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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2016	.	
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The Committee on Appropriations (Hukill) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 89 - 395

and insert:

Section 2. Paragraph (b) of subsection (2), subsection (4), paragraph (b) of subsection (5), paragraph (b) of subsection (12), and subsection (13) of section 376.3071, Florida Statutes, are amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.-



334112

11 (2) INTENT AND PURPOSE.—

12 (b) It is the intent of the Legislature that the department  
13 implement rules and procedures to improve the efficiency and  
14 productivity of the Petroleum Restoration Program. The  
15 department is directed to implement rules and policies to  
16 eliminate and reduce duplication of site rehabilitation efforts,  
17 paperwork, and documentation, and micromanagement of site  
18 rehabilitation tasks. The department shall make efficiency and  
19 productivity a priority in the administration of the Petroleum  
20 Restoration Program and to this end, when necessary, shall use  
21 petroleum program contracted services to improve the efficiency  
22 and productivity of the program. Furthermore, when implementing  
23 rules and procedures to improve such efficiency and  
24 productivity, the department shall recognize and consider the  
25 potential value of utilizing contracted inspection and  
26 professional resources to efficiently and productively  
27 administer the program.

28 (4) USES.—Whenever, in its determination, incidents of  
29 inland contamination related to the storage of petroleum or  
30 petroleum products may pose a threat to the public health,  
31 safety, or welfare, water resources, or the environment, the  
32 department shall obligate moneys available in the fund to  
33 provide for:

34 (a) Prompt investigation and assessment of contamination  
35 sites.

36 (b) Expeditious restoration or replacement of potable water  
37 supplies as provided in s. 376.30(3)(c)1.

38 (c) Rehabilitation of contamination sites, which shall  
39 consist of cleanup of affected soil, groundwater, and inland



334112

40 surface waters, using the most cost-effective alternative that  
41 is technologically feasible and reliable and that provides  
42 adequate protection of the public health, safety, and welfare,  
43 and water resources, and that minimizes environmental damage,  
44 pursuant to the site selection and cleanup criteria established  
45 by the department under subsection (5), except that this  
46 paragraph does not authorize the department to obligate funds  
47 for payment of costs which may be associated with, but are not  
48 integral to, site rehabilitation, such as the cost for  
49 retrofitting or replacing petroleum storage systems.

50 (d) Maintenance and monitoring of contamination sites.

51 (e) Inspection and supervision of activities described in  
52 this subsection.

53 (f) Payment of expenses incurred by the department in its  
54 efforts to obtain from responsible parties the payment or  
55 recovery of reasonable costs resulting from the activities  
56 described in this subsection.

57 (g) Payment of any other reasonable costs of  
58 administration, including those administrative costs incurred by  
59 the Department of Health in providing field and laboratory  
60 services, toxicological risk assessment, and other assistance to  
61 the department in the investigation of drinking water  
62 contamination complaints and costs associated with public  
63 information and education activities.

64 (h) Establishment and implementation of the compliance  
65 verification program as authorized in s. 376.303(1)(a),  
66 including contracting with local governments or state agencies  
67 to provide for the administration of such program through  
68 locally administered programs, to minimize the potential for



334112

69 further contamination sites.

70 (i) Funding of the provisions of ss. 376.305(6) and  
71 376.3072.

72 (j) Activities related to removal and replacement of  
73 petroleum storage systems, exclusive of costs of any tank,  
74 piping, dispensing unit, or related hardware, if soil removal is  
75 approved as a component of site rehabilitation and requires  
76 removal of the tank where remediation is conducted under this  
77 section or if such activities were justified in an approved  
78 remedial action plan.

79 (k) Reasonable costs of restoring property as nearly as  
80 practicable to the conditions which existed before activities  
81 associated with contamination assessment or remedial action  
82 taken under s. 376.303(4).

83 (l) Repayment of loans to the fund.

84 (m) Expenditure of sums from the fund to cover ineligible  
85 sites or costs as set forth in subsection (13), if the  
86 department in its discretion deems it necessary to do so. In  
87 such cases, the department may seek recovery and reimbursement  
88 of costs in the same manner and pursuant to the same procedures  
89 established for recovery and reimbursement of sums otherwise  
90 owed to or expended from the fund.

91 (n) Payment of amounts payable under any service contract  
92 entered into by the department pursuant to s. 376.3075, subject  
93 to annual appropriation by the Legislature.

