

1                   A bill to be entitled  
2           An act relating to environmental contamination;  
3           amending s. 376.3071, F.S.; providing legislative  
4           findings, declarations, and intent; authorizing the  
5           Department of Environmental Protection to use funds  
6           from the Inland Protection Trust Fund to pay for  
7           specified activities related to removal and  
8           replacement of petroleum storage systems and to pay  
9           the Department of Transportation for repairing damages  
10          caused by discharges from certain facilities;  
11          providing applicability; requiring limited  
12          contamination assessment reports and Petroleum Cleanup  
13          Participation Program site rehabilitation agreements  
14          to include certain cost savings; removing requirements  
15          for demonstration and determination of financial  
16          ability to comply with certain copayment and  
17          assessment report requirements; providing for  
18          petroleum storage system repair or replacement due to  
19          damage caused by ethanol or biodiesel and for  
20          preventive measures to reduce the potential for such  
21          damage; providing requirements for requesting and  
22          receiving payments for such repair, replacement, and  
23          measures; providing construction; prohibiting payments  
24          for certain costs; limiting the payment amount a  
25          petroleum storage system owner or operator is eligible

26 | to receive annually; requiring the department, after a  
27 | specified date, to only register storage system  
28 | equipment that meets certain fuel standards; amending  
29 | s. 376.30713, F.S.; requiring advanced cleanup  
30 | applications to include certain agreements for  
31 | continued program participation and conceptual  
32 | proposed courses of action; removing provisions  
33 | prohibiting the refund of certain contamination  
34 | assessment report costs from the Inland Protection  
35 | Trust Fund; requiring selected agency term contractors  
36 | to submit scopes of work for limited contamination  
37 | assessments to the Department of Environmental  
38 | Protection; directing the department, upon agreement  
39 | of such scopes of work, to issue specified purchase  
40 | orders; conforming cross-references; amending s.  
41 | 376.313, F.S.; specifying strict liability exceptions  
42 | for individual causes of action for damages to real  
43 | and personal property resulting from certain  
44 | discharges and conditions of pollution; providing an  
45 | effective date.

46 |  
47 | Be It Enacted by the Legislature of the State of Florida:

48 |  
49 | Section 1. Paragraph (a) of subsection (2), subsection  
50 | (4), and paragraph (d) of subsection (13) of section 376.3071,

51 Florida Statutes, are amended, paragraph (h) is added to  
52 subsection (1) and subsection (15) is added to that section, to  
53 read:

54 376.3071 Inland Protection Trust Fund; creation; purposes;  
55 funding.—

56 (1) FINDINGS.—In addition to the legislative findings set  
57 forth in s. 376.30, the Legislature finds and declares:

58 (h) That Congress enacted the Energy Policy Act of 2005,  
59 amending the Clean Water Act, and that the state enacted the  
60 Renewable Fuels Standard, to establish a renewable fuel standard  
61 requiring the use of ethanol as an oxygenate additive for  
62 gasoline and biodiesel as an additive for ultra-low sulfur  
63 diesel fuel. An unintended consequence of the inclusion of  
64 ethanol in gasoline and biodiesel in diesel fuel has been to  
65 cause, and potentially cause, significant corrosion and other  
66 damage to storage tanks, piping, and storage tank system  
67 components regulated under this chapter. The Legislature further  
68 finds that storage tanks, piping, and storage tank system  
69 components have been found by the department in its equipment  
70 approval process to meet compatibility standards, however, these  
71 standards may have subsequently changed due to the introduction  
72 of ethanol and biodiesel. The state enacted secondary  
73 containment requirements before the mandated introduction of  
74 ethanol into gasoline and biodiesel into ultra-low sulfur diesel  
75 fuel. Therefore, owners and operators of petroleum storage

76 facilities in the state that complied with the state's secondary  
77 containment requirements and installed approved equipment that  
78 may not have been evaluated for compatibility with ethanol and  
79 biodiesel, cross-contamination due to the storage of gasoline  
80 and diesel fuel, and the effects of condensation and minimal  
81 amounts of water in storage tanks are at a particular risk for  
82 having to repair or replace equipment or take other preventive  
83 measures in advance of the equipment's expected useful life in  
84 order to prevent releases or discharges of pollutants.

