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## CHAMBER ACTION

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6 The Committee on Natural Resources recommends the following:

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**Committee Substitute**

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Remove the entire bill and insert:

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A bill to be entitled

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An act relating to site rehabilitation of contaminated sites; creating s. 376.30701, F.S.; extending application of risk-based corrective action principles to all contaminated sites resulting from a discharge of pollutants or hazardous substances; providing for contamination cleanup criteria that incorporate risk-based corrective action principles to be adopted by rule; providing clarification that cleanup criteria do not apply to offsite relocation or treatment; providing the conditions under which further rehabilitation may be required; amending s. 199.1055, F.S.; clarifying who may apply for tax credits; clarifying time period for use of tax credits; amending s. 220.1845, F.S.; clarifying who may apply for tax credits; clarifying time period for use of tax credits; allowing tax credit applicants to claim credit on a consolidated return up to the amount of the consolidated group's tax liability; amending s. 376.30781, F.S.; clarifying who may apply for tax credits; converting

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29 tax credit application time period to calendar year;  
30 moving application deadline to January 15; clarifying that  
31 placeholder applications are prohibited; amending s.  
32 403.087, F.S.; limiting a hazardous waste corrective  
33 action permit fee; amending s. 403.722, F.S.; requiring a  
34 corrective action permit for certain actions affecting a  
35 hazardous waste disposal facility; conforming references  
36 governing transferability of tax credits; eliminating  
37 outdated language; providing an effective date.

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

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41 Section 1. Section 376.30701, Florida Statutes, is created  
42 to read:

43 376.30701 Application of risk-based corrective action  
44 principles to contaminated sites; applicability; legislative  
45 intent; rulemaking authority; contamination cleanup criteria;  
46 limitations; reopeners.--

47 (1) APPLICABILITY.--

48 (a) This section shall not create or establish any new  
49 liability for site rehabilitation at contaminated sites. This  
50 section is intended to describe a risk-based corrective action  
51 process to be applied at sites where legal responsibility for  
52 site rehabilitation exists pursuant to other provisions of this  
53 chapter or chapter 403. An exceedance of any cleanup target  
54 level derived from the cleanup criteria established in  
55 subsection (2) shall not, at sites where legal responsibility  
56 for site rehabilitation does not exist pursuant to other



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provisions of this chapter or chapter 403, create liability for site rehabilitation. This section may also apply to other contaminated sites at which a person conducting site rehabilitation elects to have it apply, even where such person does not have legal responsibility for site rehabilitation pursuant to this chapter or chapter 403. This section and any rules adopted pursuant thereto, including the cleanup criteria described in subsection (2), shall not create additional authority to prohibit or limit the legal placement of materials or products on land.

(b) This section shall apply to all contaminated sites resulting from a discharge of pollutants or hazardous substances where legal responsibility for site rehabilitation exists pursuant to other provisions of this chapter or chapter 403, except for those contaminated sites subject to the risk-based corrective action cleanup criteria established for the petroleum, brownfields, and drycleaning programs pursuant to ss. 376.3071, 376.81, and 376.3078, respectively.

(c) This section shall apply to a variety of site rehabilitation scenarios including, but not limited to, site rehabilitation conducted voluntarily, site rehabilitation conducted pursuant to the department's enforcement authority, or site rehabilitation conducted as a state-managed cleanup by the department.

(d) This section, and any rules adopted pursuant thereto, shall apply retroactively to all existing contaminated sites where legal responsibility for site rehabilitation exists pursuant to other provisions of this chapter or chapter 403,



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85     except those sites for which cleanup target levels have been  
86     accepted by the department in an approved technical document,  
87     current permit, or other written agreement and except at those  
88     sites that have received a "No Further Action" order or a "Site  
89     Rehabilitation Completion" order from the department. However,  
90     the person responsible for site rehabilitation can elect to have  
91     the provisions of this section, including cleanup target levels  
92     established pursuant thereto, apply in lieu of those in an  
93     approved technical document, current permit, or other written  
94     agreement.

95        (e) Nothing in this section shall be construed to prohibit  
96        or delay actions to respond to a discharge of pollutants or  
97        hazardous substances prior to any contact with the department.  
98        The risk-based corrective action process contemplates  
99        appropriate emergency response action or initial remedial action  
100      prior to any formal application of the risk-based corrective  
101      action process involving site assessment and, if required,  
102      subsequent remedial action. Any emergency response actions or  
103      initial remedial actions must be conducted in accordance with  
104      all applicable federal, state, and local laws and regulations.

