

1                                   A bill to be entitled  
2           An act relating to the Petroleum Restoration Program;  
3           amending s. 376.3071, F.S.; renaming the low-score  
4           site initiative as the low-risk site initiative;  
5           requiring that responsible parties provide evidence of  
6           authorization from property owners to conduct site  
7           rehabilitation; requiring that responsible parties and  
8           property owners submit certain proposals for voluntary  
9           participation in the low-risk site initiative;  
10          increasing the total amount of costs that the  
11          department may approve for each site; authorizing the  
12          department to approve certain assessment, remediation,  
13          survey, and report costs; requiring that the  
14          department procure certain contractual services for  
15          completion of certain work; extending the period for  
16          completion of assessment and limited remediation work;  
17          providing an additional extension for certain  
18          groundwater monitoring; increasing the amount of funds  
19          that may be encumbered from the Inland Protection  
20          Trust Fund for the low-risk site initiative in any  
21          fiscal year; requiring that the department issue a  
22          site rehabilitation completion order that incorporates  
23          proposals for no further action upon demonstration  
24          that certain conditions have been met; providing that  
25          certain discharges do not alter eligibility for state-  
26          funded rehabilitation; amending s. 376.30713, F.S.;

27 | reducing the number of sites necessary to meet the  
 28 | eligibility requirement for an advanced cleanup  
 29 | application; requiring that certain applicants provide  
 30 | evidence of authorization from property owners for  
 31 | site access and rehabilitation program tasks as part  
 32 | of an advanced cleanup application; increasing the  
 33 | total amount for which the department may contract for  
 34 | advanced cleanup work in a fiscal year; providing an  
 35 | effective date.

36 |  
 37 | Be It Enacted by the Legislature of the State of Florida:  
 38 |

39 | Section 1. Paragraph (b) of subsection (12) of section  
 40 | 376.3071, Florida Statutes, is amended, and paragraph (c) is  
 41 | added to that subsection, to read:

42 | 376.3071 Inland Protection Trust Fund; creation; purposes;  
 43 | funding.—

44 | (12) SITE CLEANUP.—

45 | (b) Low-risk ~~Low-scored~~ site initiative.—Notwithstanding  
 46 | subsections (5) and (6), a site ~~with a priority ranking score of~~  
 47 | ~~29 points or less~~ may voluntarily participate in the low-risk  
 48 | ~~low-scored~~ site initiative regardless of whether the site is  
 49 | eligible for state restoration funding.

50 | 1. To participate in the low-risk ~~low-scored~~ site  
 51 | initiative, the ~~responsible party or~~ property owner or the  
 52 | responsible party that provides evidence of authorization from

53 the property owner must submit a "No Further Action" proposal  
54 and must affirmatively demonstrate that the ~~following~~ conditions  
55 of paragraph (c) are met:

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

58 b. ~~Excessively contaminated soil, as defined by department~~  
59 ~~rule, does not exist onsite as a result of a release of~~  
60 ~~petroleum products.~~

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

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

66 e. ~~The area of groundwater containing the petroleum~~  
67 ~~products' chemicals of concern is less than one quarter acre and~~  
68 ~~is confined to the source property boundaries of the real~~  
69 ~~property on which the discharge originated.~~

70 f. ~~Soils onsite that are subject to human exposure found~~  
71 ~~between land surface and 2 feet below land surface meet the soil~~  
72 ~~cleanup target levels established by department rule or human~~  
73 ~~exposure is limited by appropriate institutional or engineering~~  
74 ~~controls.~~

75 2. Upon affirmative demonstration that ~~of~~ the conditions  
76 of paragraph (c) are met ~~under subparagraph 1.~~, the department  
77 shall issue a site rehabilitation completion order incorporating  
78 the determination of "No Further Action." proposal submitted by

79 the property owner or the responsible party that provides  
80 evidence of authorization from the property owner ~~Such~~  
81 ~~determination acknowledges that minimal contamination exists~~  
82 ~~onsite and that such contamination is not a threat to the public~~  
83 ~~health, safety, or welfare, water resources, or the environment.~~  
84 If no contamination is detected, the department may issue a site  
85 rehabilitation completion order.