85 (2) INTENT AND PURPOSE.—

86 (a) It is the intent of the Legislature to establish the  
87 Inland Protection Trust Fund to serve as a repository for funds  
88 which will enable the department to respond without delay to  
89 incidents of inland contamination, and damage or potential  
90 damage to storage tank systems caused by ethanol or biodiesel as  
91 described in subsection (15) which may result in such incidents,  
92 related to the storage of petroleum and petroleum products in  
93 order to protect the public health, safety, and welfare and to  
94 minimize environmental damage.

95 (4) USES.—Whenever, in its determination, incidents of  
96 inland contamination, or potential incidents as provided in  
97 subsection (15), related to the storage of petroleum or  
98 petroleum products may pose a threat to the public health,  
99 safety, or welfare, water resources, or the environment, the  
100 department shall obligate moneys available in the fund to

101 provide for:

102 (a) Prompt investigation and assessment of contamination  
103 sites.

104 (b) Expeditious restoration or replacement of potable  
105 water supplies as provided in s. 376.30(3)(c)1.

106 (c) Rehabilitation of contamination sites, which shall  
107 consist of cleanup of affected soil, groundwater, and inland  
108 surface waters, using the most cost-effective alternative that  
109 is technologically feasible and reliable and that provides  
110 adequate protection of the public health, safety, and welfare,  
111 and water resources, and that minimizes environmental damage,  
112 pursuant to the site selection and cleanup criteria established  
113 by the department under subsection (5), except that this  
114 paragraph does not authorize the department to obligate funds  
115 for payment of costs which may be associated with, but are not  
116 integral to, site rehabilitation, such as the cost for  
117 retrofitting or replacing petroleum storage systems.

118 (d) Maintenance and monitoring of contamination sites.

119 (e) Inspection and supervision of activities described in  
120 this subsection.

121 (f) Payment of expenses incurred by the department in its  
122 efforts to obtain from responsible parties the payment or  
123 recovery of reasonable costs resulting from the activities  
124 described in this subsection.

125 (g) Payment of any other reasonable costs of

126 administration, including those administrative costs incurred by  
127 the Department of Health in providing field and laboratory  
128 services, toxicological risk assessment, and other assistance to  
129 the department in the investigation of drinking water  
130 contamination complaints and costs associated with public  
131 information and education activities.

132 (h) Establishment and implementation of the compliance  
133 verification program as authorized in s. 376.303(1)(a),  
134 including contracting with local governments or state agencies  
135 to provide for the administration of such program through  
136 locally administered programs, to minimize the potential for  
137 further contamination sites.

138 (i) Funding of the provisions of ss. 376.305(6) and  
139 376.3072.

140 (j) Activities related to removal and replacement of  
141 petroleum storage systems, if repair, replacement, or other  
142 preventive measures are authorized under subsection (15), or  
143 exclusive of costs of any tank, piping, dispensing unit, or  
144 related hardware, if soil removal is approved as a component of  
145 site rehabilitation and requires removal of the tank where  
146 remediation is conducted under this section, or if such  
147 activities were justified in an approved remedial action plan.

148 (k) Reasonable costs of restoring property as nearly as  
149 practicable to the conditions which existed before activities  
150 associated with contamination assessment or remedial action

151 taken under s. 376.303(4).

152 (l) Repayment of loans to the fund.

153 (m) Expenditure of sums from the fund to cover ineligible  
154 sites or costs as set forth in subsection (13), if the  
155 department in its discretion deems it necessary to do so. In  
156 such cases, the department may seek recovery and reimbursement  
157 of costs in the same manner and pursuant to the same procedures  
158 established for recovery and reimbursement of sums otherwise  
159 owed to or expended from the fund.

160 (n) Payment of amounts payable under any service contract  
161 entered into by the department pursuant to s. 376.3075, subject  
162 to annual appropriation by the Legislature.

163 (o) Petroleum remediation pursuant to this section  
164 throughout a state fiscal year. The department shall establish a  
165 process to uniformly encumber appropriated funds throughout a  
166 state fiscal year and shall allow for emergencies and imminent  
167 threats to public health, safety, and welfare, water resources,  
168 and the environment as provided in paragraph (5)(a). This  
169 paragraph does not apply to appropriations associated with the  
170 free product recovery initiative provided in paragraph (5)(c) or  
171 the advanced cleanup program provided in s. 376.30713.

