

By the Committee on Appropriations; and Senator Dean

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1 A bill to be entitled
2 An act relating to rehabilitation of petroleum
3 contamination sites; amending s. 287.0595, F.S.;
4 removing the restriction of applicability for certain
5 contracts for pollution response action; amending s.
6 376.3071, F.S.; revising legislative findings and
7 intent regarding the Petroleum Restoration Program and
8 the rehabilitation of contamination sites; providing
9 requirements for site rehabilitation contracts and
10 procedures for payment of rehabilitation work under
11 the Petroleum Restoration Program; limiting
12 eligibility for funding under the Early Detection
13 Incentive Program; deleting obsolete provisions
14 relating to reimbursement for certain cleanup
15 expenses; repealing s. 376.30711, F.S., relating to
16 preapproved site rehabilitation; amending s.
17 376.30713, F.S.; providing that applicants can use a
18 demonstration of a cost savings in meeting the
19 required cost share commitment if bundling multiple
20 sites; requiring the department to determine whether
21 such cost savings demonstrations is acceptable;
22 amending ss. 376.301, 376.302, 376.305, 376.30714,
23 376.3072, 376.3073, and 376.3075, F.S.; conforming
24 provisions to changes made by the act; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (4) of section 287.0595, Florida

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30 Statutes, is amended to read:

31 287.0595 Pollution response action contracts; department
32 rules.-

33 ~~(4) This section does not apply to contracts which must be~~
34 ~~negotiated under s. 287.055.~~

35 Section 2. Section 376.3071, Florida Statutes, is amended
36 to read:

37 376.3071 Inland Protection Trust Fund; creation; purposes;
38 funding.-

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

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

44 (b) That spills, leaks, and other discharges from such
45 storage systems have occurred, are occurring, and will continue
46 to occur and that such discharges pose a significant threat to
47 the quality of the groundwaters and inland surface waters of
48 this state.

49 (c) That, where contamination of the ground or surface
50 water has occurred, remedial measures have often been delayed
51 for long periods while determinations as to liability and the
52 extent of liability are made and that such delays result in the
53 continuation and intensification of the threat to the public
54 health, safety, and welfare; in greater damage to water
55 resources and the environment; and in significantly higher costs
56 to contain and remove the contamination.

57 (d) That adequate financial resources must be readily
58 available to provide for the expeditious supply of safe and

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59 reliable alternative sources of potable water to affected
60 persons and to provide a means for investigation and cleanup of
61 contamination sites without delay.

62 (e) That it is necessary to fulfill the intent and purposes
63 of ss. 376.30-376.317, ~~and further it is hereby~~ determined to be
64 in the best interest of, and necessary for the protection of the
65 public health, safety, and ~~general~~ welfare of the residents of
66 this state, and therefore a paramount public purpose, to provide
67 for the creation of a nonprofit public benefit corporation as an
68 instrumentality of the state to assist in financing the
69 functions provided in ss. 376.30-376.317 and to authorize the
70 department to enter into one or more service contracts with such
71 corporation for the purpose ~~provision~~ of financing services
72 related to such functions and to make payments thereunder from
73 the amount on deposit in the Inland Protection Trust Fund,
74 subject to annual appropriation by the Legislature.

75 (f) That to achieve the purposes established in paragraph
76 (e) and in order to facilitate the expeditious handling and
77 rehabilitation of contamination sites and remedial measures with
78 respect to contamination sites ~~provided hereby~~ without delay, it
79 is in the best interests of the residents of this state to
80 authorize such corporation to issue evidences of indebtedness
81 payable from amounts paid by the department under any such
82 service contract entered into between the department and such
83 corporation.

84 (g) That the Petroleum Restoration Program must be
85 implemented in a manner that reduces costs and improves the
86 efficiency of rehabilitation activities to reduce the
87 significant backlog of contaminated sites eligible for state-

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88 funded rehabilitation and the corresponding threat to water
89 resources, the environment, and the public health, safety, and
90 welfare.

91 (2) INTENT AND PURPOSE.—

92 (a) It is the intent of the Legislature to establish the
93 Inland Protection Trust Fund to serve as a repository for funds
94 which will enable the department to respond without delay to
95 incidents of inland contamination related to the storage of
96 petroleum and petroleum products in order to protect the public
97 health, safety, and welfare and to minimize environmental
98 damage.

99 (b) It is the intent of the Legislature that the department
100 implement rules and procedures to improve the efficiency of the
101 Petroleum Restoration Program. The department is directed to
102 implement rules and policies to eliminate and reduce duplication
103 of site rehabilitation efforts, paperwork, and documentation,
104 and micromanagement of site rehabilitation tasks.

105 (c) It is the intent of the Legislature that rehabilitation
106 of contamination sites be conducted with emphasis on first
107 addressing the sites that pose the greatest threat to water
108 resources, the environment, and the public health, safety, and
109 welfare, within the availability of funds in the Inland
110 Protection Trust Fund, recognizing that source removal, wherever
111 it is technologically feasible and cost effective, significantly
112 reduces contamination or eliminates the spread of contamination
113 and protects water resources, the environment, and the public
114 health, safety, and welfare.

115 (d)~~(e)~~ The department is directed to adopt and implement
116 uniform and standardized forms for ~~the requests for preapproval~~

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117 site rehabilitation work and for the submittal of reports to
118 ensure that information is submitted to the department in a
119 concise, standardized uniform format seeking only information
120 that is necessary.

121 (e) ~~(d)~~ The department is directed to implement computerized
122 and electronic filing capabilities of ~~preapproval requests and~~
123 submittal of reports in order to expedite submittal of the
124 information and elimination of delay in paperwork. ~~The~~
125 ~~computerized, electronic filing system shall be implemented no~~
126 ~~later than January 1, 1997.~~

127 ~~(e) The department is directed to adopt uniform scopes of~~
128 ~~work with templated labor and equipment costs to provide~~
129 ~~definitive guidance as to the type of work and authorized~~
130 ~~expenditures that will be allowed for preapproved site~~
131 ~~rehabilitation tasks.~~

132 (f) The department is directed to establish guidelines for
133 consideration and acceptance of new and innovative technologies
134 for site rehabilitation work.

135 (3) CREATION.—There is ~~hereby~~ created the Inland Protection
136 Trust Fund, hereinafter referred to as the "fund," to be
137 administered by the department. This fund shall be used by the
138 department as a nonlapsing revolving fund for carrying out the
139 purposes of this section and s. 376.3073. To this fund shall be
140 credited all penalties, judgments, recoveries, reimbursements,
141 loans, and other fees and charges related to the implementation
142 of this section and s. 376.3073 and the excise tax revenues
143 levied, collected, and credited pursuant to ss. 206.9935(3) and
144 206.9945(1)(c). Charges against the fund shall be made pursuant
145 to ~~in accordance with the provisions of~~ this section.

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146 (4) USES.—Whenever, in its determination, incidents of
147 inland contamination related to the storage of petroleum or
148 petroleum products may pose a threat to water resources, the
149 environment, or the public health, safety, or welfare, the
150 department shall obligate moneys available in the fund to
151 provide for:

152 (a) Prompt investigation and assessment of contamination
153 sites.

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

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

169 (d) Maintenance and monitoring of contamination sites.

170 (e) Inspection and supervision of activities described in
171 this subsection.

172 (f) Payment of expenses incurred by the department in its
173 efforts to obtain from responsible parties the payment or
174 recovery of reasonable costs resulting from the activities

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175 described in this subsection.

176 (g) Payment of any other reasonable costs of
177 administration, including those administrative costs incurred by
178 the Department of Health in providing field and laboratory
179 services, toxicological risk assessment, and other assistance to
180 the department in the investigation of drinking water
181 contamination complaints and costs associated with public
182 information and education activities.

183 (h) Establishment and implementation of the compliance
184 verification program as authorized in s. 376.303(1)(a),
185 including contracting with local governments or state agencies
186 to provide for the administration of such program through
187 locally administered programs, to minimize the potential for
188 further contamination sites.

189 (i) Funding of the provisions of ss. 376.305(6) and
190 376.3072.

191 (j) Activities related to removal and replacement of
192 petroleum storage systems, exclusive of costs of any tank,
193 piping, dispensing unit, or related hardware, if soil removal is
194 approved ~~preapproved~~ as a component of site rehabilitation and
195 requires removal of the tank where remediation is conducted
196 under this section ~~s. 376.30711~~ or if such activities were
197 justified in an approved remedial action plan ~~performed pursuant~~
198 ~~to subsection (12)~~.

199 ~~(k) Activities related to reimbursement application~~
200 ~~preparation and activities related to reimbursement application~~
201 ~~examination by a certified public accountant pursuant to~~
202 ~~subsection (12)~~.

203 (k) ~~(1)~~ Reasonable costs of restoring property as nearly as

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204 practicable to the conditions that ~~which~~ existed before ~~prior to~~
205 activities associated with contamination assessment or remedial
206 action taken under s. 376.303(4).

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

208 (m) ~~(n)~~ Expenditure of sums from the fund to cover
209 ineligible sites or costs as set forth in subsection (13), if
210 the department in its discretion deems it necessary to do so. In
211 such cases, the department may seek recovery and reimbursement
212 of costs in the same manner and pursuant to ~~in accordance with~~
213 the same procedures ~~as are~~ established for recovery and
214 reimbursement of sums otherwise owed to or expended from the
215 fund.

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

219 (o) ~~(p)~~ Petroleum remediation pursuant to this section ~~s.~~
220 ~~376.30711~~ throughout a state fiscal year. The department shall
221 establish a process to uniformly encumber appropriated funds
222 throughout a state fiscal year and shall allow for emergencies
223 and imminent threats to water resources, ~~human health and the~~
224 environment, and the public health, safety, and welfare, as
225 provided in paragraph (5) (a). This paragraph does not apply to
226 appropriations associated with the free product recovery
227 initiative provided in ~~of~~ paragraph (5) (c) or the ~~preapproved~~
228 advanced cleanup program provided in ~~of~~ s. 376.30713.

229 (p) ~~(q)~~ Enforcement of this section and ss. 376.30-376.317
230 by the Fish and Wildlife Conservation Commission. The department
231 shall disburse moneys to the commission for such purpose.
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233 The Inland Protection Trust Fund may only be used to fund the
234 activities in ss. 376.30-376.317 except ss. 376.3078 and
235 376.3079. Amounts on deposit in the ~~Inland Protection Trust~~ fund
236 in each fiscal year shall first be applied or allocated for the
237 payment of amounts payable by the department pursuant to
238 paragraph (n) ~~(e)~~ under a service contract entered into by the
239 department pursuant to s. 376.3075 and appropriated in each year
240 by the Legislature before ~~prior to~~ making or providing for other
241 disbursements from the fund. ~~Nothing in~~ This subsection does not
242 ~~shall~~ authorize the use of the ~~Inland Protection Trust~~ fund for
243 cleanup of contamination caused primarily by a discharge of
244 solvents as defined in s. 206.9925(6), or polychlorinated
245 biphenyls when their presence causes them to be hazardous
246 wastes, except solvent contamination which is the result of
247 chemical or physical breakdown of petroleum products and is
248 otherwise eligible. Facilities used primarily for the storage of
249 motor or diesel fuels as defined in ss. 206.01 and 206.86 are
250 ~~shall be presumed not to be~~ excluded from eligibility pursuant
251 to this section.

252 (5) SITE SELECTION AND CLEANUP CRITERIA.—

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

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

259 2. The size of the population or area affected by the
260 contamination;

261 3. The present and future uses of the affected aquifer or

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262 surface waters, with particular consideration as to the
263 probability that the contamination is substantially affecting,
264 or will migrate to and substantially affect, a known public or
265 private source of potable water; and

266 4. The effect of the contamination on water resources and
267 the environment.

