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1                   A bill to be entitled  
2     An act relating to petroleum cleanup; amending s.  
3     376.3071, F.S.; providing legislative findings,  
4     declarations, and intent; authorizing the Department  
5     of Environmental Protection to use funds from the  
6     Inland Protection Trust Fund to pay for specified  
7     activities related to removal and replacement of  
8     petroleum storage systems; providing for petroleum  
9     storage system repair or replacement due to damage  
10    caused by ethanol or biodiesel and for preventive  
11    measures to reduce the potential for such damage;  
12    revising requirements for a limited contamination  
13    assessment report required to be provided by a  
14    property owner, an operator, or a person otherwise  
15    responsible for site rehabilitation to the Department  
16    of Environmental Protection under the Petroleum  
17    Cleanup Participation Program; providing requirements  
18    for requesting and receiving payments for such repair,  
19    replacement, and measures; providing construction;  
20    prohibiting payments for certain costs; limiting the  
21    payment amount a petroleum storage system owner or  
22    operator is eligible to receive annually; requiring  
23    the department, after a specified date, to only  
24    register storage system equipment that meets certain  
25    fuel standards; amending s. 376.30713, F.S.; revising  
26    the contents of an advanced cleanup application to  
27    include a specified property owner or responsible  
28    party agreement; requiring an applicant to submit a  
29    scope of work after the department has accepted the

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30 applicant's advanced cleanup application; requiring  
31 the department to issue a purchase order for a certain  
32 contamination assessment; providing an effective date.  
33

34 Be It Enacted by the Legislature of the State of Florida:  
35

36 Section 1. Paragraph (a) of subsection (2) and subsections  
37 (4) and (13) of section 376.3071, Florida Statutes, are amended,  
38 and paragraph (h) is added to subsection (1) and subsection (15)  
39 is added to that section, to read:

40 376.3071 Inland Protection Trust Fund; creation; purposes;  
41 funding.—

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

44 (h) That Congress enacted the Energy Policy Act of 2005,  
45 amending the Clean Water Act, and that the state enacted the  
46 Renewable Fuels Standard, to establish a renewable fuel standard  
47 requiring the use of ethanol as an oxygenate additive for  
48 gasoline and biodiesel as an additive for ultra-low sulfur  
49 diesel fuel. An unintended consequence of the inclusion of  
50 ethanol in gasoline and biodiesel in diesel fuel has been to  
51 cause, and potentially cause, significant corrosion and other  
52 damage to storage tanks, piping, and storage tank system  
53 components regulated under this chapter. The Legislature further  
54 finds that storage tanks, piping, and storage tank system  
55 components have been found by the department in its equipment  
56 approval process to meet compatibility standards, however, these  
57 standards may have subsequently changed due to the introduction  
58 of ethanol and biodiesel. The state enacted secondary

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59 containment requirements before the mandated introduction of  
60 ethanol into gasoline and biodiesel into ultra-low sulfur diesel  
61 fuel. Therefore, owners and operators of petroleum storage  
62 facilities in the state that complied with the state's secondary  
63 containment requirements and installed approved equipment that  
64 may not have been evaluated for compatibility with ethanol and  
65 biodiesel, cross-contamination due to the storage of gasoline  
66 and diesel fuel, and the effects of condensation and minimal  
67 amounts of water in storage tanks are at a particular risk for  
68 having to repair or replace equipment or take other preventive  
69 measures in advance of the equipment's expected useful life in  
70 order to prevent releases or discharges of pollutants.

71 (2) INTENT AND PURPOSE.—

72 (a) It is the intent of the Legislature to establish the  
73 Inland Protection Trust Fund to serve as a repository for funds  
74 which will enable the department to respond without delay to  
75 incidents of inland contamination, and damage or potential  
76 damage to storage tank systems caused by ethanol or biodiesel as  
77 described in subsection (15) which may result in such incidents,  
78 related to the storage of petroleum and petroleum products in  
79 order to protect the public health, safety, and welfare and to  
80 minimize environmental damage.

