

<b>Tab 1</b>	<b>SB 92</b> by <b>Evers</b> ; Contaminated Sites
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<b>Tab 2</b>	<b>SB 100</b> by <b>Simpson</b> ; Petroleum Restoration Program
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<b>Tab 3</b>	<b>SB 288</b> by <b>Smith</b> ; State Designations
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**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**ENVIRONMENTAL PRESERVATION AND CONSERVATION**  
**Senator Dean, Chair**  
**Senator Simpson, Vice Chair**

**MEETING DATE:** Wednesday, October 7, 2015  
**TIME:** 2:00—4:00 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Dean, Chair; Senator Simpson, Vice Chair; Senators Altman, Evers, Hays, Hutson, Simmons, Smith, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 92</b> Evers	Contaminated Sites; Defining the terms “background concentration” and “long-term natural attenuation”; requiring the Department of Environmental Protection to include protocols for the use of long-term natural attenuation where site conditions warrant; providing that institutional controls are not required under certain circumstances if alternative cleanup target levels are used; providing additional contamination cleanup criteria for brownfield sites and brownfield areas, etc.  EP 10/07/2015 Favorable AGG AP	Favorable Yeas 7 Nays 0
2	<b>SB 100</b> Simpson	Petroleum Restoration Program; Revising the eligibility requirements of the Abandoned Tank Restoration Program; deleting provisions prohibiting the relief of liability for persons who acquired title after a certain date; revising the conditions for eligibility and methods for payment of costs for the low-risk site initiative; revising the eligibility requirements for receiving rehabilitation funding; reducing the number of sites that may be proposed for certain advanced cleanup applications, etc.  EP 10/07/2015 Favorable AGG AP	Favorable Yeas 7 Nays 0
3	<b>SB 288</b> Smith	State Designations; Providing an honorary designation of a certain state park in a specified county; directing the Department of Environmental Protection to erect suitable markers, etc.  EP 10/07/2015 Favorable FP	Favorable Yeas 7 Nays 0

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

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BILL: SB 92

INTRODUCER: Senator Evers

SUBJECT: Contaminated Sites

DATE: October 5, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Rogers	EP	<b>Favorable</b>
2.			AGG	
3.			AP	

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**I. Summary:**

SB 92 provides clarifying language and allows for additional considerations in the use of risk-based corrective action (RBCA) in contamination cleanup and brownfield site rehabilitation. It authorizes the Department of Environmental Preservation (DEP) to use alternative cleanup target levels without requiring institutional controls in remediating contaminated sites.

The bill defines “long-term natural attenuation” as “natural attenuation approved by the DEP as a site rehabilitation program task for a period of more than five years” The DEP will be required to include rules using long-term natural attenuation as a technique for site rehabilitation.

The bill creates a definition for “background concentration” that includes natural and other manmade impacts unrelated to the discharge of pollutants at a contaminated site. DEP is prohibited from requiring cleanup target levels that are more stringent than the site-specific background concentration.

**II. Present Situation:**

**Risk-Based Corrective Action**

Risk-based corrective action (RBCA) (pronounced “Rebecca”) is a decision-making process used to assess and respond to incidents of contamination. The American Society of Materials and Testing established RBCA in 1994 based on guidance from the U.S. Environmental Protection Agency (EPA), which directs states to consider the current and prospective use of groundwater and the relative risk to human health and the environment when remediating contaminated sites.<sup>1</sup>

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<sup>1</sup> EPA, Use of Risk-Based Decision-Making in UST Corrective Action Programs, OSWER Directive 9610.17 1 (1995) <http://www2.epa.gov/risk/human-health-risk-assessment> (last visited Oct 1, 2015).

The RBCA process uses a tiered approach that couples site assessment and response actions with human health, public safety, and environmental risk assessment to determine the extent and urgency of corrective action used in remediating contaminated sites. Alternative cleanup target levels,<sup>2</sup> institutional<sup>3</sup> and engineering controls,<sup>4</sup> and remediation by natural attenuation<sup>5</sup> are RBCA strategies used by the DEP on a case-by-case basis that allows the use of cost-effective remediation measures in lieu of conventional cleanup technologies. RBCA is implemented in all 50 states for the remediation of contaminated sites.<sup>6</sup>

Section 376.30701, F.S., was created in 2003 to apply RBCA principles to all contaminated sites (referred to as “Global RBCA”) resulting from a discharge of pollutants when site rehabilitation is required.<sup>7</sup> The DEP is required to develop a site rehabilitation program by rule that use RBCA concepts already developed for the petroleum cleanup, brownfield, and dry cleaning programs. Specifically, the law requires the DEP to:

- Consider current exposure and potential risk of exposure to humans and the environment;
- Establish the point of compliance at the source of the contamination;
- Ensure that site-specific cleanup goals are that all contaminated sites being cleaned ultimately achieve the applicable cleanup target levels;
- Allow the use of institutional or engineering controls at contaminated sites;
- Consider the additive effects of contaminants, including synergistic and antagonistic effects;
- Provide for the DEP to issue a “No Further Action” order;
- Establish appropriate cleanup target levels for soils;
- Allow for alternative cleanup target levels in conjunction with institutional and engineering controls; and
- Consider the additive effects of contaminants.

The DEP adopted Florida Administrative Code Rule 62-780, in 2005 to implement these provisions and provide the procedures necessary to implement site rehabilitation for all sites using RBCA criteria. RBCA criteria are administered in conjunction with Florida Administrative Code Rule 62-777, which provides the default groundwater, surface water, and soil cleanup target levels, as well as the natural attenuation default concentrations for groundwater, in order to determine the appropriate cleanup target levels for a contaminated site.

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<sup>2</sup> Section 376.301(7), F.S., defines “cleanup target level” as “the concentration for each contaminant identified by an applicable analytical test method, in the medium of concern, at which a site rehabilitation program is deemed complete.”

<sup>3</sup> Section 376.301(21), F.S., defines “institutional control” as “the restriction on use or access to a site to eliminate or minimize exposure to petroleum products’ chemicals of concern, dry cleaning solvents, or other contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.”

<sup>4</sup> Section 376.301(16), F.S., defines “engineering controls” as “modifications to a site to reduce or eliminate the potential for exposure to petroleum products’ chemicals of concern, dry cleaning solvents, or other contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.”

<sup>5</sup> Section 376.301(24), F.S., defines “natural attenuation” as a “verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.”

<sup>6</sup> EPA, *supra* note 1, at 2-3.

<sup>7</sup> Ch. 2003-173, s. 1, Laws of Fla.

### ***No Further Action***

RBCA principles provide a three-tiered approach to close contaminated sites and issue a No Further Action (NFA) order. The first tier is the Risk Management Option Level I, which grants an NFA without institutional controls or engineering controls if the following conditions are met:

- Free product is not present and there is no risk of fire or explosion;
- Contaminated soil is not present in the unsaturated zone;
- Contaminated groundwater is not present;
- Contaminated surface water is not present; and
- Soil data indicates the contaminants do not exceed the default cleanup target levels or background concentrations.<sup>8</sup>

The second tier is the Risk Management Option Level II, which grants an NFA with institutional controls and engineering controls, if appropriate, if the controls are protective of human health, public safety, and the environment and agreed to by the property owner and:

- Free product is not present or free product removal is not feasible and there is no risk of fire or explosion;
- Alternative soil cleanup target levels have been established by the person responsible for the site rehabilitation and certain criteria are met for soil in the unsaturated zone; and
- Alternative groundwater cleanup target levels have been established by the person responsible for the site rehabilitation depending on current and projects use of groundwater near the site and certain criteria are met.<sup>9</sup>

The third tier is the Risk Management Option Level III, which grants an NFA with institutional controls and engineering controls if the controls are protective of human health, public safety, and the environment and agreed to by the property owner and:

- Free product is not present or free product removal is not feasible and there is no risk of fire or explosion;
- Alternative soil contamination levels have been established by the person responsible for the site rehabilitation and certain criteria are met for soil in the unsaturated zone; and
- Alternative groundwater contamination levels have been established by the person responsible for the site rehabilitation depending on the current and projected use of groundwater near the site and certain criteria are met.<sup>10</sup>

### ***Alternative Cleanup Target Levels***

Section 376.30701(2)(g)3., F.S., authorizes The DEP is authorized to approve alternative cleanup target levels in conjunction with institutional and engineering controls. Alternative cleanup target levels are established using site specific data, modeling results, risk assessment studies, toxicity assessments, exposure assessments, and any other relevant public health information. The DEP may approve alternative cleanup target levels once the responsible party has demonstrated that human health, public safety, and the environment are protected based on these factors. The law

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<sup>8</sup> Fla. Admin. Code R. 62-780.680(1), (2014).

<sup>9</sup> Fla. Admin. Code R. 62-780.680(2), (2014).

<sup>10</sup> Fla. Admin. Codes R. 62-780.680(3) (2014) *See also* EPA, Human Health Risk Assessment (2015), <http://www2.epa.gov/risk/human-health-risk-assessment> (last visited Mar. 27, 2015).

specifies that alternative cleanup target levels may only be established on a site specific basis under careful evaluation by the DEP.<sup>11</sup>

### ***Natural Attenuation***

Florida Administrative Code Rule 62-780.690 provides for natural attenuation depending on the individual site characteristics if human health, public safety, and the environment are protected. “Natural attenuation” is defined as, “a verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.”<sup>12</sup> The criteria to allow for natural attenuation monitoring are:

- Free product is not present or free product removal is not technology feasible and there is no risk of fire or explosion;
- Contaminated soil is not present in the unsaturated zone;
- Contaminants present in the groundwater above background concentrations or applicable cleanup target levels are not migrating beyond the temporary compliance point or vertically;
- The physical, chemical, and biological characteristics of each contaminant and its transformation product are conducive to natural attenuation;
- The available data shows an overall decrease in contamination; and
- One of the following are met:
  - The site is expected to achieve NFA criteria in five years or less, background concentrations or the applicable cleanup target levels are not exceeded at the temporary point of compliance, and contamination concentrations do not exceed certain criteria;<sup>13</sup> or
  - Appropriateness of natural attenuation is demonstrated by:
    - A technical evaluation of groundwater and soil characteristics that confirms the contaminants have the capacity to degrade under site-specific conditions;
    - A scientific evaluation of the plume migration, the estimate of the annual reduction in contaminant concentrations in monitoring wells, and an estimate of the time required to achieve NFA status; and
    - A life-cycle cost analysis of remedial alternatives.

### **The Brownfields Redevelopment Act**

The term “brownfield” was originally coined in the 1970s and referred to any previously developed property, regardless of any contamination issues. The term as it is currently used is defined by the U.S. Environmental Protection Agency (EPA) as, “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”<sup>14</sup> In 1995, the EPA created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment. The program was designed to provide local communities access to federal funds allocated for

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<sup>11</sup> Section 376.30701(2)(g)3., F.S.

<sup>12</sup> Section 376.301(24), F.S.

<sup>13</sup> Fla. Admin. Codes R. 62-777

<sup>14</sup> Robert A. Jones and William F. Welsh, Michigan Brownfield Redevelopment Innovation: Two Decades of Success 2 (Sept. 2010), available at <http://www.miseagrant.umich.edu/downloads/focus/brownfields/10-201-EMU-Final-Report.pdf> (last visited Oct. 1, 2015).

redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.<sup>15</sup>

In 1997, the Florida Legislature enacted the Brownfields Redevelopment Act (Act).<sup>16</sup> The Act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites in order to improve public health and reduce environmental hazards.<sup>17</sup> The Act provides liability protection for program participants who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997.<sup>18</sup>

### III. Effect of Proposed Changes:

**Sections 1 and 3** amend ss. 376.301 and 376.79, F.S., related to contaminated sites and the Brownfield Program, respectively, to define “background concentration” as “the concentration of contaminants naturally occurring or resulting from the anthropogenic [(manmade)] impacts unrelated to the discharge of pollutants or hazardous substances at a contaminated site undergoing site rehabilitation.” DEP may not require site rehabilitation to achieve a cleanup level that is more stringent than the site-specific background concentration for that contaminant.

The bill defines “long-term natural attenuation” as “natural attenuation approved by the DEP as a site rehabilitation program task for a period of more than five years.” In current law, “natural attenuation” means a “verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. . .”<sup>19</sup> The DEP will be required to adopt rules that include using long-term natural attenuation as a technique for site rehabilitation.

