



705458

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/01/2016	.	
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The Committee on Appropriations (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) of section 376.305, Florida
Statutes, is amended to read:

376.305 Removal of prohibited discharges.—

(6) The Legislature created the Abandoned Tank Restoration
Program in response to the need to provide financial assistance
for cleanup of sites that have abandoned petroleum storage



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11 systems. For purposes of this subsection, the term "abandoned
12 petroleum storage system" means a petroleum storage system that
13 has not stored petroleum products for consumption, use, or sale
14 since March 1, 1990. The department shall establish the
15 Abandoned Tank Restoration Program to facilitate the restoration
16 of sites contaminated by abandoned petroleum storage systems.

17 (a) To be included in the program:

18 1. An application must be submitted to the department ~~by~~
19 ~~June 30, 1996,~~ certifying that the system has not stored
20 petroleum products for consumption, use, or sale at the facility
21 since March 1, 1990.

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

26 3. The site is not otherwise eligible for the cleanup
27 programs pursuant to ~~s. 376.3071~~ or s. 376.3072.

28 4. The site is not otherwise eligible for the Petroleum
29 Cleanup Participation Program under s. 376.3071(13) based on any
30 discharge reporting form received by the department before
31 January 1, 1995, or a written report of contamination submitted
32 to the department on or before December 31, 1998.

33 (b) In order to be eligible for the program, petroleum
34 storage systems from which a discharge occurred must be closed
35 pursuant to department rules before an eligibility
36 determination. However, if the department determines that the
37 owner of the facility cannot financially comply with the
38 department's petroleum storage system closure requirements and
39 all other eligibility requirements are met, the petroleum



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40 storage system closure requirements shall be waived. The
41 department shall take into consideration the owner's net worth
42 and the economic impact on the owner in making the determination
43 of the owner's financial ability. ~~The June 30, 1996, application~~
44 ~~deadline shall be waived for owners who cannot financially~~
45 ~~comply.~~

46 (c) Sites accepted in the program are eligible for site
47 rehabilitation funding as provided in s. 376.3071.

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

49 1. Sites on property of the Federal Government;
50 2. Sites contaminated by pollutants that are not petroleum
51 products; or

52 3. Sites where the department has been denied site access;
53 ~~or~~

54 ~~4. Sites which are owned by a person who had knowledge of~~
55 ~~the polluting condition when title was acquired unless the~~
56 ~~person acquired title to the site after issuance of a notice of~~
57 ~~site eligibility by the department.~~

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

60
61 ~~This subsection does not relieve a person who has acquired title~~
62 ~~after July 1, 1992, from the duty to establish by a~~
63 ~~preponderance of the evidence that he or she undertook, at the~~
64 ~~time of acquisition, all appropriate inquiry into the previous~~
65 ~~ownership and use of the property consistent with good~~
66 ~~commercial or customary practice in an effort to minimize~~
67 ~~liability, as required by s. 376.308(1)(c).~~

68 Section 2. Subsection (4), paragraph (b) of subsection (5),



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69 paragraph (b) of subsection (12), and subsection (13) of section
70 376.3071, Florida Statutes, are amended to read:

71 376.3071 Inland Protection Trust Fund; creation; purposes;
72 funding.—

73 (4) USES.—Whenever, in its determination, incidents of
74 inland contamination related to the storage of petroleum or
75 petroleum products may pose a threat to the public health,
76 safety, or welfare, water resources, or the environment, the
77 department shall obligate moneys available in the fund to
78 provide for:

79 (a) Prompt investigation and assessment of contamination
80 sites.

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

83 (c) Rehabilitation of contamination sites, which shall
84 consist of cleanup of affected soil, groundwater, and inland
85 surface waters, using the most cost-effective alternative that
86 is technologically feasible and reliable and that provides
87 adequate protection of the public health, safety, and welfare,
88 and water resources, and that minimizes environmental damage,
89 pursuant to the site selection and cleanup criteria established
90 by the department under subsection (5), except that this
91 paragraph does not authorize the department to obligate funds
92 for payment of costs which may be associated with, but are not
93 integral to, site rehabilitation, such as the cost for
94 retrofitting or replacing petroleum storage systems.

95 (d) Maintenance and monitoring of contamination sites.

96 (e) Inspection and supervision of activities described in
97 this subsection.



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98 (f) Payment of expenses incurred by the department in its
99 efforts to obtain from responsible parties the payment or
100 recovery of reasonable costs resulting from the activities
101 described in this subsection.

