

1 A bill to be entitled

2 An act relating to rehabilitation of petroleum  
3 contamination sites; amending s. 287.0595, F.S.;  
4 deleting a provision exempting certain professional  
5 service contracts from pollution response action  
6 contract requirements; amending s. 376.3071, F.S.;  
7 providing legislative findings and intent regarding  
8 the Petroleum Restoration Program and the  
9 rehabilitation of contamination sites; providing  
10 requirements for site rehabilitation contracts and  
11 procedures for payment of rehabilitation work under  
12 the Petroleum Restoration Program; revising provisions  
13 relating to the duty of the Department of  
14 Environmental Protection to seek recovery and  
15 reimbursement of certain costs; providing  
16 applicability of funding under the Early Detection  
17 Incentive Program; deleting obsolete provisions  
18 relating to reimbursement for certain cleanup  
19 expenses; repealing s. 376.30711, F.S., relating to  
20 preapproved site rehabilitation; amending 376.30713,  
21 F.S.; providing for certain applicants to use a  
22 commitment to pay, a demonstrated cost savings, or  
23 both to meet advanced cleanup cost-share requirements;  
24 amending ss. 376.301, 376.302, 376.305, 376.30714,  
25 376.3072, 376.3073, and 376.3075, F.S.; conforming  
26 provisions to changes made by the act; providing an

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb7093-01-c1

27 effective date.

28

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

30

31 Section 1. Subsection (4) of section 287.0595, Florida  
 32 Statutes, is amended to read:

33 287.0595 Pollution response action contracts; department  
 34 rules.—

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

37 Section 2. Section 376.3071, Florida Statutes, is amended  
 38 to read:

39 376.3071 Inland Protection Trust Fund; creation; purposes;  
 40 funding.—

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

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

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

51 (c) That, where contamination of the ground or surface  
 52 water has occurred, remedial measures have often been delayed

53 for long periods while determinations as to liability and the  
54 extent of liability are made and that such delays result in the  
55 continuation and intensification of the threat to the public  
56 health, safety, and welfare; in greater damage to water  
57 resources and the environment; and in significantly higher costs  
58 to contain and remove the contamination.

59 (d) That adequate financial resources must be readily  
60 available to provide for the expeditious supply of safe and  
61 reliable alternative sources of potable water to affected  
62 persons and to provide a means for investigation and cleanup of  
63 contamination sites without delay.

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

78 (f) That to achieve the purposes established in paragraph

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

87 (g) That the Petroleum Restoration Program must be  
88 implemented in a manner that reduces costs and improves the  
89 efficiency of rehabilitation activities to reduce the  
90 significant backlog of contaminated sites eligible for state-  
91 funded rehabilitation and the corresponding threat to the public  
92 health, safety, and welfare, water resources, and the  
93 environment.

94 (2) INTENT AND PURPOSE.—

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

102 (b) It is the intent of the Legislature that the  
103 department implement rules and procedures to improve the  
104 efficiency of the Petroleum Restoration Program. The department

105 is directed to implement rules and policies to eliminate and  
106 reduce duplication of site rehabilitation efforts, paperwork,  
107 and documentation, and micromanagement of site rehabilitation  
108 tasks.

109 (c) It is the intent of the Legislature that  
110 rehabilitation of contamination sites be conducted with emphasis  
111 on first addressing the sites that pose the greatest threat to  
112 the public health, safety, and welfare, water resources, and the  
113 environment, within the availability of funds in the Inland  
114 Protection Trust Fund, recognizing that source removal, wherever  
115 it is technologically feasible and cost-effective, will  
116 significantly reduce contamination or eliminate the spread of  
117 contamination and will protect the public health, safety, and  
118 welfare, water resources, and the environment.

119 (d)~~(e)~~ The department is directed to adopt and implement  
120 uniform and standardized forms for ~~the requests for preapproval~~  
121 site rehabilitation work and for the submittal of reports to  
122 ensure that information is submitted to the department in a  
123 concise, standardized uniform format seeking only information  
124 that is necessary.

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

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

136 (f) The department is directed to establish guidelines for  
 137 consideration and acceptance of new and innovative technologies  
 138 for site rehabilitation work.

139 (3) CREATION.—There is ~~hereby~~ created the Inland  
 140 Protection Trust Fund, hereinafter referred to as the "fund," to  
 141 be administered by the department. This fund shall be used by  
 142 the department as a nonlapsing revolving fund for carrying out  
 143 the purposes of this section and s. 376.3073. To this fund shall  
 144 be credited all penalties, judgments, recoveries,  
 145 reimbursements, loans, and other fees and charges related to the  
 146 implementation of this section and s. 376.3073 and the excise  
 147 tax revenues levied, collected, and credited pursuant to ss.  
 148 206.9935(3) and 206.9945(1)(c). Charges against the fund shall  
 149 be made pursuant to ~~in accordance with the provisions of~~ this  
 150 section.

151 (4) USES.—Whenever, in its determination, incidents of  
 152 inland contamination related to the storage of petroleum or  
 153 petroleum products may pose a threat to ~~the environment or the~~  
 154 public health, safety, or welfare, water resources, or the  
 155 environment, the department shall obligate moneys available in  
 156 the fund to provide for:

157 (a) Prompt investigation and assessment of contamination  
158 sites.

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

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

174 (d) Maintenance and monitoring of contamination sites.

175 (e) Inspection and supervision of activities described in  
176 this subsection.

177 (f) Payment of expenses incurred by the department in its  
178 efforts to obtain from responsible parties the payment or  
179 recovery of reasonable costs resulting from the activities  
180 described in this subsection.

181 (g) Payment of any other reasonable costs of  
182 administration, including those administrative costs incurred by

183 the Department of Health in providing field and laboratory  
 184 services, toxicological risk assessment, and other assistance to  
 185 the department in the investigation of drinking water  
 186 contamination complaints and costs associated with public  
 187 information and education activities.

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

194 (i) Funding of the provisions of ss. 376.305(6) and  
 195 376.3072.

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

204 ~~(k) Activities related to reimbursement application~~  
 205 ~~preparation and activities related to reimbursement application~~  
 206 ~~examination by a certified public accountant pursuant to~~  
 207 ~~subsection (12)~~.

208 (k)(1) Reasonable costs of restoring property as nearly as



209 practicable to the conditions which existed before ~~prior to~~  
 210 activities associated with contamination assessment or remedial  
 211 action taken under s. 376.303(4).

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

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

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

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

234 (p) ~~(q)~~ Enforcement of this section and ss. 376.30-376.317

235 | by the Fish and Wildlife Conservation Commission. The department  
 236 | shall disburse moneys to the commission for such purpose.

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

257 | (5) SITE SELECTION AND CLEANUP CRITERIA.—

258 | (a) The department shall adopt rules to establish  
 259 | priorities based upon a scoring system for state-conducted  
 260 | cleanup at petroleum contamination sites based upon factors that

261 include, but need not be limited to:

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

264 2. The size of the population or area affected by the  
 265 contamination;

266 3. The present and future uses of the affected aquifer or  
 267 surface waters, with particular consideration as to the  
 268 probability that the contamination is substantially affecting,  
 269 or will migrate to and substantially affect, a known public or  
 270 private source of potable water; and

271 4. The effect of the contamination on water resources and  
 272 the environment.

273

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

287 | scoring range.

288 |       (b) It is the intent of the Legislature to protect the  
289 | health of all people under actual circumstances of exposure. The  
290 | secretary shall establish criteria by rule for the purpose of  
291 | determining, on a site-specific basis, the rehabilitation  
292 | program tasks that comprise a site rehabilitation program and  
293 | the level at which a rehabilitation program task and a site  
294 | rehabilitation program are ~~may be deemed~~ completed. In  
295 | establishing the rule, the department shall incorporate, to the  
296 | maximum extent feasible, risk-based corrective action principles  
297 | to achieve protection of the public ~~human~~ health, and safety,  
298 | and welfare, water resources, and the environment in a cost-  
299 | effective manner as provided in this subsection. Criteria for  
300 | determining what constitutes a rehabilitation program task or  
301 | completion of site rehabilitation program tasks and site  
302 | rehabilitation programs shall be based upon the factors set  
303 | forth in paragraph (a) and the following additional factors:

304 |       1. The current exposure and potential risk of exposure to  
305 | humans and the environment including multiple pathways of  
306 | exposure.

307 |       2. The appropriate point of compliance with cleanup target  
308 | levels for petroleum products' chemicals of concern. The point  
309 | of compliance shall be at the source of the petroleum  
310 | contamination. However, the department may ~~is authorized to~~  
311 | temporarily move the point of compliance to the boundary of the  
312 | property, or to the edge of the plume when the plume is within

313 the property boundary, while cleanup, including cleanup through  
 314 natural attenuation processes in conjunction with appropriate  
 315 monitoring, is proceeding. The department may also ~~is~~  
 316 ~~authorized~~, pursuant to criteria provided for in this paragraph,  
 317 ~~to~~ temporarily extend the point of compliance beyond the  
 318 property boundary with appropriate monitoring, if such extension  
 319 is needed to facilitate natural attenuation or to address the  
 320 current conditions of the plume, if the public ~~provided human~~  
 321 ~~health, public~~ safety, and welfare, water resources, and the  
 322 environment are adequately protected. Temporary extension of the  
 323 point of compliance beyond the property boundary, as provided in  
 324 this subparagraph, must ~~shall~~ include notice to local  
 325 governments and owners of any property into which the point of  
 326 compliance is allowed to extend.

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

338 4. The appropriateness of using institutional or

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

351 5. The additive effects of the petroleum products'  
352 chemicals of concern. The synergistic effects of petroleum  
353 products' chemicals of concern must ~~shall~~ also be considered  
354 when the scientific data becomes available.

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

365 7. Applicable state water quality standards.