**Sections 2 and 4** amend ss. 376.30701 and 376.81 F.S., related to contaminated sites and the Brownfield Program, respectively, to require the DEP to establish rules for the use of long-term natural attenuation.

The bill directs the DEP to consider interactive, rather than additive effects of contaminants, and clarifies that additive, synergistic, and antagonistic effects should be considered equally when determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task or site rehabilitation program.

The bill allows the DEP to establish alternative cleanup target levels based the site-specific background concentration for a particular contaminant.

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<sup>15</sup> The Florida Brownfields Association, Brownfields 101 2, *available at* <http://c.yimcdn.com/sites/www.floridabrownfields.org/resource/resmgr/imported/Brownfields101.pdf> (last visited Oct. 1, 2015).

<sup>16</sup> Ch. 97-173, s. 1, Laws of Fla.

<sup>17</sup> DEP, Florida Brownfields Redevelopment Act-1998 Annual Report 1 (1998), *available at* [http://www.dep.state.fl.us/waste/quick\\_topics/publications/wc/brownfields/leginfo/1998/98final.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/leginfo/1998/98final.pdf) (last visited Oct. 1, 2015).

<sup>18</sup> Section 376.82, F.S.

<sup>19</sup> Sections 376.301(24) and 376.79(12), F.S.

The DEP is required to base cleanup target levels for contaminants on the more protective of the groundwater or surface water standards, as established by rule. The bill exempts cleanup target levels from being based on these standards if it is shown that the contaminants do not cause or contribute to the exceedance of applicable surface water quality criteria.

In establishing alternative cleanup target levels for soil and groundwater, any relevant data and information, risk assessment modeling results, and results from probabilistic risk assessment modeling may be used. Probabilistic risk assessment is a risk assessment that yields a probability distribution for risk, generally by assigning a probability distribution to represent variability or uncertainty in one or more inputs to the risk equation.<sup>20</sup> The bill allows the DEP to consider alternative cleanup target levels based on comprehensive assessments and information.

**Section 2** also amends s. 376.30701(2)(g)3., F.S., to allow the use of alternative cleanup target levels that do not require institutional controls if:

- The only cleanup target levels exceeded are the groundwater cleanup target levels derived from nuisance, organoleptic (meaning something that a person can sense, e.g., smell, taste, see), or aesthetic factors;
- Concentrations of all contaminants meet state water quality standards or minimum criteria, based on the protection of human health, public safety, and the environment;
- All of the established groundwater cleanup target levels are met at the property boundary;
- The responsible party has demonstrated that the contaminants will not migrate beyond the property boundary at concentrations that exceed the groundwater cleanup target levels established as state water quality standards;
- The property has access to and is using an offsite water supply, and an unplugged private well is not used for domestic purposes; and
- The property owner does not object to the NFA proposal submitted to the DEP or to the local pollution control program.

**Sections 5, 6, and 7** amend ss. 196.1995, 287.0595, and 288.1175, F.S., respectively, to correct cross references related to the DEP's Brownfields program.

**Section 8** provides an effective date of July 1, 2016.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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<sup>20</sup> EPA, Risk Assessment Guidance for Superfund (RAGS) Volume III - Part A: Process for Conducting Probabilistic Risk Assessment at 1-3 (December 2001), available at <http://www.epa.gov/oswer/riskassessment/rags3adt/> (last visited Oct. 4, 2015).

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 92 provides an indeterminate positive fiscal impact to those financially responsible for the cleanup of contaminated site and brownfields.

C. Government Sector Impact:

The DEP will incur nominal, non-recurring costs associated with rulemaking to amend Florida Administrative Code Rule 62-780.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

As noted by the DEP, except for some of the proposed definition changes in section 1 of the bill that are more broadly applicable, the proposed changes apply primarily to waste cleanup sites and brownfield cleanup sites. The proposed changes would not modify similar wording for petroleum discharges and dry cleaning facilities. The DEP recommends that proposed changes also be applied to other RBCA programs.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 376.301, 376.30701, 376.79, and 376.81.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Evers

2-00112-16

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1                   A bill to be entitled  
2       An act relating to contaminated sites; amending s.  
3       376.301, F.S.; defining the terms "background  
4       concentration" and "long-term natural attenuation";  
5       amending s. 376.30701, F.S.; requiring the Department  
6       of Environmental Protection to include protocols for  
7       the use of long-term natural attenuation where site  
8       conditions warrant; requiring specified interactive  
9       effects of contaminants to be considered as cleanup  
10      criteria; revising how cleanup target levels are  
11      applied where surface waters are exposed to  
12      contaminated groundwater; authorizing the use of  
13      relevant data and information when assessing cleanup  
14      target levels; providing that institutional controls  
15      are not required under certain circumstances if  
16      alternative cleanup target levels are used; amending  
17      s. 376.79, F.S.; defining the terms "background  
18      concentration" and "long-term natural attenuation";  
19      amending s. 376.81, F.S.; providing additional  
20      contamination cleanup criteria for brownfield sites  
21      and brownfield areas; amending ss. 196.1995, 287.0595,  
22      and 288.1175, F.S.; conforming cross-references;  
23      providing an effective date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

26  
27       Section 1. Present subsections (4) through (22) of section  
28       376.301, Florida Statutes, are redesignated as subsections (5)  
29       through (23), respectively, present subsections (23) through

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30 (48) of that section are redesignated as subsections (25)  
31 through (50), respectively, and new subsections (4) and (24) are  
32 added to that section, to read:

33 376.301 Definitions of terms used in ss. 376.30-376.317,  
34 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and  
35 376.75, unless the context clearly requires otherwise, the term:

36 (4) "Background concentration" means the concentration of  
37 contaminants naturally occurring or resulting from anthropogenic  
38 impacts unrelated to the discharge of pollutants or hazardous  
39 substances at a contaminated site undergoing site  
40 rehabilitation.

41 (24) "Long-term natural attenuation" means natural  
42 attenuation approved by the department as a site rehabilitation  
43 program task for a period of more than 5 years.

44 Section 2. Subsection (2) of section 376.30701, Florida  
45 Statutes, is amended to read:

46 376.30701 Application of risk-based corrective action  
47 principles to contaminated sites; applicability; legislative  
48 intent; rulemaking authority; contamination cleanup criteria;  
49 limitations; reopeners.—

50 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is  
51 the intent of the Legislature to protect the health of all  
52 people under actual circumstances of exposure. By July 1, 2004,  
53 the secretary of the department shall establish criteria by rule  
54 for the purpose of determining, on a site-specific basis, the  
55 rehabilitation program tasks that comprise a site rehabilitation  
56 program, including a voluntary site rehabilitation program, and  
57 the level at which a rehabilitation program task and a site  
58 rehabilitation program may be deemed completed. In establishing

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59 these rules, the department shall apply, to the maximum extent  
60 feasible, a risk-based corrective action process to achieve  
61 protection of human health and safety and the environment in a  
62 cost-effective manner based on the principles set forth in this  
63 subsection. These rules shall prescribe a phased risk-based  
64 corrective action process that is iterative and that tailors  
65 site rehabilitation tasks to site-specific conditions and risks.  
66 The department and the person responsible for site  
67 rehabilitation are encouraged to establish decision points at  
68 which risk management decisions will be made. The department  
69 shall provide an early decision, when requested, regarding  
70 applicable exposure factors and a risk management approach based  
71 on the current and future land use at the site. These rules must  
72 ~~shall also~~ include protocols for the use of natural attenuation,  
73 including long-term natural attenuation where site conditions  
74 warrant, the use of institutional and engineering controls, and  
75 the issuance of "No Further Action" orders. The criteria for  
76 determining what constitutes a rehabilitation program task or  
77 completion of a site rehabilitation program task or site  
78 rehabilitation program, including a voluntary site  
79 rehabilitation program, must:

80 (a) Consider the current exposure and potential risk of  
81 exposure to humans and the environment, including multiple  
82 pathways of exposure. The physical, chemical, and biological  
83 characteristics of each contaminant must be considered in order  
84 to determine the feasibility of a risk-based corrective action  
85 assessment.

86 (b) Establish the point of compliance at the source of the  
87 contamination. However, the department may ~~is authorized to~~

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88 temporarily move the point of compliance to the boundary of the  
89 property, or to the edge of the plume when the plume is within  
90 the property boundary, while cleanup, including cleanup through  
91 natural attenuation processes in conjunction with appropriate  
92 monitoring, is proceeding. The department may ~~also is~~  
93 ~~authorized~~, pursuant to criteria provided in this section, ~~to~~  
94 temporarily extend the point of compliance beyond the property  
95 boundary with appropriate monitoring, if such extension is  
96 needed to facilitate natural attenuation or to address the  
97 current conditions of the plume, provided human health, public  
98 safety, and the environment are protected. When temporarily  
99 extending the point of compliance beyond the property boundary,  
100 it cannot be extended further than the lateral extent of the  
101 plume, if known, at the time of execution of a cleanup  
102 agreement, if required, or the lateral extent of the plume as  
103 defined at the time of site assessment. Temporary extension of  
104 the point of compliance beyond the property boundary, as  
105 provided in this paragraph, must include actual notice by the  
106 person responsible for site rehabilitation to local governments  
107 and the owners of any property into which the point of  
108 compliance is allowed to extend and constructive notice to  
109 residents and business tenants of the property into which the  
110 point of compliance is allowed to extend. Persons receiving  
111 notice pursuant to this paragraph shall have the opportunity to  
112 comment within 30 days after receipt of the notice. Additional  
113 notice concerning the status of natural attenuation processes  
114 shall be similarly provided to persons receiving notice pursuant  
115 to this paragraph every 5 years.

116 (c) Ensure that the site-specific cleanup goal is that all

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117 contaminated sites being cleaned up pursuant to this section  
118 ultimately achieve the applicable cleanup target levels provided  
119 in this subsection. In the circumstances provided in this  
120 subsection, and after constructive notice and opportunity to  
121 comment within 30 days after receipt of the notice to local  
122 government, owners of any property into which the point of  
123 compliance is allowed to extend, and residents of any property  
124 into which the point of compliance is allowed to extend, the  
125 department may allow concentrations of contaminants to  
126 temporarily exceed the applicable cleanup target levels while  
127 cleanup, including cleanup through natural attenuation processes  
128 in conjunction with appropriate monitoring, is proceeding, if  
129 human health, public safety, and the environment are protected.

130 (d) Allow the use of institutional or engineering controls  
131 at contaminated sites being cleaned up pursuant to this section,  
132 where appropriate, to eliminate or control the potential  
133 exposure to contaminants of humans or the environment. The use  
134 of controls must be preapproved by the department and only after  
135 constructive notice and opportunity to comment within 30 days  
136 after receipt of notice is provided to local governments, owners  
137 of any property into which the point of compliance is allowed to  
138 extend, and residents on any property into which the point of  
139 compliance is allowed to extend. When institutional or  
140 engineering controls are implemented to control exposure, the  
141 removal of the controls must have prior department approval and  
142 must be accompanied by the resumption of active cleanup, or  
143 other approved controls, unless cleanup target levels under this  
144 section have been achieved.

145 (e) Consider the interactive ~~additive~~ effects of

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146 contaminants, including additive, synergistic, and antagonistic  
147 effects. ~~The synergistic and antagonistic effects shall also be~~  
148 ~~considered when the scientific data become available.~~

149 (f) Take into consideration individual site  
150 characteristics, which shall include, but not be limited to, the  
151 current and projected use of the affected groundwater and  
152 surface water in the vicinity of the site, current and projected  
153 land uses of the area affected by the contamination, the exposed  
154 population, the degree and extent of contamination, the rate of  
155 contaminant migration, the apparent or potential rate of  
156 contaminant degradation through natural attenuation processes,  
157 the location of the plume, and the potential for further  
158 migration in relation to site property boundaries.