94 (o) Petroleum remediation pursuant to this section  
95 throughout a state fiscal year. The department shall establish a  
96 process to uniformly encumber appropriated funds throughout a  
97 state fiscal year and shall allow for emergencies and imminent



334112

98 threats to public health, safety, and welfare, water resources,  
99 and the environment as provided in paragraph (5) (a). This  
100 paragraph does not apply to appropriations associated with the  
101 free product recovery initiative provided in paragraph (5) (c) or  
102 the advanced cleanup program provided in s. 376.30713.

103 (p) Enforcement of this section and ss. 376.30-376.317 by  
104 the Fish and Wildlife Conservation Commission. The department  
105 shall disburse moneys to the commission for such purpose.

106 (q) Payments for program deductibles, copayments, and  
107 limited contamination assessment reports that otherwise would be  
108 paid by another state agency for state-funded petroleum  
109 contamination site rehabilitation. ~~This paragraph expires July~~  
110 ~~1, 2016.~~

111  
112 The issuance of a site rehabilitation completion order pursuant  
113 to subsection (5) or paragraph (12) (b) for contamination  
114 eligible for programs funded by this section does not alter the  
115 project's eligibility for state-funded remediation if the  
116 department determines that site conditions are not protective of  
117 human health under actual or proposed circumstances of exposure  
118 under subsection (5). The Inland Protection Trust Fund may ~~only~~  
119 be used only to fund the activities in ss. 376.30-376.317 except  
120 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in  
121 each fiscal year must ~~shall~~ first be applied or allocated for  
122 the payment of amounts payable by the department pursuant to  
123 paragraph (n) under a service contract entered into by the  
124 department pursuant to s. 376.3075 and appropriated in each year  
125 by the Legislature before making or providing for other  
126 disbursements from the fund. This subsection does not authorize



334112

127 the use of the fund for cleanup of contamination caused  
128 primarily by a discharge of solvents as defined in s.  
129 206.9925(6), or polychlorinated biphenyls when their presence  
130 causes them to be hazardous wastes, except solvent contamination  
131 which is the result of chemical or physical breakdown of  
132 petroleum products and is otherwise eligible. Facilities used  
133 primarily for the storage of motor or diesel fuels as defined in  
134 ss. 206.01 and 206.86 are not excluded from eligibility pursuant  
135 to this section.

136 (5) SITE SELECTION AND CLEANUP CRITERIA.—

137 (b) It is the intent of the Legislature to protect the  
138 health of all people under actual circumstances of exposure. The  
139 secretary shall establish criteria by rule for the purpose of  
140 determining, on a site-specific basis, the rehabilitation  
141 program tasks that comprise a site rehabilitation program and  
142 the level at which a rehabilitation program task and a site  
143 rehabilitation program are completed. In establishing the rule,  
144 the department shall incorporate, to the maximum extent  
145 feasible, risk-based corrective action principles to achieve  
146 protection of the public health, safety, and welfare, water  
147 resources, and the environment in a cost-effective manner as  
148 provided in this subsection. Criteria for determining what  
149 constitutes a rehabilitation program task or completion of site  
150 rehabilitation program tasks and site rehabilitation programs  
151 shall be based upon the factors set forth in paragraph (a) and  
152 the following additional factors:

153 1. The current exposure and potential risk of exposure to  
154 humans and the environment including multiple pathways of  
155 exposure.



334112

156           2. The appropriate point of compliance with cleanup target  
157 levels for petroleum products' chemicals of concern. The point  
158 of compliance shall be at the source of the petroleum  
159 contamination. However, the department may temporarily move the  
160 point of compliance to the boundary of the property, or to the  
161 edge of the plume when the plume is within the property  
162 boundary, while cleanup, including cleanup through natural  
163 attenuation processes in conjunction with appropriate  
164 monitoring, is proceeding. The department may also, pursuant to  
165 criteria provided for in this paragraph, temporarily extend the  
166 point of compliance beyond the property boundary with  
167 appropriate monitoring, if such extension is needed to  
168 facilitate natural attenuation or to address the current  
169 conditions of the plume, if the public health, safety, and  
170 welfare, water resources, and the environment are adequately  
171 protected. Temporary extension of the point of compliance beyond  
172 the property boundary, as provided in this subparagraph, must  
173 include notice to local governments and owners of any property  
174 into which the point of compliance is allowed to extend.