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

377 b. Where surface waters are exposed to petroleum  
378 contaminated groundwater, the cleanup target levels for the  
379 petroleum products' chemicals of concern shall be based on the  
380 surface water standards as established by department rule. The  
381 point of measuring compliance with the surface water standards  
382 shall be in the groundwater immediately adjacent to the surface  
383 water body.

384 8. Whether deviation from state water quality standards or  
385 from established criteria is appropriate. The department may  
386 issue a "No Further Action Order" based upon the degree to which  
387 the desired cleanup target level is achievable and can be  
388 reasonably and cost-effectively implemented within available  
389 technologies or engineering and institutional control  
390 strategies. Where a state water quality standard is applicable,

391 a deviation may not result in the application of cleanup target  
392 levels more stringent than the ~~said~~ standard. In determining  
393 whether it is appropriate to establish alternate cleanup target  
394 levels at a site, the department may consider the effectiveness  
395 of source removal that has been completed at the site and the  
396 practical likelihood of~~+~~ the use of low yield or poor quality  
397 groundwater; the use of groundwater near marine surface water  
398 bodies; the current and projected use of the affected  
399 groundwater in the vicinity of the site; or the use of  
400 groundwater in the immediate vicinity of the storage tank area,  
401 where it has been demonstrated that the groundwater  
402 contamination is not migrating away from such localized source,  
403 if the public, ~~provided human~~ health, ~~public~~ safety, and  
404 welfare, water resources, and the environment are adequately  
405 protected.

406 9. Appropriate cleanup target levels for soils.

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

414 b. Leachability-based soil target levels shall be based on  
415 protection of the groundwater cleanup target levels or the  
416 alternate cleanup target levels for groundwater established



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

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

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

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

443 fund in any fiscal year for free product recovery conducted in  
444 advance of the priority order under paragraph (a) established  
445 for site cleanup activities.

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

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

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

490 4. A local government may not deny a building permit based  
491 solely on the presence of petroleum contamination for any  
492 construction, repairs, or renovations performed in conjunction  
493 with tank upgrade activities to an existing retail fuel facility  
494 if the facility was fully operational before the building permit

495 was requested and if the construction, repair, or renovation is  
496 performed by a licensed contractor. All building permits and any  
497 construction, repairs, or renovations performed in conjunction  
498 with such permits must comply with the applicable provisions of  
499 chapters 489 and 553.

500 (6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

501 (a) Site rehabilitation work on sites which are eligible  
502 for state-funded cleanup from the fund pursuant to this section  
503 and ss. 376.305(6), 376.3072, and 376.3073 may only be funded  
504 pursuant to this section. A facility operator shall abate the  
505 source of discharge for a new release that occurred after March  
506 29, 1995. If free product is present, the operator shall notify  
507 the department, and the department may direct the removal of the  
508 free product. The department shall grant approval to continue  
509 site rehabilitation pursuant to this section.

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

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

521 1. Complies with applicable Occupational Safety and Health  
 522 Administration regulations.

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

525 3. Maintains comprehensive general liability and  
 526 comprehensive automobile liability insurance with minimum limits  
 527 of at least \$1 million per occurrence and \$1 million annual  
 528 aggregate to pay claims for damage for personal injury,  
 529 including accidental death, as well as claims for property  
 530 damage that may arise from performance of work under the  
 531 program, which insurance designates the state as an additional  
 532 insured party.

533 4. Maintains professional liability insurance of at least  
 534 \$1 million per occurrence and \$1 million annual aggregate.

535 5. Has the capacity to perform or directly supervise the  
 536 majority of the rehabilitation work at a site pursuant to s.  
 537 489.113(9).

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

545 (e) A contractor that performs services pursuant to this  
 546 subsection may file invoices for payment with the department for

547 the services described in the approved contract. The invoices  
548 for payment must be submitted to the department on forms  
549 provided by the department, together with evidence documenting  
550 that activities were conducted or completed pursuant to the  
551 approved contract. If there are sufficient unencumbered funds  
552 available in the fund which have been appropriated for  
553 expenditure by the Legislature, and if all of the terms of the  
554 approved contract have been met, invoices for payment must be  
555 paid pursuant to s. 215.422. After a contractor has submitted  
556 its invoices to the department, and before payment is made, the  
557 contractor may assign its right to payment to another person  
558 without recourse of the assignee or assignor to the state. In  
559 such cases, the assignee must be paid pursuant to s. 215.422.  
560 Prior notice of the assignment and assignment information must  
561 be made to the department and must be signed and notarized by  
562 the assigning party.

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

568 (g) The department shall make payments based on the terms  
569 of an approved contract for site rehabilitation work. The  
570 department may, based on its experience and the past performance  
571 and concerns regarding a contractor, retain up to 25 percent of  
572 the contracted amount or use performance bonds to ensure

573 performance. The amount of retainage and the amount of  
574 performance bonds, as well as the terms and conditions for such,  
575 must be included in the approved contract.

576 (h) The contractor or the person to which the contractor  
577 has assigned its right to payment pursuant to paragraph (e)  
578 shall make prompt payment to subcontractors and suppliers for  
579 their costs associated with an approved contract pursuant to s.  
580 287.0585(1).

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

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

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

592 (l) The department shall terminate or suspend a  
593 contractor's eligibility for participation in the program if the  
594 contractor fails to perform its contractual duties for site  
595 rehabilitation program tasks.

596 (m) A site owner or operator, or his or her designee, may  
597 not receive any remuneration, in cash or in kind, directly or  
598 indirectly, from a rehabilitation contractor performing site

599 cleanup activities pursuant to this section.

600 (7)~~(6)~~ FUNDING.—The Inland Protection Trust Fund shall be  
 601 funded as follows:

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

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

608 (8)~~(7)~~ DEPARTMENTAL DUTY TO SEEK RECOVERY AND  
 609 REIMBURSEMENT.—

610 (a) Except as provided in subsection (10) ~~(9)~~ and as  
 611 otherwise provided by law, the department shall recover to the  
 612 use of the fund from a person or persons at any time causing or  
 613 having caused the discharge or from the Federal Government,  
 614 jointly and severally, all sums owed or expended from the fund,  
 615 pursuant to s. 376.308, except that the department may decline  
 616 to pursue such recovery if it finds the amount involved too  
 617 small or the likelihood of recovery too uncertain. Sums  
 618 recovered as a result of damage due to a discharge related to  
 619 the storage of petroleum or petroleum products or other similar  
 620 disaster shall be apportioned between the fund and the General  
 621 Revenue Fund so as to repay the full costs to the General  
 622 Revenue Fund of ~~any~~ sums disbursed therefrom as a result of such  
 623 disaster. A ~~Any~~ request for reimbursement to the fund for such  
 624 costs, if not paid within 30 days after ~~of~~ demand, shall be



625 turned over to the department for collection.

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

637 (c)1. The department may perform financial and technical  
638 audits in order to verify site restoration costs and ensure  
639 compliance with this chapter. The department shall seek recovery  
640 of any overpayment based on the findings of the audits. The  
641 department must begin an audit within 5 years after the date of  
642 payment for costs incurred at a facility, except in cases where  
643 the department alleges specific facts indicating fraud.

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

650 3. If the recipient does not make payment to the

651 department within 60 days after receipt of such notice, the  
652 department shall seek recovery in a court of competent  
653 jurisdiction to recover the overpayment, unless the department  
654 finds the amount involved too small or the likelihood of  
655 recovery too uncertain.

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

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

665 (e)-(e) If the department initiates an enforcement action  
666 to clean up a contaminated site and determines that the  
667 responsible party cannot ~~is~~ financially ~~unable to~~ undertake  
668 complete restoration of the contaminated site, that the current  
669 property owner was not responsible for the discharge when the  
670 contamination first occurred, or that the state's interest can  
671 best be served by conducting cleanup, the department may enter  
672 into an agreement with the responsible party or property owner  
673 whereby the department agrees to conduct site rehabilitation and  
674 the responsible party or property owner agrees to pay for the  
675 portion of the cleanup costs that are within such party's or  
676 owner's financial capabilities as determined by the department,

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

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

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

695 (a) The department shall establish reasonable requirements  
 696 for the written reporting of petroleum contamination incidents  
 697 and shall distribute forms to registrants under s. 376.303(1)(b)  
 698 and to other interested parties upon request to be used for such  
 699 purpose. Until such forms are available for distribution, the  
 700 department shall take reports of such incidents, however made,  
 701 but shall notify any person making such a report that a complete  
 702 written report of the incident will be required by the

703 department at a later time, the form for which will be provided  
704 by the department.

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

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

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

724 3.a. Upon discovery by the department that the owner or  
725 operator of a petroleum storage system has been grossly  
726 negligent in the maintenance of such petroleum storage system;  
727 has, with willful intent to conceal the existence of a serious  
728 discharge, falsified inventory or reconciliation records

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

745 b. The department shall redetermine the eligibility of  
746 petroleum storage systems for which a timely Early Detection  
747 Incentive Program ~~EDI~~ application was filed, but which were  
748 deemed ineligible by the department, under the following  
749 conditions:

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

755 (II) The department verifies the storage system compliance  
 756 based on a compliance inspection.

757  
 758 ~~Provided, however, that~~ A site may be determined eligible by the  
 759 department for good cause shown, including, but not limited to,  
 760 demonstration by the owner or operator that to achieve  
 761 compliance would cause an increase in the potential for the  
 762 spread of the contamination.

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

765 (I) Petroleum storage systems owned or operated by the  
 766 Federal Government.

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

768 (III) Facilities where a discharge was intentionally  
 769 concealed.

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

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

774 (B) Contamination from substances that were not petroleum  
 775 or a petroleum product.

776 (C) Contamination that was not from a petroleum storage  
 777 system.