159 (g) Apply state water quality standards as follows:

160 1. Cleanup target levels for each contaminant found in  
161 groundwater shall be the applicable state water quality  
162 standards. Where such standards do not exist, the cleanup target  
163 levels for groundwater shall be based on the minimum criteria  
164 specified in department rule. The department shall apply the  
165 following, as appropriate, in establishing the applicable  
166 cleanup target levels: calculations using a lifetime cancer risk  
167 level of 1.0E-6; a hazard index of 1 or less; the best  
168 achievable detection limit; and nuisance, organoleptic, and  
169 aesthetic considerations. However, the department may ~~shall~~ not  
170 require site rehabilitation to achieve a cleanup target level  
171 for any individual contaminant that is more stringent than the  
172 site-specific, ~~naturally occurring~~ background concentration for  
173 that contaminant.

174 2. Where surface waters are exposed to contaminated

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175 groundwater, the cleanup target levels for the contaminants must  
176 ~~shall~~ be based on the more protective of the groundwater or  
177 surface water standards as established by department rule,  
178 unless it has been demonstrated that the contaminants do not  
179 cause or contribute to the exceedance of applicable surface  
180 water quality criteria. In such circumstance, the point of  
181 measuring compliance with the surface water standards shall be  
182 in the groundwater immediately adjacent to the surface water  
183 body.

184 3. Using risk-based corrective action principles, the  
185 department shall approve alternative cleanup target levels in  
186 conjunction with institutional and engineering controls, if  
187 needed, based upon an applicant's demonstration, using site-  
188 specific or other relevant data and information, risk assessment  
189 modeling results, including results from probabilistic risk  
190 assessment modeling, risk assessment studies, risk reduction  
191 techniques, or a combination thereof, that human health, public  
192 safety, and the environment are protected to the same degree as  
193 provided in subparagraphs 1. and 2. Where a state water quality  
194 standard is applicable, a deviation may not result in the  
195 application of cleanup target levels more stringent than the  
196 standard. In determining whether it is appropriate to establish  
197 alternative cleanup target levels at a site, the department must  
198 consider the effectiveness of source removal, if any, that has  
199 been completed at the site and the practical likelihood of the  
200 use of low yield or poor quality groundwater, the use of  
201 groundwater near marine surface water bodies, the current and  
202 projected use of the affected groundwater in the vicinity of the  
203 site, or the use of groundwater in the immediate vicinity of the

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204 contaminated area, where it has been demonstrated that the  
205 groundwater contamination is not migrating away from such  
206 localized source, provided human health, public safety, and the  
207 environment are protected. Groundwater resource protection  
208 remains the ultimate goal of cleanup, particularly in light of  
209 the state's continued growth and consequent demands for drinking  
210 water resources. The Legislature recognizes the need for a  
211 protective yet flexible cleanup approach that risk-based  
212 corrective action provides. Only where it is appropriate on a  
213 site-specific basis, using the criteria in this paragraph and  
214 careful evaluation by the department, shall proposed alternative  
215 cleanup target levels be approved. If alternative cleanup target  
216 levels are used, institutional controls are not required if:

217 a. The only cleanup target levels exceeded are the  
218 groundwater cleanup target levels derived from nuisance,  
219 organoleptic, or aesthetic considerations;

220 b. Concentrations of all contaminants meet the state water  
221 quality standards or the minimum criteria, based on the  
222 protection of human health, public safety, and the environment,  
223 as provided in subparagraph 1.;

224 c. All of the groundwater cleanup target levels established  
225 pursuant to subparagraph 1. are met at the property boundary;

226 d. The person responsible for site rehabilitation has  
227 demonstrated that the contaminants will not migrate beyond the  
228 property boundary at concentrations that exceed the groundwater  
229 cleanup target levels established pursuant to subparagraph 1.;

230 e. The property has access to and is using an offsite water  
231 supply, and an unplugged private well is not used for domestic  
232 purposes; and

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233 f. The real property owner does not object to the "No  
234 Further Action" proposal to the department or the local  
235 pollution control program.

236 (h) Provide for the department to issue a "No Further  
237 Action" order, with conditions, including, but not limited to,  
238 the use of institutional or engineering controls where  
239 appropriate, when alternative cleanup target levels established  
240 pursuant to subparagraph (g)3. have been achieved or when the  
241 person responsible for site rehabilitation can demonstrate that  
242 the cleanup target level is unachievable with the use of  
243 available technologies. Before ~~Prior to~~ issuing such an order,  
244 the department shall consider the feasibility of an alternative  
245 site rehabilitation technology at the contaminated site.

246 (i) Establish appropriate cleanup target levels for soils.  
247 Although there are existing state water quality standards, there  
248 are no existing state soil quality standards. The Legislature  
249 does not intend, through the adoption of this section, to create  
250 such soil quality standards. The specific rulemaking authority  
251 granted pursuant to this section merely authorizes the  
252 department to establish appropriate soil cleanup target levels.  
253 These soil cleanup target levels shall be applicable at sites  
254 only after a determination as to legal responsibility for site  
255 rehabilitation has been made pursuant to other provisions of  
256 this chapter or chapter 403.

257 1. In establishing soil cleanup target levels for human  
258 exposure to each contaminant found in soils from the land  
259 surface to 2 feet below land surface, the department shall apply  
260 the following, as appropriate: calculations using a lifetime  
261 cancer risk level of 1.0E-6; a hazard index of 1 or less; and

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262 the best achievable detection limit. However, the department may  
263 ~~shall~~ not require site rehabilitation to achieve a cleanup  
264 target level for an individual contaminant that is more  
265 stringent than the site-specific, ~~naturally occurring~~ background  
266 concentration for that contaminant. Institutional controls or  
267 other methods shall be used to prevent human exposure to  
268 contaminated soils more than 2 feet below the land surface. Any  
269 removal of such institutional controls shall require such  
270 contaminated soils to be remediated.

271 2. Leachability-based soil cleanup target levels shall be  
272 based on protection of the groundwater cleanup target levels or  
273 the alternate cleanup target levels for groundwater established  
274 pursuant to this paragraph, as appropriate. Source removal and  
275 other cost-effective alternatives that are technologically  
276 feasible shall be considered in achieving the leachability soil  
277 cleanup target levels established by the department. The  
278 leachability goals are ~~shall~~ not be applicable if the department  
279 determines, based upon individual site characteristics, and in  
280 conjunction with institutional and engineering controls, if  
281 needed, that contaminants will not leach into the groundwater at  
282 levels that pose a threat to human health, public safety, and  
283 the environment.

284 3. Using risk-based corrective action principles, the  
285 department shall approve alternative cleanup target levels in  
286 conjunction with institutional and engineering controls, if  
287 needed, based upon an applicant's demonstration, using site-  
288 specific or other relevant data and information, risk assessment  
289 modeling results, including results from probabilistic risk  
290 assessment modeling, risk assessment studies, risk reduction

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291 techniques, or a combination thereof, that human health, public  
292 safety, and the environment are protected to the same degree as  
293 provided in subparagraphs 1. and 2.

294  
295 The department shall require source removal as a risk reduction  
296 measure if warranted and cost-effective. Once source removal at  
297 a site is complete, the department shall reevaluate the site to  
298 determine the degree of active cleanup needed to continue.  
299 Further, the department shall determine if the reevaluated site  
300 qualifies for monitoring only or if no further action is  
301 required to rehabilitate the site. If additional site  
302 rehabilitation is necessary to reach "No Further Action" status,  
303 the department is encouraged to utilize natural attenuation  
304 monitoring, including long-term natural attenuation ~~and~~  
305 monitoring, where site conditions warrant.

306 Section 3. Present subsections (3) through (11) of section  
307 376.79, Florida Statutes, are redesignated as subsections (4)  
308 through (12), respectively, present subsections (12) through  
309 (19) are redesignated as subsections (14) through (21),  
310 respectively, and new subsections (3) and (13) are added to that  
311 section, to read:

312 376.79 Definitions relating to Brownfields Redevelopment  
313 Act.—As used in ss. 376.77–376.85, the term:

314 (3) "Background concentration" means the concentration of  
315 contaminants naturally occurring or resulting from anthropogenic  
316 impacts unrelated to the discharge of pollutants or hazardous  
317 substances at a contaminated site undergoing site  
318 rehabilitation.

319 (13) "Long-term natural attenuation" means natural

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320 attenuation approved by the department as a site rehabilitation  
321 program task for a period of more than 5 years.

322 Section 4. Section 376.81, Florida Statutes, is amended to  
323 read:

324 376.81 Brownfield site and brownfield areas contamination  
325 cleanup criteria.—

326 (1) It is the intent of the Legislature to protect the  
327 health of all people under actual circumstances of exposure. By  
328 July 1, 2001, the secretary of the department shall establish  
329 criteria by rule for the purpose of determining, on a site-  
330 specific basis, the rehabilitation program tasks that comprise a  
331 site rehabilitation program and the level at which a  
332 rehabilitation program task and a site rehabilitation program  
333 may be deemed completed. In establishing the rule, the  
334 department shall apply, to the maximum extent feasible, a risk-  
335 based corrective action process to achieve protection of human  
336 health and safety and the environment in a cost-effective manner  
337 based on the principles set forth in this subsection. The rule  
338 must prescribe a phased risk-based corrective action process  
339 that is iterative and that tailors site rehabilitation tasks to  
340 site-specific conditions and risks. The department and the  
341 person responsible for brownfield site rehabilitation are  
342 encouraged to establish decision points at which risk management  
343 decisions will be made. The department shall provide an early  
344 decision, when requested, regarding applicable exposure factors  
345 and a risk management approach based on the current and future  
346 land use at the site. The rule must ~~shall also~~ include protocols  
347 for the use of natural attenuation, including long-term natural  
348 attenuation where site conditions warrant, the use of

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349 institutional and engineering controls, and the issuance of "no  
350 further action" letters. The criteria for determining what  
351 constitutes a rehabilitation program task or completion of a  
352 site rehabilitation program task or site rehabilitation program  
353 must:

354 (a) Consider the current exposure and potential risk of  
355 exposure to humans and the environment, including multiple  
356 pathways of exposure. The physical, chemical, and biological  
357 characteristics of each contaminant must be considered in order  
358 to determine the feasibility of risk-based corrective action  
359 assessment.

360 (b) Establish the point of compliance at the source of the  
361 contamination. However, the department may ~~is authorized to~~  
362 temporarily move the point of compliance to the boundary of the  
363 property, or to the edge of the plume when the plume is within  
364 the property boundary, while cleanup, including cleanup through  
365 natural attenuation processes in conjunction with appropriate  
366 monitoring, is proceeding. The department may ~~also is~~  
367 ~~authorized,~~ pursuant to criteria provided for in this section,  
368 ~~to~~ temporarily extend the point of compliance beyond the  
369 property boundary with appropriate monitoring, if such extension  
370 is needed to facilitate natural attenuation or to address the  
371 current conditions of the plume, provided human health, public  
372 safety, and the environment are protected. When temporarily  
373 extending the point of compliance beyond the property boundary,  
374 it cannot be extended further than the lateral extent of the  
375 plume at the time of execution of the brownfield site  
376 rehabilitation agreement, if known, or the lateral extent of the  
377 plume as defined at the time of site assessment. Temporary

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378 extension of the point of compliance beyond the property  
379 boundary, as provided in this paragraph, must include actual  
380 notice by the person responsible for brownfield site  
381 rehabilitation to local governments and the owners of any  
382 property into which the point of compliance is allowed to extend  
383 and constructive notice to residents and business tenants of the  
384 property into which the point of compliance is allowed to  
385 extend. Persons receiving notice pursuant to this paragraph  
386 shall have the opportunity to comment within 30 days of receipt  
387 of the notice.

388 (c) Ensure that the site-specific cleanup goal is that all  
389 contaminated brownfield sites and brownfield areas ultimately  
390 achieve the applicable cleanup target levels provided in this  
391 section. In the circumstances provided below, and after  
392 constructive notice and opportunity to comment within 30 days  
393 from receipt of the notice to local government, to owners of any  
394 property into which the point of compliance is allowed to  
395 extend, and to residents on any property into which the point of  
396 compliance is allowed to extend, the department may allow  
397 concentrations of contaminants to temporarily exceed the  
398 applicable cleanup target levels while cleanup, including  
399 cleanup through natural attenuation processes in conjunction  
400 with appropriate monitoring, is proceeding, if human health,  
401 public safety, and the environment are protected.

