

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Grant offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:
 6 Section 1. Subsection (6) of section 376.305, Florida

7 Statutes, is amended to read:

8 376.305 Removal of prohibited discharges.—

9 (6) The Legislature created the Abandoned Tank Restoration
 10 Program in response to the need to provide financial assistance
 11 for cleanup of sites that have abandoned petroleum storage
 12 systems. For purposes of this subsection, the term "abandoned
 13 petroleum storage system" means a petroleum storage system that
 14 has not stored petroleum products for consumption, use, or sale
 15 since March 1, 1990. The department shall establish the
 16 Abandoned Tank Restoration Program to facilitate the restoration
 17 of sites contaminated by abandoned petroleum storage systems.

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18 (a) To be included in the program:

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

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

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

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

34 (b) In order to be eligible for the program, petroleum
35 storage systems from which a discharge occurred must be closed
36 pursuant to department rules before an eligibility
37 determination. However, if the department determines that the
38 owner of the facility cannot financially comply with the
39 department's petroleum storage system closure requirements and
40 all other eligibility requirements are met, the petroleum
41 storage system closure requirements shall be waived. The
42 department shall take into consideration the owner's net worth
43 and the economic impact on the owner in making the determination

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44 of the owner's financial ability. ~~The June 30, 1996, application~~
45 ~~deadline shall be waived for owners who cannot financially~~
46 ~~comply.~~

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

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

50 1. Sites on property of the Federal Government;

51 2. Sites contaminated by pollutants that are not petroleum
52 products; or

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

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

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

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

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69 Section 2. Paragraph (b) of subsection (2), subsection
70 (4), paragraph (b) of subsection (5), paragraph (b) of
71 subsection (12), and subsection (13) of section 376.3071,
72 Florida Statutes, are amended to read:

73 376.3071 Inland Protection Trust Fund; creation; purposes;
74 funding.—

75 (2) INTENT AND PURPOSE.—

76 (b) It is the intent of the Legislature that the
77 department implement rules and procedures to improve the
78 efficiency and productivity of the Petroleum Restoration
79 Program. The department is directed to implement rules and
80 policies to eliminate and reduce duplication of site
81 rehabilitation efforts, paperwork, and documentation, and
82 micromanagement of site rehabilitation tasks. The department
83 shall make efficiency and productivity a priority in the
84 administration of the Petroleum Restoration Program and to this
85 end, when necessary, shall use petroleum program contracted
86 services to improve the efficiency and productivity of the
87 program. Furthermore, when implementing rules and procedures to
88 improve such efficiency and productivity, the department shall
89 recognize and consider the potential value of utilizing
90 contracted inspection and professional resources to efficiently
91 and productively administer the program.

92 (4) USES.—Whenever, in its determination, incidents of
93 inland contamination related to the storage of petroleum or
94 petroleum products may pose a threat to the public health,

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195 safety, or welfare, water resources, or the environment, the
196 department shall obligate moneys available in the fund to
197 provide for:

198 (a) Prompt investigation and assessment of contamination
199 sites.

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

202 (c) Rehabilitation of contamination sites, which shall
203 consist of cleanup of affected soil, groundwater, and inland
204 surface waters, using the most cost-effective alternative that
205 is technologically feasible and reliable and that provides
206 adequate protection of the public health, safety, and welfare,
207 and water resources, and that minimizes environmental damage,
208 pursuant to the site selection and cleanup criteria established
209 by the department under subsection (5), except that this
210 paragraph does not authorize the department to obligate funds
211 for payment of costs which may be associated with, but are not
212 integral to, site rehabilitation, such as the cost for
213 retrofitting or replacing petroleum storage systems.

214 (d) Maintenance and monitoring of contamination sites.

215 (e) Inspection and supervision of activities described in
216 this subsection.

217 (f) Payment of expenses incurred by the department in its
218 efforts to obtain from responsible parties the payment or
219 recovery of reasonable costs resulting from the activities
220 described in this subsection.

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121 (g) Payment of any other reasonable costs of
122 administration, including those administrative costs incurred by
123 the Department of Health in providing field and laboratory
124 services, toxicological risk assessment, and other assistance to
125 the department in the investigation of drinking water
126 contamination complaints and costs associated with public
127 information and education activities.