778 d. ~~EDF~~ Applicants who demonstrate compliance for a site  
 779 pursuant to sub-subparagraph b. are eligible for the Early  
 780 Detection Incentive Program and site rehabilitation funding

781 pursuant to subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~.

782

783 If, in order to avoid prolonged delay, the department in its  
 784 discretion deems it necessary to expend sums from the fund to  
 785 cover ineligible sites or costs as set forth in this paragraph,  
 786 the department may do so and seek recovery and reimbursement  
 787 therefor in the same manner and pursuant to ~~in accordance with~~  
 788 the same procedures ~~as are~~ established for recovery and  
 789 reimbursement of sums otherwise owed to or expended from the  
 790 fund.

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

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

800 ~~(11)-(10)~~ VIOLATIONS; PENALTY. ~~A~~ ~~It is unlawful for any~~  
 801 person may not ~~to~~:

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

806 (b) Intentionally damage a petroleum storage system.

807  
 808 A ~~Any~~ person convicted of such a violation is ~~shall be~~ guilty of  
 809 a felony of the third degree, punishable as provided in s.  
 810 775.082, s. 775.083, or s. 775.084.

811 (12) ~~(11)~~ SITE CLEANUP.—

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

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

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

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

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

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



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

836 e. The area of groundwater containing the petroleum  
837 products' chemicals of concern is less than one-quarter acre and  
838 is confined to the source property boundaries of the real  
839 property on which the discharge originated.

840 f. Soils onsite that are subject to human exposure found  
841 between land surface and 2 feet below land surface meet the soil  
842 cleanup target levels established by department rule or human  
843 exposure is limited by appropriate institutional or engineering  
844 controls.

845 2. Upon affirmative demonstration of the conditions under  
846 subparagraph 1., the department shall issue a determination of  
847 "No Further Action." Such determination acknowledges that  
848 minimal contamination exists onsite and that such contamination  
849 is not a threat to the public human health, safety, or welfare,  
850 water resources, or the environment. If no contamination is  
851 detected, the department may issue a site rehabilitation  
852 completion order.

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

856 a. A responsible party or property owner may submit an  
857 assessment plan designed to affirmatively demonstrate that the  
858 site meets the conditions under subparagraph 1. Notwithstanding

859 the priority ranking score of the site, the department may  
860 approve ~~preapprove~~ the cost of the assessment ~~pursuant to s.~~  
861 ~~376.30711~~, including 6 months of groundwater monitoring, not to  
862 exceed \$30,000 for each site. The department may not pay the  
863 costs associated with the establishment of institutional or  
864 engineering controls.

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

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

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

876 ~~(12) REIMBURSEMENT FOR CLEANUP EXPENSES. Except as~~  
877 ~~provided in s. 2(3), chapter 95-2, Laws of Florida, this~~  
878 ~~subsection shall not apply to any site rehabilitation program~~  
879 ~~task initiated after March 29, 1995. Effective August 1, 1996,~~  
880 ~~no further site rehabilitation work on sites eligible for state-~~  
881 ~~funded cleanup from the Inland Protection Trust Fund shall be~~  
882 ~~eligible for reimbursement pursuant to this subsection. The~~  
883 ~~person responsible for conducting site rehabilitation may seek~~  
884 ~~reimbursement for site rehabilitation program task work~~

885 ~~conducted after March 28, 1995, in accordance with s. 2(2) and~~  
886 ~~(3), chapter 95-2, Laws of Florida, regardless of whether the~~  
887 ~~site rehabilitation program task is completed. A site~~  
888 ~~rehabilitation program task shall be considered to be initiated~~  
889 ~~when actual onsite work or engineering design, pursuant to~~  
890 ~~chapter 62-770, Florida Administrative Code, which is integral~~  
891 ~~to performing a site rehabilitation program task has begun and~~  
892 ~~shall not include contract negotiation and execution, site~~  
893 ~~research, or project planning. All reimbursement applications~~  
894 ~~pursuant to this subsection must be submitted to the department~~  
895 ~~by January 3, 1997. The department shall not accept any~~  
896 ~~applications for reimbursement or pay any claims on applications~~  
897 ~~for reimbursement received after that date; provided, however if~~  
898 ~~an application filed on or prior to January 3, 1997, was~~  
899 ~~returned by the department on the grounds of untimely filing, it~~  
900 ~~shall be refiled within 30 days after the effective date of this~~  
901 ~~act in order to be processed.~~

902 ~~(a) Legislative findings. The Legislature finds and~~  
903 ~~declares that rehabilitation of contamination sites should be~~  
904 ~~conducted in a manner and to a level of completion which will~~  
905 ~~protect the public health, safety, and welfare and will minimize~~  
906 ~~damage to the environment.~~

907 ~~(b) Conditions.~~

908 ~~1. The owner, operator, or his or her designee of a site~~  
909 ~~which is eligible for restoration funding assistance in the EDI,~~  
910 ~~PLRIP, or ATRP programs shall be reimbursed from the Inland~~

911 ~~Protection Trust Fund of allowable costs at reasonable rates~~  
912 ~~incurred on or after January 1, 1985, for completed program~~  
913 ~~tasks as identified in the department rule promulgated pursuant~~  
914 ~~to paragraph (5) (b), or uncompleted program tasks pursuant to~~  
915 ~~chapter 95-2, Laws of Florida, subject to the conditions in this~~  
916 ~~section. It is unlawful for a site owner or operator, or his or~~  
917 ~~her designee, to receive any remuneration, in cash or in kind,~~  
918 ~~directly or indirectly from the rehabilitation contractor.~~

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

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

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

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

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

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

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

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

959 ~~(f) Application for reimbursement. Any eligible person who~~  
960 ~~performs a site rehabilitation program or performs site~~  
961 ~~rehabilitation program tasks such as preparation of site~~  
962 ~~rehabilitation plans or assessments; product recovery; cleanup~~

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

989 ~~assigning applicant. Proper notice of the assignment and~~  
 990 ~~assignment information shall be made to the department which~~  
 991 ~~notice shall be signed and notarized by the assigning applicant.~~

992 ~~(g) Review.—~~

993 ~~1. Provided there are sufficient unencumbered funds~~  
 994 ~~available in the Inland Protection Trust Fund, or to the extent~~  
 995 ~~proceeds of debt obligations are available for the payment of~~  
 996 ~~existing reimbursement obligations pursuant to s. 376.3075, the~~  
 997 ~~department shall have 60 days to determine if the applicant has~~  
 998 ~~provided sufficient information for processing the application~~  
 999 ~~and shall request submission of any additional information that~~  
 1000 ~~the department may require within such 60-day period. If the~~  
 1001 ~~applicant believes any request for additional information is not~~  
 1002 ~~authorized, the applicant may request a hearing pursuant to ss.~~  
 1003 ~~120.569 and 120.57. Once the department requests additional~~  
 1004 ~~information, the department may request only that information~~  
 1005 ~~needed to clarify such additional information or to answer new~~  
 1006 ~~questions raised by or directly related to such additional~~  
 1007 ~~information.~~

1008 ~~2. The department shall deny or approve the application~~  
 1009 ~~for reimbursement within 90 days after receipt of the last item~~  
 1010 ~~of timely requested additional material, or, if no additional~~  
 1011 ~~material is requested, within 90 days of the close of the 60-day~~  
 1012 ~~period described in subparagraph 1., unless the total review~~  
 1013 ~~period is otherwise extended by written mutual agreement of the~~  
 1014 ~~applicant and the department.~~

1015 ~~3. Final disposition of an application shall be provided~~  
1016 ~~to the applicant in writing, accompanied by a written~~  
1017 ~~explanation setting forth in detail the reason or reasons for~~  
1018 ~~the approval or denial. If the department fails to make a~~  
1019 ~~determination on an application within the time provided in~~  
1020 ~~subparagraph 2., or denies an application, or if a dispute~~  
1021 ~~otherwise arises with regard to reimbursement, the applicant may~~  
1022 ~~request a hearing pursuant to ss. 120.569 and 120.57.~~

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



1041 ~~present value of an application shall be based on the date on~~  
 1042 ~~which the department anticipates the Inland Protection Financing~~  
 1043 ~~Corporation will settle the reimbursement application and the~~  
 1044 ~~schedule's projected date of payment and shall use 3.5 percent~~  
 1045 ~~as the annual discount rate. The determination of the amount of~~  
 1046 ~~the claim and the projected date of payment shall be subject to~~  
 1047 ~~s. 120.57.~~

1048 ~~(i) Liberal construction. With respect to site~~  
 1049 ~~rehabilitation initiated prior to July 1, 1986, the provisions~~  
 1050 ~~of this subsection shall be given such liberal construction by~~  
 1051 ~~the department as will accomplish the purposes set forth in this~~  
 1052 ~~subsection. With regard to the keeping of particular records or~~  
 1053 ~~the giving of certain notice, the department may accept as~~  
 1054 ~~compliance action by a person which meets the intent of the~~  
 1055 ~~requirements set forth in this subsection.~~

1056 ~~(j) Reimbursement-review contracts. The department may~~  
 1057 ~~contract with entities capable of processing or assisting in the~~  
 1058 ~~review of reimbursement applications. Any purchase of such~~  
 1059 ~~services shall not be subject to chapter 287.~~

1060 ~~(k) Audits.~~

1061 ~~1. The department is authorized to perform financial and~~  
 1062 ~~technical audits in order to certify site restoration costs and~~  
 1063 ~~ensure compliance with this chapter. The department shall seek~~  
 1064 ~~recovery of any overpayments based on the findings of these~~  
 1065 ~~audits. The department must commence any audit within 5 years~~  
 1066 ~~after the date of reimbursement, except in cases where the~~