402 (d) Allow brownfield site and brownfield area  
403 rehabilitation programs to include the use of institutional or  
404 engineering controls, where appropriate, to eliminate or control  
405 the potential exposure to contaminants of humans or the  
406 environment. The use of controls must be preapproved by the

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407 department and only after constructive notice and opportunity to  
408 comment within 30 days from receipt of notice is provided to  
409 local governments, to owners of any property into which the  
410 point of compliance is allowed to extend, and to residents on  
411 any property into which the point of compliance is allowed to  
412 extend. When institutional or engineering controls are  
413 implemented to control exposure, the removal of the controls  
414 must have prior department approval and must be accompanied by  
415 the resumption of active cleanup, or other approved controls,  
416 unless cleanup target levels under this section have been  
417 achieved.

418 (e) Consider the interactive ~~additive~~ effects of  
419 contaminants, including additive, synergistic, and antagonistic  
420 effects. ~~The synergistic and antagonistic effects shall also be~~  
421 ~~considered when the scientific data become available.~~

422 (f) Take into consideration individual site  
423 characteristics, which shall include, but not be limited to, the  
424 current and projected use of the affected groundwater and  
425 surface water in the vicinity of the site, current and projected  
426 land uses of the area affected by the contamination, the exposed  
427 population, the degree and extent of contamination, the rate of  
428 contaminant migration, the apparent or potential rate of  
429 contaminant degradation through natural attenuation processes,  
430 the location of the plume, and the potential for further  
431 migration in relation to site property boundaries.

432 (g) Apply state water quality standards as follows:

433 1. Cleanup target levels for each contaminant found in  
434 groundwater shall be the applicable state water quality  
435 standards. Where such standards do not exist, the cleanup target

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436 levels for groundwater shall be based on the minimum criteria  
437 specified in department rule. The department shall apply the  
438 following, as appropriate, in establishing the applicable  
439 cleanup target levels: calculations using a lifetime cancer risk  
440 level of 1.0E-6; a hazard index of 1 or less; the best  
441 achievable detection limit; and nuisance, organoleptic, and  
442 aesthetic considerations. However, the department may ~~shall~~ not  
443 require site rehabilitation to achieve a cleanup target level  
444 for any individual contaminant which is more stringent than the  
445 site-specific, ~~naturally occurring~~ background concentration for  
446 that contaminant.

447 2. Where surface waters are exposed to contaminated  
448 groundwater, the cleanup target levels for the contaminants must  
449 ~~shall~~ be based on the more protective of the groundwater or  
450 surface water standards as established by department rule,  
451 unless it has been demonstrated that the contaminants do not  
452 cause or contribute to the exceedance of applicable surface  
453 water quality criteria. In such circumstances, the point of  
454 measuring compliance with the surface water standards shall be  
455 in the groundwater immediately adjacent to the surface water  
456 body.

457 3. Using risk-based corrective action principles, the  
458 department shall approve alternative cleanup target levels in  
459 conjunction with institutional and engineering controls, if  
460 needed, based upon an applicant's demonstration, using site-  
461 specific or other relevant data and information, risk assessment  
462 modeling results, including results from probabilistic risk  
463 assessment modeling, risk assessment studies, risk reduction  
464 techniques, or a combination thereof, that human health, public

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465 safety, and the environment are protected to the same degree as  
466 provided in subparagraphs 1. and 2. Where a state water quality  
467 standard is applicable, a deviation may not result in the  
468 application of cleanup target levels more stringent than the  
469 standard. In determining whether it is appropriate to establish  
470 alternative cleanup target levels at a site, the department must  
471 consider the effectiveness of source removal, if any, which has  
472 been completed at the site and the practical likelihood of the  
473 use of low yield or poor quality groundwater, the use of  
474 groundwater near marine surface water bodies, the current and  
475 projected use of the affected groundwater in the vicinity of the  
476 site, or the use of groundwater in the immediate vicinity of the  
477 contaminated area, where it has been demonstrated that the  
478 groundwater contamination is not migrating away from such  
479 localized source, provided human health, public safety, and the  
480 environment are protected. When using alternative cleanup target  
481 levels at a brownfield site, institutional controls are ~~shall~~  
482 not ~~be~~ required if:

483 a. The only cleanup target levels exceeded are the  
484 groundwater cleanup target levels derived from nuisance,  
485 organoleptic, or aesthetic considerations;

486 b. Concentrations of all contaminants meet the state water  
487 quality standards or the minimum criteria, based on the  
488 protection of human health, provided in subparagraph 1.;

489 c. All of the groundwater cleanup target levels established  
490 pursuant to subparagraph 1. are met at the property boundary;

491 d. The person responsible for brownfield site  
492 rehabilitation has demonstrated that the contaminants will not  
493 migrate beyond the property boundary at concentrations exceeding

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494 the groundwater cleanup target levels established pursuant to  
495 subparagraph 1.;

496 e. The property has access to and is using an offsite water  
497 supply and no unplugged private wells are used for domestic  
498 purposes; and

499 f. The real property owner provides written acceptance of  
500 the "no further action" proposal to the department or the local  
501 pollution control program.

502 (h) Provide for the department to issue a "no further  
503 action order," with conditions, including, but not limited to,  
504 the use of institutional or engineering controls where  
505 appropriate, when alternative cleanup target levels established  
506 pursuant to subparagraph (g)3. have been achieved, or when the  
507 person responsible for brownfield site rehabilitation can  
508 demonstrate that the cleanup target level is unachievable within  
509 available technologies. Before ~~Prior to~~ issuing such an order,  
510 the department shall consider the feasibility of an alternative  
511 site rehabilitation technology at in the brownfield site area.

512 (i) Establish appropriate cleanup target levels for soils.

513 1. In establishing soil cleanup target levels for human  
514 exposure to each contaminant found in soils from the land  
515 surface to 2 feet below land surface, the department shall apply  
516 the following, as appropriate: calculations using a lifetime  
517 cancer risk level of 1.0E-6; a hazard index of 1 or less; and  
518 the best achievable detection limit. However, the department may  
519 ~~shall~~ not require site rehabilitation to achieve a cleanup  
520 target level for an individual contaminant which is more  
521 stringent than the site-specific, ~~naturally occurring~~ background  
522 concentration for that contaminant. Institutional controls or

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523 other methods shall be used to prevent human exposure to  
524 contaminated soils more than 2 feet below the land surface. Any  
525 removal of such institutional controls shall require such  
526 contaminated soils to be remediated.

527 2. Leachability-based soil cleanup target levels shall be  
528 based on protection of the groundwater cleanup target levels or  
529 the alternate cleanup target levels for groundwater established  
530 pursuant to this paragraph, as appropriate. Source removal and  
531 other cost-effective alternatives that are technologically  
532 feasible shall be considered in achieving the leachability soil  
533 cleanup target levels established by the department. The  
534 leachability goals are ~~shall~~ not be applicable if the department  
535 determines, based upon individual site characteristics, and in  
536 conjunction with institutional and engineering controls, if  
537 needed, that contaminants will not leach into the groundwater at  
538 levels that pose a threat to human health, public safety, and  
539 the environment.

540 3. Using risk-based corrective action principles, the  
541 department shall approve alternative cleanup target levels in  
542 conjunction with institutional and engineering controls, if  
543 needed, based upon an applicant's demonstration, using site-  
544 specific or other relevant data and information, risk assessment  
545 modeling results, including results from probabilistic risk  
546 assessment modeling, risk assessment studies, risk reduction  
547 techniques, or a combination thereof, that human health, public  
548 safety, and the environment are protected to the same degree as  
549 provided in subparagraphs 1. and 2.

550 (2) The department shall require source removal, as a risk  
551 reduction measure, if warranted and cost-effective. Once source

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552 removal at a site is complete, the department shall reevaluate  
553 the site to determine the degree of active cleanup needed to  
554 continue. Further, the department shall determine if the  
555 reevaluated site qualifies for monitoring only or if no further  
556 action is required to rehabilitate the site. If additional site  
557 rehabilitation is necessary to reach "no further action" status,  
558 the department is encouraged to utilize natural attenuation  
559 monitoring, including long-term natural attenuation ~~and~~  
560 monitoring, where site conditions warrant.

561 (3) The cleanup criteria described in this section govern  
562 only site rehabilitation activities occurring at the  
563 contaminated site. Removal of contaminated media from a site for  
564 offsite relocation or treatment must be in accordance with all  
565 applicable federal, state, and local laws and regulations.

566 Section 5. Subsection (3) of section 196.1995, Florida  
567 Statutes, is amended to read:

568 196.1995 Economic development ad valorem tax exemption.—

569 (3) The board of county commissioners or the governing  
570 authority of the municipality that calls a referendum within its  
571 total jurisdiction to determine whether its respective  
572 jurisdiction may grant economic development ad valorem tax  
573 exemptions may vote to limit the effect of the referendum to  
574 authority to grant economic development tax exemptions for new  
575 businesses and expansions of existing businesses located in an  
576 enterprise zone or a brownfield area, as defined in s. 376.79(5)  
577 ~~s. 376.79(4)~~. If an area nominated to be an enterprise zone  
578 pursuant to s. 290.0055 has not yet been designated pursuant to  
579 s. 290.0065, the board of county commissioners or the governing  
580 authority of the municipality may call such referendum prior to

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581 such designation; however, the authority to grant economic  
582 development ad valorem tax exemptions does not apply until such  
583 area is designated pursuant to s. 290.0065. The ballot question  
584 in such referendum shall be in substantially the following form  
585 and shall be used in lieu of the ballot question prescribed in  
586 subsection (2):

587

588 Shall the board of county commissioners of this county (or the  
589 governing authority of this municipality, or both) be authorized  
590 to grant, pursuant to s. 3, Art. VII of the State Constitution,  
591 property tax exemptions for new businesses and expansions of  
592 existing businesses that are located in an enterprise zone or a  
593 brownfield area and that are expected to create new, full-time  
594 jobs in the county (or municipality, or both)?

595

596 ....Yes-For authority to grant exemptions.

597 ....No-Against authority to grant exemptions.

598 Section 6. Paragraph (a) of subsection (1) of section  
599 287.0595, Florida Statutes, is amended to read:

600 287.0595 Pollution response action contracts; department  
601 rules.-

602 (1) The Department of Environmental Protection shall  
603 establish, by adopting administrative rules as provided in  
604 chapter 120:

605 (a) Procedures for determining the qualifications of  
606 responsible potential vendors prior to advertisement for and  
607 receipt of bids, proposals, or replies for pollution response  
608 action contracts, including procedures for the rejection of  
609 unqualified vendors. Response actions are those activities

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610 described in s. 376.301(39) ~~s. 376.301(37)~~.

611 Section 7. Paragraph (c) of subsection (5) of section  
612 288.1175, Florida Statutes, is amended to read:

613 288.1175 Agriculture education and promotion facility.—

614 (5) The Department of Agriculture and Consumer Services  
615 shall competitively evaluate applications for funding of an  
616 agriculture education and promotion facility. If the number of  
617 applicants exceeds three, the Department of Agriculture and  
618 Consumer Services shall rank the applications based upon  
619 criteria developed by the Department of Agriculture and Consumer  
620 Services, with priority given in descending order to the  
621 following items:

622 (c) The location of the facility in a brownfield site as  
623 defined in s. 376.79(4) ~~s. 376.79(3)~~, a rural enterprise zone as  
624 defined in s. 290.004, an agriculturally depressed area as  
625 defined in s. 570.74, or a county that has lost its agricultural  
626 land to environmental restoration projects.

627 Section 8. This act shall take effect July 1, 2016.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

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BILL: SB 100

INTRODUCER: Senator Simpson

SUBJECT: Petroleum Restoration Program

DATE: October 5, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Rogers	EP	<b>Favorable</b>
2.			AGG	
3.			AP	

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**I. Summary:**

SB 100 revises provisions related to the Abandoned Tank Restoration Program, the Low-Scored Site Initiative, and the Advanced Cleanup Program.

The bill amends requirements for participation in the Abandoned Tank Restoration Program (ATRP) by removing the deadline to apply to the ATRP and removing the waiver for those financially unable to properly close the storage tank. The bill also allows owners of sites to participate in the ATRP whether or not they had knowledge of polluting conditions when they purchased the property.