172 (p) Enforcement of this section and ss. 376.30-376.317 by  
173 the Fish and Wildlife Conservation Commission and the Department  
174 of Environmental Protection. The department shall ~~may~~ disburse  
175 moneys to the commission for such purpose.

176 (q) Payments for program deductibles, copayments, and  
177 limited contamination assessment reports that otherwise would be  
178 paid by another state agency for state-funded petroleum  
179 contamination site rehabilitation.

180 (r) Payments for the repair or replacement of, or other  
181 preventive measures for, storage tanks, piping, or system  
182 components as provided in subsection (15). Such costs may  
183 include equipment, excavation, electrical work, and site  
184 restoration.

185 (s) Payments to the Department of Transportation for  
186 repairing damage to a transportation facility caused by a  
187 discharge of petroleum products from an offsite facility for  
188 which the department has issued a site rehabilitation completion  
189 order with conditions. The department shall establish procedures  
190 to process and pay such funding requests. This paragraph applies  
191 in lieu of the indemnification requirements in any agreements  
192 between the department and Department of Transportation  
193 concerning risk-based corrective action closures.

194  
195 The issuance of a site rehabilitation completion order pursuant  
196 to subsection (5) or paragraph (12) (b) for contamination  
197 eligible for programs funded by this section does not alter the  
198 project's eligibility for state-funded remediation if the  
199 department determines that site conditions are not protective of  
200 human health under actual or proposed circumstances of exposure



201 under subsection (5). The Inland Protection Trust Fund may be  
202 used only to fund the activities in ss. 376.30-376.317 except  
203 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in  
204 each fiscal year must first be applied or allocated for the  
205 payment of amounts payable by the department pursuant to  
206 paragraph (n) under a service contract entered into by the  
207 department pursuant to s. 376.3075 and appropriated in each year  
208 by the Legislature before making or providing for other  
209 disbursements from the fund. This subsection does not authorize  
210 the use of the fund for cleanup of contamination caused  
211 primarily by a discharge of solvents as defined in s.  
212 206.9925(6), or polychlorinated biphenyls when their presence  
213 causes them to be hazardous wastes, except solvent contamination  
214 which is the result of chemical or physical breakdown of  
215 petroleum products and is otherwise eligible. Facilities used  
216 primarily for the storage of motor or diesel fuels as defined in  
217 ss. 206.01 and 206.86 are not excluded from eligibility pursuant  
218 to this section.

219 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage  
220 detection, reporting, and cleanup of contamination caused by  
221 discharges of petroleum or petroleum products, the department  
222 shall, within the guidelines established in this subsection,  
223 implement a cost-sharing cleanup program to provide  
224 rehabilitation funding assistance for all property contaminated  
225 by discharges of petroleum or petroleum products from a

226 | petroleum storage system occurring before January 1, 1995,  
227 | subject to a copayment provided for in a Petroleum Cleanup  
228 | Participation Program site rehabilitation agreement. Eligibility  
229 | is subject to an annual appropriation from the fund.  
230 | Additionally, funding for eligible sites is contingent upon  
231 | annual appropriation in subsequent years. Such continued state  
232 | funding is not an entitlement or a vested right under this  
233 | subsection. Eligibility shall be determined in the program,  
234 | notwithstanding any other provision of law, consent order,  
235 | order, judgment, or ordinance to the contrary.

236 |         (d) Upon notification by the department that  
237 | rehabilitation funding assistance is available for the site  
238 | pursuant to subsections (5) and (6), the property owner,  
239 | operator, or person otherwise responsible for site  
240 | rehabilitation shall provide the department with a limited  
241 | contamination assessment report and shall enter into a Petroleum  
242 | Cleanup Participation Program site rehabilitation agreement with  
243 | the department. The limited contamination assessment report must  
244 | be sufficient to support the proposed course of action and to  
245 | estimate the cost of the proposed course of action. The  
246 | agreement must provide for a 25-percent cost savings and may use  
247 | a copayment by the owner, operator, or person otherwise  
248 | responsible for conducting site rehabilitation or a demonstrated  
249 | cost savings to the department in the form of reduced rates by  
250 | the proposed agency term contractor or the difference in cost