128 (h) Establishment and implementation of the compliance
129 verification program as authorized in s. 376.303(1)(a),
130 including contracting with local governments or state agencies
131 to provide for the administration of such program through
132 locally administered programs, to minimize the potential for
133 further contamination sites.

134 (i) Funding of the provisions of ss. 376.305(6) and
135 376.3072.

136 (j) Activities related to removal and replacement of
137 petroleum storage systems, exclusive of costs of any tank,
138 piping, dispensing unit, or related hardware, if soil removal is
139 approved as a component of site rehabilitation and requires
140 removal of the tank where remediation is conducted under this
141 section or if such activities were justified in an approved
142 remedial action plan.

143 (k) Reasonable costs of restoring property as nearly as
144 practicable to the conditions which existed before activities
145 associated with contamination assessment or remedial action
146 taken under s. 376.303(4).

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- 147 (l) Repayment of loans to the fund.
- 148 (m) Expenditure of sums from the fund to cover ineligible
149 sites or costs as set forth in subsection (13), if the
150 department in its discretion deems it necessary to do so. In
151 such cases, the department may seek recovery and reimbursement
152 of costs in the same manner and pursuant to the same procedures
153 established for recovery and reimbursement of sums otherwise
154 owed to or expended from the fund.
- 155 (n) Payment of amounts payable under any service contract
156 entered into by the department pursuant to s. 376.3075, subject
157 to annual appropriation by the Legislature.
- 158 (o) Petroleum remediation pursuant to this section
159 throughout a state fiscal year. The department shall establish a
160 process to uniformly encumber appropriated funds throughout a
161 state fiscal year and shall allow for emergencies and imminent
162 threats to public health, safety, and welfare, water resources,
163 and the environment as provided in paragraph (5) (a). This
164 paragraph does not apply to appropriations associated with the
165 free product recovery initiative provided in paragraph (5) (c) or
166 the advanced cleanup program provided in s. 376.30713.
- 167 (p) Enforcement of this section and ss. 376.30-376.317 by
168 the Fish and Wildlife Conservation Commission. The department
169 shall disburse moneys to the commission for such purpose.
- 170 (q) Payments for program deductibles, copayments, and
171 limited contamination assessment reports that otherwise would be
172 paid by another state agency for state-funded petroleum

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173 contamination site rehabilitation. ~~This paragraph expires July~~
174 ~~1, 2016.~~

175
176 The issuance of a site rehabilitation completion order pursuant
177 to subsection (5) or paragraph (12)(b) for contamination
178 eligible for programs funded by this section does not alter the
179 project's eligibility for state-funded remediation if the
180 department determines that site conditions are not protective of
181 human health under actual or proposed circumstances of exposure
182 under subsection (5). The Inland Protection Trust Fund may ~~only~~
183 be used only to fund the activities in ss. 376.30-376.317 except
184 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
185 each fiscal year must ~~shall~~ first be applied or allocated for
186 the payment of amounts payable by the department pursuant to
187 paragraph (n) under a service contract entered into by the
188 department pursuant to s. 376.3075 and appropriated in each year
189 by the Legislature before making or providing for other
190 disbursements from the fund. This subsection does not authorize
191 the use of the fund for cleanup of contamination caused
192 primarily by a discharge of solvents as defined in s.
193 206.9925(6), or polychlorinated biphenyls when their presence
194 causes them to be hazardous wastes, except solvent contamination
195 which is the result of chemical or physical breakdown of
196 petroleum products and is otherwise eligible. Facilities used
197 primarily for the storage of motor or diesel fuels as defined in

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198 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
199 to this section.

