



780720

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/20/2014	.	
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The Committee on Environmental Preservation and Conservation (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

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

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



780720

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

14 (b) That spills, leaks, and other discharges from such
15 storage systems have occurred, are occurring, and will continue
16 to occur and that such discharges pose a significant threat to
17 the quality of the groundwaters and inland surface waters of
18 this state.

19 (c) That, where contamination of the ground or surface
20 water has occurred, remedial measures have often been delayed
21 for long periods while determinations as to liability and the
22 extent of liability are made and that such delays result in the
23 continuation and intensification of the threat to the public
24 health, safety, and welfare; in greater damage to water
25 resources and the environment; and in significantly higher costs
26 to contain and remove the contamination.

27 (d) That adequate financial resources must be readily
28 available to provide for the expeditious supply of safe and
29 reliable alternative sources of potable water to affected
30 persons and to provide a means for investigation and cleanup of
31 contamination sites without delay.

32 (e) That it is necessary to fulfill the intent and purposes
33 of ss. 376.30-376.317, and ~~further it is hereby~~ determined to be
34 in the best interest of, and necessary for the protection of the
35 public health, safety, and ~~general~~ welfare of the residents of
36 this state, and therefore a paramount public purpose, to provide
37 for the creation of a nonprofit public benefit corporation as an
38 instrumentality of the state to assist in financing the
39 functions provided in ss. 376.30-376.317 and to authorize the



780720

40 department to enter into one or more service contracts with such
41 corporation for the purpose ~~provision~~ of financing services
42 related to such functions and to make payments thereunder from
43 the amount on deposit in the Inland Protection Trust Fund,
44 subject to annual appropriation by the Legislature.

45 (f) That to achieve the purposes established in paragraph
46 (e) and in order to facilitate the expeditious handling and
47 rehabilitation of contamination sites and remedial measures with
48 respect to contamination sites ~~provided hereby~~ without delay, it
49 is in the best interests of the residents of this state to
50 authorize such corporation to issue evidences of indebtedness
51 payable from amounts paid by the department under any such
52 service contract entered into between the department and such
53 corporation.

54 (g) That the Petroleum Restoration Program must be
55 implemented in a manner that reduces costs and improves the
56 efficiency of rehabilitation activities to reduce the
57 significant backlog of contaminated sites eligible for state-
58 funded rehabilitation and the corresponding threat to water
59 resources, the environment, and the public health, safety, and
60 welfare.

61 (2) INTENT AND PURPOSE.—

62 (a) It is the intent of the Legislature to establish the
63 Inland Protection Trust Fund to serve as a repository for funds
64 which will enable the department to respond without delay to
65 incidents of inland contamination related to the storage of
66 petroleum and petroleum products in order to protect the public
67 health, safety, and welfare and to minimize environmental
68 damage.



780720

69 (b) It is the intent of the Legislature that the department
70 implement rules and procedures to improve the efficiency of the
71 Petroleum Restoration Program. The department is directed to
72 implement rules and policies to eliminate and reduce duplication
73 of site rehabilitation efforts, paperwork, and documentation,
74 and micromanagement of site rehabilitation tasks.

75 (c) It is the intent of the Legislature that rehabilitation
76 of contamination sites be conducted with emphasis on first
77 addressing the sites that pose the greatest threat to water
78 resources, the environment, and the public health, safety, and
79 welfare, within the availability of funds in the Inland
80 Protection Trust Fund.

81 (d) ~~(e)~~ The department is directed to adopt and implement
82 uniform and standardized forms for ~~the requests for preapproval~~
83 site rehabilitation work and for the submittal of reports to
84 ensure that information is submitted to the department in a
85 concise, standardized uniform format seeking only information
86 that is necessary.

87 (e) ~~(d)~~ The department is directed to implement computerized
88 and electronic filing capabilities of ~~preapproval requests and~~
89 submittal of reports in order to expedite submittal of the
90 information and elimination of delay in paperwork. ~~The~~
91 ~~computerized, electronic filing system shall be implemented no~~
92 ~~later than January 1, 1997.~~

93 ~~(e) The department is directed to adopt uniform scopes of~~
94 ~~work with templated labor and equipment costs to provide~~
95 ~~definitive guidance as to the type of work and authorized~~
96 ~~expenditures that will be allowed for preapproved site~~
97 ~~rehabilitation tasks.~~



780720

98 (f) The department is directed to establish guidelines for
99 consideration and acceptance of new and innovative technologies
100 for site rehabilitation work.

101 (3) CREATION.—There is hereby created the Inland Protection
102 Trust Fund, hereinafter referred to as the “fund,” to be
103 administered by the department. This fund shall be used by the
104 department as a nonlapsing revolving fund for carrying out the
105 purposes of this section and s. 376.3073. To this fund shall be
106 credited all penalties, judgments, recoveries, reimbursements,
107 loans, and other fees and charges related to the implementation
108 of this section and s. 376.3073 and the excise tax revenues
109 levied, collected, and credited pursuant to ss. 206.9935(3) and
110 206.9945(1)(c). Charges against the fund shall be made pursuant
111 to ~~in accordance with the provisions of~~ this section.

112 (4) USES.—Whenever, in its determination, incidents of
113 inland contamination related to the storage of petroleum or
114 petroleum products may pose a threat to water resources, the
115 environment, or the public health, safety, or welfare, the
116 department shall obligate moneys available in the fund to
117 provide for:

118 (a) Prompt investigation and assessment of contamination
119 sites.

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

122 (c) Rehabilitation of contamination sites, which shall
123 consist of cleanup of affected soil, groundwater, and inland
124 surface waters, using the most cost-effective alternative that
125 is technologically feasible and reliable, ~~and~~ that provides
126 adequate protection of water resources and the public health,



780720

127 safety, and welfare, and that minimizes environmental damage,
128 pursuant to ~~in accordance with~~ the site selection and cleanup
129 criteria established by the department under subsection (5),
130 except that this paragraph does not ~~nothing herein shall be~~
131 ~~construed to~~ authorize the department to obligate funds for
132 payment of costs that ~~which~~ may be associated with, but are not
133 integral to, site rehabilitation, such as the cost for
134 retrofitting or replacing petroleum storage systems.

135 (d) Maintenance and monitoring of contamination sites.

136 (e) Inspection and supervision of activities described in
137 this subsection.

138 (f) Payment of expenses incurred by the department in its
139 efforts to obtain from responsible parties the payment or
140 recovery of reasonable costs resulting from the activities
141 described in this subsection.

142 (g) Payment of any other reasonable costs of
143 administration, including those administrative costs incurred by
144 the Department of Health in providing field and laboratory
145 services, toxicological risk assessment, and other assistance to
146 the department in the investigation of drinking water
147 contamination complaints and costs associated with public
148 information and education activities.

149 (h) Establishment and implementation of the compliance
150 verification program as authorized in s. 376.303(1)(a),
151 including contracting with local governments or state agencies
152 to provide for the administration of such program through
153 locally administered programs, to minimize the potential for
154 further contamination sites.

155 (i) Funding of the provisions of ss. 376.305(6) and



780720

156 376.3072.

157 (j) Activities related to removal and replacement of
158 petroleum storage systems, exclusive of costs of any tank,
159 piping, dispensing unit, or related hardware, if soil removal is
160 approved ~~preapproved~~ as a component of site rehabilitation and
161 requires removal of the tank where remediation is conducted
162 under this section ~~s. 376.30711~~ or if such activities were
163 justified in an approved remedial action plan ~~performed pursuant~~
164 ~~to subsection (12)~~.

165 ~~(k) Activities related to reimbursement application~~
166 ~~preparation and activities related to reimbursement application~~
167 ~~examination by a certified public accountant pursuant to~~
168 ~~subsection (12)~~.

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

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

174 ~~(m)(n)~~ Expenditure of sums from the fund to cover
175 ineligible sites or costs as set forth in subsection (13), if
176 the department in its discretion deems it necessary to do so. In
177 such cases, the department may seek recovery and reimbursement
178 of costs in the same manner and pursuant to ~~in accordance with~~
179 the same procedures ~~as are~~ established for recovery and
180 reimbursement of sums otherwise owed to or expended from the
181 fund.

182 ~~(n)(o)~~ Payment of amounts payable under any service
183 contract entered into by the department pursuant to s. 376.3075,
184 subject to annual appropriation by the Legislature.



780720

185 (o) ~~(p)~~ Petroleum remediation pursuant to this section ~~s.~~
186 ~~376.30711~~ throughout a state fiscal year. The department shall
187 establish a process to uniformly encumber appropriated funds
188 throughout a state fiscal year and shall allow for emergencies
189 and imminent threats to water resources, ~~human health and the~~
190 ~~environment~~, and the public health, safety, and welfare, as
191 provided in paragraph (5) (a). This paragraph does not apply to
192 appropriations associated with the free product recovery
193 initiative provided in ~~of~~ paragraph (5) (c) or the ~~preapproved~~
194 advanced cleanup program provided in ~~of~~ s. 376.30713.

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

198
199 The Inland Protection Trust Fund may only be used to fund the
200 activities in ss. 376.30-376.317 except ss. 376.3078 and
201 376.3079. Amounts on deposit in the ~~Inland Protection Trust~~ fund
202 in each fiscal year shall first be applied or allocated for the
203 payment of amounts payable by the department pursuant to
204 paragraph (n) ~~(o)~~ under a service contract entered into by the
205 department pursuant to s. 376.3075 and appropriated in each year
206 by the Legislature before ~~prior to~~ making or providing for other
207 disbursements from the fund. ~~Nothing in~~ This subsection does not
208 ~~shall~~ authorize the use of the ~~Inland Protection Trust~~ fund for
209 cleanup of contamination caused primarily by a discharge of
210 solvents as defined in s. 206.9925(6), or polychlorinated
211 biphenyls when their presence causes them to be hazardous
212 wastes, except solvent contamination which is the result of
213 chemical or physical breakdown of petroleum products and is



780720

214 otherwise eligible. Facilities used primarily for the storage of
215 motor or diesel fuels as defined in ss. 206.01 and 206.86 are
216 ~~shall be presumed not to be~~ excluded from eligibility pursuant
217 to this section.

218 (5) SITE SELECTION AND CLEANUP CRITERIA.—

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

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

225 2. The size of the population or area affected by the
226 contamination;

227 3. The present and future uses of the affected aquifer or
228 surface waters, with particular consideration as to the
229 probability that the contamination is substantially affecting,
230 or will migrate to and substantially affect, a known public or
231 private source of potable water; and

232 4. The effect of the contamination on water resources and
233 the environment.

234
235 Moneys in the fund shall then be obligated for activities
236 described in paragraphs (4) (a)-(e) at individual sites pursuant
237 to ~~in accordance with~~ such established criteria. However,
238 ~~nothing in this paragraph does not shall be construed to~~
239 restrict the department from modifying the priority status of a
240 rehabilitation site where conditions warrant, taking into
241 consideration the actual distance between the contamination site
242 and groundwater or surface water receptors or other factors that



780720

243 affect the risk of exposure to petroleum products' chemicals of
244 concern. The department may use the effective date of a
245 department final order granting eligibility pursuant to
246 subsections (10) ~~(9)~~ and (13) and ss. 376.305(6) and 376.3072 to
247 establish a prioritization system within a particular priority
248 scoring range.

249 (b) It is the intent of the Legislature to protect the
250 health of all people under actual circumstances of exposure. The
251 secretary shall establish criteria by rule for the purpose of
252 determining, on a site-specific basis, the rehabilitation
253 program tasks that comprise a site rehabilitation program and
254 the level at which a rehabilitation program task and a site
255 rehabilitation program are ~~may be deemed~~ completed. In
256 establishing the rule, the department shall incorporate, to the
257 maximum extent feasible, risk-based corrective action principles
258 to achieve protection of water resources, ~~human health and~~
259 ~~safety and~~ the environment, and the public health, safety, and
260 welfare in a cost-effective manner as provided in this
261 subsection. Criteria for determining what constitutes a
262 rehabilitation program task or completion of site rehabilitation
263 program tasks and site rehabilitation programs shall be based
264 upon the factors set forth in paragraph (a) and the following
265 additional factors:

266 1. The current exposure and potential risk of exposure to
267 humans and the environment including multiple pathways of
268 exposure.

