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1 A bill to be entitled

2 An act relating to petroleum contamination site cleanup;  
3 amending s. 376.3071, F.S.; revising provisions relating  
4 to petroleum contamination site selection and cleanup  
5 criteria; deleting obsolete provisions relating to funding  
6 for limited interim soil-source removals; requiring the  
7 Department of Environmental Protection to utilize natural  
8 attenuation monitoring strategies to transition sites into  
9 long-term natural attenuation monitoring under specified  
10 conditions; providing for natural attenuation and active  
11 remediation of sites; requiring the department to evaluate  
12 certain costs and strategies; prohibiting local  
13 governments from denying development orders and permits on  
14 the grounds that a property is contaminated; providing an  
15 exception; establishing a low-scored site initiative;  
16 providing conditions for participation; requiring the  
17 department to issue certain determinations and orders;  
18 providing that certain sites are eligible for payment of  
19 preapproved costs; requiring assessment work to be  
20 completed within a certain timeframe; providing payment  
21 and funding limitations; deleting provisions relating to  
22 nonreimbursable voluntary cleanup; providing an effective  
23 date.

24  
25 Be It Enacted by the Legislature of the State of Florida:  
26

27 Section 1. Paragraph (c) of subsection (5) and paragraph  
 28 (b) of subsection (11) of section 376.3071, Florida Statutes,  
 29 are amended to read:

30 376.3071 Inland Protection Trust Fund; creation; purposes;  
 31 funding.—

32 (5) SITE SELECTION AND CLEANUP CRITERIA.—

33 (c) The department shall require source removal, if  
 34 warranted and cost-effective, at each site eligible for  
 35 restoration funding from the Inland Protection Trust Fund.

36 1. Funding for free product recovery may be provided in  
 37 advance of the order established by the priority ranking system  
 38 under paragraph (a) for site cleanup activities. However, a  
 39 separate prioritization for free product recovery shall be  
 40 established consistent with paragraph (a). No more than \$5  
 41 million shall be encumbered from the Inland Protection Trust  
 42 Fund in any fiscal year for free product recovery conducted in  
 43 advance of the priority order under paragraph (a) established  
 44 for site cleanup activities.

45 ~~2. Funding for limited interim soil source removals for~~  
 46 ~~sites that will become inaccessible for future remediation due~~  
 47 ~~to road infrastructure and right-of-way restrictions resulting~~  
 48 ~~from a pending Department of Transportation road construction~~  
 49 ~~project or for secondary containment upgrading of underground~~  
 50 ~~storage tanks required under chapter 62-761, Florida~~  
 51 ~~Administrative Code, may be provided in advance of the order~~  
 52 ~~established by the priority ranking system under paragraph (a)~~  
 53 ~~for site cleanup activities. The department shall provide~~  
 54 ~~written guidance on the limited source removal information and~~

55 ~~technical evaluation necessary to justify a request for a~~  
56 ~~limited source removal in advance of the priority order pursuant~~  
57 ~~to paragraph (a) established for site cleanup activities.~~  
58 ~~Prioritization for limited source removal projects associated~~  
59 ~~with a secondary containment upgrade in any fiscal year shall be~~  
60 ~~determined on a first-come, first-served basis according to the~~  
61 ~~approval date issued under s. 376.30711 for the limited source~~  
62 ~~removal. Funding for limited source removals associated with~~  
63 ~~secondary containment upgrades shall be limited to 10 sites in~~  
64 ~~each fiscal year for each facility owner and any related person.~~  
65 ~~The limited source removal for secondary containment upgrades~~  
66 ~~shall be completed no later than 6 months after the department~~  
67 ~~issues its approval of the project, and the approval~~  
68 ~~automatically expires at the end of the 6 months. Funding for~~  
69 ~~Department of Transportation and secondary containment upgrade~~  
70 ~~source removals may not exceed \$50,000 for a single facility~~  
71 ~~unless the department makes a determination that it is cost-~~  
72 ~~effective and environmentally beneficial to exceed this amount,~~  
73 ~~but in no event shall the department authorize costs in excess~~  
74 ~~of \$100,000 for a single facility. Department funding for~~  
75 ~~limited interim soil-source removals associated with Department~~  
76 ~~of Transportation projects and secondary containment upgrades~~  
77 ~~shall be limited to supplemental soil assessment, soil~~  
78 ~~screening, soil removal, backfill material, treatment or~~  
79 ~~disposal of the contaminated soil, dewatering related to the~~  
80 ~~contaminated soil removal in an amount of up to 10 percent of~~  
81 ~~the total interim soil-source removal project costs, treatment,~~  
82 ~~and disposal of the contaminated groundwater and preparation of~~

