



# ENVIRO-LOGICAL SOLUTIONS, INC.

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### TAKING ADVANTAGE OF THE 2009 FLORIDA UST UPGRADE DEADLINE

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At many underground storage tank (UST) sites in Florida, cleanup of petroleum contamination can be expedited by removing and disposing of petroleum impacted soils commonly found in the vicinity of the USTs and/or ancillary piping. Excavation and disposal directly addresses soil cleanup issues and can significantly accelerate the groundwater cleanup process since the continuing source of groundwater contamination (leaching from petroleum impacted soils) has been removed. Excavation in the UST area in favor of a mechanical or bio-remediation system is best implemented during replacement of the existing UST system.

Toward that end, the Florida Department of Environmental Protection (FDEP) is encouraging tank owners to get involved in the cleanup process by coordinating the removal of contaminated soils with the 2009 Florida UST system upgrade requirement. While owners are not required to perform this upgrade ahead of schedule, there are advantages that owners should consider. Coordination with the FDEP and your Designated Environmental Contractor (DC) concerning the removal and disposal of the old USTs and installation of new USTs could provide owners with a reduction in the overall cleanup timeframe as well as financial incentives to perform the required UST upgrade as soon as possible. Early upgrades performed before a Site Rehabilitation Completion Order (SRCO) has been issued also allows site owners to maximize FDEP participation in the soil removal process under the Preapproval Program while the site is still eligible for funding.

The purpose of this article is to inform site owners who intend to permanently remove USTs or upgrade USTs of what mechanisms are available within the FDEP to pay for costs associated with tank removal, soil excavation, resurfacing or other cleanup related costs, and how to work with your DC to maximize these benefits. Cleanup funding available at petroleum contaminated sites ranges from zero to virtually unlimited, depending on the type of cleanup program the site falls under and when the release occurred. However, since most site owners are participants in FDEP's Petroleum Preapproval Program, this article will focus mainly on those sites that are (or were) in an existing program (EDI, PCPP, PLIRP, PAC, ATRP). Funding is currently available for sites that are scored 31 or greater although FDEP has indicated some sites with scores of 30 will be funded starting in June 2005. Low priority sites (scored 30 or less), unless in the PAC Program, are not currently eligible for FDEP funds.

#### **Funded Sites**

These sites can be divided into two general categories: those that are in the process of cleanup (active assessment, remediation or monitoring) and those that have already achieved cleanup and been granted an SRCO. The large majority of funded sites are still active, and consequently, funding for source (soil) removal would come from the Preapproval Program. To take advantage of Preapproval funds during UST upgrades, the site owner must work with their DC and coordinate, well in advance, the planned upgrade with the FDEP site manager.

#### **Pre-RAP Sites**

FDEP prefers (and can most easily justify) participation in upgrades at sites where a Site Assessment Report (SAR) adequately demonstrates significant soil contamination in and around the USTs that are to be upgraded. If the site owner's DC can justify in the Remedial Action Plan (RAP) that source removal is the most cost-effective and expeditious methodology to remediate the site, then FDEP may be willing to cover some or all of the costs associated with removal and disposal of surface cover, USTs, contaminated soil, dispensers and possibly buildings. FDEP may also fund some or all of the related upgrade costs including dewatering and water treatment, backfill and compaction, labor associated with the take-down and reinstallation of the canopy and resurfacing. The process of incorporating source removal in conjunction with a UST upgrade into a RAP requires considerable advanced time (often up to 12 months

in advance of conducting the actual work) and requires close coordination between all parties: FDEP, site owner, DC, UST installer and site operators. Site owners should be aware that while savings in certain related upgrade costs can be recognized, the additional work performed during remedial construction may require the facility to be closed up to 60 days while the upgrade and soil removal is performed. This lost revenue is not recoverable under the Preapproval Program.

### **Post-RAP Sites**

When remedial action has been implemented but the site has not yet received an SRCO, several options are available to the site owner. Often times, supplemental site assessment work that can be performed under the Preapproval Program is needed to confirm contaminant concentrations and to redefine the extent of soil contamination. If soil contamination is present, a RAP Modification (RAPMOD) can be prepared that may include most or all of the cost items that might be covered in a conventional RAP. If only soil excavation and backfill are performed, then this work can be done on shorter notice as a source removal. However, the level of FDEP involvement under a source removal is typically much more limited in scope than work performed under a RAP or RAPMOD. It is just as important that the site owner coordinate any UST upgrades with the DC well in advance (6 to 12 months) of planned upgrades.

### **SRCO Sites**

Once a site has received an SRCO, any further discovery of contaminated soil is considered to be a "new release" and therefore the site owner's financial responsibility. Chapter 62-770 F.A.C. procedures state that contaminated soils at non-program sites must be removed and properly disposed. Sites with a SRCO that have not upgraded to the 2009 UST requirements therefore represent a potentially high liability to site owners.

FDEP has developed technical procedures for rescinding previously issued SRCOs which are outlined in an FDEP memo dated August 5, 2002. However, participation by the site owner's DC prior to the UST removal is required to substantiate that contaminated soils are present on site and that a prior release covered under an FDEP program was the source. Costs for this effort must be paid for by the site owner. Even then, there is no guarantee that FDEP will participate in the cost for soil disposal. Additionally, the site owner has a responsibility to submit a UST Closure Report for these sites documenting if contamination is present.

### **Low Priority Sites**

Legislation sponsored by FPMA and FDEP has been submitted to provide additional funding through June 2008 for Limited Source Removals (LSRs) at low priority sites (scored 30 or less). Funding for these sites would be limited to \$50,000 per facility; and FDEP could choose to fund up to \$100,000 per facility under certain circumstances. If the proposed legislation is approved, LSR funds should be available beginning July 2005.

LSRs require advanced FDEP approval and completion of approved work within 6 months. These projects would be most similar to Preapproval Source Removals. Unlike cleanup work approved in a RAP, however, eligible cleanup costs under an LSR would be limited to supplemental soil assessment, soil screening, soil removal, backfill, treatment or disposal of contaminated soil, dewatering and water treatment and report preparation. FDEP has already developed a template for approved LSR sites, and LSRs will require coordination with an FDEP-approved DC.

### **Summary**

FDEP clearly sees the benefit of working with site owners to remove petroleum contaminated soil during UST removals or upgrades. Depending on the type of cleanup program, the site priority score and cleanup status, several mechanisms exist under the Preapproval Program to pay for FDEP approved costs. To take advantage of available FDEP funds, source removal activities associated with tank removals and upgrades must be approved by FDEP in advance of performing the work. The Preapproval Program requires that site owners work closely with their DC, to inform them well in advance, of their proposed removal/replacement schedule and to discuss the extent to which FDEP should be involved in the work.