269 2. The appropriate point of compliance with cleanup target
270 levels for petroleum products' chemicals of concern. The point
271 of compliance shall be at the source of the petroleum



780720

272 contamination. However, the department may ~~is authorized to~~
273 temporarily move the point of compliance to the boundary of the
274 property, or to the edge of the plume when the plume is within
275 the property boundary, while cleanup, including cleanup through
276 natural attenuation processes in conjunction with appropriate
277 monitoring, is proceeding. The department may also ~~is~~
278 ~~authorized,~~ pursuant to criteria provided for in this paragraph,
279 ~~to~~ temporarily extend the point of compliance beyond the
280 property boundary with appropriate monitoring, if such extension
281 is needed to facilitate natural attenuation or to address the
282 current conditions of the plume and if water resources, provided
283 ~~human health, public safety, and the environment, and the public~~
284 health, safety, and welfare are adequately protected. Temporary
285 extension of the point of compliance beyond the property
286 boundary, as provided in this subparagraph, must ~~shall~~ include
287 notice to local governments and owners of any property into
288 which the point of compliance is allowed to extend.

289 3. The appropriate site-specific cleanup goal. The site-
290 specific cleanup goal shall be that all petroleum contamination
291 sites ultimately achieve the applicable cleanup target levels
292 provided in this paragraph. However, the department may ~~is~~
293 ~~authorized to~~ allow concentrations of the petroleum products'
294 chemicals of concern to temporarily exceed the applicable
295 cleanup target levels while cleanup, including cleanup through
296 natural attenuation processes in conjunction with appropriate
297 monitoring, is proceeding, if water resources provided human
298 ~~health, public safety, and the environment, and the public~~
299 health, welfare, and safety are adequately protected.

300 4. The appropriateness of using institutional or



780720

301 engineering controls. Site rehabilitation programs may include
302 the use of institutional or engineering controls to eliminate
303 the potential exposure to petroleum products' chemicals of
304 concern to humans or the environment. Use of such controls must
305 have prior department approval ~~be preapproved by the department,~~
306 and may institutional controls ~~shall~~ not be acquired with moneys
307 ~~funds~~ from the ~~Inland Protection Trust~~ fund. When institutional
308 or engineering controls are implemented to control exposure, the
309 removal of such controls must have prior department approval and
310 must be accompanied immediately by the resumption of active
311 cleanup, ~~or other approved controls,~~ unless cleanup target
312 levels pursuant to this paragraph have been achieved.

313 5. The additive effects of the petroleum products'
314 chemicals of concern. The synergistic effects of petroleum
315 products' chemicals of concern must ~~shall~~ also be considered
316 when the scientific data becomes available.

317 6. Individual site characteristics that must ~~which shall~~
318 include, but not be limited to, the current and projected use of
319 the affected groundwater in the vicinity of the site, current
320 and projected land uses of the area affected by the
321 contamination, the exposed population, the degree and extent of
322 contamination, the rate of contaminant migration, the apparent
323 or potential rate of contaminant degradation through natural
324 attenuation processes, the location of the plume, and the
325 potential for further migration in relation to site property
326 boundaries.

327 7. Applicable state water quality standards.

328 a. Cleanup target levels for petroleum products' chemicals
329 of concern found in groundwater shall be the applicable state



780720

330 water quality standards. Where such standards do not exist, the
331 cleanup target levels for groundwater shall be based on the
332 minimum criteria specified in department rule. The department
333 shall consider the following, as appropriate, in establishing
334 the applicable minimum criteria: calculations using a lifetime
335 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
336 best achievable detection limit; the naturally occurring
337 background concentration; or nuisance, organoleptic, and
338 aesthetic considerations.

339 b. Where surface waters are exposed to petroleum
340 contaminated groundwater, the cleanup target levels for the
341 petroleum products' chemicals of concern shall be based on the
342 surface water standards as established by department rule. The
343 point of measuring compliance with the surface water standards
344 shall be in the groundwater immediately adjacent to the surface
345 water body.

346 8. Whether deviation from state water quality standards or
347 from established criteria is appropriate. The department may
348 issue a "No Further Action Order" based upon the degree to which
349 the desired cleanup target level is achievable and can be
350 reasonably and cost-effectively implemented within available
351 technologies or engineering and institutional control
352 strategies. Where a state water quality standard is applicable,
353 a deviation may not result in the application of cleanup target
354 levels more stringent than the said standard. In determining
355 whether it is appropriate to establish alternate cleanup target
356 levels at a site, the department may consider the effectiveness
357 of source removal that has been completed at the site and the
358 practical likelihood of: the use of low yield or poor quality



780720

359 groundwater; the use of groundwater near marine surface water
360 bodies; the current and projected use of the affected
361 groundwater in the vicinity of the site; or the use of
362 groundwater in the immediate vicinity of the storage tank area,
363 where it has been demonstrated that the groundwater
364 contamination is not migrating away from such localized source,
365 if water resources; provided human health, public safety, and
366 the environment, and the public health, safety, and welfare are
367 adequately protected.

368 9. Appropriate cleanup target levels for soils.

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

376 b. Leachability-based soil target levels shall be based on
377 protection of the groundwater cleanup target levels or the
378 alternate cleanup target levels for groundwater established
379 pursuant to this paragraph, as appropriate. Source removal and
380 other cost-effective alternatives that are technologically
381 feasible shall be considered in achieving the leachability soil
382 target levels established by the department. The leachability
383 goals do not apply ~~shall not be applicable~~ if the department
384 determines, based upon individual site characteristics, that
385 petroleum products' chemicals of concern will not leach into the
386 groundwater at levels which pose a threat to water resources,
387 ~~human health and safety or the environment, or the public~~



780720

388 health, safety, or welfare.

389

390 ~~However, nothing in~~ This paragraph does not ~~shall be construed~~
391 ~~to~~ restrict the department from temporarily postponing
392 completion of any site rehabilitation program for which funds
393 are being expended whenever such postponement is ~~deemed~~
394 necessary in order to make funds available for rehabilitation of
395 a contamination site with a higher priority status.

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

399 1. Funding for free product recovery may be provided in
400 advance of the order established by the priority ranking system
401 under paragraph (a) for site cleanup activities. However, a
402 separate prioritization for free product recovery shall be
403 established consistent with paragraph (a). No more than \$5
404 million shall be encumbered from the ~~Inland Protection Trust~~
405 fund in any fiscal year for free product recovery conducted in
406 advance of the priority order under paragraph (a) established
407 for site cleanup activities.

408 2. Once free product removal and other source removal
409 identified in this paragraph are completed at a site, and
410 notwithstanding the order established by the priority ranking
411 system under paragraph (a) for site cleanup activities, the
412 department may reevaluate the site to determine the degree of
413 active cleanup needed to continue site rehabilitation. Further,
414 the department shall determine whether ~~if~~ the reevaluated site
415 qualifies for natural attenuation monitoring, long-term natural
416 attenuation monitoring, or no further action. If additional site



780720

417 rehabilitation is necessary to reach no further action status,
418 the site rehabilitation shall be conducted in the order
419 established by the priority ranking system under paragraph (a).
420 The department shall use ~~utilize~~ natural attenuation monitoring
421 strategies and, when cost-effective, transition sites eligible
422 for restoration funding assistance to long-term natural
423 attenuation monitoring where the plume is shrinking or stable
424 and confined to the source property boundaries and the petroleum
425 products' chemicals of concern meet the natural attenuation
426 default concentrations, as defined by department rule. If the
427 plume migrates beyond the source property boundaries, natural
428 attenuation monitoring may be conducted pursuant to ~~in~~
429 ~~accordance with~~ department rule, or if the site no longer
430 qualifies for natural attenuation monitoring, active remediation
431 may be resumed. For long-term natural attenuation monitoring, if
432 the petroleum products' chemicals of concern increase or are not
433 significantly reduced after 42 months of monitoring, or if the
434 plume migrates beyond the property boundaries, active
435 remediation shall be resumed as necessary. For sites undergoing
436 active remediation, the department shall evaluate ~~template~~ the
437 cost of natural attenuation monitoring pursuant to s. 376.30711
438 to ensure that site mobilizations are performed in a cost-
439 effective manner. Sites that are not eligible for state
440 restoration funding may transition to long-term natural
441 attenuation monitoring using the criteria in this subparagraph.
442 ~~Nothing in~~ This subparagraph does not preclude ~~precludes~~ a site
443 from pursuing a "No Further Action" order with conditions.

444 3. The department shall evaluate whether higher natural
445 attenuation default concentrations for natural attenuation



780720

446 monitoring or long-term natural attenuation monitoring are cost-
447 effective and would adequately protect water resources, public
448 ~~health and the environment,~~ and the public health, safety, and
449 welfare. The department shall also evaluate site-specific
450 characteristics that would allow for higher natural attenuation
451 or long-term natural attenuation concentration levels.

452 4. A local government may not deny a building permit based
453 solely on the presence of petroleum contamination for any
454 construction, repairs, or renovations performed in conjunction
455 with tank upgrade activities to an existing retail fuel facility
456 if the facility was fully operational before the building permit
457 was requested and if the construction, repair, or renovation is
458 performed by a licensed contractor. All building permits and any
459 construction, repairs, or renovations performed in conjunction
460 with such permits must comply with the applicable provisions of
461 chapters 489 and 553.

462 (6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

463 (a) Site rehabilitation work on sites that are eligible for
464 state-funded cleanup from the fund pursuant to this section and
465 ss. 376.305(6), 376.3072, and 376.3073 may be funded only
466 pursuant to this section. A facility operator shall abate the
467 source of discharge for a new release that occurred after March
468 29, 1995. If free product is present, the operator shall notify
469 the department, and the department may direct the removal of the
470 free product. The department shall grant approval to continue
471 site rehabilitation pursuant to this section.

472 (b) When contracting for site rehabilitation activities
473 performed under the Petroleum Restoration Program, the
474 department shall comply with competitive procurement



780720

475 requirements provided in chapter 287 or rules adopted under this
476 section or s. 287.0595. A competitive solicitation issued
477 pursuant to this section is not subject to s. 287.055, s.
478 287.057(17)(c), or s. 287.057(22).

479 (c) Each contractor performing site assessment and
480 remediation activities for state-funded sites under this section
481 shall certify to the department that the contractor meets all
482 certification and license requirements imposed by law. Each
483 contractor shall certify to the department that the contractor
484 meets the following minimum qualifications:

485 1. Complies with applicable Occupational Safety and Health
486 Administration regulations.

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

489 3. Maintains comprehensive general liability and
490 comprehensive automobile liability insurance with minimum limits
491 of at least \$1 million per occurrence and \$1 million annual
492 aggregate to pay claims for damage for personal injury,
493 including accidental death, as well as claims for property
494 damage that may arise from performance of work under the
495 program, which insurance designates the state as an additional
496 insured party.

497 4. Maintains professional liability insurance of at least
498 \$1 million per occurrence and \$1 million annual aggregate.

499 5. Has the capacity to perform or directly supervise the
500 majority of the rehabilitation work at a site pursuant to s.
501 489.113(9).

502 (d) The department shall allow existing master service
503 agreements in which the property owner or responsible party may



780720

504 select a competitively procured contractor to remain in place in
505 the Petroleum Restoration Program.

506 (e) The department rules implementing this section must
507 specify that only qualified vendors may submit responses on a
508 competitive solicitation. The department rules must also include
509 procedures for the rejection of vendors not meeting the minimum
510 qualifications on the opening of a competitive solicitation and
511 requirements for a vendor to maintain its qualifications in
512 order to enter contracts or perform rehabilitation work.