1067 ~~department alleges specific facts indicating fraud.~~

1068 ~~2. Upon determination by the department that any portion~~  
1069 ~~of costs which have been reimbursed are disallowed, the~~  
1070 ~~department shall give written notice to the applicant setting~~  
1071 ~~forth with specificity the allegations of fact which justify the~~  
1072 ~~department's proposed action and ordering repayment of~~  
1073 ~~disallowed costs within 60 days of notification of the~~  
1074 ~~applicant.~~

1075 ~~3. In the event the applicant does not make payment to the~~  
1076 ~~department within 60 days of receipt of such notice, the~~  
1077 ~~department shall seek recovery in a court of competent~~  
1078 ~~jurisdiction to recover reimbursement overpayments made to the~~  
1079 ~~person responsible for conducting site rehabilitation, unless~~  
1080 ~~the department finds the amount involved too small or the~~  
1081 ~~likelihood of recovery too uncertain.~~

1082 ~~4. In addition to the amount of any overpayment, the~~  
1083 ~~applicant shall be liable to the department for interest of 1~~  
1084 ~~percent per month or the prime rate, whichever is less, on the~~  
1085 ~~amount of overpayment, from the date of overpayment by the~~  
1086 ~~department until the applicant satisfies the department's~~  
1087 ~~request for repayment pursuant to this paragraph. The~~  
1088 ~~calculation of interest shall be tolled during the pendency of~~  
1089 ~~any litigation.~~

1090 ~~5. Financial and technical audits frequently are conducted~~  
1091 ~~under this section many years after the site rehabilitation~~  
1092 ~~activities were performed and the costs examined in the course~~

1093 ~~of the audit were incurred by the person responsible for site~~  
1094 ~~rehabilitation. During the intervening span of years, the~~  
1095 ~~department's rule requirements and its related guidance and~~  
1096 ~~other nonrule policy directives may have changed significantly.~~  
1097 ~~The Legislature finds that it may be appropriate for the~~  
1098 ~~department to provide relief to persons subject to such~~  
1099 ~~requirements in financial and technical audits conducted~~  
1100 ~~pursuant to this section.~~

1101 ~~a. The department is authorized to grant variances and~~  
1102 ~~waivers from the documentation requirements of subparagraph~~  
1103 ~~(c)2. and from the requirements of rules applicable in technical~~  
1104 ~~and financial audits conducted under this section. Variances and~~  
1105 ~~waivers shall be granted when the person responsible for site~~  
1106 ~~rehabilitation demonstrates to the department that application~~  
1107 ~~of a financial or technical auditing requirement would create a~~  
1108 ~~substantial hardship or would violate principles of fairness.~~  
1109 ~~For purposes of this subsection, "substantial hardship" means a~~  
1110 ~~demonstrated economic, technological, legal, or other type of~~  
1111 ~~hardship to the person requesting the variance or waiver. For~~  
1112 ~~purposes of this subsection, "principles of fairness" are~~  
1113 ~~violated when the application of a requirement affects a~~  
1114 ~~particular person in a manner significantly different from the~~  
1115 ~~way it affects other similarly situated persons who are affected~~  
1116 ~~by the requirement or when the requirement is being applied~~  
1117 ~~retroactively without due notice to the affected parties.~~

1118 ~~b. A person whose reimbursed costs are subject to a~~

1119 ~~financial and technical audit under this section may file a~~  
 1120 ~~written request to the department for grant of a variance or~~  
 1121 ~~waiver. The request shall specify:~~

1122 ~~(I) The requirement from which a variance or waiver is~~  
 1123 ~~requested.~~

1124 ~~(II) The type of action requested.~~

1125 ~~(III) The specific facts which would justify a waiver or~~  
 1126 ~~variance.~~

1127 ~~(IV) The reason or reasons why the requested variance or~~  
 1128 ~~waiver would serve the purposes of this section.~~

1129 ~~e. Within 90 days after receipt of a written request for~~  
 1130 ~~variance or waiver under this subsection, the department shall~~  
 1131 ~~grant or deny the request. If the request is not granted or~~  
 1132 ~~denied within 90 days of receipt, the request shall be deemed~~  
 1133 ~~approved. An order granting or denying the request shall be in~~  
 1134 ~~writing and shall contain a statement of the relevant facts and~~  
 1135 ~~reasons supporting the department's action. The department's~~  
 1136 ~~decision to grant or deny the petition shall be supported by~~  
 1137 ~~competent substantial evidence and is subject to ss. 120.569 and~~  
 1138 ~~120.57. Once adopted, model rules promulgated by the~~  
 1139 ~~Administration Commission under s. 120.542 shall govern the~~  
 1140 ~~processing of requests under this provision.~~

1141 ~~6. The Chief Financial Officer may audit the records of~~  
 1142 ~~persons who receive or who have received payments pursuant to~~  
 1143 ~~this chapter in order to verify site restoration costs, ensure~~  
 1144 ~~compliance with this chapter, and verify the accuracy and~~

1145 ~~completeness of audits performed by the department pursuant to~~  
1146 ~~this paragraph. The Chief Financial Officer may contract with~~  
1147 ~~entities or persons to perform audits pursuant to this~~  
1148 ~~subparagraph. The Chief Financial Officer shall commence any~~  
1149 ~~audit within 1 year after the department's completion of an~~  
1150 ~~audit conducted pursuant to this paragraph, except in cases~~  
1151 ~~where the department or the Chief Financial Officer alleges~~  
1152 ~~specific facts indicating fraud.~~

1153 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage  
1154 detection, reporting, and cleanup of contamination caused by  
1155 discharges of petroleum or petroleum products, the department  
1156 shall, within the guidelines established in this subsection,  
1157 implement a cost-sharing cleanup program to provide  
1158 rehabilitation funding assistance for all property contaminated  
1159 by discharges of petroleum or petroleum products occurring  
1160 before January 1, 1995, subject to a copayment provided for in a  
1161 Petroleum Cleanup Participation Program ~~preapproved~~ site  
1162 rehabilitation agreement. Eligibility is ~~shall be~~ subject to an  
1163 annual appropriation from the ~~Inland Protection Trust~~ fund.  
1164 Additionally, funding for eligible sites is ~~shall be~~ contingent  
1165 upon annual appropriation in subsequent years. Such continued  
1166 state funding is ~~shall not be deemed~~ an entitlement or a vested  
1167 right under this subsection. Eligibility shall be determined in  
1168 the program, ~~shall be~~ notwithstanding any other provision of  
1169 law, consent order, order, judgment, or ordinance to the  
1170 contrary.

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1171 (a)1. The department shall accept any discharge reporting  
1172 form received before ~~prior to~~ January 1, 1995, as an application  
1173 for this program, and the facility owner or operator need not  
1174 reapply.

1175 2. Owners or operators of property contaminated by  
1176 petroleum or petroleum products from a petroleum storage system  
1177 may apply for such program by filing a written report of the  
1178 contamination incident, including evidence that such incident  
1179 occurred before ~~prior to~~ January 1, 1995, with the department.  
1180 Incidents of petroleum contamination discovered after December  
1181 31, 1994, at sites which have not stored petroleum or petroleum  
1182 products for consumption, use, or sale after such date shall be  
1183 presumed to have occurred before ~~prior to~~ January 1, 1995. An  
1184 operator's filed report shall be ~~deemed~~ an application of the  
1185 owner for all purposes. Sites reported to the department after  
1186 December 31, 1998, are ~~shall~~ not be eligible for the ~~this~~  
1187 program.

1188 (b) Subject to annual appropriation from the ~~Inland~~  
1189 ~~Protection Trust~~ fund, sites meeting the criteria of this  
1190 subsection are eligible for up to \$400,000 of site  
1191 rehabilitation funding assistance in priority order pursuant to  
1192 subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~. Sites meeting  
1193 the criteria of this subsection for which a site rehabilitation  
1194 completion order was issued before ~~prior to~~ June 1, 2008, do not  
1195 qualify for the 2008 increase in site rehabilitation funding  
1196 assistance and are bound by the pre-June 1, 2008, limits. Sites

1197 meeting the criteria of this subsection for which a site  
1198 rehabilitation completion order was not issued before ~~prior to~~  
1199 June 1, 2008, regardless of whether ~~or not~~ they have previously  
1200 transitioned to nonstate-funded cleanup status, may continue  
1201 state-funded cleanup pursuant to this section ~~s. 376.30711~~ until  
1202 a site rehabilitation completion order is issued or the  
1203 increased site rehabilitation funding assistance limit is  
1204 reached, whichever occurs first. The department may not pay ~~At~~  
1205 ~~no time shall~~ expenses incurred beyond ~~outside~~ the scope of an  
1206 approved contract ~~preapproved site rehabilitation program under~~  
1207 ~~s. 376.30711~~ be reimbursable.

1208 (c) Upon notification by the department that  
1209 rehabilitation funding assistance is available for the site  
1210 pursuant to subsections ~~subsection~~ (5) and (6) ~~s. 376.30711~~, the  
1211 owner, operator, or person otherwise responsible for site  
1212 rehabilitation shall provide the department with a limited  
1213 contamination assessment report and shall enter into a Petroleum  
1214 Cleanup Participation Program ~~preapproved~~ site rehabilitation  
1215 agreement with the department ~~and a contractor qualified under~~  
1216 ~~s. 376.30711(2)(b)~~. The agreement must ~~shall~~ provide for a 25-  
1217 percent copayment by the owner, operator, or person otherwise  
1218 responsible for conducting site rehabilitation. The owner,  
1219 operator, or person otherwise responsible for conducting site  
1220 rehabilitation shall adequately demonstrate the ability to meet  
1221 the copayment obligation. The limited contamination assessment  
1222 report and the copayment costs may be reduced or eliminated if

1223 the owner and all operators responsible for restoration under s.  
 1224 376.308 demonstrate that they cannot ~~are~~ financially ~~unable to~~  
 1225 comply with the copayment and limited contamination assessment  
 1226 report requirements. The department shall take into  
 1227 consideration the owner's and operator's net worth in making the  
 1228 determination of financial ability. In the event the department  
 1229 and the owner, operator, or person otherwise responsible for  
 1230 site rehabilitation cannot ~~are unable to~~ complete negotiation of  
 1231 the cost-sharing agreement within 120 days after beginning  
 1232 ~~commencing~~ negotiations, the department shall terminate  
 1233 negotiations and the site shall be ~~deemed~~ ineligible for state  
 1234 funding under this subsection and all liability protections  
 1235 provided for in this subsection shall be revoked.