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83 ~~the source removal report. No other costs associated with the~~  
84 ~~facility upgrade may be paid with department funds. No more than~~  
85 ~~\$1 million for Department of Transportation limited source~~  
86 ~~removal projects and \$10 million for secondary containment~~  
87 ~~upgrade limited source removal projects conducted in advance of~~  
88 ~~the priority order established under paragraph (a) for site~~  
89 ~~cleanup activities shall be encumbered from the Inland~~  
90 ~~Protection Trust Fund in any fiscal year. This subparagraph is~~  
91 ~~repealed effective June 30, 2010.~~

92 ~~2.3.~~ Once free product removal and other source removal  
93 identified in this paragraph are completed at a site, and  
94 notwithstanding the order established by the priority ranking  
95 system under paragraph (a) for site cleanup activities, the  
96 department may reevaluate the site to determine the degree of  
97 active cleanup needed to continue site rehabilitation. Further,  
98 the department shall determine if the reevaluated site qualifies  
99 for natural attenuation monitoring, long-term natural  
100 attenuation monitoring, or no further action. If additional site  
101 rehabilitation is necessary to reach no further action status,  
102 the site rehabilitation shall be conducted in the order  
103 established by the priority ranking system under paragraph (a).  
104 ~~and~~ The department shall ~~is encouraged to~~ utilize natural  
105 attenuation ~~and~~ monitoring strategies and, when cost-effective,  
106 transition sites eligible for restoration funding assistance to  
107 long-term natural attenuation monitoring where the plume is  
108 shrinking or stable and confined to the source property  
109 boundaries and the petroleum products' chemicals of concern meet  
110 the natural attenuation default concentrations, as defined by

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111 department rule. If the plume migrates beyond the source  
112 property boundaries, natural attenuation monitoring may be  
113 conducted in accordance with department rule, or if the site no  
114 longer qualifies for natural attenuation monitoring, active  
115 remediation may be resumed. If the petroleum products' chemicals  
116 of concern increase or are not significantly reduced after 42  
117 months of monitoring, active remediation shall be resumed as  
118 necessary. For sites undergoing active remediation, the  
119 department shall evaluate the cost of natural attenuation  
120 monitoring pursuant to s. 376.30711 to ensure that site  
121 mobilizations are performed in a cost-effective manner. Sites  
122 that are not eligible for state restoration funding may  
123 transition to long-term natural attenuation monitoring using the  
124 criteria in this subparagraph. Nothing in this subparagraph  
125 precludes a site from pursuing a "No Further Action" order with  
126 conditions ~~where site conditions warrant.~~

127 3. The department shall evaluate whether higher natural  
128 attenuation default concentrations for natural attenuation  
129 monitoring or long-term natural attenuation monitoring are cost-  
130 effective and would adequately protect public health and the  
131 environment. The department shall also evaluate site-specific  
132 characteristics that would allow for higher natural attenuation  
133 or long-term natural attenuation concentration levels.

134 4. Unless institutional controls have been imposed by the  
135 responsible party or property owner to restrict the uses of the  
136 site, a local government may not deny a development order or  
137 other permit on the grounds that petroleum contamination exists  
138 onsite.

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139 (11)

140 (b) Low-scored site initiative ~~Nonreimbursable voluntary~~  
141 ~~cleanup.~~ Notwithstanding s. 376.30711, any site ~~For sites with~~  
142 ~~releases reported prior to January 1, 1995, the department shall~~  
143 ~~issue a determination of "No Further Action" at sites ranked~~  
144 ~~with a total priority ranking score of 10 points or less may~~  
145 voluntarily participate in the low-scored site initiative,  
146 whether or not the site is eligible for state restoration  
147 funding.

148 1. To participate in the low-scored site initiative, the  
149 responsible party or property owner must affirmatively  
150 demonstrate that, ~~which meet~~ the following conditions are met:

151 a.1. Upon reassessment pursuant to department rule, the  
152 site retains a priority ranking score of 10 points or less ~~No~~  
153 ~~free product exists in wells, boreholes, subsurface utility~~  
154 ~~conduits, or vaults or buildings and no other fire or explosion~~  
155 ~~hazard exists as a result of a release of petroleum products.~~

156 b.2. No excessively contaminated soil, as defined by  
157 department rule, exists onsite as a result of a release of  
158 petroleum products.