81 (4) USES.—Whenever, in its determination, incidents of  
82 inland contamination, or potential incidents as provided in  
83 subsection (15), related to the storage of petroleum or  
84 petroleum products may pose a threat to the public health,  
85 safety, or welfare, water resources, or the environment, the  
86 department shall obligate moneys available in the fund to  
87 provide for:

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88 (a) Prompt investigation and assessment of contamination  
89 sites.

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

92 (c) Rehabilitation of contamination sites, which shall  
93 consist of cleanup of affected soil, groundwater, and inland  
94 surface waters, using the most cost-effective alternative that  
95 is technologically feasible and reliable and that provides  
96 adequate protection of the public health, safety, and welfare,  
97 and water resources, and that minimizes environmental damage,  
98 pursuant to the site selection and cleanup criteria established  
99 by the department under subsection (5), except that this  
100 paragraph does not authorize the department to obligate funds  
101 for payment of costs which may be associated with, but are not  
102 integral to, site rehabilitation, such as the cost for  
103 retrofitting or replacing petroleum storage systems.

104 (d) Maintenance and monitoring of contamination sites.

105 (e) Inspection and supervision of activities described in  
106 this subsection.

107 (f) Payment of expenses incurred by the department in its  
108 efforts to obtain from responsible parties the payment or  
109 recovery of reasonable costs resulting from the activities  
110 described in this subsection.

111 (g) Payment of any other reasonable costs of  
112 administration, including those administrative costs incurred by  
113 the Department of Health in providing field and laboratory  
114 services, toxicological risk assessment, and other assistance to  
115 the department in the investigation of drinking water  
116 contamination complaints and costs associated with public

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117 information and education activities.

118 (h) Establishment and implementation of the compliance  
119 verification program as authorized in s. 376.303(1)(a),  
120 including contracting with local governments or state agencies  
121 to provide for the administration of such program through  
122 locally administered programs, to minimize the potential for  
123 further contamination sites.

124 (i) Funding of the provisions of ss. 376.305(6) and  
125 376.3072.

126 (j) Activities related to removal and replacement of  
127 petroleum storage systems, if repair, replacement, or other  
128 preventive measures are authorized under subsection (15), or  
129 exclusive of costs of any tank, piping, dispensing unit, or  
130 related hardware, if soil removal is approved as a component of  
131 site rehabilitation and requires removal of the tank where  
132 remediation is conducted under this section, or if such  
133 activities were justified in an approved remedial action plan.

134 (k) Reasonable costs of restoring property as nearly as  
135 practicable to the conditions which existed before activities  
136 associated with contamination assessment or remedial action  
137 taken under s. 376.303(4).

138 (l) Repayment of loans to the fund.

139 (m) Expenditure of sums from the fund to cover ineligible  
140 sites or costs as set forth in subsection (13), if the  
141 department in its discretion deems it necessary to do so. In  
142 such cases, the department may seek recovery and reimbursement  
143 of costs in the same manner and pursuant to the same procedures  
144 established for recovery and reimbursement of sums otherwise  
145 owed to or expended from the fund.

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

149 (o) Petroleum remediation pursuant to this section  
150 throughout a state fiscal year. The department shall establish a  
151 process to uniformly encumber appropriated funds throughout a  
152 state fiscal year and shall allow for emergencies and imminent  
153 threats to public health, safety, and welfare, water resources,  
154 and the environment as provided in paragraph (5) (a). This  
155 paragraph does not apply to appropriations associated with the  
156 free product recovery initiative provided in paragraph (5) (c) or  
157 the advanced cleanup program provided in s. 376.30713.

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

162 (q) Payments for program deductibles, copayments, and  
163 limited contamination assessment reports that otherwise would be  
164 paid by another state agency for state-funded petroleum  
165 contamination site rehabilitation.

166 (r) Payments for the repair or replacement of, or other  
167 preventive measures for, storage tanks, piping, or system  
168 components as provided in subsection (15). Such costs may  
169 include equipment, excavation, electrical work, and site  
170 restoration.