1236 (d) A ~~No~~ report of a discharge made to the department by a  
 1237 ~~any person pursuant to in accordance with~~ this subsection, or  
 1238 any rules adopted pursuant to this subsection may not hereto,  
 1239 ~~shall~~ be used directly as evidence of liability for such  
 1240 discharge in any civil or criminal trial arising out of the  
 1241 discharge.

1242 (e) ~~Nothing in~~ This subsection does not ~~shall be construed~~  
 1243 ~~to~~ preclude the department from pursuing penalties under ~~in~~  
 1244 ~~accordance with~~ s. 403.141 for violations of any law or any  
 1245 rule, order, permit, registration, or certification adopted or  
 1246 issued by the department pursuant to its lawful authority.

1247 (f) Upon the filing of a discharge reporting form under  
 1248 paragraph (a), ~~neither~~ the department or ~~nor any~~ local



1249 government may not ~~shall~~ pursue any judicial or enforcement  
1250 action to compel rehabilitation of the discharge. This paragraph  
1251 does ~~shall~~ not prevent any such action with respect to  
1252 discharges determined ineligible under this subsection or to  
1253 sites for which rehabilitation funding assistance is available  
1254 pursuant to subsections ~~in accordance with subsection~~ (5) and  
1255 (6) ~~s. 376.30711~~.

1256 (g) The following are ~~shall be~~ excluded from participation  
1257 in the program:

1258 1. Sites at which the department has been denied  
1259 reasonable site access to implement ~~the provisions of this~~  
1260 section.

1261 2. Sites that were active facilities when owned or  
1262 operated by the Federal Government.

1263 3. Sites that are identified by the United States  
1264 Environmental Protection Agency to be on, or which qualify for  
1265 listing on, the National Priorities List under Superfund. This  
1266 exception does not apply to those sites for which eligibility  
1267 has been requested or granted as of the effective date of this  
1268 act under the Early Detection Incentive Program established  
1269 pursuant to s. 15, chapter 86-159, Laws of Florida.

1270 4. Sites for which ~~The~~ contamination is covered under the  
1271 Early Detection Incentive Program, the Abandoned Tank  
1272 Restoration Program, or the Petroleum Liability and Restoration  
1273 Insurance Program, in which case site rehabilitation funding  
1274 assistance shall continue under the respective program.

1275 (14) LEGISLATIVE APPROVAL AND AUTHORIZATION.—Before ~~Prior~~  
 1276 ~~to~~ the department enters ~~entering~~ into a service contract with  
 1277 the Inland Protection Financing Corporation which includes  
 1278 payments by the department to support any existing or planned  
 1279 note, bond, certificate of indebtedness, or other obligation or  
 1280 evidence of indebtedness of the corporation pursuant to s.  
 1281 376.3075, the Legislature, by law, must specifically authorize  
 1282 the department to enter into such a contract. The corporation  
 1283 may issue bonds in an amount not to exceed \$104 million, with a  
 1284 term up to 15 years, and annual payments not in excess of \$10.4  
 1285 million. The department may enter into a service contract in  
 1286 conjunction with the issuance of such bonds which provides for  
 1287 annual payments for debt service payments or other amounts  
 1288 payable with respect to bonds, plus any administrative expenses  
 1289 of the corporation to finance the rehabilitation of petroleum  
 1290 contamination sites pursuant to ss. 376.30-376.317.

1291 Section 3. Section 376.30711, Florida Statutes, is  
 1292 repealed.

1293 Section 4. Section 376.30713, Florida Statutes, is amended  
 1294 to read:

1295 376.30713 ~~Preapproved~~ Advanced cleanup.—

1296 (1) In addition to the legislative findings provided in s.  
 1297 376.3071 ~~376.30711~~, the Legislature finds and declares:

1298 (a) That the inability to conduct site rehabilitation in  
 1299 advance of a site's priority ranking pursuant to s.

1300 376.3071(5) (a) may substantially impede or prohibit property

1301 transactions or the proper completion of public works projects.

1302 (b) While the first priority of the state is to provide  
 1303 for protection of the public health, safety, and welfare, ~~the~~  
 1304 water resources ~~of the state, human health,~~ and the environment,  
 1305 the viability of commerce is of equal importance to the state.

1306 (c) It is in the public interest and of substantial  
 1307 economic benefit to the state to provide an opportunity for site  
 1308 rehabilitation to be conducted on a limited basis at  
 1309 contaminated sites, in advance of the site's priority ranking,  
 1310 to facilitate property transactions or public works projects.

1311 (d) It is appropriate for a person who is ~~persons~~  
 1312 responsible for site rehabilitation to share the costs  
 1313 associated with managing and conducting ~~preapproved~~ advanced  
 1314 cleanup, to facilitate the opportunity for ~~preapproved~~ advanced  
 1315 cleanup, and to mitigate the additional costs that will be  
 1316 incurred by the state in conducting site rehabilitation in  
 1317 advance of the site's priority ranking. Such cost sharing will  
 1318 result in more contaminated sites being cleaned up and greater  
 1319 environmental benefits to the state. ~~The provisions of This~~  
 1320 section is shall ~~shall~~ only be available for sites eligible for  
 1321 restoration funding under EDI, ATRP, or PLRIP ~~PLIRP~~. This  
 1322 section is available for discharges eligible for restoration  
 1323 funding under the petroleum cleanup participation program for  
 1324 the state's cost share of site rehabilitation. Applications must  
 1325 ~~shall~~ include a cost-sharing commitment for this section in  
 1326 addition to the 25-percent-copayment requirement of the

1327 petroleum cleanup participation program. This section is not  
 1328 available for any discharge under a petroleum cleanup  
 1329 participation program where the 25-percent-copayment requirement  
 1330 of the petroleum cleanup participation program has been reduced  
 1331 or eliminated pursuant to s. 376.3071(13)(c).

1332 (2) The department may ~~is authorized to~~ approve an  
 1333 application for ~~preapproved~~ advanced cleanup at eligible sites,  
 1334 before ~~prior to~~ funding based on the site's priority ranking  
 1335 established pursuant to s. 376.3071(5)(a), pursuant to ~~in~~  
 1336 ~~accordance with the provisions of~~ this section. Only the  
 1337 facility owner or operator or the person otherwise responsible  
 1338 for site rehabilitation qualifies ~~Persons who qualify~~ as an  
 1339 applicant under ~~the provisions of~~ this section ~~shall only~~  
 1340 ~~include the facility owner or operator or the person otherwise~~  
 1341 ~~responsible for site rehabilitation.~~

1342 (a) ~~Preapproved~~ Advanced cleanup applications may be  
 1343 submitted between May 1 and June 30 and between November 1 and  
 1344 December 31 of each fiscal year. Applications submitted between  
 1345 May 1 and June 30 shall be for the fiscal year beginning July 1.  
 1346 An application must ~~shall~~ consist of:

1347 1. A commitment to pay ~~no less than~~ 25 percent or more of  
 1348 the total cleanup cost deemed recoverable under ~~the provisions~~  
 1349 ~~of~~ this section along with proof of the ability to pay the cost  
 1350 share. An application proposing that the department enter into a  
 1351 performance-based contract for the cleanup of 20 or more sites  
 1352 may use a commitment to pay, a demonstrated cost savings to the

1353 department, or both to meet the cost-share requirement. For an  
 1354 application relying on a demonstrated cost savings to the  
 1355 department, the applicant shall, in conjunction with the  
 1356 proposed agency term contractor, establish and provide in the  
 1357 application the percentage of cost savings in the aggregate that  
 1358 is being provided to the department for cleanup of the sites  
 1359 under the application compared to the cost of cleanup of those  
 1360 same sites using the current rates provided to the department by  
 1361 the proposed agency term contractor. The department shall  
 1362 determine whether the cost savings demonstration is acceptable.  
 1363 Such determination is not subject to chapter 120.

1364         2. A nonrefundable review fee of \$250 to cover the  
 1365 administrative costs associated with the department's review of  
 1366 the application.

1367         3. A limited contamination assessment report.

1368         4. A proposed course of action.

1369  
 1370 The limited contamination assessment report must ~~shall~~ be  
 1371 sufficient to support the proposed course of action and to  
 1372 estimate the cost of the proposed course of action. ~~Any~~ Costs  
 1373 incurred related to conducting the limited contamination  
 1374 assessment report are not refundable from the Inland Protection  
 1375 Trust Fund. Site eligibility under this subsection, ~~or any other~~  
 1376 provision of this section is, ~~shall not constitute an~~  
 1377 entitlement to ~~preapproved~~ advanced cleanup or continued  
 1378 restoration funding. The applicant shall certify to the

1379 department that the applicant has the prerequisite authority to  
1380 enter into an ~~a preapproved~~ advanced cleanup contract with the  
1381 department. The ~~This~~ certification must ~~shall~~ be submitted with  
1382 the application.