105        (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.--It is  
106        the intent of the Legislature to protect the health of all  
107        people under actual circumstances of exposure. By July 1, 2004,  
108        the secretary of the department shall establish criteria by rule  
109        for the purpose of determining, on a site-specific basis, the  
110        rehabilitation program tasks that comprise a site rehabilitation  
111        program, including a voluntary site rehabilitation program, and  
112        the level at which a rehabilitation program task and a site



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113 rehabilitation program may be deemed completed. In establishing  
114 these rules, the department shall apply, to the maximum extent  
115 feasible, a risk-based corrective action process to achieve  
116 protection of human health and safety and the environment in a  
117 cost-effective manner based on the principles set forth in this  
118 subsection. These rules shall prescribe a phased risk-based  
119 corrective action process that is iterative and that tailors  
120 site rehabilitation tasks to site-specific conditions and risks.  
121 The department and the person responsible for site  
122 rehabilitation are encouraged to establish decision points at  
123 which risk management decisions will be made. The department  
124 shall provide an early decision, when requested, regarding  
125 applicable exposure factors and a risk management approach based  
126 on the current and future land use at the site. These rules  
127 shall also include protocols for the use of natural attenuation,  
128 the use of institutional and engineering controls, and the  
129 issuance of "No Further Action" orders. The criteria for  
130 determining what constitutes a rehabilitation program task or  
131 completion of a site rehabilitation program task or site  
132 rehabilitation program, including a voluntary site  
133 rehabilitation program, must:

134       (a) Consider the current exposure and potential risk of  
135       exposure to humans and the environment, including multiple  
136       pathways of exposure. The physical, chemical, and biological  
137       characteristics of each contaminant must be considered in order  
138       to determine the feasibility of a risk-based corrective action  
139       assessment.



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140       (b) Establish the point of compliance at the source of the  
141 contamination. However, the department is authorized to  
142 temporarily move the point of compliance to the boundary of the  
143 property, or to the edge of the plume when the plume is within  
144 the property boundary, while cleanup, including cleanup through  
145 natural attenuation processes in conjunction with appropriate  
146 monitoring, is proceeding. The department also is authorized,  
147 pursuant to criteria provided in this section, to temporarily  
148 extend the point of compliance beyond the property boundary with  
149 appropriate monitoring, if such extension is needed to  
150 facilitate natural attenuation or to address the current  
151 conditions of the plume, provided human health, public safety,  
152 and the environment are protected. When temporarily extending  
153 the point of compliance beyond the property boundary, it cannot  
154 be extended further than the lateral extent of the plume, if  
155 known, at the time of execution of a cleanup agreement, if  
156 required, or the lateral extent of the plume as defined at the  
157 time of site assessment. Temporary extension of the point of  
158 compliance beyond the property boundary, as provided in this  
159 paragraph, must include actual notice by the person responsible  
160 for site rehabilitation to local governments and the owners of  
161 any property into which the point of compliance is allowed to  
162 extend and constructive notice to residents and business tenants  
163 of the property into which the point of compliance is allowed to  
164 extend. Persons receiving notice pursuant to this paragraph  
165 shall have the opportunity to comment within 30 days after  
166 receipt of the notice. Additional notice concerning the status  
167 of natural attenuation processes shall be similarly provided to



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168 persons receiving notice pursuant to this paragraph every 5  
169 years.

170 (c) Ensure that the site-specific cleanup goal is that all  
171 contaminated sites being cleaned up pursuant to this section  
172 ultimately achieve the applicable cleanup target levels provided  
173 in this subsection. In the circumstances provided in this  
174 subsection, and after constructive notice and opportunity to  
175 comment within 30 days after receipt of the notice to local  
176 government, owners of any property into which the point of  
177 compliance is allowed to extend, and residents of any property  
178 into which the point of compliance is allowed to extend, the  
179 department may allow concentrations of contaminants to  
180 temporarily exceed the applicable cleanup target levels while  
181 cleanup, including cleanup through natural attenuation processes  
182 in conjunction with appropriate monitoring, is proceeding, if  
183 human health, public safety, and the environment are protected.

184 (d) Allow the use of institutional or engineering controls  
185 at contaminated sites being cleaned up pursuant to this section,  
186 where appropriate, to eliminate or control the potential  
187 exposure to contaminants of humans or the environment. The use  
188 of controls must be preapproved by the department and only after  
189 constructive notice and opportunity to comment within 30 days  
190 after receipt of notice is provided to local governments, owners  
191 of any property into which the point of compliance is allowed to  
192 extend, and residents on any property into which the point of  
193 compliance is allowed to extend. When institutional or  
194 engineering controls are implemented to control exposure, the  
195 removal of the controls must have prior department approval and



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196 must be accompanied by the resumption of active cleanup, or  
197 other approved controls, unless cleanup target levels under this  
198 section have been achieved.

199 (e) Consider the additive effects of contaminants. The  
200 synergistic and antagonistic effects shall also be considered  
201 when the scientific data become available.

202 (f) Take into consideration individual site  
203 characteristics, which shall include, but not be limited to, the  
204 current and projected use of the affected groundwater and  
205 surface water in the vicinity of the site, current and projected  
206 land uses of the area affected by the contamination, the exposed  
207 population, the degree and extent of contamination, the rate of  
208 contaminant migration, the apparent or potential rate of  
209 contaminant degradation through natural attenuation processes,  
210 the location of the plume, and the potential for further  
211 migration in relation to site property boundaries.

212 (g) Apply state water quality standards as follows:

213 1. Cleanup target levels for each contaminant found in  
214 groundwater shall be the applicable state water quality  
215 standards. Where such standards do not exist, the cleanup target  
216 levels for groundwater shall be based on the minimum criteria  
217 specified in department rule. The department shall apply the  
218 following, as appropriate, in establishing the applicable  
219 cleanup target levels: calculations using a lifetime cancer risk  
220 level of 1.0E-6; a hazard index of 1 or less; the best  
221 achievable detection limit; and nuisance, organoleptic, and  
222 aesthetic considerations. However, the department shall not  
223 require site rehabilitation to achieve a cleanup target level



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224 for any individual contaminant that is more stringent than the  
225 site-specific, naturally occurring background concentration for  
226 that contaminant.

