

1                   A bill to be entitled  
2           An act relating to petroleum restoration; amending s.  
3           376.3071, F.S.; requiring limited contamination  
4           assessment reports and Petroleum Cleanup Participation  
5           Program site rehabilitation agreements to include  
6           certain cost savings; removing requirements for  
7           demonstration and determination of financial ability  
8           to comply with certain copayment and assessment report  
9           requirements; amending s. 376.30713, F.S.; requiring  
10          advanced cleanup applications to include certain  
11          agreements for continued program participation and  
12          conceptual proposed courses of actions; removing  
13          provisions prohibiting the refund of certain  
14          contamination assessment report costs from the Inland  
15          Protection Trust Fund; requiring selected agency term  
16          contractors to submit scopes of work for limited  
17          contamination assessments to the Department of  
18          Environmental Protection; directing the department,  
19          upon agreement of such scopes of work, to issue  
20          specified purchase orders; conforming cross-  
21          references; providing an effective date.

22  
23   Be It Enacted by the Legislature of the State of Florida:

24  
25          Section 1. Paragraph (d) of subsection (13) of section

26 | 376.3071, Florida Statutes, is amended to read:

27 |       376.3071 Inland Protection Trust Fund; creation; purposes;  
28 | funding.—

29 |       (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage  
30 | detection, reporting, and cleanup of contamination caused by  
31 | discharges of petroleum or petroleum products, the department  
32 | shall, within the guidelines established in this subsection,  
33 | implement a cost-sharing cleanup program to provide  
34 | rehabilitation funding assistance for all property contaminated  
35 | by discharges of petroleum or petroleum products from a  
36 | petroleum storage system occurring before January 1, 1995,  
37 | subject to a copayment provided for in a Petroleum Cleanup  
38 | Participation Program site rehabilitation agreement. Eligibility  
39 | is subject to an annual appropriation from the fund.

40 | Additionally, funding for eligible sites is contingent upon  
41 | annual appropriation in subsequent years. Such continued state  
42 | funding is not an entitlement or a vested right under this  
43 | subsection. Eligibility shall be determined in the program,  
44 | notwithstanding any other provision of law, consent order,  
45 | order, judgment, or ordinance to the contrary.

46 |       (d) Upon notification by the department that  
47 | rehabilitation funding assistance is available for the site  
48 | pursuant to subsections (5) and (6), the property owner,  
49 | operator, or person otherwise responsible for site  
50 | rehabilitation shall provide the department with a limited

51 | contamination assessment report and shall enter into a Petroleum  
52 | Cleanup Participation Program site rehabilitation agreement with  
53 | the department. The limited contamination assessment report must  
54 | be sufficient to support the proposed course of action and to  
55 | estimate the cost of the proposed course of action. The  
56 | agreement must provide for a 25-percent cost savings and may use  
57 | a copayment by the owner, operator, or person otherwise  
58 | responsible for conducting site rehabilitation or a demonstrated  
59 | cost savings to the department in the form of reduced rates by  
60 | the proposed agency term contractor or the difference in cost  
61 | associated with a Risk Management Options Level I closure versus  
62 | a Risk Management Options Level II conditional closure, or both,  
63 | to meet the requirement. ~~The owner, operator, or person~~  
64 | ~~otherwise responsible for conducting site rehabilitation shall~~  
65 | ~~adequately demonstrate the ability to meet the copayment~~  
66 | ~~obligation. The limited contamination assessment report and the~~  
67 | ~~copayment costs may be reduced or eliminated if the owner and~~  
68 | ~~all operators responsible for restoration under s. 376.308~~  
69 | ~~demonstrate that they cannot financially comply with the~~  
70 | ~~copayment and limited contamination assessment report~~  
71 | ~~requirements. The department shall take into consideration the~~  
72 | ~~owner's and operator's net worth in making the determination of~~  
73 | ~~financial ability. In the event the department and the owner,~~  
74 | ~~operator, or person otherwise responsible for site~~  
75 | ~~rehabilitation cannot complete negotiation of the cost-sharing~~

76 | ~~agreement within 120 days after beginning negotiations, the~~  
77 | ~~department shall terminate negotiations and the site shall be~~  
78 | ~~ineligible for state funding under this subsection and all~~  
79 | ~~liability protections provided for in this subsection shall be~~  
80 | ~~revoked.~~

81 | Section 2. Subsections (2) and (4) of section 376.30713,  
82 | Florida Statutes, are amended to read:

83 | 376.30713 Advanced cleanup.—

84 | (2) The department may approve an application for advanced  
85 | cleanup at eligible sites, including applications submitted  
86 | pursuant to paragraph (d) ~~(e)~~, notwithstanding the site's  
87 | priority ranking established pursuant to s. 376.3071(5)(a),  
88 | pursuant to this section. Only the facility owner or operator or  
89 | the person otherwise responsible for site rehabilitation  
90 | qualifies as an applicant under this section.

