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Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to rehabilitation of petroleum  
contamination sites; amending s. 376.3071, F.S.;  
revising legislative findings and intent regarding the  
Petroleum Restoration Program and the rehabilitation  
of contamination sites; providing requirements for  
site rehabilitation contracts and procedures for  
payment of rehabilitation work under the Petroleum  
Restoration Program; limiting eligibility for funding  
under the Early Detection Incentive Program; deleting  
obsolete provisions relating to reimbursement for  
certain cleanup expenses; repealing s. 376.30711,  
F.S., relating to preapproved site rehabilitation;  
amending s. 376.30713, F.S.; providing that applicants  
can use a demonstration of a cost savings in meeting  
the required cost share commitment if bundling  
multiple sites; amending ss. 376.301, 376.302,  
376.305, 376.30714, 376.3072, 376.3073, and 376.3075,  
F.S.; conforming provisions to changes made by the  
act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 376.3071, Florida Statutes, is amended  
to read:

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



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28 (1) FINDINGS.—In addition to the legislative findings set  
29 forth in s. 376.30, the Legislature finds and declares:

30 (a) That significant quantities of petroleum and petroleum  
31 products are being stored in storage systems in this state,  
32 which is a hazardous undertaking.

33 (b) That spills, leaks, and other discharges from such  
34 storage systems have occurred, are occurring, and will continue  
35 to occur and that such discharges pose a significant threat to  
36 the quality of the groundwaters and inland surface waters of  
37 this state.

38 (c) That, where contamination of the ground or surface  
39 water has occurred, remedial measures have often been delayed  
40 for long periods while determinations as to liability and the  
41 extent of liability are made and that such delays result in the  
42 continuation and intensification of the threat to the public  
43 health, safety, and welfare; in greater damage to water  
44 resources and the environment; and in significantly higher costs  
45 to contain and remove the contamination.

46 (d) That adequate financial resources must be readily  
47 available to provide for the expeditious supply of safe and  
48 reliable alternative sources of potable water to affected  
49 persons and to provide a means for investigation and cleanup of  
50 contamination sites without delay.

51 (e) That it is necessary to fulfill the intent and purposes  
52 of ss. 376.30-376.317, and ~~further it is hereby~~ determined to be  
53 in the best interest of, and necessary for the protection of the  
54 public health, safety, and ~~general~~ welfare of the residents of  
55 this state, and therefore a paramount public purpose, to provide  
56 for the creation of a nonprofit public benefit corporation as an



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57 instrumentality of the state to assist in financing the  
58 functions provided in ss. 376.30-376.317 and to authorize the  
59 department to enter into one or more service contracts with such  
60 corporation for the purpose ~~provision~~ of financing services  
61 related to such functions and to make payments thereunder from  
62 the amount on deposit in the Inland Protection Trust Fund,  
63 subject to annual appropriation by the Legislature.

64 (f) That to achieve the purposes established in paragraph  
65 (e) and in order to facilitate the expeditious handling and  
66 rehabilitation of contamination sites and remedial measures with  
67 respect to contamination sites ~~provided hereby~~ without delay, it  
68 is in the best interests of the residents of this state to  
69 authorize such corporation to issue evidences of indebtedness  
70 payable from amounts paid by the department under any such  
71 service contract entered into between the department and such  
72 corporation.

73 (g) That the Petroleum Restoration Program must be  
74 implemented in a manner that reduces costs and improves the  
75 efficiency of rehabilitation activities to reduce the  
76 significant backlog of contaminated sites eligible for state-  
77 funded rehabilitation and the corresponding threat to water  
78 resources, the environment, and the public health, safety, and  
79 welfare.

80 (2) INTENT AND PURPOSE.—

81 (a) It is the intent of the Legislature to establish the  
82 Inland Protection Trust Fund to serve as a repository for funds  
83 which will enable the department to respond without delay to  
84 incidents of inland contamination related to the storage of  
85 petroleum and petroleum products in order to protect the public



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86 health, safety, and welfare and to minimize environmental  
87 damage.

88 (b) It is the intent of the Legislature that the department  
89 implement rules and procedures to improve the efficiency of the  
90 Petroleum Restoration Program. The department is directed to  
91 implement rules and policies to eliminate and reduce duplication  
92 of site rehabilitation efforts, paperwork, and documentation,  
93 and micromanagement of site rehabilitation tasks.

94 (c) It is the intent of the Legislature that rehabilitation  
95 of contamination sites be conducted with emphasis on first  
96 addressing the sites that pose the greatest threat to water  
97 resources, the environment, and the public health, safety, and  
98 welfare, within the availability of funds in the Inland  
99 Protection Trust Fund, recognizing that source removal, wherever  
100 it is technologically feasible and cost-effective, significantly  
101 reduces contamination or eliminates the spread of contamination  
102 and protects water resources, the environment, and the public  
103 health, safety, and welfare.

104 (d) ~~(e)~~ The department is directed to adopt and implement  
105 uniform and standardized forms for ~~the requests for preapproval~~  
106 site rehabilitation work and for the submittal of reports to  
107 ensure that information is submitted to the department in a  
108 concise, standardized uniform format seeking only information  
109 that is necessary.

110 (e) ~~(d)~~ The department is directed to implement computerized  
111 and electronic filing capabilities of ~~preapproval requests and~~  
112 submittal of reports in order to expedite submittal of the  
113 information and elimination of delay in paperwork. ~~The~~  
114 ~~computerized, electronic filing system shall be implemented no~~



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115 ~~later than January 1, 1997.~~

116 ~~(c) The department is directed to adopt uniform scopes of~~  
117 ~~work with templated labor and equipment costs to provide~~  
118 ~~definitive guidance as to the type of work and authorized~~  
119 ~~expenditures that will be allowed for preapproved site~~  
120 ~~rehabilitation tasks.~~

121 (f) The department is directed to establish guidelines for  
122 consideration and acceptance of new and innovative technologies  
123 for site rehabilitation work.

124 (3) CREATION.—There is hereby created the Inland Protection  
125 Trust Fund, hereinafter referred to as the “fund,” to be  
126 administered by the department. This fund shall be used by the  
127 department as a nonlapsing revolving fund for carrying out the  
128 purposes of this section and s. 376.3073. To this fund shall be  
129 credited all penalties, judgments, recoveries, reimbursements,  
130 loans, and other fees and charges related to the implementation  
131 of this section and s. 376.3073 and the excise tax revenues  
132 levied, collected, and credited pursuant to ss. 206.9935(3) and  
133 206.9945(1)(c). Charges against the fund shall be made pursuant  
134 to ~~in accordance with the provisions of~~ this section.

135 (4) USES.—Whenever, in its determination, incidents of  
136 inland contamination related to the storage of petroleum or  
137 petroleum products may pose a threat to water resources, the  
138 environment, or the public health, safety, or welfare, the  
139 department shall obligate moneys available in the fund to  
140 provide for:

141 (a) Prompt investigation and assessment of contamination  
142 sites.

143 (b) Expeditious restoration or replacement of potable water



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144 supplies as provided in s. 376.30(3)(c)1.

145 (c) Rehabilitation of contamination sites, which shall  
146 consist of cleanup of affected soil, groundwater, and inland  
147 surface waters, using the most cost-effective alternative that  
148 is technologically feasible and reliable, ~~and~~ that provides  
149 adequate protection of water resources and the public health,  
150 safety, and welfare, and that minimizes environmental damage,  
151 pursuant to ~~in accordance with~~ the site selection and cleanup  
152 criteria established by the department under subsection (5),  
153 except that this paragraph does not ~~nothing herein shall be~~  
154 ~~construed to~~ authorize the department to obligate funds for  
155 payment of costs that ~~which~~ may be associated with, but are not  
156 integral to, site rehabilitation, such as the cost for  
157 retrofitting or replacing petroleum storage systems.

158 (d) Maintenance and monitoring of contamination sites.

159 (e) Inspection and supervision of activities described in  
160 this subsection.

161 (f) Payment of expenses incurred by the department in its  
162 efforts to obtain from responsible parties the payment or  
163 recovery of reasonable costs resulting from the activities  
164 described in this subsection.

165 (g) Payment of any other reasonable costs of  
166 administration, including those administrative costs incurred by  
167 the Department of Health in providing field and laboratory  
168 services, toxicological risk assessment, and other assistance to  
169 the department in the investigation of drinking water  
170 contamination complaints and costs associated with public  
171 information and education activities.

172 (h) Establishment and implementation of the compliance



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173 verification program as authorized in s. 376.303(1)(a),  
174 including contracting with local governments or state agencies  
175 to provide for the administration of such program through  
176 locally administered programs, to minimize the potential for  
177 further contamination sites.

178 (i) Funding of the provisions of ss. 376.305(6) and  
179 376.3072.

180 (j) Activities related to removal and replacement of  
181 petroleum storage systems, exclusive of costs of any tank,  
182 piping, dispensing unit, or related hardware, if soil removal is  
183 approved ~~preapproved~~ as a component of site rehabilitation and  
184 requires removal of the tank where remediation is conducted  
185 under this section ~~s. 376.30711~~ or if such activities were  
186 justified in an approved remedial action plan ~~performed pursuant~~  
187 ~~to subsection (12)~~.

188 ~~(k) Activities related to reimbursement application~~  
189 ~~preparation and activities related to reimbursement application~~  
190 ~~examination by a certified public accountant pursuant to~~  
191 ~~subsection (12)~~.

192 ~~(k)(1)~~ Reasonable costs of restoring property as nearly as  
193 practicable to the conditions that ~~which~~ existed before ~~prior to~~  
194 activities associated with contamination assessment or remedial  
195 action taken under s. 376.303(4).

196 ~~(l)(m)~~ Repayment of loans to the fund.

197 ~~(m)(n)~~ Expenditure of sums from the fund to cover  
198 ineligible sites or costs as set forth in subsection (13), if  
199 the department in its discretion deems it necessary to do so. In  
200 such cases, the department may seek recovery and reimbursement  
201 of costs in the same manner and pursuant to ~~in accordance with~~



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202 the same procedures ~~as are~~ established for recovery and  
203 reimbursement of sums otherwise owed to or expended from the  
204 fund.

205 (n) ~~(e)~~ Payment of amounts payable under any service  
206 contract entered into by the department pursuant to s. 376.3075,  
207 subject to annual appropriation by the Legislature.

208 (o) ~~(p)~~ Petroleum remediation pursuant to this section ~~s.~~  
209 ~~376.30711~~ throughout a state fiscal year. The department shall  
210 establish a process to uniformly encumber appropriated funds  
211 throughout a state fiscal year and shall allow for emergencies  
212 and imminent threats to water resources, ~~human health and the~~  
213 ~~environment~~, and the public health, safety, and welfare, as  
214 provided in paragraph (5) (a). This paragraph does not apply to  
215 appropriations associated with the free product recovery  
216 initiative provided in ~~of~~ paragraph (5) (c) or the ~~preapproved~~  
217 advanced cleanup program provided in ~~of~~ s. 376.30713.

218 (p) ~~(q)~~ Enforcement of this section and ss. 376.30-376.317  
219 by the Fish and Wildlife Conservation Commission. The department  
220 shall disburse moneys to the commission for such purpose.

221  
222 The Inland Protection Trust Fund may only be used to fund the  
223 activities in ss. 376.30-376.317 except ss. 376.3078 and  
224 376.3079. Amounts on deposit in the ~~Inland Protection Trust~~ fund  
225 in each fiscal year shall first be applied or allocated for the  
226 payment of amounts payable by the department pursuant to  
227 paragraph (n) ~~(e)~~ under a service contract entered into by the  
228 department pursuant to s. 376.3075 and appropriated in each year  
229 by the Legislature before ~~prior to~~ making or providing for other  
230 disbursements from the fund. ~~Nothing in~~ This subsection does not





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231 ~~shall~~ authorize the use of the ~~Inland Protection Trust~~ fund for  
232 cleanup of contamination caused primarily by a discharge of  
233 solvents as defined in s. 206.9925(6), or polychlorinated  
234 biphenyls when their presence causes them to be hazardous  
235 wastes, except solvent contamination which is the result of  
236 chemical or physical breakdown of petroleum products and is  
237 otherwise eligible. Facilities used primarily for the storage of  
238 motor or diesel fuels as defined in ss. 206.01 and 206.86 are  
239 ~~shall be presumed not to be~~ excluded from eligibility pursuant  
240 to this section.

241 (5) SITE SELECTION AND CLEANUP CRITERIA.—

242 (a) The department shall adopt rules to establish  
243 priorities based upon a scoring system for state-conducted  
244 cleanup at petroleum contamination sites based upon factors that  
245 include, but need not be limited to:

246 1. The degree to which the public ~~human~~ health, safety, or  
247 welfare may be affected by exposure to the contamination;

248 2. The size of the population or area affected by the  
249 contamination;

250 3. The present and future uses of the affected aquifer or  
251 surface waters, with particular consideration as to the  
252 probability that the contamination is substantially affecting,  
253 or will migrate to and substantially affect, a known public or  
254 private source of potable water; and

255 4. The effect of the contamination on water resources and  
256 the environment.