227 2. Where surface waters are exposed to contaminated  
228 groundwater, the cleanup target levels for the contaminants  
229 shall be based on the more protective of the groundwater or  
230 surface water standards as established by department rule. The  
231 point of measuring compliance with the surface water standards  
232 shall be in the groundwater immediately adjacent to the surface  
233 water body.

234 3. Using risk-based corrective action principles, the  
235 department shall approve alternative cleanup target levels in  
236 conjunction with institutional and engineering controls, if  
237 needed, based upon an applicant's demonstration, using site-  
238 specific data, modeling results, risk assessment studies, risk  
239 reduction techniques, or a combination thereof, that human  
240 health, public safety, and the environment are protected to the  
241 same degree as provided in subparagraphs 1. and 2. Where a state  
242 water quality standard is applicable, a deviation may not result  
243 in the application of cleanup target levels more stringent than  
244 the standard. In determining whether it is appropriate to  
245 establish alternative cleanup target levels at a site, the  
246 department must consider the effectiveness of source removal, if  
247 any, that has been completed at the site and the practical  
248 likelihood of the use of low yield or poor quality groundwater,  
249 the use of groundwater near marine surface water bodies, the  
250 current and projected use of the affected groundwater in the  
251 vicinity of the site, or the use of groundwater in the immediate



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252 vicinity of the contaminated area, where it has been  
253 demonstrated that the groundwater contamination is not migrating  
254 away from such localized source, provided human health, public  
255 safety, and the environment are protected. Groundwater resource  
256 protection remains the ultimate goal of cleanup, particularly in  
257 light of the state's continued growth and consequent demands for  
258 drinking water resources. The Legislature recognizes the need  
259 for a protective yet flexible cleanup approach that risk-based  
260 corrective action provides. Only where it is appropriate on a  
261 site-specific basis, using the criteria in this paragraph and  
262 careful evaluation by the department, shall proposed alternative  
263 cleanup target levels be approved.

264 (h) Provide for the department to issue a "No Further  
265 Action" order, with conditions, including, but not limited to,  
266 the use of institutional or engineering controls where  
267 appropriate, when alternative cleanup target levels established  
268 pursuant to subparagraph (g)3. have been achieved or when the  
269 person responsible for site rehabilitation can demonstrate that  
270 the cleanup target level is unachievable with the use of  
271 available technologies. Prior to issuing such an order, the  
272 department shall consider the feasibility of an alternative site  
273 rehabilitation technology at the contaminated site.

274 (i) Establish appropriate cleanup target levels for soils.  
275 Although there are existing state water quality standards, there  
276 are no existing state soil quality standards. The Legislature  
277 does not intend, through the adoption of this section, to create  
278 such soil quality standards. The specific rulemaking authority  
279 granted pursuant to this section merely authorizes the



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280 department to establish appropriate soil cleanup target levels.  
281 These soil cleanup target levels shall be applicable at sites  
282 only after a determination as to legal responsibility for site  
283 rehabilitation has been made pursuant to other provisions of  
284 this chapter or chapter 403.

285 1. In establishing soil cleanup target levels for human  
286 exposure to each contaminant found in soils from the land  
287 surface to 2 feet below land surface, the department shall apply  
288 the following, as appropriate: calculations using a lifetime  
289 cancer risk level of 1.0E-6; a hazard index of 1 or less; and  
290 the best achievable detection limit. However, the department  
291 shall not require site rehabilitation to achieve a cleanup  
292 target level for an individual contaminant that is more  
293 stringent than the site-specific, naturally occurring background  
294 concentration for that contaminant. Institutional controls or  
295 other methods shall be used to prevent human exposure to  
296 contaminated soils more than 2 feet below the land surface. Any  
297 removal of such institutional controls shall require such  
298 contaminated soils to be remediated.

299 2. Leachability-based soil cleanup target levels shall be  
300 based on protection of the groundwater cleanup target levels or  
301 the alternate cleanup target levels for groundwater established  
302 pursuant to this paragraph, as appropriate. Source removal and  
303 other cost-effective alternatives that are technologically  
304 feasible shall be considered in achieving the leachability soil  
305 cleanup target levels established by the department. The  
306 leachability goals shall not be applicable if the department  
307 determines, based upon individual site characteristics, and in



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308 conjunction with institutional and engineering controls, if  
309 needed, that contaminants will not leach into the groundwater at  
310 levels that pose a threat to human health, public safety, and  
311 the environment.

312 3. Using risk-based corrective action principles, the  
313 department shall approve alternative cleanup target levels in  
314 conjunction with institutional and engineering controls, if  
315 needed, based upon an applicant's demonstration, using site-  
316 specific data, modeling results, risk assessment studies, risk  
317 reduction techniques, or a combination thereof, that human  
318 health, public safety, and the environment are protected to the  
319 same degree as provided in subparagraphs 1. and 2.