251 associated with a Risk Management Options Level I closure versus  
252 a Risk Management Options Level II conditional closure, or both,  
253 to meet the requirement. ~~The owner, operator, or person~~  
254 ~~otherwise responsible for conducting site rehabilitation shall~~  
255 ~~adequately demonstrate the ability to meet the copayment~~  
256 ~~obligation. The limited contamination assessment report and the~~  
257 ~~copayment costs may be reduced or eliminated if the owner and~~  
258 ~~all operators responsible for restoration under s. 376.308~~  
259 ~~demonstrate that they cannot financially comply with the~~  
260 ~~copayment and limited contamination assessment report~~  
261 ~~requirements. The department shall take into consideration the~~  
262 ~~owner's and operator's net worth in making the determination of~~  
263 ~~financial ability. In the event the department and the owner,~~  
264 ~~operator, or person otherwise responsible for site~~  
265 ~~rehabilitation cannot complete negotiation of the cost sharing~~  
266 ~~agreement within 120 days after beginning negotiations, the~~  
267 ~~department shall terminate negotiations and the site shall be~~  
268 ~~ineligible for state funding under this subsection and all~~  
269 ~~liability protections provided for in this subsection shall be~~  
270 ~~revoked.~~

271 (15) ETHANOL OR BIODIESEL DAMAGE; PREVENTIVE MEASURES.—The  
272 department shall pay, pursuant to this subsection, up to \$10  
273 million each fiscal year from the fund for the costs of labor  
274 and equipment to repair or replace petroleum storage systems  
275 that may have been damaged due to the storage of fuels blended

276 with ethanol or biodiesel, or for preventive measures to reduce  
277 the potential for such damage.

278 (a) A petroleum storage system owner or operator may  
279 request payment from the department for the repair or  
280 replacement of petroleum storage tanks, integral piping, or  
281 ancillary equipment that may have been damaged, or is subject to  
282 damage, by the storage of fuels blended with ethanol or  
283 biodiesel or for other preventive measures to ensure  
284 compatibility with ethanol or biodiesel in accordance with the  
285 following procedures:

286 1. The petroleum storage system owner or operator may  
287 submit a request for payment to the department along with the  
288 following information:

289 a. An affidavit from a petroleum storage system specialty  
290 contractor attesting to an opinion that the petroleum storage  
291 system may have been damaged as a result of the storage of fuel  
292 blended with ethanol or biodiesel or may not be compatible with  
293 fuels containing ethanol or biodiesel, or a combination of both.  
294 The affidavit must also include a proposal from the specialty  
295 contractor for repair or replacement of the equipment, or for  
296 the implementation of other preventive measures to reduce the  
297 probability of damage. If the specialty contractor proposes  
298 replacement of any equipment, the affidavit must include the  
299 reasons that repair or other preventive measures are not  
300 technically or economically feasible or practical.

301 b. Copies of any inspection reports, including  
302 photographs, prepared by the specialty contractor or department  
303 or local program inspectors documenting the damage or potential  
304 for damage to the petroleum storage system.

305 c. A proposal from the specialty contractor showing the  
306 proposed scope of the repair, replacement, or other preventive  
307 measures, including a detailed list of labor, equipment, and  
308 other associated costs. In the case of replacement or repair,  
309 the proposal must also include provisions for any preventive  
310 measures needed to prevent a recurrence of the damage, such as  
311 the use of corrosion inhibitors, the application of coatings  
312 compatible with ethanol or biodiesel, as appropriate, and the  
313 adoption of a maintenance plan.

314 d. For proposals to replace storage tanks or piping, a  
315 statement from a certified public accountant indicating the  
316 depreciated value of the tanks or piping proposed for  
317 replacement. Applications for such proposals must also include  
318 documentation of the age of the storage tank or piping.  
319 Historical tank registration records may be used to determine  
320 the age of the storage tank and piping. The depreciated value  
321 shall be the maximum allowable replacement cost for the storage  
322 tank and piping, exclusive of labor costs. For the purposes of  
323 this paragraph, tanks that are 20 years old or older are deemed  
324 to be fully depreciated and have no replacement value.

325 2. The department shall review applications for

326 completeness, accuracy, and the reasonableness of costs and  
327 scope of work. Within 30 days after receipt of an application,  
328 the department must approve or deny the application, propose  
329 modification to the application, or request additional  
330 information.

331 (b) If an application is approved, the department shall  
332 issue a purchase order to the petroleum storage system owner or  
333 operator. The purchase order must:

334 1. Reflect a payment due to the owner for the cost of the  
335 scope of work approved by the department, less a deductible of  
336 25 percent.