513 (f) A contractor that performs services pursuant to this
514 subsection may file invoices for payment with the department for
515 the services described in the approved contract. The invoices
516 for payment must be submitted to the department on forms
517 provided by the department, together with evidence documenting
518 that activities were conducted or completed pursuant to the
519 approved contract. If there are sufficient unencumbered funds
520 available in the fund which have been appropriated for
521 expenditure by the Legislature and if all of the terms of the
522 approved contract have been met, invoices for payment must be
523 paid pursuant to s. 215.422. After a contractor has submitted
524 its invoices to the department, and before payment is made, the
525 contractor may assign its right to payment to another person
526 without recourse of the assignee or assignor to the state. In
527 such cases, the assignee must be paid pursuant to s. 215.422.
528 Prior notice of the assignment and assignment information must
529 be made to the department and must be signed and notarized by
530 the assigning party.

531 (g) The contractor shall submit an invoice to the
532 department within 30 days after the date of the department's



780720

533 written acceptance of each interim deliverable or written
534 approval of the final deliverable specified in the approved
535 contract.

536 (h) The department shall make payments based on the terms
537 of an approved contract for site rehabilitation work. The
538 department may, based on its experience and the past performance
539 and concerns regarding a contractor, retain up to 25 percent of
540 the contracted amount or use performance bonds to ensure
541 performance. The amount of retainage and the amount of
542 performance bonds, as well as the terms and conditions for such,
543 must be included in the approved contract.

544 (i) The contractor or the person to which the contractor
545 has assigned its right to payment pursuant to paragraph (e)
546 shall make prompt payment to subcontractors and suppliers for
547 their costs associated with an approved contract pursuant to s.
548 287.0585(1).

549 (j) The exemption under s. 287.0585(2) does not apply to
550 payments associated with an approved contract.

551 (k) The department may withhold payment if the validity or
552 accuracy of a contractor's invoices or supporting documents is
553 in question.

554 (l) This section does not authorize payment to a person for
555 costs of contaminated soil treatment or disposal that does not
556 meet the applicable rules of this state for such treatment or
557 disposal, including all general permitting, state air emission
558 standards, monitoring, sampling, and reporting rules more
559 specifically described by department rules.

560 (m) The department shall terminate or suspend a
561 contractor's eligibility for participation in the program if the



780720

562 contractor fails to perform its contractual duties for site
563 rehabilitation program tasks.

564 (n) A site owner or operator, or his or her designee, may
565 not receive any remuneration, in cash or in kind, directly or
566 indirectly, from a rehabilitation contractor performing site
567 cleanup activities pursuant to this section.

568 (7) ~~(6)~~ FUNDING.—The Inland Protection Trust Fund shall be
569 funded as follows:

570 (a) All excise taxes levied, collected, and credited to the
571 fund in accordance with ~~the provisions of~~ ss. 206.9935(3) and
572 206.9945(1)(c).

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

576 (8) ~~(7)~~ DEPARTMENTAL DUTY TO SEEK RECOVERY AND
577 REIMBURSEMENT.—

578 (a) Except as provided in subsection (10) ~~(9)~~ and as
579 otherwise provided by law, the department shall recover to the
580 use of the fund from a person or persons at any time causing or
581 having caused the discharge or from the Federal Government,
582 jointly and severally, all sums owed or expended from the fund,
583 pursuant to s. 376.308, except that the department may decline
584 to pursue such recovery if it finds the amount involved too
585 small or the likelihood of recovery too uncertain. Sums
586 recovered as a result of damage due to a discharge related to
587 the storage of petroleum or petroleum products or other similar
588 disaster shall be apportioned between the fund and the General
589 Revenue Fund so as to repay the full costs to the General
590 Revenue Fund of ~~any~~ sums disbursed therefrom as a result of such



780720

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

594 (b) Except as provided in subsection (10) ~~(9)~~ and as
595 otherwise provided by law, it is the duty of the department in
596 administering the fund diligently to pursue the reimbursement to
597 the fund of any sum expended from the fund for cleanup and
598 abatement pursuant to ~~in accordance with the provisions of this~~
599 section or s. 376.3073, unless the department finds the amount
600 involved too small or the likelihood of recovery too uncertain.
601 For the purposes of s. 95.11, the limitation period within which
602 to institute an action to recover such sums shall begin ~~commence~~
603 on the last date on which ~~any~~ such sums were expended, and not
604 the date on which ~~that~~ the discharge occurred. The department's
605 claim for recovery of payments or overpayments from the fund
606 must be based on the law in existence at the time of the payment
607 or overpayment.

608 (c) If the department initiates an enforcement action to
609 clean up a contaminated site and determines that the responsible
610 party cannot ~~is~~ financially ~~unable to~~ undertake complete
611 restoration of the contaminated site, that the current property
612 owner was not responsible for the discharge when the
613 contamination first occurred, or that the state's interest can
614 best be served by conducting cleanup, the department may enter
615 into an agreement with the responsible party or property owner
616 whereby the department agrees to conduct site rehabilitation and
617 the responsible party or property owner agrees to pay for the
618 portion of the cleanup costs that are within such party's or
619 owner's financial capabilities as determined by the department,



780720

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

622 (9)~~(8)~~ INVESTMENTS; INTEREST.—Moneys in the fund which are
623 not needed currently to meet the obligations of the department
624 in the exercise of its responsibilities under this section and
625 s. 376.3073 shall be deposited with the Chief Financial Officer
626 to the credit of the fund and may be invested in such manner as
627 ~~is provided for~~ by law statute. The interest received on such
628 investment shall be credited to the fund. Any provisions of law
629 to the contrary notwithstanding, such interest may be freely
630 transferred between the ~~this~~ trust fund and the Water Quality
631 Assurance Trust Fund, in the discretion of the department.

632 (10)~~(9)~~ EARLY DETECTION INCENTIVE PROGRAM.—To encourage
633 early detection, reporting, and cleanup of contamination from
634 leaking petroleum storage systems, the department shall, within
635 the guidelines established in this subsection, conduct an
636 incentive program that provides ~~which shall provide~~ for a 30-
637 month grace period ending on December 31, 1988. ~~Pursuant~~
638 ~~thereto:~~

639 (a) The department shall establish reasonable requirements
640 for the written reporting of petroleum contamination incidents
641 and shall distribute forms to registrants under s. 376.303(1)(b)
642 and to other interested parties upon request to be used for such
643 purpose. Until such forms are available for distribution, the
644 department shall take reports of such incidents, however made,
645 but shall notify any person making such a report that a complete
646 written report of the incident will be required by the
647 department at a later time, the form for which will be provided
648 by the department.



780720

649 (b) When reporting forms become available for distribution,
650 all sites involving incidents of contamination from petroleum
651 storage systems initially reported to the department at any time
652 from midnight on June 30, 1986, to midnight on December 31,
653 1988, shall be qualified sites ~~if, provided that such~~ a complete
654 written report is filed with respect thereto within a reasonable
655 time. Subject to the delays which may occur as a result of the
656 prioritization of sites under paragraph (5)(a) for any qualified
657 site, costs for activities described in paragraphs (4)(a)-(e)
658 shall be absorbed at the expense of the fund, without recourse
659 to reimbursement or recovery, with the following exceptions:

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

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

667 3.a. Upon discovery by the department that the owner or
668 operator of a petroleum storage system has been grossly
669 negligent in the maintenance of such petroleum storage system;
670 has, with willful intent to conceal the existence of a serious
671 discharge, falsified inventory or reconciliation records
672 maintained with respect to the site at which such system is
673 located; or has intentionally damaged such petroleum storage
674 system, the site at which such system is located shall be
675 ineligible for participation in the incentive program and the
676 owner shall be liable for all costs due to discharges from
677 petroleum storage systems at that site, any other provisions of



780720

678 chapter 86-159, Laws of Florida, to the contrary
679 notwithstanding. For the purposes of this paragraph, willful
680 failure to maintain inventory and reconciliation records,
681 willful failure to make monthly monitoring system checks where
682 such systems are in place, and failure to meet monitoring and
683 retrofitting requirements within the schedules established under
684 chapter 62-761, Florida Administrative Code, or violation of
685 similar rules adopted by the department under this chapter,
686 constitutes ~~shall be construed to be~~ gross negligence in the
687 maintenance of a petroleum storage system.

688 b. The department shall redetermine the eligibility of
689 petroleum storage systems for which a timely Early Detection
690 Incentive Program ~~EDI~~ application was filed, but which were
691 deemed ineligible by the department, under the following
692 conditions:

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

698 (II) The department verifies the storage system compliance
699 based on a compliance inspection.

700
701 ~~Provided, however, that~~ A site may be determined eligible by the
702 department for good cause shown, including, but not limited to,
703 demonstration by the owner or operator that to achieve
704 compliance would cause an increase in the potential for the
705 spread of the contamination.

706 c. Redetermination of eligibility pursuant to sub-



780720

707 subparagraph b. shall not be available to:

708 (I) Petroleum storage systems owned or operated by the
709 Federal Government.

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

711 (III) Facilities where a discharge was intentionally
712 concealed.

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

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

717 (B) Contamination from substances that were not petroleum
718 or a petroleum product.

719 (C) Contamination that was not from a petroleum storage
720 system.

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

725
726 If, in order to avoid prolonged delay, the department in its
727 discretion deems it necessary to expend sums from the fund to
728 cover ineligible sites or costs as set forth in this paragraph,
729 the department may do so and seek recovery and reimbursement
730 therefor in the same manner and pursuant to ~~in accordance with~~
731 the same procedures ~~as are~~ established for recovery and
732 reimbursement of sums otherwise owed to or expended from the
733 fund.

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



780720

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

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

743 (11)(10) VIOLATIONS; PENALTY.-~~A It is unlawful for any~~
744 person may not ~~to~~:

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

749 (b) Intentionally damage a petroleum storage system.

750

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

754 (12)(11) SITE CLEANUP.-

755 (a) *Voluntary cleanup.*-This section does not prohibit a
756 person from conducting site rehabilitation ~~either~~ through his or
757 her own personnel or through responsible response action
758 contractors or subcontractors when such person is not seeking
759 site rehabilitation funding from the fund. Such voluntary
760 cleanups must meet all applicable environmental standards.

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



780720

765 site is eligible for state restoration funding.

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

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

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

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

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

779 e. The area of groundwater containing the petroleum
780 products' chemicals of concern is less than one-quarter acre and
781 is confined to the source property boundaries of the real
782 property on which the discharge originated.

783 f. Soils onsite that are subject to human exposure found
784 between land surface and 2 feet below land surface meet the soil
785 cleanup target levels established by department rule or human
786 exposure is limited by appropriate institutional or engineering
787 controls.

788 2. Upon affirmative demonstration of the conditions under
789 subparagraph 1., the department shall, with the written consent
790 of the responsible party or property owner, issue a
791 determination of "No Further Action." Such determination
792 acknowledges that minimal contamination exists onsite and that
793 such contamination is not a threat to water resources, ~~human~~



780720

794 ~~health or~~ the environment, or the public health, safety, or
795 welfare. If no contamination is detected, the department may
796 issue a site rehabilitation completion order.

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

800 a. A responsible party or property owner may submit an
801 assessment plan designed to affirmatively demonstrate that the
802 site meets the conditions under subparagraph 1. Notwithstanding
803 the priority ranking score of the site, the department may
804 approve ~~preapprove~~ the cost of the assessment ~~pursuant to s.~~
805 ~~376.30711~~, including 6 months of groundwater monitoring, not to
806 exceed \$30,000 for each site. The department may not pay the
807 costs associated with the establishment of institutional or
808 engineering controls.