171  
172 The issuance of a site rehabilitation completion order pursuant  
173 to subsection (5) or paragraph (12) (b) for contamination  
174 eligible for programs funded by this section does not alter the

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175 project's eligibility for state-funded remediation if the  
176 department determines that site conditions are not protective of  
177 human health under actual or proposed circumstances of exposure  
178 under subsection (5). The Inland Protection Trust Fund may be  
179 used only to fund the activities in ss. 376.30-376.317 except  
180 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in  
181 each fiscal year must first be applied or allocated for the  
182 payment of amounts payable by the department pursuant to  
183 paragraph (n) under a service contract entered into by the  
184 department pursuant to s. 376.3075 and appropriated in each year  
185 by the Legislature before making or providing for other  
186 disbursements from the fund. This subsection does not authorize  
187 the use of the fund for cleanup of contamination caused  
188 primarily by a discharge of solvents as defined in s.  
189 206.9925(6), or polychlorinated biphenyls when their presence  
190 causes them to be hazardous wastes, except solvent contamination  
191 which is the result of chemical or physical breakdown of  
192 petroleum products and is otherwise eligible. Facilities used  
193 primarily for the storage of motor or diesel fuels as defined in  
194 ss. 206.01 and 206.86 are not excluded from eligibility pursuant  
195 to this section.

196 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage  
197 detection, reporting, and cleanup of contamination caused by  
198 discharges of petroleum or petroleum products, the department  
199 shall, within the guidelines established in this subsection,  
200 implement a ~~cost-sharing~~ cleanup program to provide  
201 rehabilitation funding assistance for all property contaminated  
202 by discharges of petroleum or petroleum products from a  
203 petroleum storage system occurring before January 1, 1995~~7~~

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204 ~~subject to a copayment provided for in a Petroleum Cleanup~~  
205 ~~Participation Program site rehabilitation agreement.~~ Eligibility  
206 is subject to an annual appropriation from the fund.  
207 Additionally, funding for eligible sites is contingent upon  
208 annual appropriation in subsequent years. Such continued state  
209 funding is not an entitlement or a vested right under this  
210 subsection. Eligibility shall be determined in the program,  
211 notwithstanding any other provision of law, consent order,  
212 order, judgment, or ordinance to the contrary.

213 (a)1. The department shall accept any discharge reporting  
214 form received before January 1, 1995, as an application for this  
215 program, and the facility owner or operator need not reapply.

216 2. Regardless of whether ownership has changed, owners or  
217 operators of property that is contaminated by petroleum or  
218 petroleum products from a petroleum storage system may apply for  
219 such program by filing a written report of the contamination  
220 incident, including evidence that such incident occurred before  
221 January 1, 1995, with the department. Incidents of petroleum  
222 contamination discovered after December 31, 1994, at sites which  
223 have not stored petroleum or petroleum products for consumption,  
224 use, or sale after such date shall be presumed to have occurred  
225 before January 1, 1995. An operator's filed report shall be an  
226 application of the owner for all purposes.

227 (b) Subject to annual appropriation from the fund, sites  
228 meeting the criteria of this subsection are eligible for up to  
229 \$400,000 of site rehabilitation funding assistance in priority  
230 order pursuant to subsections (5) and (6). Sites meeting the  
231 criteria of this subsection for which a site rehabilitation  
232 completion order was issued before June 1, 2008, do not qualify



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233 for the 2008 increase in site rehabilitation funding assistance  
234 and are bound by the pre-June 1, 2008, limits. Sites meeting the  
235 criteria of this subsection for which a site rehabilitation  
236 completion order was not issued before June 1, 2008, regardless  
237 of whether they have previously transitioned to nonstate-funded  
238 cleanup status, may continue state-funded cleanup pursuant to  
239 this section until a site rehabilitation completion order is  
240 issued or the increased site rehabilitation funding assistance  
241 limit is reached, whichever occurs first. The department may not  
242 pay expenses incurred beyond the scope of an approved contract.

243 (c) The department may also approve supplemental funding of  
244 up to \$100,000 for additional remediation and monitoring if such  
245 remediation and monitoring is necessary to achieve a  
246 determination of "No Further Action."