268

269 Moneys in the fund shall then be obligated for activities
270 described in paragraphs (4) (a)-(e) at individual sites pursuant
271 to in accordance with such established criteria. However,
272 ~~nothing in this paragraph does not shall be construed to~~
273 restrict the department from modifying the priority status of a
274 rehabilitation site where conditions warrant, taking into
275 consideration the actual distance between the contamination site
276 and groundwater or surface water receptors or other factors that
277 affect the risk of exposure to petroleum products' chemicals of
278 concern. The department may use the effective date of a
279 department final order granting eligibility pursuant to
280 subsections (10) ~~(9)~~ and (13) and ss. 376.305(6) and 376.3072 to
281 establish a prioritization system within a particular priority
282 scoring range.

283 (b) It is the intent of the Legislature to protect the
284 health of all people under actual circumstances of exposure. The
285 secretary shall establish criteria by rule for the purpose of
286 determining, on a site-specific basis, the rehabilitation
287 program tasks that comprise a site rehabilitation program and
288 the level at which a rehabilitation program task and a site
289 rehabilitation program are ~~may be deemed~~ completed. In
290 establishing the rule, the department shall incorporate, to the

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291 maximum extent feasible, risk-based corrective action principles
292 to achieve protection of water resources, ~~human health and~~
293 ~~safety and~~ the environment, and the public health, safety, and
294 welfare in a cost-effective manner as provided in this
295 subsection. Criteria for determining what constitutes a
296 rehabilitation program task or completion of site rehabilitation
297 program tasks and site rehabilitation programs shall be based
298 upon the factors set forth in paragraph (a) and the following
299 additional factors:

300 1. The current exposure and potential risk of exposure to
301 humans and the environment including multiple pathways of
302 exposure.

303 2. The appropriate point of compliance with cleanup target
304 levels for petroleum products' chemicals of concern. The point
305 of compliance shall be at the source of the petroleum
306 contamination. However, the department may ~~is authorized to~~
307 temporarily move the point of compliance to the boundary of the
308 property, or to the edge of the plume when the plume is within
309 the property boundary, while cleanup, including cleanup through
310 natural attenuation processes in conjunction with appropriate
311 monitoring, is proceeding. The department may also ~~is~~
312 ~~authorized~~, pursuant to criteria provided for in this paragraph,
313 ~~to~~ temporarily extend the point of compliance beyond the
314 property boundary with appropriate monitoring, if such extension
315 is needed to facilitate natural attenuation or to address the
316 current conditions of the plume and if water resources, ~~provided~~
317 ~~human health, public safety, and the environment~~, and the public
318 health, safety, and welfare are adequately protected. Temporary
319 extension of the point of compliance beyond the property

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320 boundary, as provided in this subparagraph, must ~~shall~~ include
321 notice to local governments and owners of any property into
322 which the point of compliance is allowed to extend.

323 3. The appropriate site-specific cleanup goal. The site-
324 specific cleanup goal shall be that all petroleum contamination
325 sites ultimately achieve the applicable cleanup target levels
326 provided in this paragraph. However, the department may ~~is~~
327 ~~authorized to~~ allow concentrations of the petroleum products'
328 chemicals of concern to temporarily exceed the applicable
329 cleanup target levels while cleanup, including cleanup through
330 natural attenuation processes in conjunction with appropriate
331 monitoring, is proceeding, if water resources ~~provided human~~
332 ~~health, public safety, and the environment, and the public~~
333 health, welfare, and safety are adequately protected.

334 4. The appropriateness of using institutional or
335 engineering controls. Site rehabilitation programs may include
336 the use of institutional or engineering controls to eliminate
337 the potential exposure to petroleum products' chemicals of
338 concern to humans or the environment. Use of such controls must
339 have prior department approval ~~be preapproved by the department,~~
340 and may ~~institutional controls shall~~ not be acquired with moneys
341 ~~funds~~ from the ~~Inland Protection Trust~~ fund. When institutional
342 or engineering controls are implemented to control exposure, the
343 removal of such controls must have prior department approval and
344 must be accompanied immediately by the resumption of active
345 cleanup, or other approved controls, unless cleanup target
346 levels pursuant to this paragraph have been achieved.

347 5. The additive effects of the petroleum products'
348 chemicals of concern. The synergistic effects of petroleum

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349 products' chemicals of concern must ~~shall~~ also be considered
350 when the scientific data becomes available.

351 6. Individual site characteristics that must ~~which shall~~
352 include, but not be limited to, the current and projected use of
353 the affected groundwater in the vicinity of the site, current
354 and projected land uses of the area affected by the
355 contamination, the exposed population, the degree and extent of
356 contamination, the rate of contaminant migration, the apparent
357 or potential rate of contaminant degradation through natural
358 attenuation processes, the location of the plume, and the
359 potential for further migration in relation to site property
360 boundaries.

361 7. Applicable state water quality standards.

362 a. Cleanup target levels for petroleum products' chemicals
363 of concern found in groundwater shall be the applicable state
364 water quality standards. Where such standards do not exist, the
365 cleanup target levels for groundwater shall be based on the
366 minimum criteria specified in department rule. The department
367 shall consider the following, as appropriate, in establishing
368 the applicable minimum criteria: calculations using a lifetime
369 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
370 best achievable detection limit; the naturally occurring
371 background concentration; or nuisance, organoleptic, and
372 aesthetic considerations.

373 b. Where surface waters are exposed to petroleum
374 contaminated groundwater, the cleanup target levels for the
375 petroleum products' chemicals of concern shall be based on the
376 surface water standards as established by department rule. The
377 point of measuring compliance with the surface water standards

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378 shall be in the groundwater immediately adjacent to the surface
379 water body.

380 8. Whether deviation from state water quality standards or
381 from established criteria is appropriate. The department may
382 issue a "No Further Action Order" based upon the degree to which
383 the desired cleanup target level is achievable and can be
384 reasonably and cost-effectively implemented within available
385 technologies or engineering and institutional control
386 strategies. Where a state water quality standard is applicable,
387 a deviation may not result in the application of cleanup target
388 levels more stringent than the said standard. In determining
389 whether it is appropriate to establish alternate cleanup target
390 levels at a site, the department may consider the effectiveness
391 of source removal that has been completed at the site and the
392 practical likelihood of: the use of low yield or poor quality
393 groundwater; the use of groundwater near marine surface water
394 bodies; the current and projected use of the affected
395 groundwater in the vicinity of the site; or the use of
396 groundwater in the immediate vicinity of the storage tank area,
397 where it has been demonstrated that the groundwater
398 contamination is not migrating away from such localized source,
399 if water resources; provided human health, public safety, and
400 the environment, and the public health, safety, and welfare are
401 adequately protected.

402 9. Appropriate cleanup target levels for soils.

403 a. In establishing soil cleanup target levels for human
404 exposure to petroleum products' chemicals of concern found in
405 soils from the land surface to 2 feet below land surface, the
406 department shall consider the following, as appropriate:

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407 calculations using a lifetime cancer risk level of 1.0E-6; a
408 hazard index of 1 or less; the best achievable detection limit;
409 or the naturally occurring background concentration.

410 b. Leachability-based soil target levels shall be based on
411 protection of the groundwater cleanup target levels or the
412 alternate cleanup target levels for groundwater established
413 pursuant to this paragraph, as appropriate. Source removal and
414 other cost-effective alternatives that are technologically
415 feasible shall be considered in achieving the leachability soil
416 target levels established by the department. The leachability
417 goals do not apply ~~shall not be applicable~~ if the department
418 determines, based upon individual site characteristics, that
419 petroleum products' chemicals of concern will not leach into the
420 groundwater at levels which pose a threat to water resources,
421 ~~human health and safety or the environment, or the public~~
422 health, safety, or welfare.

423
424 ~~However, nothing in~~ This paragraph does not ~~shall be construed~~
425 ~~to~~ restrict the department from temporarily postponing
426 completion of any site rehabilitation program for which funds
427 are being expended whenever such postponement is ~~deemed~~
428 necessary in order to make funds available for rehabilitation of
429 a contamination site with a higher priority status.

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

433 1. Funding for free product recovery may be provided in
434 advance of the order established by the priority ranking system
435 under paragraph (a) for site cleanup activities. However, a

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436 separate prioritization for free product recovery shall be
437 established consistent with paragraph (a). No more than \$5
438 million shall be encumbered from the ~~Inland Protection Trust~~
439 fund in any fiscal year for free product recovery conducted in
440 advance of the priority order under paragraph (a) established
441 for site cleanup activities.

442 2. Once free product removal and other source removal
443 identified in this paragraph are completed at a site, and
444 notwithstanding the order established by the priority ranking
445 system under paragraph (a) for site cleanup activities, the
446 department may reevaluate the site to determine the degree of
447 active cleanup needed to continue site rehabilitation. Further,
448 the department shall determine whether ~~if~~ the reevaluated site
449 qualifies for natural attenuation monitoring, long-term natural
450 attenuation monitoring, or no further action. If additional site
451 rehabilitation is necessary to reach no further action status,
452 the site rehabilitation shall be conducted in the order
453 established by the priority ranking system under paragraph (a).
454 The department shall use ~~utilize~~ natural attenuation monitoring
455 strategies and, when cost-effective, transition sites eligible
456 for restoration funding assistance to long-term natural
457 attenuation monitoring where the plume is shrinking or stable
458 and confined to the source property boundaries and the petroleum
459 products' chemicals of concern meet the natural attenuation
460 default concentrations, as defined by department rule. If the
461 plume migrates beyond the source property boundaries, natural
462 attenuation monitoring may be conducted pursuant to ~~in~~
463 ~~accordance with~~ department rule, or if the site no longer
464 qualifies for natural attenuation monitoring, active remediation

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465 may be resumed. For long-term natural attenuation monitoring, if
466 the petroleum products' chemicals of concern increase or are not
467 significantly reduced after 42 months of monitoring, or if the
468 plume migrates beyond the property boundaries, active
469 remediation shall be resumed as necessary. For sites undergoing
470 active remediation, the department shall evaluate ~~template~~ the
471 cost of natural attenuation monitoring ~~pursuant to s. 376.30711~~
472 to ensure that site mobilizations are performed in a cost-
473 effective manner. Sites that are not eligible for state
474 restoration funding may transition to long-term natural
475 attenuation monitoring using the criteria in this subparagraph.
476 ~~Nothing in~~ This subparagraph does not preclude ~~precludes~~ a site
477 from pursuing a "No Further Action" order with conditions.

478 3. The department shall evaluate whether higher natural
479 attenuation default concentrations for natural attenuation
480 monitoring or long-term natural attenuation monitoring are cost-
481 effective and would adequately protect water resources, public
482 ~~health and the environment,~~ and the public health, safety, and
483 welfare. The department shall also evaluate site-specific
484 characteristics that would allow for higher natural attenuation
485 or long-term natural attenuation concentration levels.

486 4. A local government may not deny a building permit based
487 solely on the presence of petroleum contamination for any
488 construction, repairs, or renovations performed in conjunction
489 with tank upgrade activities to an existing retail fuel facility
490 if the facility was fully operational before the building permit
491 was requested and if the construction, repair, or renovation is
492 performed by a licensed contractor. All building permits and any
493 construction, repairs, or renovations performed in conjunction

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494 with such permits must comply with the applicable provisions of
495 chapters 489 and 553.

496 (6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

497 (a) Site rehabilitation work on sites that are eligible for
498 state-funded cleanup from the fund pursuant to this section and
499 ss. 376.305(6), 376.3072, and 376.3073 may be funded only
500 pursuant to this section. A facility operator shall abate the
501 source of discharge for a new release that occurred after March
502 29, 1995. If free product is present, the operator shall notify
503 the department, and the department may direct the removal of the
504 free product. The department shall grant approval to continue
505 site rehabilitation pursuant to this section.

506 (b) When contracting for site rehabilitation activities
507 performed under the Petroleum Restoration Program, the
508 department shall comply with competitive procurement
509 requirements provided in chapter 287 or rules adopted under this
510 section or s. 287.0595.

511 (c) Each contractor performing site assessment and
512 remediation activities for state-funded sites under this section
513 shall certify to the department that the contractor meets all
514 certification and license requirements imposed by law. Each
515 contractor shall certify to the department that the contractor
516 meets the following minimum qualifications:

517 1. Complies with applicable Occupational Safety and Health
518 Administration regulations.

