

1                                   A bill to be entitled  
2           An act relating to contaminated site rehabilitation;  
3           amending s. 376.305, F.S.; revising eligibility  
4           requirements for the Abandoned Tank Restoration  
5           Program; deleting provisions prohibiting the relief of  
6           liability for persons who acquired title after a  
7           specified date; amending s. 376.3071, F.S.; revising  
8           contracting and contractor selection requirements for  
9           contaminated site rehabilitation; directing the  
10          Department of Environmental Protection to establish by  
11          rule procedures for assigning certain tasks and  
12          processing associated invoices; requiring a sworn  
13          affidavit between a contractor and property owner in  
14          connection with the cleanup of a contaminated  
15          property; revising the conditions for eligibility and  
16          methods for payment of costs for the low-scored site  
17          initiative; revising eligibility requirements for  
18          receiving rehabilitation funding; providing that a  
19          change in ownership does not preclude a site from  
20          entering into the Petroleum Cleanup Participation  
21          Program; amending s. 376.30713, F.S.; reducing the  
22          number of sites that may be proposed for certain  
23          advanced cleanup applications; increasing the total  
24          amount for which the department may contract for  
25          advanced cleanup work in a fiscal year; providing for  
26          performance-based contracts for advanced cleanup of

27 individual sites; authorizing property owners and  
28 responsible parties to enter into voluntary cost-share  
29 agreements under certain circumstances; amending s.  
30 376.3072, F.S.; increasing the total amount that  
31 certain owners or operators of petroleum storage  
32 systems are eligible to receive for restoration costs  
33 under the Florida Petroleum Liability and Restoration  
34 Insurance Program; revising provisions requiring such  
35 owners or operators to pay certain deductibles;  
36 providing an effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Subsection (6) of section 376.305, Florida  
41 Statutes, is amended to read:

42 376.305 Removal of prohibited discharges.—

43 (6) The Legislature created the Abandoned Tank Restoration  
44 Program in response to the need to provide financial assistance  
45 for cleanup of sites that have abandoned petroleum storage  
46 systems. For purposes of this subsection, the term "abandoned  
47 petroleum storage system" means a petroleum storage system that  
48 has not stored petroleum products for consumption, use, or sale  
49 since March 1, 1990. The department shall establish the  
50 Abandoned Tank Restoration Program to facilitate the restoration  
51 of sites contaminated by abandoned petroleum storage systems.

52 (a) To be included in the program:

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

57 2. The owner or operator of the petroleum storage system  
58 when it was in service must have ceased conducting business  
59 involving consumption, use, or sale of petroleum products from  
60 the petroleum storage system at that facility on or before March  
61 1, 1990.

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

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

69 (b) In order to be eligible for the program, petroleum  
70 storage systems from which a discharge occurred must be closed  
71 pursuant to department rules before an eligibility  
72 determination. However, if the department determines that the  
73 owner of the facility cannot financially comply with the  
74 department's petroleum storage system closure requirements and  
75 all other eligibility requirements are met, the petroleum  
76 storage system closure requirements shall be waived. The  
77 department shall take into consideration the owner's net worth  
78 and the economic impact on the owner in making the determination

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

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

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

- 85 1. Sites on property of the Federal Government;
- 86 2. Sites contaminated by pollutants that are not petroleum
- 87 products; or
- 88 3. Sites where the department has been denied site access;
- 89 ~~or~~

90 ~~4. Sites which are owned by a person who had knowledge of~~  
 91 ~~the polluting condition when title was acquired unless the~~  
 92 ~~person acquired title to the site after issuance of a notice of~~  
 93 ~~site eligibility by the department.~~

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

96  
 97 ~~This subsection does not relieve a person who has acquired title~~  
 98 ~~after July 1, 1992, from the duty to establish by a~~  
 99 ~~preponderance of the evidence that he or she undertook, at the~~  
 100 ~~time of acquisition, all appropriate inquiry into the previous~~  
 101 ~~ownership and use of the property consistent with good~~  
 102 ~~commercial or customary practice in an effort to minimize~~  
 103 ~~liability, as required by s. 376.308(1)(c).~~