175           3. The appropriate site-specific cleanup goal. The site-  
176 specific cleanup goal shall be that all petroleum contamination  
177 sites ultimately achieve the applicable cleanup target levels  
178 provided in this paragraph. However, the department may allow  
179 concentrations of the petroleum products' chemicals of concern  
180 to temporarily exceed the applicable cleanup target levels while  
181 cleanup, including cleanup through natural attenuation processes  
182 in conjunction with appropriate monitoring, is proceeding, if  
183 the public health, safety, and welfare, water resources, and the  
184 environment are adequately protected.



334112

185           4. The appropriateness of using institutional or  
186 engineering controls. Site rehabilitation programs may include  
187 the use of institutional or engineering controls to eliminate  
188 the potential exposure to petroleum products' chemicals of  
189 concern to humans or the environment. Use of such controls must  
190 have prior department approval, and institutional controls may  
191 not be acquired with moneys from the fund other than the costs  
192 associated with a professional land survey or a specific purpose  
193 survey, if such is needed, and costs associated with obtaining a  
194 title report and recording fees. When institutional or  
195 engineering controls are implemented to control exposure, the  
196 removal of such controls must have prior department approval and  
197 must be accompanied immediately by the resumption of active  
198 cleanup or other approved controls unless cleanup target levels  
199 pursuant to this paragraph have been achieved.

200           5. The additive effects of the petroleum products'  
201 chemicals of concern. The synergistic effects of petroleum  
202 products' chemicals of concern must also be considered when the  
203 scientific data becomes available.

204           6. Individual site characteristics which must include, but  
205 not be limited to, the current and projected use of the affected  
206 groundwater in the vicinity of the site, current and projected  
207 land uses of the area affected by the contamination, the exposed  
208 population, the degree and extent of contamination, the rate of  
209 contaminant migration, the apparent or potential rate of  
210 contaminant degradation through natural attenuation processes,  
211 the location of the plume, and the potential for further  
212 migration in relation to site property boundaries.

213           7. Applicable state water quality standards.





334112

214           a. Cleanup target levels for petroleum products' chemicals  
215 of concern found in groundwater shall be the applicable state  
216 water quality standards. Where such standards do not exist, the  
217 cleanup target levels for groundwater shall be based on the  
218 minimum criteria specified in department rule. The department  
219 shall consider the following, as appropriate, in establishing  
220 the applicable minimum criteria: calculations using a lifetime  
221 cancer risk level of 1.0E-6; a hazard index of 1 or less; the  
222 best achievable detection limit; the naturally occurring  
223 background concentration; or nuisance, organoleptic, and  
224 aesthetic considerations.

225           b. Where surface waters are exposed to petroleum  
226 contaminated groundwater, the cleanup target levels for the  
227 petroleum products' chemicals of concern shall be based on the  
228 surface water standards as established by department rule. The  
229 point of measuring compliance with the surface water standards  
230 shall be in the groundwater immediately adjacent to the surface  
231 water body.

232           8. Whether deviation from state water quality standards or  
233 from established criteria is appropriate. The department may  
234 issue a "No Further Action Order" based upon the degree to which  
235 the desired cleanup target level is achievable and can be  
236 reasonably and cost-effectively implemented within available  
237 technologies or engineering and institutional control  
238 strategies. Where a state water quality standard is applicable,  
239 a deviation may not result in the application of cleanup target  
240 levels more stringent than the standard. In determining whether  
241 it is appropriate to establish alternate cleanup target levels  
242 at a site, the department may consider the effectiveness of



334112

243 source removal that has been completed at the site and the  
244 practical likelihood of the use of low yield or poor quality  
245 groundwater; the use of groundwater near marine surface water  
246 bodies; the current and projected use of the affected  
247 groundwater in the vicinity of the site; or the use of  
248 groundwater in the immediate vicinity of the storage tank area,  
249 where it has been demonstrated that the groundwater  
250 contamination is not migrating away from such localized source,  
251 if the public health, safety, and welfare, water resources, and  
252 the environment are adequately protected.

253 9. Appropriate cleanup target levels for soils.