247 (d) Upon notification by the department that rehabilitation  
248 funding assistance is available for the site pursuant to  
249 subsections (5) and (6), the property owner, operator, or person  
250 otherwise responsible for site rehabilitation shall provide the  
251 department with a limited contamination assessment report and  
252 shall enter into a Petroleum Cleanup Participation Program site  
253 rehabilitation agreement with the department. The limited  
254 contamination assessment report must be sufficient to support  
255 the proposed course of action and to estimate the cost of the  
256 proposed course of action. The agreement must provide for a 25-  
257 percent cost savings to the department, a copayment by the  
258 owner, operator, or person otherwise responsible for conducting  
259 site rehabilitation, or a combination of cost savings and a  
260 copayment. Cost savings to the department may be demonstrated in  
261 the form of reduced rates by the proposed agency term contractor

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262 or the difference in cost associated with a Risk Management  
263 Options Level I closure versus a Risk Management Options Level  
264 II closure. For the purpose of this paragraph, the term:

265 1. "Risk Management Options Level I" means a "No Further  
266 Action" closure without institutional controls or without  
267 institutional and engineering controls. This closure option  
268 applies subject to conditions in department rules and  
269 agreements.

270 2. "Risk Management Options Level II" means a "No Further  
271 Action" closure where institutional controls and, if  
272 appropriate, engineering controls apply if the controls are  
273 protective of human health, public safety, and the environment.  
274 This closure option applies subject to conditions in department  
275 rules and agreements ~~The owner, operator, or person otherwise~~  
276 ~~responsible for conducting site rehabilitation shall adequately~~  
277 ~~demonstrate the ability to meet the copayment obligation. The~~  
278 ~~limited contamination assessment report and the copayment costs~~  
279 ~~may be reduced or eliminated if the owner and all operators~~  
280 ~~responsible for restoration under s. 376.308 demonstrate that~~  
281 ~~they cannot financially comply with the copayment and limited~~  
282 ~~contamination assessment report requirements. The department~~  
283 ~~shall take into consideration the owner's and operator's net~~  
284 ~~worth in making the determination of financial ability. In the~~  
285 ~~event the department and the owner, operator, or person~~  
286 ~~otherwise responsible for site rehabilitation cannot complete~~  
287 ~~negotiation of the cost-sharing agreement within 120 days after~~  
288 ~~beginning negotiations, the department shall terminate~~  
289 ~~negotiations and the site shall be ineligible for state funding~~  
290 ~~under this subsection and all liability protections provided for~~

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291 ~~in this subsection shall be revoked.~~

292 (e) A report of a discharge made to the department by a  
293 person pursuant to this subsection or any rules adopted pursuant  
294 to this subsection may not be used directly as evidence of  
295 liability for such discharge in any civil or criminal trial  
296 arising out of the discharge.

297 (f) This subsection does not preclude the department from  
298 pursuing penalties under s. 403.141 for violations of any law or  
299 any rule, order, permit, registration, or certification adopted  
300 or issued by the department pursuant to its lawful authority.

301 (g) Upon the filing of a discharge reporting form under  
302 paragraph (a), the department or local government may not pursue  
303 any judicial or enforcement action to compel rehabilitation of  
304 the discharge. This paragraph does not prevent any such action  
305 with respect to discharges determined ineligible under this  
306 subsection or to sites for which rehabilitation funding  
307 assistance is available pursuant to subsections (5) and (6).

308 (h) The following are excluded from participation in the  
309 program:

310 1. Sites at which the department has been denied reasonable  
311 site access to implement this section.

312 2. Sites that were active facilities when owned or operated  
313 by the Federal Government.

314 3. Sites that are identified by the United States  
315 Environmental Protection Agency to be on, or which qualify for  
316 listing on, the National Priorities List under Superfund. This  
317 exception does not apply to those sites for which eligibility  
318 has been requested or granted as of the effective date of this  
319 act under the Early Detection Incentive Program established

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320 pursuant to s. 15, chapter 86-159, Laws of Florida.

321 4. Sites for which contamination is covered under the Early  
322 Detection Incentive Program, the Abandoned Tank Restoration  
323 Program, or the Petroleum Liability and Restoration Insurance  
324 Program, in which case site rehabilitation funding assistance  
325 shall continue under the respective program.

326 (15) ETHANOL OR BIODIESEL DAMAGE; PREVENTIVE MEASURES.—The  
327 department shall pay, pursuant to this subsection, up to \$10  
328 million each fiscal year from the fund for the costs of labor  
329 and equipment to repair or replace petroleum storage systems  
330 that may have been damaged due to the storage of fuels blended  
331 with ethanol or biodiesel, or for preventive measures to reduce  
332 the potential for such damage.