200 (5) SITE SELECTION AND CLEANUP CRITERIA.—

201 (b) It is the intent of the Legislature to protect the
202 health of all people under actual circumstances of exposure. The
203 secretary shall establish criteria by rule for the purpose of
204 determining, on a site-specific basis, the rehabilitation
205 program tasks that comprise a site rehabilitation program and
206 the level at which a rehabilitation program task and a site
207 rehabilitation program are completed. In establishing the rule,
208 the department shall incorporate, to the maximum extent
209 feasible, risk-based corrective action principles to achieve
210 protection of the public health, safety, and welfare, water
211 resources, and the environment in a cost-effective manner as
212 provided in this subsection. Criteria for determining what
213 constitutes a rehabilitation program task or completion of site
214 rehabilitation program tasks and site rehabilitation programs
215 shall be based upon the factors set forth in paragraph (a) and
216 the following additional factors:

217 1. The current exposure and potential risk of exposure to
218 humans and the environment including multiple pathways of
219 exposure.

220 2. The appropriate point of compliance with cleanup target
221 levels for petroleum products' chemicals of concern. The point
222 of compliance shall be at the source of the petroleum
223 contamination. However, the department may temporarily move the

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224 point of compliance to the boundary of the property, or to the
225 edge of the plume when the plume is within the property
226 boundary, while cleanup, including cleanup through natural
227 attenuation processes in conjunction with appropriate
228 monitoring, is proceeding. The department may also, pursuant to
229 criteria provided for in this paragraph, temporarily extend the
230 point of compliance beyond the property boundary with
231 appropriate monitoring, if such extension is needed to
232 facilitate natural attenuation or to address the current
233 conditions of the plume, if the public health, safety, and
234 welfare, water resources, and the environment are adequately
235 protected. Temporary extension of the point of compliance beyond
236 the property boundary, as provided in this subparagraph, must
237 include notice to local governments and owners of any property
238 into which the point of compliance is allowed to extend.

239 3. The appropriate site-specific cleanup goal. The site-
240 specific cleanup goal shall be that all petroleum contamination
241 sites ultimately achieve the applicable cleanup target levels
242 provided in this paragraph. However, the department may allow
243 concentrations of the petroleum products' chemicals of concern
244 to temporarily exceed the applicable cleanup target levels while
245 cleanup, including cleanup through natural attenuation processes
246 in conjunction with appropriate monitoring, is proceeding, if
247 the public health, safety, and welfare, water resources, and the
248 environment are adequately protected.

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249 4. The appropriateness of using institutional or
250 engineering controls. Site rehabilitation programs may include
251 the use of institutional or engineering controls to eliminate
252 the potential exposure to petroleum products' chemicals of
253 concern to humans or the environment. Use of such controls must
254 have prior department approval, and institutional controls may
255 not be acquired with moneys from the fund other than the costs
256 associated with a professional land survey or a specific purpose
257 survey, if such is needed, and costs associated with obtaining a
258 title report and recording fees. When institutional or
259 engineering controls are implemented to control exposure, the
260 removal of such controls must have prior department approval and
261 must be accompanied immediately by the resumption of active
262 cleanup or other approved controls unless cleanup target levels
263 pursuant to this paragraph have been achieved.

264 5. The additive effects of the petroleum products'
265 chemicals of concern. The synergistic effects of petroleum
266 products' chemicals of concern must also be considered when the
267 scientific data becomes available.

268 6. Individual site characteristics which must include, but
269 not be limited to, the current and projected use of the affected
270 groundwater in the vicinity of the site, current and projected
271 land uses of the area affected by the contamination, the exposed
272 population, the degree and extent of contamination, the rate of
273 contaminant migration, the apparent or potential rate of
274 contaminant degradation through natural attenuation processes,

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275 the location of the plume, and the potential for further
276 migration in relation to site property boundaries.

277 7. Applicable state water quality standards.

278 a. Cleanup target levels for petroleum products' chemicals
279 of concern found in groundwater shall be the applicable state
280 water quality standards. Where such standards do not exist, the
281 cleanup target levels for groundwater shall be based on the
282 minimum criteria specified in department rule. The department
283 shall consider the following, as appropriate, in establishing
284 the applicable minimum criteria: calculations using a lifetime
285 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
286 best achievable detection limit; the naturally occurring
287 background concentration; or nuisance, organoleptic, and
288 aesthetic considerations.

289 b. Where surface waters are exposed to petroleum
290 contaminated groundwater, the cleanup target levels for the
291 petroleum products' chemicals of concern shall be based on the
292 surface water standards as established by department rule. The
293 point of measuring compliance with the surface water standards
294 shall be in the groundwater immediately adjacent to the surface
295 water body.