337 2. State that a payment is not due to the owner pursuant  
338 to the purchase order until the scope of work authorized by the  
339 department has been completed in substantial conformity with the  
340 purchase order.

341 3. Except for preventive maintenance contracts, specify  
342 that the work authorized in the purchase order must be  
343 substantially completed and paid for by the petroleum storage  
344 system owner or operator within 180 days after the date of the  
345 purchase order. After such time, the purchase order is void.

346 4. For preventive maintenance contracts, the department  
347 shall develop a maintenance completion and payment schedule for  
348 approved applicants. The failure of an owner or operator to meet  
349 scheduled payments shall invalidate the purchase order for all  
350 future payments due pursuant to the order.

351 (c)1. Except for maintenance contracts, the applicant may  
352 request that the department make payment following completion of  
353 the work authorized by the department, in accordance with the  
354 terms of the purchase order. The request must include a  
355 sufficient demonstration that the work has been completed in  
356 substantial compliance with the purchase order and that the  
357 costs have been fully paid. Upon such a showing, the department  
358 must issue the payment pursuant to the terms of the purchase  
359 order.

360 2. For maintenance contracts, the department must make  
361 periodic payments pursuant to the schedule specified in the  
362 purchase order upon satisfactory showing that maintenance work  
363 has been completed and costs have been paid by the owner or  
364 operator as specified in the purchase order.

365 (d) The department may develop forms to be used for  
366 application and payment procedures. Until such forms are  
367 developed, an applicant may submit the required information in  
368 any format, as long as the documentation is complete.

369 (e) The department may request the assistance of the  
370 Department of Management Services or a third-party administrator  
371 to assist in the administration of the application and payment  
372 process. Any costs associated with this administration shall be  
373 paid from the funds identified in this section.

374 (f) This subsection does not affect the obligations of  
375 facility owners or operators or petroleum storage system owners

376 or operators to timely comply with department rules regarding  
377 the maintenance, replacement, and repair of petroleum storage  
378 systems in order to prevent a release or discharge of  
379 pollutants.

380 (g) Payments may not be made for the following:

381 1. Proposal costs or costs related to preparation of the  
382 application and required documentation;

383 2. Certified public accountant costs;

384 3. Except as provided in subsection (k), any costs in  
385 excess of the amount approved by the department under paragraph  
386 (b) or which are not in substantial compliance with the purchase  
387 order;

388 4. Costs associated with storage tanks, piping, or  
389 ancillary equipment that has previously been repaired or  
390 replaced for which costs have been paid under this section;

391 5. Facilities that are not in compliance with department  
392 storage tank rules, until the noncompliance issues have been  
393 resolved; or

394 6. Costs associated with damage to petroleum storage  
395 systems caused in whole or in part by causes other than the  
396 storage of fuels blended with ethanol or biodiesel.

397 (h) Applications may be submitted on a first-come, first-  
398 served basis. However, the department may not issue purchase  
399 orders unless funds remain for the current fiscal year.

400 (i) A petroleum storage system owner or operator may not



401 receive more than \$200,000 annually for equipment replacement,  
402 repair, or preventive measures at any single facility, or  
403 \$500,000 annually in aggregate for all facilities owned or  
404 operated by the owner or operator it owns or operates.

405 (j) Owners or operators that have incurred costs for  
406 repair, replacement, or other preventive measures as described  
407 in this subsection during the period of July 1, 2015, through  
408 June 30, 2019, may apply to request payment for such costs from  
409 the department using the procedure in paragraphs (b), (c), and  
410 (d). The department may not disburse payment for approved  
411 applications for such work until all purchase orders for  
412 previously approved applications have been paid and unless funds  
413 remain available for the fiscal year. Such payment is subject to  
414 a deductible of 25 percent of the cost of the scope of work  
415 approved by the department under this paragraph.

416 (k) For new petroleum requirement registrations after July  
417 1, 2020, the department shall only register equipment that meets  
418 applicable standards for compatibility for ethanol blends,  
419 biodiesel blends, and other alternative fuels that are likely to  
420 be stored in such systems.

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

423 376.30713 Advanced cleanup.—

424 (2) The department may approve an application for advanced  
425 cleanup at eligible sites, including applications submitted

426 pursuant to paragraph (d) ~~(e)~~, notwithstanding the site's  
427 priority ranking established pursuant to s. 376.3071(5)(a),  
428 pursuant to this section. Only the facility owner or operator or  
429 the person otherwise responsible for site rehabilitation  
430 qualifies as an applicant under this section.