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

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

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

820 ~~(12) REIMBURSEMENT FOR CLEANUP EXPENSES. Except as provided~~
821 ~~in s. 2(3), chapter 95-2, Laws of Florida, this subsection shall~~
822 ~~not apply to any site rehabilitation program task initiated~~



780720

823 ~~after March 29, 1995. Effective August 1, 1996, no further site~~
824 ~~rehabilitation work on sites eligible for state-funded cleanup~~
825 ~~from the Inland Protection Trust Fund shall be eligible for~~
826 ~~reimbursement pursuant to this subsection. The person~~
827 ~~responsible for conducting site rehabilitation may seek~~
828 ~~reimbursement for site rehabilitation program task work~~
829 ~~conducted after March 28, 1995, in accordance with s. 2(2) and~~
830 ~~(3), chapter 95-2, Laws of Florida, regardless of whether the~~
831 ~~site rehabilitation program task is completed. A site~~
832 ~~rehabilitation program task shall be considered to be initiated~~
833 ~~when actual onsite work or engineering design, pursuant to~~
834 ~~chapter 62-770, Florida Administrative Code, which is integral~~
835 ~~to performing a site rehabilitation program task has begun and~~
836 ~~shall not include contract negotiation and execution, site~~
837 ~~research, or project planning. All reimbursement applications~~
838 ~~pursuant to this subsection must be submitted to the department~~
839 ~~by January 3, 1997. The department shall not accept any~~
840 ~~applications for reimbursement or pay any claims on applications~~
841 ~~for reimbursement received after that date; provided, however if~~
842 ~~an application filed on or prior to January 3, 1997, was~~
843 ~~returned by the department on the grounds of untimely filing, it~~
844 ~~shall be refiled within 30 days after the effective date of this~~
845 ~~act in order to be processed.~~

846 ~~(a) Legislative findings.—The Legislature finds and~~
847 ~~declares that rehabilitation of contamination sites should be~~
848 ~~conducted in a manner and to a level of completion which will~~
849 ~~protect the public health, safety, and welfare and will minimize~~
850 ~~damage to the environment.~~

851 ~~(b) Conditions.—~~



780720

852 ~~1. The owner, operator, or his or her designee of a site~~
853 ~~which is eligible for restoration funding assistance in the EDI,~~
854 ~~PLRIP, or ATRP programs shall be reimbursed from the Inland~~
855 ~~Protection Trust Fund of allowable costs at reasonable rates~~
856 ~~incurred on or after January 1, 1985, for completed program~~
857 ~~tasks as identified in the department rule promulgated pursuant~~
858 ~~to paragraph (5) (b), or uncompleted program tasks pursuant to~~
859 ~~chapter 95-2, Laws of Florida, subject to the conditions in this~~
860 ~~section. It is unlawful for a site owner or operator, or his or~~
861 ~~her designee, to receive any remuneration, in cash or in kind,~~
862 ~~directly or indirectly from the rehabilitation contractor.~~

863 ~~2. Nothing in this subsection shall be construed to~~
864 ~~authorize reimbursement to any person for costs of contaminated~~
865 ~~soil treatment or disposal that does not meet the applicable~~
866 ~~rules of this state for such treatment or disposal, including~~
867 ~~all general permitting, state air emission standards,~~
868 ~~monitoring, sampling, and reporting rules more specifically~~
869 ~~described in department rules.~~

870 ~~(c) Legislative intent. Due to the value of the potable~~
871 ~~water of this state, it is the intent of the Legislature that~~
872 ~~the department initiate and facilitate as many cleanups as~~
873 ~~possible utilizing the resources of the state, local~~
874 ~~governments, and the private sector, recognizing that source~~
875 ~~removal, wherever it is technologically feasible and cost-~~
876 ~~effective, shall be considered the primary initial response to~~
877 ~~protect public health, safety, and the environment.~~

878 ~~(d) Amount of reimbursement. The department shall reimburse~~
879 ~~actual and reasonable costs for site rehabilitation. The~~
880 ~~department shall not reimburse interest on the amount of~~



780720

881 ~~reimbursable costs for any reimbursement application. However,~~
882 ~~nothing herein shall affect the department's authority to pay~~
883 ~~interest authorized under prior law.~~

884 ~~(e) Records. The person responsible for conducting site~~
885 ~~rehabilitation, or his or her agent, shall keep and preserve~~
886 ~~suitable records as follows:~~

887 ~~1. Hydrological and other site investigations and~~
888 ~~assessments; site rehabilitation plans; contracts and contract~~
889 ~~negotiations; and accounts, invoices, sales tickets, or other~~
890 ~~payment records from purchases, sales, leases, or other~~
891 ~~transactions involving costs actually incurred related to site~~
892 ~~rehabilitation. Such records shall be made available upon~~
893 ~~request to agents and employees of the department during regular~~
894 ~~business hours and at other times upon written request of the~~
895 ~~department.~~

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

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

903 ~~(f) Application for reimbursement. Any eligible person who~~
904 ~~performs a site rehabilitation program or performs site~~
905 ~~rehabilitation program tasks such as preparation of site~~
906 ~~rehabilitation plans or assessments; product recovery; cleanup~~
907 ~~of groundwater or inland surface water; soil treatment or~~
908 ~~removal; or any other tasks identified by department rule~~
909 ~~developed pursuant to subsection (5), may apply for~~



780720

910 ~~reimbursement. Such applications for reimbursement must be~~
911 ~~submitted to the department on forms provided by the department,~~
912 ~~together with evidence documenting that site rehabilitation~~
913 ~~program tasks were conducted or completed in accordance with~~
914 ~~department rule developed pursuant to subsection (5), and other~~
915 ~~such records or information as the department requires. The~~
916 ~~reimbursement application and supporting documentation shall be~~
917 ~~examined by a certified public accountant in accordance with~~
918 ~~standards established by the American Institute of Certified~~
919 ~~Public Accountants. A copy of the accountant's report shall be~~
920 ~~submitted with the reimbursement application. Applications for~~
921 ~~reimbursement shall not be approved for site rehabilitation~~
922 ~~program tasks which have not been completed, except for the task~~
923 ~~of remedial action and except for uncompleted program tasks~~
924 ~~pursuant to chapter 95-2, Laws of Florida, and this subsection.~~
925 ~~Applications for remedial action may be submitted semiannually~~
926 ~~at the discretion of the person responsible for cleanup. After~~
927 ~~an applicant has filed an application with the department and~~
928 ~~before payment is made, the applicant may assign the right to~~
929 ~~payment to any other person, without recourse of the assignee or~~
930 ~~assignor to the state, without affecting the order in which~~
931 ~~payment is made. Information necessary to process the~~
932 ~~application shall be requested from and provided by the~~
933 ~~assigning applicant. Proper notice of the assignment and~~
934 ~~assignment information shall be made to the department which~~
935 ~~notice shall be signed and notarized by the assigning applicant.~~

936 ~~(g) Review.—~~

937 ~~1. Provided there are sufficient unencumbered funds~~
938 ~~available in the Inland Protection Trust Fund, or to the extent~~



780720

939 ~~proceeds of debt obligations are available for the payment of~~
940 ~~existing reimbursement obligations pursuant to s. 376.3075, the~~
941 ~~department shall have 60 days to determine if the applicant has~~
942 ~~provided sufficient information for processing the application~~
943 ~~and shall request submission of any additional information that~~
944 ~~the department may require within such 60-day period. If the~~
945 ~~applicant believes any request for additional information is not~~
946 ~~authorized, the applicant may request a hearing pursuant to ss.~~
947 ~~120.569 and 120.57. Once the department requests additional~~
948 ~~information, the department may request only that information~~
949 ~~needed to clarify such additional information or to answer new~~
950 ~~questions raised by or directly related to such additional~~
951 ~~information.~~

952 ~~2. The department shall deny or approve the application for~~
953 ~~reimbursement within 90 days after receipt of the last item of~~
954 ~~timely requested additional material, or, if no additional~~
955 ~~material is requested, within 90 days of the close of the 60-day~~
956 ~~period described in subparagraph 1., unless the total review~~
957 ~~period is otherwise extended by written mutual agreement of the~~
958 ~~applicant and the department.~~

959 ~~3. Final disposition of an application shall be provided to~~
960 ~~the applicant in writing, accompanied by a written explanation~~
961 ~~setting forth in detail the reason or reasons for the approval~~
962 ~~or denial. If the department fails to make a determination on an~~
963 ~~application within the time provided in subparagraph 2., or~~
964 ~~denies an application, or if a dispute otherwise arises with~~
965 ~~regard to reimbursement, the applicant may request a hearing~~
966 ~~pursuant to ss. 120.569 and 120.57.~~

967 ~~(h) Reimbursement. Upon approval of an application for~~



780720

968 ~~reimbursement, reimbursement for reasonable expenditures of a~~
969 ~~site rehabilitation program or site rehabilitation program tasks~~
970 ~~documented therein shall be made in the order in which the~~
971 ~~department receives completed applications. Effective January 1,~~
972 ~~1997, all unpaid reimbursement applications are subject to~~
973 ~~payment on the following terms: The department shall develop a~~
974 ~~schedule of the anticipated dates of reimbursement of~~
975 ~~applications submitted to the department pursuant to this~~
976 ~~subsection. The schedule shall specify the projected date of~~
977 ~~payment based on equal monthly payments and projected annual~~
978 ~~revenue of \$100 million. Based on the schedule, the department~~
979 ~~shall notify all reimbursement applicants of the projected date~~
980 ~~of payment of their applications. The department shall direct~~
981 ~~the Inland Protection Financing Corporation to pay applicants~~
982 ~~the present value of their applications as soon as practicable~~
983 ~~after approval by the department, subject to the availability of~~
984 ~~funds within the Inland Protection Financing Corporation. The~~
985 ~~present value of an application shall be based on the date on~~
986 ~~which the department anticipates the Inland Protection Financing~~
987 ~~Corporation will settle the reimbursement application and the~~
988 ~~schedule's projected date of payment and shall use 3.5 percent~~
989 ~~as the annual discount rate. The determination of the amount of~~
990 ~~the claim and the projected date of payment shall be subject to~~
991 ~~s. 120.57.~~

992 ~~(i) Liberal construction. With respect to site~~
993 ~~rehabilitation initiated prior to July 1, 1986, the provisions~~
994 ~~of this subsection shall be given such liberal construction by~~
995 ~~the department as will accomplish the purposes set forth in this~~
996 ~~subsection. With regard to the keeping of particular records or~~



780720

997 ~~the giving of certain notice, the department may accept as~~
998 ~~compliance action by a person which meets the intent of the~~
999 ~~requirements set forth in this subsection.~~

1000 ~~(j) Reimbursement review contracts. The department may~~
1001 ~~contract with entities capable of processing or assisting in the~~
1002 ~~review of reimbursement applications. Any purchase of such~~
1003 ~~services shall not be subject to chapter 287.~~

1004 ~~(k) Audits.—~~

1005 ~~1. The department is authorized to perform financial and~~
1006 ~~technical audits in order to certify site restoration costs and~~
1007 ~~ensure compliance with this chapter. The department shall seek~~
1008 ~~recovery of any overpayments based on the findings of these~~
1009 ~~audits. The department must commence any audit within 5 years~~
1010 ~~after the date of reimbursement, except in cases where the~~
1011 ~~department alleges specific facts indicating fraud.~~

1012 ~~2. Upon determination by the department that any portion of~~
1013 ~~costs which have been reimbursed are disallowed, the department~~
1014 ~~shall give written notice to the applicant setting forth with~~
1015 ~~specificity the allegations of fact which justify the~~
1016 ~~department's proposed action and ordering repayment of~~
1017 ~~disallowed costs within 60 days of notification of the~~
1018 ~~applicant.~~

1019 ~~3. In the event the applicant does not make payment to the~~
1020 ~~department within 60 days of receipt of such notice, the~~
1021 ~~department shall seek recovery in a court of competent~~
1022 ~~jurisdiction to recover reimbursement overpayments made to the~~
1023 ~~person responsible for conducting site rehabilitation, unless~~
1024 ~~the department finds the amount involved too small or the~~
1025 ~~likelihood of recovery too uncertain.~~



780720

1026 ~~4. In addition to the amount of any overpayment, the~~
1027 ~~applicant shall be liable to the department for interest of 1~~
1028 ~~percent per month or the prime rate, whichever is less, on the~~
1029 ~~amount of overpayment, from the date of overpayment by the~~
1030 ~~department until the applicant satisfies the department's~~
1031 ~~request for repayment pursuant to this paragraph. The~~
1032 ~~calculation of interest shall be tolled during the pendency of~~
1033 ~~any litigation.~~