102 (g) Payment of any other reasonable costs of
103 administration, including those administrative costs incurred by
104 the Department of Health in providing field and laboratory
105 services, toxicological risk assessment, and other assistance to
106 the department in the investigation of drinking water
107 contamination complaints and costs associated with public
108 information and education activities.

109 (h) Establishment and implementation of the compliance
110 verification program as authorized in s. 376.303(1)(a),
111 including contracting with local governments or state agencies
112 to provide for the administration of such program through
113 locally administered programs, to minimize the potential for
114 further contamination sites.

115 (i) Funding of the provisions of ss. 376.305(6) and
116 376.3072.

117 (j) Activities related to removal and replacement of
118 petroleum storage systems, exclusive of costs of any tank,
119 piping, dispensing unit, or related hardware, if soil removal is
120 approved as a component of site rehabilitation and requires
121 removal of the tank where remediation is conducted under this
122 section or if such activities were justified in an approved
123 remedial action plan.

124 (k) Reasonable costs of restoring property as nearly as
125 practicable to the conditions which existed before activities
126 associated with contamination assessment or remedial action



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127 taken under s. 376.303(4).

128 (l) Repayment of loans to the fund.

129 (m) Expenditure of sums from the fund to cover ineligible
130 sites or costs as set forth in subsection (13), if the
131 department in its discretion deems it necessary to do so. In
132 such cases, the department may seek recovery and reimbursement
133 of costs in the same manner and pursuant to the same procedures
134 established for recovery and reimbursement of sums otherwise
135 owed to or expended from the fund.

136 (n) Payment of amounts payable under any service contract
137 entered into by the department pursuant to s. 376.3075, subject
138 to annual appropriation by the Legislature.

139 (o) Petroleum remediation pursuant to this section
140 throughout a state fiscal year. The department shall establish a
141 process to uniformly encumber appropriated funds throughout a
142 state fiscal year and shall allow for emergencies and imminent
143 threats to public health, safety, and welfare, water resources,
144 and the environment as provided in paragraph (5)(a). This
145 paragraph does not apply to appropriations associated with the
146 free product recovery initiative provided in paragraph (5)(c) or
147 the advanced cleanup program provided in s. 376.30713.

148 (p) Enforcement of this section and ss. 376.30-376.317 by
149 the Fish and Wildlife Conservation Commission. The department
150 shall disburse moneys to the commission for such purpose.

151 (q) Payments for program deductibles, copayments, and
152 limited contamination assessment reports that otherwise would be
153 paid by another state agency for state-funded petroleum
154 contamination site rehabilitation. ~~This paragraph expires July~~
155 ~~1, 2016.~~



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Upon the issuance of a site rehabilitation completion order pursuant to subsection (5) or an order pursuant to paragraph (12) (b), for contamination eligible for programs funded by this section, the issuance of such orders does not alter eligibility for state-funded remediation where the department determines that site conditions are not protective of human health under actual or proposed circumstances of exposure under subsection (5).

The Inland Protection Trust Fund may only be used to fund the activities in ss. 376.30-376.317 except ss. 376.3078 and 376.3079. Amounts on deposit in the fund in each fiscal year shall first be applied or allocated for the payment of amounts payable by the department pursuant to paragraph (n) under a service contract entered into by the department pursuant to s. 376.3075 and appropriated in each year by the Legislature before making or providing for other disbursements from the fund. This subsection does not authorize the use of the fund for cleanup of contamination caused primarily by a discharge of solvents as defined in s. 206.9925(6), or polychlorinated biphenyls when their presence causes them to be hazardous wastes, except solvent contamination which is the result of chemical or physical breakdown of petroleum products and is otherwise eligible. Facilities used primarily for the storage of motor or diesel fuels as defined in ss. 206.01 and 206.86 are not excluded from eligibility pursuant to this section.

(5) SITE SELECTION AND CLEANUP CRITERIA.—

(b) It is the intent of the Legislature to protect the



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185 health of all people under actual circumstances of exposure. The
186 secretary shall establish criteria by rule for the purpose of
187 determining, on a site-specific basis, the rehabilitation
188 program tasks that compose ~~comprise~~ a site rehabilitation
189 program and the level at which a rehabilitation program task and
190 a site rehabilitation program are completed. In establishing the
191 rule, the department shall incorporate, to the maximum extent
192 feasible, risk-based corrective action principles to achieve
193 protection of the public health, safety, and welfare, water
194 resources, and the environment in a cost-effective manner as
195 provided in this subsection. Criteria for determining what
196 constitutes a rehabilitation program task or completion of site
197 rehabilitation program tasks and site rehabilitation programs
198 shall be based upon the factors set forth in paragraph (a) and
199 the following additional factors:

200 1. The current exposure and potential risk of exposure to
201 humans and the environment including multiple pathways of
202 exposure.