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

521 3. Maintains comprehensive general liability and
522 comprehensive automobile liability insurance with minimum limits

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523 of at least \$1 million per occurrence and \$1 million annual
524 aggregate to pay claims for damage for personal injury,
525 including accidental death, as well as claims for property
526 damage that may arise from performance of work under the
527 program, which insurance designates the state as an additional
528 insured party.

529 4. Maintains professional liability insurance of at least
530 \$1 million per occurrence and \$1 million annual aggregate.

531 5. Has the capacity to perform or directly supervise the
532 majority of the rehabilitation work at a site pursuant to s.
533 489.113(9).

534 (d) The department rules implementing this section must
535 specify that only qualified vendors may submit responses on a
536 competitive solicitation. The department rules must also include
537 procedures for the rejection of vendors not meeting the minimum
538 qualifications on the opening of a competitive solicitation and
539 requirements for a vendor to maintain its qualifications in
540 order to enter contracts or perform rehabilitation work.

541 (e) A contractor that performs services pursuant to this
542 subsection may file invoices for payment with the department for
543 the services described in the approved contract. The invoices
544 for payment must be submitted to the department on forms
545 provided by the department, together with evidence documenting
546 that activities were conducted or completed pursuant to the
547 approved contract. If there are sufficient unencumbered funds
548 available in the fund which have been appropriated for
549 expenditure by the Legislature and if all of the terms of the
550 approved contract have been met, invoices for payment must be
551 paid pursuant to s. 215.422. After a contractor has submitted

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552 its invoices to the department, and before payment is made, the
553 contractor may assign its right to payment to another person
554 without recourse of the assignee or assignor to the state. In
555 such cases, the assignee must be paid pursuant to s. 215.422.
556 Prior notice of the assignment and assignment information must
557 be made to the department and must be signed and notarized by
558 the assigning party.

559 (f) The contractor shall submit an invoice to the
560 department within 30 days after the date of the department's
561 written acceptance of each interim deliverable or written
562 approval of the final deliverable specified in the approved
563 contract.

564 (g) The department shall make payments based on the terms
565 of an approved contract for site rehabilitation work. The
566 department may, based on its experience and the past performance
567 and concerns regarding a contractor, retain up to 25 percent of
568 the contracted amount or use performance bonds to ensure
569 performance. The amount of retainage and the amount of
570 performance bonds, as well as the terms and conditions for such,
571 must be included in the approved contract.

572 (h) The contractor or the person to which the contractor
573 has assigned its right to payment pursuant to paragraph (e)
574 shall make prompt payment to subcontractors and suppliers for
575 their costs associated with an approved contract pursuant to s.
576 287.0585(1).

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

579 (j) The department may withhold payment if the validity or
580 accuracy of a contractor's invoices or supporting documents is

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581 in question.

582 (k) This section does not authorize payment to a person for
583 costs of contaminated soil treatment or disposal that does not
584 meet the applicable rules of this state for such treatment or
585 disposal, including all general permitting, state air emission
586 standards, monitoring, sampling, and reporting rules more
587 specifically described by department rules.

588 (l) The department shall terminate or suspend a
589 contractor's eligibility for participation in the program if the
590 contractor fails to perform its contractual duties for site
591 rehabilitation program tasks.

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

596 (7) ~~(6)~~ FUNDING.—The Inland Protection Trust Fund shall be
597 funded as follows:

598 (a) All excise taxes levied, collected, and credited to the
599 fund in accordance with ~~the provisions of~~ ss. 206.9935(3) and
600 206.9945(1)(c).

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

604 (8) ~~(7)~~ DEPARTMENTAL DUTY TO SEEK RECOVERY AND
605 REIMBURSEMENT.—

606 (a) Except as provided in subsection (10) ~~(9)~~ and as
607 otherwise provided by law, the department shall recover to the
608 use of the fund from a person or persons at any time causing or
609 having caused the discharge or from the Federal Government,

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610 jointly and severally, all sums owed or expended from the fund,
611 pursuant to s. 376.308, except that the department may decline
612 to pursue such recovery if it finds the amount involved too
613 small or the likelihood of recovery too uncertain. Sums
614 recovered as a result of damage due to a discharge related to
615 the storage of petroleum or petroleum products or other similar
616 disaster shall be apportioned between the fund and the General
617 Revenue Fund so as to repay the full costs to the General
618 Revenue Fund of ~~any~~ sums disbursed therefrom as a result of such
619 disaster. A ~~Any~~ request for reimbursement to the fund for such
620 costs, if not paid within 30 days after ~~of~~ demand, shall be
621 turned over to the department for collection.

622 (b) Except as provided in subsection (10) ~~(9)~~ and as
623 otherwise provided by law, it is the duty of the department in
624 administering the fund diligently to pursue the reimbursement to
625 the fund of any sum expended from the fund for cleanup and
626 abatement pursuant to ~~in accordance with the provisions of this~~
627 section or s. 376.3073, unless the department finds the amount
628 involved too small or the likelihood of recovery too uncertain.
629 For the purposes of s. 95.11, the limitation period within which
630 to institute an action to recover such sums shall begin ~~commence~~
631 on the last date on which ~~any~~ such sums were expended, and not
632 the date on which ~~that~~ the discharge occurred.

633 (c)1. The department may perform financial and technical
634 audits in order to verify site restoration costs and ensure
635 compliance with this chapter. The department shall seek recovery
636 of any overpayment based on the findings of the audits. The
637 department must begin an audit within 5 years after the date of
638 payment for costs incurred at a facility, except in cases in

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639 which the department alleges specific facts indicating fraud.

640 2. Upon determination by the department that any portion of
641 costs that have been paid from the fund is disallowed, the
642 department shall provide written notice to the recipient of the
643 payment specifying the allegations of fact that justify the
644 department's proposed action and ordering repayment of
645 disallowed costs within 60 days after receipt of such notice.

646 3. If the recipient does not make payment to the department
647 within 60 days after receipt of such notice, the department
648 shall seek recovery in a court of competent jurisdiction to
649 recover the overpayment, unless the department finds the amount
650 involved too small or the likelihood of recovery too uncertain.

651 4. In addition to the amount of the overpayment, the
652 recipient is liable to the department for interest of 1 percent
653 per month or the prime rate, whichever is less, on the amount of
654 the overpayment from the date of the overpayment by the
655 department until the recipient satisfies the department's
656 request for repayment pursuant to this paragraph. The accrual of
657 interest shall be tolled during the pendency of any litigation.

658 (d) Claims that accrued under former reimbursement or
659 preapproval programs are expressly preserved.

660 (e)-(e) If the department initiates an enforcement action to
661 clean up a contaminated site and determines that the responsible
662 party cannot ~~is~~ financially ~~unable to~~ undertake complete
663 restoration of the contaminated site, that the current property
664 owner was not responsible for the discharge when the
665 contamination first occurred, or that the state's interest can
666 best be served by conducting cleanup, the department may enter
667 into an agreement with the responsible party or property owner

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668 whereby the department agrees to conduct site rehabilitation and
 669 the responsible party or property owner agrees to pay for the
 670 portion of the cleanup costs that are within such party's or
 671 owner's financial capabilities as determined by the department,
 672 taking into consideration the party's or owner's net worth and
 673 the economic impact on the party or owner.

674 (9)~~(8)~~ INVESTMENTS; INTEREST.—Moneys in the fund which are
 675 not needed currently to meet the obligations of the department
 676 in the exercise of its responsibilities under this section and
 677 s. 376.3073 shall be deposited with the Chief Financial Officer
 678 to the credit of the fund and may be invested in such manner as
 679 ~~is provided for~~ by law statute. The interest received on such
 680 investment shall be credited to the fund. Any provisions of law
 681 to the contrary notwithstanding, such interest may be freely
 682 transferred between the ~~this~~ trust fund and the Water Quality
 683 Assurance Trust Fund, in the discretion of the department.

684 (10)~~(9)~~ EARLY DETECTION INCENTIVE PROGRAM.—To encourage
 685 early detection, reporting, and cleanup of contamination from
 686 leaking petroleum storage systems, the department shall, within
 687 the guidelines established in this subsection, conduct an
 688 incentive program that provides ~~which shall provide~~ for a 30-
 689 month grace period ending on December 31, 1988. ~~Pursuant~~
 690 ~~thereto:~~

691 (a) The department shall establish reasonable requirements
 692 for the written reporting of petroleum contamination incidents
 693 and shall distribute forms to registrants under s. 376.303(1)(b)
 694 and to other interested parties upon request to be used for such
 695 purpose. Until such forms are available for distribution, the
 696 department shall take reports of such incidents, however made,

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697 but shall notify any person making such a report that a complete
698 written report of the incident will be required by the
699 department at a later time, the form for which will be provided
700 by the department.

701 (b) When reporting forms become available for distribution,
702 all sites involving incidents of contamination from petroleum
703 storage systems initially reported to the department at any time
704 from midnight on June 30, 1986, to midnight on December 31,
705 1988, shall be qualified sites if, ~~provided that such~~ a complete
706 written report is filed with respect thereto within a reasonable
707 time. Subject to the delays which may occur as a result of the
708 prioritization of sites under paragraph (5)(a) for any qualified
709 site, costs for activities described in paragraphs (4)(a)-(e)
710 shall be absorbed at the expense of the fund, without recourse
711 to reimbursement or recovery, with the following exceptions:

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

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

719 3.a. Upon discovery by the department that the owner or
720 operator of a petroleum storage system has been grossly
721 negligent in the maintenance of such petroleum storage system;
722 has, with willful intent to conceal the existence of a serious
723 discharge, falsified inventory or reconciliation records
724 maintained with respect to the site at which such system is
725 located; or has intentionally damaged such petroleum storage

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726 system, the site at which such system is located shall be
727 ineligible for participation in the incentive program and the
728 owner shall be liable for all costs due to discharges from
729 petroleum storage systems at that site, any other provisions of
730 chapter 86-159, Laws of Florida, to the contrary
731 notwithstanding. For the purposes of this paragraph, willful
732 failure to maintain inventory and reconciliation records,
733 willful failure to make monthly monitoring system checks where
734 such systems are in place, and failure to meet monitoring and
735 retrofitting requirements within the schedules established under
736 chapter 62-761, Florida Administrative Code, or violation of
737 similar rules adopted by the department under this chapter,
738 constitutes ~~shall be construed to be~~ gross negligence in the
739 maintenance of a petroleum storage system.

740 b. The department shall redetermine the eligibility of
741 petroleum storage systems for which a timely Early Detection
742 Incentive Program ~~EDI~~ application was filed, but which were
743 deemed ineligible by the department, under the following
744 conditions:

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

750 (II) The department verifies the storage system compliance
751 based on a compliance inspection.

752

753 ~~Provided, however, that~~ A site may be determined eligible by the
754 department for good cause shown, including, but not limited to,

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755 demonstration by the owner or operator that to achieve
756 compliance would cause an increase in the potential for the
757 spread of the contamination.

758 c. Redetermination of eligibility pursuant to sub-
759 subparagraph b. shall not be available to:

760 (I) Petroleum storage systems owned or operated by the
761 Federal Government.

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

763 (III) Facilities where a discharge was intentionally
764 concealed.

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

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

769 (B) Contamination from substances that were not petroleum
770 or a petroleum product.

771 (C) Contamination that was not from a petroleum storage
772 system.

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

777
778 If, in order to avoid prolonged delay, the department in its
779 discretion deems it necessary to expend sums from the fund to
780 cover ineligible sites or costs as set forth in this paragraph,
781 the department may do so and seek recovery and reimbursement
782 therefor in the same manner and pursuant to ~~in accordance with~~
783 the same procedures ~~as are~~ established for recovery and

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784 reimbursement of sums otherwise owed to or expended from the
785 fund.

786 (c) ~~A~~ No report of a discharge made to the department by a
787 any person pursuant to ~~in accordance with~~ this subsection, ~~or~~
788 any rules adopted promulgated pursuant to this subsection may
789 not hereto, ~~shall~~ be used directly as evidence of liability for
790 such discharge in any civil or criminal trial arising out of the
791 discharge.

