

By the Committee on Environmental Preservation and Conservation;
and Senator Simpson

592-02178-15

2015314c1

1 A bill to be entitled
2 An act relating to the Petroleum Restoration Program;
3 amending s. 376.305, F.S.; removing the requirement
4 that applications for the Abandoned Tank Restoration
5 Program must have been submitted to the Department of
6 Environmental Protection by a certain time; deleting
7 provisions relieving certain persons from liability;
8 amending s. 376.3071, F.S.; prohibiting the department
9 from incorporating risk-based corrective actions
10 principles not approved by the property owner;
11 prohibiting site rehabilitation from being implemented
12 on certain sites without the approval of the property
13 owner; requiring the department to establish a
14 procedure by rule for the processing of certain
15 invoices and the direct assignment of tasks by a
16 certain date; authorizing site owners and operators to
17 select agency term contractors from which the
18 department must select from under certain
19 circumstances; requiring the property owner or
20 responsible party selecting the agency term contractor
21 and the selected agency term contractor to execute a
22 sworn affidavit testifying to certain terms; requiring
23 agency term contractors to disclose any conflict of
24 interest to the department; revising the conditions
25 for eligibility and methods for payment of costs for
26 the low-scored site initiative; clarifying that a
27 change in ownership does not preclude a site from
28 entering into the program; revising the eligibility
29 requirements for receiving rehabilitation funding

592-02178-15

2015314c1

30 assistance; increasing the amount of funding
31 assistance available; amending s. 376.30713, F.S.;
32 revising the number of sites for certain advanced
33 cleanup applications; increasing the total amount for
34 which the department may contract for advanced cleanup
35 work in a fiscal year; authorizing property owners and
36 responsible parties to enter into voluntary cost-share
37 agreements under certain circumstances; providing an
38 effective date.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Subsection (6) of section 376.305, Florida
43 Statutes, is amended to read:

44 376.305 Removal of prohibited discharges.—

45 (6) The Legislature created the Abandoned Tank Restoration
46 Program in response to the need to provide financial assistance
47 for cleanup of sites that have abandoned petroleum storage
48 systems. For purposes of this subsection, the term "abandoned
49 petroleum storage system" means a petroleum storage system that
50 has not stored petroleum products for consumption, use, or sale
51 since March 1, 1990. The department shall establish the
52 Abandoned Tank Restoration Program to facilitate the restoration
53 of sites contaminated by abandoned petroleum storage systems.

54 (a) To be included in the program:

55 1. An application must be submitted to the department ~~by~~
56 ~~June 30, 1996,~~ certifying that the system has not stored
57 petroleum products for consumption, use, or sale at the facility
58 since March 1, 1990.

592-02178-15

2015314c1

59 2. The owner or operator of the petroleum storage system
60 when it was in service must have ceased conducting business
61 involving consumption, use, or sale of petroleum products at
62 that facility on or before March 1, 1990.

63 3. The site is not otherwise eligible for the cleanup
64 programs pursuant to s. 376.3071 or s. 376.3072.

65 (b) In order to be eligible for the program, petroleum
66 storage systems from which a discharge occurred must be closed
67 pursuant to department rules before an eligibility
68 determination. However, if the department determines that the
69 owner of the facility cannot financially comply with the
70 department's petroleum storage system closure requirements and
71 all other eligibility requirements are met, the petroleum
72 storage system closure requirements shall be waived. The
73 department shall take into consideration the owner's net worth
74 and the economic impact on the owner in making the determination
75 of the owner's financial ability. ~~The June 30, 1996, application~~
76 ~~deadline shall be waived for owners who cannot financially~~
77 ~~comply.~~

78 (c) Sites accepted in the program are eligible for site
79 rehabilitation funding as provided in s. 376.3071.

80 (d) The following sites are excluded from eligibility:

81 1. Sites on property of the Federal Government;

82 2. Sites contaminated by pollutants that are not petroleum
83 products;

84 3. Sites where the department has been denied site access;
85 or

86 4. Sites which are owned by a person who had knowledge of
87 the polluting condition when title was acquired unless the

592-02178-15

2015314c1

88 person acquired title to the site after issuance of a notice of
89 site eligibility by the department.