257

258 Moneys in the fund shall then be obligated for activities  
259 described in paragraphs (4) (a)-(e) at individual sites pursuant



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260 ~~to in accordance with~~ such established criteria. However,  
261 ~~nothing in~~ this paragraph does not ~~shall be construed to~~  
262 restrict the department from modifying the priority status of a  
263 rehabilitation site where conditions warrant, taking into  
264 consideration the actual distance between the contamination site  
265 and groundwater or surface water receptors or other factors that  
266 affect the risk of exposure to petroleum products' chemicals of  
267 concern. The department may use the effective date of a  
268 department final order granting eligibility pursuant to  
269 subsections (10) ~~(9)~~ and (13) and ss. 376.305(6) and 376.3072 to  
270 establish a prioritization system within a particular priority  
271 scoring range.

272 (b) It is the intent of the Legislature to protect the  
273 health of all people under actual circumstances of exposure. The  
274 secretary shall establish criteria by rule for the purpose of  
275 determining, on a site-specific basis, the rehabilitation  
276 program tasks that comprise a site rehabilitation program and  
277 the level at which a rehabilitation program task and a site  
278 rehabilitation program are ~~may be deemed~~ completed. In  
279 establishing the rule, the department shall incorporate, to the  
280 maximum extent feasible, risk-based corrective action principles  
281 to achieve protection of water resources, ~~human health and~~  
282 ~~safety and~~ the environment, and the public health, safety, and  
283 welfare in a cost-effective manner as provided in this  
284 subsection. Criteria for determining what constitutes a  
285 rehabilitation program task or completion of site rehabilitation  
286 program tasks and site rehabilitation programs shall be based  
287 upon the factors set forth in paragraph (a) and the following  
288 additional factors:



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289           1. The current exposure and potential risk of exposure to  
290 humans and the environment including multiple pathways of  
291 exposure.

292           2. The appropriate point of compliance with cleanup target  
293 levels for petroleum products' chemicals of concern. The point  
294 of compliance shall be at the source of the petroleum  
295 contamination. However, the department may ~~is authorized to~~  
296 temporarily move the point of compliance to the boundary of the  
297 property, or to the edge of the plume when the plume is within  
298 the property boundary, while cleanup, including cleanup through  
299 natural attenuation processes in conjunction with appropriate  
300 monitoring, is proceeding. The department may also ~~is~~  
301 ~~authorized,~~ pursuant to criteria provided for in this paragraph,  
302 ~~to~~ temporarily extend the point of compliance beyond the  
303 property boundary with appropriate monitoring, if such extension  
304 is needed to facilitate natural attenuation or to address the  
305 current conditions of the plume and if water resources, provided  
306 ~~human health, public safety, and the environment, and the public~~  
307 health, safety, and welfare are adequately protected. Temporary  
308 extension of the point of compliance beyond the property  
309 boundary, as provided in this subparagraph, must ~~shall~~ include  
310 notice to local governments and owners of any property into  
311 which the point of compliance is allowed to extend.

312           3. The appropriate site-specific cleanup goal. The site-  
313 specific cleanup goal shall be that all petroleum contamination  
314 sites ultimately achieve the applicable cleanup target levels  
315 provided in this paragraph. However, the department may ~~is~~  
316 ~~authorized to~~ allow concentrations of the petroleum products'  
317 chemicals of concern to temporarily exceed the applicable



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318 cleanup target levels while cleanup, including cleanup through  
319 natural attenuation processes in conjunction with appropriate  
320 monitoring, is proceeding, if water resources provided human  
321 health, public safety, and the environment, and the public  
322 health, welfare, and safety are adequately protected.

323 4. The appropriateness of using institutional or  
324 engineering controls. Site rehabilitation programs may include  
325 the use of institutional or engineering controls to eliminate  
326 the potential exposure to petroleum products' chemicals of  
327 concern to humans or the environment. Use of such controls must  
328 have prior department approval ~~be preapproved by the department,~~  
329 and may institutional controls shall not be acquired with moneys  
330 ~~funds~~ from the ~~Inland Protection Trust~~ fund. When institutional  
331 or engineering controls are implemented to control exposure, the  
332 removal of such controls must have prior department approval and  
333 must be accompanied immediately by the resumption of active  
334 cleanup, or other approved controls, unless cleanup target  
335 levels pursuant to this paragraph have been achieved.

336 5. The additive effects of the petroleum products'  
337 chemicals of concern. The synergistic effects of petroleum  
338 products' chemicals of concern must ~~shall~~ also be considered  
339 when the scientific data becomes available.

340 6. Individual site characteristics that must ~~which shall~~  
341 include, but not be limited to, the current and projected use of  
342 the affected groundwater in the vicinity of the site, current  
343 and projected land uses of the area affected by the  
344 contamination, the exposed population, the degree and extent of  
345 contamination, the rate of contaminant migration, the apparent  
346 or potential rate of contaminant degradation through natural



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347 attenuation processes, the location of the plume, and the  
348 potential for further migration in relation to site property  
349 boundaries.

350 7. Applicable state water quality standards.

351 a. Cleanup target levels for petroleum products' chemicals  
352 of concern found in groundwater shall be the applicable state  
353 water quality standards. Where such standards do not exist, the  
354 cleanup target levels for groundwater shall be based on the  
355 minimum criteria specified in department rule. The department  
356 shall consider the following, as appropriate, in establishing  
357 the applicable minimum criteria: calculations using a lifetime  
358 cancer risk level of 1.0E-6; a hazard index of 1 or less; the  
359 best achievable detection limit; the naturally occurring  
360 background concentration; or nuisance, organoleptic, and  
361 aesthetic considerations.

362 b. Where surface waters are exposed to petroleum  
363 contaminated groundwater, the cleanup target levels for the  
364 petroleum products' chemicals of concern shall be based on the  
365 surface water standards as established by department rule. The  
366 point of measuring compliance with the surface water standards  
367 shall be in the groundwater immediately adjacent to the surface  
368 water body.

369 8. Whether deviation from state water quality standards or  
370 from established criteria is appropriate. The department may  
371 issue a "No Further Action Order" based upon the degree to which  
372 the desired cleanup target level is achievable and can be  
373 reasonably and cost-effectively implemented within available  
374 technologies or engineering and institutional control  
375 strategies. Where a state water quality standard is applicable,



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376 a deviation may not result in the application of cleanup target  
377 levels more stringent than the said standard. In determining  
378 whether it is appropriate to establish alternate cleanup target  
379 levels at a site, the department may consider the effectiveness  
380 of source removal that has been completed at the site and the  
381 practical likelihood of: the use of low yield or poor quality  
382 groundwater; the use of groundwater near marine surface water  
383 bodies; the current and projected use of the affected  
384 groundwater in the vicinity of the site; or the use of  
385 groundwater in the immediate vicinity of the storage tank area,  
386 where it has been demonstrated that the groundwater  
387 contamination is not migrating away from such localized source,  
388 if water resources; provided human health, public safety, and  
389 the environment, and the public health, safety, and welfare are  
390 adequately protected.

391 9. Appropriate cleanup target levels for soils.

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

399 b. Leachability-based soil target levels shall be based on  
400 protection of the groundwater cleanup target levels or the  
401 alternate cleanup target levels for groundwater established  
402 pursuant to this paragraph, as appropriate. Source removal and  
403 other cost-effective alternatives that are technologically  
404 feasible shall be considered in achieving the leachability soil



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405 target levels established by the department. The leachability  
406 goals do not apply ~~shall not be applicable~~ if the department  
407 determines, based upon individual site characteristics, that  
408 petroleum products' chemicals of concern will not leach into the  
409 groundwater at levels which pose a threat to water resources,  
410 ~~human health and safety or the environment,~~ or the public  
411 health, safety, or welfare.

412  
413 ~~However, nothing in~~ This paragraph does not ~~shall be construed~~  
414 ~~to~~ restrict the department from temporarily postponing  
415 completion of any site rehabilitation program for which funds  
416 are being expended whenever such postponement is ~~deemed~~  
417 necessary in order to make funds available for rehabilitation of  
418 a contamination site with a higher priority status.

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

422 1. Funding for free product recovery may be provided in  
423 advance of the order established by the priority ranking system  
424 under paragraph (a) for site cleanup activities. However, a  
425 separate prioritization for free product recovery shall be  
426 established consistent with paragraph (a). No more than \$5  
427 million shall be encumbered from the ~~Inland Protection Trust~~  
428 fund in any fiscal year for free product recovery conducted in  
429 advance of the priority order under paragraph (a) established  
430 for site cleanup activities.

431 2. Once free product removal and other source removal  
432 identified in this paragraph are completed at a site, and  
433 notwithstanding the order established by the priority ranking



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434 system under paragraph (a) for site cleanup activities, the  
435 department may reevaluate the site to determine the degree of  
436 active cleanup needed to continue site rehabilitation. Further,  
437 the department shall determine whether ~~if~~ the reevaluated site  
438 qualifies for natural attenuation monitoring, long-term natural  
439 attenuation monitoring, or no further action. If additional site  
440 rehabilitation is necessary to reach no further action status,  
441 the site rehabilitation shall be conducted in the order  
442 established by the priority ranking system under paragraph (a).  
443 The department shall use ~~utilize~~ natural attenuation monitoring  
444 strategies and, when cost-effective, transition sites eligible  
445 for restoration funding assistance to long-term natural  
446 attenuation monitoring where the plume is shrinking or stable  
447 and confined to the source property boundaries and the petroleum  
448 products' chemicals of concern meet the natural attenuation  
449 default concentrations, as defined by department rule. If the  
450 plume migrates beyond the source property boundaries, natural  
451 attenuation monitoring may be conducted pursuant to ~~in~~  
452 ~~accordance with~~ department rule, or if the site no longer  
453 qualifies for natural attenuation monitoring, active remediation  
454 may be resumed. For long-term natural attenuation monitoring, if  
455 the petroleum products' chemicals of concern increase or are not  
456 significantly reduced after 42 months of monitoring, or if the  
457 plume migrates beyond the property boundaries, active  
458 remediation shall be resumed as necessary. For sites undergoing  
459 active remediation, the department shall evaluate ~~template~~ the  
460 cost of natural attenuation monitoring ~~pursuant to s. 376.30711~~  
461 to ensure that site mobilizations are performed in a cost-  
462 effective manner. Sites that are not eligible for state





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463 restoration funding may transition to long-term natural  
464 attenuation monitoring using the criteria in this subparagraph.  
465 ~~Nothing in~~ This subparagraph does not preclude ~~precludes~~ a site  
466 from pursuing a "No Further Action" order with conditions.

467 3. The department shall evaluate whether higher natural  
468 attenuation default concentrations for natural attenuation  
469 monitoring or long-term natural attenuation monitoring are cost-  
470 effective and would adequately protect water resources, public  
471 ~~health and the environment,~~ and the public health, safety, and  
472 welfare. The department shall also evaluate site-specific  
473 characteristics that would allow for higher natural attenuation  
474 or long-term natural attenuation concentration levels.

475 4. A local government may not deny a building permit based  
476 solely on the presence of petroleum contamination for any  
477 construction, repairs, or renovations performed in conjunction  
478 with tank upgrade activities to an existing retail fuel facility  
479 if the facility was fully operational before the building permit  
480 was requested and if the construction, repair, or renovation is  
481 performed by a licensed contractor. All building permits and any  
482 construction, repairs, or renovations performed in conjunction  
483 with such permits must comply with the applicable provisions of  
484 chapters 489 and 553.

485 (6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.-

486 (a) Site rehabilitation work on sites that are eligible for  
487 state-funded cleanup from the fund pursuant to this section and  
488 ss. 376.305(6), 376.3072, and 376.3073 may be funded only  
489 pursuant to this section. A facility operator shall abate the  
490 source of discharge for a new release that occurred after March  
491 29, 1995. If free product is present, the operator shall notify



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492 the department, and the department may direct the removal of the  
493 free product. The department shall grant approval to continue  
494 site rehabilitation pursuant to this section.

495 (b) When contracting for site rehabilitation activities  
496 performed under the Petroleum Restoration Program, the  
497 department shall comply with competitive procurement  
498 requirements provided in chapter 287 or rules adopted under this  
499 section or s. 287.0595.

500 (c) Each contractor performing site assessment and  
501 remediation activities for state-funded sites under this section  
502 shall certify to the department that the contractor meets all  
503 certification and license requirements imposed by law. Each  
504 contractor shall certify to the department that the contractor  
505 meets the following minimum qualifications:

506 1. Complies with applicable Occupational Safety and Health  
507 Administration regulations.