104 Section 2. Paragraph (d) of subsection (6), paragraph (b)

105 of subsection (12), and subsection (13) of section 376.3071,  
 106 Florida Statutes, are amended, and paragraph (n) is added to  
 107 subsection (6) of that section, to read:

108 376.3071 Inland Protection Trust Fund; creation; purposes;  
 109 funding.—

110 (6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

111 (d) The department rules implementing this section must:

112 1. Specify that only qualified agency term contractors  
 113 ~~vendors~~ may submit responses on a competitive solicitation.

114 2. The department rules must also Include procedures for  
 115 the rejection of agency term contractors ~~vendors~~ not meeting the  
 116 minimum qualifications on the opening of a competitive  
 117 solicitation.

118 3. Include and requirements for an agency term contractor  
 119 ~~a vendor~~ to maintain its qualifications in order to enter  
 120 contracts or perform rehabilitation work.

121 4. By October 1, 2016, establish procedures for directly  
 122 assigning tasks and processing associated invoices that are less  
 123 than \$325,000. Such procedures may be established pursuant to  
 124 chapter 287.

125 (n)1. The selected agency term contractor and the property  
 126 owner or a responsible party that provides evidence of  
 127 authorization from the property owner must execute a sworn  
 128 affidavit testifying that neither party has solicited, offered,  
 129 accepted, paid, or received any compensation, remuneration, or  
 130 gift of any kind, directly or indirectly, in connection with the

131 cleanup of the property, except for the compensation paid by the  
132 department to the agency term contractor pursuant to the agency  
133 term contractor's contract with the department. If the  
134 department subsequently determines that remuneration did occur,  
135 the department may seek recovery of the costs of cleanup of  
136 specific sites from all parties responsible for the site  
137 contamination, and the site is ineligible for participation in  
138 any cleanup program.

139 2. Pursuant to the terms and conditions of the agency term  
140 contractor's contract with the department, the agency term  
141 contractor must disclose any conflict of interest to the  
142 department. The agency term contractor shall be conclusively  
143 determined to have a conflict of interest with regard to any  
144 property if the contractor has given or offered remuneration, in  
145 cash or in kind, directly or indirectly, to the property owner  
146 or a responsible party that provides evidence of authorization  
147 from the property owner, or designees thereof, to obtain work  
148 associated with such property. The department retains the right  
149 to investigate and determine whether an agency term contractor  
150 has a conflict of interest with regard to any property. The  
151 department may terminate the department's contract with the  
152 agency term contractor or terminate the agency term contractor's  
153 work assignment to a particular property based on the  
154 department's assessment of the potential conflict of interest.

155 (12) SITE CLEANUP.—

156 (b) Low-scored site initiative.—Notwithstanding

157 subsections (5) and (6), a site with a priority ranking score of  
158 29 points or less may voluntarily participate in the low-scored  
159 site initiative regardless of whether the site is eligible for  
160 state restoration funding.

161 1. To participate in the low-scored site initiative, the  
162 ~~responsible party or~~ property owner or a responsible party that  
163 provides evidence of authorization from the property owner must  
164 submit a "No Further Action" proposal and affirmatively  
165 demonstrate that the following conditions are met:

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

168 b. Excessively contaminated soil, as defined by department  
169 rule, does not exist onsite as a result of a release of  
170 petroleum products.

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

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

176 e. The area of groundwater containing the petroleum  
177 products' chemicals of concern is less than one-quarter acre and  
178 is confined to the source property boundaries of the real  
179 property on which the discharge originated.

180 f. Soils onsite that are subject to human exposure found  
181 between land surface and 2 feet below land surface meet the soil  
182 cleanup target levels established by department rule or human

183 exposure is limited by appropriate institutional or engineering  
 184 controls.