90 (e) Participating sites are subject to a deductible as
91 determined by rule, not to exceed \$10,000.

92

93 ~~This subsection does not relieve a person who has acquired title~~
94 ~~after July 1, 1992, from the duty to establish by a~~
95 ~~preponderance of the evidence that he or she undertook, at the~~
96 ~~time of acquisition, all appropriate inquiry into the previous~~
97 ~~ownership and use of the property consistent with good~~
98 ~~commercial or customary practice in an effort to minimize~~
99 ~~liability, as required by s. 376.308(1)(c).~~

100 Section 2. Paragraph (b) of subsection (5), paragraph (d)
101 of subsection (6), paragraph (b) of subsection (12), and
102 subsection (13) of section 376.3071, Florida Statutes, are
103 amended, and paragraphs (n) and (o) are added to subsection (6)
104 of that section, to read:

105 376.3071 Inland Protection Trust Fund; creation; purposes;
106 funding.—

107 (5) SITE SELECTION AND CLEANUP CRITERIA.—

108 (b) It is the intent of the Legislature to protect the
109 health of all people under actual circumstances of exposure. The
110 secretary shall establish criteria by rule for the purpose of
111 determining, on a site-specific basis, the rehabilitation
112 program tasks that comprise a site rehabilitation program and
113 the level at which a rehabilitation program task and a site
114 rehabilitation program are completed. In establishing the rule,
115 the department shall incorporate, ~~to the maximum extent~~
116 ~~feasible,~~ risk-based corrective action principles approved by

592-02178-15

2015314c1

117 the property owner to achieve protection of the public health,
118 safety, and welfare, water resources, and the environment in a
119 cost-effective manner as provided in this subsection. Criteria
120 for determining what constitutes a rehabilitation program task
121 or completion of site rehabilitation program tasks and site
122 rehabilitation programs shall be based upon the factors set
123 forth in paragraph (a) and the following additional factors:

124 1. The current exposure and potential risk of exposure to
125 humans and the environment including multiple pathways of
126 exposure.

127 2. The appropriate point of compliance with cleanup target
128 levels for petroleum products' chemicals of concern. The point
129 of compliance shall be at the source of the petroleum
130 contamination. However, the department may temporarily move the
131 point of compliance to the boundary of the property, or to the
132 edge of the plume when the plume is within the property
133 boundary, while cleanup, including cleanup through natural
134 attenuation processes in conjunction with appropriate
135 monitoring, is proceeding. The department may also, pursuant to
136 criteria provided for in this paragraph, temporarily extend the
137 point of compliance beyond the property boundary with
138 appropriate monitoring, if such extension is needed to
139 facilitate natural attenuation or to address the current
140 conditions of the plume, if the public health, safety, and
141 welfare, water resources, and the environment are adequately
142 protected. Temporary extension of the point of compliance beyond
143 the property boundary, as provided in this subparagraph, must
144 include notice to local governments and owners of any property
145 into which the point of compliance is allowed to extend.

592-02178-15

2015314c1

146 3. The appropriate site-specific cleanup goal. The site-
147 specific cleanup goal shall be that all petroleum contamination
148 sites ultimately achieve the applicable cleanup target levels
149 provided in this paragraph. However, the department may allow
150 concentrations of the petroleum products' chemicals of concern
151 to temporarily exceed the applicable cleanup target levels while
152 cleanup, including cleanup through natural attenuation processes
153 in conjunction with appropriate monitoring, is proceeding, if
154 the public health, safety, and welfare, water resources, and the
155 environment are adequately protected.