296 8. Whether deviation from state water quality standards or
297 from established criteria is appropriate. The department may
298 issue a "No Further Action Order" based upon the degree to which
299 the desired cleanup target level is achievable and can be
300 reasonably and cost-effectively implemented within available

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301 technologies or engineering and institutional control
302 strategies. Where a state water quality standard is applicable,
303 a deviation may not result in the application of cleanup target
304 levels more stringent than the standard. In determining whether
305 it is appropriate to establish alternate cleanup target levels
306 at a site, the department may consider the effectiveness of
307 source removal that has been completed at the site and the
308 practical likelihood of the use of low yield or poor quality
309 groundwater; the use of groundwater near marine surface water
310 bodies; the current and projected use of the affected
311 groundwater in the vicinity of the site; or the use of
312 groundwater in the immediate vicinity of the storage tank area,
313 where it has been demonstrated that the groundwater
314 contamination is not migrating away from such localized source,
315 if the public health, safety, and welfare, water resources, and
316 the environment are adequately protected.

317 9. Appropriate cleanup target levels for soils.

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

325 b. Leachability-based soil target levels shall be based on
326 protection of the groundwater cleanup target levels or the

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327 alternate cleanup target levels for groundwater established
328 pursuant to this paragraph, as appropriate. Source removal and
329 other cost-effective alternatives that are technologically
330 feasible shall be considered in achieving the leachability soil
331 target levels established by the department. The leachability
332 goals do not apply if the department determines, based upon
333 individual site characteristics, that petroleum products'
334 chemicals of concern will not leach into the groundwater at
335 levels which pose a threat to public health, safety, and
336 welfare, water resources, or the environment.

337
338 This paragraph does not restrict the department from temporarily
339 postponing completion of any site rehabilitation program for
340 which funds are being expended whenever such postponement is
341 necessary in order to make funds available for rehabilitation of
342 a contamination site with a higher priority status.

343 (12) SITE CLEANUP.—

344 (b) *Low-scored site initiative.*—Notwithstanding
345 subsections (5) and (6), a site with a priority ranking score of
346 29 points or less may voluntarily participate in the low-scored
347 site initiative regardless of whether the site is eligible for
348 state restoration funding.

349 1. To participate in the low-scored site initiative, the
350 ~~responsible party or~~ responsible party who
351 provides evidence of authorization from the property owner, must
352 submit a "No Further Action" proposal and affirmatively

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353 demonstrate that the ~~following~~ conditions imposed under
354 subparagraph 4. are met.†

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

357 ~~b. Excessively contaminated soil, as defined by department~~
358 ~~rule, does not exist onsite as a result of a release of~~
359 ~~petroleum products.~~

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

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

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

369 ~~f. Soils onsite that are subject to human exposure found~~
370 ~~between land surface and 2 feet below land surface meet the soil~~
371 ~~cleanup target levels established by department rule or human~~
372 ~~exposure is limited by appropriate institutional or engineering~~
373 ~~controls.~~

374 2. Upon affirmative demonstration that ~~of~~ the conditions
375 imposed under subparagraph 4. are met ~~subparagraph 1.~~, the
376 department shall issue a site rehabilitation completion order
377 incorporating the determination of "No Further Action." proposal
378 submitted by the property owner or the responsible party, who

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379 must provide evidence of authorization from the property owner
380 ~~Such determination acknowledges that minimal contamination~~
381 ~~exists onsite and that such contamination is not a threat to the~~
382 ~~public health, safety, or welfare, water resources, or the~~
383 ~~environment.~~ If no contamination is detected, the department may
384 issue a site rehabilitation completion order.