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

795 (11) ~~(10)~~ VIOLATIONS; PENALTY. ~~A It is unlawful for any~~
796 person may not ~~be~~:

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

801 (b) Intentionally damage a petroleum storage system.

802
803 A ~~Any~~ person convicted of such a violation commits ~~shall be~~
804 ~~guilty of~~ a felony of the third degree, punishable as provided
805 in s. 775.082, s. 775.083, or s. 775.084.

806 (12) ~~(11)~~ SITE CLEANUP.—

807 (a) *Voluntary cleanup.*—This section does not prohibit a
808 person from conducting site rehabilitation ~~either~~ through his or
809 her own personnel or through responsible response action
810 contractors or subcontractors when such person is not seeking
811 site rehabilitation funding from the fund. Such voluntary
812 cleanups must meet all applicable environmental standards.

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813 (b) *Low-scored site initiative.*—Notwithstanding subsections
814 (5) and (6) s. 376.30711, a any site with a priority ranking
815 score of 29 points or less may voluntarily participate in the
816 low-scored site initiative regardless of, whether ~~or not~~ the
817 site is eligible for state restoration funding.

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

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

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

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

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

831 e. The area of groundwater containing the petroleum
832 products' chemicals of concern is less than one-quarter acre and
833 is confined to the source property boundaries of the real
834 property on which the discharge originated.

835 f. Soils onsite that are subject to human exposure found
836 between land surface and 2 feet below land surface meet the soil
837 cleanup target levels established by department rule or human
838 exposure is limited by appropriate institutional or engineering
839 controls.

840 2. Upon affirmative demonstration of the conditions under
841 subparagraph 1., the department shall issue a determination of

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842 "No Further Action." Such determination acknowledges that
843 minimal contamination exists onsite and that such contamination
844 is not a threat to water resources, ~~human health or the~~
845 environment, or the public health, safety, or welfare. If no
846 contamination is detected, the department may issue a site
847 rehabilitation completion order.

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

851 a. A responsible party or property owner may submit an
852 assessment plan designed to affirmatively demonstrate that the
853 site meets the conditions under subparagraph 1. Notwithstanding
854 the priority ranking score of the site, the department may
855 approve ~~preapprove~~ the cost of the assessment ~~pursuant to s.~~
856 ~~376.30711~~, including 6 months of groundwater monitoring, not to
857 exceed \$30,000 for each site. The department may not pay the
858 costs associated with the establishment of institutional or
859 engineering controls.

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

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

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

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871 ~~(12) REIMBURSEMENT FOR CLEANUP EXPENSES. Except as provided~~
872 ~~in s. 2(3), chapter 95-2, Laws of Florida, this subsection shall~~
873 ~~not apply to any site rehabilitation program task initiated~~
874 ~~after March 29, 1995. Effective August 1, 1996, no further site~~
875 ~~rehabilitation work on sites eligible for state-funded cleanup~~
876 ~~from the Inland Protection Trust Fund shall be eligible for~~
877 ~~reimbursement pursuant to this subsection. The person~~
878 ~~responsible for conducting site rehabilitation may seek~~
879 ~~reimbursement for site rehabilitation program task work~~
880 ~~conducted after March 28, 1995, in accordance with s. 2(2) and~~
881 ~~(3), chapter 95-2, Laws of Florida, regardless of whether the~~
882 ~~site rehabilitation program task is completed. A site~~
883 ~~rehabilitation program task shall be considered to be initiated~~
884 ~~when actual onsite work or engineering design, pursuant to~~
885 ~~chapter 62-770, Florida Administrative Code, which is integral~~
886 ~~to performing a site rehabilitation program task has begun and~~
887 ~~shall not include contract negotiation and execution, site~~
888 ~~research, or project planning. All reimbursement applications~~
889 ~~pursuant to this subsection must be submitted to the department~~
890 ~~by January 3, 1997. The department shall not accept any~~
891 ~~applications for reimbursement or pay any claims on applications~~
892 ~~for reimbursement received after that date; provided, however if~~
893 ~~an application filed on or prior to January 3, 1997, was~~
894 ~~returned by the department on the grounds of untimely filing, it~~
895 ~~shall be refiled within 30 days after the effective date of this~~
896 ~~act in order to be processed.~~

897 ~~(a) Legislative findings. The Legislature finds and~~
898 ~~declares that rehabilitation of contamination sites should be~~
899 ~~conducted in a manner and to a level of completion which will~~

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900 ~~protect the public health, safety, and welfare and will minimize~~
901 ~~damage to the environment.~~

902 ~~(b) Conditions.—~~

903 ~~1. The owner, operator, or his or her designee of a site~~
904 ~~which is eligible for restoration funding assistance in the EDI,~~
905 ~~PLRIP, or ATRP programs shall be reimbursed from the Inland~~
906 ~~Protection Trust Fund of allowable costs at reasonable rates~~
907 ~~incurred on or after January 1, 1985, for completed program~~
908 ~~tasks as identified in the department rule promulgated pursuant~~
909 ~~to paragraph (5) (b), or uncompleted program tasks pursuant to~~
910 ~~chapter 95-2, Laws of Florida, subject to the conditions in this~~
911 ~~section. It is unlawful for a site owner or operator, or his or~~
912 ~~her designee, to receive any remuneration, in cash or in kind,~~
913 ~~directly or indirectly from the rehabilitation contractor.~~

914 ~~2. Nothing in this subsection shall be construed to~~
915 ~~authorize reimbursement to any person for costs of contaminated~~
916 ~~soil treatment or disposal that does not meet the applicable~~
917 ~~rules of this state for such treatment or disposal, including~~
918 ~~all general permitting, state air emission standards,~~
919 ~~monitoring, sampling, and reporting rules more specifically~~
920 ~~described in department rules.~~

921 ~~(c) Legislative intent.—Due to the value of the potable~~
922 ~~water of this state, it is the intent of the Legislature that~~
923 ~~the department initiate and facilitate as many cleanups as~~
924 ~~possible utilizing the resources of the state, local~~
925 ~~governments, and the private sector, recognizing that source~~
926 ~~removal, wherever it is technologically feasible and cost-~~
927 ~~effective, shall be considered the primary initial response to~~
928 ~~protect public health, safety, and the environment.~~

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929 ~~(d) Amount of reimbursement.~~ The department shall reimburse
930 actual and reasonable costs for site rehabilitation. The
931 department shall not reimburse interest on the amount of
932 reimbursable costs for any reimbursement application. However,
933 nothing herein shall affect the department's authority to pay
934 interest authorized under prior law.

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

938 1. ~~Hydrological and other site investigations and~~
939 ~~assessments; site rehabilitation plans; contracts and contract~~
940 ~~negotiations; and accounts, invoices, sales tickets, or other~~
941 ~~payment records from purchases, sales, leases, or other~~
942 ~~transactions involving costs actually incurred related to site~~
943 ~~rehabilitation. Such records shall be made available upon~~
944 ~~request to agents and employees of the department during regular~~
945 ~~business hours and at other times upon written request of the~~
946 ~~department.~~

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

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

954 ~~(f) Application for reimbursement.~~ Any eligible person who
955 performs a site rehabilitation program or performs site
956 rehabilitation program tasks such as preparation of site
957 rehabilitation plans or assessments; product recovery; cleanup

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958 ~~of groundwater or inland surface water; soil treatment or~~
959 ~~removal; or any other tasks identified by department rule~~
960 ~~developed pursuant to subsection (5), may apply for~~
961 ~~reimbursement. Such applications for reimbursement must be~~
962 ~~submitted to the department on forms provided by the department,~~
963 ~~together with evidence documenting that site rehabilitation~~
964 ~~program tasks were conducted or completed in accordance with~~
965 ~~department rule developed pursuant to subsection (5), and other~~
966 ~~such records or information as the department requires. The~~
967 ~~reimbursement application and supporting documentation shall be~~
968 ~~examined by a certified public accountant in accordance with~~
969 ~~standards established by the American Institute of Certified~~
970 ~~Public Accountants. A copy of the accountant's report shall be~~
971 ~~submitted with the reimbursement application. Applications for~~
972 ~~reimbursement shall not be approved for site rehabilitation~~
973 ~~program tasks which have not been completed, except for the task~~
974 ~~of remedial action and except for uncompleted program tasks~~
975 ~~pursuant to chapter 95-2, Laws of Florida, and this subsection.~~
976 ~~Applications for remedial action may be submitted semiannually~~
977 ~~at the discretion of the person responsible for cleanup. After~~
978 ~~an applicant has filed an application with the department and~~
979 ~~before payment is made, the applicant may assign the right to~~
980 ~~payment to any other person, without recourse of the assignee or~~
981 ~~assignor to the state, without affecting the order in which~~
982 ~~payment is made. Information necessary to process the~~
983 ~~application shall be requested from and provided by the~~
984 ~~assigning applicant. Proper notice of the assignment and~~
985 ~~assignment information shall be made to the department which~~
986 ~~notice shall be signed and notarized by the assigning applicant.~~

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987 ~~(g) Review.~~

988 ~~1. Provided there are sufficient unencumbered funds~~
989 ~~available in the Inland Protection Trust Fund, or to the extent~~
990 ~~proceeds of debt obligations are available for the payment of~~
991 ~~existing reimbursement obligations pursuant to s. 376.3075, the~~
992 ~~department shall have 60 days to determine if the applicant has~~
993 ~~provided sufficient information for processing the application~~
994 ~~and shall request submission of any additional information that~~
995 ~~the department may require within such 60-day period. If the~~
996 ~~applicant believes any request for additional information is not~~
997 ~~authorized, the applicant may request a hearing pursuant to ss.~~
998 ~~120.569 and 120.57. Once the department requests additional~~
999 ~~information, the department may request only that information~~
1000 ~~needed to clarify such additional information or to answer new~~
1001 ~~questions raised by or directly related to such additional~~
1002 ~~information.~~

1003 ~~2. The department shall deny or approve the application for~~
1004 ~~reimbursement within 90 days after receipt of the last item of~~
1005 ~~timely requested additional material, or, if no additional~~
1006 ~~material is requested, within 90 days of the close of the 60-day~~
1007 ~~period described in subparagraph 1., unless the total review~~
1008 ~~period is otherwise extended by written mutual agreement of the~~
1009 ~~applicant and the department.~~

1010 ~~3. Final disposition of an application shall be provided to~~
1011 ~~the applicant in writing, accompanied by a written explanation~~
1012 ~~setting forth in detail the reason or reasons for the approval~~
1013 ~~or denial. If the department fails to make a determination on an~~
1014 ~~application within the time provided in subparagraph 2., or~~
1015 ~~denies an application, or if a dispute otherwise arises with~~

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1016 ~~regard to reimbursement, the applicant may request a hearing~~
1017 ~~pursuant to ss. 120.569 and 120.57.~~

1018 ~~(h) Reimbursement. Upon approval of an application for~~
1019 ~~reimbursement, reimbursement for reasonable expenditures of a~~
1020 ~~site rehabilitation program or site rehabilitation program tasks~~
1021 ~~documented therein shall be made in the order in which the~~
1022 ~~department receives completed applications. Effective January 1,~~
1023 ~~1997, all unpaid reimbursement applications are subject to~~
1024 ~~payment on the following terms: The department shall develop a~~
1025 ~~schedule of the anticipated dates of reimbursement of~~
1026 ~~applications submitted to the department pursuant to this~~
1027 ~~subsection. The schedule shall specify the projected date of~~
1028 ~~payment based on equal monthly payments and projected annual~~
1029 ~~revenue of \$100 million. Based on the schedule, the department~~
1030 ~~shall notify all reimbursement applicants of the projected date~~
1031 ~~of payment of their applications. The department shall direct~~
1032 ~~the Inland Protection Financing Corporation to pay applicants~~
1033 ~~the present value of their applications as soon as practicable~~
1034 ~~after approval by the department, subject to the availability of~~
1035 ~~funds within the Inland Protection Financing Corporation. The~~
1036 ~~present value of an application shall be based on the date on~~
1037 ~~which the department anticipates the Inland Protection Financing~~
1038 ~~Corporation will settle the reimbursement application and the~~
1039 ~~schedule's projected date of payment and shall use 3.5 percent~~
1040 ~~as the annual discount rate. The determination of the amount of~~
1041 ~~the claim and the projected date of payment shall be subject to~~
1042 ~~s. 120.57.~~