508 2. Maintains workers' compensation insurance for employees  
509 as required by the Florida Workers' Compensation Law.

510 3. Maintains comprehensive general liability and  
511 comprehensive automobile liability insurance with minimum limits  
512 of at least \$1 million per occurrence and \$1 million annual  
513 aggregate to pay claims for damage for personal injury,  
514 including accidental death, as well as claims for property  
515 damage that may arise from performance of work under the  
516 program, which insurance designates the state as an additional  
517 insured party.

518 4. Maintains professional liability insurance of at least  
519 \$1 million per occurrence and \$1 million annual aggregate.

520 5. Has the capacity to perform or directly supervise the



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521 majority of the rehabilitation work at a site pursuant to s.  
522 489.113(9).

523 (d) The department rules implementing this section must  
524 specify that only qualified vendors may submit responses on a  
525 competitive solicitation. The department rules must also include  
526 procedures for the rejection of vendors not meeting the minimum  
527 qualifications on the opening of a competitive solicitation and  
528 requirements for a vendor to maintain its qualifications in  
529 order to enter contracts or perform rehabilitation work.

530 (e) A contractor that performs services pursuant to this  
531 subsection may file invoices for payment with the department for  
532 the services described in the approved contract. The invoices  
533 for payment must be submitted to the department on forms  
534 provided by the department, together with evidence documenting  
535 that activities were conducted or completed pursuant to the  
536 approved contract. If there are sufficient unencumbered funds  
537 available in the fund which have been appropriated for  
538 expenditure by the Legislature and if all of the terms of the  
539 approved contract have been met, invoices for payment must be  
540 paid pursuant to s. 215.422. After a contractor has submitted  
541 its invoices to the department, and before payment is made, the  
542 contractor may assign its right to payment to another person  
543 without recourse of the assignee or assignor to the state. In  
544 such cases, the assignee must be paid pursuant to s. 215.422.  
545 Prior notice of the assignment and assignment information must  
546 be made to the department and must be signed and notarized by  
547 the assigning party.

548 (f) The contractor shall submit an invoice to the  
549 department within 30 days after the date of the department's



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550 written acceptance of each interim deliverable or written  
551 approval of the final deliverable specified in the approved  
552 contract.

553 (g) The department shall make payments based on the terms  
554 of an approved contract for site rehabilitation work. The  
555 department may, based on its experience and the past performance  
556 and concerns regarding a contractor, retain up to 25 percent of  
557 the contracted amount or use performance bonds to ensure  
558 performance. The amount of retainage and the amount of  
559 performance bonds, as well as the terms and conditions for such,  
560 must be included in the approved contract.

561 (h) The contractor or the person to which the contractor  
562 has assigned its right to payment pursuant to paragraph (e)  
563 shall make prompt payment to subcontractors and suppliers for  
564 their costs associated with an approved contract pursuant to s.  
565 287.0585(1).

566 (i) The exemption under s. 287.0585(2) does not apply to  
567 payments associated with an approved contract.

568 (j) The department may withhold payment if the validity or  
569 accuracy of a contractor's invoices or supporting documents is  
570 in question.

571 (k) This section does not authorize payment to a person for  
572 costs of contaminated soil treatment or disposal that does not  
573 meet the applicable rules of this state for such treatment or  
574 disposal, including all general permitting, state air emission  
575 standards, monitoring, sampling, and reporting rules more  
576 specifically described by department rules.

577 (l) The department shall terminate or suspend a  
578 contractor's eligibility for participation in the program if the



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579 contractor fails to perform its contractual duties for site  
580 rehabilitation program tasks.

581 (m) A site owner or operator, or his or her designee, may  
582 not receive any remuneration, in cash or in kind, directly or  
583 indirectly, from a rehabilitation contractor performing site  
584 cleanup activities pursuant to this section.

585 (7) ~~(6)~~ FUNDING.—The Inland Protection Trust Fund shall be  
586 funded as follows:

587 (a) All excise taxes levied, collected, and credited to the  
588 fund in accordance with ~~the provisions of~~ ss. 206.9935(3) and  
589 206.9945(1)(c).

590 (b) All penalties, judgments, recoveries, reimbursements,  
591 and other fees and charges credited to the fund pursuant to ~~in~~  
592 ~~accordance with the provisions of~~ subsection (3).

593 (8) ~~(7)~~ DEPARTMENTAL DUTY TO SEEK RECOVERY AND  
594 REIMBURSEMENT.—

595 (a) Except as provided in subsection (10) ~~(9)~~ and as  
596 otherwise provided by law, the department shall recover to the  
597 use of the fund from a person or persons at any time causing or  
598 having caused the discharge or from the Federal Government,  
599 jointly and severally, all sums owed or expended from the fund,  
600 pursuant to s. 376.308, except that the department may decline  
601 to pursue such recovery if it finds the amount involved too  
602 small or the likelihood of recovery too uncertain. Sums  
603 recovered as a result of damage due to a discharge related to  
604 the storage of petroleum or petroleum products or other similar  
605 disaster shall be apportioned between the fund and the General  
606 Revenue Fund so as to repay the full costs to the General  
607 Revenue Fund of ~~any~~ sums disbursed therefrom as a result of such



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608 disaster. ~~A Any~~ request for reimbursement to the fund for such  
609 costs, if not paid within 30 days after ~~of~~ demand, shall be  
610 turned over to the department for collection.

611 (b) Except as provided in subsection (10) ~~(9)~~ and as  
612 otherwise provided by law, it is the duty of the department in  
613 administering the fund diligently to pursue the reimbursement to  
614 the fund of any sum expended from the fund for cleanup and  
615 abatement pursuant to ~~in accordance with the provisions of this~~  
616 section or s. 376.3073, unless the department finds the amount  
617 involved too small or the likelihood of recovery too uncertain.  
618 For the purposes of s. 95.11, the limitation period within which  
619 to institute an action to recover such sums shall begin ~~commence~~  
620 on the last date on which ~~any~~ such sums were expended, and not  
621 the date on which ~~that~~ the discharge occurred. The department's  
622 claim for recovery of payments or overpayments from the fund  
623 must be based on the law in existence at the time of the payment  
624 or overpayment.

625 (c) If the department initiates an enforcement action to  
626 clean up a contaminated site and determines that the responsible  
627 party cannot ~~is~~ financially ~~unable to~~ undertake complete  
628 restoration of the contaminated site, that the current property  
629 owner was not responsible for the discharge when the  
630 contamination first occurred, or that the state's interest can  
631 best be served by conducting cleanup, the department may enter  
632 into an agreement with the responsible party or property owner  
633 whereby the department agrees to conduct site rehabilitation and  
634 the responsible party or property owner agrees to pay for the  
635 portion of the cleanup costs that are within such party's or  
636 owner's financial capabilities as determined by the department,



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637 taking into consideration the party's or owner's net worth and  
638 the economic impact on the party or owner.

639 (9)~~(8)~~ INVESTMENTS; INTEREST.—Moneys in the fund which are  
640 not needed currently to meet the obligations of the department  
641 in the exercise of its responsibilities under this section and  
642 s. 376.3073 shall be deposited with the Chief Financial Officer  
643 to the credit of the fund and may be invested in such manner as  
644 ~~is provided for~~ by law statute. The interest received on such  
645 investment shall be credited to the fund. Any provisions of law  
646 to the contrary notwithstanding, such interest may be freely  
647 transferred between the ~~this~~ trust fund and the Water Quality  
648 Assurance Trust Fund, in the discretion of the department.

649 (10)~~(9)~~ EARLY DETECTION INCENTIVE PROGRAM.—To encourage  
650 early detection, reporting, and cleanup of contamination from  
651 leaking petroleum storage systems, the department shall, within  
652 the guidelines established in this subsection, conduct an  
653 incentive program that provides ~~which shall provide~~ for a 30-  
654 month grace period ending on December 31, 1988. ~~Pursuant~~  
655 ~~thereto:~~

656 (a) The department shall establish reasonable requirements  
657 for the written reporting of petroleum contamination incidents  
658 and shall distribute forms to registrants under s. 376.303(1)(b)  
659 and to other interested parties upon request to be used for such  
660 purpose. Until such forms are available for distribution, the  
661 department shall take reports of such incidents, however made,  
662 but shall notify any person making such a report that a complete  
663 written report of the incident will be required by the  
664 department at a later time, the form for which will be provided  
665 by the department.



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666 (b) When reporting forms become available for distribution,  
667 all sites involving incidents of contamination from petroleum  
668 storage systems initially reported to the department at any time  
669 from midnight on June 30, 1986, to midnight on December 31,  
670 1988, shall be qualified sites ~~if, provided that such~~ a complete  
671 written report is filed with respect thereto within a reasonable  
672 time. Subject to the delays which may occur as a result of the  
673 prioritization of sites under paragraph (5)(a) for any qualified  
674 site, costs for activities described in paragraphs (4)(a)-(e)  
675 shall be absorbed at the expense of the fund, without recourse  
676 to reimbursement or recovery, with the following exceptions:

677 1. ~~The provisions of~~ This subsection does ~~shall~~ not apply  
678 to a ~~any~~ site where the department has been denied site access  
679 to implement ~~the provisions of~~ this section.

680 2. ~~The provisions of~~ This subsection does ~~shall~~ not be  
681 ~~construed to~~ authorize or require reimbursement from the fund  
682 for costs expended before ~~prior to~~ the beginning of the grace  
683 period, ~~except as provided in subsection (12).~~

684 3.a. Upon discovery by the department that the owner or  
685 operator of a petroleum storage system has been grossly  
686 negligent in the maintenance of such petroleum storage system;  
687 has, with willful intent to conceal the existence of a serious  
688 discharge, falsified inventory or reconciliation records  
689 maintained with respect to the site at which such system is  
690 located; or has intentionally damaged such petroleum storage  
691 system, the site at which such system is located shall be  
692 ineligible for participation in the incentive program and the  
693 owner shall be liable for all costs due to discharges from  
694 petroleum storage systems at that site, any other provisions of





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695 chapter 86-159, Laws of Florida, to the contrary  
696 notwithstanding. For the purposes of this paragraph, willful  
697 failure to maintain inventory and reconciliation records,  
698 willful failure to make monthly monitoring system checks where  
699 such systems are in place, and failure to meet monitoring and  
700 retrofitting requirements within the schedules established under  
701 chapter 62-761, Florida Administrative Code, or violation of  
702 similar rules adopted by the department under this chapter,  
703 constitutes ~~shall be construed to be~~ gross negligence in the  
704 maintenance of a petroleum storage system.

705 b. The department shall redetermine the eligibility of  
706 petroleum storage systems for which a timely Early Detection  
707 Incentive Program ~~EDI~~ application was filed, but which were  
708 deemed ineligible by the department, under the following  
709 conditions:

710 (I) The owner or operator, on or before March 31, 1991,  
711 shall submit, in writing, notification that the storage system  
712 is now in compliance with department rules adopted pursuant to  
713 s. 376.303, and which requests the department to reevaluate the  
714 storage system eligibility; and

715 (II) The department verifies the storage system compliance  
716 based on a compliance inspection.

717  
718 ~~Provided, however, that~~ A site may be determined eligible by the  
719 department for good cause shown, including, but not limited to,  
720 demonstration by the owner or operator that to achieve  
721 compliance would cause an increase in the potential for the  
722 spread of the contamination.

723 c. Redetermination of eligibility pursuant to sub-



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724 subparagraph b. shall not be available to:

725 (I) Petroleum storage systems owned or operated by the  
726 Federal Government.

727 (II) Facilities that denied site access to the department.

728 (III) Facilities where a discharge was intentionally  
729 concealed.

730 (IV) Facilities that were denied eligibility due to:

731 (A) Absence of contamination, unless any such facility  
732 subsequently establishes that contamination did exist at that  
733 facility on or before December 31, 1988.

734 (B) Contamination from substances that were not petroleum  
735 or a petroleum product.

736 (C) Contamination that was not from a petroleum storage  
737 system.

738 d. ~~EDI~~ Applicants who demonstrate compliance for a site  
739 pursuant to sub-subparagraph b. are eligible for the Early  
740 Detection Incentive Program and site rehabilitation funding  
741 pursuant to subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~.

742  
743 If, in order to avoid prolonged delay, the department in its  
744 discretion deems it necessary to expend sums from the fund to  
745 cover ineligible sites or costs as set forth in this paragraph,  
746 the department may do so and seek recovery and reimbursement  
747 therefor in the same manner and pursuant to ~~in accordance with~~  
748 the same procedures ~~as are~~ established for recovery and  
749 reimbursement of sums otherwise owed to or expended from the  
750 fund.

751 (c) A ~~No~~ report of a discharge made to the department by a  
752 any person pursuant to ~~in accordance with~~ this subsection, or



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753 ~~any~~ rules adopted promulgated pursuant to this subsection may  
754 not hereto, shall be used directly as evidence of liability for  
755 such discharge in any civil or criminal trial arising out of the  
756 discharge.