1383 (b) The department shall rank the applications based on  
1384 the percentage of cost-sharing commitment proposed by the  
1385 applicant, with the highest ranking given to the applicant who  
1386 ~~that~~ proposes the highest percentage of cost sharing. If the  
1387 department receives applications that propose identical cost-  
1388 sharing commitments and that ~~which~~ exceed the funds available to  
1389 commit to all such proposals during the ~~preapproved~~ advanced  
1390 cleanup application period, the department shall proceed to  
1391 rerank those applicants. Those applicants submitting identical  
1392 cost-sharing proposals that ~~which~~ exceed funding availability  
1393 must ~~shall~~ be so notified by the department and ~~shall be~~ offered  
1394 the opportunity to raise their individual cost-share  
1395 commitments, in a period ~~of time~~ specified in the notice. At the  
1396 close of the period, the department shall proceed to rerank the  
1397 applications pursuant to ~~in accordance with~~ this paragraph.

1398 (3) (a) Based on the ranking established under paragraph  
1399 (2) (b) ~~and the funding limitations provided in subsection (4),~~  
1400 the department shall begin ~~commence~~ negotiation with such  
1401 applicants. If the department and the applicant agree on the  
1402 course of action, the department may enter into a contract with  
1403 the applicant. The department may ~~is authorized to~~ negotiate the  
1404 terms and conditions of the contract.

1405 (b) ~~Preapproved~~ Advanced cleanup shall be conducted  
 1406 pursuant to s. 376.3071(5) (b) and (6) and rules adopted under  
 1407 ss. 287.0595 and 376.3071 ~~under the provisions of ss.~~  
 1408 ~~376.3071(5) (b) and 376.30711~~. If the terms of the ~~preapproved~~  
 1409 advanced cleanup contract are not fulfilled, the applicant  
 1410 forfeits any right to future payment for any site rehabilitation  
 1411 work conducted under the contract.

1412 (c) The department's decision not to enter into an a  
 1413 ~~preapproved~~ advanced cleanup contract with the applicant is  
 1414 ~~shall not be~~ subject to ~~the provisions of~~ chapter 120. If the  
 1415 department cannot ~~is not able to~~ complete negotiation of the  
 1416 course of action and the terms of the contract within 60 days  
 1417 after beginning ~~commencing~~ negotiations, the department shall  
 1418 terminate negotiations with that applicant.

1419 (4) The department may ~~is authorized to~~ enter into  
 1420 contracts for a total of up to \$15 million of ~~preapproved~~  
 1421 advanced cleanup work in each fiscal year. However, a facility  
 1422 or an applicant who bundles multiple sites as specified in  
 1423 subparagraph (2) (a)1. may not be approved ~~preapproved~~ for more  
 1424 than \$5 million of cleanup activity in each fiscal year. For the  
 1425 purposes of this section, the term "facility" includes ~~shall~~  
 1426 ~~include~~, but is ~~be~~ limited to, multiple site facilities such  
 1427 as airports, port facilities, and terminal facilities even  
 1428 though such enterprises may be treated as separate facilities  
 1429 for other purposes under this chapter.

1430 (5) All funds collected by the department pursuant to this

1431 section shall be deposited into the Inland Protection Trust Fund  
 1432 to be used as provided in this section.

1433 Section 5. Subsections (4) and (30) of section 376.301,  
 1434 Florida Statutes, are amended to read:

1435 376.301 Definitions of terms used in ss. 376.30-376.317,  
 1436 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and  
 1437 376.75, unless the context clearly requires otherwise, the term:

1438 ~~(4) "Backlog" means reimbursement obligations incurred~~  
 1439 ~~pursuant to s. 376.3071(12), prior to March 29, 1995, or~~  
 1440 ~~authorized for reimbursement under the provisions of s.~~  
 1441 ~~376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims~~  
 1442 ~~within the backlog are subject to adjustment, where appropriate.~~

1443 ~~(30) "Person responsible for conducting site~~  
 1444 ~~rehabilitation" means the site owner, operator, or the person~~  
 1445 ~~designated by the site owner or operator on the reimbursement~~  
 1446 ~~application. Mortgage holders and trust holders may be eligible~~  
 1447 ~~to participate in the reimbursement program pursuant to s.~~  
 1448 ~~376.3071(12).~~

1449 Section 6. Subsection (5) of section 376.302, Florida  
 1450 Statutes, is amended to read:

1451 376.302 Prohibited acts; penalties.—

1452 (5) A ~~Any~~ person who commits fraud in representing his or  
 1453 her ~~their~~ qualifications as a contractor ~~for reimbursement~~ or in  
 1454 submitting a payment invoice ~~reimbursement request~~ pursuant to  
 1455 s. 376.3071 ~~376.3071(12)~~ commits a felony of the third degree,  
 1456 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



1457 Section 7. Subsection (6) of section 376.305, Florida  
1458 Statutes, is amended to read:

1459 376.305 Removal of prohibited discharges.—

1460 (6) The Legislature created the Abandoned Tank Restoration  
1461 Program in response to the need to provide financial assistance  
1462 for cleanup of sites that have abandoned petroleum storage  
1463 systems. For purposes of this subsection, the term "abandoned  
1464 petroleum storage system" means a ~~shall mean any~~ petroleum  
1465 storage system that has not stored petroleum products for  
1466 consumption, use, or sale since March 1, 1990. The department  
1467 shall establish the Abandoned Tank Restoration Program to  
1468 facilitate the restoration of sites contaminated by abandoned  
1469 petroleum storage systems.

1470 (a) To be included in the program:

1471 1. An application must be submitted to the department by  
1472 June 30, 1996, certifying that the system has not stored  
1473 petroleum products for consumption, use, or sale at the facility  
1474 since March 1, 1990.

1475 2. The owner or operator of the petroleum storage system  
1476 when it was in service must have ceased conducting business  
1477 involving consumption, use, or sale of petroleum products at  
1478 that facility on or before March 1, 1990.

1479 3. The site is not otherwise eligible for the cleanup  
1480 programs pursuant to s. 376.3071 or s. 376.3072.

1481 (b) In order to be eligible for the program, petroleum  
1482 storage systems from which a discharge occurred must be closed

1483 pursuant to ~~in accordance with~~ department rules before ~~prior to~~  
1484 an eligibility determination. However, if the department  
1485 determines that the owner of the facility cannot ~~is~~ financially  
1486 ~~unable to~~ comply with the department's petroleum storage system  
1487 closure requirements and all other eligibility requirements are  
1488 met, the petroleum storage system closure requirements shall be  
1489 waived. The department shall take into consideration the owner's  
1490 net worth and the economic impact on the owner in making the  
1491 determination of the owner's financial ability. The June 30,  
1492 1996, application deadline shall be waived for owners who cannot  
1493 ~~are~~ financially ~~unable to~~ comply.

1494 (c) Sites accepted in the program are ~~will be~~ eligible for  
1495 site rehabilitation funding as provided in s. 376.3071  
1496 ~~376.3071(12) or s. 376.30711, as appropriate.~~

1497 (d) The following sites are excluded from eligibility:

1498 1. Sites on property of the Federal Government;  
1499 2. Sites contaminated by pollutants that are not petroleum  
1500 products;

1501 3. Sites where the department has been denied site access;  
1502 or

1503 4. Sites which are owned by a ~~any~~ person who had knowledge  
1504 of the polluting condition when title was acquired unless the  
1505 ~~that~~ person acquired title to the site after issuance of a  
1506 notice of site eligibility by the department.

1507 (e) Participating sites are subject to a deductible as  
1508 determined by rule, not to exceed \$10,000.

1509  
 1510 ~~The provisions of~~ This subsection does ~~do~~ not relieve a ~~any~~  
 1511 person who has acquired title after ~~subsequent to~~ July 1, 1992,  
 1512 from the duty to establish by a preponderance of the evidence  
 1513 that he or she undertook, at the time of acquisition, all  
 1514 appropriate inquiry into the previous ownership and use of the  
 1515 property consistent with good commercial or customary practice  
 1516 in an effort to minimize liability, as required by s.  
 1517 376.308(1)(c).

1518 Section 8. Paragraph (a) of subsection (1) and subsections  
 1519 (3), (4), and (9) of section 376.30714, Florida Statutes, are  
 1520 amended to read:

1521 376.30714 Site rehabilitation agreements.—

1522 (1) In addition to the legislative findings provided in s.  
 1523 376.3071, the Legislature finds and declares:

1524 (a) The provisions of s. ~~ss.~~ 376.3071(5)(a) ~~and 376.30711~~  
 1525 have delayed cleanup of low-priority sites determined to be  
 1526 eligible for state funding under that section and ss. 376.305~~7~~,  
 1527 ~~376.30711~~, and 376.3072.

1528 (3) Free product attributable to a new discharge shall be  
 1529 removed to the extent practicable and pursuant to ~~in accordance~~  
 1530 ~~with~~ department rules adopted pursuant to s. 376.3071(5) at the  
 1531 expense of the owner, operator, or other responsible party. Free  
 1532 product attributable to existing contamination shall be removed  
 1533 pursuant to ~~in accordance with~~ s. 376.3071(5) and (6), ~~or s.~~  
 1534 ~~376.30711(1)(b)~~, and department rules adopted pursuant thereto.

1535 (4) Beginning January 1, 1999, the department may ~~is~~  
 1536 ~~authorized to~~ negotiate and enter into site rehabilitation  
 1537 agreements with applicants at sites with eligible existing  
 1538 contamination at which a new discharge occurs. The site  
 1539 rehabilitation agreement must ~~shall~~ include, but is not ~~be~~  
 1540 limited to, allocation of the funding responsibilities of the  
 1541 department and the applicant for cleanup of the qualified site,  
 1542 establishment of a mechanism to guarantee the applicant's  
 1543 commitment to pay its agreed amount of site rehabilitation as  
 1544 set forth in the agreement, and establishment of the priority in  
 1545 which cleanup of the qualified site will occur. Under ~~any~~ such a  
 1546 negotiated site rehabilitation agreement, the applicant may not  
 1547 ~~shall~~ be responsible for ~~no~~ more than the cleanup costs that are  
 1548 attributable to the new discharge. However, the payment of ~~any~~  
 1549 applicable deductibles, copayments, or other program eligibility  
 1550 requirements under ss. 376.305, 376.3071, and 376.3072 shall  
 1551 continue to apply to the existing contamination and must be  
 1552 accounted for in the negotiated site rehabilitation agreement.  
 1553 The department may ~~is further authorized,~~ pursuant to this  
 1554 section, ~~to preapprove or~~ conduct additional assessment  
 1555 activities at the site.

