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1 A bill to be entitled
2 An act relating to pollution discharge removal and
3 prevention; amending s. 376.301, F.S.; defining the
4 terms "background concentration" and "long-term
5 natural attenuation"; amending s. 376.30701, F.S.;
6 exempting nonprogram petroleum-contaminated sites from
7 the application of risk-based corrective action
8 principles under certain circumstances; requiring the
9 Department of Environmental Protection to include
10 protocols for the use of long-term natural attenuation
11 where site conditions warrant; requiring specified
12 interactive effects of contaminants to be considered
13 as cleanup criteria; revising how cleanup target
14 levels are applied where surface waters are exposed to
15 contaminated groundwater; authorizing the use of
16 relevant data and information when assessing cleanup
17 target levels; providing that institutional controls
18 are not required under certain circumstances if
19 alternative cleanup target levels are used; amending
20 s. 376.79, F.S.; defining the terms "background
21 concentration" and "long-term natural attenuation";
22 amending s. 376.81, F.S.; providing additional
23 contamination cleanup criteria for brownfield sites
24 and brownfield areas; amending ss. 196.1995, 287.0595,
25 and 288.1175, F.S.; conforming cross-references;
26 amending s. 376.305, F.S.; revising the eligibility
27 requirements of the Abandoned Tank Restoration
28 Program; deleting provisions prohibiting the relief of
29 liability for persons who acquired title after a

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30 certain date; amending s. 376.3071, F.S.; revising
31 legislative intent and purpose; deleting an expiration
32 date; revising the criteria for determining what
33 constitutes certain rehabilitation program tasks;
34 revising the conditions for eligibility and methods
35 for payment of costs for the low-scored site
36 initiative; revising the eligibility requirements for
37 receiving rehabilitation funding; specifying that the
38 issuance of a site rehabilitation completion order
39 does not alter eligibility for state-funded
40 remediation under certain circumstances; clarifying
41 that a change in ownership does not preclude a site
42 from entering into the program; providing additional
43 funding for remediation and monitoring under certain
44 circumstances; amending s. 376.30713, F.S.; revising
45 advanced cleanup application requirements; increasing
46 the total amount for which the department may contract
47 for advanced cleanup work in a fiscal year;
48 authorizing property owners and responsible parties to
49 enter into voluntary cost-share agreements under
50 certain circumstances; providing an effective date.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Present subsections (4) through (22) of section
55 376.301, Florida Statutes, are redesignated as subsections (5)
56 through (23), respectively, present subsections (23) through
57 (48) of that section are redesignated as subsections (25)
58 through (50), respectively, and new subsections (4) and (24) are

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59 added to that section, to read:

60 376.301 Definitions of terms used in ss. 376.30-376.317,
61 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
62 376.75, unless the context clearly requires otherwise, the term:

63 (4) "Background concentration" means the concentration of
64 contaminants naturally occurring or resulting from anthropogenic
65 impacts unrelated to the discharge of pollutants or hazardous
66 substances at a contaminated site undergoing site
67 rehabilitation.

68 (24) "Long-term natural attenuation" means natural
69 attenuation approved by the department as a site rehabilitation
70 program task for a period of more than 5 years.

71 Section 2. Paragraph (b) of subsection (1) and subsection
72 (2) of section 376.30701, Florida Statutes, are amended to read:

73 376.30701 Application of risk-based corrective action
74 principles to contaminated sites; applicability; legislative
75 intent; rulemaking authority; contamination cleanup criteria;
76 limitations; reopeners.—

77 (1) APPLICABILITY.—

78 (b) This section shall apply to all contaminated sites
79 resulting from a discharge of pollutants or hazardous substances
80 where legal responsibility for site rehabilitation exists
81 pursuant to other provisions of this chapter or chapter 403,
82 except for those contaminated sites subject to the risk-based
83 corrective action cleanup criteria established for the
84 petroleum, brownfields, and drycleaning programs pursuant to ss.
85 376.3071, 376.81, and 376.3078, respectively. This section does
86 not apply to nonprogram petroleum-contaminated sites unless
87 application of this section is requested by the person

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88 responsible for site rehabilitation.