185 2. Upon affirmative demonstration that ~~of~~ the conditions  
 186 under subparagraph 1. are met, the department shall issue a site  
 187 rehabilitation completion order incorporating the determination  
 188 ~~of "No Further Action."~~ proposal submitted by the property owner  
 189 or the responsible party that provides evidence of authorization  
 190 from the property owner ~~Such determination acknowledges that~~  
 191 ~~minimal contamination exists onsite and that such contamination~~  
 192 ~~is not a threat to the public health, safety, or welfare, water~~  
 193 ~~resources, or the environment.~~ If no contamination is detected,  
 194 the department may issue a site rehabilitation completion order.

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

198 a. A ~~responsible party or~~ property owner or a responsible  
 199 party that provides evidence of authorization from the property  
 200 owner may submit an assessment and limited remediation plan  
 201 designed to affirmatively demonstrate that the site meets the  
 202 conditions under subparagraph 1. Notwithstanding the priority  
 203 ranking score of the site, the department may approve the cost  
 204 of the assessment and limited remediation, including up to 6  
 205 months of groundwater monitoring, in one or more task  
 206 assignments, or modifications thereof, not to exceed the  
 207 threshold amount provided in s. 287.017 for CATEGORY TWO,  
 208 ~~\$30,000~~ for each site where the department has determined that



209 the assessment and limited remediation, if applicable, will  
 210 likely result in a determination of "No Further Action." The  
 211 department may not pay the costs associated with the  
 212 establishment of institutional or engineering controls, with the  
 213 exception of the costs associated with a professional land  
 214 survey or specific purpose survey, if needed, and the costs  
 215 associated with obtaining a title report and paying recording  
 216 fees.

217 b. After the approval of initial site assessment results  
 218 provided pursuant to state funding under sub-subparagraph a.,  
 219 the department may approve an additional amount not to exceed  
 220 the threshold amount provided in s. 287.017 for CATEGORY TWO for  
 221 limited remediation where needed to achieve a determination of  
 222 "No Further Action."

223 c. ~~b.~~ The assessment and limited remediation work shall be  
 224 completed no later than 9 6 months after the department  
 225 authorizes the start of a state-funded, low-scored site  
 226 initiative task ~~issues its approval.~~ If groundwater monitoring  
 227 is required after the assessment and limited remediation in  
 228 order to satisfy the conditions under subparagraph 1., the  
 229 department may authorize an additional 6 months to complete the  
 230 monitoring.

231 d. To provide pricing levels on the best terms to the  
 232 department, only an agency term contractor may participate in  
 233 the low-scored site initiative.

234 e. Completed low-scored site initiative properties shall

235 be granted priority 2 scoring status for ongoing assessment or  
236 remedial activity pursuant to department rule, or the department  
237 may, based on funding availability, assign additional cleanup  
238 directly to the selected agency term contractor.

239 ~~f.e.~~ No more than \$15 ~~\$10~~ million for the low-scored site  
240 initiative may be encumbered from the fund in any fiscal year.  
241 Funds shall be made available on a first-come, first-served  
242 basis and shall be limited to 5 ~~10~~ sites in each fiscal year for  
243 each ~~responsible party or~~ property owner or each responsible  
244 party that provides evidence of authorization from the property  
245 owner.

246 ~~g.d. Program deductibles, copayments, and~~ The limited  
247 contamination assessment report requirements and low-scored  
248 initiative assessment cost ~~under paragraph (13)(e)~~ do not apply  
249 to expenditures under this paragraph.

250 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage  
251 detection, reporting, and cleanup of contamination caused by  
252 discharges of petroleum or petroleum products, the department  
253 shall, within the guidelines established in this subsection,  
254 implement a cost-sharing cleanup program to provide  
255 rehabilitation funding assistance for all property contaminated  
256 by discharges of petroleum or petroleum products from a  
257 petroleum storage system occurring before January 1, 1995,  
258 subject to a copayment provided for in a Petroleum Cleanup  
259 Participation Program site rehabilitation agreement. Eligibility  
260 is subject to an annual appropriation from the fund. In addition

261 ~~Additionally,~~ funding for eligible sites is contingent upon  
 262 annual appropriation in subsequent years. Such continued state  
 263 funding is not an entitlement or a vested right under this  
 264 subsection. Eligibility shall be determined in the program,  
 265 notwithstanding any other provision of law, consent order,  
 266 order, judgment, or ordinance to the contrary.