254 a. In establishing soil cleanup target levels for human  
255 exposure to petroleum products' chemicals of concern found in  
256 soils from the land surface to 2 feet below land surface, the  
257 department shall consider the following, as appropriate:  
258 calculations using a lifetime cancer risk level of 1.0E-6; a  
259 hazard index of 1 or less; the best achievable detection limit;  
260 or the naturally occurring background concentration.

261 b. Leachability-based soil target levels shall be based on  
262 protection of the groundwater cleanup target levels or the  
263 alternate cleanup target levels for groundwater established  
264 pursuant to this paragraph, as appropriate. Source removal and  
265 other cost-effective alternatives that are technologically  
266 feasible shall be considered in achieving the leachability soil  
267 target levels established by the department. The leachability  
268 goals do not apply if the department determines, based upon  
269 individual site characteristics, that petroleum products'  
270 chemicals of concern will not leach into the groundwater at  
271 levels which pose a threat to public health, safety, and



334112

272 welfare, water resources, or the environment.

273

274 This paragraph does not restrict the department from temporarily  
275 postponing completion of any site rehabilitation program for  
276 which funds are being expended whenever such postponement is  
277 necessary in order to make funds available for rehabilitation of  
278 a contamination site with a higher priority status.

279 (12) SITE CLEANUP.—

280 (b) *Low-scored site initiative.*—Notwithstanding subsections  
281 (5) and (6), a site with a priority ranking score of 29 points  
282 or less may voluntarily participate in the low-scored site  
283 initiative regardless of whether the site is eligible for state  
284 restoration funding.

285 1. To participate in the low-scored site initiative, the  
286 ~~responsible party or property owner, or a responsible party who~~  
287 provides evidence of authorization from the property owner, must  
288 submit a “No Further Action” proposal and affirmatively  
289 demonstrate that the ~~following~~ conditions imposed under  
290 subparagraph 4. are met.†

291 ~~a. Upon reassessment pursuant to department rule, the site~~  
292 ~~retains a priority ranking score of 29 points or less.~~

293 ~~b. Excessively contaminated soil, as defined by department~~  
294 ~~rule, does not exist onsite as a result of a release of~~  
295 ~~petroleum products.~~

296 ~~c. A minimum of 6 months of groundwater monitoring~~  
297 ~~indicates that the plume is shrinking or stable.~~

298 ~~d. The release of petroleum products at the site does not~~  
299 ~~adversely affect adjacent surface waters, including their~~  
300 ~~effects on human health and the environment.~~



334112

301 ~~e. The area of groundwater containing the petroleum~~  
302 ~~products' chemicals of concern is less than one-quarter acre and~~  
303 ~~is confined to the source property boundaries of the real~~  
304 ~~property on which the discharge originated.~~

305 ~~f. Soils onsite that are subject to human exposure found~~  
306 ~~between land surface and 2 feet below land surface meet the soil~~  
307 ~~cleanup target levels established by department rule or human~~  
308 ~~exposure is limited by appropriate institutional or engineering~~  
309 ~~controls.~~

310 2. Upon affirmative demonstration that ~~of~~ the conditions  
311 imposed under subparagraph 4. are met ~~subparagraph 1.~~, the  
312 department shall issue a site rehabilitation completion order  
313 incorporating the determination of "No Further Action." proposal  
314 submitted by the property owner or the responsible party, who  
315 must provide evidence of authorization from the property owner  
316 ~~Such determination acknowledges that minimal contamination~~  
317 ~~exists onsite and that such contamination is not a threat to the~~  
318 ~~public health, safety, or welfare, water resources, or the~~  
319 ~~environment.~~ If no contamination is detected, the department may  
320 issue a site rehabilitation completion order.

321 3. Sites that are eligible for state restoration funding  
322 may receive payment of costs for the low-scored site initiative  
323 as follows:

324 a. A responsible party or property owner, or a responsible  
325 party who provides evidence of authorization from the property  
326 owner, may submit an assessment and limited remediation plan  
327 designed to affirmatively demonstrate that the site meets the  
328 conditions imposed under subparagraph 4 ~~subparagraph 1.~~  
329 Notwithstanding the priority ranking score of the site, the



334112

330 department may approve the cost of the assessment and limited  
331 remediation, including up to 6 months of groundwater monitoring  
332 and 12 months of limited remediation activities in one or more  
333 task assignments or modifications thereof, not to exceed the  
334 threshold amount provided in s. 287.017 for CATEGORY TWO,  
335 ~~\$30,000~~ for each site where the department has determined that  
336 the assessment and limited remediation, if applicable, will  
337 likely result in a determination of "No Further Action." ~~The~~  
338 department may not pay the costs associated with the  
339 establishment of institutional or engineering controls other  
340 than the costs associated with a professional land survey or a  
341 specific purpose survey, if such is needed, and the costs  
342 associated with obtaining a title report and paying recording  
343 fees.

