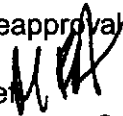


# Florida Department of Environmental Protection

## Memorandum

To: Petroleum Cleanup Preapproval Program Staff and Contractors

From: Michael E. Ashe, Chief   
Bureau of Petroleum Storage Systems

Date: March 3, 2008

Subject: State-Owned Tangible Personal Property Procedures and Requirements (*Revised*)

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Over the past five years the volume of capital equipment purchases in the Petroleum Cleanup Preapproval Program has increased significantly, with the current inventory value exceeding \$60 million and average annual expenditures between \$7 million and \$10 million. During this timeframe the BPSS has emphasized the proper procedures for the capitalization, inventory tracking and surplus of State-owned property in the Preapproval SOP and supplemental guidance, as well as expanded the role of the BPSS Equipment Management Contractor in each of these areas.

Nevertheless, a limited but recurring number of instances of non-compliance with the governing statutes (Chapter 273, F.S.), rules (Section 10.370 – Auditor General) and directives (DEP 320) persist and the Department's Bureau of General Services, Records and Inventory Management Section has asked the BPSS to undertake additional proactive measures to ensure compliance.

While the majority of the site managers and cleanup contractors are diligent in this regard, some may not appreciate the serious nature of State-owned property custodianship and the requirement for oversight by entities outside of the BPSS, including the Division of Waste Management, the Bureau of Finance and Accounting (BF&A), the Bureau of General Services (BGS), the Surplus Property Review Board and the Department of Financial Services.

Custodial responsibilities of the Department are delegated within a formal network of State property custodians, coordinators, custodian delegates and alternate delegates. While site managers and cleanup contractors are not considered the "official" custodians in this regard, they do play a vital supporting role and are tasked with a share of the responsibility. The following provision in §273.09, F.S., helps to keep this issue in perspective - "*any custodian who violates any provision of this chapter or any rule prescribed pursuant to its authority shall be guilty of a misdemeanor of the second degree.*"

The six most common problems we are finding with State-owned property in the Petroleum Cleanup Program are:

1. Failure to Provide Complete Copies of Property Purchase Documentation - Separate copies of documents pertaining to the capital equipment purchase must be provided by the site manager (or designee) to the Equipment Management Contractor (or Preapproval Equipment Coordinator) at the time of invoice processing in addition to those included in the invoice package that goes to the BF&A Property Section (MS 87). Problems also occur if the Property Reporting Forms are incomplete (i.e. missing specific equipment compared to the vendor invoice, serial numbers for all major equipment items and/or site manager signatures).

Per section 7.4.1 of the Preapproval SOP, the Equipment Management Contractor requires copies of the following documents in order to enter the equipment into the tracking database and prepare the Property Capitalization Forms for submittal to the BF&A Property Section (MS 87):

- a. Completed and Signed Property Reporting Form(s);
  - b. The First Page of the Preapproval Invoice;
  - c. The Preapproval Template Page Showing Section G1; and
  - d. The Equipment Vendor's Invoice.
2. Failure to Provide Notice of Transfer of Property – Notice must be provided to the Equipment Management Contractor (or Preapproval Equipment Coordinator) prior to transferring property from one location to another. Failure to do so creates serious problems in the reconciliation of the equipment tracking database and the official property inventory.

If this information is not entered into the tracking database and properly relayed to the BF&A Property Section (MS 87), the equipment will be characterized as "lost or stolen." The lost or stolen status is taken very seriously and requires review and sign-off up the chain through the Bureau Chief, Division Director, BF&A Property Section and the Department of Financial Services prior to removal from the official inventory. Site managers should use the FDEP Petroleum Cleanup Program Equipment Transfer Form (*Appendix G.3.7 of the Preapproval SOP*) to document property transfers. Note that this form is not considered to be complete without the signature of the receiving location site manager or equipment warehouse representative, as applicable.

3. Failure to Request and/or Receive Prior Approval to Surplus Property – Prior approval to surplus State-owned equipment must be requested through the Equipment Management Contractor (or Preapproval Equipment Coordinator) and official approval must be granted from the Surplus Property Review Board prior to disposing of the equipment.

State-owned equipment disposed without prior approval from the BGS Records and Inventory Management Section is a direct violation of section 7.4.7 of the Preapproval SOP, DEP Directive 320 5.k., and §273.055(1), F.S. Requests for approval to surplus property must be submitted using Form 55-406 (*DEP Certification of Surplus Property*). The Equipment Management Contractor will forward this form to the BGS Records and Inventory Management Section (MS 95), track the status and relay approval to the site manager. Problems also occur when site managers or contractors do not routinely monitor the status of the equipment on the cleanup site, do not report missing property as soon as possible or fail to file a timely police report when equipment is discovered missing without explanation.