320  
321 The department shall require source removal as a risk reduction  
322 measure if warranted and cost-effective. Once source removal at  
323 a site is complete, the department shall reevaluate the site to  
324 determine the degree of active cleanup needed to continue.  
325 Further, the department shall determine if the reevaluated site  
326 qualifies for monitoring only or if no further action is  
327 required to rehabilitate the site. If additional site  
328 rehabilitation is necessary to reach "No Further Action" status,  
329 the department is encouraged to utilize natural attenuation and  
330 monitoring where site conditions warrant.

331 (3) LIMITATIONS.--The cleanup criteria established  
332 pursuant to this section govern only site rehabilitation  
333 activities occurring at the contaminated site. Removal of  
334 contaminated media from a site for offsite relocation or



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335 treatment must be in accordance with all applicable federal,  
336 state, and local laws and regulations.

337 (4) REOPENERS.--Upon completion of site rehabilitation in  
338 compliance with subsection (2), additional site rehabilitation  
339 is not required unless it is demonstrated that:

340 (a) Fraud was committed in demonstrating site conditions  
341 or completion of site rehabilitation;

342 (b) New information confirms the existence of an area of  
343 previously unknown contamination which exceeds the site-specific  
344 rehabilitation levels established in accordance with subsection  
345 (2), or which otherwise poses the threat of real and substantial  
346 harm to public health, safety, or the environment;

347 (c) The remediation efforts failed to achieve the site  
348 rehabilitation criteria established under this section;

349 (d) The level of risk is increased beyond the acceptable  
350 risk established under subsection (2) due to substantial changes  
351 in exposure conditions, such as a change in land use from  
352 nonresidential to residential use. Any person who changes the  
353 land use of the site, thereby causing the level of risk to  
354 increase beyond the acceptable risk level, may be required by  
355 the department to undertake additional remediation measures to  
356 ensure that human health, public safety, and the environment are  
357 protected consistent with this section; or

358 (e) A new discharge of pollutants or hazardous substances  
359 occurs at the site subsequent to the issuance of a "No Further  
360 Action" order or a "Site Rehabilitation Completion" order  
361 associated with the original contamination being addressed  
362 pursuant to this section.



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363       Section 2. Subsection (1) of section 199.1055, Florida  
364 Statutes, is amended to read:

365       199.1055 Contaminated site rehabilitation tax credit.--

366       (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

367       (a) A credit in the amount of 35 percent of the costs of  
368 voluntary cleanup activity that is integral to site  
369 rehabilitation at the following sites is available allowed  
370 against any tax due for a taxable year under s. 199.032, less  
371 any credit allowed by former s. 220.68 for that year:

372       1. A drycleaning-solvent-contaminated site eligible for  
373 state-funded site rehabilitation under s. 376.3078(3);

374       2. A drycleaning-solvent-contaminated site at which  
375 cleanup is undertaken by the real property owner pursuant to s.  
376 376.3078(11), if the real property owner is not also, and has  
377 never been, the owner or operator of the drycleaning facility  
378 where the contamination exists; or

379       3. A brownfield site in a designated brownfield area under  
380 s. 376.80.

381       (b) A tax credit applicant, or multiple tax credit  
382 applicants taxpayer, or multiple taxpayers working jointly to  
383 clean up a single site, may not be granted receive more than  
384 \$250,000 per year in tax credits for each site voluntarily  
385 rehabilitated. Multiple tax credit applicants taxpayers shall be  
386 granted receive tax credits in the same proportion as their  
387 contribution to payment of cleanup costs. Subject to the same  
388 conditions and limitations as provided in this section, a  
389 municipality, or county, or other tax credit applicant which  
390 voluntarily rehabilitates a site may receive not more than



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391 \$250,000 per year in tax credits which it can subsequently  
392 transfer subject to the provisions in paragraph (g).

393 (c) If the credit granted under this section is not fully  
394 used in any one year because of insufficient tax liability on  
395 the part of the tax credit applicant taxpayer, the unused amount  
396 may be carried forward for a period not to exceed 5 years. Five  
397 years after the date a credit is granted under this section,  
398 such credit expires and may not be used. However, if during the  
399 5-year period the credit is transferred, in whole or in part,  
400 pursuant to paragraph (g), each transferee has 5 years after the  
401 date of transfer to use its credit.

402 (d) A taxpayer that receives a credit under s. 220.1845 is  
403 ineligible to receive credit under this section in a given tax  
404 year.

405 (e) A tax credit applicant taxpayer that receives state-  
406 funded site rehabilitation pursuant to s. 376.3078(3) for  
407 rehabilitation of a drycleaning-solvent-contaminated site is  
408 ineligible to receive credit under this section for costs  
409 incurred by the tax credit applicant taxpayer in conjunction  
410 with the rehabilitation of that site during the same time period  
411 that state-administered site rehabilitation was underway.

412 (f) The total amount of the tax credits which may be  
413 granted under this section and s. 220.1845 is \$2 million  
414 annually.

415 (g)1. Tax credits that may be available under this section  
416 to an entity eligible under s. 376.30781 may be transferred  
417 after a merger or acquisition to the surviving or acquiring  
418 entity and used in the same manner with the same limitations.



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419        2. The entity or its surviving or acquiring entity as  
420 described in subparagraph 1., may transfer any unused credit in  
421 whole or in units of no less than 25 percent of the remaining  
422 credit. The entity acquiring such credit may use it in the same  
423 manner and with the same limitation as described in this  
424 section. Such transferred credits may not be transferred again  
425 although they may succeed to a surviving or acquiring entity  
426 subject to the same conditions and limitations as described in  
427 this section.