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

270 2. Owners or operators of property, regardless of whether  
 271 ownership has changed, which is contaminated by petroleum or  
 272 petroleum products from a petroleum storage system may apply for  
 273 such program by filing a written report of the contamination  
 274 incident, including evidence that such incident occurred before  
 275 January 1, 1995, with the department. Incidents of petroleum  
 276 contamination discovered after December 31, 1994, at sites which  
 277 have not stored petroleum or petroleum products for consumption,  
 278 use, or sale after such date shall be presumed to have occurred  
 279 before January 1, 1995. An operator's filed report shall be an  
 280 application of the owner for all purposes. ~~Sites reported to the~~  
 281 ~~department after December 31, 1998, are not eligible for the~~  
 282 ~~program.~~

283 (b) Subject to annual appropriation from the fund, sites  
 284 meeting the criteria of this subsection are eligible for up to  
 285 \$500,000 ~~\$400,000~~ of site rehabilitation funding assistance in  
 286 priority order pursuant to subsections (5) and (6). Sites

287 meeting the criteria of this subsection for which a site  
288 rehabilitation completion order was issued before June 1, 2008,  
289 do not qualify for the 2008 increase in site rehabilitation  
290 funding assistance and are bound by the pre-June 1, 2008,  
291 limits. Sites meeting the criteria of this subsection for which  
292 a site rehabilitation completion order was not issued before  
293 June 1, 2008, regardless of whether they have previously  
294 transitioned to nonstate-funded cleanup status, may continue  
295 state-funded cleanup pursuant to this section until a site  
296 rehabilitation completion order is issued or the increased site  
297 rehabilitation funding assistance limit is reached, whichever  
298 occurs first. The department may not pay expenses incurred  
299 beyond the scope of an approved contract.

300 (c) Upon notification by the department that  
301 rehabilitation funding assistance is available for the site  
302 pursuant to subsections (5) and (6), the owner, operator, or  
303 person otherwise responsible for site rehabilitation shall  
304 provide the department with a limited contamination assessment  
305 report and shall enter into a Petroleum Cleanup Participation  
306 Program site rehabilitation agreement with the department. ~~The~~  
307 ~~agreement must provide for a 25 percent copayment by the owner,~~  
308 ~~operator, or person otherwise responsible for conducting site~~  
309 ~~rehabilitation. The owner, operator, or person otherwise~~  
310 ~~responsible for conducting site rehabilitation shall adequately~~  
311 ~~demonstrate the ability to meet the copayment obligation. The~~  
312 ~~limited contamination assessment report and the copayment costs~~

313 ~~may be reduced or eliminated if the owner and all operators~~  
314 ~~responsible for restoration under s. 376.308 demonstrate that~~  
315 ~~they cannot financially comply with the copayment and limited~~  
316 ~~contamination assessment report requirements. The department~~  
317 ~~shall take into consideration the owner's and operator's net~~  
318 ~~worth in making the determination of financial ability. In the~~  
319 ~~event the department and the owner, operator, or person~~  
320 ~~otherwise responsible for site rehabilitation cannot complete~~  
321 ~~negotiation of the cost-sharing agreement within 120 days after~~  
322 ~~beginning negotiations, the department shall terminate~~  
323 ~~negotiations and the site shall be ineligible for state funding~~  
324 ~~under this subsection and all liability protections provided for~~  
325 ~~in this subsection shall be revoked.~~

326 (d) A report of a discharge made to the department by a  
327 person pursuant to this subsection or any rules adopted pursuant  
328 to this subsection may not be used directly as evidence of  
329 liability for such discharge in any civil or criminal trial  
330 arising out of the discharge.

331 (e) This subsection does not preclude the department from  
332 pursuing penalties under s. 403.141 for violations of any law or  
333 any rule, order, permit, registration, or certification adopted  
334 or issued by the department pursuant to its lawful authority.