344 b. After the approval of initial site assessment results  
345 provided pursuant to state funding under sub-subparagraph a.,  
346 the department may approve an additional amount not to exceed  
347 the threshold amount provided in s. 287.017 for CATEGORY TWO for  
348 limited remediation needed to achieve a determination of "No  
349 Further Action."

350 ~~c.b.~~ The assessment and limited remediation work shall be  
351 completed no later than 15 ~~6~~ months after the department  
352 authorizes the start of a state-funded, low-score site  
353 initiative task. If groundwater monitoring is required after the  
354 assessment and limited remediation in order to satisfy the  
355 conditions under subparagraph 4., the department may authorize  
356 an additional 6 months to complete the monitoring ~~issues its~~  
357 approval.

358 ~~d.e.~~ No more than \$15 ~~\$10~~ million for the low-scored site



334112

359 initiative may be encumbered from the fund in any fiscal year.  
360 Funds shall be made available on a first-come, first-served  
361 basis and shall be limited to 10 sites in each fiscal year for  
362 each ~~responsible party or~~ property owner or each responsible  
363 party who provides evidence of authorization from the property  
364 owner.

365 ~~e.d.~~ Program deductibles, copayments, and the limited  
366 contamination assessment report requirements under paragraph  
367 (13) (d) ~~(13) (e)~~ do not apply to expenditures under this  
368 paragraph.

369 4. The department shall issue an order incorporating the  
370 "No Further Action" proposal submitted by a property owner or a  
371 responsible party who provides evidence of authorization from  
372 the property owner upon affirmative demonstration that all of  
373 the following conditions are met:

374 a. Soil saturated with petroleum or petroleum products, or  
375 soil that causes a total corrected hydrocarbon measurement of  
376 500 parts per million or higher for the Gasoline Analytical  
377 Group or 50 parts per million or higher for the Kerosene  
378 Analytical Group, as defined by department rule, does not exist  
379 onsite as a result of a release of petroleum products.

380 b. A minimum of 6 months of groundwater monitoring  
381 indicates that the plume is shrinking or stable.

382 c. The release of petroleum products at the site does not  
383 adversely affect adjacent surface waters, including their  
384 effects on human health and the environment.

385 d. The area containing the petroleum products' chemicals of  
386 concern:

387 (I) Is confined to the source property boundaries of the



334112

388 real property on which the discharge originated; or  
389 (II) Has migrated from the source property onto or beneath  
390 a transportation facility as defined s. 334.03(30) for which the  
391 department has approved, and governmental entity owning the  
392 transportation facility has agreed to institutional controls as  
393 defined in s. 376.301(21). This sub-sub-subparagraph does not,  
394 however, impose any legal liability on the transportation  
395 facility owner, obligate such owner to engage in remediation, or  
396 waive such owner's right to recover costs for damages.

397 e. The groundwater contamination containing the petroleum  
398 products' chemicals of concern is not a threat to any permitted  
399 potable water supply well.

400 f. Soils onsite found between land surface and 2 feet below  
401 land surface which are subject to human exposure meet the soil  
402 cleanup target levels established in subparagraph (5)(b)9., or  
403 human exposure is limited by appropriate institutional or  
404 engineering controls.

405  
406 Issuance of a site rehabilitation completion order under this  
407 paragraph acknowledges that minimal contamination exists onsite  
408 and that such contamination is not a threat to the public  
409 health, safety, or welfare; water resources; or the environment.  
410 Pursuant to subsection (4), the issuance of the site  
411 rehabilitation completion order, with or without conditions,  
412 does not alter eligibility for state-funded rehabilitation that  
413 would otherwise be applicable under this section.