428        3. In the event the credit provided for under this section  
429 is reduced either as a result of a determination by the  
430 Department of Environmental Protection or an examination or  
431 audit by the Department of Revenue, such tax deficiency shall be  
432 recovered from the first entity, or the surviving or acquiring  
433 entity, to have claimed such credit up to the amount of credit  
434 taken. Any subsequent deficiencies shall be assessed against any  
435 entity acquiring and claiming such credit, or in the case of  
436 multiple succeeding entities in the order of credit succession.

437        (h) In order to encourage completion of site  
438 rehabilitation at contaminated sites being voluntarily cleaned  
439 up and eligible for a tax credit under this section, the tax  
440 credit applicant ~~taxpayer~~ may claim an additional 10 percent of  
441 the total cleanup costs, not to exceed \$50,000, in the final  
442 year of cleanup as evidenced by the Department of Environmental  
443 Protection issuing a "No Further Action" order for that site.

444        Section 3. Subsection (1) of section 220.1845, Florida  
445 Statutes, is amended to read:

446        220.1845 Contaminated site rehabilitation tax credit.--



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447           (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

448           (a) A credit in the amount of 35 percent of the costs of  
449 voluntary cleanup activity that is integral to site  
450 rehabilitation at the following sites is available allowed  
451 against any tax due for a taxable year under this chapter:

452           1. A drycleaning-solvent-contaminated site eligible for  
453 state-funded site rehabilitation under s. 376.3078(3);

454           2. A drycleaning-solvent-contaminated site at which  
455 cleanup is undertaken by the real property owner pursuant to s.  
456 376.3078(11), if the real property owner is not also, and has  
457 never been, the owner or operator of the drycleaning facility  
458 where the contamination exists; or

459           3. A brownfield site in a designated brownfield area under  
460 s. 376.80.

461           (b) A tax credit applicant, or multiple tax credit  
462 applicants taxpayer, or multiple taxpayers working jointly to  
463 clean up a single site, may not be granted receive more than  
464 \$250,000 per year in tax credits for each site voluntarily  
465 rehabilitated. Multiple tax credit applicants taxpayers shall be  
466 granted receive tax credits in the same proportion as their  
467 contribution to payment of cleanup costs. Subject to the same  
468 conditions and limitations as provided in this section, a  
469 municipality, or county, or other tax credit applicant which  
470 voluntarily rehabilitates a site may receive not more than  
471 \$250,000 per year in tax credits which it can subsequently  
472 transfer subject to the provisions in paragraph (h).

473           (c) If the credit granted under this section is not fully  
474 used in any one year because of insufficient tax liability on



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475 the part of the corporation, the unused amount may be carried  
476 forward for a period not to exceed 5 years. The carryover credit  
477 may be used in a subsequent year when the tax imposed by this  
478 chapter for that year exceeds the credit for which the  
479 corporation is eligible in that year under this section after  
480 applying the other credits and unused carryovers in the order  
481 provided by s. 220.02(8). Five years after the date a credit is  
482 granted under this section, such credit expires and may not be  
483 used. However, if during the 5-year period the credit is  
484 transferred, in whole or in part, pursuant to paragraph (h),  
485 each transferee has 5 years after the date of transfer to use  
486 its credit.

487 (d) A taxpayer that files a consolidated return in this  
488 state as a member of an affiliated group under s. 220.131(1) may  
489 be allowed the credit on a consolidated return basis up to the  
490 amount of tax imposed upon the consolidated group and paid by  
491 ~~the taxpayer that incurred the rehabilitation costs.~~

492 (e) A taxpayer that receives credit under s. 199.1055 is  
493 ineligible to receive credit under this section in a given tax  
494 year.

495 (f) A tax credit applicant taxpayer that receives state-  
496 funded site rehabilitation under s. 376.3078(3) for  
497 rehabilitation of a drycleaning-solvent-contaminated site is  
498 ineligible to receive credit under this section for costs  
499 incurred by the tax credit applicant taxpayer in conjunction  
500 with the rehabilitation of that site during the same time period  
501 that state-administered site rehabilitation was underway.



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502                         (g) The total amount of the tax credits which may be  
503 granted under this section and s. 199.1055 is \$2 million  
504 annually.

505                         (h)1. Tax credits that may be available under this section  
506 to an entity eligible under s. 376.30781 may be transferred  
507 after a merger or acquisition to the surviving or acquiring  
508 entity and used in the same manner and with the same  
509 limitations.

510                         2. The entity or its surviving or acquiring entity as  
511 described in subparagraph 1., may transfer any unused credit in  
512 whole or in units of no less than 25 percent of the remaining  
513 credit. The entity acquiring such credit may use it in the same  
514 manner and with the same limitation as described in this  
515 section. Such transferred credits may not be transferred again  
516 although they may succeed to a surviving or acquiring entity  
517 subject to the same conditions and limitations as described in  
518 this section.

519                         3. In the event the credit provided for under this section  
520 is reduced either as a result of a determination by the  
521 Department of Environmental Protection or an examination or  
522 audit by the Department of Revenue, such tax deficiency shall be  
523 recovered from the first entity, or the surviving or acquiring  
524 entity, to have claimed such credit up to the amount of credit  
525 taken. Any subsequent deficiencies shall be assessed against any  
526 entity acquiring and claiming such credit, or in the case of  
527 multiple succeeding entities in the order of credit succession.