89 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is
90 the intent of the Legislature to protect the health of all
91 people under actual circumstances of exposure. By July 1, 2004,
92 the secretary of the department shall establish criteria by rule
93 for the purpose of determining, on a site-specific basis, the
94 rehabilitation program tasks that comprise a site rehabilitation
95 program, including a voluntary site rehabilitation program, and
96 the level at which a rehabilitation program task and a site
97 rehabilitation program may be deemed completed. In establishing
98 these rules, the department shall apply, to the maximum extent
99 feasible, a risk-based corrective action process to achieve
100 protection of human health and safety and the environment in a
101 cost-effective manner based on the principles set forth in this
102 subsection. These rules shall prescribe a phased risk-based
103 corrective action process that is iterative and that tailors
104 site rehabilitation tasks to site-specific conditions and risks.
105 The department and the person responsible for site
106 rehabilitation are encouraged to establish decision points at
107 which risk management decisions will be made. The department
108 shall provide an early decision, when requested, regarding
109 applicable exposure factors and a risk management approach based
110 on the current and future land use at the site. These rules must
111 ~~shall also~~ include protocols for the use of natural attenuation,
112 including long-term natural attenuation where site conditions
113 warrant, the use of institutional and engineering controls, and
114 the issuance of “No Further Action” orders. The criteria for
115 determining what constitutes a rehabilitation program task or
116 completion of a site rehabilitation program task or site

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117 rehabilitation program, including a voluntary site
118 rehabilitation program, must:

119 (a) Consider the current exposure and potential risk of
120 exposure to humans and the environment, including multiple
121 pathways of exposure. The physical, chemical, and biological
122 characteristics of each contaminant must be considered in order
123 to determine the feasibility of a risk-based corrective action
124 assessment.

125 (b) Establish the point of compliance at the source of the
126 contamination. However, the department may ~~is authorized to~~
127 temporarily move the point of compliance to the boundary of the
128 property, or to the edge of the plume when the plume is within
129 the property boundary, while cleanup, including cleanup through
130 natural attenuation processes in conjunction with appropriate
131 monitoring, is proceeding. The department may ~~also is~~
132 ~~authorized,~~ pursuant to criteria provided in this section, ~~to~~
133 temporarily extend the point of compliance beyond the property
134 boundary with appropriate monitoring, if such extension is
135 needed to facilitate natural attenuation or to address the
136 current conditions of the plume, provided human health, public
137 safety, and the environment are protected. When temporarily
138 extending the point of compliance beyond the property boundary,
139 it cannot be extended further than the lateral extent of the
140 plume, if known, at the time of execution of a cleanup
141 agreement, if required, or the lateral extent of the plume as
142 defined at the time of site assessment. Temporary extension of
143 the point of compliance beyond the property boundary, as
144 provided in this paragraph, must include actual notice by the
145 person responsible for site rehabilitation to local governments

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146 and the owners of any property into which the point of
147 compliance is allowed to extend and constructive notice to
148 residents and business tenants of the property into which the
149 point of compliance is allowed to extend. Persons receiving
150 notice pursuant to this paragraph shall have the opportunity to
151 comment within 30 days after receipt of the notice. Additional
152 notice concerning the status of natural attenuation processes
153 shall be similarly provided to persons receiving notice pursuant
154 to this paragraph every 5 years.

155 (c) Ensure that the site-specific cleanup goal is that all
156 contaminated sites being cleaned up pursuant to this section
157 ultimately achieve the applicable cleanup target levels provided
158 in this subsection. In the circumstances provided in this
159 subsection, and after constructive notice and opportunity to
160 comment within 30 days after receipt of the notice to local
161 government, owners of any property into which the point of
162 compliance is allowed to extend, and residents of any property
163 into which the point of compliance is allowed to extend, the
164 department may allow concentrations of contaminants to
165 temporarily exceed the applicable cleanup target levels while
166 cleanup, including cleanup through natural attenuation processes
167 in conjunction with appropriate monitoring, is proceeding, if
168 human health, public safety, and the environment are protected.