91 | (a) Advanced cleanup applications may be submitted between  
92 | May 1 and June 30 and between November 1 and December 31 of each  
93 | fiscal year. Applications submitted between May 1 and June 30  
94 | shall be for the fiscal year beginning July 1. An application  
95 | must consist of:

96 | 1. A commitment to pay 25 percent or more of the total  
97 | cleanup cost deemed recoverable under this section along with  
98 | proof of the ability to pay the cost share. The department shall  
99 | determine whether the cost savings demonstration is acceptable.  
100 | Such determination is not subject to chapter 120.

101 a. Applications for the aggregate cleanup of five or more  
102 sites may be submitted in one of two formats to meet the cost-  
103 share requirement:

104 (I) For an aggregate application proposing that the  
105 department enter into a performance-based contract, the  
106 applicant may use a commitment to pay, a demonstrated cost  
107 savings to the department, or both to meet the requirement.

108 (II) For an aggregate application relying on a  
109 demonstrated cost savings to the department, the applicant  
110 shall, in conjunction with the proposed agency term contractor,  
111 establish and provide in the application the percentage of cost  
112 savings in the aggregate that is being provided to the  
113 department for cleanup of the sites under the application  
114 compared to the cost of cleanup of those same sites using the  
115 current rates provided to the department by the proposed agency  
116 term contractor.

117 b. Applications for the cleanup of individual sites may be  
118 submitted in one of two formats to meet the cost-share  
119 requirement:

120 (I) For an individual application proposing that the  
121 department enter into a performance-based contract, the  
122 applicant may use a commitment to pay, a demonstrated cost  
123 savings to the department, or both to meet the requirement.

124 (II) For an individual application relying on a  
125 demonstrated cost savings to the department, the applicant

126 shall, in conjunction with the proposed agency term contractor,  
127 establish and provide in the application a 25-percent cost  
128 savings to the department for cleanup of the site under the  
129 application compared to the cost of cleanup of the same site  
130 using the current rates provided to the department by the  
131 proposed agency term contractor.

132 2. A nonrefundable review fee of \$250 to cover the  
133 administrative costs associated with the department's review of  
134 the application.

135 3. A property owner or responsible party agreement in  
136 which the property owner or responsible party commits to  
137 continue to participate in the advanced cleanup program upon  
138 completion of the limited contamination assessment and  
139 finalization of the proposed course of action ~~report~~.

140 4. A conceptual proposed course of action.

141 5. A department site access agreement, or similar  
142 agreements approved by the department that do not violate state  
143 law, entered into with the property owner or owners, as  
144 applicable, and evidence of authorization from such owner or  
145 owners for petroleum site rehabilitation program tasks  
146 consistent with the proposed course of action where the  
147 applicant is not the property owner for any of the sites  
148 contained in the application.

149  
150 ~~The limited contamination assessment report must be sufficient~~

151 ~~to support the proposed course of action and to estimate the~~  
152 ~~cost of the proposed course of action. Costs incurred related to~~  
153 ~~conducting the limited contamination assessment report are not~~  
154 ~~refundable from the Inland Protection Trust Fund. Site~~  
155 eligibility under this subsection or any other provision of this  
156 section is not an entitlement to advanced cleanup or continued  
157 restoration funding. The applicant shall certify to the  
158 department that the applicant has the prerequisite authority to  
159 enter into an advanced cleanup contract with the department. The  
160 certification must be submitted with the application.

161 (b) The department shall rank the applications based on  
162 the percentage of cost-sharing commitment proposed by the  
163 applicant, with the highest ranking given to the applicant who  
164 proposes the highest percentage of cost sharing. If the  
165 department receives applications that propose identical cost-  
166 sharing commitments and that exceed the funds available to  
167 commit to all such proposals during the advanced cleanup  
168 application period, the department shall proceed to rerank those  
169 applicants. Those applicants submitting identical cost-sharing  
170 proposals that exceed funding availability must be so notified  
171 by the department and offered the opportunity to raise their  
172 individual cost-share commitments, in a period specified in the  
173 notice. At the close of the period, the department shall proceed  
174 to rerank the applications pursuant to this paragraph.

