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1 A bill to be entitled
 2 An act relating to Petroleum Restoration Program;
 3 amending s. 376.3071, F.S.; providing conditions for
 4 eligibility and methods for payment of costs for the
 5 low-risk site initiative; amending s. 376.30713, F.S.;
 6 revising the number of sites for certain advanced
 7 cleanup applications; increasing the total amount for
 8 which the department may contract for advanced cleanup
 9 work in a fiscal year; providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Paragraph (b) of subsection (12) of section
 14 376.3071, Florida Statutes, are amended, and paragraph (c) is
 15 added to subsection (12) of that section, to read:

16 376.3071 Inland Protection Trust Fund; creation; purposes;
 17 funding.—

18 (12) SITE CLEANUP.—

19 (b) ~~Low scored~~ Low-risk site initiative.—Notwithstanding
 20 subsections (5) and (6), a site ~~with a priority ranking score of~~
 21 ~~29 points or less~~ may voluntarily participate in the low-risk
 22 ~~low-scored~~ site initiative regardless of whether the site is
 23 eligible for state restoration funding.

24 1. To participate in the ~~low-scored~~ low-risk site
 25 initiative, the ~~responsible party or~~ property owner, or a
 26 responsible party that provides evidence of authorization from

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27 the property owners, must submit a "No Further Action Proposal"
 28 and affirmatively demonstrate that the following conditions of
 29 paragraph (c) are met.~~±~~

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

32 b. ~~Excessively contaminated soil, as defined by department~~
 33 ~~rule, does not exist onsite as a result of a release of~~
 34 ~~petroleum products.~~

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

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

40 e. ~~The area of groundwater containing the petroleum~~
 41 ~~products' chemicals of concern is less than one quarter acre and~~
 42 ~~is confined to the source property boundaries of the real~~
 43 ~~property on which the discharge originated.~~

44 f. ~~Soils onsite that are subject to human exposure found~~
 45 ~~between land surface and 2 feet below land surface meet the soil~~
 46 ~~cleanup target levels established by department rule or human~~
 47 ~~exposure is limited by appropriate institutional or engineering~~
 48 ~~controls.~~

49 2. Upon affirmative demonstration that ~~of~~ the conditions
 50 of paragraph (c) are met ~~under subparagraph 1.~~, the department
 51 shall issue a site rehabilitation completion order incorporating
 52 a determination of "No Further Action Proposal." Such

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53 ~~determination acknowledges that minimal contamination exists~~
 54 ~~onsite and that such contamination is not a threat to the public~~
 55 ~~health, safety, or welfare, water resources, or the environment.~~
 56 If no contamination is detected, the department may issue a site
 57 rehabilitation completion order.

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

61 a. A ~~responsible party or~~ responsible
 62 party that provides evidence of authorization from the property
 63 owners, may submit an assessment and limited remediation plan
 64 designed to affirmatively demonstrate that the site meets the
 65 conditions of paragraph (c) under subparagraph 1.

66 Notwithstanding the priority ranking score of the site, the
 67 department may approve the cost of the assessment and limited
 68 remediation, including up to 6 months of groundwater monitoring,
 69 in one or more task assignments, or modifications thereof, not
 70 to exceed a total amount equal to that specified for Category
 71 Two pursuant to s. 287.017, \$30,000 for each site where the
 72 department has determined that the assessment and limited
 73 remediation, if applicable, will likely result in a
 74 determination of "No Further Action". The department may not pay
 75 the costs associated with the establishment of institutional or
 76 engineering controls, with the exception of the costs associated
 77 with a professional land survey or specific purpose survey, if
 78 needed, and costs associated with obtaining a title report and

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79 recording fees.

80 b. In order to ensure that work conducted pursuant to this
 81 paragraph is completed in a cost-effective manner, the
 82 department shall procure such contractual services pursuant to
 83 the provisions of chapter 287 and applicable department rules.

84 c. ~~b.~~ The assessment and limited remediation work shall be
 85 completed no later than ~~9~~6 months after the department
 86 authorizes the start of a state-funded low-risk-site initiative
 87 task issues its approval. If groundwater monitoring is required
 88 following the assessment and limited remediation in order to
 89 satisfy the conditions of paragraph (c), the department may
 90 authorize an additional 6 months to complete the monitoring.

91 d. ~~e.~~ No more than \$15 ~~\$10~~ million for the ~~low-scored~~ low-
 92 risk site initiative may be encumbered from the fund in any
 93 fiscal year. Funds shall be made available on a first-come,
 94 first-served basis and shall be limited to 10 sites in each
 95 fiscal year for each ~~responsible party or~~ property owner or for
 96 each responsible party that provides evidence of authorization
 97 from the property owners.

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

101 (c) The department shall issue a site rehabilitation
 102 completion order incorporating the "No Further Action Proposal"
 103 if the department determines that a property owner, or a
 104 responsible party that provided evidence of authorization from

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105 the property owners, who submitted a "No Further Action
 106 Proposal" affirmatively demonstrated that the following
 107 conditions are met:

108 1. Soil saturated with petroleum or petroleum products,
 109 or soil that causes a total corrected hydrocarbon measurement of
 110 500 parts per million (ppm) or higher for Gasoline Analytical
 111 Group or 50 ppm or higher for Kerosene Analytical Group, as
 112 defined by department rule, does not exist onsite as a result of
 113 a release of petroleum products.