333 (a) A petroleum storage system owner or operator may  
334 request payment from the department for the repair or  
335 replacement of petroleum storage tanks, integral piping, or  
336 ancillary equipment that may have been damaged, or is subject to  
337 damage, by the storage of fuels blended with ethanol or  
338 biodiesel or for other preventive measures to ensure  
339 compatibility with ethanol or biodiesel in accordance with the  
340 following procedures:

341 1. The petroleum storage system owner or operator may  
342 submit a request for payment to the department along with the  
343 following information:

344 a. An affidavit from a petroleum storage system specialty  
345 contractor attesting to an opinion that the petroleum storage  
346 system may have been damaged as a result of the storage of fuel  
347 blended with ethanol or biodiesel or may not be compatible with  
348 fuels containing ethanol or biodiesel, or a combination of both.

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349 The affidavit must also include a proposal from the specialty  
350 contractor for repair or replacement of the equipment, or for  
351 the implementation of other preventive measures to reduce the  
352 probability of damage. If the specialty contractor proposes  
353 replacement of any equipment, the affidavit must include the  
354 reasons that repair or other preventive measures are not  
355 technically or economically feasible or practical.

356 b. Copies of any inspection reports, including photographs,  
357 prepared by the specialty contractor or department or local  
358 program inspectors documenting the damage or potential for  
359 damage to the petroleum storage system.

360 c. A proposal from the specialty contractor showing the  
361 proposed scope of the repair, replacement, or other preventive  
362 measures, including a detailed list of labor, equipment, and  
363 other associated costs. In the case of replacement or repair,  
364 the proposal must also include provisions for any preventive  
365 measures needed to prevent a recurrence of the damage, such as  
366 the use of corrosion inhibitors, the application of coatings  
367 compatible with ethanol or biodiesel, as appropriate, and the  
368 adoption of a maintenance plan.

369 d. For proposals to replace storage tanks or piping, a  
370 statement from a certified public accountant indicating the  
371 depreciated value of the tanks or piping proposed for  
372 replacement. Applications for such proposals must also include  
373 documentation of the age of the storage tank or piping.  
374 Historical tank registration records may be used to determine  
375 the age of the storage tank and piping. The depreciated value  
376 shall be the maximum allowable replacement cost for the storage  
377 tank and piping, exclusive of labor costs. For the purposes of

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378 this paragraph, tanks that are 20 years old or older are deemed  
379 to be fully depreciated and have no replacement value.

380 2. The department shall review applications for  
381 completeness, accuracy, and the reasonableness of costs and  
382 scope of work. Within 30 days after receipt of an application,  
383 the department must approve or deny the application, propose  
384 modification to the application, or request additional  
385 information.

386 (b) If an application is approved, the department shall  
387 issue a purchase order to the petroleum storage system owner or  
388 operator. The purchase order shall:

389 1. Reflect a payment due to the owner for the cost of the  
390 scope of work approved by the department, less a deductible of  
391 25 percent.

392 2. State that a payment is not due to the owner pursuant to  
393 the purchase order until the scope of work authorized by the  
394 department has been completed in substantial conformity with the  
395 purchase order.

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

401 4. For preventive maintenance contracts, the department  
402 shall develop a maintenance completion and payment schedule for  
403 approved applicants. The failure of an owner or operator to meet  
404 scheduled payments shall invalidate the purchase order for all  
405 future payments due pursuant to the order.

406 (c)1. Except for maintenance contracts, the applicant may

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407 request that the department make payment following completion of  
408 the work authorized by the department, in accordance with the  
409 terms of the purchase order. The request must include a  
410 sufficient demonstration that the work has been completed in  
411 substantial compliance with the purchase order and that the  
412 costs have been fully paid. Upon such a showing, the department  
413 must issue the payment pursuant to the terms of the purchase  
414 order.

415 2. For maintenance contracts, the department must make  
416 periodic payments pursuant to the schedule specified in the  
417 purchase order upon satisfactory showing that maintenance work  
418 has been completed and costs have been paid by the owner or  
419 operator as specified in the purchase order.