156 4. The appropriateness of using institutional or
157 engineering controls. Site rehabilitation programs may include
158 the use of institutional or engineering controls to eliminate
159 the potential exposure to petroleum products' chemicals of
160 concern to humans or the environment. Use of such controls must
161 have prior department approval and may not be acquired with
162 moneys from the fund. When institutional or engineering controls
163 are implemented to control exposure, the removal of such
164 controls must have prior department approval and must be
165 accompanied immediately by the resumption of active cleanup or
166 other approved controls unless cleanup target levels pursuant to
167 this paragraph have been achieved. Beginning July 1, 2013, site
168 rehabilitation for a site that qualifies for a conditional
169 closure or closure with institutional or engineering controls
170 that require deed restrictions or a work stoppage not due to
171 insufficient funds may be implemented only with the approval of
172 the property owner.

173 5. The additive effects of the petroleum products'
174 chemicals of concern. The synergistic effects of petroleum

592-02178-15

2015314c1

175 products' chemicals of concern must also be considered when the
176 scientific data becomes available.

177 6. Individual site characteristics which must include, but
178 not be limited to, the current and projected use of the affected
179 groundwater in the vicinity of the site, current and projected
180 land uses of the area affected by the contamination, the exposed
181 population, the degree and extent of contamination, the rate of
182 contaminant migration, the apparent or potential rate of
183 contaminant degradation through natural attenuation processes,
184 the location of the plume, and the potential for further
185 migration in relation to site property boundaries.

186 7. Applicable state water quality standards.

187 a. Cleanup target levels for petroleum products' chemicals
188 of concern found in groundwater shall be the applicable state
189 water quality standards. Where such standards do not exist, the
190 cleanup target levels for groundwater shall be based on the
191 minimum criteria specified in department rule. The department
192 shall consider the following, as appropriate, in establishing
193 the applicable minimum criteria: calculations using a lifetime
194 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
195 best achievable detection limit; the naturally occurring
196 background concentration; or nuisance, organoleptic, and
197 aesthetic considerations.

198 b. Where surface waters are exposed to petroleum
199 contaminated groundwater, the cleanup target levels for the
200 petroleum products' chemicals of concern shall be based on the
201 surface water standards as established by department rule. The
202 point of measuring compliance with the surface water standards
203 shall be in the groundwater immediately adjacent to the surface

592-02178-15

2015314c1

204 water body.

205 8. Whether deviation from state water quality standards or
206 from established criteria is appropriate. The department may
207 issue a "No Further Action Order" based upon the degree to which
208 the desired cleanup target level is achievable and can be
209 reasonably and cost-effectively implemented within available
210 technologies or engineering and institutional control
211 strategies. Where a state water quality standard is applicable,
212 a deviation may not result in the application of cleanup target
213 levels more stringent than the standard. In determining whether
214 it is appropriate to establish alternate cleanup target levels
215 at a site, the department may consider the effectiveness of
216 source removal that has been completed at the site and the
217 practical likelihood of the use of low yield or poor quality
218 groundwater; the use of groundwater near marine surface water
219 bodies; the current and projected use of the affected
220 groundwater in the vicinity of the site; or the use of
221 groundwater in the immediate vicinity of the storage tank area,
222 where it has been demonstrated that the groundwater
223 contamination is not migrating away from such localized source,
224 if the public health, safety, and welfare, water resources, and
225 the environment are adequately protected.

226 9. Appropriate cleanup target levels for soils.

227 a. In establishing soil cleanup target levels for human
228 exposure to petroleum products' chemicals of concern found in
229 soils from the land surface to 2 feet below land surface, the
230 department shall consider the following, as appropriate:
231 calculations using a lifetime cancer risk level of 1.0E-6; a
232 hazard index of 1 or less; the best achievable detection limit;

592-02178-15

2015314c1

233 or the naturally occurring background concentration.

234 b. Leachability-based soil target levels shall be based on
235 protection of the groundwater cleanup target levels or the
236 alternate cleanup target levels for groundwater established
237 pursuant to this paragraph, as appropriate. Source removal and
238 other cost-effective alternatives that are technologically
239 feasible shall be considered in achieving the leachability soil
240 target levels established by the department. The leachability
241 goals do not apply if the department determines, based upon
242 individual site characteristics, that petroleum products'
243 chemicals of concern will not leach into the groundwater at
244 levels which pose a threat to public health, safety, and
245 welfare, water resources, or the environment.