159 c.3. A minimum of 6 months of groundwater monitoring  
160 indicates that the plume is shrinking or stable ~~Public supply~~  
161 ~~wells for consumptive use of water expected to be affected by~~  
162 ~~the site shall not be located within a 1/2-mile radius of the~~  
163 ~~site; private supply wells for consumptive use of water expected~~  
164 ~~to be affected by the site shall not be located within a 1/4-~~  
165 ~~mile radius of the site; and there must be no current or~~  
166 ~~projected consumptive use of the water affected by the site for~~

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167 ~~at least the following 3 years. Where appropriate, institutional~~  
168 ~~controls meeting the requirements of subparagraph (5)(b)4. may~~  
169 ~~be required by the department to meet these criteria.~~

170 ~~d.4.~~ The release of petroleum products at the site does  
171 ~~shall~~ not adversely affect adjacent surface waters, including  
172 their effects on human health and the environment.

173 ~~e.5.~~ The area of groundwater containing the petroleum  
174 products' chemicals of concern ~~in concentrations greater than~~  
175 ~~the boundary values defined in subparagraph 7.~~ is less than one-  
176 quarter acre and is confined to the source property boundaries  
177 of the real property on which the discharge originated.

178 ~~f.6.~~ Soils onsite that are subject to human exposure found  
179 between land surface and 2 feet below land surface ~~shall~~ meet  
180 the soil cleanup target levels ~~criteria~~ established by  
181 department rule or human exposure is limited by ~~pursuant to sub-~~  
182 ~~subparagraph (5)(b)9.a. Where appropriate,~~ institutional or  
183 engineering controls ~~meeting the requirements of subparagraph~~  
184 ~~(5)(b)4. may be required by the department to meet these~~  
185 ~~criteria.~~

186 2. Upon affirmative demonstration of the conditions under  
187 subparagraph 1., the department shall issue a determination of  
188 "No Further Action." Such determination acknowledges that  
189 minimal contamination exists onsite and that such contamination  
190 is not a threat to human health or the environment. If no  
191 contamination is detected, the department may issue a site  
192 rehabilitation completion order.

193 3. Sites that are eligible for state restoration funding  
194 may receive payment of preapproved costs for the low-scored site

195 initiative as follows:

196 a. A responsible party or property owner may submit an  
197 assessment plan designed to affirmatively demonstrate that the  
198 site meets the conditions under subparagraph 1. Notwithstanding  
199 the priority ranking score of the site, the department may  
200 preapprove the cost of the assessment pursuant to s. 376.30711,  
201 including 6 months of groundwater monitoring, not to exceed  
202 \$30,000 for each site. The department may not pay the costs  
203 associated with the establishment of institutional or  
204 engineering controls.

205 b. The assessment work shall be completed no later than 6  
206 months after the department issues its approval.

207 c. No more than \$10 million for the low-scored site  
208 initiative shall be encumbered from the Inland Protection Trust  
209 Fund in any fiscal year. Funds shall be made available on a  
210 first-come, first-served basis and shall be limited to 10 sites  
211 in each fiscal year for each responsible party or property  
212 owner.

213 ~~7. Concentrations of the petroleum products' chemicals of~~  
214 ~~concern in groundwater at the property boundary of the real~~  
215 ~~property on which the petroleum contamination originates shall~~  
216 ~~not exceed the criteria established pursuant to sub-subparagraph~~  
217 ~~(5)(b)7.a. Where appropriate, institutional or engineering~~  
218 ~~controls meeting the requirements of subparagraph (5)(b)4. may~~  
219 ~~be required by the department to meet these criteria.~~

220 ~~8. The department is authorized to establish alternate~~  
221 ~~cleanup target levels for onsite nonboundary wells pursuant to~~  
222 ~~the criteria in subparagraph (5)(b)8.~~



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223           ~~9. A scientific evaluation that demonstrates that the~~  
224 ~~boundary criteria in subparagraph 7. will not be exceeded and a~~  
225 ~~1-year site-specific groundwater monitoring plan approved in~~  
226 ~~advance by the department validates the scientific evaluation.~~  
227 ~~If the boundary criteria in subparagraph 7. are exceeded at any~~  
228 ~~time, the department may order an extension of the monitoring~~  
229 ~~period for up to 12 additional months from the time of the~~  
230 ~~excess reading. The department shall determine the adequacy of~~  
231 ~~the groundwater monitoring system at a site. All wells required~~  
232 ~~by the department pursuant to this paragraph shall be installed~~  
233 ~~before the monitoring period begins.~~

234           ~~10. Costs associated with activities performed pursuant to~~  
235 ~~this paragraph for sites which qualify for a determination of~~  
236 ~~"No Further Action" under this paragraph shall not be~~  
237 ~~reimbursable from the Inland Protection Trust Fund.~~

238           Section 2. This act shall take effect July 1, 2010.