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

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

429 (f) This subsection does not affect the obligations of  
430 facility owners or operators or petroleum storage system owners  
431 or operators to timely comply with department rules regarding  
432 the maintenance, replacement, and repair of petroleum storage  
433 systems in order to prevent a release or discharge of  
434 pollutants.

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

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436 1. Proposal costs or costs related to preparation of the  
437 application and required documentation;

438 2. Certified public accountant costs;

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

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

446 5. Facilities that are not in compliance with department  
447 storage tank rules, until the noncompliance issues have been  
448 resolved; or

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

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

455 (i) A petroleum storage system owner or operator may not  
456 receive more than \$200,000 annually for equipment replacement,  
457 repair, or preventive measures at any single facility, or  
458 \$500,000 annually in aggregate for all facilities owned or  
459 operated by the owner or operator it owns or operates.

460 (j) Owners or operators that have incurred costs for  
461 repair, replacement, or other preventive measures as described  
462 in this subsection during the period of July 1, 2015, through  
463 June 30, 2019, may apply to request payment for such costs from  
464 the department using the procedure in paragraphs (b), (c), and



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465 (d). The department may not disburse payment for approved  
466 applications for such work until all purchase orders for  
467 previously approved applications have been paid and unless funds  
468 remain available for the fiscal year. Such payment is subject to  
469 a deductible of 25 percent of the cost of the scope of work  
470 approved by the department under this paragraph.

471 (k) For new petroleum requirement registrations after July  
472 1, 2019, the department shall only register equipment that meets  
473 applicable standards for compatibility for ethanol blends,  
474 biodiesel blends, and other alternative fuels that are likely to  
475 be stored in such systems.

476 Section 2. Subsection (2) of section 376.30713, Florida  
477 Statutes, is amended to read:

478 376.30713 Advanced cleanup.—

479 (2) The department may approve an application for advanced  
480 cleanup at eligible sites, including applications submitted  
481 pursuant to paragraph (c), notwithstanding the site's priority  
482 ranking established pursuant to s. 376.3071(5)(a), pursuant to  
483 this section. Only the facility owner or operator or the person  
484 otherwise responsible for site rehabilitation qualifies as an  
485 applicant under this section.

486 (a) Advanced cleanup applications may be submitted between  
487 May 1 and June 30 and between November 1 and December 31 of each  
488 fiscal year. Applications submitted between May 1 and June 30  
489 shall be for the fiscal year beginning July 1. An application  
490 must consist of:

491 1. A commitment to pay 25 percent or more of the total  
492 cleanup cost deemed recoverable under this section along with  
493 proof of the ability to pay the cost share. The department shall

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494 determine whether the cost savings demonstration is acceptable.  
495 Such determination is not subject to chapter 120.

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

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

503 (II) For an aggregate application relying on a demonstrated  
504 cost savings to the department, the applicant shall, in  
505 conjunction with the proposed agency term contractor, establish  
506 and provide in the application the percentage of cost savings in  
507 the aggregate that is being provided to the department for  
508 cleanup of the sites under the application compared to the cost  
509 of cleanup of those same sites using the current rates provided  
510 to the department by the proposed agency term contractor.

511 b. Applications for the cleanup of individual sites may be  
512 submitted in one of two formats to meet the cost-share  
513 requirement:

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

518 (II) For an individual application relying on a  
519 demonstrated cost savings to the department, the applicant  
520 shall, in conjunction with the proposed agency term contractor,  
521 establish and provide in the application a 25-percent cost  
522 savings to the department for cleanup of the site under the

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523 application compared to the cost of cleanup of the same site  
524 using the current rates provided to the department by the  
525 proposed agency term contractor.

526 2. A nonrefundable review fee of \$250 to cover the  
527 administrative costs associated with the department's review of  
528 the application.

529 3. A property owner or responsible party agreement in which  
530 the property owner or responsible party commits to continue to  
531 participate in the advanced cleanup program upon completion of  
532 the limited contamination assessment and finalization of the  
533 proposed course of action ~~limited contamination assessment~~  
534 ~~report.~~

535 4. A conceptual proposed course of action.