203 2. The appropriate point of compliance with cleanup target
204 levels for petroleum products' chemicals of concern. The point
205 of compliance must ~~shall~~ be at the source of the petroleum
206 contamination. However, the department may temporarily move the
207 point of compliance to the boundary of the property, or to the
208 edge of the plume when the plume is within the property
209 boundary, while cleanup, including cleanup through natural
210 attenuation processes in conjunction with appropriate
211 monitoring, is proceeding. The department may also, pursuant to
212 criteria provided ~~for~~ in this paragraph, temporarily extend the
213 point of compliance beyond the property boundary with



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214 appropriate monitoring, if such extension is needed to
215 facilitate natural attenuation or to address the current
216 conditions of the plume, if the public health, safety, and
217 welfare, water resources, and the environment are adequately
218 protected. Temporary extension of the point of compliance beyond
219 the property boundary, as provided in this subparagraph, must
220 include notice to local governments and owners of any property
221 into which the point of compliance is allowed to extend.

222 3. The appropriate site-specific cleanup goal. The site-
223 specific cleanup goal is ~~shall be~~ that all petroleum
224 contamination sites ultimately achieve the applicable cleanup
225 target levels provided in this paragraph. However, the
226 department may allow concentrations of the petroleum products'
227 chemicals of concern to temporarily exceed the applicable
228 cleanup target levels while cleanup, including cleanup through
229 natural attenuation processes in conjunction with appropriate
230 monitoring, is proceeding, if the public health, safety, and
231 welfare, water resources, and the environment are adequately
232 protected.

233 4. The appropriateness of using institutional or
234 engineering controls. Site rehabilitation programs may include
235 the use of institutional or engineering controls to eliminate
236 the potential exposure to petroleum products' chemicals of
237 concern to humans or the environment. Use of such controls must
238 have prior department approval, and institutional controls may
239 not be acquired with moneys from the fund, with the exception of
240 the costs associated with a specific purpose survey, if needed,
241 or a professional land survey, and costs associated with
242 obtaining a title report and recording fees. When institutional



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243 or engineering controls are implemented to control exposure, the
244 removal of such controls must have prior department approval and
245 must be accompanied immediately by the resumption of active
246 cleanup or other approved controls unless cleanup target levels
247 pursuant to this paragraph have been achieved.

248 5. The additive effects of the petroleum products'
249 chemicals of concern. The synergistic effects of petroleum
250 products' chemicals of concern must also be considered when the
251 scientific data becomes available.

252 6. Individual site characteristics which must include, but
253 not be limited to, the current and projected use of the affected
254 groundwater in the vicinity of the site, current and projected
255 land uses of the area affected by the contamination, the exposed
256 population, the degree and extent of contamination, the rate of
257 contaminant migration, the apparent or potential rate of
258 contaminant degradation through natural attenuation processes,
259 the location of the plume, and the potential for further
260 migration in relation to site property boundaries.

261 7. Applicable state water quality standards.

262 a. Cleanup target levels for petroleum products' chemicals
263 of concern found in groundwater shall be the applicable state
264 water quality standards. Where such standards do not exist, the
265 cleanup target levels for groundwater shall be based on the
266 minimum criteria specified in department rule. The department
267 shall consider the following, as appropriate, in establishing
268 the applicable minimum criteria: calculations using a lifetime
269 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
270 best achievable detection limit; the naturally occurring
271 background concentration; or nuisance, organoleptic, and



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272 aesthetic considerations.

273 b. Where surface waters are exposed to petroleum
274 contaminated groundwater, the cleanup target levels for the
275 petroleum products' chemicals of concern shall be based on the
276 surface water standards as established by department rule. The
277 point of measuring compliance with the surface water standards
278 shall be in the groundwater immediately adjacent to the surface
279 water body.