The Petroleum Restoration Program (Restoration Program), an existing program, establishes the requirements and procedures for cleaning up contaminated land as well as the circumstances under which the state will pay for the cleanup. Under the Restoration Program, eligible contaminated sites are rehabilitated by the state in priority order. Two programs under the Restoration Program allow sites to receive rehabilitation funding out of priority order under certain circumstances. These programs are the Low-Scored Site Initiative and Advanced Cleanup.

The bill changes the name of the Low-Scored Site Initiative to the Low-Risk Site Initiative (LRSI) and requires a responsible party who wishes to participate in LRSI to provide evidence of authorization from the property owner. The bill also revises the criteria that must be met to participate in LRSI. In addition, the bill increases the amount of money that may be encumbered from the Inland Protection Trust Fund each year to fund LRSI from \$10 million to \$15 million and increases the funding limit per site from \$30,000 to \$35,000 and provides for additional funding up to \$35,000 for limited remediation if necessary.

The bill reduces the minimum number of sites that a facility owner or operator or other responsible party must bundle in order to be eligible for performance-based contracts under

Advanced Cleanup from 20 to 10. The bill also increases the annual allocation for Advanced Cleanup contracts from \$15 million to \$25 million.

## II. Present Situation:

### Water Quality Standards

Under s. 303 of the federal Clean Water Act (CWA), states are incentivized to adopt water quality standards (WQSs) for their navigable waters and must review and update those standards at least once every three years. These standards include:

- Designation of a waterbody's beneficial uses, such as water supply, recreation, fish propagation, and navigation;
- Water quality criteria that define the amounts of pollutants, in either numeric or narrative standards, that the waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.<sup>1</sup>

### Petroleum Restoration Program

Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur as a result of accidental spills, storage tank system leaks, or poor maintenance practices.<sup>2</sup> These discharges pose a significant threat to groundwater quality, and Florida relies on groundwater for 90 percent of its drinking water.<sup>3</sup> The identification and cleanup of petroleum contamination is particularly challenging due to Florida's diverse geology, diverse water systems, and the complex dynamics between contaminants and the environment.<sup>4</sup>

In 1983, Florida began enacting legislation to regulate underground and aboveground storage tank systems in an effort to protect Florida's groundwater from past and future petroleum releases.<sup>5</sup> The Department of Environmental Protection (Department or DEP) is responsible for regulating these storage tank systems. In 1986, the Legislature enacted the State Underground Petroleum Environmental Response Act (SUPER Act) to address the pollution problems caused by leaking underground petroleum storage systems.<sup>6</sup> The SUPER Act authorized the Department to establish criteria for the prioritization, assessment and cleanup, and reimbursement for cleanup of contaminated areas, which led to the creation of the Petroleum Restoration Program (Restoration Program). The Restoration Program establishes the requirements and procedures for cleaning up contaminated land as well as the circumstances under which the state will pay for the cleanup.

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<sup>1</sup> 33 U.S.C. s. 1313(c)(2)(A) (2014); 40 C.F.R. ss. 131.6 and 131.10-131.12.

<sup>2</sup> DEP, Guide to Florida's Petroleum Cleanup Program 1 (2002), (on file with the Senate Committee on Environmental Preservation and Conservation.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Ch. 83-310, Laws of Fla.

<sup>6</sup> Ch. 86-159, Laws of Fla.

## **Abandoned Tank Restoration Program**

In 1990, the Legislature established the Abandoned Tank Restoration Program (ATRP). The ATRP was created to address the contamination at facilities that had out-of-service or abandoned tanks as of March 1990. The ATRP originally had a one-year application period, but the deadline was subsequently extended to 1992, then 1994. In 1996, the Legislature waived the deadline indefinitely for owners who are unable to pay for the closure of abandoned tanks. To be eligible for the ATRP, applicants must certify that the petroleum system has not stored petroleum products for consumption, use, or sale since March 1, 1990.<sup>7</sup>

## **Site Rehabilitation**

Florida law requires land contaminated by petroleum to be cleaned up, or rehabilitated, so that the concentration of each contaminant in the ground is below a certain level.<sup>8</sup> These levels are known as Cleanup Target Levels (CTLs).<sup>9</sup> Once the CTLs for a contaminated site<sup>10</sup> has been attained, rehabilitation is complete and the site may be closed. When a site is closed, no further cleanup action is required unless the contaminant levels increase above the CTLs or another discharge occurs.<sup>11</sup>

## **State Funding Assistance for Rehabilitation**

In 2002, the average cost to rehabilitate a site was approximately \$300,000, but some sites may cost millions of dollars to rehabilitate.<sup>12</sup> Under Florida law, an owner of contaminated land (site owner) is responsible for rehabilitating the land unless the site owner can show that the contamination resulted from the activities of a previous owner or other third party (responsible party), who is then responsible.<sup>13</sup> Over the years, different eligibility programs have been implemented to provide state financial assistance to certain site owners and responsible parties for site rehabilitation.

---

<sup>7</sup> Chapter 89-188, Laws of Fla.

<sup>8</sup> Section 376.3071(5)(b)3., F.S.

<sup>9</sup> *Id.*

<sup>10</sup> A “site” is any contiguous land, sediment, surface water, or groundwater area upon or into which a discharge of petroleum or petroleum products has occurred or for which evidence exists that such a discharge has occurred. The site is the full extent of the contamination, regardless of property boundaries.

<sup>11</sup> DEP, Guide to Florida’s Petroleum Cleanup Program 24 (2002), (on file with the Senate Committee on Environmental Preservation and Conservation.

<sup>12</sup> *Id.* at 26.

<sup>13</sup> Section 376.308, F.S.

To receive rehabilitation funding assistance, a site must qualify under one of these programs, which are outlined in the following table:

<b>Table 1: State Assisted Petroleum Cleanup Eligibility Programs</b>		
<b>Program Name</b>	<b>Program Dates</b>	<b>Program Description</b>
<b>Early Detection Incentive Program (EDI)</b> (s. 376.30371(9), F.S.)	Discharges must have been reported between July 1, 1986, and December 31, 1988, to be eligible	<ul style="list-style-type: none"> <li>• First state-assisted cleanup program</li> <li>• 100 percent state funding for cleanup if site owners reported releases</li> <li>• Originally gave site owners the option of conducting cleanup themselves and receiving reimbursement from the state or having the state conduct the cleanup in priority order</li> <li>• Reimbursement option was phased out, so all cleanups are now conducted by the state</li> </ul>
<b>Petroleum Liability and Restoration Insurance Program (PLRIP)</b> (s. 376.3072, F.S.)	Discharges must have been reported between January 1, 1989, and December 31, 1998, to be eligible	<ul style="list-style-type: none"> <li>• Required facilities to purchase third party liability insurance to be eligible</li> <li>• Provides varying amounts of state-funded site restoration coverage</li> </ul>
<b>Abandoned Tank Restoration Program (ATRP)</b> (s. 376.305(6), F.S.)	Applications must have been submitted between June 1, 1990, and June 30, 1996 <sup>14</sup>	Provides 100 percent state funding for cleanup, less deductible, at facilities that had out-of-service or abandoned tanks as of March 1990
<b>Innocent Victim Petroleum Storage System Restoration Program</b> (s. 376.30715, F.S.)	The application period began on July 1, 2005, and remains open	Provides 100 percent state funding for a site acquired before July 1, 1990, that ceased operating as a petroleum storage or retail business before January 1, 1985
<b>Petroleum Cleanup Participation Program (PCPP)</b> (s. 376.3071(13), F.S.)	PCPP began on July 1, 1996, and accepted applications until December 31, 1998	<ul style="list-style-type: none"> <li>• Created to provide financial assistance for sites that had missed all previous opportunities</li> <li>• Only discharges that occurred before 1995 were eligible</li> <li>• Site owner or responsible party must pay 25 percent of cleanup costs<sup>15</sup></li> <li>• Originally had a \$300,000 cap on the amount of coverage, which was raised to \$400,000 beginning July 1, 2008</li> </ul>
<b>Consent Order (aka “Hardship” or “Indigent”)</b> (s. 376.3071(7)(c), F.S.)	The program began in 1986 and remains open	<ul style="list-style-type: none"> <li>• Created to provide financial assistance under certain circumstances for sites that the Department initiates an enforcement action to clean up</li> <li>• An agreement is formed whereby the Department conducts the cleanup and the site owner or responsible party pays for a portion of the costs</li> </ul>

<sup>14</sup> The ATRP originally had a one-year application period, but the deadline was extended. The deadline is now waived indefinitely for site owners who are financially unable to pay for the closure of abandoned tanks. Section 376.305(6)(b), F.S.

<sup>15</sup> The 25 percent copay requirement can be reduced or eliminated if the site owner and all responsible parties demonstrate that they are financially unable to comply. Section 376.3071(13)(c), F.S.

As of January 2015, there are 19,261 sites eligible for state funding through one of the above programs. Of these, approximately 8,348 have been rehabilitated and closed, approximately 5,059 are currently undergoing some phase of rehabilitation, and approximately 5,854 await rehabilitation.<sup>16</sup>

### **Inland Protection Trust Fund**

To fund the cleanup of contaminated sites, the SUPER Act created the Inland Protection Trust Fund (IPTF).<sup>17</sup> The IPTF is funded by an excise tax per barrel on petroleum and petroleum products in or imported into the state.<sup>18</sup> The amount of the excise tax per barrel is determined by a formula, which is dependent upon the unobligated balance of the IPTF.<sup>19</sup> Each year, \$196 million to \$199 million from the excise tax is deposited into the IPTF, of which \$110 million to \$125 million is generally available for site rehabilitation.

Funding for rehabilitation of a site is based on a relative risk scoring system. Each funding-eligible site receives a numeric score based on the threat the site contamination poses to the environment or to human health, safety, or welfare.<sup>20</sup> Sites currently in the Restoration Program range in score from 5 to 115 points, with a score of 115 representing a substantial threat and a score of 5 representing a very low threat. Sites are rehabilitated in priority order beginning with the highest score, with funding based on available budget.<sup>21</sup> The Department sets the priority score funding threshold, which is the minimum score a site must be assigned to receive restoration funding at a particular point in time. Currently, the threshold is set at 30 points.<sup>22</sup>

### **Expediting Site Rehabilitation**

As described above, eligible contaminated sites typically receive state rehabilitation funding in priority order based on their numeric score. However, there are some programs that allow sites to receive funding for rehabilitation or site closure out of priority score order, as long as the sites are eligible under one of the programs in Table 1. Two of these programs are Advanced Cleanup and Low Scored Site Initiative.

#### ***Advanced Cleanup***

Advanced Cleanup (formerly known as Preapproved Advanced Cleanup) is a program that was created in 1996 to allow an eligible site to receive state rehabilitation funding even if the site's priority score does not fall within the threshold currently being funded.<sup>23</sup> The purpose of creating Advanced Cleanup was to facilitate property transactions or public works projects on

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<sup>16</sup> DEP, *Senate Bill 314 Agency Analysis*, (Mar. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>17</sup> Section 376.3071(3)-(4), F.S.

<sup>18</sup> Sections 206.9935(3) and 376.3071(6), F.S.

<sup>19</sup> The amount of the excise tax per barrel is based on the following formula: 30 cents if the unobligated balance is between \$100 million and \$150 million; 60 cents if the unobligated balance is between \$50 million and \$100 million; and 80 cents if the unobligated balance is \$50 million or less. Section 206.9935(3), F.S.

<sup>20</sup> Fla. Admin. Code R. 62-771.100.

<sup>21</sup> Fla. Admin. Code R. 62-771.300.