757 (d) ~~The provisions of~~ This subsection does shall not apply  
758 to petroleum storage systems owned or operated by the Federal  
759 Government.

760 (11)(10) VIOLATIONS; PENALTY.-A ~~It is unlawful for any~~  
761 person may not to:

762 (a) Falsify inventory or reconciliation records maintained  
763 in compliance with chapters 62-761 and 62-762, Florida  
764 Administrative Code, with willful intent to conceal the  
765 existence of a serious leak; or

766 (b) Intentionally damage a petroleum storage system.

767  
768 A ~~Any~~ person convicted of such a violation commits shall be  
769 guilty of a felony of the third degree, punishable as provided  
770 in s. 775.082, s. 775.083, or s. 775.084.

771 (12)(11) SITE CLEANUP.-

772 (a) *Voluntary cleanup.*-This section does not prohibit a  
773 person from conducting site rehabilitation ~~either~~ through his or  
774 her own personnel or through responsible response action  
775 contractors or subcontractors when such person is not seeking  
776 site rehabilitation funding from the fund. Such voluntary  
777 cleanups must meet all applicable environmental standards.

778 (b) *Low-scored site initiative.*-Notwithstanding subsections  
779 (5) and (6) s. 376.30711, a any site with a priority ranking  
780 score of 29 points or less may voluntarily participate in the  
781 low-scored site initiative regardless of, whether ~~or not~~ the



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782 site is eligible for state restoration funding.

783 1. To participate in the low-scored site initiative, the  
784 responsible party or property owner must affirmatively  
785 demonstrate that the following conditions are met:

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

788 b. ~~No~~ Excessively contaminated soil, as defined by  
789 department rule, does not exist ~~exists~~ onsite as a result of a  
790 release of petroleum products.

791 c. A minimum of 6 months of groundwater monitoring  
792 indicates that the plume is shrinking or stable.

793 d. The release of petroleum products at the site does not  
794 adversely affect adjacent surface waters, including their  
795 effects on human health and the environment.

796 e. The area of groundwater containing the petroleum  
797 products' chemicals of concern is less than one-quarter acre and  
798 is confined to the source property boundaries of the real  
799 property on which the discharge originated.

800 f. Soils onsite that are subject to human exposure found  
801 between land surface and 2 feet below land surface meet the soil  
802 cleanup target levels established by department rule or human  
803 exposure is limited by appropriate institutional or engineering  
804 controls.

805 2. Upon affirmative demonstration of the conditions under  
806 subparagraph 1., the department shall issue a determination of  
807 "No Further Action." Such determination acknowledges that  
808 minimal contamination exists onsite and that such contamination  
809 is not a threat to water resources, ~~human health or the~~  
810 environment, or the public health, safety, or welfare. If no



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811 contamination is detected, the department may issue a site  
812 rehabilitation completion order.

813 3. Sites that are eligible for state restoration funding  
814 may receive payment of ~~preapproved~~ costs for the low-scored site  
815 initiative as follows:

816 a. A responsible party or property owner may submit an  
817 assessment plan designed to affirmatively demonstrate that the  
818 site meets the conditions under subparagraph 1. Notwithstanding  
819 the priority ranking score of the site, the department may  
820 approve ~~preapprove~~ the cost of the assessment ~~pursuant to s.~~  
821 ~~376.30711~~, including 6 months of groundwater monitoring, not to  
822 exceed \$30,000 for each site. The department may not pay the  
823 costs associated with the establishment of institutional or  
824 engineering controls.

825 b. The assessment work shall be completed no later than 6  
826 months after the department issues its approval.

827 c. No more than \$10 million for the low-scored site  
828 initiative may be encumbered from the ~~Inland Protection Trust~~  
829 fund in any fiscal year. Funds shall be made available on a  
830 first-come, first-served basis and shall be limited to 10 sites  
831 in each fiscal year for each responsible party or property  
832 owner.

833 d. Program deductibles, copayments, and the limited  
834 contamination assessment report requirements under paragraph  
835 (13)(c) do not apply to expenditures under this paragraph.

836 ~~(12) REIMBURSEMENT FOR CLEANUP EXPENSES. Except as provided~~  
837 ~~in s. 2(3), chapter 95-2, Laws of Florida, this subsection shall~~  
838 ~~not apply to any site rehabilitation program task initiated~~  
839 ~~after March 29, 1995. Effective August 1, 1996, no further site~~



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840 ~~rehabilitation work on sites eligible for state-funded cleanup~~  
841 ~~from the Inland Protection Trust Fund shall be eligible for~~  
842 ~~reimbursement pursuant to this subsection. The person~~  
843 ~~responsible for conducting site rehabilitation may seek~~  
844 ~~reimbursement for site rehabilitation program task work~~  
845 ~~conducted after March 28, 1995, in accordance with s. 2(2) and~~  
846 ~~(3), chapter 95-2, Laws of Florida, regardless of whether the~~  
847 ~~site rehabilitation program task is completed. A site~~  
848 ~~rehabilitation program task shall be considered to be initiated~~  
849 ~~when actual onsite work or engineering design, pursuant to~~  
850 ~~chapter 62-770, Florida Administrative Code, which is integral~~  
851 ~~to performing a site rehabilitation program task has begun and~~  
852 ~~shall not include contract negotiation and execution, site~~  
853 ~~research, or project planning. All reimbursement applications~~  
854 ~~pursuant to this subsection must be submitted to the department~~  
855 ~~by January 3, 1997. The department shall not accept any~~  
856 ~~applications for reimbursement or pay any claims on applications~~  
857 ~~for reimbursement received after that date; provided, however if~~  
858 ~~an application filed on or prior to January 3, 1997, was~~  
859 ~~returned by the department on the grounds of untimely filing, it~~  
860 ~~shall be refiled within 30 days after the effective date of this~~  
861 ~~act in order to be processed.~~

862 ~~(a) Legislative findings.—The Legislature finds and~~  
863 ~~declares that rehabilitation of contamination sites should be~~  
864 ~~conducted in a manner and to a level of completion which will~~  
865 ~~protect the public health, safety, and welfare and will minimize~~  
866 ~~damage to the environment.~~

867 ~~(b) Conditions.—~~

868 ~~1. The owner, operator, or his or her designee of a site~~



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869 ~~which is eligible for restoration funding assistance in the EDI,~~  
870 ~~PLRIP, or ATRP programs shall be reimbursed from the Inland~~  
871 ~~Protection Trust Fund of allowable costs at reasonable rates~~  
872 ~~incurred on or after January 1, 1985, for completed program~~  
873 ~~tasks as identified in the department rule promulgated pursuant~~  
874 ~~to paragraph (5) (b), or uncompleted program tasks pursuant to~~  
875 ~~chapter 95-2, Laws of Florida, subject to the conditions in this~~  
876 ~~section. It is unlawful for a site owner or operator, or his or~~  
877 ~~her designee, to receive any remuneration, in cash or in kind,~~  
878 ~~directly or indirectly from the rehabilitation contractor.~~

879 ~~2. Nothing in this subsection shall be construed to~~  
880 ~~authorize reimbursement to any person for costs of contaminated~~  
881 ~~soil treatment or disposal that does not meet the applicable~~  
882 ~~rules of this state for such treatment or disposal, including~~  
883 ~~all general permitting, state air emission standards,~~  
884 ~~monitoring, sampling, and reporting rules more specifically~~  
885 ~~described in department rules.~~

886 ~~(c) Legislative intent. Due to the value of the potable~~  
887 ~~water of this state, it is the intent of the Legislature that~~  
888 ~~the department initiate and facilitate as many cleanups as~~  
889 ~~possible utilizing the resources of the state, local~~  
890 ~~governments, and the private sector, recognizing that source~~  
891 ~~removal, wherever it is technologically feasible and cost-~~  
892 ~~effective, shall be considered the primary initial response to~~  
893 ~~protect public health, safety, and the environment.~~

894 ~~(d) Amount of reimbursement. The department shall reimburse~~  
895 ~~actual and reasonable costs for site rehabilitation. The~~  
896 ~~department shall not reimburse interest on the amount of~~  
897 ~~reimbursable costs for any reimbursement application. However,~~



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898 ~~nothing herein shall affect the department's authority to pay~~  
899 ~~interest authorized under prior law.~~

900 ~~(c) Records. The person responsible for conducting site~~  
901 ~~rehabilitation, or his or her agent, shall keep and preserve~~  
902 ~~suitable records as follows:~~

903 ~~1. Hydrological and other site investigations and~~  
904 ~~assessments; site rehabilitation plans; contracts and contract~~  
905 ~~negotiations; and accounts, invoices, sales tickets, or other~~  
906 ~~payment records from purchases, sales, leases, or other~~  
907 ~~transactions involving costs actually incurred related to site~~  
908 ~~rehabilitation. Such records shall be made available upon~~  
909 ~~request to agents and employees of the department during regular~~  
910 ~~business hours and at other times upon written request of the~~  
911 ~~department.~~

912 ~~2. In addition, the department may from time to time~~  
913 ~~request submission of such site-specific information as it may~~  
914 ~~require, unless a waiver or variance from such department~~  
915 ~~request is granted pursuant to paragraph (k).~~

916 ~~3. All records of costs actually incurred for cleanup shall~~  
917 ~~be certified by affidavit to the department as being true and~~  
918 ~~correct.~~

919 ~~(f) Application for reimbursement. Any eligible person who~~  
920 ~~performs a site rehabilitation program or performs site~~  
921 ~~rehabilitation program tasks such as preparation of site~~  
922 ~~rehabilitation plans or assessments; product recovery; cleanup~~  
923 ~~of groundwater or inland surface water; soil treatment or~~  
924 ~~removal; or any other tasks identified by department rule~~  
925 ~~developed pursuant to subsection (5), may apply for~~  
926 ~~reimbursement. Such applications for reimbursement must be~~





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927 ~~submitted to the department on forms provided by the department,~~  
928 ~~together with evidence documenting that site rehabilitation~~  
929 ~~program tasks were conducted or completed in accordance with~~  
930 ~~department rule developed pursuant to subsection (5), and other~~  
931 ~~such records or information as the department requires. The~~  
932 ~~reimbursement application and supporting documentation shall be~~  
933 ~~examined by a certified public accountant in accordance with~~  
934 ~~standards established by the American Institute of Certified~~  
935 ~~Public Accountants. A copy of the accountant's report shall be~~  
936 ~~submitted with the reimbursement application. Applications for~~  
937 ~~reimbursement shall not be approved for site rehabilitation~~  
938 ~~program tasks which have not been completed, except for the task~~  
939 ~~of remedial action and except for uncompleted program tasks~~  
940 ~~pursuant to chapter 95-2, Laws of Florida, and this subsection.~~  
941 ~~Applications for remedial action may be submitted semiannually~~  
942 ~~at the discretion of the person responsible for cleanup. After~~  
943 ~~an applicant has filed an application with the department and~~  
944 ~~before payment is made, the applicant may assign the right to~~  
945 ~~payment to any other person, without recourse of the assignee or~~  
946 ~~assignor to the state, without affecting the order in which~~  
947 ~~payment is made. Information necessary to process the~~  
948 ~~application shall be requested from and provided by the~~  
949 ~~assigning applicant. Proper notice of the assignment and~~  
950 ~~assignment information shall be made to the department which~~  
951 ~~notice shall be signed and notarized by the assigning applicant.~~

952 ~~(g) Review.—~~

953 ~~1. Provided there are sufficient unencumbered funds~~  
954 ~~available in the Inland Protection Trust Fund, or to the extent~~  
955 ~~proceeds of debt obligations are available for the payment of~~



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956 ~~existing reimbursement obligations pursuant to s. 376.3075, the~~  
957 ~~department shall have 60 days to determine if the applicant has~~  
958 ~~provided sufficient information for processing the application~~  
959 ~~and shall request submission of any additional information that~~  
960 ~~the department may require within such 60-day period. If the~~  
961 ~~applicant believes any request for additional information is not~~  
962 ~~authorized, the applicant may request a hearing pursuant to ss.~~  
963 ~~120.569 and 120.57. Once the department requests additional~~  
964 ~~information, the department may request only that information~~  
965 ~~needed to clarify such additional information or to answer new~~  
966 ~~questions raised by or directly related to such additional~~  
967 ~~information.~~

968 ~~2. The department shall deny or approve the application for~~  
969 ~~reimbursement within 90 days after receipt of the last item of~~  
970 ~~timely requested additional material, or, if no additional~~  
971 ~~material is requested, within 90 days of the close of the 60-day~~  
972 ~~period described in subparagraph 1., unless the total review~~  
973 ~~period is otherwise extended by written mutual agreement of the~~  
974 ~~applicant and the department.~~