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

89 a. A ~~responsible party or~~ property owner or a responsible  
90 party that provides evidence of authorization from the property  
91 owner may submit an assessment and limited remediation plan  
92 designed to affirmatively demonstrate that the site meets the  
93 conditions of paragraph (c) ~~under subparagraph 1.~~  
94 Notwithstanding the priority ranking score of the site, the  
95 department may approve the cost of the assessment and limited  
96 remediation, including up to 6 months of groundwater monitoring,  
97 in one or more task assignments or modifications thereof, not to  
98 exceed the threshold amount provided in s. 287.017 for CATEGORY  
99 TWO, \$30,000 for each site where the department has determined  
100 that the assessment and limited remediation, if applicable, will  
101 likely result in a determination of no further action. The  
102 department may not pay the costs associated with the  
103 establishment of institutional or engineering controls, with the  
104 exception of the costs associated with a professional land

105 survey or specific purpose survey, if needed, and costs  
 106 associated with obtaining a title report and recording fees.

107 b. To ensure that work conducted pursuant to this  
 108 paragraph is completed in a cost-effective manner, the  
 109 department shall procure such contractual services pursuant to  
 110 chapter 287 and applicable department rules.

111 ~~c.b.~~ The assessment and limited remediation work must  
 112 ~~shall~~ be completed no later than 9 ~~6~~ months after the department  
 113 authorizes the start of a state-funded low-risk site initiative  
 114 task ~~issues its approval~~. If groundwater monitoring is required  
 115 after the assessment and limited remediation to satisfy the  
 116 conditions of paragraph (c), the department may authorize an  
 117 additional 6 months to complete the monitoring.

118 ~~d.e.~~ No more than \$15 ~~\$10~~ million for the low-risk ~~low-~~  
 119 ~~secured~~ site initiative may be encumbered from the fund in any  
 120 fiscal year. Funds shall be made available on a first-come,  
 121 first-served basis and shall be limited to 10 sites in each  
 122 fiscal year for each ~~responsible party or~~ property owner or each  
 123 responsible party that provides evidence of authorization from  
 124 the property owner.

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

128 (c) The department shall issue a site rehabilitation  
 129 completion order incorporating the "No Further Action" proposal  
 130 submitted by a property owner or a responsible party that

131 provides evidence of authorization from the property owner upon  
132 affirmative demonstration that the following conditions are met:

133 1. Soil saturated with petroleum or petroleum products or  
134 soil that causes a total corrected hydrocarbon measurement of  
135 500 parts per million or higher for Gasoline Analytical Group or  
136 50 parts per million or higher for Kerosene Analytical Group, as  
137 defined by department rule, does not exist onsite as a result of  
138 a release of petroleum products.

139 2. A minimum of 6 months of groundwater monitoring  
140 indicates that the plume is shrinking or stable.

141 3. The release of petroleum products at the site does not  
142 adversely affect adjacent surface waters, including their  
143 effects on human health and the environment.

144 4. The area of groundwater containing the petroleum  
145 products' chemicals of concern is confined to the source  
146 property boundaries of the real property on which the discharge  
147 originated or has migrated from the source property only to a  
148 transportation facility of the Department of Transportation.

149 5. The groundwater contamination containing the petroleum  
150 products' chemicals of concern is not a threat to any permitted  
151 potable water supply well.

152 6. Soils onsite that are subject to human exposure found  
153 between land surface and 2 feet below land surface meet the soil  
154 cleanup target levels established pursuant to s.  
155 376.3071(5)(b)9., or human exposure is limited by appropriate  
156 institutional or engineering controls.

157  
158 Issuance of a site rehabilitation completion order under this  
159 paragraph acknowledges that minimal contamination exists onsite  
160 and that such contamination is not a threat to the public  
161 health, safety, or welfare, water resources, or the environment.  
162 If the department determines that a discharge for which a site  
163 rehabilitation completion order was issued pursuant to this  
164 subsection may pose a threat to the public health, safety, or  
165 welfare, water resources, or the environment, the issuance of  
166 the site rehabilitation completion order does not alter  
167 eligibility for state-funded rehabilitation that would otherwise  
168 be applicable under this section.