528                         (i) In order to encourage completion of site  
529 rehabilitation at contaminated sites being voluntarily cleaned



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530 up and eligible for a tax credit under this section, the tax  
531 credit applicant ~~taxpayer~~ may claim an additional 10 percent of  
532 the total cleanup costs, not to exceed \$50,000, in the final  
533 year of cleanup as evidenced by the Department of Environmental  
534 Protection issuing a "No Further Action" order for that site.

535 Section 4. Section 376.30781, Florida Statutes, is amended  
536 to read:

537 376.30781 Partial tax credits for rehabilitation of  
538 drycleaning-solvent-contaminated sites and brownfield sites in  
539 designated brownfield areas; application process; rulemaking  
540 authority; revocation authority.--

541 (1) The Legislature finds that:

542 (a) To facilitate property transactions and economic  
543 growth and development, it is in the interest of the state to  
544 encourage the cleanup, at the earliest possible time, of  
545 drycleaning-solvent-contaminated sites and brownfield sites in  
546 designated brownfield areas.

547 (b) It is the intent of the Legislature to encourage the  
548 voluntary cleanup of drycleaning-solvent-contaminated sites and  
549 brownfield sites in designated brownfield areas by providing a  
550 partial tax credit for the restoration of such property in  
551 specified circumstances.

552 (2)(a) A credit in the amount of 35 percent of the costs  
553 of voluntary cleanup activity that is integral to site  
554 rehabilitation at the following sites is allowed pursuant to ss.  
555 199.1055 and 220.1845:

556 1. A drycleaning-solvent-contaminated site eligible for  
557 state-funded site rehabilitation under s. 376.3078(3);



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558        2. A drycleaning-solvent-contaminated site at which  
559 cleanup is undertaken by the real property owner pursuant to s.  
560 376.3078(11), if the real property owner is not also, and has  
561 never been, the owner or operator of the drycleaning facility  
562 where the contamination exists; or

563        3. A brownfield site in a designated brownfield area under  
564 s. 376.80.

565            (b) A tax credit applicant ~~taxpayer~~, or multiple tax  
566 credit applicants ~~taxpayers~~ working jointly to clean up a single  
567 site, may not be granted ~~receive~~ more than \$250,000 per year in  
568 tax credits for each site voluntarily rehabilitated. Multiple  
569 tax credit applicants ~~taxpayers~~ shall be granted ~~receive~~ tax  
570 credits in the same proportion as their contribution to payment  
571 of cleanup costs. Tax credits are available only for site  
572 rehabilitation conducted during the calendar ~~tax~~ year for ~~in~~  
573 which the tax credit application is submitted.

574            (c) In order to encourage completion of site  
575 rehabilitation at contaminated sites that are being voluntarily  
576 cleaned up and that are eligible for a tax credit under this  
577 section, the tax credit applicant may claim an additional 10  
578 percent of the total cleanup costs, not to exceed \$50,000, in  
579 the final year of cleanup as evidenced by the Department of  
580 Environmental Protection issuing a "No Further Action" order for  
581 that site.

582            (3) The Department of Environmental Protection shall be  
583 responsible for allocating the tax credits provided for in ss.  
584 199.1055 and 220.1845, not to exceed a total of \$2 million in  
585 tax credits annually.



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586       (4) To claim the credit for site rehabilitation conducted  
587 during the current calendar year, each tax credit applicant must  
588 apply to the Department of Environmental Protection for an  
589 allocation of the \$2 million annual credit by January 15 of the  
590 following year ~~December 31~~ on a form developed by the Department  
591 of Environmental Protection in cooperation with the Department  
592 of Revenue. The form shall include an affidavit from each tax  
593 credit applicant certifying that all information contained in  
594 the application, including all records of costs incurred and  
595 claimed in the tax credit application, are true and correct. If  
596 the application is submitted pursuant to subparagraph (2)(a)2.,  
597 the form must include an affidavit signed by the real property  
598 owner stating that it is not, and has never been, the owner or  
599 operator of the drycleaning facility where the contamination  
600 exists. Approval of partial tax credits must be accomplished on  
601 a first-come, first-served basis based upon the date complete  
602 applications are received by the Division of Waste Management. A  
603 tax credit ~~An~~ applicant shall submit only one complete  
604 application per site for each calendar year's site  
605 rehabilitation costs. Incomplete placeholder applications shall  
606 not be accepted and will not secure a place in the first-come,  
607 first-served application line per year. To be eligible for a tax  
608 credit the tax credit applicant must:

609       (a) Have entered into a voluntary cleanup agreement with  
610 the Department of Environmental Protection for a drycleaning-  
611 solvent-contaminated site or a Brownfield Site Rehabilitation  
612 Agreement, as applicable; and



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613       (b) Have paid all deductibles pursuant to s.  
614 376.3078(3)(d) for eligible drycleaning-solvent-cleanup program  
615 sites.