169 (d) Allow the use of institutional or engineering controls
170 at contaminated sites being cleaned up pursuant to this section,
171 where appropriate, to eliminate or control the potential
172 exposure to contaminants of humans or the environment. The use
173 of controls must be preapproved by the department and only after
174 constructive notice and opportunity to comment within 30 days

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175 after receipt of notice is provided to local governments, owners
176 of any property into which the point of compliance is allowed to
177 extend, and residents on any property into which the point of
178 compliance is allowed to extend. When institutional or
179 engineering controls are implemented to control exposure, the
180 removal of the controls must have prior department approval and
181 must be accompanied by the resumption of active cleanup, or
182 other approved controls, unless cleanup target levels under this
183 section have been achieved.

184 (e) Consider the interactive ~~additive~~ effects of
185 contaminants, including additive, synergistic, and antagonistic
186 effects. ~~The synergistic and antagonistic effects shall also be~~
187 ~~considered when the scientific data become available.~~

188 (f) Take into consideration individual site
189 characteristics, which shall include, but not be limited to, the
190 current and projected use of the affected groundwater and
191 surface water in the vicinity of the site, current and projected
192 land uses of the area affected by the contamination, the exposed
193 population, the degree and extent of contamination, the rate of
194 contaminant migration, the apparent or potential rate of
195 contaminant degradation through natural attenuation processes,
196 the location of the plume, and the potential for further
197 migration in relation to site property boundaries.

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

199 1. Cleanup target levels for each contaminant found in
200 groundwater shall be the applicable state water quality
201 standards. Where such standards do not exist, the cleanup target
202 levels for groundwater shall be based on the minimum criteria
203 specified in department rule. The department shall apply the

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204 following, as appropriate, in establishing the applicable
205 cleanup target levels: calculations using a lifetime cancer risk
206 level of 1.0E-6; a hazard index of 1 or less; the best
207 achievable detection limit; and nuisance, organoleptic, and
208 aesthetic considerations. However, the department may ~~shall~~ not
209 require site rehabilitation to achieve a cleanup target level
210 for any individual contaminant that is more stringent than the
211 site-specific, ~~naturally occurring~~ background concentration for
212 that contaminant.

213 2. Where surface waters are exposed to contaminated
214 groundwater, the cleanup target levels for the contaminants must
215 ~~shall~~ be based on the more protective of the groundwater or
216 surface water standards as established by department rule,
217 unless it has been demonstrated that the contaminants do not
218 cause or contribute to the exceedance of applicable surface
219 water quality criteria. In such circumstance, the point of
220 measuring compliance with the surface water standards shall be
221 in the groundwater immediately adjacent to the surface water
222 body.

223 3. Using risk-based corrective action principles, the
224 department shall approve alternative cleanup target levels in
225 conjunction with institutional and engineering controls, if
226 needed, based upon an applicant's demonstration, using site-
227 specific or other relevant data and information, risk assessment
228 modeling results, including results from probabilistic risk
229 assessment modeling, risk assessment studies, risk reduction
230 techniques, or a combination thereof, that human health, public
231 safety, and the environment are protected to the same degree as
232 provided in subparagraphs 1. and 2. Where a state water quality