246
247 This paragraph does not restrict the department from temporarily
248 postponing completion of any site rehabilitation program for
249 which funds are being expended whenever such postponement is
250 necessary in order to make funds available for rehabilitation of
251 a contamination site with a higher priority status.

252 (6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

253 (d) The department rules implementing this section must:

254 1. Specify that only qualified vendors may submit responses
255 on a competitive solicitation. ~~The department rules must also~~

256 2. Include procedures for the rejection of vendors not
257 meeting the minimum qualifications on the opening of a
258 competitive solicitation. ~~and~~

259 3. Include requirements for a vendor to maintain its
260 qualifications in order to enter contracts or perform
261 rehabilitation work.

592-02178-15

2015314c1

262 4. Establish a procedure by October 1, 2015, for the
263 processing of invoices and the direct assignment of tasks that
264 are less than \$500,000. This procedure may not involve the use
265 of MyFloridaMarketPlace. Invoices and assignment of tasks may be
266 processed pursuant to chapter 287.

267 (n) For sites that are within the priority scoring range
268 eligible for funding, excluding sites that are within a cost-
269 share program, a site owner or operator may select three agency
270 term contractors. The department will then select one of the
271 three agency term contractors based on the best value to be
272 determined by a combination of the agency term contractor's
273 Invitation to Negotiate ranking and Schedule E rates.

274 (o)1. Both the selected agency term contractor and the
275 property owner, or responsible party, who selects the agency
276 term contractor must execute a sworn affidavit testifying that
277 neither party has solicited, offered, accepted, paid, or
278 received any compensation, remuneration, or gift of any kind,
279 directly or indirectly, in exchange for the selection of the
280 agency term contractor in connection with the cleanup of the
281 petroleum contaminated property, except for the compensation
282 paid by the department to the agency term contractor pursuant to
283 the agency term contractor's contract with the department. If
284 the department subsequently determines that remuneration did
285 occur, the department may seek recovery of the costs of cleanup
286 of specific properties from all parties responsible for the
287 property contamination, and the property is ineligible for
288 participation in any cleanup program.

289 2. Pursuant to the terms and conditions of the agency term
290 contractor's contract with the department, the agency term

592-02178-15

2015314c1

291 contractor must disclose any conflict of interest to the
292 department. The agency term contractor shall be conclusively
293 determined to have a conflict of interest with regard to any
294 site if it has given or offered remuneration, in cash or in
295 kind, directly or indirectly, to the property owner or
296 responsible party, or the owner's or responsible party's
297 designee, to obtain work associated with such property. The
298 department retains the right to investigate and determine if an
299 agency term contractor has a conflict of interest with regard to
300 any property. The department may terminate the agency term
301 contractor's contract with the department or may terminate the
302 agency term contractor's work assignment to a particular
303 property based upon the department's assessment of the potential
304 conflict of interest.

305 (12) SITE CLEANUP.—

306 (b) *Low-scored site initiative.*—Notwithstanding subsections
307 (5) and (6), a site with a priority ranking score of 29 points
308 or less may voluntarily participate in the low-scored site
309 initiative regardless of whether the site is eligible for state
310 restoration funding.

311 1. To participate in the low-scored site initiative, the
312 responsible party or property owner must affirmatively
313 demonstrate that the following conditions are met:

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

316 b. Excessively contaminated soil, as defined by department
317 rule, does not exist onsite as a result of a release of
318 petroleum products.

319 c. A minimum of 6 months of groundwater monitoring

592-02178-15

2015314c1

320 indicates that the plume is shrinking or stable.

321 d. The release of petroleum products at the site does not
322 adversely affect adjacent surface waters, including their
323 effects on human health and the environment.