335 (f) Upon the filing of a discharge reporting form under  
336 paragraph (a), the department or local government may not pursue  
337 any judicial or enforcement action to compel rehabilitation of  
338 the discharge. This paragraph does not prevent any such action

339 with respect to discharges determined ineligible under this  
 340 subsection or to sites for which rehabilitation funding  
 341 assistance is available pursuant to subsections (5) and (6).

342 (g) The following are excluded from participation in the  
 343 program:

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

346 2. Sites that were active facilities when owned or  
 347 operated by the Federal Government.

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

355 4. Sites for which contamination is covered under the  
 356 Early Detection Incentive Program, the Abandoned Tank  
 357 Restoration Program, or the Petroleum Liability and Restoration  
 358 Insurance Program, in which case site rehabilitation funding  
 359 assistance shall continue under the respective program.

360 Section 3. Paragraph (a) of subsection (2) and subsection  
 361 (4) of section 376.30713, Florida Statutes, are amended to read:

362 376.30713 Advanced cleanup.—

363 (2) The department may approve an application for advanced  
 364 cleanup at eligible sites, before funding based on the site's

365 priority ranking established pursuant to s. 376.3071(5)(a),  
366 pursuant to this section. Only the facility owner or operator or  
367 the person otherwise responsible for site rehabilitation  
368 qualifies as an applicant under this section.

369 (a) Advanced cleanup applications may be submitted between  
370 May 1 and June 30 and between November 1 and December 31 of each  
371 fiscal year. Applications submitted between May 1 and June 30  
372 shall be for the fiscal year beginning July 1. An application  
373 must consist of:

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

377 a. An application proposing that the department enter into  
378 a performance-based contract for the cleanup of 5 ~~20~~ or more  
379 sites may use a commitment to pay, a demonstrated cost savings  
380 to the department, or both to meet the cost-share requirement.  
381 For an application relying on a demonstrated cost savings to the  
382 department, the applicant shall, in conjunction with the  
383 proposed agency term contractor, establish and provide in the  
384 application the percentage of cost savings in the aggregate that  
385 is being provided to the department for cleanup of the sites  
386 under the application compared to the cost of cleanup of those  
387 same sites using the current rates provided to the department by  
388 the proposed agency term contractor. The department shall  
389 determine whether the cost savings demonstration is acceptable.  
390 Such determination is not subject to chapter 120.

391 b. An application proposing that the department enter into  
392 a performance-based contract for the cleanup of an individual  
393 site may use a commitment to pay, a demonstrated cost savings to  
394 the department, or both to meet the cost-share requirement. For  
395 an individual site application relying on a demonstrated cost  
396 savings to the department, the applicant shall, in conjunction  
397 with the proposed agency term contractor, establish and provide  
398 in the application a 25-percent cost savings to the department  
399 for cleanup of the site under the application compared to the  
400 cost of cleanup of the same site using the current rates  
401 provided to the department by the proposed agency term  
402 contractor. The department shall determine whether the cost  
403 savings demonstration is acceptable. Such determination is not  
404 subject to chapter 120.

405 2. A nonrefundable review fee of \$250 to cover the  
406 administrative costs associated with the department's review of  
407 the application.

408 3. A limited contamination assessment report.

409 4. A proposed course of action.

410

411 The limited contamination assessment report must be sufficient  
412 to support the proposed course of action and to estimate the  
413 cost of the proposed course of action. Costs incurred related to  
414 conducting the limited contamination assessment report are not  
415 refundable from the Inland Protection Trust Fund. Site  
416 eligibility under this subsection or any other provision of this



417 section is not an entitlement to advanced cleanup or continued  
418 restoration funding. The applicant shall certify to the  
419 department that the applicant has the prerequisite authority to  
420 enter into an advanced cleanup contract with the department. The  
421 certification must be submitted with the application.