1034 ~~5. Financial and technical audits frequently are conducted~~
1035 ~~under this section many years after the site rehabilitation~~
1036 ~~activities were performed and the costs examined in the course~~
1037 ~~of the audit were incurred by the person responsible for site~~
1038 ~~rehabilitation. During the intervening span of years, the~~
1039 ~~department's rule requirements and its related guidance and~~
1040 ~~other nonrule policy directives may have changed significantly.~~
1041 ~~The Legislature finds that it may be appropriate for the~~
1042 ~~department to provide relief to persons subject to such~~
1043 ~~requirements in financial and technical audits conducted~~
1044 ~~pursuant to this section.~~

1045 ~~a. The department is authorized to grant variances and~~
1046 ~~waivers from the documentation requirements of subparagraph~~
1047 ~~(c)2. and from the requirements of rules applicable in technical~~
1048 ~~and financial audits conducted under this section. Variances and~~
1049 ~~waivers shall be granted when the person responsible for site~~
1050 ~~rehabilitation demonstrates to the department that application~~
1051 ~~of a financial or technical auditing requirement would create a~~
1052 ~~substantial hardship or would violate principles of fairness.~~
1053 ~~For purposes of this subsection, "substantial hardship" means a~~
1054 ~~demonstrated economic, technological, legal, or other type of~~



780720

1055 ~~hardship to the person requesting the variance or waiver. For~~
1056 ~~purposes of this subsection, "principles of fairness" are~~
1057 ~~violated when the application of a requirement affects a~~
1058 ~~particular person in a manner significantly different from the~~
1059 ~~way it affects other similarly situated persons who are affected~~
1060 ~~by the requirement or when the requirement is being applied~~
1061 ~~retroactively without due notice to the affected parties.~~

1062 ~~b. A person whose reimbursed costs are subject to a~~
1063 ~~financial and technical audit under this section may file a~~
1064 ~~written request to the department for grant of a variance or~~
1065 ~~waiver. The request shall specify:~~

1066 ~~(I) The requirement from which a variance or waiver is~~
1067 ~~requested.~~

1068 ~~(II) The type of action requested.~~

1069 ~~(III) The specific facts which would justify a waiver or~~
1070 ~~variance.~~

1071 ~~(IV) The reason or reasons why the requested variance or~~
1072 ~~waiver would serve the purposes of this section.~~

1073 ~~e. Within 90 days after receipt of a written request for~~
1074 ~~variance or waiver under this subsection, the department shall~~
1075 ~~grant or deny the request. If the request is not granted or~~
1076 ~~denied within 90 days of receipt, the request shall be deemed~~
1077 ~~approved. An order granting or denying the request shall be in~~
1078 ~~writing and shall contain a statement of the relevant facts and~~
1079 ~~reasons supporting the department's action. The department's~~
1080 ~~decision to grant or deny the petition shall be supported by~~
1081 ~~competent substantial evidence and is subject to ss. 120.569 and~~
1082 ~~120.57. Once adopted, model rules promulgated by the~~
1083 ~~Administration Commission under s. 120.542 shall govern the~~



780720

1084 ~~processing of requests under this provision.~~

1085 ~~6. The Chief Financial Officer may audit the records of~~
1086 ~~persons who receive or who have received payments pursuant to~~
1087 ~~this chapter in order to verify site restoration costs, ensure~~
1088 ~~compliance with this chapter, and verify the accuracy and~~
1089 ~~completeness of audits performed by the department pursuant to~~
1090 ~~this paragraph. The Chief Financial Officer may contract with~~
1091 ~~entities or persons to perform audits pursuant to this~~
1092 ~~subparagraph. The Chief Financial Officer shall commence any~~
1093 ~~audit within 1 year after the department's completion of an~~
1094 ~~audit conducted pursuant to this paragraph, except in cases~~
1095 ~~where the department or the Chief Financial Officer alleges~~
1096 ~~specific facts indicating fraud.~~

1097 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage
1098 detection, reporting, and cleanup of contamination caused by
1099 discharges of petroleum or petroleum products, the department
1100 shall, within the guidelines established in this subsection,
1101 implement a cost-sharing cleanup program to provide
1102 rehabilitation funding assistance for all property contaminated
1103 by discharges of petroleum or petroleum products occurring
1104 before January 1, 1995, subject to a copayment provided for in a
1105 Petroleum Cleanup Participation Program ~~preapproved~~ site
1106 rehabilitation agreement. Eligibility is ~~shall be~~ subject to an
1107 annual appropriation from the ~~Inland Protection Trust~~ fund.
1108 Additionally, funding for eligible sites is ~~shall be~~ contingent
1109 upon annual appropriation in subsequent years. Such continued
1110 state funding is ~~shall~~ not be deemed an entitlement or a vested
1111 right under this subsection. Eligibility shall be determined in
1112 the program, ~~shall be~~ notwithstanding any other provision of



780720

1113 law, consent order, order, judgment, or ordinance to the
1114 contrary.

1115 (a)1. The department shall accept any discharge reporting
1116 form received before ~~prior to~~ January 1, 1995, as an application
1117 for this program, and the facility owner or operator need not
1118 reapply.

1119 2. Owners or operators of property contaminated by
1120 petroleum or petroleum products from a petroleum storage system
1121 may apply for such program by filing a written report of the
1122 contamination incident, including evidence that such incident
1123 occurred before ~~prior to~~ January 1, 1995, with the department.
1124 Incidents of petroleum contamination discovered after December
1125 31, 1994, at sites which have not stored petroleum or petroleum
1126 products for consumption, use, or sale after such date shall be
1127 presumed to have occurred before ~~prior to~~ January 1, 1995. An
1128 operator's filed report shall be ~~deemed~~ an application of the
1129 owner for all purposes. Sites reported to the department after
1130 December 31, 1998, are ~~shall not be~~ eligible for the ~~this~~
1131 program.

1132 (b) Subject to annual appropriation from the ~~Inland~~
1133 ~~Protection Trust~~ fund, sites meeting the criteria of this
1134 subsection are eligible for up to \$400,000 of site
1135 rehabilitation funding assistance in priority order pursuant to
1136 subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~. Sites meeting
1137 the criteria of this subsection for which a site rehabilitation
1138 completion order was issued before ~~prior to~~ June 1, 2008, do not
1139 qualify for the 2008 increase in site rehabilitation funding
1140 assistance and are bound by the pre-June 1, 2008, limits. Sites
1141 meeting the criteria of this subsection for which a site



780720

1142 rehabilitation completion order was not issued before ~~prior to~~
1143 June 1, 2008, regardless of whether ~~or not~~ they have previously
1144 transitioned to nonstate-funded cleanup status, may continue
1145 state-funded cleanup pursuant to this section ~~s. 376.30711~~ until
1146 a site rehabilitation completion order is issued or the
1147 increased site rehabilitation funding assistance limit is
1148 reached, whichever occurs first. The department may not pay ~~At~~
1149 ~~no time shall~~ expenses incurred beyond ~~outside~~ the scope of an
1150 approved contract ~~preapproved site rehabilitation program under~~
1151 ~~s. 376.30711~~ be reimbursable.

1152 (c) Upon notification by the department that rehabilitation
1153 funding assistance is available for the site pursuant to
1154 subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~, the owner,
1155 operator, or person otherwise responsible for site
1156 rehabilitation shall provide the department with a limited
1157 contamination assessment report and shall enter into a Petroleum
1158 Cleanup Participation Program ~~preapproved~~ site rehabilitation
1159 agreement with the department ~~and a contractor qualified under~~
1160 ~~s. 376.30711(2)(b)~~. The agreement must ~~shall~~ provide for a 25-
1161 percent copayment by the owner, operator, or person otherwise
1162 responsible for conducting site rehabilitation. The owner,
1163 operator, or person otherwise responsible for conducting site
1164 rehabilitation shall adequately demonstrate the ability to meet
1165 the copayment obligation. The limited contamination assessment
1166 report and the copayment costs may be reduced or eliminated if
1167 the owner and all operators responsible for restoration under s.
1168 376.308 demonstrate that they cannot ~~are~~ financially ~~unable to~~
1169 comply with the copayment and limited contamination assessment
1170 report requirements. The department shall take into



780720

1171 consideration the owner's and operator's net worth in making the
1172 determination of financial ability. In the event the department
1173 and the owner, operator, or person otherwise responsible for
1174 site rehabilitation cannot ~~are unable to~~ complete negotiation of
1175 the cost-sharing agreement within 120 days after beginning
1176 ~~commencing~~ negotiations, the department shall terminate
1177 negotiations, and the site shall be ~~deemed~~ ineligible for state
1178 funding under this subsection and all liability protections
1179 provided for in this subsection shall be revoked.

1180 (d) ~~A~~ A ~~no~~ report of a discharge made to the department by a
1181 any person pursuant to ~~in accordance with~~ this subsection, or
1182 any rules adopted pursuant to this subsection may not hereto,
1183 ~~shall~~ be used directly as evidence of liability for such
1184 discharge in any civil or criminal trial arising out of the
1185 discharge.

1186 (e) ~~Nothing in~~ This subsection does not ~~shall be construed~~
1187 ~~to~~ preclude the department from pursuing penalties under ~~in~~
1188 ~~accordance with~~ s. 403.141 for violations of any law or any
1189 rule, order, permit, registration, or certification adopted or
1190 issued by the department pursuant to its lawful authority.

1191 (f) Upon the filing of a discharge reporting form under
1192 paragraph (a), ~~neither~~ the department or ~~nor any~~ local
1193 government may not ~~shall~~ pursue any judicial or enforcement
1194 action to compel rehabilitation of the discharge. This paragraph
1195 does ~~shall~~ not prevent any such action with respect to
1196 discharges determined ineligible under this subsection or to
1197 sites for which rehabilitation funding assistance is available
1198 pursuant to subsections ~~in accordance with subsection~~ (5) and
1199 (6) ~~s. 376.30711~~.



780720

1200 (g) The following are ~~shall be~~ excluded from participation
1201 in the program:

1202 1. Sites at which the department has been denied reasonable
1203 site access to implement ~~the provisions of~~ this section.

1204 2. Sites that were active facilities when owned or operated
1205 by the Federal Government.

1206 3. Sites that are identified by the United States
1207 Environmental Protection Agency to be on, or which qualify for
1208 listing on, the National Priorities List under Superfund. This
1209 exception does not apply to those sites for which eligibility
1210 has been requested or granted as of the effective date of this
1211 act under the Early Detection Incentive Program established
1212 pursuant to s. 15, chapter 86-159, Laws of Florida.

1213 4. Sites for which ~~The~~ contamination is covered under the
1214 Early Detection Incentive Program, the Abandoned Tank
1215 Restoration Program, or the Petroleum Liability and Restoration
1216 Insurance Program, in which case site rehabilitation funding
1217 assistance shall continue under the respective program.

1218 (14) LEGISLATIVE APPROVAL AND AUTHORIZATION.—Before ~~Prior~~
1219 ~~to~~ the department enters ~~entering~~ into a service contract with
1220 the Inland Protection Financing Corporation which includes
1221 payments by the department to support any existing or planned
1222 note, bond, certificate of indebtedness, or other obligation or
1223 evidence of indebtedness of the corporation pursuant to s.
1224 376.3075, the Legislature, by law, must specifically authorize
1225 the department to enter into such a contract. The corporation
1226 may issue bonds in an amount not to exceed \$104 million, with a
1227 term up to 15 years, and annual payments not in excess of \$10.4
1228 million. The department may enter into a service contract in



780720

1229 conjunction with the issuance of such bonds which provides for
1230 annual payments for debt service payments or other amounts
1231 payable with respect to bonds, plus any administrative expenses
1232 of the corporation to finance the rehabilitation of petroleum
1233 contamination sites pursuant to ss. 376.30-376.317.

1234 Section 2. Section 376.30711, Florida Statutes, is
1235 repealed.

1236 Section 3. Section 376.30713, Florida Statutes, is amended
1237 to read:

1238 376.30713 ~~Preapproved~~ Advanced cleanup.—

1239 (1) In addition to the legislative findings provided in s.
1240 376.3071 ~~s. 376.30711~~, the Legislature finds and declares:

1241 (a) That the inability to conduct site rehabilitation in
1242 advance of a site's priority ranking pursuant to s.
1243 376.3071(5) (a) may substantially impede or prohibit property
1244 transactions or the proper completion of public works projects.