324 e. The area of groundwater containing the petroleum
325 products' chemicals of concern ~~is less than one-quarter acre and~~
326 is confined to the source property boundaries of the real
327 property on which the discharge originated or is located below a
328 state road or a state road's right-of-way.

329 f. Soils onsite that are subject to human exposure found
330 between land surface and 2 feet below land surface meet the soil
331 cleanup target levels established by department rule or human
332 exposure is limited by appropriate institutional or engineering
333 controls.

334 2. Upon affirmative demonstration of the conditions under
335 subparagraph 1., the department shall issue a determination of
336 "No Further Action." Such determination acknowledges that
337 minimal contamination exists onsite and that such contamination
338 is not a threat to the public health, safety, or welfare, water
339 resources, or the environment. If no contamination is detected,
340 the department may issue a site rehabilitation completion order.

341 3. Sites that are eligible for state restoration funding
342 may receive payment of costs for the low-scored site initiative
343 as follows:

344 a. A responsible party or property owner may submit an
345 assessment plan designed to affirmatively demonstrate that the
346 site meets the conditions under subparagraph 1. Notwithstanding
347 the priority ranking score of the site, the department may
348 approve the cost of the assessment, including 6 months of

592-02178-15

2015314c1

349 groundwater monitoring, not to exceed \$35,000 ~~\$30,000~~ for each
350 site. The department may not pay the costs associated with the
351 establishment of institutional or engineering controls.

352 b. Following the assessment, the department may approve up
353 to an additional \$35,000 for interim source removal pursuant to
354 department rule to achieve a "No Further Action" order or a site
355 rehabilitation completion order pursuant to subparagraph 2.

356 c. For low-scored site initiative sites that were completed
357 before July 1, 2015, the department may approve up to an
358 additional \$35,000 for supplemental site assessment pursuant to
359 department rule or to achieve a "No Further Action" order or a
360 site rehabilitation completion order pursuant to subparagraph 2.

361 d. To provide pricing levels on the best terms to the
362 department, only an agency term contractor may participate in
363 the low-scored site initiative.

364 e. Completed low-scored site initiative sites shall be
365 granted priority 2 scoring status for ongoing assessment or
366 remedial activity pursuant to department rule.

367 f.b. All The assessment work shall be completed no later
368 than ~~9~~ 6 months after the department issues its approval. If
369 groundwater monitoring is required after the assessment in order
370 to satisfy the conditions of sub-subparagraph 1.c., the
371 department may authorize an additional 6 months to complete the
372 monitoring.

373 g.e. No more than \$10 million for the low-scored site
374 initiative may be encumbered from the fund in any fiscal year.
375 Funds shall be made available on a first-come, first-served
376 basis and shall be limited to 10 sites in each fiscal year for
377 each responsible party or property owner.

592-02178-15

2015314c1

378 ~~h.d.~~ Program deductibles, copayments, and the limited
379 contamination assessment report requirements under paragraph
380 (13)(c) do not apply to expenditures under this paragraph.

381 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage
382 detection, reporting, and cleanup of contamination caused by
383 discharges of petroleum or petroleum products, the department
384 shall, within the guidelines established in this subsection,
385 implement a cost-sharing cleanup program to provide
386 rehabilitation funding assistance for all property contaminated
387 by discharges of petroleum or petroleum products from a
388 petroleum storage system occurring before January 1, 1995,
389 subject to a copayment provided for in a Petroleum Cleanup
390 Participation Program site rehabilitation agreement. Eligibility
391 is subject to an annual appropriation from the fund.
392 Additionally, funding for eligible sites is contingent upon
393 annual appropriation in subsequent years. Such continued state
394 funding is not an entitlement or a vested right under this
395 subsection. Eligibility shall be determined in the program,
396 notwithstanding any other provision of law, consent order,
397 order, judgment, or ordinance to the contrary.