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

388 a. ~~A responsible party or~~ property owner, or a responsible
389 party who provides evidence of authorization from the property
390 owner, may submit an assessment and limited remediation plan
391 designed to affirmatively demonstrate that the site meets the
392 conditions imposed under subparagraph 4 subparagraph 1.
393 Notwithstanding the priority ranking score of the site, the
394 department may approve the cost of the assessment and limited
395 remediation, including up to 12 6 months of groundwater
396 monitoring and 12 months of limited remediation activities in
397 one or more task assignments or modifications thereof, not to
398 exceed the threshold amount provided in s. 287.017 for CATEGORY
399 TWO, \$30,000 for each site where the department has determined
400 that the assessment and limited remediation, if applicable, will
401 likely result in a determination of "No Further Action." The
402 department may not pay the costs associated with the
403 establishment of institutional or engineering controls other
404 than the costs associated with a professional land survey or a

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405 specific purpose survey, if such is needed, and the costs
406 associated with obtaining a title report and paying recording
407 fees.

408 b. After the approval of initial site assessment results
409 provided pursuant to state funding under sub-subparagraph a.,
410 the department may approve an additional amount not to exceed
411 the threshold amount provided in s. 287.017 for CATEGORY TWO for
412 limited remediation needed to achieve a determination of "No
413 Further Action."

414 c.~~b.~~ The assessment and limited remediation work shall be
415 completed no later than 15 ~~6~~ months after the department
416 authorizes the start of a state-funded, low-score site
417 initiative task. If groundwater monitoring is required after the
418 assessment and limited remediation in order to satisfy the
419 conditions under subparagraph 4., the department may authorize
420 an additional 12 months to complete the monitoring ~~issues its~~
421 approval.

422 d.~~e.~~ No more than \$15 ~~\$10~~ million for the low-scored site
423 initiative may be encumbered from the fund in any fiscal year.
424 Funds shall be made available on a first-come, first-served
425 basis and shall be limited to 10 sites in each fiscal year for
426 each ~~responsible party or~~ property owner or each responsible
427 party who provides evidence of authorization from the property
428 owner.

429 e.~~d.~~ Program deductibles, copayments, and the limited
430 contamination assessment report requirements under paragraph

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431 (13) (d) ~~(13) (e)~~ do not apply to expenditures under this
432 paragraph.

433 4. The department shall issue an order incorporating the
434 "No Further Action" proposal submitted by a property owner or a
435 responsible party who provides evidence of authorization from
436 the property owner upon affirmative demonstration that all of
437 the following conditions are met:

438 a. Soil saturated with petroleum or petroleum products, or
439 soil that causes a total corrected hydrocarbon measurement of
440 500 parts per million or higher for the Gasoline Analytical
441 Group or 50 parts per million or higher for the Kerosene
442 Analytical Group, as defined by department rule, does not exist
443 onsite as a result of a release of petroleum products.

444 b. A minimum of 12 months of groundwater monitoring
445 indicates that the plume is shrinking or stable.

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

449 d. The area containing the petroleum products' chemicals
450 of concern:

451 (I) Is confined to the source property boundaries of the
452 real property on which the discharge originated, unless the
453 property owner has requested or authorized a more limited area
454 in the "No Further Action" proposal submitted under this
455 subsection; or

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456 (II) Has migrated from the source property onto or beneath
457 a transportation facility as defined s. 334.03(30) for which the
458 department has approved, and governmental entity owning the
459 transportation facility has agreed to institutional controls as
460 defined in s. 376.301(21). This sub-sub-subparagraph does not,
461 however, impose any legal liability on the transportation
462 facility owner, obligate such owner to engage in remediation, or
463 waive such owner's right to recover costs for damages.

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

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

472
473 Issuance of a site rehabilitation completion order under this
474 paragraph acknowledges that minimal contamination exists onsite
475 and that such contamination is not a threat to the public
476 health, safety, or welfare; water resources; or the environment.
477 Pursuant to subsection (4), the issuance of the site
478 rehabilitation completion order, with or without conditions,
479 does not alter eligibility for state-funded rehabilitation that
480 would otherwise be applicable under this section.

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481 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage
482 detection, reporting, and cleanup of contamination caused by
483 discharges of petroleum or petroleum products, the department
484 shall, within the guidelines established in this subsection,
485 implement a cost-sharing cleanup program to provide
486 rehabilitation funding assistance for all property contaminated
487 by discharges of petroleum or petroleum products from a
488 petroleum storage system occurring before January 1, 1995,
489 subject to a copayment provided for in a Petroleum Cleanup
490 Participation Program site rehabilitation agreement. Eligibility
491 is subject to an annual appropriation from the fund.
492 Additionally, funding for eligible sites is contingent upon
493 annual appropriation in subsequent years. Such continued state
494 funding is not an entitlement or a vested right under this
495 subsection. Eligibility shall be determined in the program,
496 notwithstanding any other provision of law, consent order,
497 order, judgment, or ordinance to the contrary.