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233 standard is applicable, a deviation may not result in the
234 application of cleanup target levels more stringent than the
235 standard. In determining whether it is appropriate to establish
236 alternative cleanup target levels at a site, the department must
237 consider the effectiveness of source removal, if any, that has
238 been completed at the site and the practical likelihood of the
239 use of low yield or poor quality groundwater, the use of
240 groundwater near marine surface water bodies, the current and
241 projected use of the affected groundwater in the vicinity of the
242 site, or the use of groundwater in the immediate vicinity of the
243 contaminated area, where it has been demonstrated that the
244 groundwater contamination is not migrating away from such
245 localized source, provided human health, public safety, and the
246 environment are protected. Groundwater resource protection
247 remains the ultimate goal of cleanup, particularly in light of
248 the state's continued growth and consequent demands for drinking
249 water resources. The Legislature recognizes the need for a
250 protective yet flexible cleanup approach that risk-based
251 corrective action provides. Only where it is appropriate on a
252 site-specific basis, using the criteria in this paragraph and
253 careful evaluation by the department, shall proposed alternative
254 cleanup target levels be approved. If alternative cleanup target
255 levels are used, institutional controls are not required if:

- 256 a. The only cleanup target levels exceeded are the
257 groundwater cleanup target levels derived from nuisance,
258 organoleptic, or aesthetic considerations;
- 259 b. Concentrations of all contaminants meet the state water
260 quality standards or the minimum criteria, based on the
261 protection of human health, public safety, and the environment,

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262 as provided in subparagraph 1.;

263 c. All of the groundwater cleanup target levels established
264 pursuant to subparagraph 1. are met at the property boundary;

265 d. The person responsible for site rehabilitation has
266 demonstrated that the contaminants will not migrate beyond the
267 property boundary at concentrations that exceed the groundwater
268 cleanup target levels established pursuant to subparagraph 1.;

269 e. The property has access to and is using an offsite water
270 supply, and an unplugged private well is not used for domestic
271 purposes; and

272 f. The real property owner does not object to the "No
273 Further Action" proposal to the department or the local
274 pollution control program.

275 (h) Provide for the department to issue a "No Further
276 Action" order, with conditions, including, but not limited to,
277 the use of institutional or engineering controls where
278 appropriate, when alternative cleanup target levels established
279 pursuant to subparagraph (g)3. have been achieved or when the
280 person responsible for site rehabilitation can demonstrate that
281 the cleanup target level is unachievable with the use of
282 available technologies. Before ~~Prior to~~ issuing such an order,
283 the department shall consider the feasibility of an alternative
284 site rehabilitation technology at the contaminated site.

285 (i) Establish appropriate cleanup target levels for soils.
286 Although there are existing state water quality standards, there
287 are no existing state soil quality standards. The Legislature
288 does not intend, through the adoption of this section, to create
289 such soil quality standards. The specific rulemaking authority
290 granted pursuant to this section merely authorizes the

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291 department to establish appropriate soil cleanup target levels.
292 These soil cleanup target levels shall be applicable at sites
293 only after a determination as to legal responsibility for site
294 rehabilitation has been made pursuant to other provisions of
295 this chapter or chapter 403.

296 1. In establishing soil cleanup target levels for human
297 exposure to each contaminant found in soils from the land
298 surface to 2 feet below land surface, the department shall apply
299 the following, as appropriate: calculations using a lifetime
300 cancer risk level of 1.0E-6; a hazard index of 1 or less; and
301 the best achievable detection limit. However, the department may
302 ~~shall~~ not require site rehabilitation to achieve a cleanup
303 target level for an individual contaminant that is more
304 stringent than the site-specific, ~~naturally occurring~~ background
305 concentration for that contaminant. Institutional controls or
306 other methods shall be used to prevent human exposure to
307 contaminated soils more than 2 feet below the land surface. Any
308 removal of such institutional controls shall require such
309 contaminated soils to be remediated.

310 2. Leachability-based soil cleanup target levels shall be
311 based on protection of the groundwater cleanup target levels or
312 the alternate cleanup target levels for groundwater established
313 pursuant to this paragraph, as appropriate. Source removal and
314 other cost-effective alternatives that are technologically
315 feasible shall be considered in achieving the leachability soil
316 cleanup target levels established by the department. The
317 leachability goals are ~~shall~~ not ~~be~~ applicable if the department
318 determines, based upon individual site characteristics, and in
319 conjunction with institutional and engineering controls, if

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320 needed, that contaminants will not leach into the groundwater at
321 levels that pose a threat to human health, public safety, and
322 the environment.