1245 (b) While the first priority of the state is to provide for
1246 protection of ~~the water resources of the state, human health,~~
1247 ~~and the environment, and the public health, safety, and welfare,~~
1248 the viability of commerce is of equal importance to the state.

1249 (c) It is in the public interest and of substantial
1250 economic benefit to the state to provide an opportunity for site
1251 rehabilitation to be conducted on a limited basis at
1252 contaminated sites, in advance of the site's priority ranking,
1253 to facilitate property transactions or public works projects.

1254 (d) It is appropriate for a person who is ~~persons~~
1255 responsible for site rehabilitation to share the costs
1256 associated with managing and conducting ~~preapproved~~ advanced
1257 cleanup, to facilitate the opportunity for ~~preapproved~~ advanced



780720

1258 cleanup, and to mitigate the additional costs that will be
1259 incurred by the state in conducting site rehabilitation in
1260 advance of the site's priority ranking. Such cost sharing will
1261 result in more contaminated sites being cleaned up and greater
1262 environmental benefits to the state. ~~The provisions of This~~
1263 section is shall only be available only for sites eligible for
1264 restoration funding under EDI, ATRP, or PLRIP PLIRP. This
1265 section is available for discharges eligible for restoration
1266 funding under the petroleum cleanup participation program for
1267 the state's cost share of site rehabilitation. Applications must
1268 ~~shall~~ include a cost-sharing commitment for this section in
1269 addition to the 10 percent copayment ~~25-percent-copayment~~
1270 requirement of the petroleum cleanup participation program. This
1271 section is not available for any discharge under a petroleum
1272 cleanup participation program where the 10 percent copayment ~~25-~~
1273 ~~percent-copayment~~ requirement of the petroleum cleanup
1274 participation program has been reduced or eliminated pursuant to
1275 s. 376.3071(13)(c).

1276 (2) The department may ~~is authorized to~~ approve an
1277 application for ~~preapproved~~ advanced cleanup at eligible sites,
1278 before ~~prior to~~ funding based on the site's priority ranking
1279 established pursuant to s. 376.3071(5)(a), pursuant to ~~in~~
1280 ~~accordance with the provisions of this section.~~ Only the
1281 facility owner or operator or the person otherwise responsible
1282 for site rehabilitation qualifies ~~Persons who qualify~~ as an
1283 applicant under ~~the provisions of this section shall only~~
1284 ~~include the facility owner or operator or the person otherwise~~
1285 ~~responsible for site rehabilitation.~~

1286 (a) ~~Preapproved~~ Advanced cleanup applications may be



780720

1287 submitted between May 1 and June 30 and between November 1 and
1288 December 31 of each fiscal year. Applications submitted between
1289 May 1 and June 30 shall be for the fiscal year beginning July 1.
1290 An application must ~~shall~~ consist of:

1291 1. A commitment to pay 10 ~~no less than 25~~ percent or more
1292 of the total cleanup cost deemed recoverable under ~~the~~
1293 ~~provisions of~~ this section along with proof of the ability to
1294 pay the cost share.

1295 2. A nonrefundable review fee of \$250 to cover the
1296 administrative costs associated with the department's review of
1297 the application.

1298 3. A limited contamination assessment report.

1299 4. A proposed course of action.

1300

1301 The limited contamination assessment report must ~~shall~~ be
1302 sufficient to support the proposed course of action and to
1303 estimate the cost of the proposed course of action. ~~Any~~ Costs
1304 incurred related to conducting the limited contamination
1305 assessment report are not refundable from the Inland Protection
1306 Trust Fund. Site eligibility under this subsection, ~~or~~ any other
1307 provision of this section is, ~~shall~~ not constitute an
1308 entitlement to ~~preapproved~~ advanced cleanup or continued
1309 restoration funding. The applicant shall certify to the
1310 department that the applicant has the prerequisite authority to
1311 enter into an ~~a preapproved~~ advanced cleanup contract with the
1312 department. The ~~This~~ certification must ~~shall~~ be submitted with
1313 the application.

1314 (b) The department shall rank the applications based on the
1315 percentage of cost-sharing commitment proposed by the applicant,



780720

1316 with the highest ranking given to the applicant who ~~that~~
1317 proposes the highest percentage of cost sharing. If the
1318 department receives applications that propose identical cost-
1319 sharing commitments and that ~~which~~ exceed the funds available to
1320 commit to all such proposals during the ~~preapproved~~ advanced
1321 cleanup application period, the department shall proceed to
1322 rerank those applicants. Those applicants submitting identical
1323 cost-sharing proposals that ~~which~~ exceed funding availability
1324 must ~~shall~~ be so notified by the department and ~~shall be~~ offered
1325 the opportunity to raise their individual cost-share
1326 commitments, in a period ~~of time~~ specified in the notice. At the
1327 close of the period, the department shall proceed to rerank the
1328 applications pursuant to ~~in accordance with~~ this paragraph.

1329 (3) (a) Based on the ranking established under paragraph
1330 (2) (b) ~~and the funding limitations provided in subsection (4),~~
1331 the department shall begin ~~commence~~ negotiation with such
1332 applicants. If the department and the applicant agree on the
1333 course of action, the department may enter into a contract with
1334 the applicant. The department may ~~is authorized to~~ negotiate the
1335 terms and conditions of the contract.

1336 (b) ~~Preapproved~~ Advanced cleanup must ~~shall~~ be conducted
1337 pursuant to s. 376.3071(5) (b) and (6) and rules adopted under
1338 ss. 287.0595 and 376.3071 ~~under the provisions of ss.~~
1339 ~~376.3071(5) (b) and 376.30711.~~ If the terms of the ~~preapproved~~
1340 advanced cleanup contract are not fulfilled, the applicant
1341 forfeits any right to future payment for any site rehabilitation
1342 work conducted under the contract.

1343 (c) The department's decision not to enter into an ~~a~~
1344 ~~preapproved~~ advanced cleanup contract with the applicant is



780720

1345 ~~shall not be~~ subject to the ~~provisions of~~ chapter 120. If the
1346 department ~~cannot~~ ~~is not able to~~ complete negotiation of the
1347 course of action and the terms of the contract within 60 days
1348 after beginning ~~commencing~~ negotiations, the department shall
1349 terminate negotiations with that applicant.

1350 (4) The department may ~~is authorized to~~ enter into
1351 contracts for a total of up to \$15 million of ~~preapproved~~
1352 advanced cleanup work in each fiscal year. However, a facility
1353 may not be approved ~~preapproved~~ for more than \$5 million of
1354 cleanup activity in each fiscal year. For the purposes of this
1355 section, the term "facility" includes ~~shall include~~, but is not
1356 ~~be~~ limited to, multiple site facilities such as airports, port
1357 facilities, and terminal facilities even though such enterprises
1358 may be treated as separate facilities for other purposes under
1359 this chapter.

1360 (5) All funds collected by the department pursuant to this
1361 section shall be deposited into the Inland Protection Trust Fund
1362 to be used as provided in this section.

1363 Section 4. Section 376.30717, Florida Statutes, is created
1364 to read:

1365 376.30717 Petroleum Cleanup Program Council.—

1366 (1) The Petroleum Cleanup Program Council, an advisory
1367 council as defined in s. 20.03, is created within the
1368 department.

1369 (2) The council shall consist of seven members, appointed
1370 by September 1, 2014, as follows:

1371 (a) A member appointed by the President of the Senate.

1372 (b) A member appointed by the Speaker of the House of
1373 Representatives.



780720

1374 (c) Five members appointed by the secretary of the
1375 department, including one representative of the Florida
1376 Petroleum Council, one representative of the Florida Groundwater
1377 Association, and two representatives of the Florida Petroleum
1378 Marketers and Convenience Store Association, Inc.

1379 (3) Each member of the council shall be appointed to a 4-
1380 year term; however, for the purpose of providing staggered
1381 terms, of the initial appointments, 2 members shall be appointed
1382 to serve 2-year terms, 3 members shall be appointed to serve 3-
1383 year terms, and 2 members shall be appointed to serve 4-year
1384 terms. Notwithstanding s. 20.052, members serve without
1385 compensation and are not entitled to reimbursement for travel
1386 expenses.

1387 (4) The chairman and the vice chairman shall be elected at
1388 the council's first meeting from the council membership and
1389 shall serve for up to 2 consecutive years.

1390 (5) The council shall meet at least four times each year at
1391 locations determined by a vote of the majority of the members.
1392 The first meeting of the council shall occur no later than
1393 October 31, 2014. Any recommendation of the Petroleum Cleanup
1394 Program Council must be agreed upon by quorum, and a quorum
1395 consists of a majority of members.

1396 (6) At the request of the department, the council shall
1397 assist in reviewing complaints made to the department relating
1398 to practices that are not in keeping with program policies,
1399 rules, and standard operating procedures and shall provide
1400 guidance and recommendations to the department on the petroleum
1401 cleanup program, including, but not limited to, business
1402 planning, scheduled training, conferences, operations,



780720

1403 budgeting, procedures, rules, petroleum system requirements, and
1404 compliance and site rehabilitation progress on individual sites.

1405 (7) The department shall provide administrative support to
1406 the council.

1407 (8) The Petroleum Cleanup Program Council shall provide a
1408 report to the President of the Senate, the Speaker of the House
1409 of Representatives, and the secretary of the department by
1410 December 1, 2015, and by December 1 of each year thereafter. The
1411 report must include the council's recommendations to the
1412 Legislature relating to changes to statutes, rules, policies,
1413 procedures, appropriations, program operations, management,
1414 administration, petroleum system compliance, and site
1415 rehabilitation. Before making such recommendations, the council
1416 shall solicit and receive testimony from the industry and state
1417 agencies, departments, boards, or commissions regarding the
1418 petroleum program, the obligations and expenditures of
1419 appropriations, operations, management and administration, and
1420 any relevant statistic or measurement necessary to evaluate the
1421 progress and success of the petroleum program.

1422 Section 5. Subsections (4) and (30) of section 376.301,
1423 Florida Statutes, are amended to read:

1424 376.301 Definitions of terms used in ss. 376.30-376.317,
1425 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
1426 376.75, unless the context clearly requires otherwise, the term:

1427 ~~(4) "Backlog" means reimbursement obligations incurred~~
1428 ~~pursuant to s. 376.3071(12), prior to March 29, 1995, or~~
1429 ~~authorized for reimbursement under the provisions of s.~~
1430 ~~376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims~~
1431 ~~within the backlog are subject to adjustment, where appropriate.~~



780720

1432 ~~(30) "Person responsible for conducting site~~
1433 ~~rehabilitation" means the site owner, operator, or the person~~
1434 ~~designated by the site owner or operator on the reimbursement~~
1435 ~~application. Mortgage holders and trust holders may be eligible~~
1436 ~~to participate in the reimbursement program pursuant to s.~~
1437 ~~376.3071(12).~~

1438 Section 6. Subsection (5) of section 376.302, Florida
1439 Statutes, is amended to read:

1440 376.302 Prohibited acts; penalties.—

1441 (5) Any person who commits fraud in representing his or her
1442 ~~their~~ qualifications as a contractor for reimbursement or in
1443 submitting a payment invoice reimbursement request pursuant to
1444 s. 376.3071 ~~s. 376.3071(12)~~ commits a felony of the third
1445 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1446 775.084.

1447 Section 7. Subsection (6) of section 376.305, Florida
1448 Statutes, is amended to read:

1449 376.305 Removal of prohibited discharges.—

1450 (6) The Legislature created the Abandoned Tank Restoration
1451 Program in response to the need to provide financial assistance
1452 for cleanup of sites that have abandoned petroleum storage
1453 systems. For purposes of this subsection, the term "abandoned
1454 petroleum storage system" means a shall mean any petroleum
1455 storage system that has not stored petroleum products for
1456 consumption, use, or sale since March 1, 1990. The department
1457 shall establish the Abandoned Tank Restoration Program to
1458 facilitate the restoration of sites contaminated by abandoned
1459 petroleum storage systems.