280 8. Whether deviation from state water quality standards or
281 from established criteria is appropriate. The department may
282 issue a "No Further Action Order" based upon the degree to which
283 the desired cleanup target level is achievable and can be
284 reasonably and cost-effectively implemented within available
285 technologies or engineering and institutional control
286 strategies. Where a state water quality standard is applicable,
287 a deviation may not result in the application of cleanup target
288 levels more stringent than the standard. In determining whether
289 it is appropriate to establish alternate cleanup target levels
290 at a site, the department may consider the effectiveness of
291 source removal that has been completed at the site and the
292 practical likelihood of the use of low yield or poor quality
293 groundwater; the use of groundwater near marine surface water
294 bodies; the current and projected use of the affected
295 groundwater in the vicinity of the site; or the use of
296 groundwater in the immediate vicinity of the storage tank area,
297 where it has been demonstrated that the groundwater
298 contamination is not migrating away from such localized source,
299 if the public health, safety, and welfare, water resources, and
300 the environment are adequately protected.



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301 9. Appropriate cleanup target levels for soils.
302 a. In establishing soil cleanup target levels for human
303 exposure to petroleum products' chemicals of concern found in
304 soils from the land surface to 2 feet below land surface, the
305 department shall consider the following, as appropriate:
306 calculations using a lifetime cancer risk level of 1.0E-6; a
307 hazard index of 1 or less; the best achievable detection limit;
308 or the naturally occurring background concentration.
309 b. Leachability-based soil target levels shall be based on
310 protection of the groundwater cleanup target levels or the
311 alternate cleanup target levels for groundwater established
312 pursuant to this paragraph, as appropriate. Source removal and
313 other cost-effective alternatives that are technologically
314 feasible shall be considered in achieving the leachability soil
315 target levels established by the department. The leachability
316 goals do not apply if the department determines, based upon
317 individual site characteristics, that petroleum products'
318 chemicals of concern will not leach into the groundwater at
319 levels which pose a threat to public health, safety, and
320 welfare, water resources, or the environment.
321
322 This paragraph does not restrict the department from temporarily
323 postponing completion of any site rehabilitation program for
324 which funds are being expended whenever such postponement is
325 necessary in order to make funds available for rehabilitation of
326 a contamination site with a higher priority status.
327 (12) SITE CLEANUP.—
328 (b) *Low-scored site initiative.*—Notwithstanding subsections
329 (5) and (6), a site with a priority ranking score of 29 points



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330 or less may voluntarily participate in the low-scored site
331 initiative regardless of whether the site is eligible for state
332 restoration funding.

333 1. To participate in the low-scored site initiative, the
334 ~~responsible party or property owner, or a responsible party that~~
335 provides evidence of authorization from the property owner, must
336 submit a "No Further Action" proposal and affirmatively
337 demonstrate that the following conditions under subparagraph 4.
338 are met.

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

341 b. ~~Excessively contaminated soil, as defined by department~~
342 ~~rule, does not exist onsite as a result of a release of~~
343 ~~petroleum products.~~

344 c. ~~A minimum of 6 months of groundwater monitoring~~
345 ~~indicates that the plume is shrinking or stable.~~

346 d. ~~The release of petroleum products at the site does not~~
347 ~~adversely affect adjacent surface waters, including their~~
348 ~~effects on human health and the environment.~~

349 e. ~~The area of groundwater containing the petroleum~~
350 ~~products' chemicals of concern is less than one-quarter acre and~~
351 ~~is confined to the source property boundaries of the real~~
352 ~~property on which the discharge originated.~~

353 f. ~~Soils onsite that are subject to human exposure found~~
354 ~~between land surface and 2 feet below land surface meet the soil~~
355 ~~cleanup target levels established by department rule or human~~
356 ~~exposure is limited by appropriate institutional or engineering~~
357 ~~controls.~~

358 2. Upon affirmative demonstration that ~~of~~ the conditions



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359 under subparagraph 4. are met ~~subparagraph 1.~~, the department
360 shall issue a site rehabilitation completion order incorporating
361 the determination of "No Further Action." proposal submitted by
362 the property owner or the responsible party which provides
363 evidence of authorization from the property owner ~~Such~~
364 ~~determination acknowledges that minimal contamination exists~~
365 ~~onsite and that such contamination is not a threat to the public~~
366 ~~health, safety, or welfare, water resources, or the environment.~~
367 If no contamination is detected, the department may issue a site
368 rehabilitation completion order.