536 5. A department site access agreement, or similar  
537 agreements approved by the department that do not violate state  
538 law, entered into with the property owner or owners, as  
539 applicable, and evidence of authorization from such owner or  
540 owners for petroleum site rehabilitation program tasks  
541 consistent with the proposed course of action where the  
542 applicant is not the property owner for any of the sites  
543 contained in the application.

544

545 ~~The limited contamination assessment report must be sufficient~~  
546 ~~to support the proposed course of action and to estimate the~~  
547 ~~cost of the proposed course of action. Costs incurred related to~~  
548 ~~conducting the limited contamination assessment report are not~~  
549 ~~refundable from the Inland Protection Trust Fund. Site~~  
550 ~~eligibility under this subsection or any other provision of this~~  
551 ~~section is not an entitlement to advanced cleanup or continued~~

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552 ~~restoration funding.~~

553 6. A certification ~~The applicant shall certify to the~~  
554 ~~department~~ that the applicant has the prerequisite authority to  
555 enter into an advanced cleanup contract with the department. The  
556 certification must be submitted with the application.

557 (b) The department shall rank the applications based on the  
558 percentage of cost-sharing commitment proposed by the applicant,  
559 with the highest ranking given to the applicant who proposes the  
560 highest percentage of cost sharing. If the department receives  
561 applications that propose identical cost-sharing commitments and  
562 that exceed the funds available to commit to all such proposals  
563 during the advanced cleanup application period, the department  
564 shall proceed to rerank those applicants. Those applicants  
565 submitting identical cost-sharing proposals that exceed funding  
566 availability must be so notified by the department and offered  
567 the opportunity to raise their individual cost-share  
568 commitments, in a period specified in the notice. At the close  
569 of the period, the department shall proceed to rerank the  
570 applications pursuant to this paragraph.

571 (c) Applications for the advanced cleanup of individual  
572 sites scheduled for redevelopment are not subject to the  
573 application period limitations or the requirement to pay 25  
574 percent of the total cleanup cost specified in paragraph (a) or  
575 to the cost-sharing commitment specified in paragraph (1)(d).  
576 Applications must be accepted on a first-come, first-served  
577 basis and are not subject to the ranking provisions of paragraph  
578 (b). Applications for the advanced cleanup of individual sites  
579 scheduled for redevelopment must include:

580 1. A nonrefundable review fee of \$250 to cover the

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581 administrative costs associated with the department's review of  
582 the application.

583 2. A limited contamination assessment report. The report  
584 must be sufficient to support the proposed course of action and  
585 to estimate the cost of the proposed course of action. Costs  
586 incurred related to conducting and preparing the report are not  
587 refundable from the Inland Protection Trust Fund.

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

589 4. If the applicant is not the property owner for any of  
590 the sites contained in the application, a department site access  
591 agreement, or a similar agreement approved by the department and  
592 not in violation of state law, entered into with the property  
593 owner or owners, as applicable, and evidence of authorization  
594 from such owner or owners for petroleum site rehabilitation  
595 program tasks consistent with the proposed course of action.

596 5. A certification to the department stating that the  
597 applicant has the prerequisite authority to enter into an  
598 advanced cleanup contract with the department. The advanced  
599 cleanup contract must include redevelopment and site  
600 rehabilitation milestones.

601 6. Documentation, in the form of a letter from the local  
602 government having jurisdiction over the area where the site is  
603 located, which states that the local government is in agreement  
604 with or approves the proposed redevelopment and that the  
605 proposed redevelopment complies with applicable law and  
606 requirements for such redevelopment.

607 7. A demonstrated reasonable assurance that the applicant  
608 has sufficient financial resources to implement and complete the  
609 redevelopment project.

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610       (d) Upon acceptance of an advanced cleanup application, the  
611 applicant's selected agency term contractor shall submit to the  
612 department a scope of work for a limited contamination  
613 assessment. When the scope of work is negotiated and agreed  
614 upon, the department shall issue one or more purchase orders of  
615 up to \$35,000 each for the limited contamination assessment. The  
616 limited contamination assessment report must be sufficient to  
617 support the proposed course of action and to estimate the cost  
618 of the proposed course of action.

619       (e) Site eligibility under this section is not an  
620 entitlement to advanced cleanup funding or continued restoration  
621 funding.

622       Section 3. This act shall take effect July 1, 2020.