975 ~~3. Final disposition of an application shall be provided to~~  
976 ~~the applicant in writing, accompanied by a written explanation~~  
977 ~~setting forth in detail the reason or reasons for the approval~~  
978 ~~or denial. If the department fails to make a determination on an~~  
979 ~~application within the time provided in subparagraph 2., or~~  
980 ~~denies an application, or if a dispute otherwise arises with~~  
981 ~~regard to reimbursement, the applicant may request a hearing~~  
982 ~~pursuant to ss. 120.569 and 120.57.~~

983 ~~(h) Reimbursement. Upon approval of an application for~~  
984 ~~reimbursement, reimbursement for reasonable expenditures of a~~



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985 ~~site rehabilitation program or site rehabilitation program tasks~~  
986 ~~documented therein shall be made in the order in which the~~  
987 ~~department receives completed applications. Effective January 1,~~  
988 ~~1997, all unpaid reimbursement applications are subject to~~  
989 ~~payment on the following terms: The department shall develop a~~  
990 ~~schedule of the anticipated dates of reimbursement of~~  
991 ~~applications submitted to the department pursuant to this~~  
992 ~~subsection. The schedule shall specify the projected date of~~  
993 ~~payment based on equal monthly payments and projected annual~~  
994 ~~revenue of \$100 million. Based on the schedule, the department~~  
995 ~~shall notify all reimbursement applicants of the projected date~~  
996 ~~of payment of their applications. The department shall direct~~  
997 ~~the Inland Protection Financing Corporation to pay applicants~~  
998 ~~the present value of their applications as soon as practicable~~  
999 ~~after approval by the department, subject to the availability of~~  
1000 ~~funds within the Inland Protection Financing Corporation. The~~  
1001 ~~present value of an application shall be based on the date on~~  
1002 ~~which the department anticipates the Inland Protection Financing~~  
1003 ~~Corporation will settle the reimbursement application and the~~  
1004 ~~schedule's projected date of payment and shall use 3.5 percent~~  
1005 ~~as the annual discount rate. The determination of the amount of~~  
1006 ~~the claim and the projected date of payment shall be subject to~~  
1007 ~~s. 120.57.~~

1008 ~~(i) Liberal construction. With respect to site~~  
1009 ~~rehabilitation initiated prior to July 1, 1986, the provisions~~  
1010 ~~of this subsection shall be given such liberal construction by~~  
1011 ~~the department as will accomplish the purposes set forth in this~~  
1012 ~~subsection. With regard to the keeping of particular records or~~  
1013 ~~the giving of certain notice, the department may accept as~~



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1014 ~~compliance action by a person which meets the intent of the~~  
1015 ~~requirements set forth in this subsection.~~

1016 ~~(j) Reimbursement review contracts. The department may~~  
1017 ~~contract with entities capable of processing or assisting in the~~  
1018 ~~review of reimbursement applications. Any purchase of such~~  
1019 ~~services shall not be subject to chapter 287.~~

1020 ~~(k) Audits.—~~

1021 ~~1. The department is authorized to perform financial and~~  
1022 ~~technical audits in order to certify site restoration costs and~~  
1023 ~~ensure compliance with this chapter. The department shall seek~~  
1024 ~~recovery of any overpayments based on the findings of these~~  
1025 ~~audits. The department must commence any audit within 5 years~~  
1026 ~~after the date of reimbursement, except in cases where the~~  
1027 ~~department alleges specific facts indicating fraud.~~

1028 ~~2. Upon determination by the department that any portion of~~  
1029 ~~costs which have been reimbursed are disallowed, the department~~  
1030 ~~shall give written notice to the applicant setting forth with~~  
1031 ~~specificity the allegations of fact which justify the~~  
1032 ~~department's proposed action and ordering repayment of~~  
1033 ~~disallowed costs within 60 days of notification of the~~  
1034 ~~applicant.~~

1035 ~~3. In the event the applicant does not make payment to the~~  
1036 ~~department within 60 days of receipt of such notice, the~~  
1037 ~~department shall seek recovery in a court of competent~~  
1038 ~~jurisdiction to recover reimbursement overpayments made to the~~  
1039 ~~person responsible for conducting site rehabilitation, unless~~  
1040 ~~the department finds the amount involved too small or the~~  
1041 ~~likelihood of recovery too uncertain.~~

1042 ~~4. In addition to the amount of any overpayment, the~~



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1043 ~~applicant shall be liable to the department for interest of 1~~  
1044 ~~percent per month or the prime rate, whichever is less, on the~~  
1045 ~~amount of overpayment, from the date of overpayment by the~~  
1046 ~~department until the applicant satisfies the department's~~  
1047 ~~request for repayment pursuant to this paragraph. The~~  
1048 ~~calculation of interest shall be tolled during the pendency of~~  
1049 ~~any litigation.~~

1050 ~~5. Financial and technical audits frequently are conducted~~  
1051 ~~under this section many years after the site rehabilitation~~  
1052 ~~activities were performed and the costs examined in the course~~  
1053 ~~of the audit were incurred by the person responsible for site~~  
1054 ~~rehabilitation. During the intervening span of years, the~~  
1055 ~~department's rule requirements and its related guidance and~~  
1056 ~~other nonrule policy directives may have changed significantly.~~  
1057 ~~The Legislature finds that it may be appropriate for the~~  
1058 ~~department to provide relief to persons subject to such~~  
1059 ~~requirements in financial and technical audits conducted~~  
1060 ~~pursuant to this section.~~

1061 ~~a. The department is authorized to grant variances and~~  
1062 ~~waivers from the documentation requirements of subparagraph~~  
1063 ~~(c)2. and from the requirements of rules applicable in technical~~  
1064 ~~and financial audits conducted under this section. Variances and~~  
1065 ~~waivers shall be granted when the person responsible for site~~  
1066 ~~rehabilitation demonstrates to the department that application~~  
1067 ~~of a financial or technical auditing requirement would create a~~  
1068 ~~substantial hardship or would violate principles of fairness.~~  
1069 ~~For purposes of this subsection, "substantial hardship" means a~~  
1070 ~~demonstrated economic, technological, legal, or other type of~~  
1071 ~~hardship to the person requesting the variance or waiver. For~~



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1072 ~~purposes of this subsection, "principles of fairness" are~~  
1073 ~~violated when the application of a requirement affects a~~  
1074 ~~particular person in a manner significantly different from the~~  
1075 ~~way it affects other similarly situated persons who are affected~~  
1076 ~~by the requirement or when the requirement is being applied~~  
1077 ~~retroactively without due notice to the affected parties.~~

1078 ~~b. A person whose reimbursed costs are subject to a~~  
1079 ~~financial and technical audit under this section may file a~~  
1080 ~~written request to the department for grant of a variance or~~  
1081 ~~waiver. The request shall specify:~~

1082 ~~(I) The requirement from which a variance or waiver is~~  
1083 ~~requested.~~

1084 ~~(II) The type of action requested.~~

1085 ~~(III) The specific facts which would justify a waiver or~~  
1086 ~~variance.~~

1087 ~~(IV) The reason or reasons why the requested variance or~~  
1088 ~~waiver would serve the purposes of this section.~~

1089 ~~e. Within 90 days after receipt of a written request for~~  
1090 ~~variance or waiver under this subsection, the department shall~~  
1091 ~~grant or deny the request. If the request is not granted or~~  
1092 ~~denied within 90 days of receipt, the request shall be deemed~~  
1093 ~~approved. An order granting or denying the request shall be in~~  
1094 ~~writing and shall contain a statement of the relevant facts and~~  
1095 ~~reasons supporting the department's action. The department's~~  
1096 ~~decision to grant or deny the petition shall be supported by~~  
1097 ~~competent substantial evidence and is subject to ss. 120.569 and~~  
1098 ~~120.57. Once adopted, model rules promulgated by the~~  
1099 ~~Administration Commission under s. 120.542 shall govern the~~  
1100 ~~processing of requests under this provision.~~



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1101           ~~6. The Chief Financial Officer may audit the records of~~  
1102 ~~persons who receive or who have received payments pursuant to~~  
1103 ~~this chapter in order to verify site restoration costs, ensure~~  
1104 ~~compliance with this chapter, and verify the accuracy and~~  
1105 ~~completeness of audits performed by the department pursuant to~~  
1106 ~~this paragraph. The Chief Financial Officer may contract with~~  
1107 ~~entities or persons to perform audits pursuant to this~~  
1108 ~~subparagraph. The Chief Financial Officer shall commence any~~  
1109 ~~audit within 1 year after the department's completion of an~~  
1110 ~~audit conducted pursuant to this paragraph, except in cases~~  
1111 ~~where the department or the Chief Financial Officer alleges~~  
1112 ~~specific facts indicating fraud.~~

1113           (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage  
1114 detection, reporting, and cleanup of contamination caused by  
1115 discharges of petroleum or petroleum products, the department  
1116 shall, within the guidelines established in this subsection,  
1117 implement a cost-sharing cleanup program to provide  
1118 rehabilitation funding assistance for all property contaminated  
1119 by discharges of petroleum or petroleum products occurring  
1120 before January 1, 1995, subject to a copayment provided for in a  
1121 Petroleum Cleanup Participation Program ~~preapproved~~ site  
1122 rehabilitation agreement. Eligibility is ~~shall be~~ subject to an  
1123 annual appropriation from the ~~Inland Protection Trust~~ fund.  
1124 Additionally, funding for eligible sites is ~~shall be~~ contingent  
1125 upon annual appropriation in subsequent years. Such continued  
1126 state funding is ~~shall not be deemed~~ an entitlement or a vested  
1127 right under this subsection. Eligibility shall be determined in  
1128 the program, ~~shall be~~ notwithstanding any other provision of  
1129 law, consent order, order, judgment, or ordinance to the



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1130 contrary.

1131 (a)1. The department shall accept any discharge reporting  
1132 form received before ~~prior to~~ January 1, 1995, as an application  
1133 for this program, and the facility owner or operator need not  
1134 reapply.

1135 2. Owners or operators of property contaminated by  
1136 petroleum or petroleum products from a petroleum storage system  
1137 may apply for such program by filing a written report of the  
1138 contamination incident, including evidence that such incident  
1139 occurred before ~~prior to~~ January 1, 1995, with the department.  
1140 Incidents of petroleum contamination discovered after December  
1141 31, 1994, at sites which have not stored petroleum or petroleum  
1142 products for consumption, use, or sale after such date shall be  
1143 presumed to have occurred before ~~prior to~~ January 1, 1995. An  
1144 operator's filed report shall be ~~deemed~~ an application of the  
1145 owner for all purposes. Sites reported to the department after  
1146 December 31, 1998, are ~~shall~~ not be eligible for the ~~this~~  
1147 program.

1148 (b) Subject to annual appropriation from the ~~Inland~~  
1149 ~~Protection Trust~~ fund, sites meeting the criteria of this  
1150 subsection are eligible for up to \$400,000 of site  
1151 rehabilitation funding assistance in priority order pursuant to  
1152 subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~. Sites meeting  
1153 the criteria of this subsection for which a site rehabilitation  
1154 completion order was issued before ~~prior to~~ June 1, 2008, do not  
1155 qualify for the 2008 increase in site rehabilitation funding  
1156 assistance and are bound by the pre-June 1, 2008, limits. Sites  
1157 meeting the criteria of this subsection for which a site  
1158 rehabilitation completion order was not issued before ~~prior to~~





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1159 June 1, 2008, regardless of whether ~~or not~~ they have previously  
1160 transitioned to nonstate-funded cleanup status, may continue  
1161 state-funded cleanup pursuant to this section ~~s. 376.30711~~ until  
1162 a site rehabilitation completion order is issued or the  
1163 increased site rehabilitation funding assistance limit is  
1164 reached, whichever occurs first. The department may not pay ~~At~~  
1165 ~~no time shall~~ expenses incurred beyond ~~outside~~ the scope of an  
1166 approved contract ~~preapproved site rehabilitation program under~~  
1167 ~~s. 376.30711~~ be reimbursable.

1168 (c) Upon notification by the department that rehabilitation  
1169 funding assistance is available for the site pursuant to  
1170 subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~, the owner,  
1171 operator, or person otherwise responsible for site  
1172 rehabilitation shall provide the department with a limited  
1173 contamination assessment report and shall enter into a Petroleum  
1174 Cleanup Participation Program ~~preapproved~~ site rehabilitation  
1175 agreement with the department ~~and a contractor qualified under~~  
1176 ~~s. 376.30711(2)(b)~~. The agreement must ~~shall~~ provide for a 25-  
1177 percent copayment by the owner, operator, or person otherwise  
1178 responsible for conducting site rehabilitation. The owner,  
1179 operator, or person otherwise responsible for conducting site  
1180 rehabilitation shall adequately demonstrate the ability to meet  
1181 the copayment obligation. The limited contamination assessment  
1182 report and the copayment costs may be reduced or eliminated if  
1183 the owner and all operators responsible for restoration under s.  
1184 376.308 demonstrate that they cannot ~~are~~ financially ~~unable to~~  
1185 comply with the copayment and limited contamination assessment  
1186 report requirements. The department shall take into  
1187 consideration the owner's and operator's net worth in making the



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1188 determination of financial ability. In the event the department  
1189 and the owner, operator, or person otherwise responsible for  
1190 site rehabilitation cannot ~~are unable to~~ complete negotiation of  
1191 the cost-sharing agreement within 120 days after beginning  
1192 ~~commencing~~ negotiations, the department shall terminate  
1193 negotiations, and the site shall be ~~deemed~~ ineligible for state  
1194 funding under this subsection and all liability protections  
1195 provided for in this subsection shall be revoked.