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

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

119 4. The area of groundwater containing the petroleum
 120 products' chemicals of concern is confined to the source
 121 property boundaries of the real property on which the discharge
 122 originated, or has migrated from the source property only to a
 123 transportation facility of the Florida Department of
 124 Transportation.

125 5. The groundwater contamination containing the petroleum
 126 products chemicals of concern is not a threat to any permitted
 127 potable water supply well.

128 6. Soils onsite that are subject to human exposure found
 129 between land surface and 2 feet below land surface meet the soil
 130 cleanup target levels established pursuant to s.

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131 376.3071(5)(b)9., or human exposure is limited by appropriate
 132 institutional or engineering controls.

133
 134 Such determination acknowledges that minimal contamination
 135 exists onsite and that such contamination is not a threat to the
 136 public health, safety, or welfare, water resources, or the
 137 environment. If the department determines that a discharge for
 138 which a site rehabilitation completion order was issued pursuant
 139 to this subsection may pose a threat to the public health,
 140 safety, or welfare, water resources, or the environment, the
 141 issuance of the site rehabilitation completion order does not
 142 alter eligibility for state-funded rehabilitation that would
 143 otherwise be applicable under this section.

144 Section 2. Subsection (2) and paragraph (a) of subsection
 145 (2), and subsection (4) of section 376.30713, Florida Statutes,
 146 are amended to read:

147 376.30713 Advanced cleanup.—

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

154 (a) Advanced cleanup applications may be submitted between
 155 May 1 and June 30 and between November 1 and December 31 of each
 156 fiscal year. Applications submitted between May 1 and June 30

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157 shall be for the fiscal year beginning July 1. An application
 158 must consist of:

159 1. A commitment to pay 25 percent or more of the total
 160 cleanup cost deemed recoverable under this section along with
 161 proof of the ability to pay the cost share. An application
 162 proposing that the department enter into a performance-based
 163 contract for the cleanup of 10 ~~20~~ or more sites may use a
 164 commitment to pay, a demonstrated cost savings to the
 165 department, or both to meet the cost-share requirement. For an
 166 application relying on a demonstrated cost savings to the
 167 department, the applicant shall, in conjunction with the
 168 proposed agency ~~term~~ contractor, establish and provide in the
 169 application the percentage of cost savings in the aggregate that
 170 is being provided to the department for cleanup of the sites
 171 under the application compared to the cost of cleanup of those
 172 same sites using the current rates provided to the department by
 173 the proposed agency ~~term~~ contractor. The department shall
 174 determine whether the cost savings demonstration is acceptable.
 175 Such determination is not subject to chapter 120.

176 2. A nonrefundable review fee of \$250 to cover the
 177 administrative costs associated with the department's review of
 178 the application.

179 3. A limited contamination assessment report.

180 4. A proposed course of action.

181 5. Where the applicant is not the property owner for any
 182 of the sites contained in the application, evidence of

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183 authorization from the property owners for site access and
 184 petroleum site rehabilitation program tasks consistent with the
 185 proposed course of action.

186
 187 The limited contamination assessment report must be sufficient
 188 to support the proposed course of action and to estimate the
 189 cost of the proposed course of action. Costs incurred related to
 190 conducting the limited contamination assessment report are not
 191 refundable from the Inland Protection Trust Fund. Site
 192 eligibility under this subsection or any other provision of this
 193 section is not an entitlement to advanced cleanup or continued
 194 restoration funding. The applicant shall certify to the
 195 department that the applicant has the prerequisite authority to
 196 enter into an advanced cleanup contract with the department. The
 197 certification must be submitted with the application.

198 (b) The department shall rank the applications based on
 199 the percentage of cost-sharing commitment proposed by the
 200 applicant, with the highest ranking given to the applicant who
 201 proposes the highest percentage of cost sharing. If the
 202 department receives applications that propose identical cost-
 203 sharing commitments and that exceed the funds available to
 204 commit to all such proposals during the advanced cleanup
 205 application period, the department shall proceed to rerank those
 206 applicants. Those applicants submitting identical cost-sharing
 207 proposals that exceed funding availability must be so notified
 208 by the department and offered the opportunity to raise their

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209 individual cost-share commitments, in a period specified in the
 210 notice. At the close of the period, the department shall proceed
 211 to rerank the applications pursuant to this paragraph.

212 (4) The department may enter into contracts for a total of
 213 up to \$25 ~~\$15~~ million of advanced cleanup work in each fiscal
 214 year. However, a facility or an applicant who bundles multiple
 215 sites as specified in subparagraph (2)(a)1. may not be approved
 216 for more than \$5 million of cleanup activity in each fiscal
 217 year. For the purposes of this section, the term "facility"
 218 includes, but is not limited to, multiple site facilities such
 219 as airports, port facilities, and terminal facilities even
 220 though such enterprises may be treated as separate facilities
 221 for other purposes under this chapter.

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