

By Senator Albritton

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1                   A bill to be entitled  
2           An act relating to petroleum cleanup; amending s.  
3           376.3071, F.S.; revising requirements for a limited  
4           contamination assessment report in which a property  
5           owner, operator, or person otherwise responsible for  
6           site rehabilitation must provide to the Department of  
7           Environmental Protection for the Petroleum Cleanup  
8           Participation Program; amending s. 376.30713, F.S.;  
9           revising the contents of an advanced cleanup  
10          application to include a specified property owner or  
11          responsible party agreement; requiring an applicant to  
12          submit a scope of work after the department has  
13          accepted the applicant's advanced cleanup application;  
14          requiring the department to issue a purchase order for  
15          a certain contamination assessment; providing an  
16          effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20           Section 1. Paragraph (d) of subsection (13) of section  
21           376.3071, Florida Statutes, is amended to read:

22           376.3071 Inland Protection Trust Fund; creation; purposes;  
23           funding.—

24           (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage  
25           detection, reporting, and cleanup of contamination caused by  
26           discharges of petroleum or petroleum products, the department  
27           shall, within the guidelines established in this subsection,  
28           implement a cost-sharing cleanup program to provide  
29           rehabilitation funding assistance for all property contaminated

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30 by discharges of petroleum or petroleum products from a  
31 petroleum storage system occurring before January 1, 1995,  
32 subject to a copayment provided for in a Petroleum Cleanup  
33 Participation Program site rehabilitation agreement. Eligibility  
34 is subject to an annual appropriation from the fund.  
35 Additionally, funding for eligible sites is contingent upon  
36 annual appropriation in subsequent years. Such continued state  
37 funding is not an entitlement or a vested right under this  
38 subsection. Eligibility shall be determined in the program,  
39 notwithstanding any other provision of law, consent order,  
40 order, judgment, or ordinance to the contrary.

41 (d) Upon notification by the department that rehabilitation  
42 funding assistance is available for the site pursuant to  
43 subsections (5) and (6), the property owner, operator, or person  
44 otherwise responsible for site rehabilitation shall provide the  
45 department with a limited contamination assessment report and  
46 shall enter into a Petroleum Cleanup Participation Program site  
47 rehabilitation agreement with the department. The limited  
48 contamination assessment report must be sufficient to support  
49 the proposed course of action and to estimate the cost of the  
50 proposed course of action. The agreement must provide for a 25-  
51 percent cost savings and may use a copayment by the owner,  
52 operator, or person otherwise responsible for conducting site  
53 rehabilitation or may use a demonstrated cost savings to the  
54 department, in the form of reduced rates by the proposed agency  
55 term contractor or the difference in cost associated with a RMO-  
56 I closure versus an RMO-II closure, or both the copayment and  
57 demonstrated cost savings. ~~The owner, operator, or person~~  
58 ~~otherwise responsible for conducting site rehabilitation shall~~

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59 ~~adequately demonstrate the ability to meet the copayment~~  
60 ~~obligation. The limited contamination assessment report and the~~  
61 ~~copayment costs may be reduced or eliminated if the owner and~~  
62 ~~all operators responsible for restoration under s. 376.308~~  
63 ~~demonstrate that they cannot financially comply with the~~  
64 ~~copayment and limited contamination assessment report~~  
65 ~~requirements. The department shall take into consideration the~~  
66 ~~owner's and operator's net worth in making the determination of~~  
67 ~~financial ability. In the event the department and the owner,~~  
68 ~~operator, or person otherwise responsible for site~~  
69 ~~rehabilitation cannot complete negotiation of the cost sharing~~  
70 ~~agreement within 120 days after beginning negotiations, the~~  
71 ~~department shall terminate negotiations and the site shall be~~  
72 ~~ineligible for state funding under this subsection and all~~  
73 ~~liability protections provided for in this subsection shall be~~  
74 ~~revoked.~~

75 Section 2. Paragraph (a) of subsection (2) of section  
76 376.30713, Florida Statutes, is amended, and paragraph (d) is  
77 added to that subsection, to read:

78 376.30713 Advanced cleanup.—

79 (2) The department may approve an application for advanced  
80 cleanup at eligible sites, including applications submitted  
81 pursuant to paragraph (c), notwithstanding the site's priority  
82 ranking established pursuant to s. 376.3071(5)(a), pursuant to  
83 this section. Only the facility owner or operator or the person  
84 otherwise responsible for site rehabilitation qualifies as an  
85 applicant under this section.

86 (a) Advanced cleanup applications may be submitted between  
87 May 1 and June 30 and between November 1 and December 31 of each

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88 fiscal year. Applications submitted between May 1 and June 30  
89 shall be for the fiscal year beginning July 1. An application  
90 must consist of:

91 1. A commitment to pay 25 percent or more of the total  
92 cleanup cost deemed recoverable under this section along with  
93 proof of the ability to pay the cost share. The department shall  
94 determine whether the cost savings demonstration is acceptable.  
95 Such determination is not subject to chapter 120.

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

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

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

111 b. Applications for the cleanup of individual sites may be  
112 submitted in one of two formats to meet the cost-share  
113 requirement:

114 (I) For an individual application proposing that the  
115 department enter into a performance-based contract, the  
116 applicant may use a commitment to pay, a demonstrated cost

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117 savings to the department, or both to meet the requirement.

118 (II) For an individual application relying on a  
119 demonstrated cost savings to the department, the applicant  
120 shall, in conjunction with the proposed agency term contractor,  
121 establish and provide in the application a 25-percent cost  
122 savings to the department for cleanup of the site under the  
123 application compared to the cost of cleanup of the same site  
124 using the current rates provided to the department by the  
125 proposed agency term contractor.

126 2. A nonrefundable review fee of \$250 to cover the  
127 administrative costs associated with the department's review of  
128 the application.

129 3. A property owner or responsible party agreement in which  
130 the property owner or responsible party commits to continue to  
131 participate in the advanced cleanup program upon completion of  
132 the limited contamination assessment and finalization of the  
133 proposed course of action ~~limited contamination assessment~~  
134 ~~report.~~

135 4. A conceptual proposed course of action.

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

144  
145 ~~The limited contamination assessment report must be sufficient~~

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

156 (d) Upon acceptance of an advanced cleanup application, the  
157 applicant's selected agency term contractor shall submit to the  
158 department a scope of work for a limited contamination  
159 assessment. Once the scope of work is negotiated and agreed  
160 upon, the department shall issue a purchase order or purchase  
161 orders for the limited contamination assessment of up to \$35,000  
162 per purchase order. The limited contamination assessment report  
163 must be sufficient to support the proposed course of action and  
164 to estimate the cost of the proposed course of action.

165 Section 3. This act shall take effect July 1, 2019.