1196 (d) A ~~No~~ report of a discharge made to the department by a  
1197 any person pursuant to ~~in accordance with~~ this subsection, or  
1198 any rules adopted pursuant to this subsection may not hereto,  
1199 ~~shall~~ be used directly as evidence of liability for such  
1200 discharge in any civil or criminal trial arising out of the  
1201 discharge.

1202 (e) ~~Nothing in~~ This subsection does not ~~shall be construed~~  
1203 ~~to~~ preclude the department from pursuing penalties under ~~in~~  
1204 ~~accordance with~~ s. 403.141 for violations of any law or any  
1205 rule, order, permit, registration, or certification adopted or  
1206 issued by the department pursuant to its lawful authority.

1207 (f) Upon the filing of a discharge reporting form under  
1208 paragraph (a), ~~neither~~ the department or ~~nor any~~ local  
1209 government may not ~~shall~~ pursue any judicial or enforcement  
1210 action to compel rehabilitation of the discharge. This paragraph  
1211 does ~~shall~~ not prevent any such action with respect to  
1212 discharges determined ineligible under this subsection or to  
1213 sites for which rehabilitation funding assistance is available  
1214 pursuant to subsections ~~in accordance with subsection~~ (5) and  
1215 (6) ~~s. 376.30711~~.

1216 (g) The following are ~~shall be~~ excluded from participation



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1217 in the program:

1218 1. Sites at which the department has been denied reasonable  
1219 site access to implement ~~the provisions of~~ this section.

1220 2. Sites that were active facilities when owned or operated  
1221 by the Federal Government.

1222 3. Sites that are identified by the United States  
1223 Environmental Protection Agency to be on, or which qualify for  
1224 listing on, the National Priorities List under Superfund. This  
1225 exception does not apply to those sites for which eligibility  
1226 has been requested or granted as of the effective date of this  
1227 act under the Early Detection Incentive Program established  
1228 pursuant to s. 15, chapter 86-159, Laws of Florida.

1229 4. Sites for which ~~The~~ contamination is covered under the  
1230 Early Detection Incentive Program, the Abandoned Tank  
1231 Restoration Program, or the Petroleum Liability and Restoration  
1232 Insurance Program, in which case site rehabilitation funding  
1233 assistance shall continue under the respective program.

1234 (14) LEGISLATIVE APPROVAL AND AUTHORIZATION.—Before ~~Prior~~  
1235 ~~to~~ the department enters ~~entering~~ into a service contract with  
1236 the Inland Protection Financing Corporation which includes  
1237 payments by the department to support any existing or planned  
1238 note, bond, certificate of indebtedness, or other obligation or  
1239 evidence of indebtedness of the corporation pursuant to s.  
1240 376.3075, the Legislature, by law, must specifically authorize  
1241 the department to enter into such a contract. The corporation  
1242 may issue bonds in an amount not to exceed \$104 million, with a  
1243 term up to 15 years, and annual payments not in excess of \$10.4  
1244 million. The department may enter into a service contract in  
1245 conjunction with the issuance of such bonds which provides for



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1246 annual payments for debt service payments or other amounts  
1247 payable with respect to bonds, plus any administrative expenses  
1248 of the corporation to finance the rehabilitation of petroleum  
1249 contamination sites pursuant to ss. 376.30-376.317.

1250 Section 2. Section 376.30711, Florida Statutes, is  
1251 repealed.

1252 Section 3. Section 376.30713, Florida Statutes, is amended  
1253 to read:

1254 376.30713 ~~Preapproved~~ Advanced cleanup.—

1255 (1) In addition to the legislative findings provided in s.  
1256 376.3071 ~~s. 376.30711~~, the Legislature finds and declares:

1257 (a) That the inability to conduct site rehabilitation in  
1258 advance of a site's priority ranking pursuant to s.  
1259 376.3071(5) (a) may substantially impede or prohibit property  
1260 transactions or the proper completion of public works projects.

1261 (b) While the first priority of the state is to provide for  
1262 protection of ~~the water resources of the state, human health,~~  
1263 ~~and the environment, and the public health, safety, and welfare,~~  
1264 the viability of commerce is of equal importance to the state.

1265 (c) It is in the public interest and of substantial  
1266 economic benefit to the state to provide an opportunity for site  
1267 rehabilitation to be conducted on a limited basis at  
1268 contaminated sites, in advance of the site's priority ranking,  
1269 to facilitate property transactions or public works projects.

1270 (d) It is appropriate for a person who is ~~persons~~  
1271 responsible for site rehabilitation to share the costs  
1272 associated with managing and conducting ~~preapproved~~ advanced  
1273 cleanup, to facilitate the opportunity for ~~preapproved~~ advanced  
1274 cleanup, and to mitigate the additional costs that will be



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1275 incurred by the state in conducting site rehabilitation in  
1276 advance of the site's priority ranking. Such cost sharing will  
1277 result in more contaminated sites being cleaned up and greater  
1278 environmental benefits to the state. ~~The provisions of This~~  
1279 ~~section is shall only be~~ only available for sites eligible for  
1280 restoration funding under EDI, ATRP, or PLRIP ~~PLIRP~~. This  
1281 section is available for discharges eligible for restoration  
1282 funding under the petroleum cleanup participation program for  
1283 the state's cost share of site rehabilitation. Applications must  
1284 ~~shall~~ include a cost-sharing commitment for this section in  
1285 addition to the 25-percent-copayment requirement of the  
1286 petroleum cleanup participation program. This section is not  
1287 available for any discharge under a petroleum cleanup  
1288 participation program where the 25-percent-copayment requirement  
1289 of the petroleum cleanup participation program has been reduced  
1290 or eliminated pursuant to s. 376.3071(13)(c).

1291 (2) The department may ~~is authorized to~~ approve an  
1292 application for ~~preapproved~~ advanced cleanup at eligible sites,  
1293 before ~~prior to~~ funding based on the site's priority ranking  
1294 established pursuant to s. 376.3071(5)(a), pursuant to ~~in~~  
1295 ~~accordance with the provisions of this section.~~ Only the  
1296 facility owner or operator or the person otherwise responsible  
1297 for site rehabilitation qualifies ~~Persons who qualify~~ as an  
1298 applicant under ~~the provisions of this section shall only~~  
1299 ~~include the facility owner or operator or the person otherwise~~  
1300 ~~responsible for site rehabilitation.~~

1301 (a) ~~Preapproved~~ Advanced cleanup applications may be  
1302 submitted between May 1 and June 30 and between November 1 and  
1303 December 31 of each fiscal year. Applications submitted between



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1304 May 1 and June 30 shall be for the fiscal year beginning July 1.  
1305 An application must ~~shall~~ consist of:

1306 1. A commitment to pay ~~no less than~~ 25 percent or more of  
1307 the total cleanup cost deemed recoverable under ~~the provisions~~  
1308 ~~of~~ this section along with proof of the ability to pay the cost  
1309 share. An applicant proposing that the department enter into a  
1310 performance-based contract for the cleanup of at least 20 sites  
1311 may use the following as its cost share commitment: a commitment  
1312 to pay; a demonstrated cost savings to the department; or any  
1313 combination of the two. For applications relying on a  
1314 demonstration of a cost savings, the applicant, in conjunction  
1315 with its proposed agency term contractor, shall establish and  
1316 provide in its application the percentage of cost savings, in  
1317 the aggregate, that is being provided to the department for  
1318 cleanup of the sites under its application compared to the cost  
1319 of cleanup of those same sites using the current rates provided  
1320 to the department by that proposed agency term contractor. The  
1321 department shall determine if the cost savings demonstration is  
1322 acceptable, and such determination is not subject to chapter  
1323 120.

1324 2. A nonrefundable review fee of \$250 to cover the  
1325 administrative costs associated with the department's review of  
1326 the application.

1327 3. A limited contamination assessment report.

1328 4. A proposed course of action.

1329

1330 The limited contamination assessment report must ~~shall~~ be  
1331 sufficient to support the proposed course of action and to  
1332 estimate the cost of the proposed course of action. ~~Any~~ Costs



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1333 incurred related to conducting the limited contamination  
1334 assessment report are not refundable from the Inland Protection  
1335 Trust Fund. Site eligibility under this subsection~~7~~, or any other  
1336 provision of this section is~~, shall~~ not constitute an  
1337 entitlement to ~~preapproved~~ advanced cleanup or continued  
1338 restoration funding. The applicant shall certify to the  
1339 department that the applicant has the prerequisite authority to  
1340 enter into an ~~a preapproved~~ advanced cleanup contract with the  
1341 department. The ~~This~~ certification must ~~shall~~ be submitted with  
1342 the application.

1343 (b) The department shall rank the applications based on the  
1344 percentage of cost-sharing commitment proposed by the applicant,  
1345 with the highest ranking given to the applicant who ~~that~~  
1346 proposes the highest percentage of cost sharing. If the  
1347 department receives applications that propose identical cost-  
1348 sharing commitments and that ~~which~~ exceed the funds available to  
1349 commit to all such proposals during the ~~preapproved~~ advanced  
1350 cleanup application period, the department shall proceed to  
1351 rerank those applicants. Those applicants submitting identical  
1352 cost-sharing proposals that ~~which~~ exceed funding availability  
1353 must ~~shall~~ be so notified by the department and ~~shall be~~ offered  
1354 the opportunity to raise their individual cost-share  
1355 commitments, in a period ~~of time~~ specified in the notice. At the  
1356 close of the period, the department shall proceed to rerank the  
1357 applications pursuant to ~~in accordance with~~ this paragraph.

1358 (3) (a) Based on the ranking established under paragraph  
1359 (2) (b) ~~and the funding limitations provided in subsection (4),~~  
1360 the department shall begin ~~commence~~ negotiation with such  
1361 applicants. If the department and the applicant agree on the



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1362 course of action, the department may enter into a contract with  
1363 the applicant. The department may ~~is authorized to~~ negotiate the  
1364 terms and conditions of the contract.

1365 (b) ~~Preapproved~~ Advanced cleanup must ~~shall~~ be conducted  
1366 pursuant to s. 376.3071(5) (b) and (6) and rules adopted under  
1367 ss. 287.0595 and 376.3071 ~~under the provisions of ss.~~  
1368 ~~376.3071(5) (b) and 376.30711.~~ If the terms of the ~~preapproved~~  
1369 advanced cleanup contract are not fulfilled, the applicant  
1370 forfeits any right to future payment for any site rehabilitation  
1371 work conducted under the contract.

1372 (c) The department's decision not to enter into an a  
1373 ~~preapproved~~ advanced cleanup contract with the applicant is  
1374 ~~shall~~ not be subject to ~~the provisions of~~ chapter 120. If the  
1375 department cannot ~~is not able to~~ complete negotiation of the  
1376 course of action and the terms of the contract within 60 days  
1377 after beginning ~~commencing~~ negotiations, the department shall  
1378 terminate negotiations with that applicant.

1379 (4) The department may ~~is authorized to~~ enter into  
1380 contracts for a total of up to \$15 million of ~~preapproved~~  
1381 advanced cleanup work in each fiscal year. However, a facility  
1382 or an applicant that bundles multiple sites as specified in  
1383 subparagraph (2) (a) 1. may not be approved ~~preapproved~~ for more  
1384 than \$5 million of cleanup activity in each fiscal year. For the  
1385 purposes of this section, the term "facility" includes ~~shall~~  
1386 ~~include~~, but is not ~~be~~ limited to, multiple site facilities such  
1387 as airports, port facilities, and terminal facilities even  
1388 though such enterprises may be treated as separate facilities  
1389 for other purposes under this chapter.

1390 (5) All funds collected by the department pursuant to this





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1391 section shall be deposited into the Inland Protection Trust Fund  
1392 to be used as provided in this section.