431 (a) Advanced cleanup applications may be submitted between  
432 May 1 and June 30 and between November 1 and December 31 of each  
433 fiscal year. Applications submitted between May 1 and June 30  
434 shall be for the fiscal year beginning July 1. An application  
435 must consist of:

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

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

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

448 (II) For an aggregate application relying on a  
449 demonstrated cost savings to the department, the applicant  
450 shall, in conjunction with the proposed agency term contractor,

451 establish and provide in the application the percentage of cost  
452 savings in the aggregate that is being provided to the  
453 department for cleanup of the sites under the application  
454 compared to the cost of cleanup of those same sites using the  
455 current rates provided to the department by the proposed agency  
456 term contractor.

457 b. Applications for the cleanup of individual sites may be  
458 submitted in one of two formats to meet the cost-share  
459 requirement:

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

464 (II) For an individual application relying on a  
465 demonstrated cost savings to the department, the applicant  
466 shall, in conjunction with the proposed agency term contractor,  
467 establish and provide in the application a 25-percent cost  
468 savings to the department for cleanup of the site under the  
469 application compared to the cost of cleanup of the same site  
470 using the current rates provided to the department by the  
471 proposed agency term contractor.

472 2. A nonrefundable review fee of \$250 to cover the  
473 administrative costs associated with the department's review of  
474 the application.

475 3. A property owner or responsible party agreement in

476 which the property owner or responsible party commits to  
477 continue to participate in the advanced cleanup program upon  
478 completion of the limited contamination assessment and  
479 finalization of the proposed course of action ~~report.~~

480 4. A conceptual proposed course of action.

481 5. A department site access agreement, or similar  
482 agreements approved by the department that do not violate state  
483 law, entered into with the property owner or owners, as  
484 applicable, and evidence of authorization from such owner or  
485 owners for petroleum site rehabilitation program tasks  
486 consistent with the proposed course of action where the  
487 applicant is not the property owner for any of the sites  
488 contained in the application.

489  
490 ~~The limited contamination assessment report must be sufficient~~  
491 ~~to support the proposed course of action and to estimate the~~  
492 ~~cost of the proposed course of action. Costs incurred related to~~  
493 ~~conducting the limited contamination assessment report are not~~  
494 ~~refundable from the Inland Protection Trust Fund. Site~~  
495 eligibility under this subsection or any other provision of this  
496 section is not an entitlement to advanced cleanup or continued  
497 restoration funding. The applicant shall certify to the  
498 department that the applicant has the prerequisite authority to  
499 enter into an advanced cleanup contract with the department. The  
500 certification must be submitted with the application.

501 (b) The department shall rank the applications based on  
502 the percentage of cost-sharing commitment proposed by the  
503 applicant, with the highest ranking given to the applicant who  
504 proposes the highest percentage of cost sharing. If the  
505 department receives applications that propose identical cost-  
506 sharing commitments and that exceed the funds available to  
507 commit to all such proposals during the advanced cleanup  
508 application period, the department shall proceed to rerank those  
509 applicants. Those applicants submitting identical cost-sharing  
510 proposals that exceed funding availability must be so notified  
511 by the department and offered the opportunity to raise their  
512 individual cost-share commitments, in a period specified in the  
513 notice. At the close of the period, the department shall proceed  
514 to rerank the applications pursuant to this paragraph.

515 (c) Upon acceptance of an application, the applicant's  
516 selected agency term contractor must submit a scope of work for  
517 the limited contamination assessment to the department. Once the  
518 scope of work is negotiated and agreed upon, the department must  
519 issue a purchase order or purchase orders for the limited  
520 contamination assessment in an amount not to exceed \$35,000 per  
521 purchase order. The limited contamination assessment must be  
522 sufficient to support the proposed course of action and to  
523 estimate the cost of the proposed course of action.

524 (d)-(e) Applications for the advanced cleanup of individual  
525 sites scheduled for redevelopment are not subject to the

526 application period limitations or the requirement to pay 25  
527 percent of the total cleanup cost specified in paragraph (a) or  
528 to the cost-sharing commitment specified in paragraph (1)(d).  
529 Applications must be accepted on a first-come, first-served  
530 basis and are not subject to the ranking provisions of paragraph  
531 (b). Applications for the advanced cleanup of individual sites  
532 scheduled for redevelopment must include:

533 1. A nonrefundable review fee of \$250 to cover the  
534 administrative costs associated with the department's review of  
535 the application.