1043 ~~(i) Liberal construction. With respect to site~~
1044 ~~rehabilitation initiated prior to July 1, 1986, the provisions~~

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1045 ~~of this subsection shall be given such liberal construction by~~
1046 ~~the department as will accomplish the purposes set forth in this~~
1047 ~~subsection. With regard to the keeping of particular records or~~
1048 ~~the giving of certain notice, the department may accept as~~
1049 ~~compliance action by a person which meets the intent of the~~
1050 ~~requirements set forth in this subsection.~~

1051 ~~(j) Reimbursement-review contracts.~~ The department may
1052 ~~contract with entities capable of processing or assisting in the~~
1053 ~~review of reimbursement applications. Any purchase of such~~
1054 ~~services shall not be subject to chapter 287.~~

1055 ~~(k) Audits.~~

1056 ~~1. The department is authorized to perform financial and~~
1057 ~~technical audits in order to certify site restoration costs and~~
1058 ~~ensure compliance with this chapter. The department shall seek~~
1059 ~~recovery of any overpayments based on the findings of these~~
1060 ~~audits. The department must commence any audit within 5 years~~
1061 ~~after the date of reimbursement, except in cases where the~~
1062 ~~department alleges specific facts indicating fraud.~~

1063 ~~2. Upon determination by the department that any portion of~~
1064 ~~costs which have been reimbursed are disallowed, the department~~
1065 ~~shall give written notice to the applicant setting forth with~~
1066 ~~specificity the allegations of fact which justify the~~
1067 ~~department's proposed action and ordering repayment of~~
1068 ~~disallowed costs within 60 days of notification of the~~
1069 ~~applicant.~~

1070 ~~3. In the event the applicant does not make payment to the~~
1071 ~~department within 60 days of receipt of such notice, the~~
1072 ~~department shall seek recovery in a court of competent~~
1073 ~~jurisdiction to recover reimbursement overpayments made to the~~

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1074 ~~person responsible for conducting site rehabilitation, unless~~
1075 ~~the department finds the amount involved too small or the~~
1076 ~~likelihood of recovery too uncertain.~~

1077 ~~4. In addition to the amount of any overpayment, the~~
1078 ~~applicant shall be liable to the department for interest of 1~~
1079 ~~percent per month or the prime rate, whichever is less, on the~~
1080 ~~amount of overpayment, from the date of overpayment by the~~
1081 ~~department until the applicant satisfies the department's~~
1082 ~~request for repayment pursuant to this paragraph. The~~
1083 ~~calculation of interest shall be tolled during the pendency of~~
1084 ~~any litigation.~~

1085 ~~5. Financial and technical audits frequently are conducted~~
1086 ~~under this section many years after the site rehabilitation~~
1087 ~~activities were performed and the costs examined in the course~~
1088 ~~of the audit were incurred by the person responsible for site~~
1089 ~~rehabilitation. During the intervening span of years, the~~
1090 ~~department's rule requirements and its related guidance and~~
1091 ~~other nonrule policy directives may have changed significantly.~~
1092 ~~The Legislature finds that it may be appropriate for the~~
1093 ~~department to provide relief to persons subject to such~~
1094 ~~requirements in financial and technical audits conducted~~
1095 ~~pursuant to this section.~~

1096 ~~a. The department is authorized to grant variances and~~
1097 ~~waivers from the documentation requirements of subparagraph~~
1098 ~~(c)2. and from the requirements of rules applicable in technical~~
1099 ~~and financial audits conducted under this section. Variances and~~
1100 ~~waivers shall be granted when the person responsible for site~~
1101 ~~rehabilitation demonstrates to the department that application~~
1102 ~~of a financial or technical auditing requirement would create a~~

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1103 ~~substantial hardship or would violate principles of fairness.~~
1104 ~~For purposes of this subsection, "substantial hardship" means a~~
1105 ~~demonstrated economic, technological, legal, or other type of~~
1106 ~~hardship to the person requesting the variance or waiver. For~~
1107 ~~purposes of this subsection, "principles of fairness" are~~
1108 ~~violated when the application of a requirement affects a~~
1109 ~~particular person in a manner significantly different from the~~
1110 ~~way it affects other similarly situated persons who are affected~~
1111 ~~by the requirement or when the requirement is being applied~~
1112 ~~retroactively without due notice to the affected parties.~~

1113 ~~b. A person whose reimbursed costs are subject to a~~
1114 ~~financial and technical audit under this section may file a~~
1115 ~~written request to the department for grant of a variance or~~
1116 ~~waiver. The request shall specify:~~

1117 ~~(I) The requirement from which a variance or waiver is~~
1118 ~~requested.~~

1119 ~~(II) The type of action requested.~~

1120 ~~(III) The specific facts which would justify a waiver or~~
1121 ~~variance.~~

1122 ~~(IV) The reason or reasons why the requested variance or~~
1123 ~~waiver would serve the purposes of this section.~~

1124 ~~e. Within 90 days after receipt of a written request for~~
1125 ~~variance or waiver under this subsection, the department shall~~
1126 ~~grant or deny the request. If the request is not granted or~~
1127 ~~denied within 90 days of receipt, the request shall be deemed~~
1128 ~~approved. An order granting or denying the request shall be in~~
1129 ~~writing and shall contain a statement of the relevant facts and~~
1130 ~~reasons supporting the department's action. The department's~~
1131 ~~decision to grant or deny the petition shall be supported by~~

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1132 ~~competent substantial evidence and is subject to ss. 120.569 and~~
1133 ~~120.57. Once adopted, model rules promulgated by the~~
1134 ~~Administration Commission under s. 120.542 shall govern the~~
1135 ~~processing of requests under this provision.~~

1136 ~~6. The Chief Financial Officer may audit the records of~~
1137 ~~persons who receive or who have received payments pursuant to~~
1138 ~~this chapter in order to verify site restoration costs, ensure~~
1139 ~~compliance with this chapter, and verify the accuracy and~~
1140 ~~completeness of audits performed by the department pursuant to~~
1141 ~~this paragraph. The Chief Financial Officer may contract with~~
1142 ~~entities or persons to perform audits pursuant to this~~
1143 ~~subparagraph. The Chief Financial Officer shall commence any~~
1144 ~~audit within 1 year after the department's completion of an~~
1145 ~~audit conducted pursuant to this paragraph, except in cases~~
1146 ~~where the department or the Chief Financial Officer alleges~~
1147 ~~specific facts indicating fraud.~~

1148 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage
1149 detection, reporting, and cleanup of contamination caused by
1150 discharges of petroleum or petroleum products, the department
1151 shall, within the guidelines established in this subsection,
1152 implement a cost-sharing cleanup program to provide
1153 rehabilitation funding assistance for all property contaminated
1154 by discharges of petroleum or petroleum products occurring
1155 before January 1, 1995, subject to a copayment provided for in a
1156 Petroleum Cleanup Participation Program ~~preapproved~~ site
1157 rehabilitation agreement. Eligibility is ~~shall be~~ subject to an
1158 annual appropriation from the ~~Inland Protection Trust~~ fund.
1159 Additionally, funding for eligible sites is ~~shall be~~ contingent
1160 upon annual appropriation in subsequent years. Such continued

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1161 state funding is ~~shall~~ not be deemed an entitlement or a vested
1162 right under this subsection. Eligibility shall be determined in
1163 the program, ~~shall be~~ notwithstanding any other provision of
1164 law, consent order, order, judgment, or ordinance to the
1165 contrary.

1166 (a)1. The department shall accept any discharge reporting
1167 form received before ~~prior to~~ January 1, 1995, as an application
1168 for this program, and the facility owner or operator need not
1169 reapply.

1170 2. Owners or operators of property contaminated by
1171 petroleum or petroleum products from a petroleum storage system
1172 may apply for such program by filing a written report of the
1173 contamination incident, including evidence that such incident
1174 occurred before ~~prior to~~ January 1, 1995, with the department.
1175 Incidents of petroleum contamination discovered after December
1176 31, 1994, at sites which have not stored petroleum or petroleum
1177 products for consumption, use, or sale after such date shall be
1178 presumed to have occurred before ~~prior to~~ January 1, 1995. An
1179 operator's filed report shall be ~~deemed~~ an application of the
1180 owner for all purposes. Sites reported to the department after
1181 December 31, 1998, are ~~shall~~ not be eligible for the ~~this~~
1182 program.

1183 (b) Subject to annual appropriation from the ~~Inland~~
1184 ~~Protection Trust~~ fund, sites meeting the criteria of this
1185 subsection are eligible for up to \$400,000 of site
1186 rehabilitation funding assistance in priority order pursuant to
1187 subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~. Sites meeting
1188 the criteria of this subsection for which a site rehabilitation
1189 completion order was issued before ~~prior to~~ June 1, 2008, do not

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1190 qualify for the 2008 increase in site rehabilitation funding
1191 assistance and are bound by the pre-June 1, 2008, limits. Sites
1192 meeting the criteria of this subsection for which a site
1193 rehabilitation completion order was not issued before ~~prior to~~
1194 June 1, 2008, regardless of whether ~~or not~~ they have previously
1195 transitioned to nonstate-funded cleanup status, may continue
1196 state-funded cleanup pursuant to this section ~~s. 376.30711~~ until
1197 a site rehabilitation completion order is issued or the
1198 increased site rehabilitation funding assistance limit is
1199 reached, whichever occurs first. The department may not pay ~~At~~
1200 ~~no time shall~~ expenses incurred beyond ~~outside~~ the scope of an
1201 approved contract ~~preapproved site rehabilitation program under~~
1202 ~~s. 376.30711~~ be reimbursable.

1203 (c) Upon notification by the department that rehabilitation
1204 funding assistance is available for the site pursuant to
1205 subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~, the owner,
1206 operator, or person otherwise responsible for site
1207 rehabilitation shall provide the department with a limited
1208 contamination assessment report and shall enter into a Petroleum
1209 Cleanup Participation Program ~~preapproved~~ site rehabilitation
1210 agreement with the department ~~and a contractor qualified under~~
1211 ~~s. 376.30711(2)(b)~~. The agreement must ~~shall~~ provide for a 25-
1212 percent copayment by the owner, operator, or person otherwise
1213 responsible for conducting site rehabilitation. The owner,
1214 operator, or person otherwise responsible for conducting site
1215 rehabilitation shall adequately demonstrate the ability to meet
1216 the copayment obligation. The limited contamination assessment
1217 report and the copayment costs may be reduced or eliminated if
1218 the owner and all operators responsible for restoration under s.

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1219 376.308 demonstrate that they cannot ~~are~~ financially ~~unable to~~
1220 comply with the copayment and limited contamination assessment
1221 report requirements. The department shall take into
1222 consideration the owner's and operator's net worth in making the
1223 determination of financial ability. In the event the department
1224 and the owner, operator, or person otherwise responsible for
1225 site rehabilitation cannot ~~are unable to~~ complete negotiation of
1226 the cost-sharing agreement within 120 days after beginning
1227 ~~commencing~~ negotiations, the department shall terminate
1228 negotiations, and the site shall be ~~deemed~~ ineligible for state
1229 funding under this subsection and all liability protections
1230 provided for in this subsection shall be revoked.

1231 (d) A ~~No~~ report of a discharge made to the department by a
1232 any person pursuant to ~~in accordance with~~ this subsection, or
1233 any rules adopted pursuant to this subsection may not hereto,
1234 ~~shall~~ be used directly as evidence of liability for such
1235 discharge in any civil or criminal trial arising out of the
1236 discharge.