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

501 2. Regardless of whether ownership has changed, owners or
502 operators of property that is contaminated by petroleum or
503 petroleum products from a petroleum storage system may apply for
504 such program by filing a written report of the contamination
505 incident, including evidence that such incident occurred before
506 January 1, 1995, with the department. Incidents of petroleum

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507 | contamination discovered after December 31, 1994, at sites which
508 | have not stored petroleum or petroleum products for consumption,
509 | use, or sale after such date shall be presumed to have occurred
510 | before January 1, 1995. An operator's filed report shall be an
511 | application of the owner for all purposes. ~~Sites reported to the~~
512 | ~~department after December 31, 1998, are not eligible for the~~
513 | ~~program.~~

514 | (b) Subject to annual appropriation from the fund, sites
515 | meeting the criteria of this subsection are eligible for up to
516 | \$400,000 of site rehabilitation funding assistance in priority
517 | order pursuant to subsections (5) and (6). Sites meeting the
518 | criteria of this subsection for which a site rehabilitation
519 | completion order was issued before June 1, 2008, do not qualify
520 | for the 2008 increase in site rehabilitation funding assistance
521 | and are bound by the pre-June 1, 2008, limits. Sites meeting the
522 | criteria of this subsection for which a site rehabilitation
523 | completion order was not issued before June 1, 2008, regardless
524 | of whether they have previously transitioned to nonstate-funded
525 | cleanup status, may continue state-funded cleanup pursuant to
526 | this section until a site rehabilitation completion order is
527 | issued or the increased site rehabilitation funding assistance
528 | limit is reached, whichever occurs first. The department may not
529 | pay expenses incurred beyond the scope of an approved contract.

530 | (c) The department may also approve supplemental funding
531 | of up to \$100,000 for additional remediation and monitoring if

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532 such remediation and monitoring is necessary to achieve a
533 determination of "No Further Action."

534 (d) Upon notification by the department that
535 rehabilitation funding assistance is available for the site
536 pursuant to subsections (5) and (6), the property owner,
537 operator, or person otherwise responsible for site
538 rehabilitation shall provide the department with a limited
539 contamination assessment report and shall enter into a Petroleum
540 Cleanup Participation Program site rehabilitation agreement with
541 the department. The agreement must provide for a 25-percent
542 copayment by the owner, operator, or person otherwise
543 responsible for conducting site rehabilitation. The owner,
544 operator, or person otherwise responsible for conducting site
545 rehabilitation shall adequately demonstrate the ability to meet
546 the copayment obligation. The limited contamination assessment
547 report and the copayment costs may be reduced or eliminated if
548 the owner and all operators responsible for restoration under s.
549 376.308 demonstrate that they cannot financially comply with the
550 copayment and limited contamination assessment report
551 requirements. The department shall take into consideration the
552 owner's and operator's net worth in making the determination of
553 financial ability. In the event the department and the owner,
554 operator, or person otherwise responsible for site
555 rehabilitation cannot complete negotiation of the cost-sharing
556 agreement within 120 days after beginning negotiations, the
557 department shall terminate negotiations and the site shall be

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558 ineligible for state funding under this subsection and all
559 liability protections provided for in this subsection shall be
560 revoked.

561 (e)~~(d)~~ A report of a discharge made to the department by a
562 person pursuant to this subsection or any rules adopted pursuant
563 to this subsection may not be used directly as evidence of
564 liability for such discharge in any civil or criminal trial
565 arising out of the discharge.

566 (f)~~(e)~~ This subsection does not preclude the department
567 from pursuing penalties under s. 403.141 for violations of any
568 law or any rule, order, permit, registration, or certification
569 adopted or issued by the department pursuant to its lawful
570 authority.