616       (5) To obtain the tax credit certificate, a tax credit an  
617 applicant must annually file an application for certification,  
618 which must be received by the Division of Waste Management of  
619 the Department of Environmental Protection by January 15 of the  
620 year following the calendar year for which site rehabilitation  
621 costs are being claimed in a tax credit application December 31.  
622 The tax credit applicant must provide all pertinent information  
623 requested on the tax credit application form, including, at a  
624 minimum, the name and address of the tax credit applicant and  
625 the address and tracking identification number of the eligible  
626 site. Along with the tax credit application form, the tax credit  
627 applicant must submit the following:

628       (a) A nonrefundable review fee of \$250 made payable to the  
629 Water Quality Assurance Trust Fund to cover the administrative  
630 costs associated with the department's review of the tax credit  
631 application;

632       (b) Copies of contracts and documentation of contract  
633 negotiations, accounts, invoices, sales tickets, or other  
634 payment records from purchases, sales, leases, or other  
635 transactions involving actual costs incurred for that tax year  
636 related to site rehabilitation, as that term is defined in ss.  
637 376.301 and 376.79;

638       (c) Proof that the documentation submitted pursuant to  
639 paragraph (b) has been reviewed and verified by an independent  
640 certified public accountant in accordance with standards



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641 established by the American Institute of Certified Public  
642 Accountants. Specifically, the certified public accountant must  
643 attest to the accuracy and validity of the costs incurred and  
644 paid by conducting an independent review of the data presented  
645 by the tax credit applicant. Accuracy and validity of costs  
646 incurred and paid would be determined once the level of effort  
647 was certified by an appropriate professional registered in this  
648 state in each contributing technical discipline. The certified  
649 public accountant's report would also attest that the costs  
650 included in the application form are not duplicated within the  
651 application. A copy of the accountant's report shall be  
652 submitted to the Department of Environmental Protection with the  
653 tax credit application; and

654 (d) A certification form stating that site rehabilitation  
655 activities associated with the documentation submitted pursuant  
656 to paragraph (b) have been conducted under the observation of,  
657 and related technical documents have been signed and sealed by,  
658 an appropriate professional registered in this state in each  
659 contributing technical discipline. The certification form shall  
660 be signed and sealed by the appropriate registered professionals  
661 stating that the costs incurred were integral, necessary, and  
662 required for site rehabilitation, as that term is defined in ss.  
663 376.301 and 376.79.

664 (6) The certified public accountant and appropriate  
665 registered professionals submitting forms as part of a tax  
666 credit application must verify such forms. Verification must be  
667 accomplished as provided in s. 92.525(1)(b) and subject to the  
668 provisions of s. 92.525(3).



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669       (7) The Department of Environmental Protection shall  
670 review the tax credit application and any supplemental  
671 documentation that the tax credit applicant may submit prior to  
the annual application deadline in order to have the application  
considered complete submitted by each applicant, for the purpose  
674 of verifying that the tax credit applicant has met the  
675 qualifying criteria in subsections (2) and (4) and has submitted  
676 all required documentation listed in subsection (5). Upon  
677 verification that the tax credit applicant has met these  
678 requirements, the department shall issue a written decision  
679 granting eligibility for partial tax credits (a tax credit  
680 certificate) in the amount of 35 percent of the total costs  
681 claimed, subject to the \$250,000 limitation, for the calendar  
~~tax~~ year for ~~in~~ which the tax credit application is submitted  
683 based on the report of the certified public accountant and the  
684 certifications from the appropriate registered technical  
685 professionals.

686       (8) On or before March 1, the Department of Environmental  
687 Protection shall inform each eligible tax credit applicant of  
688 the amount of its partial tax credit and provide each eligible  
689 tax credit applicant with a tax credit certificate that must be  
690 submitted with its tax return to the Department of Revenue to  
691 claim the tax credit or be transferred pursuant to s.  
692 199.1055(1)(g) or s. 220.1845(1)(h). Credits will not result in  
693 the payment of refunds if total credits exceed the amount of tax  
694 owed.

695       (9) If a tax credit ~~an~~ applicant does not receive a tax  
696 credit allocation due to an exhaustion of the \$2 million annual



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697 tax credit authorization, such application will then be included  
698 in the same first-come, first-served order in the next year's  
699 annual tax credit allocation, if any, based on the prior year  
700 application.

701 (10) The Department of Environmental Protection may adopt  
702 rules to prescribe the necessary forms required to claim tax  
703 credits under this section and to provide the administrative  
704 guidelines and procedures required to administer this section.

705 ~~Prior to the adoption of rules regulating the tax credit  
706 application, the department shall, by September 1, 1998,  
707 establish reasonable interim application requirements and forms.~~

708 (11) The Department of Environmental Protection may revoke  
709 or modify any written decision granting eligibility for partial  
710 tax credits under this section if it is discovered that the tax  
711 credit applicant submitted any false statement, representation,  
712 or certification in any application, record, report, plan, or  
713 other document filed in an attempt to receive partial tax  
714 credits under this section. The Department of Environmental  
715 Protection shall immediately notify the Department of Revenue of  
716 any revoked or modified orders affecting previously granted  
717 partial tax credits. Additionally, the tax credit applicant  
718 ~~taxpayer~~ must notify the Department of Revenue of any change in  
719 its tax credit claimed.