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

401 2. Owners or operators of property, regardless of whether
402 ownership has changed, which is contaminated by petroleum or
403 petroleum products from a petroleum storage system may apply for
404 such program by filing a written report of the contamination
405 incident, including evidence that such incident occurred before
406 January 1, 1995, with the department. Incidents of petroleum

592-02178-15

2015314c1

407 contamination discovered after December 31, 1994, at sites which
408 have not stored petroleum or petroleum products for consumption,
409 use, or sale after such date shall be presumed to have occurred
410 before January 1, 1995. An operator's filed report shall be an
411 application of the owner for all purposes. ~~Sites reported to the~~
412 ~~department after December 31, 1998, are not eligible for the~~
413 ~~program.~~

414 (b) Subject to annual appropriation from the fund, sites
415 meeting the criteria of this subsection are eligible for up to
416 \$1 million ~~\$400,000~~ of site rehabilitation funding assistance in
417 priority order pursuant to subsections (5) and (6). Sites
418 meeting the criteria of this subsection for which a site
419 rehabilitation completion order was issued before June 1, 2008,
420 do not qualify for the 2008 increase in site rehabilitation
421 funding assistance and are bound by the pre-June 1, 2008,
422 limits. Sites meeting the criteria of this subsection for which
423 a site rehabilitation completion order was not issued before
424 June 1, 2008, regardless of whether they have previously
425 transitioned to nonstate-funded cleanup status, may continue
426 state-funded cleanup pursuant to this section until a site
427 rehabilitation completion order is issued or the increased site
428 rehabilitation funding assistance limit is reached, whichever
429 occurs first. The department may not pay expenses incurred
430 beyond the scope of an approved contract.

431 (c) Upon notification by the department that rehabilitation
432 funding assistance is available for the site pursuant to
433 subsections (5) and (6), the owner, operator, or person
434 otherwise responsible for site rehabilitation shall provide the
435 department with a limited contamination assessment report and

592-02178-15

2015314c1

436 shall enter into a Petroleum Cleanup Participation Program site
437 rehabilitation agreement with the department. The agreement must
438 provide for a 25-percent copayment by the owner, operator, or
439 person otherwise responsible for conducting site rehabilitation.
440 The owner, operator, or person otherwise responsible for
441 conducting site rehabilitation shall adequately demonstrate the
442 ability to meet the copayment obligation. The limited
443 contamination assessment report and the copayment costs may be
444 reduced or eliminated if the owner and all operators responsible
445 for restoration under s. 376.308 demonstrate that they cannot
446 financially comply with the copayment and limited contamination
447 assessment report requirements. The department shall take into
448 consideration the owner's and operator's net worth in making the
449 determination of financial ability. In the event the department
450 and the owner, operator, or person otherwise responsible for
451 site rehabilitation cannot complete negotiation of the cost-
452 sharing agreement within 120 days after beginning negotiations,
453 the department shall terminate negotiations and the site shall
454 be ineligible for state funding under this subsection and all
455 liability protections provided for in this subsection shall be
456 revoked.

457 (d) A report of a discharge made to the department by a
458 person pursuant to this subsection or any rules adopted pursuant
459 to this subsection may not be used directly as evidence of
460 liability for such discharge in any civil or criminal trial
461 arising out of the discharge.

462 (e) This subsection does not preclude the department from
463 pursuing penalties under s. 403.141 for violations of any law or
464 any rule, order, permit, registration, or certification adopted

592-02178-15

2015314c1

465 or issued by the department pursuant to its lawful authority.

466 (f) Upon the filing of a discharge reporting form under
467 paragraph (a), the department or local government may not pursue
468 any judicial or enforcement action to compel rehabilitation of
469 the discharge. This paragraph does not prevent any such action
470 with respect to discharges determined ineligible under this
471 subsection or to sites for which rehabilitation funding
472 assistance is available pursuant to subsections (5) and (6).

473 (g) The following are excluded from participation in the
474 program:

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

477 2. Sites that were active facilities when owned or operated
478 by the Federal Government.