369 3. Sites that are eligible for state restoration funding
370 may receive payment of costs for the low-scored site initiative
371 as follows:

372 a. A ~~responsible party or~~ property owner, or a responsible
373 party that provides evidence of authorization from the property
374 owner, may submit an assessment and limited remediation plan
375 designed to affirmatively demonstrate that the site meets the
376 conditions under subparagraph 4 ~~subparagraph 1.~~ Notwithstanding
377 the priority ranking score of the site, the department may
378 approve the cost of the assessment and limited remediation,
379 including up to 6 months and 12 months, respectively, of
380 groundwater monitoring and limited remediation activities, in
381 one or more task assignments, or modifications thereof, not to
382 exceed the threshold amount provided in s. 287.017 for CATEGORY
383 TWO, \$30,000 for each site where the department has determined
384 that the assessment and limited remediation, if applicable, will
385 likely result in a determination of "No Further Action." The
386 department may not pay the costs associated with the
387 establishment of institutional or engineering controls, with the



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388 exception of the costs associated with a specific purpose
389 survey, if needed, or a professional land survey, and the costs
390 associated with obtaining a title report and paying recording
391 fees.

392 b. After the approval of initial site assessment results
393 provided pursuant to state funding under sub-subparagraph a.,
394 the department may approve an additional amount not to exceed
395 the threshold amount provided in s. 287.017 for CATEGORY TWO for
396 limited remediation where needed to achieve a determination of
397 "No Further Action."

398 ~~c.b.~~ The assessment and limited remediation work shall be
399 completed no later than 15 ~~6~~ months after the department
400 authorizes the start of a state-funded, low-scored site
401 initiative task ~~issues its approval.~~ If groundwater monitoring
402 is required after the assessment and limited remediation in
403 order to satisfy the conditions under subparagraph 4., the
404 department may authorize an additional 6 months to complete the
405 monitoring.

406 ~~d.e.~~ No more than \$15 ~~\$10~~ million for the low-scored site
407 initiative may be encumbered from the fund in any fiscal year.
408 Funds shall be made available on a first-come, first-served
409 basis and shall be limited to 10 sites in each fiscal year for
410 each ~~responsible party or~~ property owner or each responsible
411 party that provides evidence of authorization from the property
412 owner.

413 ~~e.d.~~ Program deductibles, copayments, and the limited
414 contamination assessment report requirements under paragraph
415 (13) (d) ~~(13) (e)~~ do not apply to expenditures under this
416 paragraph.



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417 4. The department shall issue an order incorporating the
418 "No Further Action" proposal submitted by a property owner or a
419 responsible party that provides evidence of authorization from
420 the property owner upon affirmative demonstration that all of
421 the following conditions are met:

422 a. Excessively contaminated soil, as defined by department
423 rule, does not exist onsite as a result of a release of
424 petroleum products.

425 b. A minimum of 6 months of groundwater monitoring
426 indicates that the plume is shrinking or stable.

427 c. The release of petroleum products at the site does not
428 adversely affect adjacent surface waters, including their
429 effects on human health and the environment.

430 d. The area of groundwater containing the petroleum
431 products' chemicals of concern is confined to the source
432 property boundaries of the real property on which the discharge
433 originated, or has migrated from the source property to only a
434 transportation facility of the Department of Transportation.

435 e. The groundwater contamination containing the petroleum
436 products' chemicals of concern is not a threat to any permitted
437 potable water supply well.

438 f. Soils onsite found between land surface and 2 feet below
439 land surface which are subject to human exposure meet the soil
440 cleanup target levels established in subparagraph (5)(b)9., or
441 human exposure is limited by appropriate institutional or
442 engineering controls.

443

444 Issuance of a site rehabilitation completion order under this
445 paragraph acknowledges that minimal contamination exists onsite



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446 and that such contamination is not a threat to the public
447 health, safety, or welfare; water resources; or the environment.
448 Pursuant to subsection (4), the issuance of the site
449 rehabilitation completion order, with or without conditions,
450 does not alter eligibility for state-funded rehabilitation which
451 would otherwise be applicable under this section.

452 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage
453 detection, reporting, and cleanup of contamination caused by
454 discharges of petroleum or petroleum products, the department
455 shall, within the guidelines established in this subsection,
456 implement a cost-sharing cleanup program to provide
457 rehabilitation funding assistance for all property contaminated
458 by discharges of petroleum or petroleum products from a
459 petroleum storage system occurring before January 1, 1995,
460 subject to a copayment provided for in a Petroleum Cleanup
461 Participation Program site rehabilitation agreement. Eligibility
462 is subject to an annual appropriation from the fund.
463 Additionally, funding for eligible sites is contingent upon
464 annual appropriation in subsequent years. Such continued state
465 funding is not an entitlement or a vested right under this
466 subsection. Eligibility shall be determined in the program,
467 notwithstanding any other provision of law, consent order,
468 order, judgment, or ordinance to the contrary.