571 (g)~~(f)~~ Upon the filing of a discharge reporting form under
572 paragraph (a), the department or local government may not pursue
573 any judicial or enforcement action to compel rehabilitation of
574 the discharge. This paragraph does not prevent any such action
575 with respect to discharges determined ineligible under this
576 subsection or to sites for which rehabilitation funding
577 assistance is available pursuant to subsections (5) and (6).

578 (h)~~(g)~~ The following are excluded from participation in
579 the program:

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

582 2. Sites that were active facilities when owned or
583 operated by the Federal Government.

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

591 4. Sites for which contamination is covered under the
592 Early Detection Incentive Program, the Abandoned Tank
593 Restoration Program, or the Petroleum Liability and Restoration
594 Insurance Program, in which case site rehabilitation funding
595 assistance shall continue under the respective program.

596 Section 3. Paragraph (d) of subsection (1), paragraph (a)
597 of subsection (2), and subsection (4) of section 376.30713,
598 Florida Statutes, are amended to read:

599 376.30713 Advanced cleanup.—

600 (1) In addition to the legislative findings provided in s.
601 376.3071, the Legislature finds and declares:

602 (d) It is appropriate for a person who is responsible for
603 site rehabilitation to share the costs associated with managing
604 and conducting advanced cleanup, to facilitate the opportunity
605 for advanced cleanup, and to mitigate the additional costs that
606 will be incurred by the state in conducting site rehabilitation
607 in advance of the site's priority ranking. Such cost sharing
608 will result in more contaminated sites being cleaned up and
609 greater environmental benefits to the state. This section is

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610 only available for sites eligible for restoration funding under
611 EDI, ATRP, or PLRIP. This section is available for discharges
612 eligible for restoration funding under the petroleum cleanup
613 participation program for the state's cost share of site
614 rehabilitation. Applications must include a cost-sharing
615 commitment for this section in addition to the 25-percent-
616 copayment requirement of the petroleum cleanup participation
617 program. This section is not available for any discharge under a
618 petroleum cleanup participation program where the 25-percent-
619 copayment requirement of the petroleum cleanup participation
620 program has been reduced or eliminated pursuant to s.
621 376.3071(13)(d) ~~s. 376.3071(13)(e)~~.

622 (2) The department may approve an application for advanced
623 cleanup at eligible sites, notwithstanding ~~before funding based~~
624 ~~on~~ the site's priority ranking established pursuant to s.
625 376.3071(5)(a), pursuant to this section. Only the facility
626 owner or operator or the person otherwise responsible for site
627 rehabilitation qualifies as an applicant under this section.

628 (a) Advanced cleanup applications may be submitted between
629 May 1 and June 30 and between November 1 and December 31 of each
630 fiscal year. Applications submitted between May 1 and June 30
631 shall be for the fiscal year beginning July 1. An application
632 must consist of:

633 1. A commitment to pay 25 percent or more of the total
634 cleanup cost deemed recoverable under this section along with
635 proof of the ability to pay the cost share. The department shall

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636 determine whether the cost savings demonstration is acceptable.

637 Such determination is not subject to chapter 120.

638 a. Applications for the aggregate cleanup of 5 or more
639 sites may be submitted in one of two formats to meet the cost-
640 share requirement:

641 (I) For an aggregate application proposing that the
642 department enter into a performance-based contract ~~for the~~
643 ~~cleanup of 20 or more sites~~ may use a commitment to pay, a
644 demonstrated cost savings to the department, or both to meet the
645 ~~cost-share~~ requirement.

646 (II) For an aggregate application relying on a
647 demonstrated cost savings to the department, the applicant
648 shall, in conjunction with the proposed agency term contractor,
649 establish and provide in the application the percentage of cost
650 savings in the aggregate that is being provided to the
651 department for cleanup of the sites under the application
652 compared to the cost of cleanup of those same sites using the
653 current rates provided to the department by the proposed agency
654 term contractor. ~~The department shall determine whether the cost~~
655 ~~savings demonstration is acceptable. Such determination is not~~
656 ~~subject to chapter 120.~~

657 b. Applications for the cleanup of individual sites may be
658 submitted in one of two formats to meet the cost-share
659 requirement:

660 (I) For an individual application proposing that the
661 department enter into a performance-based contract may use a

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662 commitment to pay, a demonstrated cost savings to the
663 department, or both to meet the requirement.