479 3. Sites that are identified by the United States
480 Environmental Protection Agency to be on, or which qualify for
481 listing on, the National Priorities List under Superfund. This
482 exception does not apply to those sites for which eligibility
483 has been requested or granted as of the effective date of this
484 act under the Early Detection Incentive Program established
485 pursuant to s. 15, chapter 86-159, Laws of Florida.

486 4. Sites for which contamination is covered under the Early
487 Detection Incentive Program, the Abandoned Tank Restoration
488 Program, or the Petroleum Liability and Restoration Insurance
489 Program, in which case site rehabilitation funding assistance
490 shall continue under the respective program.

491 Section 3. Paragraph (a) of subsection (2) and subsection
492 (4) of section 376.30713, Florida Statutes, are amended to read:
493 376.30713 Advanced cleanup.—

592-02178-15

2015314c1

494 (2) The department may approve an application for advanced
495 cleanup at eligible sites, before funding based on the site's
496 priority ranking established pursuant to s. 376.3071(5) (a),
497 pursuant to this section. Only the facility owner or operator or
498 the person otherwise responsible for site rehabilitation
499 qualifies as an applicant under this section.

500 (a) Advanced cleanup applications may be submitted between
501 May 1 and June 30 and between November 1 and December 31 of each
502 fiscal year. Applications submitted between May 1 and June 30
503 shall be for the fiscal year beginning July 1. An application
504 must consist of:

505 1. A commitment to pay 25 percent or more of the total
506 cleanup cost deemed recoverable under this section along with
507 proof of the ability to pay the cost share. An application
508 proposing that the department enter into a performance-based
509 contract for the cleanup of 10 ~~20~~ or more sites may use a
510 commitment to pay, a demonstrated cost savings to the
511 department, or both to meet the cost-share requirement. For an
512 application relying on a demonstrated cost savings to the
513 department, the applicant shall, in conjunction with the
514 proposed agency term contractor, establish and provide in the
515 application the percentage of cost savings in the aggregate that
516 is being provided to the department for cleanup of the sites
517 under the application compared to the cost of cleanup of those
518 same sites using the current rates provided to the department by
519 the proposed agency term contractor. The department shall
520 determine whether the cost savings demonstration is acceptable.
521 Such determination is not subject to chapter 120.

522 2. A nonrefundable review fee of \$250 to cover the

592-02178-15

2015314c1

523 administrative costs associated with the department's review of
524 the application.

525 3. A limited contamination assessment report.

526 4. A proposed course of action.

527

528 The limited contamination assessment report must be sufficient
529 to support the proposed course of action and to estimate the
530 cost of the proposed course of action. Costs incurred related to
531 conducting the limited contamination assessment report are not
532 refundable from the Inland Protection Trust Fund. Site
533 eligibility under this subsection or any other provision of this
534 section is not an entitlement to advanced cleanup or continued
535 restoration funding. The applicant shall certify to the
536 department that the applicant has the prerequisite authority to
537 enter into an advanced cleanup contract with the department. The
538 certification must be submitted with the application.

539 (4) The department may enter into contracts for a total of
540 up to \$25 ~~\$15~~ million of advanced cleanup work in each fiscal
541 year. However, a facility or an applicant who bundles multiple
542 sites as specified in subparagraph (2)(a)1. may not be approved
543 for more than \$5 million of cleanup activity in each fiscal
544 year. A property owner or responsible party may enter into a
545 voluntary cost-share agreement in which the property owner or
546 responsible party commits to bundle multiple sites and lists the
547 facilities that will be included in those future bundles. The
548 facilities listed are not subject to agency term contractor
549 assignment pursuant to department rule. The department reserves
550 the right to terminate the voluntary cost-share agreement if the
551 property owner or responsible party fails to submit an

592-02178-15

2015314c1

552 application to bundle multiple sites within an open application
553 period in which it is eligible to participate. For the purposes
554 of this section, the term "facility" includes, but is not
555 limited to, multiple site facilities such as airports, port
556 facilities, and terminal facilities even though such enterprises
557 may be treated as separate facilities for other purposes under
558 this chapter.

559 Section 4. This act shall take effect July 1, 2015.