422 (4) The department may enter into contracts for a total of  
423 up to \$25 ~~\$15~~ million of advanced cleanup work in each fiscal  
424 year. However, a facility or an applicant who bundles multiple  
425 sites as specified in subparagraph (2)(a)1. may not be approved  
426 for more than \$5 million of cleanup activity in each fiscal  
427 year. A property owner or responsible party may enter into a  
428 voluntary cost-share agreement in which the property owner or  
429 responsible party commits to bundle multiple sites and lists the  
430 facilities that will be included in those future bundles. The  
431 facilities listed are not subject to agency term contractor  
432 assignment pursuant to department rule. The department reserves  
433 the right to terminate the voluntary cost-share agreement if the  
434 property owner or responsible party fails to submit an  
435 application to bundle multiple sites within an open application  
436 period during which it is eligible to participate. A property  
437 owner or responsible party may not enter into a voluntary cost-  
438 share agreement for future individual sites. For the purposes of  
439 this section, the term "facility" includes, but is not limited  
440 to, multiple site facilities such as airports, port facilities,  
441 and terminal facilities even though such enterprises may be  
442 treated as separate facilities for other purposes under this

443 chapter.

444 Section 4. Paragraphs (a) and (d) of subsection (2) of  
445 section 376.3072, Florida Statutes, are amended to read:

446 376.3072 Florida Petroleum Liability and Restoration  
447 Insurance Program.—

448 (2) (a) An owner or operator of a petroleum storage system  
449 may become an insured in the restoration insurance program at a  
450 facility if:

451 1. A site at which an incident has occurred is eligible  
452 for restoration if the insured is a participant in the third-  
453 party liability insurance program or otherwise meets applicable  
454 financial responsibility requirements. After July 1, 1993, the  
455 insured must also provide the required excess insurance coverage  
456 or self-insurance for restoration to achieve the financial  
457 responsibility requirements of 40 C.F.R. s. 280.97, subpart H,  
458 not covered by paragraph (d).

459 2. A site which had a discharge reported before January 1,  
460 1989, for which notice was given pursuant to s. 376.3071(10) and  
461 which is ineligible for the third-party liability insurance  
462 program solely due to that discharge is eligible for  
463 participation in the restoration program for an incident  
464 occurring on or after January 1, 1989, pursuant to subsection  
465 (3). Restoration funding for an eligible contaminated site will  
466 be provided without participation in the third-party liability  
467 insurance program until the site is restored as required by the  
468 department or until the department determines that the site does

469 not require restoration.

470 3. Notwithstanding paragraph (b), a site where an  
471 application is filed with the department before January 1, 1995,  
472 where the owner is a small business under s. 288.703(6), a  
473 Florida College System institution with less than 2,500 FTE, a  
474 religious institution as defined by s. 212.08(7)(m), a  
475 charitable institution as defined by s. 212.08(7)(p), or a  
476 county or municipality with a population of less than 50,000, is  
477 eligible for up to \$500,000 ~~\$400,000~~ of eligible restoration  
478 costs, ~~less a deductible of \$10,000 for small businesses,~~  
479 ~~eligible Florida College System institutions, and religious or~~  
480 ~~charitable institutions, and \$30,000 for eligible counties and~~  
481 ~~municipalities,~~ if:

482 a. Except as provided in sub-subparagraph e., the facility  
483 was in compliance with department rules at the time of the  
484 discharge.

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

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

490 d. The owner or operator proceeds to complete initial  
491 remedial action as specified in department rules.

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

495 order issued by the department pursuant to this subparagraph.

496

497 However, the department may consider in-kind services from  
498 eligible counties and municipalities in lieu of the \$30,000  
499 deductible. The cost of conducting initial remedial action as  
500 defined by department rules is an eligible restoration cost  
501 pursuant to this subparagraph.