414 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage  
415 detection, reporting, and cleanup of contamination caused by  
416 discharges of petroleum or petroleum products, the department



334112

417 shall, within the guidelines established in this subsection,  
418 implement a cost-sharing cleanup program to provide  
419 rehabilitation funding assistance for all property contaminated  
420 by discharges of petroleum or petroleum products from a  
421 petroleum storage system occurring before January 1, 1995,  
422 subject to a copayment provided for in a Petroleum Cleanup  
423 Participation Program site rehabilitation agreement. Eligibility  
424 is subject to an annual appropriation from the fund.  
425 Additionally, funding for eligible sites is contingent upon  
426 annual appropriation in subsequent years. Such continued state  
427 funding is not an entitlement or a vested right under this  
428 subsection. Eligibility shall be determined in the program,  
429 notwithstanding any other provision of law, consent order,  
430 order, judgment, or ordinance to the contrary.

431 (a)1. The department shall accept any discharge reporting  
432 form received before January 1, 1995, as an application for this  
433 program, and the facility owner or operator need not reapply.

434 2. Regardless of whether ownership has changed, owners or  
435 operators of property that is contaminated by petroleum or  
436 petroleum products from a petroleum storage system may apply for  
437 such program by filing a written report of the contamination  
438 incident, including evidence that such incident occurred before  
439 January 1, 1995, with the department. Incidents of petroleum  
440 contamination discovered after December 31, 1994, at sites which  
441 have not stored petroleum or petroleum products for consumption,  
442 use, or sale after such date shall be presumed to have occurred  
443 before January 1, 1995. An operator's filed report shall be an  
444 application of the owner for all purposes. ~~Sites reported to the~~  
445 ~~department after December 31, 1998, are not eligible for the~~





334112

446 ~~program.~~

447 (b) Subject to annual appropriation from the fund, sites  
448 meeting the criteria of this subsection are eligible for up to  
449 \$400,000 of site rehabilitation funding assistance in priority  
450 order pursuant to subsections (5) and (6). Sites meeting the  
451 criteria of this subsection for which a site rehabilitation  
452 completion order was issued before June 1, 2008, do not qualify  
453 for the 2008 increase in site rehabilitation funding assistance  
454 and are bound by the pre-June 1, 2008, limits. Sites meeting the  
455 criteria of this subsection for which a site rehabilitation  
456 completion order was not issued before June 1, 2008, regardless  
457 of whether they have previously transitioned to nonstate-funded  
458 cleanup status, may continue state-funded cleanup pursuant to  
459 this section until a site rehabilitation completion order is  
460 issued or the increased site rehabilitation funding assistance  
461 limit is reached, whichever occurs first. The department may not  
462 pay expenses incurred beyond the scope of an approved contract.

463 (c) The department may also approve supplemental funding of  
464 up to \$100,000 for additional remediation and monitoring if such  
465 remediation and monitoring is necessary to achieve a  
466 determination of "No Further Action."

467 (d) Upon notification by the department that rehabilitation  
468 funding assistance is available for the site pursuant to  
469 subsections (5) and (6), the property owner, operator, or person  
470 otherwise responsible for site rehabilitation shall provide the  
471 department with a limited contamination assessment report and  
472 shall enter into a Petroleum Cleanup Participation Program site  
473 rehabilitation agreement with the department. The agreement must  
474 provide for a 25-percent copayment by the owner, operator, or



334112

475 person otherwise responsible for conducting site rehabilitation.  
476 The owner, operator, or person otherwise responsible for  
477 conducting site rehabilitation shall adequately demonstrate the  
478 ability to meet the copayment obligation. The limited  
479 contamination assessment report and the copayment costs may be  
480 reduced or eliminated if the owner and all operators responsible  
481 for restoration under s. 376.308 demonstrate that they cannot  
482 financially comply with the copayment and limited contamination  
483 assessment report requirements. The department shall take into  
484 consideration the owner's and operator's net worth in making the  
485 determination of financial ability. In the event the department  
486 and the owner, operator, or person otherwise responsible for  
487 site rehabilitation cannot complete negotiation of the cost-  
488 sharing agreement within 120 days after beginning negotiations,  
489 the department shall terminate negotiations and the site shall  
490 be ineligible for state funding under this subsection and all  
491 liability protections provided for in this subsection shall be  
492 revoked.

493 (e)~~(d)~~ A report of a discharge made to the department by a  
494 person pursuant to this subsection or any rules adopted pursuant  
495 to this subsection may not be used directly as evidence of  
496 liability for such discharge in any civil or criminal trial  
497 arising out of the discharge.