536 2. A limited contamination assessment report. The report  
537 must be sufficient to support the proposed course of action and  
538 to estimate the cost of the proposed course of action. Costs  
539 incurred related to conducting and preparing the report are not  
540 refundable from the Inland Protection Trust Fund.

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

542 4. If the applicant is not the property owner for any of  
543 the sites contained in the application, a department site access  
544 agreement, or a similar agreement approved by the department and  
545 not in violation of state law, entered into with the property  
546 owner or owners, as applicable, and evidence of authorization  
547 from such owner or owners for petroleum site rehabilitation  
548 program tasks consistent with the proposed course of action.

549 5. A certification to the department stating that the  
550 applicant has the prerequisite authority to enter into an

551 advanced cleanup contract with the department. The advanced  
552 cleanup contract must include redevelopment and site  
553 rehabilitation milestones.

554 6. Documentation, in the form of a letter from the local  
555 government having jurisdiction over the area where the site is  
556 located, which states that the local government is in agreement  
557 with or approves the proposed redevelopment and that the  
558 proposed redevelopment complies with applicable law and  
559 requirements for such redevelopment.

560 7. A demonstrated reasonable assurance that the applicant  
561 has sufficient financial resources to implement and complete the  
562 redevelopment project.

563  
564 Site eligibility under this section is not an entitlement to  
565 advanced cleanup funding or continued restoration funding.

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

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

574 (b) A facility or an applicant applying for advanced  
575 cleanup of individual sites scheduled for redevelopment pursuant

576 to paragraph (2) (d) ~~(2) (e)~~ may not be approved for more than \$1  
577 million of cleanup activity in any one fiscal year.

578 (c) A property owner or responsible party may enter into a  
579 voluntary cost-share agreement in which the property owner or  
580 responsible party commits to bundle multiple sites and lists the  
581 facilities that will be included in those future bundles. The  
582 facilities listed are not subject to agency term contractor  
583 assignment pursuant to department rule. The department must  
584 reserve the right to terminate or amend the voluntary cost-share  
585 agreement for any identified site under the voluntary cost-share  
586 agreement if the property owner or responsible party fails to  
587 submit an application to bundle any site, not already covered by  
588 an advance cleanup contract, under such voluntary cost-share  
589 agreement within three subsequent open application periods or 18  
590 months, whichever period is shorter, during which it is eligible  
591 to participate. The property owner or responsible party must  
592 agree to conduct limited site assessments on the identified  
593 sites within 12 months after the execution of the voluntary  
594 cost-share agreement. For the purposes of this section, the term  
595 "facility" includes, but is not limited to, multiple site  
596 facilities such as airports, port facilities, and terminal  
597 facilities even though such enterprises may be treated as  
598 separate facilities for other purposes under this chapter.

599 Section 3. Subsection (3) of section 376.313, Florida  
600 Statutes, is amended to read:



601           376.313 Nonexclusiveness of remedies and individual cause  
602 of action for damages under ss. 376.30-376.317.—

603           (3) Except as provided in s. 376.3078(3) and (11), ~~nothing~~  
604 ~~contained in~~ ss. 376.30-376.317 do not prohibit a ~~prohibits any~~  
605 person from bringing a cause of action in a court of competent  
606 jurisdiction for all damages to real or personal property  
607 directly resulting from a discharge or other condition of  
608 pollution covered by ss. 376.30-376.317 ~~and~~ which was not  
609 authorized by a government permit or approval ~~pursuant to~~  
610 ~~chapter 403. Nothing in~~ This chapter does not ~~shall~~ prohibit or  
611 diminish a party's right to contribution from other parties  
612 jointly or severally liable for a prohibited discharge of  
613 pollutants or hazardous substances or other pollution  
614 conditions. Except as otherwise provided in subsection (4) or  
615 subsection (5), in any such suit, it is not necessary for such  
616 person to plead or prove negligence in any form or manner. Such  
617 person need only plead and prove the fact of the prohibited  
618 discharge or other pollutive condition and that it has occurred.  
619 The only strict liability exceptions ~~defenses~~ to such cause of  
620 action shall be those specified in s. 376.308.

621           Section 4. This act shall take effect July 1, 2020.