469 (a)1. The department shall accept any discharge reporting
470 form received before January 1, 1995, as an application for this
471 program, and the facility owner or operator need not reapply.

472 2. Owners or operators of property, regardless of whether
473 ownership has changed, contaminated by petroleum or petroleum
474 products from a petroleum storage system may apply for such



475 program by filing a written report of the contamination
476 incident, including evidence that such incident occurred before
477 January 1, 1995, with the department. Incidents of petroleum
478 contamination discovered after December 31, 1994, at sites which
479 have not stored petroleum or petroleum products for consumption,
480 use, or sale after such date shall be presumed to have occurred
481 before January 1, 1995. An operator's filed report shall be an
482 application of the owner for all purposes. ~~Sites reported to the~~
483 ~~department after December 31, 1998, are not eligible for the~~
484 ~~program.~~

485 (b) Subject to annual appropriation from the fund, sites
486 meeting the criteria of this subsection are eligible for up to
487 \$400,000 of site rehabilitation funding assistance in priority
488 order pursuant to subsections (5) and (6). Sites meeting the
489 criteria of this subsection for which a site rehabilitation
490 completion order was issued before June 1, 2008, do not qualify
491 for the 2008 increase in site rehabilitation funding assistance
492 and are bound by the pre-June 1, 2008, limits. Sites meeting the
493 criteria of this subsection for which a site rehabilitation
494 completion order was not issued before June 1, 2008, regardless
495 of whether they have previously transitioned to nonstate-funded
496 cleanup status, may continue state-funded cleanup pursuant to
497 this section until a site rehabilitation completion order is
498 issued or the increased site rehabilitation funding assistance
499 limit is reached, whichever occurs first. The department may not
500 pay expenses incurred beyond the scope of an approved contract.

501 (c) The department may approve an additional amount up to
502 \$100,000 for additional remediation and monitoring where needed
503 to achieve a determination of "No Further Action."



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504 (d)~~(e)~~ Upon notification by the department that
505 rehabilitation funding assistance is available for the site
506 pursuant to subsections (5) and (6), the property owner,
507 operator, or person otherwise responsible for site
508 rehabilitation shall provide the department with a limited
509 contamination assessment report and shall enter into a Petroleum
510 Cleanup Participation Program site rehabilitation agreement with
511 the department. ~~The agreement must provide for a 25-percent~~
512 ~~copayment by the owner, operator, or person otherwise~~
513 ~~responsible for conducting site rehabilitation. The owner,~~
514 ~~operator, or person otherwise responsible for conducting site~~
515 ~~rehabilitation shall adequately demonstrate the ability to meet~~
516 ~~the copayment obligation. The limited contamination assessment~~
517 ~~report and the copayment costs may be reduced or eliminated if~~
518 ~~the owner and all operators responsible for restoration under s.~~
519 ~~376.308 demonstrate that they cannot financially comply with the~~
520 ~~copayment and limited contamination assessment report~~
521 ~~requirements. The department shall take into consideration the~~
522 ~~owner's and operator's net worth in making the determination of~~
523 ~~financial ability. In the event the department and the owner,~~
524 ~~operator, or person otherwise responsible for site~~
525 ~~rehabilitation cannot complete negotiation of the cost sharing~~
526 ~~agreement within 120 days after beginning negotiations, the~~
527 ~~department shall terminate negotiations and the site shall be~~
528 ~~ineligible for state funding under this subsection and all~~
529 ~~liability protections provided for in this subsection shall be~~
530 ~~revoked.~~

531 (e)~~(d)~~ A report of a discharge made to the department by a
532 person pursuant to this subsection or any rules adopted pursuant



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533 to this subsection may not be used directly as evidence of
534 liability for such discharge in any civil or criminal trial
535 arising out of the discharge.

536 (f)~~(e)~~ This subsection does not preclude the department
537 from pursuing penalties under s. 403.141 for violations of any
538 law or any rule, order, permit, registration, or certification
539 adopted or issued by the department pursuant to its lawful
540 authority.

541 (g)~~(f)~~ Upon the filing of a discharge reporting form under
542 paragraph (a), the department or local government may not pursue
543 any judicial or enforcement action to compel rehabilitation of
544 the discharge. This paragraph does not prevent any such action
545 with respect to discharges determined ineligible under this
546 subsection or to sites for which rehabilitation funding
547 assistance is available pursuant to subsections (5) and (6).