1237 (e) ~~Nothing in~~ This subsection does not ~~shall be construed~~
1238 ~~to~~ preclude the department from pursuing penalties under ~~in~~
1239 ~~accordance with~~ s. 403.141 for violations of any law or any
1240 rule, order, permit, registration, or certification adopted or
1241 issued by the department pursuant to its lawful authority.

1242 (f) Upon the filing of a discharge reporting form under
1243 paragraph (a), ~~neither~~ the department or ~~nor~~ any local
1244 government may not ~~shall~~ pursue any judicial or enforcement
1245 action to compel rehabilitation of the discharge. This paragraph
1246 does ~~shall~~ not prevent any such action with respect to
1247 discharges determined ineligible under this subsection or to

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1248 sites for which rehabilitation funding assistance is available
1249 pursuant to subsections ~~in accordance with subsection~~ (5) and
1250 (6) ~~s. 376.30711~~.

1251 (g) The following are ~~shall be~~ excluded from participation
1252 in the program:

1253 1. Sites at which the department has been denied reasonable
1254 site access to implement ~~the provisions of~~ this section.

1255 2. Sites that were active facilities when owned or operated
1256 by the Federal Government.

1257 3. Sites that are identified by the United States
1258 Environmental Protection Agency to be on, or which qualify for
1259 listing on, the National Priorities List under Superfund. This
1260 exception does not apply to those sites for which eligibility
1261 has been requested or granted as of the effective date of this
1262 act under the Early Detection Incentive Program established
1263 pursuant to s. 15, chapter 86-159, Laws of Florida.

1264 4. Sites for which ~~The~~ contamination is covered under the
1265 Early Detection Incentive Program, the Abandoned Tank
1266 Restoration Program, or the Petroleum Liability and Restoration
1267 Insurance Program, in which case site rehabilitation funding
1268 assistance shall continue under the respective program.

1269 (14) LEGISLATIVE APPROVAL AND AUTHORIZATION.—Before ~~Prior~~
1270 ~~to~~ the department enters ~~entering~~ into a service contract with
1271 the Inland Protection Financing Corporation which includes
1272 payments by the department to support any existing or planned
1273 note, bond, certificate of indebtedness, or other obligation or
1274 evidence of indebtedness of the corporation pursuant to s.
1275 376.3075, the Legislature, by law, must specifically authorize
1276 the department to enter into such a contract. The corporation

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1277 may issue bonds in an amount not to exceed \$104 million, with a
1278 term up to 15 years, and annual payments not in excess of \$10.4
1279 million. The department may enter into a service contract in
1280 conjunction with the issuance of such bonds which provides for
1281 annual payments for debt service payments or other amounts
1282 payable with respect to bonds, plus any administrative expenses
1283 of the corporation to finance the rehabilitation of petroleum
1284 contamination sites pursuant to ss. 376.30-376.317.

1285 Section 3. Section 376.30711, Florida Statutes, is
1286 repealed.

1287 Section 4. Section 376.30713, Florida Statutes, is amended
1288 to read:

1289 376.30713 ~~Preapproved~~ Advanced cleanup.—

1290 (1) In addition to the legislative findings provided in s.
1291 376.3071 ~~s. 376.30711~~, the Legislature finds and declares:

1292 (a) That the inability to conduct site rehabilitation in
1293 advance of a site's priority ranking pursuant to s.

1294 376.3071(5) (a) may substantially impede or prohibit property
1295 transactions or the proper completion of public works projects.

1296 (b) While the first priority of the state is to provide for
1297 protection of ~~the water resources of the state, human health,~~
1298 ~~and the environment, and the public health, safety, and welfare,~~
1299 the viability of commerce is of equal importance to the state.

1300 (c) It is in the public interest and of substantial
1301 economic benefit to the state to provide an opportunity for site
1302 rehabilitation to be conducted on a limited basis at
1303 contaminated sites, in advance of the site's priority ranking,
1304 to facilitate property transactions or public works projects.

1305 (d) It is appropriate for a person who is ~~persons~~

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1306 responsible for site rehabilitation to share the costs
1307 associated with managing and conducting ~~preapproved~~ advanced
1308 cleanup, to facilitate the opportunity for ~~preapproved~~ advanced
1309 cleanup, and to mitigate the additional costs that will be
1310 incurred by the state in conducting site rehabilitation in
1311 advance of the site's priority ranking. Such cost sharing will
1312 result in more contaminated sites being cleaned up and greater
1313 environmental benefits to the state. ~~The provisions of This~~
1314 section is ~~shall only be~~ available only for sites eligible for
1315 restoration funding under EDI, ATRP, or PLRIP ~~PLIRP~~. This
1316 section is available for discharges eligible for restoration
1317 funding under the petroleum cleanup participation program for
1318 the state's cost share of site rehabilitation. Applications must
1319 ~~shall~~ include a cost-sharing commitment for this section in
1320 addition to the 25-percent-copayment requirement of the
1321 petroleum cleanup participation program. This section is not
1322 available for any discharge under a petroleum cleanup
1323 participation program where the 25-percent-copayment requirement
1324 of the petroleum cleanup participation program has been reduced
1325 or eliminated pursuant to s. 376.3071(13)(c).

1326 (2) The department may ~~is authorized to~~ approve an
1327 application for ~~preapproved~~ advanced cleanup at eligible sites,
1328 before ~~prior to~~ funding based on the site's priority ranking
1329 established pursuant to s. 376.3071(5)(a), pursuant to ~~in~~
1330 ~~accordance with the provisions of this section.~~ Only the
1331 facility owner or operator or the person otherwise responsible
1332 for site rehabilitation qualifies ~~Persons who qualify as an~~
1333 applicant under ~~the provisions of this section shall only~~
1334 ~~include the facility owner or operator or the person otherwise~~

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1335 ~~responsible for site rehabilitation.~~

1336 (a) ~~Preapproved~~ Advanced cleanup applications may be
1337 submitted between May 1 and June 30 and between November 1 and
1338 December 31 of each fiscal year. Applications submitted between
1339 May 1 and June 30 shall be for the fiscal year beginning July 1.
1340 An application must ~~shall~~ consist of:

1341 1. A commitment to pay ~~no less than~~ 25 percent or more of
1342 the total cleanup cost deemed recoverable under ~~the provisions~~
1343 ~~of~~ this section along with proof of the ability to pay the cost
1344 share. An applicant proposing that the department enter into a
1345 performance-based contract for the cleanup of at least 20 sites
1346 may use the following as its cost share commitment: a commitment
1347 to pay; a demonstrated cost savings to the department; or any
1348 combination of the two. For applications relying on a
1349 demonstration of a cost savings, the applicant, in conjunction
1350 with its proposed agency term contractor, shall establish and
1351 provide in its application the percentage of cost savings, in
1352 the aggregate, that is being provided to the department for
1353 cleanup of the sites under its application compared to the cost
1354 of cleanup of those same sites using the current rates provided
1355 to the department by that proposed agency term contractor. The
1356 department shall determine if the cost savings demonstration is
1357 acceptable, and such determination is not subject to chapter
1358 120.

1359 2. A nonrefundable review fee of \$250 to cover the
1360 administrative costs associated with the department's review of
1361 the application.

1362 3. A limited contamination assessment report.

1363 4. A proposed course of action.

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1364

1365 The limited contamination assessment report must ~~shall~~ be
1366 sufficient to support the proposed course of action and to
1367 estimate the cost of the proposed course of action. ~~Any~~ Costs
1368 incurred related to conducting the limited contamination
1369 assessment report are not refundable from the Inland Protection
1370 Trust Fund. Site eligibility under this subsection, or any other
1371 provision of this section is, ~~shall~~ not constitute an
1372 entitlement to ~~preapproved~~ advanced cleanup or continued
1373 restoration funding. The applicant shall certify to the
1374 department that the applicant has the prerequisite authority to
1375 enter into an a ~~preapproved~~ advanced cleanup contract with the
1376 department. ~~The~~ This certification must ~~shall~~ be submitted with
1377 the application.

1378 (b) The department shall rank the applications based on the
1379 percentage of cost-sharing commitment proposed by the applicant,
1380 with the highest ranking given to the applicant who ~~that~~
1381 proposes the highest percentage of cost sharing. If the
1382 department receives applications that propose identical cost-
1383 sharing commitments and that ~~which~~ exceed the funds available to
1384 commit to all such proposals during the ~~preapproved~~ advanced
1385 cleanup application period, the department shall proceed to
1386 rerank those applicants. Those applicants submitting identical
1387 cost-sharing proposals that ~~which~~ exceed funding availability
1388 must ~~shall~~ be so notified by the department and ~~shall be~~ offered
1389 the opportunity to raise their individual cost-share
1390 commitments, in a period ~~of time~~ specified in the notice. At the
1391 close of the period, the department shall proceed to rerank the
1392 applications pursuant to ~~in accordance with~~ this paragraph.

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1393 (3) (a) Based on the ranking established under paragraph
1394 (2) (b) ~~and the funding limitations provided in subsection (4),~~
1395 the department shall begin ~~commence~~ negotiation with such
1396 applicants. If the department and the applicant agree on the
1397 course of action, the department may enter into a contract with
1398 the applicant. The department may ~~is authorized to~~ negotiate the
1399 terms and conditions of the contract.

1400 (b) ~~Preapproved~~ Advanced cleanup must ~~shall~~ be conducted
1401 pursuant to s. 376.3071(5) (b) and (6) and rules adopted under
1402 ss. 287.0595 and 376.3071 ~~under the provisions of ss.~~
1403 ~~376.3071(5) (b) and 376.30711.~~ If the terms of the ~~preapproved~~
1404 advanced cleanup contract are not fulfilled, the applicant
1405 forfeits any right to future payment for any site rehabilitation
1406 work conducted under the contract.

1407 (c) The department's decision not to enter into an a
1408 ~~preapproved~~ advanced cleanup contract with the applicant is
1409 ~~shall~~ not be subject to ~~the provisions of~~ chapter 120. If the
1410 department cannot ~~is not able to~~ complete negotiation of the
1411 course of action and the terms of the contract within 60 days
1412 after beginning ~~commencing~~ negotiations, the department shall
1413 terminate negotiations with that applicant.

1414 (4) The department may ~~is authorized to~~ enter into
1415 contracts for a total of up to \$15 million of ~~preapproved~~
1416 advanced cleanup work in each fiscal year. However, a facility
1417 or an applicant that bundles multiple sites as specified in
1418 subparagraph (2) (a)1. may not be approved ~~preapproved~~ for more
1419 than \$5 million of cleanup activity in each fiscal year. For the
1420 purposes of this section, the term "facility" includes ~~shall~~
1421 ~~include,~~ but is not ~~be~~ limited to, multiple site facilities such

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1422 as airports, port facilities, and terminal facilities even
1423 though such enterprises may be treated as separate facilities
1424 for other purposes under this chapter.

1425 (5) All funds collected by the department pursuant to this
1426 section shall be deposited into the Inland Protection Trust Fund
1427 to be used as provided in this section.

1428 Section 5. Subsections (4) and (30) of section 376.301,
1429 Florida Statutes, are amended to read:

1430 376.301 Definitions of terms used in ss. 376.30-376.317,
1431 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
1432 376.75, unless the context clearly requires otherwise, the term:

1433 ~~(4) "Backlog" means reimbursement obligations incurred~~
1434 ~~pursuant to s. 376.3071(12), prior to March 29, 1995, or~~
1435 ~~authorized for reimbursement under the provisions of s.~~
1436 ~~376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims~~
1437 ~~within the backlog are subject to adjustment, where appropriate.~~

1438 ~~(30) "Person responsible for conducting site~~
1439 ~~rehabilitation" means the site owner, operator, or the person~~
1440 ~~designated by the site owner or operator on the reimbursement~~
1441 ~~application. Mortgage holders and trust holders may be eligible~~
1442 ~~to participate in the reimbursement program pursuant to s.~~
1443 ~~376.3071(12).~~

1444 Section 6. Subsection (5) of section 376.302, Florida
1445 Statutes, is amended to read:

1446 376.302 Prohibited acts; penalties.—

1447 (5) Any person who commits fraud in representing his or her
1448 their qualifications as a contractor ~~for reimbursement~~ or in
1449 submitting a payment invoice ~~reimbursement request~~ pursuant to
1450 s. 376.3071 ~~s. 376.3071(12)~~ commits a felony of the third

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1451 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1452 775.084.