<sup>22</sup> DEP, *Senate Bill 314 Agency Analysis*, (Mar. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>23</sup> Section 376.30713(1), F.S.

contaminated sites.<sup>24</sup> To participate in Advanced Cleanup, a site must be eligible for state rehabilitation funding under the Early Detection Incentive Program (EDI), the Petroleum Liability and Restoration Insurance Program (PLRIP), the Abandoned Tank Restoration Program (ATRP), the Innocent Victim Petroleum Storage System Restoration Program (Innocent Victim), or the Petroleum Cleanup Participation Program (PCPP).<sup>25</sup>

To apply for Advanced Cleanup, a site owner or responsible party must bid a cost share of the total site rehabilitation.<sup>26</sup> The cost share must be at least 25 percent of the total cost of rehabilitation.<sup>27</sup> For PCPP sites, the cost share must be at least 25 percent of the state's share of the rehabilitation, as the site owner or responsible party is already required to pay for 25 percent of the total cost of rehabilitation to be eligible for PCPP.<sup>28</sup> Alternatively, an applicant may use a commitment to pay, a demonstrated cost savings to DEP, or both to meet this requirement if the application proposes a performance-based contract for the cleanup of 20 or more sites.<sup>29</sup>

In years when the Department runs a bid cycle, bids may be accepted in two windows of May 1 through June 30 and November 1 through December 31.<sup>30</sup> Bids are awarded based solely on the proposed cost-share percentage and not the estimated dollar amount of that share.<sup>31</sup> The Department may enter into Advanced Cleanup contracts for a total of up to \$15 million per fiscal year,<sup>32</sup> and no more than \$5 million per fiscal year may be approved for rehabilitation work at an individual facility.<sup>33</sup>

### ***Low Scored Site Initiative***

The Low Scored Site Initiative (LSSI) was created to expedite the assessment and closure of sites that contain minimal contamination and that are not a threat to human health or the environment. To participate in LSSI, a site owner or responsible party must demonstrate that the following criteria are met:

- Upon assessment, the site retains a priority ranking score of 29 points or less;
- No excessively contaminated soil exists onsite;
- A minimum of six months of groundwater monitoring indicates that the plume is shrinking or stable;
- The remaining contamination resulting from petroleum products does not adversely affect adjacent surface waters;
- The area of groundwater contamination is less than one-quarter acre and is confined to the source property boundary; and

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<sup>24</sup> *Id.*

<sup>25</sup> For PCPP sites, Advanced Cleanup is only available if the 25 percent copay requirement of PCPP has not been reduced or eliminated. Section 376.30713(1)(d), F.S.

<sup>26</sup> Section 376.30713(2)(a), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Section 376.30713(1)(d)-(2)(a), F.S.

<sup>29</sup> Section 376.30713(2)(a)1., F.S.

<sup>30</sup> Section 376.30713(2)(a), F.S.

<sup>31</sup> Section 376.30713(2)(b), F.S.

<sup>32</sup> Section 376.30713(4), F.S.

<sup>33</sup> A "facility" includes, but is not limited to, "multiple site facilities such as airports, port facilities, and terminal facilities even though such enterprises may be treated as separate facilities for other purposes under this chapter." Section 376.30713(4), F.S.

- Soils onsite found between the land surface and two feet below the land surface must meet the soil cleanup target levels (SCTLs) established by the Department unless human exposure is limited by appropriate institutional or engineering controls.<sup>34</sup>

An assessment is conducted to determine whether the above criteria are met.<sup>35</sup> The state pays the assessment costs for sites eligible for funding under EDI, ATRP, Innocent Victim, PLRIP, or PCPP.<sup>36</sup> Funding for LSSI is limited to \$10 million per fiscal year, which may only be used to fund site assessments.<sup>37</sup> Each site has a funding cap of \$30,000, and each site owner or responsible party is limited to 10 eligible sites per fiscal year.<sup>38</sup> Funds are allocated on a first-come, first-served basis.<sup>39</sup> Sites not eligible for state rehabilitation funding may still qualify for closure under LSSI if an assessment reveals that the above criteria are met, but the state will not pay for the assessment.<sup>40</sup>

If the assessment shows the above criteria are met, there are three options for site closure:

- If no contamination is detected during the assessment, the Department may issue a site rehabilitation completion order;<sup>41</sup>
- If the assessment demonstrates that minimal contamination exists onsite, but the above criteria are met, the Department may issue an LSSI no further action administrative order. This determination acknowledges that the contamination is not a threat to human health or the environment; or<sup>42</sup>
- If soil between the land surface and two feet below the land surface exceeds SCTLs, but the above criteria are otherwise met, the Department may issue a site rehabilitation completion order with conditions. This determination requires that institutional and/or engineering controls be put in place to prevent human or environmental exposure to the contamination. The state is not authorized to fund such controls.<sup>43</sup>

If at any time data collected during the assessment indicate that the above criteria for closure will not be met, assessment activities will be terminated.<sup>44</sup> LSSI funding will be discontinued if it is determined at any point that a closure cannot be accomplished within the \$30,000 funding limit, unless the site owner or responsible party is willing to contribute funds to the assessment work.<sup>45</sup> A site determined to be ineligible for LSSI funding retains its current program eligibility and will receive rehabilitation funding in priority order.

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<sup>34</sup> Section 376.3071(11)(b)1., F.S.

<sup>35</sup> DEP Petroleum Restoration Program, Procedural and Technical Guidance for the Low-Scored Site Initiative 9 (2013), available at [http://www.dep.state.fl.us/Waste/quick\\_topics/publications/pss/pcp/screening/LSSI-Guidance\\_30Aug13.pdf](http://www.dep.state.fl.us/Waste/quick_topics/publications/pss/pcp/screening/LSSI-Guidance_30Aug13.pdf) (last accessed Oct. 5, 2015).

<sup>36</sup> *Id.* at 3.

<sup>37</sup> Section 376.3071(11)(b)3.c., F.S.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> DEP, Petroleum Restoration Program, Procedural and Technical Guidance for the Low-Scored Site Initiative 1-2 (2013).

<sup>41</sup> Section 376.3071(12)(b)2., F.S.

<sup>42</sup> *Id.*

<sup>43</sup> DEP Petroleum Restoration Program, Procedural and Technical Guidance for the Low-Scored Site Initiative 3 (2013).

<sup>44</sup> *Id.* at 11.

<sup>45</sup> *Id.*

### III. Effect of Proposed Changes:

**Section 1** amends s. 376.305, F.S., concerning the Abandoned Tank Restoration Program

The bill expands the Abandoned Tank Restoration Program (ATRP) program by removing the reporting deadline, which currently separates eligible from ineligible sites. The expansion of the program will provide state funding eligibility for remediation of a large but indeterminate number of discharges. It also specifies that a site eligible for the PCPP may not participate in the ATRP.

The bill removes a provision specifying that the owner of a site in the ATRP must provide evidence that he or she had a complete understanding of the use of the property prior to acquisition.

The bill removes a section that excludes site owners from eligibility for site rehabilitation funding when the site owner, “had knowledge of the polluting condition when title was acquired, unless the person acquired title to the site after issuance of a notice of site eligibility by the department.”

**Section 2** amends s. 376.3071, F.S., concerning the Low Risk Site Initiative

The bill changes the name of the Low Scored Site Initiative to the Low-Risk Site Initiative (LRSI) and makes various changes to the program. The bill requires a responsible party who wishes to participate in LRSI to provide evidence of authorization from the property owner.

To participate in LRSI, the bill requires a property owner or responsible party to submit a “No Further Action” proposal that demonstrates the required criteria are met. In addition, the bill revises the criteria in the following manner:

- Removes the requirement that a contaminated site must have a priority ranking score of 29 points or less;
- Provides a more specific standard for the prohibition on the presence of excessively contaminated soil on the site. Specifically, soil saturated with petroleum or petroleum products, or soil that causes a total corrected hydrocarbon measurement of 500 parts per million (ppm) or higher for Gasoline Analytical Group or 50 ppm or higher for Kerosene Analytical Group, as defined by DEP rule, must not exist onsite as a result of a release of petroleum products;
- Specifies that the requirement that contamination remaining at the site does not adversely affect adjacent surface waters includes the effects of those waters on human health and the environment;
- Removes the requirement that the area of groundwater contamination is less than one-quarter acre;
- Allows the presence of groundwater containing petroleum products’ chemicals of concern that is not confined to the source property boundaries if it only migrates to a transportation facility of the Florida Department of Transportation; and
- Adds a requirement that the groundwater contamination containing the petroleum products’ chemicals of concern is not a threat to any permitted potable water supply well.

If DEP determines that the property owner or responsible party has demonstrated that these conditions are met, DEP must issue a site rehabilitation completion order that incorporates the “No Further Action” proposal. This determination acknowledges that minimal contamination exists onsite and that such contamination is not a threat to the public health, safety, or welfare, water resources, or the environment. If DEP determines that a discharge for which a site rehabilitation completion order was issued pursuant to LRSI may pose a threat to the public health, safety, or welfare, water resources, or the environment, the issuance of the site rehabilitation completion order does not alter eligibility for state-funded rehabilitation that would otherwise apply.

Under current law, DEP can approve the cost of the assessment, including six months of groundwater monitoring. The bill authorizes DEP to approve the cost of both the assessment *and* remediation if the DEP determines that it will result in a finding of “No Further Action” The approval may be provided in one or more task assignments or modifications. The total amount authorized for a particular site is increased from \$30,000 to \$35,000. The bill authorizes DEP to pay the costs associated with a professional land survey or specific purpose survey, if needed, and costs associated with obtaining a title report and recording fees. The bill also authorizes the DEP to approve up to an additional \$35,000 for limited remediation if needed to achieve a determination of “No Further Action”, after the DEP approves the initial site assessment provided by the property owner or a responsible party.

The bill requires DEP to procure contractual services for LRSI in accordance with chapter 287, F.S., and applicable DEP rules in order to ensure the work is conducted in a cost-effective manner.

The bill increases the amount of time within which assessment and remediation work must be completed from six months to nine months. If groundwater monitoring is required following the assessment in order to satisfy the LRSI conditions, DEP may authorize an additional six months to complete the monitoring.

The bill also increases the annual amount of money that may be encumbered from the Inland Protection Trust Fund to fund LRSI from \$10 million to \$15 million.

**Section 3** amends s. 376.30713, F.S., concerning Advanced Cleanup

The bill reduces the minimum number of sites that a facility owner or operator or other responsible party must bundle in order to be eligible for performance-based contracts under Advanced Cleanup from 20 to 10.

The bill increases the annual allocation for Advanced Cleanup contracts from \$15 million to \$25 million.

The bill allows a property owner or responsible party to enter into a voluntary cost share agreement for bundling multiple sites and to provide a list of the sites to be included in future bundles. The sites that will be included in a future bundle are not subject to agency term contractor assignment pursuant to rule. The DEP may terminate the voluntary cost share agreement if the application to bundle multiple sites is not submitted during the open application

period. This provision will extend the period of time listed sites will be remediated because they are not subject to the agency term contractor assignment.

**Section 4** provides an effective date of July 1, 2016.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill appears to have an indeterminate positive fiscal impact on the private sector because more rehabilitation contracts may be awarded as a result of increasing the total funding limits for Advanced Cleanup and LRSI.

C. Government Sector Impact:

The bill increases the amount of money that may be encumbered from the Inland Protection Trust Fund to fund LRSI contracts from \$10 million to \$15 million and increases the annual allocation for Advanced Cleanup contracts from \$15 million to \$25 million. However, these changes do not increase DEP's overall annual appropriation for the Restoration Program, but rather revise how much of the annual appropriation may be expended on these programs within the Restoration Program.

There may be an indeterminate fiscal impact on DEP as a result of reducing the number of sites that must be bundled to be eligible to compete for performance-based contracts for Advanced Cleanup from 20 to 10. According to DEP, the process of bundling sites and implementing cleanups under a performance-based contract has resulted in an average cost savings ranging between 25 percent and 40 percent.<sup>46</sup> The decrease in the number of sites needed for a bundle in conjunction with raising the amount of funds

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<sup>46</sup> DEP, *Senate Bill 314 Agency Analysis*, 3, (Mar. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

available may result in pushing the average cost savings closer to 25 percent. However, the decreased bundled site requirement together with the increased amount of available funds should result in more sites being cleaned up sooner, resulting in an overall cost savings over time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 376.305, 376.3071, 376.30713.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Simpson

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1                   A bill to be entitled  
2           An act relating to the Petroleum Restoration Program;  
3           amending s. 376.305, F.S.; revising the eligibility  
4           requirements of the Abandoned Tank Restoration  
5           Program; deleting provisions prohibiting the relief of  
6           liability for persons who acquired title after a  
7           certain date; amending s. 376.3071, F.S.; renaming  
8           "the low-scored site initiative" as "the low-risk site  
9           initiative"; revising the conditions for eligibility  
10          and methods for payment of costs for the low-risk site  
11          initiative; revising the eligibility requirements for  
12          receiving rehabilitation funding; clarifying that a  
13          change in ownership does not preclude a site from  
14          entering into the program; amending s. 376.30713,  
15          F.S.; reducing the number of sites that may be  
16          proposed for certain advanced cleanup applications;  
17          increasing the total amount for which the department  
18          may contract for advanced cleanup work in a fiscal  
19          year; authorizing property owners and responsible  
20          parties to enter into voluntary cost-share agreements  
21          under certain circumstances; providing an effective  
22          date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26           Section 1. Subsection (6) of section 376.305, Florida  
27 Statutes, is amended to read:

28           376.305 Removal of prohibited discharges.—

29           (6) The Legislature created the Abandoned Tank Restoration

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30 Program in response to the need to provide financial assistance  
31 for cleanup of sites that have abandoned petroleum storage  
32 systems. For purposes of this subsection, the term "abandoned  
33 petroleum storage system" means a petroleum storage system that  
34 has not stored petroleum products for consumption, use, or sale  
35 since March 1, 1990. The department shall establish the  
36 Abandoned Tank Restoration Program to facilitate the restoration  
37 of sites contaminated by abandoned petroleum storage systems.