548 (h)~~(g)~~ The following are excluded from participation in the
549 program:

550 1. Sites at which the department has been denied reasonable
551 site access to implement this section.

552 2. Sites that were active facilities when owned or operated
553 by the Federal Government.

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

561 4. Sites for which contamination is covered under the Early



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562 Detection Incentive Program, the Abandoned Tank Restoration
563 Program, or the Petroleum Liability and Restoration Insurance
564 Program, in which case site rehabilitation funding assistance
565 shall continue under the respective program.

566 Section 3. Paragraph (d) of subsection (1) and subsections
567 (2) and (4) of section 376.30713, Florida Statutes, are amended
568 to read:

569 376.30713 Advanced cleanup.—

570 (1) In addition to the legislative findings provided in s.
571 376.3071, the Legislature finds and declares:

572 (d) It is appropriate for a person who is responsible for
573 site rehabilitation to share the costs associated with managing
574 and conducting advanced cleanup, to facilitate the opportunity
575 for advanced cleanup, and to mitigate the additional costs that
576 will be incurred by the state in conducting site rehabilitation
577 in advance of the site's priority ranking. Such cost sharing
578 will result in more contaminated sites being cleaned up and
579 greater environmental benefits to the state. This section is
580 only available for sites eligible for restoration funding under
581 EDI, ATRP, or PLRIP. This section is available for discharges
582 eligible for restoration funding under the petroleum cleanup
583 participation program for the state's cost share of site
584 rehabilitation. ~~Applications must include a cost-sharing~~
585 ~~commitment for this section in addition to the 25-percent-~~
586 ~~copayment requirement of the petroleum cleanup participation~~
587 ~~program. This section is not available for any discharge under a~~
588 ~~petroleum cleanup participation program where the 25-percent-~~
589 ~~copayment requirement of the petroleum cleanup participation~~
590 ~~program has been reduced or eliminated pursuant to s.~~



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591 ~~376.3071(13)(c).~~

592 (2) The department may approve an application for advanced
593 cleanup at eligible sites, notwithstanding ~~before funding based~~
594 ~~on~~ the site's priority ranking established pursuant to s.
595 376.3071(5)(a), pursuant to this section. Only the facility
596 owner or operator or the person otherwise responsible for site
597 rehabilitation qualifies as an applicant under this section.

598 (a) Advanced cleanup applications may be submitted between
599 May 1 and June 30 and between November 1 and December 31 of each
600 fiscal year. Applications submitted between May 1 and June 30
601 shall be for the fiscal year beginning July 1. An application
602 must consist of:

603 1. A commitment to pay 25 percent or more of the total
604 cleanup cost deemed recoverable under this section along with
605 proof of the ability to pay the cost share.

606 a. An application proposing that the department enter into
607 a performance-based contract for the cleanup of five ~~20~~ or more
608 sites may use a commitment to pay, a demonstrated cost savings
609 to the department, or both to meet the cost-share requirement.
610 For an application relying on a demonstrated cost savings to the
611 department, the applicant shall, in conjunction with the
612 proposed agency term contractor, establish and provide in the
613 application the percentage of cost savings in the aggregate that
614 is being provided to the department for cleanup of the sites
615 under the application compared to the cost of cleanup of those
616 same sites using the current rates provided to the department by
617 the proposed agency term contractor. The department shall
618 determine whether the cost savings demonstration is acceptable.
619 Such determination is not subject to chapter 120.



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620 b. An application proposing that the department enter into
621 a performance-based contract for the cleanup of an individual
622 site may use a commitment to pay, a demonstrated cost savings to
623 the department, or both to meet the cost-share requirement. For
624 an individual site application relying on a demonstrated cost
625 savings to the department, the applicant shall, in conjunction
626 with the proposed agency term contractor, establish and
627 demonstrate in the application a 25-percent cost savings to the
628 department for cleanup of the site under the application
629 compared to the cost of cleanup of the same site using the
630 current rates provided to the department by the proposed agency
631 term contractor. The department shall determine whether the
632 demonstration of cost savings is acceptable. Such determination
633 is not subject to chapter 120.

634 2. A nonrefundable review fee of \$250 to cover the
635 administrative costs associated with the department's review of
636 the application.

637 3. A limited contamination assessment report.

638 4. A proposed course of action.

639 5. A site access agreement from the property owner and
640 evidence of authorization from the property owner for petroleum
641 site rehabilitation program tasks consistent with the proposed
642 course of action when the applicant is not the property owner of
643 any of the sites contained in the application.