323 3. Using risk-based corrective action principles, the
324 department shall approve alternative cleanup target levels in
325 conjunction with institutional and engineering controls, if
326 needed, based upon an applicant's demonstration, using site-
327 specific or other relevant data and information, risk assessment
328 modeling results, including results from probabilistic risk
329 assessment modeling, risk assessment studies, risk reduction
330 techniques, or a combination thereof, that human health, public
331 safety, and the environment are protected to the same degree as
332 provided in subparagraphs 1. and 2.

333
334 The department shall require source removal as a risk reduction
335 measure if warranted and cost-effective. Once source removal at
336 a site is complete, the department shall reevaluate the site to
337 determine the degree of active cleanup needed to continue.
338 Further, the department shall determine if the reevaluated site
339 qualifies for monitoring only or if no further action is
340 required to rehabilitate the site. If additional site
341 rehabilitation is necessary to reach "No Further Action" status,
342 the department is encouraged to utilize natural attenuation
343 monitoring, including long-term natural attenuation ~~and~~
344 monitoring, where site conditions warrant.

345 Section 3. Present subsections (3) through (11) of section
346 376.79, Florida Statutes, are redesignated as subsections (4)
347 through (12), respectively, present subsections (12) through
348 (19) are redesignated as subsections (14) through (21),

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349 respectively, and new subsections (3) and (13) are added to that
350 section, to read:

351 376.79 Definitions relating to Brownfields Redevelopment
352 Act.—As used in ss. 376.77–376.85, the term:

353 (3) “Background concentration” means the concentration of
354 contaminants naturally occurring or resulting from anthropogenic
355 impacts unrelated to the discharge of pollutants or hazardous
356 substances at a contaminated site undergoing site
357 rehabilitation.

358 (13) “Long-term natural attenuation” means natural
359 attenuation approved by the department as a site rehabilitation
360 program task for a period of more than 5 years.

361 Section 4. Section 376.81, Florida Statutes, is amended to
362 read:

363 376.81 Brownfield site and brownfield areas contamination
364 cleanup criteria.—

365 (1) It is the intent of the Legislature to protect the
366 health of all people under actual circumstances of exposure. By
367 July 1, 2001, the secretary of the department shall establish
368 criteria by rule for the purpose of determining, on a site-
369 specific basis, the rehabilitation program tasks that comprise a
370 site rehabilitation program and the level at which a
371 rehabilitation program task and a site rehabilitation program
372 may be deemed completed. In establishing the rule, the
373 department shall apply, to the maximum extent feasible, a risk-
374 based corrective action process to achieve protection of human
375 health and safety and the environment in a cost-effective manner
376 based on the principles set forth in this subsection. The rule
377 must prescribe a phased risk-based corrective action process

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378 that is iterative and that tailors site rehabilitation tasks to
379 site-specific conditions and risks. The department and the
380 person responsible for brownfield site rehabilitation are
381 encouraged to establish decision points at which risk management
382 decisions will be made. The department shall provide an early
383 decision, when requested, regarding applicable exposure factors
384 and a risk management approach based on the current and future
385 land use at the site. The rule must ~~shall also~~ include protocols
386 for the use of natural attenuation, including long-term natural
387 attenuation where site conditions warrant, the use of
388 institutional and engineering controls, and the issuance of "no
389 further action" letters. The criteria for determining what
390 constitutes a rehabilitation program task or completion of a
391 site rehabilitation program task or site rehabilitation program
392 must:

393 (a) Consider the current exposure and potential risk of
394 exposure to humans and the environment, including multiple
395 pathways of exposure. The physical, chemical, and biological
396 characteristics of each contaminant must be considered in order
397 to determine the feasibility of risk-based corrective action
398 assessment.