4. Failure to Request and/or Receive Prior Approval to Remove Equipment Components for Re-Use (aka Cannibalize) - A particular area of concern related to property surplus procedures is the "cannibalizing" of certain components from equipment items or remediation systems that are being surplussed without obtaining prior approval to do so. Approval of the Surplus Property Review Board is required before any equipment items or components can be cannibalized for re-use. Details pertaining to such proposed removal and re-use of components must be included in the surplus request. While re-use of parts is allowed and encouraged, they must be preapproved, documented and reconciled in the tracking database and official property inventory.
5. Failure to Document Final Disposal of Surplussed Property - Documentation of proper disposal of surplus equipment must be provided to the Equipment Management Contractor (or Preapproval Equipment Coordinator) after permission to surplus has been granted. Even when prior approval to

surplus property is properly requested and received, the surplus action is not complete or formally acknowledged until documentation of final disposition is submitted.

A signed copy of Form DEP 55-407 (*Surplus Property Disposal Certification/Receipt*) is required to confirm that the actual disposal occurred as approved. Until this form is filed with the BGS Records and Inventory Management Section (MS 95), the property will remain pending on the official State inventory. Failure to properly document the disposition of surplus property using this form is a direct violation of section 7.4.7 of the Preapproval SOP and DEP Directive 320 5.k.(6).

6. Failure to Provide Proper Title for Trailers - Equipment trailers are considered motor vehicles in the State of Florida. Any seller of a motor vehicle, with certain exceptions for trailers with a net weight below 2,000 pounds, is required by law to provide a proper title to the purchaser. Ownership documentation is still required for trailers exempt from the title requirements in the form of the manufacturers Certificate of Origin and a signed bill of sale. Refer to the "Procedures and Required Documentation for the Transfer of Title, Registration and Licensure of State-Owned Remediation System Trailers Memorandum dated February 28, 2005" (*Appendix G.3.10 of the Preapproval SOP*) for further details.

The initial purchaser of an equipment trailer is the Preapproval cleanup contractor who is typically not a licensed motor vehicle dealer and therefore not authorized to sign over the original title as a dealer. They are required to obtain a title in their name and then sign it over to the State of Florida as a resale. Aside from the fact that the Department will not have legal proof of ownership, it is also not possible for the Department to register the trailer and obtain a valid license plate without a valid title.

Failure to provide proper title (or alternate ownership documentation for trailers exempt from the title requirement) is a violation of section 7.4.10 of the Preapproval SOP and §319.21(1) & (3) and/or §319.22(3), F.S.

In closing, please remember that site managers and cleanup contractors play an important role in the custodianship of State-owned property. Site managers are encouraged to routinely track all State-owned property on their sites, not just when the annual inventory list comes out. Where applicable, please consider the addition of a provision in the work orders and task assignments for the verification of the status, condition, serial number(s) and FDEP property number(s) of all State-owned equipment by the contractor while on-site, even if the equipment is not currently being operated. This information can also be used to satisfy the next annual inventory requirement if the confirmation occurred after the prior years inventory cycle which begins each December. Confirmation of equipment status is especially important whenever there is going to be a change in site manager or cleanup contractor.

The BPSS Equipment Management Contractor has been tasked to begin providing a periodic summary of significant State-owned property procedure violations (that can be sorted by Team, Local Program, Site Manager and Cleanup Contractor) for review by site managers, supervisors and management. Due to the recurring number of incidents of improper transfer, surplus, and disposal of State-owned equipment that continue to be discovered during the annual inventory process, future confirmed cases where the site manager or cleanup contractor fails to follow established property tracking and surplus

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procedures may result in a written reprimand for site managers or non-performance notices to the management of Preapproval contractors for initial violations. Additional consequences may also be considered for repeat violations that include but are not limited to employee suspension, forfeiture of contractor retainage or loss of designated contractor status for the site.

For those of you who have been complying with State-owned property requirements, I thank you and keep up the good work. For those who have not, I encourage you to review the Preapproval SOP and Directives, ask questions and improve compliance. The BPSS Equipment Management Contractor is there to provide assistance. Please do not hesitate to contact Dave Turner, the BPSS Equipment Management Contractor representative, at 850/222-6446 (ext. 270) or James Treadwell, the BPSS Preapproval Equipment Coordinator, at 850/245-8862 if you have further questions.