498 (f)~~(e)~~ This subsection does not preclude the department  
499 from pursuing penalties under s. 403.141 for violations of any  
500 law or any rule, order, permit, registration, or certification  
501 adopted or issued by the department pursuant to its lawful  
502 authority.

503 (g)~~(f)~~ Upon the filing of a discharge reporting form under



334112

504 paragraph (a), the department or local government may not pursue  
505 any judicial or enforcement action to compel rehabilitation of  
506 the discharge. This paragraph does not prevent any such action  
507 with respect to discharges determined ineligible under this  
508 subsection or to sites for which rehabilitation funding  
509 assistance is available pursuant to subsections (5) and (6).

510 ~~(h)~~ (h) The following are excluded from participation in the  
511 program:

512 1. Sites at which the department has been denied reasonable  
513 site access to implement this section.

514 2. Sites that were active facilities when owned or operated  
515 by the Federal Government.

516 3. Sites that are identified by the United States  
517 Environmental Protection Agency to be on, or which qualify for  
518 listing on, the National Priorities List under Superfund. This  
519 exception does not apply to those sites for which eligibility  
520 has been requested or granted as of the effective date of this  
521 act under the Early Detection Incentive Program established  
522 pursuant to s. 15, chapter 86-159, Laws of Florida.

523 4. Sites for which contamination is covered under the Early  
524 Detection Incentive Program, the Abandoned Tank Restoration  
525 Program, or the Petroleum Liability and Restoration Insurance  
526 Program, in which case site rehabilitation funding assistance  
527 shall continue under the respective program.

528 Section 3. Paragraph (d) of subsection (1), paragraph (a)  
529 of subsection (2), and subsection (4) of section 376.30713,  
530 Florida Statutes, are amended to read:

531 376.30713 Advanced cleanup.—

532 (1) In addition to the legislative findings provided in s.



334112

533 376.3071, the Legislature finds and declares:

534 (d) It is appropriate for a person who is responsible for  
535 site rehabilitation to share the costs associated with managing  
536 and conducting advanced cleanup, to facilitate the opportunity  
537 for advanced cleanup, and to mitigate the additional costs that  
538 will be incurred by the state in conducting site rehabilitation  
539 in advance of the site's priority ranking. Such cost sharing  
540 will result in more contaminated sites being cleaned up and  
541 greater environmental benefits to the state. This section is  
542 only available for sites eligible for restoration funding under  
543 EDI, ATRP, or PLRIP. This section is available for discharges  
544 eligible for restoration funding under the petroleum cleanup  
545 participation program for the state's cost share of site  
546 rehabilitation. Applications must include a cost-sharing  
547 commitment for this section in addition to the 25-percent-  
548 copayment requirement of the petroleum cleanup participation  
549 program. This section is not available for any discharge under a  
550 petroleum cleanup participation program where the 25-percent-  
551 copayment requirement of the petroleum cleanup participation  
552 program has been reduced or eliminated pursuant to s.  
553 376.3071(13)(d) ~~s. 376.3071(13)(e)~~.

554 (2) The department may approve an application for advanced  
555 cleanup at eligible sites, notwithstanding ~~before funding based~~  
556 ~~on~~ the site's priority ranking established pursuant to s.  
557 376.3071(5)(a), pursuant to this section. Only the facility  
558 owner or operator or the person otherwise responsible for site  
559 rehabilitation qualifies as an applicant under this section.

560 (a) Advanced cleanup applications may be submitted between  
561 May 1 and June 30 and between November 1 and December 31 of each



334112

562 fiscal year. Applications submitted between May 1 and June 30  
563 shall be for the fiscal year beginning July 1. An application  
564 must consist of:

565 1. A commitment to pay 25 percent or more of the total  
566 cleanup cost deemed recoverable under this section along with  
567 proof of the ability to pay the cost share. The department shall  
568 determine whether the cost savings demonstration is acceptable.  
569 Such determination is not subject to chapter 120.

570 a. Applications for the aggregate cleanup of 5 or more may  
571 be submitted in one of two formats to meet the cost-share  
572 requirement:

573 (I) For an aggregate application proposing that the  
574 department enter into a performance-based contract ~~for the~~  
575 ~~cleanup of 20 or more sites~~ may use a commitment to pay, a  
576 demonstrated cost savings to the department, or both to meet the  
577 ~~cost-share~~ requirement.