175 (c) Upon acceptance of an application, the applicant's

176 selected agency term contractor must submit a scope of work for  
177 the limited contamination assessment to the department. Once the  
178 scope of work is negotiated and agreed upon, the department must  
179 issue a purchase order or purchase orders for the limited  
180 contamination assessment in an amount not to exceed \$35,000 per  
181 purchase order. The limited contamination assessment must be  
182 sufficient to support the proposed course of action and to  
183 estimate the cost of the proposed course of action.

184 (d)~~(e)~~ Applications for the advanced cleanup of individual  
185 sites scheduled for redevelopment are not subject to the  
186 application period limitations or the requirement to pay 25  
187 percent of the total cleanup cost specified in paragraph (a) or  
188 to the cost-sharing commitment specified in paragraph (1)(d).  
189 Applications must be accepted on a first-come, first-served  
190 basis and are not subject to the ranking provisions of paragraph  
191 (b). Applications for the advanced cleanup of individual sites  
192 scheduled for redevelopment must include:

193 1. A nonrefundable review fee of \$250 to cover the  
194 administrative costs associated with the department's review of  
195 the application.

196 2. A limited contamination assessment report. The report  
197 must be sufficient to support the proposed course of action and  
198 to estimate the cost of the proposed course of action. Costs  
199 incurred related to conducting and preparing the report are not  
200 refundable from the Inland Protection Trust Fund.



201 3. A proposed course of action for cleanup of the site.

202 4. If the applicant is not the property owner for any of  
 203 the sites contained in the application, a department site access  
 204 agreement, or a similar agreement approved by the department and  
 205 not in violation of state law, entered into with the property  
 206 owner or owners, as applicable, and evidence of authorization  
 207 from such owner or owners for petroleum site rehabilitation  
 208 program tasks consistent with the proposed course of action.

209 5. A certification to the department stating that the  
 210 applicant has the prerequisite authority to enter into an  
 211 advanced cleanup contract with the department. The advanced  
 212 cleanup contract must include redevelopment and site  
 213 rehabilitation milestones.

214 6. Documentation, in the form of a letter from the local  
 215 government having jurisdiction over the area where the site is  
 216 located, which states that the local government is in agreement  
 217 with or approves the proposed redevelopment and that the  
 218 proposed redevelopment complies with applicable law and  
 219 requirements for such redevelopment.

220 7. A demonstrated reasonable assurance that the applicant  
 221 has sufficient financial resources to implement and complete the  
 222 redevelopment project.

223  
 224 Site eligibility under this section is not an entitlement to  
 225 advanced cleanup funding or continued restoration funding.

226 (4) The department may enter into contracts for a total of  
227 up to \$30 million of advanced cleanup work in each fiscal year.  
228 Up to \$5 million of these funds may be designated by the  
229 department for advanced cleanup of individual sites scheduled  
230 for redevelopment under paragraph (2) (d) ~~(2) (e)~~.

231 (a) A facility or an applicant who bundles multiple sites  
232 as specified in subparagraph (2) (a)1. may not be approved for  
233 more than \$5 million of cleanup activity in each fiscal year.

234 (b) A facility or an applicant applying for advanced  
235 cleanup of individual sites scheduled for redevelopment pursuant  
236 to paragraph (2) (d) ~~(2) (e)~~ may not be approved for more than \$1  
237 million of cleanup activity in any one fiscal year.

238 (c) A property owner or responsible party may enter into a  
239 voluntary cost-share agreement in which the property owner or  
240 responsible party commits to bundle multiple sites and lists the  
241 facilities that will be included in those future bundles. The  
242 facilities listed are not subject to agency term contractor  
243 assignment pursuant to department rule. The department must  
244 reserve the right to terminate or amend the voluntary cost-share  
245 agreement for any identified site under the voluntary cost-share  
246 agreement if the property owner or responsible party fails to  
247 submit an application to bundle any site, not already covered by  
248 an advance cleanup contract, under such voluntary cost-share  
249 agreement within three subsequent open application periods or 18  
250 months, whichever period is shorter, during which it is eligible

251 | to participate. The property owner or responsible party must  
252 | agree to conduct limited site assessments on the identified  
253 | sites within 12 months after the execution of the voluntary  
254 | cost-share agreement. For the purposes of this section, the term  
255 | "facility" includes, but is not limited to, multiple site  
256 | facilities such as airports, port facilities, and terminal  
257 | facilities even though such enterprises may be treated as  
258 | separate facilities for other purposes under this chapter.

259 |       Section 3. This act shall take effect July 1, 2020.