1393 Section 4. Subsections (4) and (30) of section 376.301,  
1394 Florida Statutes, are amended to read:

1395 376.301 Definitions of terms used in ss. 376.30-376.317,  
1396 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and  
1397 376.75, unless the context clearly requires otherwise, the term:

1398 ~~(4) "Backlog" means reimbursement obligations incurred~~  
1399 ~~pursuant to s. 376.3071(12), prior to March 29, 1995, or~~  
1400 ~~authorized for reimbursement under the provisions of s.~~

1401 ~~376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims~~  
1402 ~~within the backlog are subject to adjustment, where appropriate.~~

1403 ~~(30) "Person responsible for conducting site~~  
1404 ~~rehabilitation" means the site owner, operator, or the person~~  
1405 ~~designated by the site owner or operator on the reimbursement~~  
1406 ~~application. Mortgage holders and trust holders may be eligible~~  
1407 ~~to participate in the reimbursement program pursuant to s.~~  
1408 ~~376.3071(12).~~

1409 Section 5. Subsection (5) of section 376.302, Florida  
1410 Statutes, is amended to read:

1411 376.302 Prohibited acts; penalties.—

1412 (5) Any person who commits fraud in representing his or her  
1413 ~~their~~ qualifications as a contractor ~~for reimbursement~~ or in  
1414 submitting a payment invoice ~~reimbursement request~~ pursuant to  
1415 s. 376.3071 ~~s. 376.3071(12)~~ commits a felony of the third  
1416 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1417 775.084.

1418 Section 6. Subsection (6) of section 376.305, Florida  
1419 Statutes, is amended to read:



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1420 376.305 Removal of prohibited discharges.-

1421 (6) The Legislature created the Abandoned Tank Restoration  
1422 Program in response to the need to provide financial assistance  
1423 for cleanup of sites that have abandoned petroleum storage  
1424 systems. For purposes of this subsection, the term "abandoned  
1425 petroleum storage system" means a ~~shall mean any~~ petroleum  
1426 storage system that has not stored petroleum products for  
1427 consumption, use, or sale since March 1, 1990. The department  
1428 shall establish the Abandoned Tank Restoration Program to  
1429 facilitate the restoration of sites contaminated by abandoned  
1430 petroleum storage systems.

1431 (a) To be included in the program:

1432 1. An application must be submitted to the department by  
1433 June 30, 1996, certifying that the system has not stored  
1434 petroleum products for consumption, use, or sale at the facility  
1435 since March 1, 1990.

1436 2. The owner or operator of the petroleum storage system  
1437 when it was in service must have ceased conducting business  
1438 involving consumption, use, or sale of petroleum products at  
1439 that facility on or before March 1, 1990.

1440 3. The site is not otherwise eligible for the cleanup  
1441 programs pursuant to s. 376.3071 or s. 376.3072.

1442 (b) In order to be eligible for the program, petroleum  
1443 storage systems from which a discharge occurred must be closed  
1444 pursuant to ~~in accordance with~~ department rules before ~~prior to~~  
1445 an eligibility determination. However, if the department  
1446 determines that the owner of the facility cannot ~~is~~ financially  
1447 ~~unable to~~ comply with the department's petroleum storage system  
1448 closure requirements and all other eligibility requirements are



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1449 met, the petroleum storage system closure requirements shall be  
1450 waived. The department shall take into consideration the owner's  
1451 net worth and the economic impact on the owner in making the  
1452 determination of the owner's financial ability. The June 30,  
1453 1996, application deadline shall be waived for owners who cannot  
1454 ~~are~~ financially ~~unable to~~ comply.

1455 (c) Sites accepted in the program are ~~will be~~ eligible for  
1456 site rehabilitation funding as provided in s. 376.3071 ~~s.~~  
1457 ~~376.3071(12) or s. 376.30711, as appropriate.~~

1458 (d) The following sites are excluded from eligibility:

1459 1. Sites on property of the Federal Government;  
1460 2. Sites contaminated by pollutants that are not petroleum  
1461 products;

1462 3. Sites where the department has been denied site access;  
1463 or

1464 4. Sites which are owned by a ~~any~~ person who had knowledge  
1465 of the polluting condition when title was acquired unless the  
1466 ~~that~~ person acquired title to the site after issuance of a  
1467 notice of site eligibility by the department.

1468 (e) Participating sites are subject to a deductible as  
1469 determined by rule, not to exceed \$10,000.

1470  
1471 ~~The provisions of~~ This subsection does ~~de~~ not relieve a ~~any~~  
1472 person who has acquired title after ~~subsequent to~~ July 1, 1992,  
1473 from the duty to establish by a preponderance of the evidence  
1474 that he or she undertook, at the time of acquisition, all  
1475 appropriate inquiry into the previous ownership and use of the  
1476 property consistent with good commercial or customary practice  
1477 in an effort to minimize liability, as required by s.



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1478 376.308(1)(c).

1479 Section 7. Paragraph (a) of subsection (1) and subsections  
1480 (3), (4), and (9) of section 376.30714, Florida Statutes, are  
1481 amended to read:

1482 376.30714 Site rehabilitation agreements.—

1483 (1) In addition to the legislative findings provided in s.  
1484 376.3071, the Legislature finds and declares:

1485 (a) The provisions of s. 376.3071(5)(a) ~~ss. 376.3071(5)(a)~~  
1486 ~~and 376.30711~~ have delayed cleanup of low-priority sites  
1487 determined to be eligible for state funding under that section  
1488 and ss. 376.305, 376.3071, and 376.3072.

1489 (3) Free product attributable to a new discharge shall be  
1490 removed to the extent practicable and pursuant to ~~in accordance~~  
1491 ~~with~~ department rules adopted pursuant to s. 376.3071(5) at the  
1492 expense of the owner, operator, or other responsible party. Free  
1493 product attributable to existing contamination shall be removed  
1494 pursuant to ~~in accordance with~~ s. 376.3071(5) and (6), ~~or s.~~  
1495 ~~376.30711(1)(b)~~, and department rules adopted pursuant thereto.

1496 (4) Beginning January 1, 1999, the department may ~~is~~  
1497 ~~authorized to~~ negotiate and enter into site rehabilitation  
1498 agreements with applicants at sites with eligible existing  
1499 contamination at which a new discharge occurs. The site  
1500 rehabilitation agreement must ~~shall~~ include, but is not ~~be~~  
1501 limited to, allocation of the funding responsibilities of the  
1502 department and the applicant for cleanup of the qualified site,  
1503 establishment of a mechanism to guarantee the applicant's  
1504 commitment to pay its agreed amount of site rehabilitation as  
1505 set forth in the agreement, and establishment of the priority in  
1506 which cleanup of the qualified site will occur. Under ~~any~~ such a



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1507 negotiated site rehabilitation agreement, the applicant may not  
1508 ~~shall~~ be responsible for ~~no~~ more than the cleanup costs that are  
1509 attributable to the new discharge. However, the payment of ~~any~~  
1510 applicable deductibles, copayments, or other program eligibility  
1511 requirements under ss. 376.305, 376.3071, and 376.3072 shall  
1512 continue to apply to the existing contamination and must be  
1513 accounted for in the negotiated site rehabilitation agreement.  
1514 The department may ~~is further authorized~~, pursuant to this  
1515 section, ~~to preapprove or~~ conduct additional assessment  
1516 activities at the site.

1517 (9) Site rehabilitation conducted at qualified sites shall  
1518 be conducted pursuant to s. 376.3071(5)(b) and (6) ~~under the~~  
1519 ~~provisions of ss. 376.3071(5)(b) and 376.30711~~. If the terms of  
1520 the agreement are not fulfilled by the applicant, the applicant  
1521 forfeits the ~~any~~ right to continued funding for ~~any~~ site  
1522 rehabilitation work under the agreement and is ~~shall be~~ subject  
1523 to enforcement action by the department or local government to  
1524 compel cleanup of the new discharge.

1525 Section 8. Subsection (2) of section 376.3072, Florida  
1526 Statutes, is amended to read:

1527 376.3072 Florida Petroleum Liability and Restoration  
1528 Insurance Program.—

1529 (2) (a) An ~~Any~~ owner or operator of a petroleum storage  
1530 system may become an insured in the restoration insurance  
1531 program at a facility if ~~provided~~:

1532 1. A site at which an incident has occurred is ~~shall be~~  
1533 eligible for restoration if the insured is a participant in the  
1534 third-party liability insurance program or otherwise meets  
1535 applicable financial responsibility requirements. After July 1,



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1536 1993, the insured must also provide the required excess  
1537 insurance coverage or self-insurance for restoration to achieve  
1538 the financial responsibility requirements of 40 C.F.R. s.  
1539 280.97, subpart H, not covered by paragraph (d).

1540 2. A site ~~that which~~ had a discharge reported before ~~prior~~  
1541 ~~to~~ January 1, 1989, for which notice was given pursuant to s.  
1542 376.3071(10) ~~s. 376.3071(9) or (12)~~, and that which is  
1543 ineligible for the third-party liability insurance program  
1544 solely due to that discharge is ~~shall be~~ eligible for  
1545 participation in the restoration program for an ~~any~~ incident  
1546 occurring on or after January 1, 1989, pursuant to ~~in accordance~~  
1547 ~~with~~ subsection (3). Restoration funding for an eligible  
1548 contaminated site will be provided without participation in the  
1549 third-party liability insurance program until the site is  
1550 restored as required by the department or until the department  
1551 determines that the site does not require restoration.

1552 3. Notwithstanding paragraph (b), a site where an  
1553 application is filed with the department before ~~prior to~~ January  
1554 1, 1995, where the owner is a small business under s.  
1555 288.703(6), a state community college with less than 2,500 FTE,  
1556 a religious institution as defined by s. 212.08(7)(m), a  
1557 charitable institution as defined by s. 212.08(7)(p), or a  
1558 county or municipality with a population of less than 50,000, is  
1559 ~~shall be~~ eligible for up to \$400,000 of eligible restoration  
1560 costs, less a deductible of \$10,000 for small businesses,  
1561 eligible community colleges, and religious or charitable  
1562 institutions, and \$30,000 for eligible counties and  
1563 municipalities, if ~~provided that~~:

1564 a. Except as provided in sub-subparagraph e., the facility



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1565 was in compliance with department rules at the time of the  
1566 discharge.

1567       b. The owner or operator has, upon discovery of a  
1568 discharge, promptly reported the discharge to the department,  
1569 and drained and removed the system from service, if necessary.

1570       c. The owner or operator has not intentionally caused or  
1571 concealed a discharge or disabled leak detection equipment.

1572       d. The owner or operator proceeds to complete initial  
1573 remedial action as specified ~~defined~~ by department rules.

1574       e. The owner or operator, if required and if it has not  
1575 already done so, applies for third-party liability coverage for  
1576 the facility within 30 days after ~~of~~ receipt of an eligibility  
1577 order issued by the department pursuant to this subparagraph  
1578 ~~provision~~.

1579  
1580 However, the department may consider in-kind services from  
1581 eligible counties and municipalities in lieu of the \$30,000  
1582 deductible. The cost of conducting initial remedial action as  
1583 defined by department rules is ~~shall be~~ an eligible restoration  
1584 cost pursuant to this subparagraph ~~provision~~.

1585       4.a. By January 1, 1997, facilities at sites with existing  
1586 contamination must ~~shall be required to~~ have methods of release  
1587 detection to be eligible for restoration insurance coverage for  
1588 new discharges subject to department rules for secondary  
1589 containment. Annual storage system testing, in conjunction with  
1590 inventory control, shall be considered to be a method of release  
1591 detection until the later of December 22, 1998, or 10 years  
1592 after the date of installation or the last upgrade. Other  
1593 methods of release detection for storage tanks which meet such



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1594 requirement are:

1595 (I) Interstitial monitoring of tank and integral piping  
1596 secondary containment systems;

1597 (II) Automatic tank gauging systems; or

1598 (III) A statistical inventory reconciliation system with a  
1599 tank test every 3 years.

1600 b. For pressurized integral piping systems, the owner or  
1601 operator must use:

1602 (I) An automatic in-line leak detector with flow  
1603 restriction meeting the requirements of department rules used in  
1604 conjunction with an annual tightness or pressure test; or

1605 (II) An automatic in-line leak detector with electronic  
1606 flow shut-off meeting the requirements of department rules.

1607 c. For suction integral piping systems, the owner or  
1608 operator must use:

1609 (I) A single check valve installed directly below the  
1610 suction pump ~~if, provided~~ there are no other valves between the  
1611 dispenser and the tank; or

1612 (II) An annual tightness test or other approved test.

1613 d. Owners of facilities with existing contamination which  
1614 ~~that~~ install internal release detection systems pursuant to ~~in~~  
1615 ~~accordance with~~ sub-subparagraph a. shall permanently close  
1616 their external groundwater and vapor monitoring wells pursuant  
1617 to ~~in accordance with~~ department rules by December 31, 1998.  
1618 Upon installation of the internal release detection system, such  
1619 ~~these~~ wells must ~~shall~~ be secured and taken out of service until  
1620 permanent closure.

