

By Senator Dockery

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A bill to be entitled

An act relating to petroleum cleanup; amending
s. 376.30713, F.S.; eliminating obsolete
provisions that require the Department of
Environmental Protection to report on
preapproved advanced cleanup projects;
providing an effective date.

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

Section 1. Section 376.30713, Florida Statutes, is
amended to read:

376.30713 Preapproved advanced cleanup.--

(1) In addition to the legislative findings provided
in s. 376.30711, the Legislature finds and declares:

(a) That the inability to conduct site rehabilitation
in advance of a site's priority ranking pursuant to s.
376.3071(5)(a) may substantially impede or prohibit property
transactions or the proper completion of public works
projects.

(b) While the first priority of the state is to
provide for protection of the water resources of the state,
human health, and the environment, the viability of commerce
is of equal importance to the state.

(c) It is in the public interest and of substantial
economic benefit to the state to provide an opportunity for
site rehabilitation to be conducted on a limited basis at
contaminated sites, in advance of the site's priority ranking,
to facilitate property transactions or public works projects.

(d) It is appropriate for persons responsible for site
rehabilitation to share the costs associated with managing and

1 | conducting preapproved advanced cleanup, to facilitate the
2 | opportunity for preapproved advanced cleanup, and to mitigate
3 | the additional costs that will be incurred by the state in
4 | conducting site rehabilitation in advance of the site's
5 | priority ranking. Such cost sharing will result in more
6 | contaminated sites being cleaned up and greater environmental
7 | benefits to the state. The provisions of this section shall
8 | only be available for sites eligible for restoration funding
9 | under EDI, ATRP, or PLIRP. This section is available for
10 | discharges eligible for restoration funding under the
11 | petroleum cleanup participation program for the state's cost
12 | share of site rehabilitation. Applications shall include a
13 | cost-sharing commitment for this section in addition to the
14 | 25-percent-copayment requirement of the petroleum cleanup
15 | participation program. This section is not available for any
16 | discharge under a petroleum cleanup participation program
17 | where the 25-percent-copayment requirement of the petroleum
18 | cleanup participation program has been reduced or eliminated
19 | pursuant to s. 376.3071(13)(c).

20 | (2) The department is authorized to approve an
21 | application for preapproved advanced cleanup at eligible
22 | sites, prior to funding based on the site's priority ranking
23 | established pursuant to s. 376.3071(5)(a), in accordance with
24 | the provisions of this section. Persons who qualify as an
25 | applicant under the provisions of this section shall only
26 | include the facility owner or operator or the person otherwise
27 | responsible for site rehabilitation.

28 | (a) Preapproved advanced cleanup applications may be
29 | submitted between May 1 and June 30 and between November 1 and
30 | December 31 of each fiscal year. Applications submitted
31 |

1 between May 1 and June 30 shall be for the fiscal year
2 beginning July 1. An application shall consist of:

3 1. A commitment to pay no less than 25 percent of the
4 total cleanup cost deemed recoverable under the provisions of
5 this section along with proof of the ability to pay the cost
6 share.

7 2. A nonrefundable review fee of \$250 to cover the
8 administrative costs associated with the department's review
9 of the application.

10 3. A limited contamination assessment report.

11 4. A proposed course of action.

12

13 The limited contamination assessment report shall be
14 sufficient to support the proposed course of action and to
15 estimate the cost of the proposed course of action. Any costs
16 incurred related to conducting the limited contamination
17 assessment report are not refundable from the Inland
18 Protection Trust Fund. Site eligibility under this subsection,
19 or any other provision of this section, shall not constitute
20 an entitlement to preapproved advanced cleanup or continued
21 restoration funding. The applicant shall certify to the
22 department that the applicant has the prerequisite authority
23 to enter into a preapproved advanced cleanup contract with the
24 department. This certification shall be submitted with the
25 application.

26 (b) The department shall rank the applications based
27 on the percentage of cost-sharing commitment proposed by the
28 applicant, with the highest ranking given to the applicant
29 that proposes the highest percentage of cost sharing. If the
30 department receives applications that propose identical
31 cost-sharing commitments and which exceed the funds available

1 | to commit to all such proposals during the preapproved
2 | advanced cleanup application period, the department shall
3 | proceed to rerank those applicants. Those applicants
4 | submitting identical cost-sharing proposals which exceed
5 | funding availability shall be so notified by the department
6 | and shall be offered the opportunity to raise their individual
7 | cost-share commitments, in a period of time specified in the
8 | notice. At the close of the period, the department shall
9 | proceed to rerank the applications in accordance with this
10 | paragraph.

11 | (3)(a) Based on the ranking established under
12 | paragraph (2)(b) and the funding limitations provided in
13 | subsection (4), the department shall commence negotiation with
14 | such applicants. If the department and the applicant agree on
15 | the course of action, the department may enter into a contract
16 | with the applicant. The department is authorized to negotiate
17 | the terms and conditions of the contract.

18 | (b) Preapproved advanced cleanup shall be conducted
19 | under the provisions of ss. 376.3071(5)(b) and 376.30711. If
20 | the terms of the preapproved advanced cleanup contract are not
21 | fulfilled, the applicant forfeits any right to future payment
22 | for any site rehabilitation work conducted under the contract.

23 | (c) The department's decision not to enter into a
24 | preapproved advanced cleanup contract with the applicant shall
25 | not be subject to the provisions of chapter 120. If the
26 | department is not able to complete negotiation of the course
27 | of action and the terms of the contract within 60 days after
28 | commencing negotiations, the department shall terminate
29 | negotiations with that applicant.

30 | (4) The department is authorized to enter into
31 | contract for a total of up to \$10 million of preapproved

1 advanced cleanup work in each fiscal year. However, no
2 facility shall be preapproved for more than \$500,000 of
3 cleanup activity in each fiscal year. For the purposes of
4 this section the term "facility" shall include, but not be
5 limited to, multiple site facilities such as airports, port
6 facilities, and terminal facilities even though such
7 enterprises may be treated as separate facilities for other
8 purposes under this chapter.

9 ~~(5) By December 31, 1998, the department shall submit~~
10 ~~a report to the Governor, the President of the Senate, and the~~
11 ~~Speaker of the House of Representatives on the progress and~~
12 ~~level of activity under the provisions of this section. The~~
13 ~~report shall include the following information:~~

14 ~~(a) A list of sites under a preapproved advanced~~
15 ~~cleanup contract, to be identified by the facility number.~~

16 ~~(b) The total number of preapproved advanced cleanup~~
17 ~~applications submitted to the department.~~

18 ~~(c) The priority ranking scores of each participating~~
19 ~~site.~~

20 ~~(d) The total amount of contract work authorized and~~
21 ~~conducted for each site and the percentage and amount of cost~~
22 ~~share.~~

23 ~~(e) The total revenues received under the provisions~~
24 ~~of this section.~~

25 ~~(f) The annual costs of administering the provisions~~
26 ~~of this section.~~

27 ~~(g) The recommended annual budget for the provisions~~
28 ~~of this section.~~

29 (5)(6) All funds collected by the department pursuant
30 to this section shall be deposited into the Inland Protection
31 Trust Fund to be used as provided in this section.