399 (b) Establish the point of compliance at the source of the
400 contamination. However, the department may ~~is authorized to~~
401 temporarily move the point of compliance to the boundary of the
402 property, or to the edge of the plume when the plume is within
403 the property boundary, while cleanup, including cleanup through
404 natural attenuation processes in conjunction with appropriate
405 monitoring, is proceeding. The department may also ~~is~~
406 ~~authorized~~, pursuant to criteria provided for in this section,

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407 ~~to~~ temporarily extend the point of compliance beyond the
408 property boundary with appropriate monitoring, if such extension
409 is needed to facilitate natural attenuation or to address the
410 current conditions of the plume, provided human health, public
411 safety, and the environment are protected. When temporarily
412 extending the point of compliance beyond the property boundary,
413 it cannot be extended further than the lateral extent of the
414 plume at the time of execution of the brownfield site
415 rehabilitation agreement, if known, or the lateral extent of the
416 plume as defined at the time of site assessment. Temporary
417 extension of the point of compliance beyond the property
418 boundary, as provided in this paragraph, must include actual
419 notice by the person responsible for brownfield site
420 rehabilitation to local governments and the owners of any
421 property into which the point of compliance is allowed to extend
422 and constructive notice to residents and business tenants of the
423 property into which the point of compliance is allowed to
424 extend. Persons receiving notice pursuant to this paragraph
425 shall have the opportunity to comment within 30 days of receipt
426 of the notice.

427 (c) Ensure that the site-specific cleanup goal is that all
428 contaminated brownfield sites and brownfield areas ultimately
429 achieve the applicable cleanup target levels provided in this
430 section. In the circumstances provided below, and after
431 constructive notice and opportunity to comment within 30 days
432 from receipt of the notice to local government, to owners of any
433 property into which the point of compliance is allowed to
434 extend, and to residents on any property into which the point of
435 compliance is allowed to extend, the department may allow

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436 concentrations of contaminants to temporarily exceed the
437 applicable cleanup target levels while cleanup, including
438 cleanup through natural attenuation processes in conjunction
439 with appropriate monitoring, is proceeding, if human health,
440 public safety, and the environment are protected.

441 (d) Allow brownfield site and brownfield area
442 rehabilitation programs to include the use of institutional or
443 engineering controls, where appropriate, to eliminate or control
444 the potential exposure to contaminants of humans or the
445 environment. The use of controls must be preapproved by the
446 department and only after constructive notice and opportunity to
447 comment within 30 days from receipt of notice is provided to
448 local governments, to owners of any property into which the
449 point of compliance is allowed to extend, and to residents on
450 any property into which the point of compliance is allowed to
451 extend. When institutional or engineering controls are
452 implemented to control exposure, the removal of the controls
453 must have prior department approval and must be accompanied by
454 the resumption of active cleanup, or other approved controls,
455 unless cleanup target levels under this section have been
456 achieved.

457 (e) Consider the interactive ~~additive~~ effects of
458 contaminants, including additive, synergistic, and antagonistic
459 effects. ~~The synergistic and antagonistic effects shall also be~~
460 ~~considered when the scientific data become available.~~

461 (f) Take into consideration individual site
462 characteristics, which shall include, but not be limited to, the
463 current and projected use of the affected groundwater and
464 surface water in the vicinity of the site, current and projected

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465 land uses of the area affected by the contamination, the exposed
466 population, the degree and extent of contamination, the rate of
467 contaminant migration, the apparent or potential rate of
468 contaminant degradation through natural attenuation processes,
469 the location of the plume, and the potential for further
470 migration in relation to site property boundaries.