502 4.a. By January 1, 1997, facilities at sites with existing  
503 contamination must have methods of release detection to be  
504 eligible for restoration insurance coverage for new discharges  
505 subject to department rules for secondary containment. Annual  
506 storage system testing, in conjunction with inventory control,  
507 shall be considered to be a method of release detection until  
508 the later of December 22, 1998, or 10 years after the date of  
509 installation or the last upgrade. Other methods of release  
510 detection for storage tanks which meet such requirement are:

511 (I) Interstitial monitoring of tank and integral piping  
512 secondary containment systems;

513 (II) Automatic tank gauging systems; or

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

516 b. For pressurized integral piping systems, the owner or  
517 operator must use:

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

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

523 c. For suction integral piping systems, the owner or  
524 operator must use:

525 (I) A single check valve installed directly below the  
526 suction pump if there are no other valves between the dispenser  
527 and the tank; or

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

529 d. Owners of facilities with existing contamination that  
530 install internal release detection systems pursuant to sub-  
531 subparagraph a. shall permanently close their external  
532 groundwater and vapor monitoring wells pursuant to department  
533 rules by December 31, 1998. Upon installation of the internal  
534 release detection system, such wells must be secured and taken  
535 out of service until permanent closure.

536 e. Facilities with vapor levels of contamination meeting  
537 the requirements of or below the concentrations specified in the  
538 performance standards for release detection methods specified in  
539 department rules may continue to use vapor monitoring wells for  
540 release detection.

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

545 (d)1. With respect to eligible incidents reported to the  
546 department before July 1, 1992, the restoration insurance

547 program shall provide up to \$1.2 million of restoration for each  
 548 incident and shall have an annual aggregate limit of \$2 million  
 549 of restoration per facility.

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

554 a. For discharges reported to the department from July 1,  
 555 1992, to June 30, 1993, the department shall pay up to \$1.2  
 556 million of eligible restoration costs, less a \$1,000 deductible  
 557 per incident.

558 b. For discharges reported to the department from July 1,  
 559 1993, to December 31, 1993, the department shall pay up to \$1.2  
 560 million of eligible restoration costs, less a \$5,000 deductible  
 561 per incident. However, if, before the date the discharge is  
 562 reported and by September 1, 1993, the owner or operator can  
 563 demonstrate financial responsibility in effect in accordance  
 564 with 40 C.F.R. s. 280.97, subpart H, for coverage under sub-  
 565 subparagraph c., the deductible will be \$500. The \$500  
 566 deductible shall apply for a period of 1 year from the effective  
 567 date of a policy or other form of financial responsibility  
 568 obtained and in effect by September 1, 1993.

569 c. For discharges reported to the department from January  
 570 1, 1994, to December 31, 1996, the department shall pay up to  
 571 \$500,000 ~~\$400,000~~ of eligible restoration costs, ~~less a~~  
 572 ~~deductible of \$10,000.~~

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573 d. For discharges reported to the department from January  
574 1, 1997, to December 31, 1998, the department shall pay up to  
575 \$500,000 ~~\$300,000~~ of eligible restoration costs, ~~less a~~  
576 ~~deductible of \$10,000.~~

577 e. Beginning January 1, 1999, restoration coverage may not  
578 be provided.

579 f. ~~In addition,~~ A ~~supplemental~~ deductible may ~~shall~~ be  
580 added as follows:

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

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

588 (III) A ~~supplemental~~ deductible of \$25,000 if the owner or  
589 operator, after testing or emptying the storage system, fails to  
590 proceed within 24 hours thereafter to abate the known source of  
591 the discharge or to begin free product removal relating to an  
592 actual new discharge and fails to complete abatement within 72  
593 hours, although free product recovery may be ongoing.

594  
595 Sites meeting the criteria of this subsection for which a site  
596 rehabilitation completion order was issued before June 1, 2008,  
597 do not qualify for the 2008 increase in site rehabilitation  
598 funding assistance and are bound by the pre-June 1, 2008,

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599 | limits. Sites meeting the criteria of this subsection for which  
600 | a site rehabilitation completion order was not issued before  
601 | June 1, 2008, regardless of whether they have previously  
602 | transitioned to nonstate-funded cleanup status, may continue  
603 | state-funded cleanup pursuant to s. 376.3071(6) until a site  
604 | rehabilitation completion order is issued or the increased site  
605 | rehabilitation funding assistance limit is reached, whichever  
606 | occurs first.

607 |       Section 5. This act shall take effect July 1, 2016.