644
645 The limited contamination assessment report must be sufficient
646 to support the proposed course of action and to estimate the
647 cost of the proposed course of action. Costs incurred related to
648 conducting the limited contamination assessment report are not



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649 refundable from the Inland Protection Trust Fund. Site
650 eligibility under this subsection or any other provision of this
651 section is not an entitlement to advanced cleanup or continued
652 restoration funding. The applicant shall certify to the
653 department that the applicant has the prerequisite authority to
654 enter into an advanced cleanup contract with the department. The
655 certification must be submitted with the application.

656 (b) The department shall rank the applications based on the
657 percentage of cost-sharing commitment proposed by the applicant,
658 with the highest ranking given to the applicant who proposes the
659 highest percentage of cost sharing. If the department receives
660 applications that propose identical cost-sharing commitments and
661 that exceed the funds available to commit to all such proposals
662 during the advanced cleanup application period, the department
663 shall proceed to rerank those applicants. Those applicants
664 submitting identical cost-sharing proposals that exceed funding
665 availability must be so notified by the department and offered
666 the opportunity to raise their individual cost-share
667 commitments, in a period specified in the notice. At the close
668 of the period, the department shall proceed to rerank the
669 applications pursuant to this paragraph.

670 (4) The department may enter into contracts for a total of
671 up to \$25 ~~\$15~~ million of advanced cleanup work in each fiscal
672 year. However, a facility or an applicant who bundles multiple
673 sites as specified in subparagraph (2)(a)1. may not be approved
674 for more than \$5 million of cleanup activity in each fiscal
675 year. A property owner or responsible party may enter into a
676 voluntary cost-share agreement where the property owner or
677 responsible party commits to bundle multiple sites and lists the



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678 facilities that will be included in those future bundles. The
679 facilities listed are not subject to agency term contractor
680 assignment pursuant to department rule. The department shall
681 reserve the right to terminate or amend the voluntary cost-share
682 agreement, for any identified site under the voluntary cost-
683 share agreement, if the property owner or responsible party
684 fails to submit an application to bundle any site under such the
685 voluntary cost-share agreement, not already covered by an
686 advance cleanup contract, within a subsequent open application
687 period during which it is eligible to participate. A property
688 owner or responsible party may not enter into a voluntary cost-
689 share agreement for future individual sites. For the purposes of
690 this section, the term "facility" includes, but is not limited
691 to, multiple site facilities such as airports, port facilities,
692 and terminal facilities even though such enterprises may be
693 treated as separate facilities for other purposes under this
694 chapter.

695 Section 4. This act shall take effect July 1, 2016.

696
697 ===== T I T L E A M E N D M E N T =====

698 And the title is amended as follows:

699 Delete everything before the enacting clause
700 and insert:

701 A bill to be entitled
702 An act relating to the Petroleum Restoration Program;
703 amending s. 376.305, F.S.; revising the eligibility
704 requirements of the Abandoned Tank Restoration
705 Program; deleting provisions prohibiting the relief of
706 liability for persons who acquired title after a



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707 certain date; amending s. 376.3071, F.S.; deleting an
708 expiration date for a requirement that the Department
709 of Environmental Protection obligate certain funds to
710 provide payment for deductibles, copayments, and
711 certain reports in certain circumstances; specifying
712 that the issuance of a site rehabilitation completion
713 order does not affect eligibility for state-funded
714 remediation under certain circumstances; providing an
715 exception for the payment of certain survey, title,
716 and recording expenses; revising the conditions for
717 eligibility and methods for payment of costs for the
718 low-score site initiative; revising the eligibility
719 requirements for receiving rehabilitation funding;
720 clarifying that a change in ownership does not
721 preclude a site from entering into the program;
722 providing additional funding for remediation and
723 monitoring under certain circumstances; deleting
724 requirements for the Petroleum Cleanup Participation
725 Program site rehabilitation agreement; amending s.
726 376.30713, F.S.; conforming provisions to changes made
727 by the act; reducing the number of sites that may be
728 proposed for certain advanced cleanup applications;
729 providing for advanced cleanup applications for
730 individual sites; requiring a performance-based
731 contract for such cleanup; amending the application
732 requirements for the advanced cleanup program;
733 increasing the total amount for which the department
734 may contract for advanced cleanup work in a fiscal
735 year; authorizing property owners and responsible



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736 parties to enter into voluntary cost-share agreements
737 under certain circumstances; prohibiting property
738 owners and responsible parties from entering into such
739 agreement for future individual sites; providing an
740 effective date.