664 (II) For an individual application relying on a
665 demonstrated cost savings to the department, the applicant
666 shall, in conjunction with the proposed agency term contractor,
667 establish and provide in the application a 25-percent cost
668 savings to the department for cleanup of the site under the
669 application compared to the cost of cleanup of the same site
670 using the current rates provided to the department by the
671 proposed agency term contractor.

672 2. A nonrefundable review fee of \$250 to cover the
673 administrative costs associated with the department's review of
674 the application.

675 3. A limited contamination assessment report.

676 4. A proposed course of action.

677 5. A department site access agreement, or similar
678 agreements approved by the department that do not violate state
679 law, entered into with the property owner or owners, as
680 applicable, and evidence of authorization from such owner or
681 owners for petroleum site rehabilitation program tasks
682 consistent with the proposed course of action where the
683 applicant is not the property owner for any of the sites
684 contained in the application.

685

686 The limited contamination assessment report must be sufficient
687 to support the proposed course of action and to estimate the

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688 cost of the proposed course of action. Costs incurred related to
689 conducting the limited contamination assessment report are not
690 refundable from the Inland Protection Trust Fund. Site
691 eligibility under this subsection or any other provision of this
692 section is not an entitlement to advanced cleanup or continued
693 restoration funding. The applicant shall certify to the
694 department that the applicant has the prerequisite authority to
695 enter into an advanced cleanup contract with the department. The
696 certification must be submitted with the application.

697 (4) The department may enter into contracts for a total of
698 up to \$25 ~~\$15~~ million of advanced cleanup work in each fiscal
699 year. However, a facility or an applicant who bundles multiple
700 sites as specified in subparagraph (2)(a)1. may not be approved
701 for more than \$5 million of cleanup activity in each fiscal
702 year. A property owner or responsible party may enter into a
703 voluntary cost-share agreement in which the property owner or
704 responsible party commits to bundle multiple sites and lists the
705 facilities that will be included in those future bundles. The
706 facilities listed are not subject to agency term contractor
707 assignment pursuant to department rule. The department reserves
708 the right to terminate or amend the voluntary cost-share
709 agreement for any identified site under the voluntary cost-share
710 agreement if the property owner or responsible party fails to
711 submit an application to bundle any site, not already covered by
712 an advance cleanup contract, under such voluntary cost-share
713 agreement within a subsequent open application period during

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714 which it is eligible to participate. For the purposes of this
715 section, the term "facility" includes, but is not limited to,
716 multiple site facilities such as airports, port facilities, and
717 terminal facilities even though such enterprises may be treated
718 as separate facilities for other purposes under this chapter.

719 Section 4. This act shall take effect July 1, 2016.
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721 -----

722 **T I T L E A M E N D M E N T**

723 Remove everything before the enacting clause and insert:
724 An act relating to the Petroleum Restoration Program; amending
725 s. 376.305, F.S.; revising the eligibility requirements of the
726 Abandoned Tank Restoration Program; deleting provisions
727 prohibiting the relief of liability for persons who acquired
728 title after a certain date; amending s. 376.3071, F.S.; revising
729 legislative intent and purpose; deleting an expiration date;
730 revising the criteria for determining what constitutes certain
731 rehabilitation program tasks; revising the conditions for
732 eligibility and methods for payment of costs for the low-scored
733 site initiative; revising the eligibility requirements for
734 receiving rehabilitation funding; specifying that the issuance
735 of a site rehabilitation completion order does not alter
736 eligibility for state-funded remediation under certain
737 circumstances; clarifying that a change in ownership does not
738 preclude a site from entering into the program; providing
739 additional funding for remediation and monitoring under certain

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740 circumstances; amending s. 376.30713, F.S.; revising advanced
741 cleanup application requirements; increasing the total amount
742 for which the department may contract for advanced cleanup work
743 in a fiscal year; authorizing property owners and responsible
744 parties to enter into voluntary cost-share agreements under
745 certain circumstances; providing an effective date.