720 (12) A tax credit applicant ~~An owner, operator, or real~~  
721 ~~property owner~~ who receives state-funded site rehabilitation  
722 under s. 376.3078(3) for rehabilitation of a drycleaning-  
723 solvent-contaminated site is ineligible to receive a tax credit  
724 under s. 199.1055 or s. 220.1845 for costs incurred by the tax



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725 credit applicant ~~taxpayer~~ in conjunction with the rehabilitation  
726 of that site during the same time period that state-administered  
727 site rehabilitation was underway.

728       Section 5. Paragraph (a) of subsection (6) of section  
729 403.087, Florida Statutes, is amended to read:

730       403.087 Permits; general issuance; denial; revocation;  
731 prohibition; penalty.--

732       (6)(a) The department shall require a processing fee in an  
733 amount sufficient, to the greatest extent possible, to cover the  
734 costs of reviewing and acting upon any application for a permit  
735 or request for site-specific alternative criteria or for an  
736 exemption from water quality criteria and to cover the costs of  
737 surveillance and other field services and related support  
738 activities associated with any permit or plan approval issued  
739 pursuant to this chapter. However, when an application is  
740 received without the required fee, the department shall  
741 acknowledge receipt of the application and shall immediately  
742 return the unprocessed application to the applicant and shall  
743 take no further action until the application is received with  
744 the appropriate fee. The department shall adopt a schedule of  
745 fees by rule, subject to the following limitations:

746       1. The fee for any of the following may not exceed  
747 \$32,500:

- 748           a. Hazardous waste, construction permit.
- 749           b. Hazardous waste, operation permit.
- 750           c. Hazardous waste, postclosure permit, or clean closure  
751 plan approval.

752           d. Hazardous waste, corrective action permit.



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754       2. The permit fee for a Class I injection well  
755 construction permit may not exceed \$12,500.

756       3. The permit fee for any of the following permits may not  
757 exceed \$10,000:

758           a. Solid waste, construction permit.

759           b. Solid waste, operation permit.

760           c. Class I injection well, operation permit.

761       4. The permit fee for any of the following permits may not  
762 exceed \$7,500:

763           a. Air pollution, construction permit.

764           b. Solid waste, closure permit.

765           c. Drinking water, construction or operation permit.

766           d. Domestic waste residuals, construction or operation  
767 permit.

768           e. Industrial waste, operation permit.

769           f. Industrial waste, construction permit.

770       5. The permit fee for any of the following permits may not  
771 exceed \$5,000:

772           a. Domestic waste, operation permit.

773           b. Domestic waste, construction permit.

774       6. The permit fee for any of the following permits may not  
775 exceed \$4,000:

776           a. Wetlands resource management--(dredge and fill),  
777 standard form permit.

778           b. Hazardous waste, research and development permit.

779           c. Air pollution, operation permit, for sources not  
780 subject to s. 403.0872.



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781           d. Class III injection well, construction, operation, or  
782 abandonment permits.

783           7. The permit fee for Class V injection wells,  
784 construction, operation, and abandonment permits may not exceed  
785 \$750.

786           8. The permit fee for any of the following permits may not  
787 exceed \$500:

788           a. Domestic waste, collection system permits.

789           b. Wetlands resource management--(dredge and fill and  
790 mangrove alterations), short permit form.

791           c. Drinking water, distribution system permit.

792           9. The permit fee for stormwater operation permits may not  
793 exceed \$100.

794           10. The general permit fees for permits that require  
795 certification by a registered professional engineer or  
796 professional geologist may not exceed \$500. The general permit  
797 fee for other permit types may not exceed \$100.

798           11. The fee for a permit issued pursuant to s. 403.816 is  
799 \$5,000, and the fee for any modification of such permit  
800 requested by the applicant is \$1,000.

801           12. The regulatory program and surveillance fees for  
802 facilities permitted pursuant to s. 403.088 or s. 403.0885, or  
803 for facilities permitted pursuant to s. 402 of the Clean Water  
804 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the  
805 department has been granted administrative authority, shall be  
806 limited as follows:

807           a. The fees for domestic wastewater facilities shall not  
808 exceed \$7,500 annually. The department shall establish a sliding



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809 scale of fees based on the permitted capacity and shall ensure  
810 smaller domestic waste dischargers do not bear an inordinate  
811 share of costs of the program.

812 b. The annual fees for industrial waste facilities shall  
813 not exceed \$11,500. The department shall establish a sliding  
814 scale of fees based upon the volume, concentration, or nature of  
815 the industrial waste discharge and shall ensure smaller  
816 industrial waste dischargers do not bear an inordinate share of  
817 costs of the program.

818 c. The department may establish a fee, not to exceed the  
819 amounts in subparagraphs 4. and 5., to cover additional costs of  
820 review required for permit modification or construction  
821 engineering plans.

822 Section 6. Subsection (1) of section 403.722, Florida  
823 Statutes, is amended to read:

824 403.722 Permits; hazardous waste disposal, storage, and  
825 treatment facilities.--

826 (1) Each person who intends to construct, modify, operate,  
827 or close a hazardous waste disposal, storage, or treatment  
828 facility shall obtain a construction permit, operation permit,  
829 postclosure permit, ~~or~~ clean closure plan approval, or  
830 corrective action permit from the department prior to  
831 constructing, modifying, operating, or closing the facility. By  
832 rule, the department may provide for the issuance of a single  
833 permit instead of any two or more hazardous waste facility  
834 permits.

835 Section 7. This act shall take effect upon becoming a law.