1556 (9) Site rehabilitation conducted at qualified sites shall  
 1557 be conducted pursuant to ~~under the provisions of~~ ss.  
 1558 376.3071(5) (b) and (6) ~~376.30711~~. If the terms of the agreement  
 1559 are not fulfilled by the applicant, the applicant forfeits the  
 1560 ~~any~~ right to continued funding for ~~any~~ site rehabilitation work

1561 under the agreement and is ~~shall be~~ subject to enforcement  
 1562 action by the department or local government to compel cleanup  
 1563 of the new discharge.

1564 Section 9. Subsection (2) of section 376.3072, Florida  
 1565 Statutes, is amended to read:

1566 376.3072 Florida Petroleum Liability and Restoration  
 1567 Insurance Program.—

1568 (2) (a) An ~~Any~~ owner or operator of a petroleum storage  
 1569 system may become an insured in the restoration insurance  
 1570 program at a facility if ~~provided~~:

1571 1. A site at which an incident has occurred is ~~shall be~~  
 1572 eligible for restoration if the insured is a participant in the  
 1573 third-party liability insurance program or otherwise meets  
 1574 applicable financial responsibility requirements. After July 1,  
 1575 1993, the insured must also provide the required excess  
 1576 insurance coverage or self-insurance for restoration to achieve  
 1577 the financial responsibility requirements of 40 C.F.R. s.  
 1578 280.97, subpart H, not covered by paragraph (d).

1579 2. A site which had a discharge reported before ~~prior to~~  
 1580 January 1, 1989, for which notice was given pursuant to s.  
 1581 376.3071(10) ~~376.3071(9) or (12)~~, and which is ineligible for  
 1582 the third-party liability insurance program solely due to that  
 1583 discharge is ~~shall be~~ eligible for participation in the  
 1584 restoration program for an ~~any~~ incident occurring on or after  
 1585 January 1, 1989, pursuant to ~~in accordance with~~ subsection (3).  
 1586 Restoration funding for an eligible contaminated site will be

1587 provided without participation in the third-party liability  
 1588 insurance program until the site is restored as required by the  
 1589 department or until the department determines that the site does  
 1590 not require restoration.

1591 3. Notwithstanding paragraph (b), a site where an  
 1592 application is filed with the department before ~~prior to~~ January  
 1593 1, 1995, where the owner is a small business under s.  
 1594 288.703(6), a state community college with less than 2,500 FTE,  
 1595 a religious institution as defined by s. 212.08(7)(m), a  
 1596 charitable institution as defined by s. 212.08(7)(p), or a  
 1597 county or municipality with a population of less than 50,000, is  
 1598 ~~shall be~~ eligible for up to \$400,000 of eligible restoration  
 1599 costs, less a deductible of \$10,000 for small businesses,  
 1600 eligible community colleges, and religious or charitable  
 1601 institutions, and \$30,000 for eligible counties and  
 1602 municipalities, if ~~provided that~~:

1603 a. Except as provided in sub-subparagraph e., the facility  
 1604 was in compliance with department rules at the time of the  
 1605 discharge.

1606 b. The owner or operator has, upon discovery of a  
 1607 discharge, promptly reported the discharge to the department,  
 1608 and drained and removed the system from service, if necessary.

1609 c. The owner or operator has not intentionally caused or  
 1610 concealed a discharge or disabled leak detection equipment.

1611 d. The owner or operator proceeds to complete initial  
 1612 remedial action as specified in ~~defined by~~ department rules.

1613 e. The owner or operator, if required and if it has not  
 1614 already done so, applies for third-party liability coverage for  
 1615 the facility within 30 days after ~~of~~ receipt of an eligibility  
 1616 order issued by the department pursuant to this subparagraph  
 1617 ~~provision~~.

1618  
 1619 However, the department may consider in-kind services from  
 1620 eligible counties and municipalities in lieu of the \$30,000  
 1621 deductible. The cost of conducting initial remedial action as  
 1622 defined by department rules is ~~shall be~~ an eligible restoration  
 1623 cost pursuant to this subparagraph ~~provision~~.

1624 4.a. By January 1, 1997, facilities at sites with existing  
 1625 contamination must ~~shall be required to~~ have methods of release  
 1626 detection to be eligible for restoration insurance coverage for  
 1627 new discharges subject to department rules for secondary  
 1628 containment. Annual storage system testing, in conjunction with  
 1629 inventory control, shall be considered to be a method of release  
 1630 detection until the later of December 22, 1998, or 10 years  
 1631 after the date of installation or the last upgrade. Other  
 1632 methods of release detection for storage tanks which meet such  
 1633 requirement are:

- 1634 (I) Interstitial monitoring of tank and integral piping
- 1635 secondary containment systems;
- 1636 (II) Automatic tank gauging systems; or
- 1637 (III) A statistical inventory reconciliation system with a
- 1638 tank test every 3 years.

1639           b. For pressurized integral piping systems, the owner or  
1640 operator must use:

1641           (I) An automatic in-line leak detector with flow  
1642 restriction meeting the requirements of department rules used in  
1643 conjunction with an annual tightness or pressure test; or

1644           (II) An automatic in-line leak detector with electronic  
1645 flow shut-off meeting the requirements of department rules.

1646           c. For suction integral piping systems, the owner or  
1647 operator must use:

1648           (I) A single check valve installed directly below the  
1649 suction pump if, ~~provided~~ there are no other valves between the  
1650 dispenser and the tank; or

1651           (II) An annual tightness test or other approved test.

1652           d. Owners of facilities with existing contamination that  
1653 install internal release detection systems pursuant to ~~in~~  
1654 ~~accordance with~~ sub-subparagraph a. shall permanently close  
1655 their external groundwater and vapor monitoring wells pursuant  
1656 to ~~in accordance with~~ department rules by December 31, 1998.  
1657 Upon installation of the internal release detection system, such  
1658 ~~these~~ wells must ~~shall~~ be secured and taken out of service until  
1659 permanent closure.

1660           e. Facilities with vapor levels of contamination meeting  
1661 the requirements of or below the concentrations specified in the  
1662 performance standards for release detection methods specified in  
1663 department rules may continue to use vapor monitoring wells for  
1664 release detection.



1665 f. The department may approve other methods of release  
1666 detection for storage tanks and integral piping which have at  
1667 least the same capability to detect a new release as the methods  
1668 specified in this subparagraph.

1669 (b)1. To be eligible to be certified as an insured  
1670 facility, for discharges reported after January 1, 1989, the  
1671 owner or operator must ~~shall~~ file an affidavit upon enrollment  
1672 in the program. The affidavit must ~~shall~~ state that the owner or  
1673 operator has read and is familiar with this chapter and the  
1674 rules relating to petroleum storage systems and petroleum  
1675 contamination site cleanup adopted pursuant to ss. 376.303 and  
1676 376.3071 and that the facility is in compliance with this  
1677 chapter and applicable rules adopted pursuant to s. 376.303.  
1678 Thereafter, the facility's annual inspection report shall serve  
1679 as evidence of the facility's compliance with department rules.  
1680 The facility's certificate as an insured facility may be revoked  
1681 only if the insured fails to correct a violation identified in  
1682 an inspection report before a discharge occurs. The facility's  
1683 certification may be restored when the violation is corrected as  
1684 verified by a reinspection.

1685 2. Except as provided in paragraph (a), to be eligible to  
1686 be certified as an insured facility, the applicant must  
1687 demonstrate to the department that the applicant has financial  
1688 responsibility for third-party claims and excess coverage, as  
1689 required by this section and 40 C.F.R. s. 280.97(h), and that  
1690 the applicant maintains such insurance during the applicant's

1691 participation as an insured facility.

1692         3. Should a reinspection of the facility be necessary to  
1693 demonstrate compliance, the insured shall pay an inspection fee  
1694 not to exceed \$500 per facility to be deposited in the Inland  
1695 Protection Trust Fund.

1696         4. Upon report of a discharge, the department shall issue  
1697 an order stating that the site is eligible for restoration  
1698 coverage unless the insured has intentionally caused or  
1699 concealed a discharge or disabled leak detection equipment, has  
1700 misrepresented facts in the affidavit filed pursuant to  
1701 subparagraph 1., or cannot demonstrate that he or she has  
1702 obtained and maintained the financial responsibility for third-  
1703 party claims and excess coverage as required in subparagraph 2.

1704  
1705 This paragraph does not ~~Nothing contained herein shall~~ prevent  
1706 the department from assessing civil penalties for noncompliance  
1707 pursuant to this subsection ~~as provided herein.~~

1708         (c) A lender that has loaned money to a participant in the  
1709 Florida Petroleum Liability and Restoration Insurance Program  
1710 and has held a mortgage lien, security interest, or ~~any~~ lien  
1711 rights on the site primarily to protect the lender's right to  
1712 convert or liquidate the collateral in satisfaction of the debt  
1713 secured, or a financial institution which serves as a trustee  
1714 for an insured in the program for the purpose of site  
1715 rehabilitation, is ~~shall be~~ eligible for a state-funded cleanup  
1716 of the site, if the lender forecloses the lien or accepts a deed

1717 in lieu of foreclosure on that property and acquires title, and  
 1718 as long as the following has occurred, as applicable:

1719 1. The owner or operator provided the lender with proof  
 1720 that the facility is eligible for the restoration insurance  
 1721 program at the time of the loan or before the discharge  
 1722 occurred.