1453 Section 7. Subsection (6) of section 376.305, Florida
1454 Statutes, is amended to read:

1455 376.305 Removal of prohibited discharges.—

1456 (6) The Legislature created the Abandoned Tank Restoration
1457 Program in response to the need to provide financial assistance
1458 for cleanup of sites that have abandoned petroleum storage
1459 systems. For purposes of this subsection, the term "abandoned
1460 petroleum storage system" ~~means a shall mean any~~ petroleum
1461 storage system that has not stored petroleum products for
1462 consumption, use, or sale since March 1, 1990. The department
1463 shall establish the Abandoned Tank Restoration Program to
1464 facilitate the restoration of sites contaminated by abandoned
1465 petroleum storage systems.

1466 (a) To be included in the program:

1467 1. An application must be submitted to the department by
1468 June 30, 1996, certifying that the system has not stored
1469 petroleum products for consumption, use, or sale at the facility
1470 since March 1, 1990.

1471 2. The owner or operator of the petroleum storage system
1472 when it was in service must have ceased conducting business
1473 involving consumption, use, or sale of petroleum products at
1474 that facility on or before March 1, 1990.

1475 3. The site is not otherwise eligible for the cleanup
1476 programs pursuant to s. 376.3071 or s. 376.3072.

1477 (b) In order to be eligible for the program, petroleum
1478 storage systems from which a discharge occurred must be closed
1479 pursuant to ~~in accordance with~~ department rules before ~~prior to~~

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1480 an eligibility determination. However, if the department
1481 determines that the owner of the facility cannot ~~is~~ financially
1482 ~~unable to~~ comply with the department's petroleum storage system
1483 closure requirements and all other eligibility requirements are
1484 met, the petroleum storage system closure requirements shall be
1485 waived. The department shall take into consideration the owner's
1486 net worth and the economic impact on the owner in making the
1487 determination of the owner's financial ability. The June 30,
1488 1996, application deadline shall be waived for owners who cannot
1489 ~~are~~ financially ~~unable to~~ comply.

1490 (c) Sites accepted in the program are ~~will be~~ eligible for
1491 site rehabilitation funding as provided in s. 376.3071 ~~s.~~
1492 ~~376.3071(12) or s. 376.30711,~~ as appropriate.

1493 (d) The following sites are excluded from eligibility:

1494 1. Sites on property of the Federal Government;
1495 2. Sites contaminated by pollutants that are not petroleum
1496 products;

1497 3. Sites where the department has been denied site access;
1498 or

1499 4. Sites which are owned by a ~~any~~ person who had knowledge
1500 of the polluting condition when title was acquired unless the
1501 ~~that~~ person acquired title to the site after issuance of a
1502 notice of site eligibility by the department.

1503 (e) Participating sites are subject to a deductible as
1504 determined by rule, not to exceed \$10,000.

1505

1506 ~~The provisions of~~ This subsection does ~~do~~ not relieve a ~~any~~
1507 person who has acquired title after ~~subsequent to~~ July 1, 1992,
1508 from the duty to establish by a preponderance of the evidence

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1509 that he or she undertook, at the time of acquisition, all
1510 appropriate inquiry into the previous ownership and use of the
1511 property consistent with good commercial or customary practice
1512 in an effort to minimize liability, as required by s.
1513 376.308(1)(c).

1514 Section 8. Paragraph (a) of subsection (1) and subsections
1515 (3), (4), and (9) of section 376.30714, Florida Statutes, are
1516 amended to read:

1517 376.30714 Site rehabilitation agreements.—

1518 (1) In addition to the legislative findings provided in s.
1519 376.3071, the Legislature finds and declares:

1520 (a) The provisions of s. 376.3071(5)(a) ~~ss. 376.3071(5)(a)~~
1521 ~~and 376.30711~~ have delayed cleanup of low-priority sites
1522 determined to be eligible for state funding under that section
1523 and ss. 376.305, 376.3071, and 376.3072.

1524 (3) Free product attributable to a new discharge shall be
1525 removed to the extent practicable and pursuant to ~~in accordance~~
1526 ~~with~~ department rules adopted pursuant to s. 376.3071(5) at the
1527 expense of the owner, operator, or other responsible party. Free
1528 product attributable to existing contamination shall be removed
1529 pursuant to ~~in accordance with~~ s. 376.3071(5) and (6), ~~or s.~~
1530 ~~376.30711(1)(b)~~, and department rules adopted pursuant thereto.

1531 (4) Beginning January 1, 1999, the department may ~~is~~
1532 ~~authorized to~~ negotiate and enter into site rehabilitation
1533 agreements with applicants at sites with eligible existing
1534 contamination at which a new discharge occurs. The site
1535 rehabilitation agreement must ~~shall~~ include, but is not ~~be~~
1536 limited to, allocation of the funding responsibilities of the
1537 department and the applicant for cleanup of the qualified site,

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1538 establishment of a mechanism to guarantee the applicant's
1539 commitment to pay its agreed amount of site rehabilitation as
1540 set forth in the agreement, and establishment of the priority in
1541 which cleanup of the qualified site will occur. Under ~~any~~ such a
1542 negotiated site rehabilitation agreement, the applicant may not
1543 ~~shall~~ be responsible for ~~no~~ more than the cleanup costs that are
1544 attributable to the new discharge. However, the payment of ~~any~~
1545 applicable deductibles, copayments, or other program eligibility
1546 requirements under ss. 376.305, 376.3071, and 376.3072 shall
1547 continue to apply to the existing contamination and must be
1548 accounted for in the negotiated site rehabilitation agreement.
1549 The department may ~~is further authorized~~, pursuant to this
1550 section, ~~to preapprove or~~ conduct additional assessment
1551 activities at the site.

1552 (9) Site rehabilitation conducted at qualified sites shall
1553 be conducted pursuant to s. 376.3071(5)(b) and (6) ~~under the~~
1554 ~~provisions of ss. 376.3071(5)(b) and 376.30711~~. If the terms of
1555 the agreement are not fulfilled by the applicant, the applicant
1556 forfeits the ~~any~~ right to continued funding for ~~any~~ site
1557 rehabilitation work under the agreement and is ~~shall be~~ subject
1558 to enforcement action by the department or local government to
1559 compel cleanup of the new discharge.

1560 Section 9. Subsection (2) of section 376.3072, Florida
1561 Statutes, is amended to read:

1562 376.3072 Florida Petroleum Liability and Restoration
1563 Insurance Program.—

1564 (2) (a) An ~~Any~~ owner or operator of a petroleum storage
1565 system may become an insured in the restoration insurance
1566 program at a facility if ~~provided~~:

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1567 1. A site at which an incident has occurred is ~~shall be~~
1568 eligible for restoration if the insured is a participant in the
1569 third-party liability insurance program or otherwise meets
1570 applicable financial responsibility requirements. After July 1,
1571 1993, the insured must also provide the required excess
1572 insurance coverage or self-insurance for restoration to achieve
1573 the financial responsibility requirements of 40 C.F.R. s.
1574 280.97, subpart H, not covered by paragraph (d).

1575 2. A site that ~~which~~ had a discharge reported before ~~prior~~
1576 ~~to~~ January 1, 1989, for which notice was given pursuant to s.
1577 376.3071(10) ~~s. 376.3071(9) or (12)~~, and that ~~which~~ is
1578 ineligible for the third-party liability insurance program
1579 solely due to that discharge is ~~shall be~~ eligible for
1580 participation in the restoration program for an ~~any~~ incident
1581 occurring on or after January 1, 1989, pursuant to ~~in accordance~~
1582 ~~with~~ subsection (3). Restoration funding for an eligible
1583 contaminated site will be provided without participation in the
1584 third-party liability insurance program until the site is
1585 restored as required by the department or until the department
1586 determines that the site does not require restoration.

1587 3. Notwithstanding paragraph (b), a site where an
1588 application is filed with the department before ~~prior to~~ January
1589 1, 1995, where the owner is a small business under s.
1590 288.703(6), a state community college with less than 2,500 FTE,
1591 a religious institution as defined by s. 212.08(7)(m), a
1592 charitable institution as defined by s. 212.08(7)(p), or a
1593 county or municipality with a population of less than 50,000, is
1594 ~~shall be~~ eligible for up to \$400,000 of eligible restoration
1595 costs, less a deductible of \$10,000 for small businesses,

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1596 eligible community colleges, and religious or charitable
1597 institutions, and \$30,000 for eligible counties and
1598 municipalities, if provided ~~that~~:

1599 a. Except as provided in sub-subparagraph e., the facility
1600 was in compliance with department rules at the time of the
1601 discharge.

1602 b. The owner or operator has, upon discovery of a
1603 discharge, promptly reported the discharge to the department,
1604 and drained and removed the system from service, if necessary.

1605 c. The owner or operator has not intentionally caused or
1606 concealed a discharge or disabled leak detection equipment.

1607 d. The owner or operator proceeds to complete initial
1608 remedial action as specified ~~defined~~ by department rules.

1609 e. The owner or operator, if required and if it has not
1610 already done so, applies for third-party liability coverage for
1611 the facility within 30 days after ~~of~~ receipt of an eligibility
1612 order issued by the department pursuant to this subparagraph
1613 ~~provision~~.

1614
1615 However, the department may consider in-kind services from
1616 eligible counties and municipalities in lieu of the \$30,000
1617 deductible. The cost of conducting initial remedial action as
1618 defined by department rules is ~~shall be~~ an eligible restoration
1619 cost pursuant to this subparagraph ~~provision~~.

1620 4.a. By January 1, 1997, facilities at sites with existing
1621 contamination must ~~shall be required to~~ have methods of release
1622 detection to be eligible for restoration insurance coverage for
1623 new discharges subject to department rules for secondary
1624 containment. Annual storage system testing, in conjunction with

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1625 inventory control, shall be considered to be a method of release
1626 detection until the later of December 22, 1998, or 10 years
1627 after the date of installation or the last upgrade. Other
1628 methods of release detection for storage tanks which meet such
1629 requirement are:

1630 (I) Interstitial monitoring of tank and integral piping
1631 secondary containment systems;

1632 (II) Automatic tank gauging systems; or

1633 (III) A statistical inventory reconciliation system with a
1634 tank test every 3 years.

1635 b. For pressurized integral piping systems, the owner or
1636 operator must use:

1637 (I) An automatic in-line leak detector with flow
1638 restriction meeting the requirements of department rules used in
1639 conjunction with an annual tightness or pressure test; or

1640 (II) An automatic in-line leak detector with electronic
1641 flow shut-off meeting the requirements of department rules.

1642 c. For suction integral piping systems, the owner or
1643 operator must use:

1644 (I) A single check valve installed directly below the
1645 suction pump ~~if, provided~~ there are no other valves between the
1646 dispenser and the tank; or

1647 (II) An annual tightness test or other approved test.

1648 d. Owners of facilities with existing contamination which
1649 ~~that~~ install internal release detection systems pursuant to ~~in~~
1650 ~~accordance with~~ sub-subparagraph a. shall permanently close
1651 their external groundwater and vapor monitoring wells pursuant
1652 to ~~in accordance with~~ department rules by December 31, 1998.

1653 Upon installation of the internal release detection system, such

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1654 ~~these~~ wells must ~~shall~~ be secured and taken out of service until
1655 permanent closure.

1656 e. Facilities with vapor levels of contamination meeting
1657 the requirements of or below the concentrations specified in the
1658 performance standards for release detection methods specified in
1659 department rules may continue to use vapor monitoring wells for
1660 release detection.

1661 f. The department may approve other methods of release
1662 detection for storage tanks and integral piping which have at
1663 least the same capability to detect a new release as the methods
1664 specified in this subparagraph.

