245-2994, in person or by mail at Department of Environmental Protection, Office of Inspector General, 3900 Commonwealth Boulevard, Mail Station #41, Tallahassee, FL 32399.

*Valerie J. Peacock,
Director of Auditing*

*Candie M. Fuller,
Inspector General*

Memorandum

TO: Valerie J. Peacock, Director of Auditing
Office of Inspector General

FROM: Tim J. Bahr, P.G., Director 
Division of Waste Management

SUBJECT: Response to Preliminary Audit Report A-1920DEP-014
Audit of Petroleum Restoration Program Deductible Collections

DATE: October 24, 2019

The Division of Waste Management has reviewed the Preliminary Audit of the Petroleum Restoration Program Deductible Collections, Report A-1920DEP-014. The following is in response to the referenced audit.

Office of Inspector General Finding and Recommendation

Finding: Deductible Collection Processes

Recommendation

Going forward, the Division should take steps to ensure approved funding for cleanup activities on facilities eligible under the PLRIP and ATRP is administered in conformance with Sections 376.305 and 376.3072, F.S., as well as Chapter 62-769 F.A.C. This authority specifies that the Department will pay eligible restoration costs, less certain deductibles, but does not clearly indicate that the Department has authority to collect those deductibles. As such, the Division should discontinue the practice of soliciting, tracking, and collecting PRP deductibles. The Division should ensure that revenue is only collected for purposes in which the Department has clearly established statutory authority. The Division, in coordination with the Division of Administrative Services, should also take steps to notice and request assistance from the Chief Financial Officer for correction of accounts referred to collections.

Division Response

Per OIG's recommendation, the Division has discontinued the practice of soliciting and referring PRP deductibles to collections, has withdrawn all prior PRP deductible accounts from collections, and plans to proceed with implementing the program funding of statutory eligible restoration costs less the applicable deductible pursuant to Sections 376.305 and 376.3072, F.S. For ATRP, to address the OIG audit findings, by March 1, 2020, the Division will propose rule development for Rule 62-769, F.A.C. with the purpose of reducing the \$500 deductible to \$0, since collection of the deductible is not cost effective. For PLRIP, to address the OIG audit findings, the program will implement changes to the deductible tracking process to more closely reflect the statutory language by adjusting the funding limit for each PLRIP discharge to the statutory limit less the statutory deductible amount (funding cap minus deductible).