38 (a) To be included in the program:

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

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

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

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

54 (b) In order to be eligible for the program, petroleum  
55 storage systems from which a discharge occurred must be closed  
56 pursuant to department rules before an eligibility  
57 determination. However, if the department determines that the  
58 owner of the facility cannot financially comply with the

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59 department's petroleum storage system closure requirements and  
60 all other eligibility requirements are met, the petroleum  
61 storage system closure requirements shall be waived. The  
62 department shall take into consideration the owner's net worth  
63 and the economic impact on the owner in making the determination  
64 of the owner's financial ability. ~~The June 30, 1996, application~~  
65 ~~deadline shall be waived for owners who cannot financially~~  
66 ~~comply.~~

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

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

70 1. Sites on property of the Federal Government;  
71 2. Sites contaminated by pollutants that are not petroleum  
72 products; or

73 3. Sites where the department has been denied site access;  
74 ~~or~~

75 ~~4. Sites which are owned by a person who had knowledge of~~  
76 ~~the polluting condition when title was acquired unless the~~  
77 ~~person acquired title to the site after issuance of a notice of~~  
78 ~~site eligibility by the department.~~

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

81  
82 ~~This subsection does not relieve a person who has acquired title~~  
83 ~~after July 1, 1992, from the duty to establish by a~~  
84 ~~preponderance of the evidence that he or she undertook, at the~~  
85 ~~time of acquisition, all appropriate inquiry into the previous~~  
86 ~~ownership and use of the property consistent with good~~  
87 ~~commercial or customary practice in an effort to minimize~~

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88 ~~liability, as required by s. 376.308(1)(c).~~

89 Section 2. Paragraph (b) of subsection (12) and subsection  
90 (13) of section 376.3071, Florida Statutes, are amended, and  
91 paragraph (c) is added to subsection (12) of that section, to  
92 read:

93 376.3071 Inland Protection Trust Fund; creation; purposes;  
94 funding.—

95 (12) SITE CLEANUP.—

96 (b) Low-risk ~~Low-scored site initiative.~~—Notwithstanding  
97 subsections (5) and (6), a site ~~with a priority ranking score of~~  
98 ~~29 points or less~~ may voluntarily participate in the low-risk  
99 ~~low-scored~~ site initiative regardless of whether the site is  
100 eligible for state restoration funding.

101 1. To participate in the low-risk ~~low-scored~~ site  
102 initiative, the ~~responsible party or~~ property owner, or a  
103 responsible party that provides evidence of authorization from  
104 the property owner, must submit a “No Further Action” proposal  
105 and affirmatively demonstrate that the following conditions  
106 under subparagraph 4. are met.:

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

109 b. ~~Excessively contaminated soil, as defined by department~~  
110 ~~rule, does not exist onsite as a result of a release of~~  
111 ~~petroleum products.~~

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

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

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

121 ~~f. Soils onsite that are subject to human exposure found~~  
122 ~~between land surface and 2 feet below land surface meet the soil~~  
123 ~~cleanup target levels established by department rule or human~~  
124 ~~exposure is limited by appropriate institutional or engineering~~  
125 ~~controls.~~

126 2. Upon affirmative demonstration that ~~of~~ the conditions  
127 under subparagraph 4. ~~are met~~ ~~subparagraph 1.~~, the department  
128 shall issue a site rehabilitation completion order incorporating  
129 the determination of "No Further Action." ~~proposal submitted by~~  
130 the property owner or the responsible party that provides  
131 evidence of authorization from the property owner ~~Such~~  
132 ~~determination acknowledges that minimal contamination exists~~  
133 ~~onsite and that such contamination is not a threat to the public~~  
134 ~~health, safety, or welfare, water resources, or the environment.~~  
135 If no contamination is detected, the department may issue a site  
136 rehabilitation completion order.

137 3. Sites that are eligible for state restoration funding  
138 may receive payment of costs for the low-risk ~~low-scored~~ site  
139 initiative as follows:

140 a. ~~A responsible party or~~ property owner, or a responsible  
141 party that provides evidence of authorization from the property  
142 owner, may submit an assessment and limited remediation plan  
143 designed to affirmatively demonstrate that the site meets the  
144 conditions under subparagraph 4 ~~subparagraph 1.~~ Notwithstanding  
145 the priority ranking score of the site, the department may

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146 approve the cost of the assessment and limited remediation,  
147 including up to 6 months of groundwater monitoring, in one or  
148 more task assignments, or modifications thereof, not to exceed  
149 the threshold amount provided in s. 287.017 for CATEGORY TWO,  
150 \$30,000 for each site where the department has determined that  
151 the assessment and limited remediation, if applicable, will  
152 likely result in a determination of "No Further Action." The  
153 department may not pay the costs associated with the  
154 establishment of institutional or engineering controls, with the  
155 exception of the costs associated with a professional land  
156 survey or specific purpose survey, if needed, and the costs  
157 associated with obtaining a title report and paying recording  
158 fees.

159 b. After the approval of initial site assessment results  
160 provided pursuant to state funding under sub-subparagraph a.,  
161 the department may approve an additional amount not to exceed  
162 the threshold amount provided in s. 287.017 for CATEGORY TWO for  
163 limited remediation where needed to achieve a determination of  
164 "No Further Action."

165 c.b. The assessment and limited remediation work shall be  
166 completed no later than 9 ~~6~~ months after the department  
167 authorizes the start of a state-funded, low-risk site initiative  
168 task issues its approval. If groundwater monitoring is required  
169 after the assessment and limited remediation in order to satisfy  
170 the conditions under subparagraph 4., the department may  
171 authorize an additional 6 months to complete the monitoring.

172 d.e. No more than \$15 ~~\$10~~ million for the low-risk low-  
173 ~~scored~~ site initiative may be encumbered from the fund in any  
174 fiscal year. Funds shall be made available on a first-come,

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175 first-served basis and shall be limited to 10 sites in each  
176 fiscal year for each ~~responsible party or~~ property owner or each  
177 responsible party that provides evidence of authorization from  
178 the property owner.

179 ~~e.d.~~ Program deductibles, copayments, and the limited  
180 contamination assessment report requirements under paragraph  
181 (13) (c) do not apply to expenditures under this paragraph.

182 4. The department shall issue a site rehabilitation  
183 completion order incorporating the "No Further Action" proposal  
184 submitted by a property owner or a responsible party that  
185 provides evidence of authorization from the property owner upon  
186 affirmative demonstration that all of the following conditions  
187 are met:

188 a. Soil saturated with petroleum or petroleum products, or  
189 soil that causes a total corrected hydrocarbon measurement of  
190 500 parts per million or higher for Gasoline Analytical Group or  
191 50 parts per million or higher for Kerosene Analytical Group, as  
192 defined by department rule, does not exist onsite as a result of  
193 a release of petroleum products.

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

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

199 d. The area of groundwater containing the petroleum  
200 products' chemicals of concern is confined to the source  
201 property boundaries of the real property on which the discharge  
202 originated, or has migrated from the source property to only a  
203 transportation facility of the Department of Transportation.

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

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

212  
213 Issuance of a site rehabilitation completion order under this  
214 paragraph acknowledges that minimal contamination exists onsite  
215 and that such contamination is not a threat to the public  
216 health, safety, or welfare, water resources, or the environment.  
217 If the department determines that a discharge for which a site  
218 rehabilitation completion order was issued pursuant to this  
219 paragraph may pose a threat to the public health, safety, or  
220 welfare, water resources, or the environment, the issuance of  
221 the site rehabilitation completion order, with or without  
222 conditions, does not alter eligibility for state-funded  
223 rehabilitation that would otherwise be applicable under this  
224 section.

225 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage  
226 detection, reporting, and cleanup of contamination caused by  
227 discharges of petroleum or petroleum products, the department  
228 shall, within the guidelines established in this subsection,  
229 implement a cost-sharing cleanup program to provide  
230 rehabilitation funding assistance for all property contaminated  
231 by discharges of petroleum or petroleum products from a  
232 petroleum storage system occurring before January 1, 1995,

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233 subject to a copayment provided for in a Petroleum Cleanup  
234 Participation Program site rehabilitation agreement. Eligibility  
235 is subject to an annual appropriation from the fund.  
236 Additionally, funding for eligible sites is contingent upon  
237 annual appropriation in subsequent years. Such continued state  
238 funding is not an entitlement or a vested right under this  
239 subsection. Eligibility shall be determined in the program,  
240 notwithstanding any other provision of law, consent order,  
241 order, judgment, or ordinance to the contrary.

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

245 2. Owners or operators of property, regardless of whether  
246 ownership has changed, which is contaminated by petroleum or  
247 petroleum products from a petroleum storage system may apply for  
248 such program by filing a written report of the contamination  
249 incident, including evidence that such incident occurred before  
250 January 1, 1995, with the department. Incidents of petroleum  
251 contamination discovered after December 31, 1994, at sites which  
252 have not stored petroleum or petroleum products for consumption,  
253 use, or sale after such date shall be presumed to have occurred  
254 before January 1, 1995. An operator's filed report shall be an  
255 application of the owner for all purposes. ~~Sites reported to the~~  
256 ~~department after December 31, 1998, are not eligible for the~~  
257 ~~program.~~

258 (b) Subject to annual appropriation from the fund, sites  
259 meeting the criteria of this subsection are eligible for up to  
260 \$400,000 of site rehabilitation funding assistance in priority  
261 order pursuant to subsections (5) and (6). Sites meeting the

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262 criteria of this subsection for which a site rehabilitation  
263 completion order was issued before June 1, 2008, do not qualify  
264 for the 2008 increase in site rehabilitation funding assistance  
265 and are bound by the pre-June 1, 2008, limits. Sites meeting the  
266 criteria of this subsection for which a site rehabilitation  
267 completion order was not issued before June 1, 2008, regardless  
268 of whether they have previously transitioned to nonstate-funded  
269 cleanup status, may continue state-funded cleanup pursuant to  
270 this section until a site rehabilitation completion order is  
271 issued or the increased site rehabilitation funding assistance  
272 limit is reached, whichever occurs first. The department may not  
273 pay expenses incurred beyond the scope of an approved contract.

274 (c) Upon notification by the department that rehabilitation  
275 funding assistance is available for the site pursuant to  
276 subsections (5) and (6), the owner, operator, or person  
277 otherwise responsible for site rehabilitation shall provide the  
278 department with a limited contamination assessment report and  
279 shall enter into a Petroleum Cleanup Participation Program site  
280 rehabilitation agreement with the department. The agreement must  
281 provide for a 25-percent copayment by the owner, operator, or  
282 person otherwise responsible for conducting site rehabilitation.  
283 The owner, operator, or person otherwise responsible for  
284 conducting site rehabilitation shall adequately demonstrate the  
285 ability to meet the copayment obligation. The limited  
286 contamination assessment report and the copayment costs may be  
287 reduced or eliminated if the owner and all operators responsible  
288 for restoration under s. 376.308 demonstrate that they cannot  
289 financially comply with the copayment and limited contamination  
290 assessment report requirements. The department shall take into

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291 consideration the owner's and operator's net worth in making the  
292 determination of financial ability. In the event the department  
293 and the owner, operator, or person otherwise responsible for  
294 site rehabilitation cannot complete negotiation of the cost-  
295 sharing agreement within 120 days after beginning negotiations,  
296 the department shall terminate negotiations and the site shall  
297 be ineligible for state funding under this subsection and all  
298 liability protections provided for in this subsection shall be  
299 revoked.