1723 2. The financial institution or lender ~~completes site~~  
 1724 ~~rehabilitation and seeks reimbursement pursuant to s.~~  
 1725 ~~376.3071(12) or~~ conducts ~~preapproved~~ site rehabilitation  
 1726 pursuant to s. 376.3071 ~~376.30711~~, as appropriate.

1727 3. The financial institution or lender did not engage in  
 1728 management activities at the site before ~~prior to~~ foreclosure  
 1729 and does not operate the site or otherwise engage in management  
 1730 activities after foreclosure, except to comply with  
 1731 environmental statutes or rules or to prevent, abate, or  
 1732 remediate a discharge.

1733 (d)1. With respect to eligible incidents reported to the  
 1734 department before ~~prior to~~ July 1, 1992, the restoration  
 1735 insurance program shall provide up to \$1.2 million of  
 1736 restoration for each incident and shall have an annual aggregate  
 1737 limit of \$2 million of restoration per facility.

1738 2. For any site at which a discharge is reported on or  
 1739 after July 1, 1992, and for which restoration coverage is  
 1740 requested, the department shall pay for restoration in  
 1741 accordance with the following schedule:

1742 a. For discharges reported to the department from July 1,

1743 1992, to June 30, 1993, the department shall pay up to \$1.2  
 1744 million of eligible restoration costs, less a \$1,000 deductible  
 1745 per incident.

1746 b. For discharges reported to the department from July 1,  
 1747 1993, to December 31, 1993, the department shall pay up to \$1.2  
 1748 million of eligible restoration costs, less a \$5,000 deductible  
 1749 per incident. However, if, before ~~prior to~~ the date the  
 1750 discharge is reported and by September 1, 1993, the owner or  
 1751 operator can demonstrate financial responsibility in effect in  
 1752 accordance with 40 C.F.R. s. 280.97, subpart H, for coverage  
 1753 under sub-subparagraph c., the deductible will be \$500. The \$500  
 1754 deductible shall apply for a period of 1 year from the effective  
 1755 date of a policy or other form of financial responsibility  
 1756 obtained and in effect by September 1, 1993.

1757 c. For discharges reported to the department from January  
 1758 1, 1994, to December 31, 1996, the department shall pay up to  
 1759 \$400,000 of eligible restoration costs, less a deductible of  
 1760 \$10,000.

1761 d. For discharges reported to the department from January  
 1762 1, 1997, to December 31, 1998, the department shall pay up to  
 1763 \$300,000 of eligible restoration costs, less a deductible of  
 1764 \$10,000.

1765 e. Beginning January 1, 1999, ~~no~~ restoration coverage may  
 1766 not shall be provided.

1767 f. In addition, a supplemental deductible shall be added  
 1768 as follows:

1769 (I) A supplemental deductible of \$5,000 if the owner or  
 1770 operator fails to report a suspected release within 1 working  
 1771 day after discovery.

1772 (II) A supplemental deductible of \$10,000 if the owner or  
 1773 operator, within 3 days after discovery of an actual new  
 1774 discharge, fails to take steps to test or empty the storage  
 1775 system and complete such activity within 7 days.

1776 (III) A supplemental deductible of \$25,000 if the owner or  
 1777 operator, after testing or emptying the storage system, fails to  
 1778 proceed within 24 hours thereafter to abate the known source of  
 1779 the discharge or to begin free product removal relating to an  
 1780 actual new discharge and fails to complete abatement within 72  
 1781 hours, although free product recovery may be ongoing.

1782 (e) The following are not eligible to participate in the  
 1783 Petroleum Liability and Restoration Insurance Program:

1784 1. Sites owned or operated by the Federal Government  
 1785 during the time the facility was in operation.

1786 2. Sites where the owner or operator has denied the  
 1787 department reasonable site access.

1788 3. Any third-party claims relating to damages caused by  
 1789 discharges discovered before ~~prior to~~ January 1, 1989.

1790 4. Any incidents discovered before ~~prior to~~ January 1,  
 1791 1989, ~~are not eligible to participate in the restoration~~  
 1792 ~~insurance program.~~ However, this exclusion does ~~shall~~ not be  
 1793 ~~construed to~~ prevent a new incident at the same location from  
 1794 participation in the restoration insurance program if the owner

1795 or operator is otherwise eligible. This exclusion does ~~shall~~ not  
1796 affect eligibility for participation in the Early Detection  
1797 Incentive ~~EDI~~ Program.

1798  
1799 Sites meeting the criteria of this subsection for which a site  
1800 rehabilitation completion order was issued before ~~prior to~~ June  
1801 1, 2008, do not qualify for the 2008 increase in site  
1802 rehabilitation funding assistance and are bound by the pre-June  
1803 1, 2008, limits. Sites meeting the criteria of this subsection  
1804 for which a site rehabilitation completion order was not issued  
1805 before ~~prior to~~ June 1, 2008, regardless of whether ~~or not~~ they  
1806 have previously transitioned to nonstate-funded cleanup status,  
1807 may continue state-funded cleanup pursuant to s. 376.3071(6)  
1808 ~~376.30711~~ until a site rehabilitation completion order is issued  
1809 or the increased site rehabilitation funding assistance limit is  
1810 reached, whichever occurs first. ~~At no time shall expenses~~  
1811 ~~incurred outside the preapproved site rehabilitation program~~  
1812 ~~under s. 376.30711 be reimbursable.~~

1813 Section 10. Subsections (1) and (4) of section 376.3073,  
1814 Florida Statutes, are amended to read:

1815 376.3073 Local programs and state agency programs for  
1816 control of contamination.—

1817 (1) The department shall, to the greatest extent possible  
1818 and cost-effective, contract with local governments to provide  
1819 for the administration of its departmental responsibilities  
1820 under ss. 376.305, 376.3071(4)(a)-(e), (h), (k), and (m) and (6)

1821 ~~(1), (n), 376.30711,~~ 376.3072, and 376.3077 through locally  
 1822 administered programs. The department may also contract with  
 1823 state agencies to carry out the restoration activities  
 1824 authorized pursuant to ss. 376.3071, 376.3072, and 376.305,~~and~~  
 1825 ~~376.30711.~~ However, ~~no~~ such a contract may not ~~shall~~ be entered  
 1826 into unless the local government or state agency is deemed  
 1827 capable of carrying out such responsibilities to the  
 1828 department's satisfaction.

1829 (4) Under no circumstances shall the cleanup criteria  
 1830 employed in locally administered programs or state agency  
 1831 programs or pursuant to local ordinance be more stringent than  
 1832 the criteria established by the department pursuant to s.  
 1833 376.3071(5) or (6) ~~s. 376.30711.~~

1834 Section 11. Subsections (4) and (5) of section 376.3075,  
 1835 Florida Statutes, are amended to read:

1836 376.3075 Inland Protection Financing Corporation.—

1837 (4) The corporation may enter into one or more service  
 1838 contracts with the department to provide services to the  
 1839 department in connection with financing the functions and  
 1840 activities provided in ss. 376.30-376.317. The department may  
 1841 enter into one or more such service contracts with the  
 1842 corporation and provide for payments under such contracts  
 1843 pursuant to s. 376.3071(4)(n) ~~376.3071(4)(o)~~, subject to annual  
 1844 appropriation by the Legislature. The proceeds from such service  
 1845 contracts may be used for the corporation's administrative costs  
 1846 and expenses after payments as set forth in subsection (5). Each

1847 service contract may have a term of up to 20 years. Amounts  
 1848 annually appropriated and applied to make payments under such  
 1849 service contracts may not include any funds derived from  
 1850 penalties or other payments received from any property owner or  
 1851 private party, including payments received under s.  
 1852 376.3071(7)(b) ~~376.3071(6)(b)~~. In compliance with s. 287.0641  
 1853 and other applicable provisions of law, the obligations of the  
 1854 department under such service contracts do not constitute a  
 1855 general obligation of the state or a pledge of the faith and  
 1856 credit or taxing power of the state and ~~nor may~~ such obligations  
 1857 are not ~~be construed in any manner as~~ an obligation of the State  
 1858 Board of Administration or entities for which it invests funds,  
 1859 other than the department as provided in this section, but are  
 1860 payable solely from amounts available in the Inland Protection  
 1861 Trust Fund, subject to annual appropriation. In compliance with  
 1862 this subsection and s. 287.0582, the service contract must  
 1863 expressly include the following statement: "The State of  
 1864 Florida's performance and obligation to pay under this contract  
 1865 is contingent upon an annual appropriation by the Legislature."  
 1866 (5) The corporation may issue and incur notes, bonds,  
 1867 certificates of indebtedness, or other obligations or evidences  
 1868 of indebtedness payable from and secured by amounts payable to  
 1869 the corporation by the department under a service contract  
 1870 entered into pursuant to subsection (4) for the purpose of  
 1871 financing the rehabilitation of petroleum contamination sites  
 1872 pursuant to ss. 376.30-376.317. The term of any such note, bond,



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1873 certificate of indebtedness, or other obligation or evidence of  
1874 indebtedness may not have a financing term that exceeds 15  
1875 years. The corporation may select its financing team and issue  
1876 its obligations through competitive bidding or negotiated  
1877 contracts, whichever is most cost-effective. ~~Any~~ Indebtedness of  
1878 the corporation does not constitute a debt or obligation of the  
1879 state or a pledge of the faith and credit or taxing power of the  
1880 state, but is payable from and secured by payments made by the  
1881 department under the service contract pursuant to s.  
1882 376.3071(4)(n) ~~376.3071(4)(o)~~.  
1883 Section 12. This act shall take effect July 1, 2014.