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1
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.