1621 e. Facilities with vapor levels of contamination meeting  
1622 the requirements of or below the concentrations specified in the





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1623 performance standards for release detection methods specified in  
1624 department rules may continue to use vapor monitoring wells for  
1625 release detection.

1626 f. The department may approve other methods of release  
1627 detection for storage tanks and integral piping which have at  
1628 least the same capability to detect a new release as the methods  
1629 specified in this subparagraph.

1630 (b)1. To be eligible to be certified as an insured  
1631 facility, for discharges reported after January 1, 1989, the  
1632 owner or operator must ~~shall~~ file an affidavit upon enrollment  
1633 in the program. The affidavit must ~~shall~~ state that the owner or  
1634 operator has read and is familiar with this chapter and the  
1635 rules relating to petroleum storage systems and petroleum  
1636 contamination site cleanup adopted pursuant to ss. 376.303 and  
1637 376.3071 and that the facility is in compliance with this  
1638 chapter and applicable rules adopted pursuant to s. 376.303.  
1639 Thereafter, the facility's annual inspection report shall serve  
1640 as evidence of the facility's compliance with department rules.  
1641 The facility's certificate as an insured facility may be revoked  
1642 only if the insured fails to correct a violation identified in  
1643 an inspection report before a discharge occurs. The facility's  
1644 certification may be restored when the violation is corrected as  
1645 verified by a reinspection.

1646 2. Except as provided in paragraph (a), to be eligible to  
1647 be certified as an insured facility, the applicant must  
1648 demonstrate to the department that the applicant has financial  
1649 responsibility for third-party claims and excess coverage, as  
1650 required by this section and 40 C.F.R. s. 280.97(h), l and that  
1651 the applicant maintains such insurance during the applicant's



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1652 participation as an insured facility.

1653           3. Should a reinspection of the facility be necessary to  
1654 demonstrate compliance, the insured shall pay an inspection fee  
1655 not to exceed \$500 per facility to be deposited in the Inland  
1656 Protection Trust Fund.

1657           4. Upon report of a discharge, the department shall issue  
1658 an order stating that the site is eligible for restoration  
1659 coverage unless the insured has intentionally caused or  
1660 concealed a discharge or disabled leak detection equipment, has  
1661 misrepresented facts in the affidavit filed pursuant to  
1662 subparagraph 1., or cannot demonstrate that he or she has  
1663 obtained and maintained the financial responsibility for third-  
1664 party claims and excess coverage as required in subparagraph 2.

1665  
1666 This paragraph does not ~~Nothing contained herein shall~~ prevent  
1667 the department from assessing civil penalties for noncompliance  
1668 pursuant to this subsection ~~as provided herein.~~

1669           (c) A lender that has loaned money to a participant in the  
1670 Florida Petroleum Liability and Restoration Insurance Program  
1671 and has held a mortgage lien, security interest, or ~~any~~ lien  
1672 rights on the site primarily to protect the lender's right to  
1673 convert or liquidate the collateral in satisfaction of the debt  
1674 secured, or a financial institution that ~~which~~ serves as a  
1675 trustee for an insured in the program for the purpose of site  
1676 rehabilitation, is ~~shall be~~ eligible for a state-funded cleanup  
1677 of the site, if the lender forecloses the lien or accepts a deed  
1678 in lieu of foreclosure on that property and acquires title, and  
1679 as long as the following has occurred, as applicable:

1680           1. The owner or operator provided the lender with proof



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1681 that the facility is eligible for the restoration insurance  
1682 program at the time of the loan or before the discharge  
1683 occurred.

1684 2. The financial institution or lender ~~completes site~~  
1685 ~~rehabilitation and seeks reimbursement pursuant to s.~~  
1686 ~~376.3071(12) or~~ conducts ~~preapproved~~ site rehabilitation  
1687 pursuant to s. 376.3071 ~~s. 376.30711, as appropriate.~~

1688 3. The financial institution or lender did not engage in  
1689 management activities at the site before ~~prior to~~ foreclosure  
1690 and does not operate the site or otherwise engage in management  
1691 activities after foreclosure, except to comply with  
1692 environmental statutes or rules or to prevent, abate, or  
1693 remediate a discharge.

1694 (d)1. With respect to eligible incidents reported to the  
1695 department before ~~prior to~~ July 1, 1992, the restoration  
1696 insurance program shall provide up to \$1.2 million of  
1697 restoration for each incident and shall have an annual aggregate  
1698 limit of \$2 million of restoration per facility.

1699 2. For any site at which a discharge is reported on or  
1700 after July 1, 1992, and for which restoration coverage is  
1701 requested, the department shall pay for restoration in  
1702 accordance with the following schedule:

1703 a. For discharges reported to the department from July 1,  
1704 1992, to June 30, 1993, the department shall pay up to \$1.2  
1705 million of eligible restoration costs, less a \$1,000 deductible  
1706 per incident.

1707 b. For discharges reported to the department from July 1,  
1708 1993, to December 31, 1993, the department shall pay up to \$1.2  
1709 million of eligible restoration costs, less a \$5,000 deductible



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1710 per incident. However, if, before ~~prior~~ to the date the  
1711 discharge is reported and by September 1, 1993, the owner or  
1712 operator can demonstrate financial responsibility in effect in  
1713 accordance with 40 C.F.R. s. 280.97, subpart H, for coverage  
1714 under sub-subparagraph c., the deductible will be \$500. The \$500  
1715 deductible shall apply for a period of 1 year from the effective  
1716 date of a policy or other form of financial responsibility  
1717 obtained and in effect by September 1, 1993.

1718 c. For discharges reported to the department from January  
1719 1, 1994, to December 31, 1996, the department shall pay up to  
1720 \$400,000 of eligible restoration costs, less a deductible of  
1721 \$10,000.

1722 d. For discharges reported to the department from January  
1723 1, 1997, to December 31, 1998, the department shall pay up to  
1724 \$300,000 of eligible restoration costs, less a deductible of  
1725 \$10,000.

1726 e. Beginning January 1, 1999, ~~no~~ restoration coverage may  
1727 not shall be provided.

1728 f. In addition, a supplemental deductible shall be added as  
1729 follows:

1730 (I) A supplemental deductible of \$5,000 if the owner or  
1731 operator fails to report a suspected release within 1 working  
1732 day after discovery.

1733 (II) A supplemental deductible of \$10,000 if the owner or  
1734 operator, within 3 days after discovery of an actual new  
1735 discharge, fails to take steps to test or empty the storage  
1736 system and complete such activity within 7 days.

1737 (III) A supplemental deductible of \$25,000 if the owner or  
1738 operator, after testing or emptying the storage system, fails to



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1739 proceed within 24 hours thereafter to abate the known source of  
1740 the discharge or to begin free product removal relating to an  
1741 actual new discharge and fails to complete abatement within 72  
1742 hours, although free product recovery may be ongoing.

1743 (e) The following are not eligible to participate in the  
1744 Petroleum Liability and Restoration Insurance Program:

1745 1. Sites owned or operated by the Federal Government during  
1746 the time the facility was in operation.

1747 2. Sites where the owner or operator has denied the  
1748 department reasonable site access.

1749 3. Any third-party claims relating to damages caused by  
1750 discharges discovered before ~~prior to~~ January 1, 1989.

1751 4. Any incidents discovered before ~~prior to~~ January 1,  
1752 1989, ~~are not eligible to participate in the restoration~~  
1753 ~~insurance program~~. However, this exclusion does ~~shall~~ not ~~be~~  
1754 ~~construed to~~ prevent a new incident at the same location from  
1755 participation in the restoration insurance program if the owner  
1756 or operator is otherwise eligible. This exclusion does ~~shall~~ not  
1757 affect eligibility for participation in the Early Detection  
1758 Incentive ~~EDI~~ Program.

1759  
1760 Sites meeting the criteria of this subsection for which a site  
1761 rehabilitation completion order was issued before ~~prior to~~ June  
1762 1, 2008, do not qualify for the 2008 increase in site  
1763 rehabilitation funding assistance and are bound by the pre-June  
1764 1, 2008, limits. Sites meeting the criteria of this subsection  
1765 for which a site rehabilitation completion order was not issued  
1766 before ~~prior to~~ June 1, 2008, regardless of whether ~~or not~~ they  
1767 have previously transitioned to nonstate-funded cleanup status,



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1768 may continue state-funded cleanup pursuant to s. 376.3071(6) ~~s.~~  
1769 ~~376.30711~~ until a site rehabilitation completion order is issued  
1770 or the increased site rehabilitation funding assistance limit is  
1771 reached, whichever occurs first. ~~At no time shall expenses~~  
1772 ~~incurred outside the preapproved site rehabilitation program~~  
1773 ~~under s. 376.30711 be reimbursable.~~

1774 Section 9. Subsections (1) and (4) of section 376.3073,  
1775 Florida Statutes, are amended to read:

1776 376.3073 Local programs and state agency programs for  
1777 control of contamination.—

1778 (1) The department shall, to the greatest extent possible  
1779 and cost-effective, contract with local governments to provide  
1780 for the administration of its departmental responsibilities  
1781 under ss. 376.305, 376.3071(4)(a)-(e), (h), (k), and (m) and (6)  
1782 ~~(l), (n), 376.30711~~, 376.3072, and 376.3077 through locally  
1783 administered programs. The department may also contract with  
1784 state agencies to carry out the restoration activities  
1785 authorized pursuant to ss. 376.305, 376.3071, and 376.3072,  
1786 ~~376.305, and 376.30711~~. However, ~~no~~ such a contract may not  
1787 ~~shall~~ be entered into unless the local government or state  
1788 agency is deemed capable of carrying out such responsibilities  
1789 to the department's satisfaction.

1790 (4) Under no circumstances shall the cleanup criteria  
1791 employed in locally administered programs or state agency  
1792 programs or pursuant to local ordinance be more stringent than  
1793 the criteria established by the department pursuant to s.  
1794 376.3071(5) or (6) ~~s. 376.30711~~.

1795 Section 10. Subsections (4) and (5) of section 376.3075,  
1796 Florida Statutes, are amended to read:



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1797           376.3075 Inland Protection Financing Corporation.—  
1798           (4) The corporation may enter into one or more service  
1799 contracts with the department to provide services to the  
1800 department in connection with financing the functions and  
1801 activities provided in ss. 376.30-376.317. The department may  
1802 enter into one or more such service contracts with the  
1803 corporation and provide for payments under such contracts  
1804 pursuant to s. 376.3071(4)(n) ~~s. 376.3071(4)(e)~~, subject to  
1805 annual appropriation by the Legislature. The proceeds from such  
1806 service contracts may be used for the corporation's  
1807 administrative costs and expenses after payments as set forth in  
1808 subsection (5). Each service contract may have a term of up to  
1809 20 years. Amounts annually appropriated and applied to make  
1810 payments under such service contracts may not include any funds  
1811 derived from penalties or other payments received from any  
1812 property owner or private party, including payments received  
1813 under s. 376.3071(7)(b) ~~s. 376.3071(6)(b)~~. In compliance with s.  
1814 287.0641 and other applicable provisions of law, the obligations  
1815 of the department under such service contracts do not constitute  
1816 a general obligation of the state or a pledge of the faith and  
1817 credit or taxing power of the state, and ~~nor may~~ such  
1818 obligations are not obligations ~~be construed in any manner as an~~  
1819 ~~obligation~~ of the State Board of Administration or entities for  
1820 which it invests funds, other than the department as provided in  
1821 this section, but are payable solely from amounts available in  
1822 the Inland Protection Trust Fund, subject to annual  
1823 appropriation. In compliance with this subsection and s.  
1824 287.0582, the service contract must expressly include the  
1825 following statement: "The State of Florida's performance and



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1826 obligation to pay under this contract is contingent upon an  
1827 annual appropriation by the Legislature.”

1828 (5) The corporation may issue and incur notes, bonds,  
1829 certificates of indebtedness, or other obligations or evidences  
1830 of indebtedness payable from and secured by amounts payable to  
1831 the corporation by the department under a service contract  
1832 entered into pursuant to subsection (4) for the purpose of  
1833 financing the rehabilitation of petroleum contamination sites  
1834 pursuant to ss. 376.30-376.317. The term of any such note, bond,  
1835 certificate of indebtedness, or other obligation or evidence of  
1836 indebtedness may not have a financing term that exceeds 15  
1837 years. The corporation may select its financing team and issue  
1838 its obligations through competitive bidding or negotiated  
1839 contracts, whichever is most cost-effective. ~~Any~~ Indebtedness of  
1840 the corporation does not constitute a debt or obligation of the  
1841 state or a pledge of the faith and credit or taxing power of the  
1842 state, but is payable from and secured by payments made by the  
1843 department under the service contract pursuant to s.  
1844 376.3071(4)(n) ~~s. 376.3071(4)(e)~~.

1845 Section 11. This act shall take effect July 1, 2014.