578 (II) For an aggregate application relying on a demonstrated  
579 cost savings to the department, the applicant shall, in  
580 conjunction with the proposed agency term contractor, establish  
581 and provide in the application the percentage of cost savings in  
582 the aggregate that is being provided to the department for  
583 cleanup of the sites under the application compared to the cost  
584 of cleanup of those same sites using the current rates provided  
585 to the department by the proposed agency term contractor. ~~The~~  
586 ~~department shall determine whether the cost savings~~  
587 ~~demonstration is acceptable. Such determination is not subject~~  
588 ~~to chapter 120.~~

589 b. Applications for the cleanup of individual sites may be  
590 submitted in one of two formats to meet the cost-share



334112

591 requirement:

592 (I) For an individual application proposing that the  
593 department enter into a performance-based contract may use a  
594 commitment to pay, a demonstrated cost savings to the  
595 department, or both to meet the requirement.

596 (II) For an individual application relying on a  
597 demonstrated cost savings to the department, the applicant  
598 shall, in conjunction with the proposed agency term contractor,  
599 establish and provide in the application a 25-percent cost  
600 savings to the department for cleanup of the site under the  
601 application compared to the cost of cleanup of the same site  
602 using the current rates provided to the department by the  
603 proposed agency term contractor.

604 2. A nonrefundable review fee of \$250 to cover the  
605 administrative costs associated with the department's review of  
606 the application.

607 3. A limited contamination assessment report.

608 4. A proposed course of action.

609 5. A site access agreement from the property owner or  
610 owners, as applicable, and evidence of authorization from such  
611 owner or owners for petroleum site rehabilitation program tasks  
612 consistent with the proposed course of action where the  
613 applicant is not the property owner for any of the sites  
614 contained in the application.

615  
616 The limited contamination assessment report must be sufficient  
617 to support the proposed course of action and to estimate the  
618 cost of the proposed course of action. Costs incurred related to  
619 conducting the limited contamination assessment report are not



620 refundable from the Inland Protection Trust Fund. Site  
621 eligibility under this subsection or any other provision of this  
622 section is not an entitlement to advanced cleanup or continued  
623 restoration funding. The applicant shall certify to the  
624 department that the applicant has the prerequisite authority to  
625 enter into an advanced cleanup contract with the department. The  
626 certification must be submitted with the application.

627 (4) The department may enter into contracts for a total of  
628 up to ~~\$25~~ ~~\$15~~ million of advanced cleanup work in each fiscal  
629 year. However, a facility or an applicant who bundles multiple  
630 sites as specified in subparagraph (2)(a)1. may not be approved  
631 for more than \$5 million of cleanup activity in each fiscal  
632 year. A property owner or responsible party may enter into a  
633 voluntary cost-share agreement in which the property owner or  
634 responsible party commits to bundle multiple sites and lists the  
635 facilities that will be included in those future bundles. The  
636 facilities listed are not subject to agency term contractor  
637 assignment pursuant to department rule. The department reserves  
638 the right to terminate or amend the voluntary cost-share  
639 agreement for any identified site under the voluntary cost-share  
640 agreement if the property owner or responsible party fails to  
641 submit an application to bundle any site, not already covered by  
642 an advance cleanup contract, under such voluntary cost-share  
643 agreement within a subsequent open application

644  
645 ===== T I T L E A M E N D M E N T =====

646 And the title is amended as follows:

647 Delete lines 7 - 16

648 and insert:



334112

649 certain date; amending s. 376.3071, F.S.; revising  
650 legislative intent and purpose; deleting an expiration  
651 date; revising the criteria for determining what  
652 constitutes certain rehabilitation program tasks;  
653 revising the conditions for eligibility and methods  
654 for payment of costs for the low-scored site  
655 initiative; revising the eligibility requirements for  
656 receiving rehabilitation funding; specifying that the  
657 issuance of a site rehabilitation completion order  
658 does not alter eligibility for state-funded  
659 remediation under certain circumstances; clarifying  
660 that a change in ownership does not preclude a site  
661 from entering into the program; providing additional  
662 funding for remediation and monitoring under certain  
663 circumstances; amending s. 376.30713, F.S.; revising  
664 advanced cleanup application requirements;