300 (d) A report of a discharge made to the department by a  
301 person pursuant to this subsection or any rules adopted pursuant  
302 to this subsection may not be used directly as evidence of  
303 liability for such discharge in any civil or criminal trial  
304 arising out of the discharge.

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

309 (f) Upon the filing of a discharge reporting form under  
310 paragraph (a), the department or local government may not pursue  
311 any judicial or enforcement action to compel rehabilitation of  
312 the discharge. This paragraph does not prevent any such action  
313 with respect to discharges determined ineligible under this  
314 subsection or to sites for which rehabilitation funding  
315 assistance is available pursuant to subsections (5) and (6).

316 (g) The following are excluded from participation in the  
317 program:

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

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320 2. Sites that were active facilities when owned or operated  
321 by the Federal Government.

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

329 4. Sites for which contamination is covered under the Early  
330 Detection Incentive Program, the Abandoned Tank Restoration  
331 Program, or the Petroleum Liability and Restoration Insurance  
332 Program, in which case site rehabilitation funding assistance  
333 shall continue under the respective program.

334 Section 3. Paragraph (a) of subsection (2) and subsection  
335 (4) of section 376.30713, Florida Statutes, are amended to read:  
336 376.30713 Advanced cleanup.-

337 (2) The department may approve an application for advanced  
338 cleanup at eligible sites, before funding based on the site's  
339 priority ranking established pursuant to s. 376.3071(5)(a),  
340 pursuant to this section. Only the facility owner or operator or  
341 the person otherwise responsible for site rehabilitation  
342 qualifies as an applicant under this section.

343 (a) Advanced cleanup applications may be submitted between  
344 May 1 and June 30 and between November 1 and December 31 of each  
345 fiscal year. Applications submitted between May 1 and June 30  
346 shall be for the fiscal year beginning July 1. An application  
347 must consist of:

348 1. A commitment to pay 25 percent or more of the total

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349 cleanup cost deemed recoverable under this section along with  
350 proof of the ability to pay the cost share. An application  
351 proposing that the department enter into a performance-based  
352 contract for the cleanup of 10 ~~20~~ or more sites may use a  
353 commitment to pay, a demonstrated cost savings to the  
354 department, or both to meet the cost-share requirement. For an  
355 application relying on a demonstrated cost savings to the  
356 department, the applicant shall, in conjunction with the  
357 proposed agency term contractor, establish and provide in the  
358 application the percentage of cost savings in the aggregate that  
359 is being provided to the department for cleanup of the sites  
360 under the application compared to the cost of cleanup of those  
361 same sites using the current rates provided to the department by  
362 the proposed agency term contractor. The department shall  
363 determine whether the cost savings demonstration is acceptable.  
364 Such determination is not subject to chapter 120.

365 2. A nonrefundable review fee of \$250 to cover the  
366 administrative costs associated with the department's review of  
367 the application.

368 3. A limited contamination assessment report.

369 4. A proposed course of action.

370

371 The limited contamination assessment report must be sufficient  
372 to support the proposed course of action and to estimate the  
373 cost of the proposed course of action. Costs incurred related to  
374 conducting the limited contamination assessment report are not  
375 refundable from the Inland Protection Trust Fund. Site  
376 eligibility under this subsection or any other provision of this  
377 section is not an entitlement to advanced cleanup or continued

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378 restoration funding. The applicant shall certify to the  
379 department that the applicant has the prerequisite authority to  
380 enter into an advanced cleanup contract with the department. The  
381 certification must be submitted with the application.

382 (4) The department may enter into contracts for a total of  
383 up to \$25 ~~\$15~~ million of advanced cleanup work in each fiscal  
384 year. However, a facility or an applicant who bundles multiple  
385 sites as specified in subparagraph (2)(a)1. may not be approved  
386 for more than \$5 million of cleanup activity in each fiscal  
387 year. A property owner or responsible party may enter into a  
388 voluntary cost-share agreement in which the property owner or  
389 responsible party commits to bundle multiple sites and lists the  
390 facilities that will be included in those future bundles. The  
391 facilities listed are not subject to agency term contractor  
392 assignment pursuant to department rule. The department reserves  
393 the right to terminate the voluntary cost-share agreement if the  
394 property owner or responsible party fails to submit an  
395 application to bundle multiple sites within an open application  
396 period during which it is eligible to participate. For the  
397 purposes of this section, the term "facility" includes, but is  
398 not limited to, multiple site facilities such as airports, port  
399 facilities, and terminal facilities even though such enterprises  
400 may be treated as separate facilities for other purposes under  
401 this chapter.

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

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

---

BILL: SB 288

INTRODUCER: Senator Smith

SUBJECT: State Designations

DATE: October 5, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	<b>Favorable</b>
2.			FP	

---

**I. Summary:**

SB 288 redesignates the John U. Lloyd Beach State Park as the Eula Johnson State Park and directs the Department of Environmental Protection to erect suitable markers designating the state park.

**II. Present Situation:**

The lack of public access to beaches for African-Americans in south Florida became a leading civil rights issue in the mid-20th century. In 1946, a delegation from the Negro Professional and Business Men’s League Inc., petitioned the Board of County Commissioners “seeking a public bathing beach for colored people in Broward County.”<sup>1</sup>

In 1954, Broward County acquired a barrier island site and dedicated it as an African-American beach.<sup>2</sup> However, by 1960, there was still no road access to the beach, nor were any facilities constructed.<sup>3</sup> On July 4, 1961, Eula Johnson, the president of the local chapter of the NAACP, led the first of a series of protest wade-ins at Fort Lauderdale beaches.<sup>4</sup> The City of Fort Lauderdale requested an injunction to end the wade-ins. The court denied the city’s request and effectively ended segregation of public beaches in Broward County.<sup>5</sup>

In 1973, the state purchased the land from Broward County.<sup>6</sup> Chapter 76-300 redesignated the Broward Beach State Recreation Area the John U. Lloyd Beach State Park in recognition of

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<sup>1</sup> William G. Crawford, Jr., *The Long Hard Fight for Equal Rights: A History of Broward County's Colored Beach and the Fort Lauderdale Beach 'Wade-Ins' of the Summer of 1961*, TEQUESTA: THE JOURNAL OF THE HISTORICAL ASS'N OF S. FLA., 19, 21 (2007), available at <http://www.historymiamiarchives.org/pdfs/Tequesta2007-p19-51.pdf>.

<sup>2</sup> *Id.* at 25.

<sup>3</sup> *Id.* at 30.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 34.

<sup>6</sup> DEP, *Welcome to the John U. Lloyd Beach State Park*, <https://www.floridastateparks.org/park-history/Lloyd-Beach> (last visited Sept. 28, 2015).

John U. Lloyd's efforts in the acquisition of the lands.<sup>7</sup> Today, the park encompasses 310 acres, stretching from the Port Everglades Inlet to Dania Beach.<sup>8</sup>

### **III. Effect of Proposed Changes:**

The bill redesignates the John U. Lloyd Beach State Park as the Eula Johnson State Park.

The bill directs the Department of Environmental Protection to erect suitable markers designating the "Eula Johnson State Park."

This bill takes effect July 1, 2016.

### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The estimated cost to erect the designated markers required under this bill is indeterminate at this time.

### **VI. Technical Deficiencies:**

None.

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<sup>7</sup> Ch. 76-300, Laws of Fla.

<sup>8</sup> *Supra* note 6.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of Florida Law.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

By Senator Smith

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A bill to be entitled  
An act relating to state designations; providing an  
honorary designation of a certain state park in a  
specified county; directing the Department of  
Environmental Protection to erect suitable markers;  
providing an effective date.

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

Section 1. (1) The John U. Lloyd Beach State Park in  
Broward County is redesignated as the "Eula Johnson State Park."

(2) The Department of Environmental Protection is directed  
to erect suitable markers designating the Eula Johnson State  
Park as described in subsection (1).

Section 2. This act shall take effect July 1, 2016.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Children, Families, and Elder Affairs, *Vice-Chair*  
Appropriations  
Appropriations Subcommittee on General Government  
Environmental Preservation and Conservation  
Finance and Tax

### SENATOR THAD ALTMAN

16th District

October 5, 2015

The Honorable Charles Dean  
311 Senate Office Building  
404 South Monroe St.  
Tallahassee, FL 32399-1100

Dear Chair Dean,

The purpose of this letter is to seek your permission to be excused from the scheduled *Environmental Preservation & Conservation Committee* meeting on Wednesday, October 7, 2015. Due to unforeseen circumstances, I will not be able to attend.

Should you have any questions concerning this matter, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman  
District 16

TA/dmw

CC: Cindy Kynoch, Staff Director;  
Alicia Weiss, Committee Administrative Assistant;  
Ann Roberts, Committee Administrative Assistant

#### REPLY TO:

- 8910 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 868-2132
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Rules, *Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Banking and Insurance  
Environmental Preservation and Conservation  
Higher Education  
Judiciary  
Reapportionment

### JOINT COMMITTEE:

Joint Legislative Budget Commission

### SENATOR DAVID SIMMONS

10th District

October 7, 2015

The Honorable Charles Dean  
311 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Senator Dean:

I would like to respectfully request to be excused from the Wednesday, October 7, 2015 meeting of the Environmental Preservation and Conversation Committee. I had a meeting run later than expected.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David Simmons".

David Simmons

#### REPLY TO:

- 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
- 400 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore



The Florida Senate

## Committee Agenda Request

**To:** Senator Dean  
Chair, Committee on Environmental Preservation and Conservation

**Subject:** Committee Agenda Request

September 22, 2015

Dear Senator Dean,

I respectfully request that **Senate Bill 0092**, regarding **Contaminated Sites**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Greg Evers".

---

Senator Greg Evers  
Florida Senate, District 2



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Community Affairs, *Chair*  
Environmental Preservation and Conservation,  
*Vice Chair*  
Appropriations Subcommittee on General Government  
Finance and Tax  
Judiciary  
Transportation

### JOINT COMMITTEE:

Joint Legislative Auditing Committee

### SENATOR WILTON SIMPSON

18th District

August 25, 2015

Chairman Charles S. Dean, Sr.  
Committee on Environmental Preservation and Conservation  
325 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Senator Dean,

Please place Senate Bill 100 relating to the Petroleum Restoration Program, on the next Committee on Environmental Preservation and Conservation agenda.

Please contact my office with any questions. Thank you.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson  
Senator, 18<sup>th</sup> District

CC: Kim Bonn, Staff Director

#### REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

1

10/7/15

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB92

Bill Number (if applicable)

Topic CONTAMINATED SITES

Name FRANK MATTHEWS

Job Title ATTY

Address PO BOX 6526

Street

Phone 850 222 7500

TLH

FLA

32301

City

State

Zip

Email frankm@hgs law.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLA ELECTRIC POWER COORDINATING GROUP

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/7/2015  
Meeting Date

92  
Bill Number (if applicable)

Topic Contaminated Sites

Amendment Barcode (if applicable)

Name Phil Heary

Job Title Lobbyist

Address 240 S Arabella Way

Phone 386/937-7829

St. Johns FL 32259  
City State Zip

Email pleary@energygac.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/7/15  
Meeting Date

SB 92  
Bill Number (if applicable)

Topic contaminated sites

Amendment Barcode (if applicable)

Name Nancy Stewart

Job Title

Address 1535 Killearn Center Blvd

Phone 850-385-7805

Street

Tallahassee

FL

32309

City

State

Zip

Email

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Manufacturers Association of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

2

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 100  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic Petroleum Restoration

Amendment Barcode (if applicable) \_\_\_\_\_

Name Melissa Ramba

Job Title Director of Government Affairs

Address 227 S Adams St

Phone \_\_\_\_\_

Tallahassee FL  
City State Zip

Email Melissa@FRF.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FPM A + FRF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/7/2015  
Meeting Date

100  
Bill Number (if applicable)

Topic Petroleum Restoration

Amendment Barcode (if applicable)

Name Phil Leary

Job Title Lobbyist

Address 240 S Arabella Way

Phone 386/937-7829

St Johns FL 32269  
City State Zip

Email pleary@learygac.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Ground Water Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.