1460 (a) To be included in the program:



780720

1461 1. An application must be submitted to the department by
1462 June 30, 1996, certifying that the system has not stored
1463 petroleum products for consumption, use, or sale at the facility
1464 since March 1, 1990.

1465 2. The owner or operator of the petroleum storage system
1466 when it was in service must have ceased conducting business
1467 involving consumption, use, or sale of petroleum products at
1468 that facility on or before March 1, 1990.

1469 3. The site is not otherwise eligible for the cleanup
1470 programs pursuant to s. 376.3071 or s. 376.3072.

1471 (b) In order to be eligible for the program, petroleum
1472 storage systems from which a discharge occurred must be closed
1473 pursuant to ~~in accordance with~~ department rules before ~~prior to~~
1474 an eligibility determination. However, if the department
1475 determines that the owner of the facility cannot ~~is~~ financially
1476 ~~unable to~~ comply with the department's petroleum storage system
1477 closure requirements and all other eligibility requirements are
1478 met, the petroleum storage system closure requirements shall be
1479 waived. The department shall take into consideration the owner's
1480 net worth and the economic impact on the owner in making the
1481 determination of the owner's financial ability. The June 30,
1482 1996, application deadline shall be waived for owners who cannot
1483 ~~are~~ financially ~~unable to~~ comply.

1484 (c) Sites accepted in the program are ~~will be~~ eligible for
1485 site rehabilitation funding as provided in s. 376.3071 ~~s.~~
1486 ~~376.3071(12) or s. 376.30711, as appropriate.~~

1487 (d) The following sites are excluded from eligibility:

- 1488 1. Sites on property of the Federal Government;
1489 2. Sites contaminated by pollutants that are not petroleum



780720

1490 products;

1491 3. Sites where the department has been denied site access;
1492 or

1493 4. Sites which are owned by a ~~any~~ person who had knowledge
1494 of the polluting condition when title was acquired unless the
1495 ~~that~~ person acquired title to the site after issuance of a
1496 notice of site eligibility by the department.

1497 (e) Participating sites are subject to a deductible as
1498 determined by rule, not to exceed \$10,000.

1499

1500 ~~The provisions of~~ This subsection does ~~de~~ not relieve a ~~any~~
1501 person who has acquired title after ~~subsequent to~~ July 1, 1992,
1502 from the duty to establish by a preponderance of the evidence
1503 that he or she undertook, at the time of acquisition, all
1504 appropriate inquiry into the previous ownership and use of the
1505 property consistent with good commercial or customary practice
1506 in an effort to minimize liability, as required by s.
1507 376.308(1)(c).

1508 Section 8. Paragraph (a) of subsection (1) and subsections
1509 (3), (4), and (9) of section 376.30714, Florida Statutes, are
1510 amended to read:

1511 376.30714 Site rehabilitation agreements.—

1512 (1) In addition to the legislative findings provided in s.
1513 376.3071, the Legislature finds and declares:

1514 (a) The provisions of s. 376.3071(5)(a) ~~ss. 376.3071(5)(a)~~
1515 ~~and 376.30711~~ have delayed cleanup of low-priority sites
1516 determined to be eligible for state funding under that section
1517 and ~~ss. 376.305, 376.3071,~~ and 376.3072.

1518 (3) Free product attributable to a new discharge shall be



780720

1519 removed to the extent practicable and pursuant to ~~in accordance~~
1520 ~~with~~ department rules adopted pursuant to s. 376.3071(5) at the
1521 expense of the owner, operator, or other responsible party. Free
1522 product attributable to existing contamination shall be removed
1523 pursuant to ~~in accordance with~~ s. 376.3071(5) and (6), ~~or s.~~
1524 ~~376.3071(1)(b)~~, and department rules adopted pursuant thereto.

1525 (4) Beginning January 1, 1999, the department may ~~is~~
1526 ~~authorized to~~ negotiate and enter into site rehabilitation
1527 agreements with applicants at sites with eligible existing
1528 contamination at which a new discharge occurs. The site
1529 rehabilitation agreement must ~~shall~~ include, but is not ~~be~~
1530 limited to, allocation of the funding responsibilities of the
1531 department and the applicant for cleanup of the qualified site,
1532 establishment of a mechanism to guarantee the applicant's
1533 commitment to pay its agreed amount of site rehabilitation as
1534 set forth in the agreement, and establishment of the priority in
1535 which cleanup of the qualified site will occur. Under ~~any~~ a
1536 negotiated site rehabilitation agreement, the applicant may not
1537 ~~shall~~ be responsible for ~~no~~ more than the cleanup costs that are
1538 attributable to the new discharge. However, the payment of ~~any~~
1539 applicable deductibles, copayments, or other program eligibility
1540 requirements under ss. 376.305, 376.3071, and 376.3072 shall
1541 continue to apply to the existing contamination and must be
1542 accounted for in the negotiated site rehabilitation agreement.
1543 The department may ~~is further authorized~~, pursuant to this
1544 section, ~~to preapprove or~~ conduct additional assessment
1545 activities at the site.

1546 (9) Site rehabilitation conducted at qualified sites shall
1547 be conducted pursuant to s. 376.3071(5)(b) and (6) ~~under the~~



780720

1548 ~~provisions of ss. 376.3071(5)(b) and 376.30711.~~ If the terms of
1549 the agreement are not fulfilled by the applicant, the applicant
1550 forfeits the any right to continued funding for any site
1551 rehabilitation work under the agreement and is ~~shall be~~ subject
1552 to enforcement action by the department or local government to
1553 compel cleanup of the new discharge.

1554 Section 9. Subsection (2) of section 376.3072, Florida
1555 Statutes, is amended to read:

1556 376.3072 Florida Petroleum Liability and Restoration
1557 Insurance Program.—

1558 (2) (a) An ~~Any~~ owner or operator of a petroleum storage
1559 system may become an insured in the restoration insurance
1560 program at a facility if ~~provided~~:

1561 1. A site at which an incident has occurred is ~~shall be~~
1562 eligible for restoration if the insured is a participant in the
1563 third-party liability insurance program or otherwise meets
1564 applicable financial responsibility requirements. After July 1,
1565 1993, the insured must also provide the required excess
1566 insurance coverage or self-insurance for restoration to achieve
1567 the financial responsibility requirements of 40 C.F.R. s.
1568 280.97, subpart H, not covered by paragraph (d).

1569 2. A site that ~~which~~ had a discharge reported before ~~prior~~
1570 ~~to~~ January 1, 1989, for which notice was given pursuant to s.
1571 376.3071(10) ~~s. 376.3071(9) or (12)~~, and that ~~which~~ is
1572 ineligible for the third-party liability insurance program
1573 solely due to that discharge is ~~shall be~~ eligible for
1574 participation in the restoration program for an ~~any~~ incident
1575 occurring on or after January 1, 1989, pursuant to ~~in accordance~~
1576 ~~with~~ subsection (3). Restoration funding for an eligible



780720

1577 contaminated site will be provided without participation in the
1578 third-party liability insurance program until the site is
1579 restored as required by the department or until the department
1580 determines that the site does not require restoration.

1581 3. Notwithstanding paragraph (b), a site where an
1582 application is filed with the department before ~~prior to~~ January
1583 1, 1995, where the owner is a small business under s.
1584 288.703(6), a state community college with less than 2,500 FTE,
1585 a religious institution as defined by s. 212.08(7)(m), a
1586 charitable institution as defined by s. 212.08(7)(p), or a
1587 county or municipality with a population of less than 50,000, is
1588 ~~shall be~~ eligible for up to \$400,000 of eligible restoration
1589 costs, less a deductible of \$10,000 for small businesses,
1590 eligible community colleges, and religious or charitable
1591 institutions, and \$30,000 for eligible counties and
1592 municipalities, if ~~provided that~~:

1593 a. Except as provided in sub-subparagraph e., the facility
1594 was in compliance with department rules at the time of the
1595 discharge.

1596 b. The owner or operator has, upon discovery of a
1597 discharge, promptly reported the discharge to the department,
1598 and drained and removed the system from service, if necessary.

1599 c. The owner or operator has not intentionally caused or
1600 concealed a discharge or disabled leak detection equipment.

1601 d. The owner or operator proceeds to complete initial
1602 remedial action as specified ~~defined~~ by department rules.

1603 e. The owner or operator, if required and if it has not
1604 already done so, applies for third-party liability coverage for
1605 the facility within 30 days after ~~of~~ receipt of an eligibility



780720

1606 order issued by the department pursuant to this subparagraph
1607 ~~provision~~.

1608
1609 However, the department may consider in-kind services from
1610 eligible counties and municipalities in lieu of the \$30,000
1611 deductible. The cost of conducting initial remedial action as
1612 defined by department rules is ~~shall be~~ an eligible restoration
1613 cost pursuant to this subparagraph ~~provision~~.

1614 4.a. By January 1, 1997, facilities at sites with existing
1615 contamination must ~~shall be required to~~ have methods of release
1616 detection to be eligible for restoration insurance coverage for
1617 new discharges subject to department rules for secondary
1618 containment. Annual storage system testing, in conjunction with
1619 inventory control, shall be considered to be a method of release
1620 detection until the later of December 22, 1998, or 10 years
1621 after the date of installation or the last upgrade. Other
1622 methods of release detection for storage tanks which meet such
1623 requirement are:

1624 (I) Interstitial monitoring of tank and integral piping
1625 secondary containment systems;

1626 (II) Automatic tank gauging systems; or

1627 (III) A statistical inventory reconciliation system with a
1628 tank test every 3 years.

1629 b. For pressurized integral piping systems, the owner or
1630 operator must use:

1631 (I) An automatic in-line leak detector with flow
1632 restriction meeting the requirements of department rules used in
1633 conjunction with an annual tightness or pressure test; or

1634 (II) An automatic in-line leak detector with electronic



780720

1635 flow shut-off meeting the requirements of department rules.

1636 c. For suction integral piping systems, the owner or
1637 operator must use:

1638 (I) A single check valve installed directly below the
1639 suction pump if, provided there are no other valves between the
1640 dispenser and the tank; or

1641 (II) An annual tightness test or other approved test.

1642 d. Owners of facilities with existing contamination which
1643 ~~that~~ install internal release detection systems pursuant to in
1644 ~~accordance with~~ sub-subparagraph a. shall permanently close
1645 their external groundwater and vapor monitoring wells pursuant
1646 to in accordance with department rules by December 31, 1998.
1647 Upon installation of the internal release detection system, such
1648 ~~these~~ wells must shall be secured and taken out of service until
1649 permanent closure.

1650 e. Facilities with vapor levels of contamination meeting
1651 the requirements of or below the concentrations specified in the
1652 performance standards for release detection methods specified in
1653 department rules may continue to use vapor monitoring wells for
1654 release detection.

1655 f. The department may approve other methods of release
1656 detection for storage tanks and integral piping which have at
1657 least the same capability to detect a new release as the methods
1658 specified in this subparagraph.

1659 (b)1. To be eligible to be certified as an insured
1660 facility, for discharges reported after January 1, 1989, the
1661 owner or operator must shall file an affidavit upon enrollment
1662 in the program. The affidavit must shall state that the owner or
1663 operator has read and is familiar with this chapter and the



780720

1664 rules relating to petroleum storage systems and petroleum
1665 contamination site cleanup adopted pursuant to ss. 376.303 and
1666 376.3071 and that the facility is in compliance with this
1667 chapter and applicable rules adopted pursuant to s. 376.303.
1668 Thereafter, the facility's annual inspection report shall serve
1669 as evidence of the facility's compliance with department rules.
1670 The facility's certificate as an insured facility may be revoked
1671 only if the insured fails to correct a violation identified in
1672 an inspection report before a discharge occurs. The facility's
1673 certification may be restored when the violation is corrected as
1674 verified by a reinspection.

1675 2. Except as provided in paragraph (a), to be eligible to
1676 be certified as an insured facility, the applicant must
1677 demonstrate to the department that the applicant has financial
1678 responsibility for third-party claims and excess coverage, as
1679 required by this section and 40 C.F.R. s. 280.97(h), and that
1680 the applicant maintains such insurance during the applicant's
1681 participation as an insured facility.

