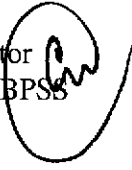


Memorandum

Florida Department of Environmental Protection

To: Tallahassee & Local Program Petroleum Cleanup Program Staff

From: Charles T. Williams, Administrator
Petroleum Cleanup Section One/BPSS 

Date: February 28, 2005

Subject: Revised Procedures and Required Documentation for the Transfer of Title,
Registration and Licensure of State-Owned Remediation System Trailers
(*Supersedes memo of same title dated December 14, 2004*)

Based on feedback from various parties during implementation of these procedures that were effective on December 14, 2004, several modifications have been incorporated to alleviate unanticipated problems (also see remaining text of memo):

1. The first change addresses the statutory exemption for titling of trailers with a net weight less than 2,000 pounds and the responsibility of the Contractors to provide written documentation to support any claim that a particular equipment trailer, including modifications, does not require a Certificate of Title by law;
 2. The second change addresses the fact that many equipment trailer vendors have not yet been paid at the time of submittal of the Contractor's invoice to the Department and the reluctance of the vendors to release the title paperwork until they are paid. The time at which a Certificate of Title for an equipment trailer is required to be provided to the Department has been pushed back from the point of submittal of the Contractor's invoice including the trailer costs to 45 days after receipt of payment by the Contractor from the Department for the final invoice for the Work Order (WO) or Task Assignment (TA). However, the Contractor is still required to provide at the time of invoice submittal either written documentation of the statutory exemption for a title or a written commitment to provide the Certificate of Title within 45 days of receipt of payment for the final WO invoice from the Department.
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In the Petroleum Cleanup Program, certain State-owned "Equipment Trailers" have special documentation requirements because they are considered to be "Motor Vehicles" and therefore subject to the transfer of title, registration, and licensure provisions of the Florida Statutes (F.S.) and the Florida Department of Highway Safety and Motor Vehicles (DHSMV). Please see Section I below.

As equipment trailers have become more common components of our purchased remediation systems, the BPSS Equipment Management Contractor (EMC) has experienced some difficulty in obtaining the proper documentation from Site Managers and Contractors to facilitate the transfer of title (if applicable) and registration/license process. Based on EMC research and experience in processing, the following guidance is provided regarding the additional documentation and procedures required for the purchase of equipment trailers beyond the pre-existing guidance for normal non-motor vehicle equipment in the Petroleum Cleanup Program. Note, in all correspondence with the Department or the EMC pertaining to capital equipment (including equipment trailers), the Contractor should include a reference to the FDEP facility number of the site for which the equipment WO or TA was issued as well as the serial number(s) of the equipment.

Department, Local Program and contracted Site Managers should not approve a Contractor's invoice that includes an equipment trailer until or unless the Contractor provides with that invoice either written documentation which demonstrates that the equipment trailer, including modifications, is exempt from the title certification process by law or a written commitment to provide the certificate of title to the Department within 45 days of receipt of

payment for the final invoice for the associated WO or TA from the Department (see Section II below). Site Managers should forward the certificate of title to the EMC upon receipt or notify the EMC and their Section Leader if the required documentation has not been provided. The EMC will handle the actual transfer of the trailer title into the Department's name, the registration and license tags, and conduct follow-up on prior purchases.

Failure to provide the certificate or title or documentation of exemption in a timely manner will be considered a violation of the terms of the WO and/or the applicable Florida statutes cited in Section I below and will be pursued vigorously with all remedies available to the Department.

I. Statutory Provisions Affecting Equipment Trailer Acquisition

A. Motor Vehicles

Section 320.01(1), F.S., states in part, "Motor vehicle means: An automobile, motorcycle, truck, trailer, semi trailer, truck tractor and semi trailer combination, or any vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power..."

According to this definition, trailers containing remediation systems are considered motor vehicles and are subject to the requirements detailed in the Florida Statutes regulating the registration and operation of motor vehicles within the State of Florida.

B. Title Certificates

1. Section 319.20, F.S., indicates that the provisions of the chapter regarding title certificates do not apply to any trailer or semi-trailer having a net weight of less than 2,000 pounds. It is the responsibility of the equipment trailer vendor, equipment assembler, and the contractor to determine the applicability of the law to the equipment trailer, including modifications, and to provide to the Department with written documentation to support any claim that a title is not required by law. In such cases where documentation has been provided to demonstrate that a title is not required, the following statutory provisions may not be applicable.
2. Section 319.21(1), F.S., requires that any manufacturer, distributor, licensed dealer or other person who sells a new motor vehicle provide to the purchaser a "manufacturer's statement of origin" (MSO) duly executed and with the assignments necessary to show title to the purchaser. Based on this statute, the MSO is required anytime a "new" motor vehicle is sold in the State of Florida. This document can only be used to transfer a "new" motor vehicle.
3. Section 320.27(1), F.S., defines a "motor vehicle dealer" and sets forth the fees and requirements to function within the State of Florida as a "motor vehicle dealer." This section goes on to state that a motor vehicle transferred by a dealer or individual not meeting the qualifications of a "motor vehicle dealer" shall be titled as a "used" vehicle. Unless a consultant or equipment assembler meets the requirements in Section 320.27(1) to be a "motor vehicle dealer," any motor vehicle transferred by them within the State of Florida is considered a "used" motor vehicle and must be titled as such before it can be transferred.