1665 (b)1. To be eligible to be certified as an insured
1666 facility, for discharges reported after January 1, 1989, the
1667 owner or operator must ~~shall~~ file an affidavit upon enrollment
1668 in the program. The affidavit must ~~shall~~ state that the owner or
1669 operator has read and is familiar with this chapter and the
1670 rules relating to petroleum storage systems and petroleum
1671 contamination site cleanup adopted pursuant to ss. 376.303 and
1672 376.3071 and that the facility is in compliance with this
1673 chapter and applicable rules adopted pursuant to s. 376.303.
1674 Thereafter, the facility's annual inspection report shall serve
1675 as evidence of the facility's compliance with department rules.
1676 The facility's certificate as an insured facility may be revoked
1677 only if the insured fails to correct a violation identified in
1678 an inspection report before a discharge occurs. The facility's
1679 certification may be restored when the violation is corrected as
1680 verified by a reinspection.

1681 2. Except as provided in paragraph (a), to be eligible to
1682 be certified as an insured facility, the applicant must

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1683 demonstrate to the department that the applicant has financial
1684 responsibility for third-party claims and excess coverage, as
1685 required by this section and 40 C.F.R. s. 280.97(h), and that
1686 the applicant maintains such insurance during the applicant's
1687 participation as an insured facility.

1688 3. Should a reinspection of the facility be necessary to
1689 demonstrate compliance, the insured shall pay an inspection fee
1690 not to exceed \$500 per facility to be deposited in the Inland
1691 Protection Trust Fund.

1692 4. Upon report of a discharge, the department shall issue
1693 an order stating that the site is eligible for restoration
1694 coverage unless the insured has intentionally caused or
1695 concealed a discharge or disabled leak detection equipment, has
1696 misrepresented facts in the affidavit filed pursuant to
1697 subparagraph 1., or cannot demonstrate that he or she has
1698 obtained and maintained the financial responsibility for third-
1699 party claims and excess coverage as required in subparagraph 2.

1700
1701 This paragraph does not ~~Nothing contained herein shall~~ prevent
1702 the department from assessing civil penalties for noncompliance
1703 pursuant to this subsection ~~as provided herein.~~

1704 (c) A lender that has loaned money to a participant in the
1705 Florida Petroleum Liability and Restoration Insurance Program
1706 and has held a mortgage lien, security interest, or ~~any~~ lien
1707 rights on the site primarily to protect the lender's right to
1708 convert or liquidate the collateral in satisfaction of the debt
1709 secured, or a financial institution that ~~which~~ serves as a
1710 trustee for an insured in the program for the purpose of site
1711 rehabilitation, is ~~shall be~~ eligible for a state-funded cleanup

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1712 of the site, if the lender forecloses the lien or accepts a deed
1713 in lieu of foreclosure on that property and acquires title, and
1714 as long as the following has occurred, as applicable:

1715 1. The owner or operator provided the lender with proof
1716 that the facility is eligible for the restoration insurance
1717 program at the time of the loan or before the discharge
1718 occurred.

1719 2. The financial institution or lender ~~completes site~~
1720 ~~rehabilitation and seeks reimbursement pursuant to s.~~
1721 ~~376.3071(12) or conducts preapproved site rehabilitation~~
1722 ~~pursuant to s. 376.3071 s. 376.30711, as appropriate.~~

1723 3. The financial institution or lender did not engage in
1724 management activities at the site before ~~prior to~~ foreclosure
1725 and does not operate the site or otherwise engage in management
1726 activities after foreclosure, except to comply with
1727 environmental statutes or rules or to prevent, abate, or
1728 remediate a discharge.

1729 (d)1. With respect to eligible incidents reported to the
1730 department before ~~prior to~~ July 1, 1992, the restoration
1731 insurance program shall provide up to \$1.2 million of
1732 restoration for each incident and shall have an annual aggregate
1733 limit of \$2 million of restoration per facility.

1734 2. For any site at which a discharge is reported on or
1735 after July 1, 1992, and for which restoration coverage is
1736 requested, the department shall pay for restoration in
1737 accordance with the following schedule:

1738 a. For discharges reported to the department from July 1,
1739 1992, to June 30, 1993, the department shall pay up to \$1.2
1740 million of eligible restoration costs, less a \$1,000 deductible

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1741 per incident.

1742 b. For discharges reported to the department from July 1,
1743 1993, to December 31, 1993, the department shall pay up to \$1.2
1744 million of eligible restoration costs, less a \$5,000 deductible
1745 per incident. However, if, before ~~prior to~~ the date the
1746 discharge is reported and by September 1, 1993, the owner or
1747 operator can demonstrate financial responsibility in effect in
1748 accordance with 40 C.F.R. s. 280.97, subpart H, for coverage
1749 under sub-subparagraph c., the deductible will be \$500. The \$500
1750 deductible shall apply for a period of 1 year from the effective
1751 date of a policy or other form of financial responsibility
1752 obtained and in effect by September 1, 1993.

1753 c. For discharges reported to the department from January
1754 1, 1994, to December 31, 1996, the department shall pay up to
1755 \$400,000 of eligible restoration costs, less a deductible of
1756 \$10,000.

1757 d. For discharges reported to the department from January
1758 1, 1997, to December 31, 1998, the department shall pay up to
1759 \$300,000 of eligible restoration costs, less a deductible of
1760 \$10,000.

1761 e. Beginning January 1, 1999, ~~no~~ restoration coverage may
1762 not ~~shall~~ be provided.

1763 f. In addition, a supplemental deductible shall be added as
1764 follows:

1765 (I) A supplemental deductible of \$5,000 if the owner or
1766 operator fails to report a suspected release within 1 working
1767 day after discovery.

1768 (II) A supplemental deductible of \$10,000 if the owner or
1769 operator, within 3 days after discovery of an actual new

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1770 discharge, fails to take steps to test or empty the storage
1771 system and complete such activity within 7 days.

1772 (III) A supplemental deductible of \$25,000 if the owner or
1773 operator, after testing or emptying the storage system, fails to
1774 proceed within 24 hours thereafter to abate the known source of
1775 the discharge or to begin free product removal relating to an
1776 actual new discharge and fails to complete abatement within 72
1777 hours, although free product recovery may be ongoing.

1778 (e) The following are not eligible to participate in the
1779 Petroleum Liability and Restoration Insurance Program:

1780 1. Sites owned or operated by the Federal Government during
1781 the time the facility was in operation.

1782 2. Sites where the owner or operator has denied the
1783 department reasonable site access.

1784 3. Any third-party claims relating to damages caused by
1785 discharges discovered before ~~prior to~~ January 1, 1989.

1786 4. Any incidents discovered before ~~prior to~~ January 1,
1787 1989, ~~are not eligible to participate in the restoration~~
1788 ~~insurance program~~. However, this exclusion does ~~shall~~ not be
1789 ~~construed to~~ prevent a new incident at the same location from
1790 participation in the restoration insurance program if the owner
1791 or operator is otherwise eligible. This exclusion does ~~shall~~ not
1792 affect eligibility for participation in the Early Detection
1793 Incentive EDI Program.

1794
1795 Sites meeting the criteria of this subsection for which a site
1796 rehabilitation completion order was issued before ~~prior to~~ June
1797 1, 2008, do not qualify for the 2008 increase in site
1798 rehabilitation funding assistance and are bound by the pre-June

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1799 1, 2008, limits. Sites meeting the criteria of this subsection
1800 for which a site rehabilitation completion order was not issued
1801 before ~~prior to~~ June 1, 2008, regardless of whether ~~or not~~ they
1802 have previously transitioned to nonstate-funded cleanup status,
1803 may continue state-funded cleanup pursuant to s. 376.3071(6) ~~s.~~
1804 ~~376.30711~~ until a site rehabilitation completion order is issued
1805 or the increased site rehabilitation funding assistance limit is
1806 reached, whichever occurs first. ~~At no time shall expenses~~
1807 ~~incurred outside the preapproved site rehabilitation program~~
1808 ~~under s. 376.30711 be reimbursable.~~

1809 Section 10. Subsections (1) and (4) of section 376.3073,
1810 Florida Statutes, are amended to read:

1811 376.3073 Local programs and state agency programs for
1812 control of contamination.—

1813 (1) The department shall, to the greatest extent possible
1814 and cost-effective, contract with local governments to provide
1815 for the administration of its departmental responsibilities
1816 under ss. 376.305, 376.3071(4)(a)-(e), (h), (k), and (m) and (6)
1817 ~~(l), (n), 376.30711~~, 376.3072, and 376.3077 through locally
1818 administered programs. The department may also contract with
1819 state agencies to carry out the restoration activities
1820 authorized pursuant to ss. 376.305, 376.3071, and 376.3072~~,~~
1821 ~~376.305, and 376.30711~~. However, ~~no~~ such a contract may not
1822 ~~shall~~ be entered into unless the local government or state
1823 agency is deemed capable of carrying out such responsibilities
1824 to the department's satisfaction.

1825 (4) Under no circumstances shall the cleanup criteria
1826 employed in locally administered programs or state agency
1827 programs or pursuant to local ordinance be more stringent than

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1828 the criteria established by the department pursuant to s.
1829 376.3071(5) or s. 376.3071(6) ~~s. 376.3071(1)~~.

1830 Section 11. Subsections (4) and (5) of section 376.3075,
1831 Florida Statutes, are amended to read:

1832 376.3075 Inland Protection Financing Corporation.—

1833 (4) The corporation may enter into one or more service
1834 contracts with the department to provide services to the
1835 department in connection with financing the functions and
1836 activities provided in ss. 376.30-376.317. The department may
1837 enter into one or more such service contracts with the
1838 corporation and provide for payments under such contracts
1839 pursuant to s. 376.3071(4)(n) ~~s. 376.3071(4)(e)~~, subject to
1840 annual appropriation by the Legislature. The proceeds from such
1841 service contracts may be used for the corporation's
1842 administrative costs and expenses after payments as set forth in
1843 subsection (5). Each service contract may have a term of up to
1844 20 years. Amounts annually appropriated and applied to make
1845 payments under such service contracts may not include any funds
1846 derived from penalties or other payments received from any
1847 property owner or private party, including payments received
1848 under s. 376.3071(7)(b) ~~s. 376.3071(6)(b)~~. In compliance with s.
1849 287.0641 and other applicable provisions of law, the obligations
1850 of the department under such service contracts do not constitute
1851 a general obligation of the state or a pledge of the faith and
1852 credit or taxing power of the state, and ~~nor may~~ such
1853 obligations are not obligations ~~be construed in any manner as an~~
1854 ~~obligation~~ of the State Board of Administration or entities for
1855 which it invests funds, other than the department as provided in
1856 this section, but are payable solely from amounts available in

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1857 the Inland Protection Trust Fund, subject to annual
1858 appropriation. In compliance with this subsection and s.
1859 287.0582, the service contract must expressly include the
1860 following statement: "The State of Florida's performance and
1861 obligation to pay under this contract is contingent upon an
1862 annual appropriation by the Legislature."

1863 (5) The corporation may issue and incur notes, bonds,
1864 certificates of indebtedness, or other obligations or evidences
1865 of indebtedness payable from and secured by amounts payable to
1866 the corporation by the department under a service contract
1867 entered into pursuant to subsection (4) for the purpose of
1868 financing the rehabilitation of petroleum contamination sites
1869 pursuant to ss. 376.30-376.317. The term of any such note, bond,
1870 certificate of indebtedness, or other obligation or evidence of
1871 indebtedness may not have a financing term that exceeds 15
1872 years. The corporation may select its financing team and issue
1873 its obligations through competitive bidding or negotiated
1874 contracts, whichever is most cost-effective. ~~Any~~ Indebtedness of
1875 the corporation does not constitute a debt or obligation of the
1876 state or a pledge of the faith and credit or taxing power of the
1877 state, but is payable from and secured by payments made by the
1878 department under the service contract pursuant to s.
1879 376.3071(4)(n) ~~s. 376.3071(4)(e)~~.

1880 Section 12. This act shall take effect July 1, 2014.