

Bill No. CS for SB 2772

Amendment No. ____ Barcode 422948

CHAMBER ACTION

Senate

House

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Senator Clary moved the following amendment:

Senate Amendment (with title amendment)

On page 12, between lines 25 and 26,

insert:

Section 5. Paragraph (c) of subsection (5) of section 376.3071, Florida Statutes, is amended to read:

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

(5) SITE SELECTION AND CLEANUP CRITERIA.--

(c) The department shall require source removal, if warranted and cost-effective, at each site eligible for restoration funding from the Inland Protection Trust Fund.

1. Funding for free product recovery may be provided in advance of the order established by the priority ranking system under ~~pursuant to~~ paragraph (a) for site cleanup activities. However, a separate prioritization for free product recovery shall be established consistent with ~~the provisions of~~ paragraph (a). No more than \$5 million shall be encumbered from the Inland Protection Trust Fund in any fiscal

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1 year for free product recovery conducted in advance of the
2 priority order under ~~pursuant to~~ paragraph (a) established for
3 site cleanup activities.

4 2. Funding for limited source removal contiguous to a
5 petroleum storage system and accomplished by contaminated soil
6 and sediment removal associated with secondary containment
7 upgrading of underground storage tanks required under Rule
8 62-761.510(2)(d), Florida Administrative Code, may be provided
9 in advance of the order established by the priority ranking
10 system under paragraph (a) for site cleanup activities. The
11 department shall provide written guidance on the minimal site
12 assessment information and technical evaluation necessary for
13 a request for a limited source removal associated with a
14 facility upgrade in advance of the priority ranking system.
15 Prioritization for limited source removal projects in any
16 fiscal year shall be determined on a first-come, first-served
17 basis following the approval date issued under s. 376.30711
18 for the limited source removal. The limited source removal
19 shall be completed no later than 6 months after the department
20 issues its approval of the project and the approval
21 automatically expires at the end of the 6 months. Funding for
22 the source removal may not exceed \$50,000 for a single
23 facility unless the department makes a determination,
24 supported by specific findings, that it is cost-effective and
25 environmentally beneficial to exceed this amount. The
26 department may not approve costs in excess of \$100,000 for a
27 single facility. Department funds may be used only for
28 supplemental soil assessment, screening, removal, backfill,
29 contamination treatment or disposal, and preparation of the
30 source removal report. Other costs associated with the
31 facility upgrade may not be paid with department funds. The

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1 Inland Protection Trust Fund may not be encumbered by more
2 than \$10 million in any fiscal year for any source removal
3 project conducted in advance of the priority order established
4 under paragraph (a) for site cleanup activities. This
5 subparagraph is repealed effective June 30, 2008.

6 3. Once free product removal and other source removal
7 identified in this paragraph at a site is complete, and
8 notwithstanding the order established by the priority ranking
9 system under paragraph (a) for site cleanup activities, the
10 department shall reevaluate the site to determine the degree
11 of active cleanup needed to continue. Further, the department
12 shall determine if the reevaluated site qualifies for
13 monitoring only or if no further action is required to
14 rehabilitate the site. If additional site rehabilitation is
15 necessary to reach no further action status, the site
16 rehabilitation shall be conducted in the order established by
17 the priority ranking system under paragraph (a) and the
18 department is encouraged to utilize natural attenuation and
19 monitoring where site conditions warrant.

20 Section 6. Paragraph (b) of subsection (2), paragraph
21 (f) of subsection (4), and subsection (5) of section 403.121,
22 Florida Statutes, are amended to read:

23 403.121 Enforcement; procedure; remedies.--The
24 department shall have the following judicial and
25 administrative remedies available to it for violations of this
26 chapter, as specified in s. 403.161(1).

27 (2) Administrative remedies:

28 (b) If the department has reason to believe a
29 violation has occurred, it may institute an administrative
30 proceeding to order the prevention, abatement, or control of
31 the conditions creating the violation or other appropriate

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1 corrective action. Except for violations involving hazardous
2 wastes, asbestos, or underground injection, the department
3 shall proceed administratively in all cases in which the
4 department seeks administrative penalties that do not exceed
5 \$10,000 per assessment as calculated in accordance with
6 subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C.
7 s. 300g-2, an administrative penalty assessed under subsection
8 (3), subsection (4), or subsection (5) against a public water
9 system serving a population of more than 10,000 persons may
10 not be less than \$1,000 per day, per violation. The department
11 may shall not impose administrative penalties in excess of
12 \$10,000 in a notice of violation. The department may shall not
13 have more than one notice of violation seeking administrative
14 penalties pending against the same party at the same time
15 unless the violations occurred at a different site or the
16 violations were discovered by the department subsequent to the
17 filing of a previous notice of violation.

18 (4) In an administrative proceeding, in addition to
19 the penalties that may be assessed under subsection (3), the
20 department shall assess administrative penalties according to
21 the following schedule:

22 (f) Except as provided in subsection (2) with respect
23 to a public water system serving a population of more than
24 10,000, for failure to prepare, submit, maintain, or use
25 required reports or other required documentation, \$500.

26 (5) Except as provided in subsection (2) with respect
27 to a public water system serving a population of more than
28 10,000, for failure to comply with any other departmental
29 regulatory statute or rule requirement not otherwise
30 identified in this section, the department may assess a
31 penalty of \$500.

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(Redesignate subsequent sections.)

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

And the title is amended as follows:

On page 1, line 11, after the semicolon,

insert:

376.3071, F.S.; providing that limited source
removal projects approved outside the
established priority order may be funded from
the Inland Protection Trust Fund; providing a
priority order for these projects; limiting the
use of the funds to certain specified purposes;
limiting the amount of money allocated to such
projects each fiscal year; providing for the
repeal of the law on a specified date; amending
s. 403.121, F.S.; requiring that an
administrative penalty assessed against a
public water system serving a population of
more than 10,000 persons may not be less than
\$1,000 per day, per violation;