Since the MSO is only to be used to transfer a "new" motor vehicle, and the motor vehicle is no longer considered new when it is sold to the Department, the MSO cannot be used to transfer title of the motor vehicle to the Department. Instead, the MSO must be submitted by the cleanup contractor as part of their application for title to the DHSMV.

4. Section 319.21(3), F.S., goes on to state in part, that "No person shall sell or otherwise dispose of a motor vehicle or motor home without delivering to the purchaser or transferee thereof a certificate of title with such assignment thereon as may be necessary to show title in the name of the purchaser." And further states that "No persons shall purchase or bring into the state a motor vehicle or mobile

home, except for a surviving spouse as provided by section 319.28 or except for temporary use, unless such a person obtains a certificate of title for it in his or her name in accordance with the provisions of this chapter.”

Based on this statute, the motor vehicle must be titled (in their name) if it is brought to or transferred within Florida by anyone other than a licensed dealer.

5. Section 319.22 (3), F.S., states “In the case of a private or casual sale, except for transfers by a surviving spouse as provided by section 319.28, no title shall be accepted for transfer unless the name of the person who is selling the vehicle is shown as the owner on the face of the title. For the purposes of this subsection, a private or casual sale is a sale or assignment of motor vehicle or mobile home ownership in which none of the parties to the transaction is a licensed dealer and none of the parties is an insurer who has taken possession or is taking possession of the vehicle or the title thereto pursuant to a policy of insurance.”

Based on this statute, the first entity within the state of Florida who is not a licensed motor vehicle dealer and who takes possession of a motor vehicle with the intent to use or transfer the motor vehicle, should immediately apply for a title in their name. In order to transfer the motor vehicle to the Department, the cleanup contractor or assembler’s name must appear as the owner on the face of the title. By law, it is the seller’s responsibility to deliver a title for the motor vehicle to the purchaser.

II. Required Documentation

- A. To be provided at the time of submittal of the Contractor’s invoice to the Department which includes the trailer costs:
 1. Written documentation demonstrating that the equipment trailer, including modifications, is exempt from the statutory requirement for a title certificate; or
 2. A written commitment to provide the certificate of title to the Department within 45 days of receipt of payment for the final invoice for the associated WO or TA from the Department.
- B. To be provided within 45 days of receipt of payment for the final invoice for the associated WO or TA (unless exempt), a Certificate of Title for the equipment trailer showing:
 1. The Cleanup Contractor as the “Owner” on the front page;
 2. The Florida Department of Environmental Protection (FDEP) as the “Name of Purchaser” in the block labeled “Assignment Number One” on the back page;
 3. The actual price of the trailer as listed on the equipment vendor’s invoice (including any applicable sales tax billed by the vendor but excluding any subsequent contractor markup) as the “Seller’s Price” on the back page; and
 4. The cleanup contractor’s site manager’s or authorized representative’s signature as the “Sellers Signature” on the back page.
- C. The title should be attached to the completed FDEP Property Reporting Form.
- D. The serial number on the title should match the serial number provided on the Property Reporting Form.
- E. The FDEP facility number of the site for which the WO or TA was issued should be included in the package.

The DHSMV has indicated that motor vehicle titles are mailed from the County Tax Collector's offices within 3 days after the check clears and that each county also has at least one "quick title" outlet that can provide a title in the same day for a nominal fee.

In the event the MSO or title from the manufacturer, licensed dealer or assembler, as applicable, was not provided or has been lost, it is the Contractor's responsibility to facilitate a replacement. According to the DHSMV, only the licensed dealer who originally sold the equipment trailer can obtain a replacement MSO. This is not the same entity as assembler, who may have purchased the trailer from a licensed dealer and then installed additional equipment, as is often the case for trailer mounted remediation systems.

III. Correcting Paperwork for Equipment Trailers Previously Invoiced Without Required Documentation.

- A. Prior to pursuing the missing documentation, it is suggested that the Contractor contact the EMC first to confirm that the paperwork has not already been completed under some alternate method.
- B. In the event that a Contractor has custody of an MSO or title for a trailer that has already been invoiced to the Department, they should immediately apply for a title or sign an existing title over to the Department in accordance with the guidance listed above. The Contractor should then submit the title to the Department or the EMC (with reference to the facility number for which the trailer was originally purchased). The property decal number, if known, should be written in the margin in the upper left hand corner on the front of the title. The EMC will then submit the title to the DHSMV to complete the transfer the title and obtain a license tag and registration.
- C. In the event that the original paper work (MSO or title) cannot be found, the equipment trailer cannot be registered or legally be transported over the Florida roadway system and would have to be mobilized using another licensed flat bed truck or trailer until the Department can obtain a license tag.

If you have further questions, the contact person for the BPSS Equipment Management Contractor (WRS Infrastructure and Environment, Inc.) is Dave Turner. Mr. Turner can be reached at 850/222-6446, extension 270.