1682 3. Should a reinspection of the facility be necessary to
1683 demonstrate compliance, the insured shall pay an inspection fee
1684 not to exceed \$500 per facility to be deposited in the Inland
1685 Protection Trust Fund.

1686 4. Upon report of a discharge, the department shall issue
1687 an order stating that the site is eligible for restoration
1688 coverage unless the insured has intentionally caused or
1689 concealed a discharge or disabled leak detection equipment, has
1690 misrepresented facts in the affidavit filed pursuant to
1691 subparagraph 1., or cannot demonstrate that he or she has
1692 obtained and maintained the financial responsibility for third-



780720

1693 party claims and excess coverage as required in subparagraph 2.

1694

1695 This paragraph does not ~~Nothing contained herein shall~~ prevent
1696 the department from assessing civil penalties for noncompliance
1697 pursuant to this subsection ~~as provided herein.~~

1698 (c) A lender that has loaned money to a participant in the
1699 Florida Petroleum Liability and Restoration Insurance Program
1700 and has held a mortgage lien, security interest, or ~~any~~ lien
1701 rights on the site primarily to protect the lender's right to
1702 convert or liquidate the collateral in satisfaction of the debt
1703 secured, or a financial institution that ~~which~~ serves as a
1704 trustee for an insured in the program for the purpose of site
1705 rehabilitation, is ~~shall be~~ eligible for a state-funded cleanup
1706 of the site, if the lender forecloses the lien or accepts a deed
1707 in lieu of foreclosure on that property and acquires title, and
1708 as long as the following has occurred, as applicable:

1709 1. The owner or operator provided the lender with proof
1710 that the facility is eligible for the restoration insurance
1711 program at the time of the loan or before the discharge
1712 occurred.

1713 2. The financial institution or lender ~~completes site~~
1714 ~~rehabilitation and seeks reimbursement pursuant to s.~~
1715 ~~376.3071(12) or~~ conducts ~~preapproved~~ site rehabilitation
1716 pursuant to s. 376.3071 ~~s. 376.30711, as appropriate.~~

1717 3. The financial institution or lender did not engage in
1718 management activities at the site before ~~prior to~~ foreclosure
1719 and does not operate the site or otherwise engage in management
1720 activities after foreclosure, except to comply with
1721 environmental statutes or rules or to prevent, abate, or



780720

1722 remediate a discharge.

1723 (d)1. With respect to eligible incidents reported to the
1724 department before ~~prior to~~ July 1, 1992, the restoration
1725 insurance program shall provide up to \$1.2 million of
1726 restoration for each incident and shall have an annual aggregate
1727 limit of \$2 million of restoration per facility.

1728 2. For any site at which a discharge is reported on or
1729 after July 1, 1992, and for which restoration coverage is
1730 requested, the department shall pay for restoration in
1731 accordance with the following schedule:

1732 a. For discharges reported to the department from July 1,
1733 1992, to June 30, 1993, the department shall pay up to \$1.2
1734 million of eligible restoration costs, less a \$1,000 deductible
1735 per incident.

1736 b. For discharges reported to the department from July 1,
1737 1993, to December 31, 1993, the department shall pay up to \$1.2
1738 million of eligible restoration costs, less a \$5,000 deductible
1739 per incident. However, if, before ~~prior to~~ the date the
1740 discharge is reported and by September 1, 1993, the owner or
1741 operator can demonstrate financial responsibility in effect in
1742 accordance with 40 C.F.R. s. 280.97, subpart H, for coverage
1743 under sub-subparagraph c., the deductible will be \$500. The \$500
1744 deductible shall apply for a period of 1 year from the effective
1745 date of a policy or other form of financial responsibility
1746 obtained and in effect by September 1, 1993.

1747 c. For discharges reported to the department from January
1748 1, 1994, to December 31, 1996, the department shall pay up to
1749 \$400,000 of eligible restoration costs, less a deductible of
1750 \$10,000.



780720

1751 d. For discharges reported to the department from January
1752 1, 1997, to December 31, 1998, the department shall pay up to
1753 \$300,000 of eligible restoration costs, less a deductible of
1754 \$10,000.

1755 e. Beginning January 1, 1999, ~~no~~ restoration coverage may
1756 not shall be provided.

1757 f. In addition, a supplemental deductible shall be added as
1758 follows:

1759 (I) A supplemental deductible of \$5,000 if the owner or
1760 operator fails to report a suspected release within 1 working
1761 day after discovery.

1762 (II) A supplemental deductible of \$10,000 if the owner or
1763 operator, within 3 days after discovery of an actual new
1764 discharge, fails to take steps to test or empty the storage
1765 system and complete such activity within 7 days.

1766 (III) A supplemental deductible of \$25,000 if the owner or
1767 operator, after testing or emptying the storage system, fails to
1768 proceed within 24 hours thereafter to abate the known source of
1769 the discharge or to begin free product removal relating to an
1770 actual new discharge and fails to complete abatement within 72
1771 hours, although free product recovery may be ongoing.

1772 (e) The following are not eligible to participate in the
1773 Petroleum Liability and Restoration Insurance Program:

1774 1. Sites owned or operated by the Federal Government during
1775 the time the facility was in operation.

1776 2. Sites where the owner or operator has denied the
1777 department reasonable site access.

1778 3. Any third-party claims relating to damages caused by
1779 discharges discovered before ~~prior to~~ January 1, 1989.



780720

1780 4. Any incidents discovered before ~~prior to~~ January 1,
1781 1989, ~~are not eligible to participate in the restoration~~
1782 ~~insurance program.~~ However, this exclusion does ~~shall~~ not be
1783 ~~construed to~~ prevent a new incident at the same location from
1784 participation in the restoration insurance program if the owner
1785 or operator is otherwise eligible. This exclusion does ~~shall~~ not
1786 affect eligibility for participation in the Early Detection
1787 Incentive ~~EDI~~ Program.

1788
1789 Sites meeting the criteria of this subsection for which a site
1790 rehabilitation completion order was issued before ~~prior to~~ June
1791 1, 2008, do not qualify for the 2008 increase in site
1792 rehabilitation funding assistance and are bound by the pre-June
1793 1, 2008, limits. Sites meeting the criteria of this subsection
1794 for which a site rehabilitation completion order was not issued
1795 before ~~prior to~~ June 1, 2008, regardless of whether ~~or not~~ they
1796 have previously transitioned to nonstate-funded cleanup status,
1797 may continue state-funded cleanup pursuant to s. 376.3071(6) ~~s.~~
1798 ~~376.30711~~ until a site rehabilitation completion order is issued
1799 or the increased site rehabilitation funding assistance limit is
1800 reached, whichever occurs first. ~~At no time shall expenses~~
1801 ~~incurred outside the preapproved site rehabilitation program~~
1802 ~~under s. 376.30711 be reimbursable.~~

1803 Section 10. Subsections (1) and (4) of section 376.3073,
1804 Florida Statutes, are amended to read:

1805 376.3073 Local programs and state agency programs for
1806 control of contamination.—

1807 (1) The department shall, to the greatest extent possible
1808 and cost-effective, contract with local governments to provide



780720

1809 for the administration of its departmental responsibilities
1810 under ss. 376.305, 376.3071(4)(a)-(e), (h), (k), and (m) and (6)
1811 ~~(l), (n), 376.30711,~~ 376.3072, and 376.3077 through locally
1812 administered programs. The department may also contract with
1813 state agencies to carry out the restoration activities
1814 authorized pursuant to ss. 376.305, 376.3071, and 376.3072,
1815 ~~376.305, and 376.30711.~~ However, ~~no~~ a contract may not
1816 ~~shall~~ be entered into unless the local government or state
1817 agency is deemed capable of carrying out such responsibilities
1818 to the department's satisfaction.

1819 (4) Under no circumstances shall the cleanup criteria
1820 employed in locally administered programs or state agency
1821 programs or pursuant to local ordinance be more stringent than
1822 the criteria established by the department pursuant to s.
1823 376.3071(5) or (6) ~~s. 376.30711.~~

1824 Section 11. Subsections (4) and (5) of section 376.3075,
1825 Florida Statutes, are amended to read:

1826 376.3075 Inland Protection Financing Corporation.—

1827 (4) The corporation may enter into one or more service
1828 contracts with the department to provide services to the
1829 department in connection with financing the functions and
1830 activities provided in ss. 376.30-376.317. The department may
1831 enter into one or more such service contracts with the
1832 corporation and provide for payments under such contracts
1833 pursuant to s. 376.3071(4)(n) ~~s. 376.3071(4)(e),~~ subject to
1834 annual appropriation by the Legislature. The proceeds from such
1835 service contracts may be used for the corporation's
1836 administrative costs and expenses after payments as set forth in
1837 subsection (5). Each service contract may have a term of up to



780720

1838 20 years. Amounts annually appropriated and applied to make
1839 payments under such service contracts may not include any funds
1840 derived from penalties or other payments received from any
1841 property owner or private party, including payments received
1842 under s. 376.3071(7)(b) ~~s. 376.3071(6)(b)~~. In compliance with s.
1843 287.0641 and other applicable provisions of law, the obligations
1844 of the department under such service contracts do not constitute
1845 a general obligation of the state or a pledge of the faith and
1846 credit or taxing power of the state, and ~~nor may~~ such
1847 obligations are not obligations ~~be construed in any manner as an~~
1848 ~~obligation~~ of the State Board of Administration or entities for
1849 which it invests funds, other than the department as provided in
1850 this section, but are payable solely from amounts available in
1851 the Inland Protection Trust Fund, subject to annual
1852 appropriation. In compliance with this subsection and s.
1853 287.0582, the service contract must expressly include the
1854 following statement: "The State of Florida's performance and
1855 obligation to pay under this contract is contingent upon an
1856 annual appropriation by the Legislature."

1857 (5) The corporation may issue and incur notes, bonds,
1858 certificates of indebtedness, or other obligations or evidences
1859 of indebtedness payable from and secured by amounts payable to
1860 the corporation by the department under a service contract
1861 entered into pursuant to subsection (4) for the purpose of
1862 financing the rehabilitation of petroleum contamination sites
1863 pursuant to ss. 376.30-376.317. The term of any such note, bond,
1864 certificate of indebtedness, or other obligation or evidence of
1865 indebtedness may not have a financing term that exceeds 15
1866 years. The corporation may select its financing team and issue



780720

1867 its obligations through competitive bidding or negotiated
1868 contracts, whichever is most cost-effective. ~~Any~~ Indebtedness of
1869 the corporation does not constitute a debt or obligation of the
1870 state or a pledge of the faith and credit or taxing power of the
1871 state, but is payable from and secured by payments made by the
1872 department under the service contract pursuant to s.
1873 376.3071(4)(n) ~~s. 376.3071(4)(e)~~.

1874 Section 12. This act shall take effect July 1, 2014.

1876 ===== T I T L E A M E N D M E N T =====

1877 And the title is amended as follows:

1878 Delete everything before the enacting clause
1879 and insert:

1880 A bill to be entitled
1881 An act relating to rehabilitation of petroleum
1882 contamination sites; amending s. 376.3071, F.S.;
1883 revising legislative findings and intent regarding the
1884 Petroleum Restoration Program and the rehabilitation
1885 of contamination sites; providing requirements for
1886 site rehabilitation contracts and procedures for
1887 payment of rehabilitation work under the Petroleum
1888 Restoration Program; limiting eligibility for funding
1889 under the Early Detection Incentive Program; deleting
1890 obsolete provisions relating to reimbursement for
1891 certain cleanup expenses; repealing s. 376.30711,
1892 F.S., relating to preapproved site rehabilitation;
1893 amending s. 376.30713, F.S.; revising the copayment
1894 requirement of the petroleum cleanup participation
1895 program; creating s. 376.30717, F.S.; creating the



780720

1896 Petroleum Cleanup Program Council within the
1897 Department of Environmental Protection; providing
1898 membership; providing terms; providing duties;
1899 requiring the committee to submit a report; amending
1900 ss. 376.301, 376.302, 376.305, 376.30714, 376.3072,
1901 376.3073, and 376.3075, F.S.; conforming provisions to
1902 changes made by the act; providing an effective date.