169 Section 2. Subsections (2) and (4) of section 376.30713,  
170 Florida Statutes, are amended to read:

171 376.30713 Advanced cleanup.—

172 (2) The department may approve an application for advanced  
173 cleanup at eligible sites, ~~before funding based on the site's~~  
174 ~~priority ranking established pursuant to s. 376.3071(5)(a),~~  
175 pursuant to this section. Only the facility owner or operator or  
176 the person otherwise responsible for site rehabilitation  
177 qualifies as an applicant under this section.

178 (a) Advanced cleanup applications may be submitted between  
179 May 1 and June 30 and between November 1 and December 31 of each  
180 fiscal year. Applications submitted between May 1 and June 30  
181 shall be for the fiscal year beginning July 1. An application  
182 must consist of:

183           1. A commitment to pay 25 percent or more of the total  
 184 cleanup cost deemed recoverable under this section along with  
 185 proof of the ability to pay the cost share. An application  
 186 proposing that the department enter into a performance-based  
 187 contract for the cleanup of 10 ~~20~~ or more sites may use a  
 188 commitment to pay, a demonstrated cost savings to the  
 189 department, or both to meet the cost-share requirement. For an  
 190 application relying on a demonstrated cost savings to the  
 191 department, the applicant shall, in conjunction with the  
 192 proposed agency ~~term~~ contractor, establish and provide in the  
 193 application the percentage of cost savings in the aggregate that  
 194 is being provided to the department for cleanup of the sites  
 195 under the application compared to the cost of cleanup of those  
 196 same sites using the current rates provided to the department by  
 197 the proposed agency ~~term~~ contractor. The department shall  
 198 determine whether the cost savings demonstration is acceptable.  
 199 Such determination is not subject to chapter 120.

200           2. A nonrefundable review fee of \$250 to cover the  
 201 administrative costs associated with the department's review of  
 202 the application.

203           3. A limited contamination assessment report.

204           4. A proposed course of action.

205           5. If the applicant is not the property owner for any of  
 206 the sites contained in the application, evidence of  
 207 authorization from the property owners for site access and  
 208 petroleum site rehabilitation program tasks consistent with the



209 proposed course of action.

210

211 The limited contamination assessment report must be sufficient  
212 to support the proposed course of action and to estimate the  
213 cost of the proposed course of action. Costs incurred related to  
214 conducting the limited contamination assessment report are not  
215 refundable from the Inland Protection Trust Fund. Site  
216 eligibility under this subsection or any other provision of this  
217 section is not an entitlement to advanced cleanup or continued  
218 restoration funding. The applicant shall certify to the  
219 department that the applicant has the prerequisite authority to  
220 enter into an advanced cleanup contract with the department. The  
221 certification must be submitted with the application.

222 (b) The department shall rank the applications based on  
223 the percentage of cost-sharing commitment proposed by the  
224 applicant, with the highest ranking given to the applicant who  
225 proposes the highest percentage of cost sharing. If the  
226 department receives applications that propose identical cost-  
227 sharing commitments and that exceed the funds available to  
228 commit to all such proposals during the advanced cleanup  
229 application period, the department shall proceed to rerank those  
230 applicants. Those applicants submitting identical cost-sharing  
231 proposals that exceed funding availability must be so notified  
232 by the department and offered the opportunity to raise their  
233 individual cost-share commitments, in a period specified in the  
234 notice. At the close of the period, the department shall proceed

235 | to rerank the applications pursuant to this paragraph.

236 |       (4) The department may enter into contracts for a total of  
237 | up to \$25 ~~\$15~~ million of advanced cleanup work in each fiscal  
238 | year. However, a facility or an applicant who bundles multiple  
239 | sites as specified in subparagraph (2)(a)1. may not be approved  
240 | for more than \$5 million of cleanup activity in each fiscal  
241 | year. For the purposes of this section, the term "facility"  
242 | includes, but is not limited to, multiple site facilities such  
243 | as airports, port facilities, and terminal facilities even  
244 | though such enterprises may be treated as separate facilities  
245 | for other purposes under this chapter.

246 |       Section 3. This act shall take effect July 1, 2015.