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

472 1. Cleanup target levels for each contaminant found in
473 groundwater shall be the applicable state water quality
474 standards. Where such standards do not exist, the cleanup target
475 levels for groundwater shall be based on the minimum criteria
476 specified in department rule. The department shall apply the
477 following, as appropriate, in establishing the applicable
478 cleanup target levels: calculations using a lifetime cancer risk
479 level of 1.0E-6; a hazard index of 1 or less; the best
480 achievable detection limit; and nuisance, organoleptic, and
481 aesthetic considerations. However, the department may ~~shall~~ not
482 require site rehabilitation to achieve a cleanup target level
483 for any individual contaminant which is more stringent than the
484 site-specific, ~~naturally occurring~~ background concentration for
485 that contaminant.

486 2. Where surface waters are exposed to contaminated
487 groundwater, the cleanup target levels for the contaminants must
488 ~~shall~~ be based on the more protective of the groundwater or
489 surface water standards as established by department rule,
490 unless it has been demonstrated that the contaminants do not
491 cause or contribute to the exceedance of applicable surface
492 water quality criteria. In such circumstances, the point of
493 measuring compliance with the surface water standards shall be

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494 in the groundwater immediately adjacent to the surface water
495 body.

496 3. Using risk-based corrective action principles, the
497 department shall approve alternative cleanup target levels in
498 conjunction with institutional and engineering controls, if
499 needed, based upon an applicant's demonstration, using site-
500 specific or other relevant data and information, risk assessment
501 modeling results, including results from probabilistic risk
502 assessment modeling, risk assessment studies, risk reduction
503 techniques, or a combination thereof, that human health, public
504 safety, and the environment are protected to the same degree as
505 provided in subparagraphs 1. and 2. Where a state water quality
506 standard is applicable, a deviation may not result in the
507 application of cleanup target levels more stringent than the
508 standard. In determining whether it is appropriate to establish
509 alternative cleanup target levels at a site, the department must
510 consider the effectiveness of source removal, if any, which has
511 been completed at the site and the practical likelihood of the
512 use of low yield or poor quality groundwater, the use of
513 groundwater near marine surface water bodies, the current and
514 projected use of the affected groundwater in the vicinity of the
515 site, or the use of groundwater in the immediate vicinity of the
516 contaminated area, where it has been demonstrated that the
517 groundwater contamination is not migrating away from such
518 localized source, provided human health, public safety, and the
519 environment are protected. When using alternative cleanup target
520 levels at a brownfield site, institutional controls are shall
521 not ~~be~~ required if:

522 a. The only cleanup target levels exceeded are the

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523 groundwater cleanup target levels derived from nuisance,
524 organoleptic, or aesthetic considerations;

525 b. Concentrations of all contaminants meet the state water
526 quality standards or the minimum criteria, based on the
527 protection of human health, provided in subparagraph 1.;

528 c. All of the groundwater cleanup target levels established
529 pursuant to subparagraph 1. are met at the property boundary;

530 d. The person responsible for brownfield site
531 rehabilitation has demonstrated that the contaminants will not
532 migrate beyond the property boundary at concentrations exceeding
533 the groundwater cleanup target levels established pursuant to
534 subparagraph 1.;

535 e. The property has access to and is using an offsite water
536 supply and no unplugged private wells are used for domestic
537 purposes; and

538 f. The real property owner provides written acceptance of
539 the "no further action" proposal to the department or the local
540 pollution control program.

541 (h) Provide for the department to issue a "no further
542 action order," with conditions, including, but not limited to,
543 the use of institutional or engineering controls where
544 appropriate, when alternative cleanup target levels established
545 pursuant to subparagraph (g)3. have been achieved, or when the
546 person responsible for brownfield site rehabilitation can
547 demonstrate that the cleanup target level is unachievable within
548 available technologies. Before ~~Prior to~~ issuing such an order,
549 the department shall consider the feasibility of an alternative
550 site rehabilitation technology at ~~in~~ the brownfield site ~~area~~.

551 (i) Establish appropriate cleanup target levels for soils.

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552 1. In establishing soil cleanup target levels for human
553 exposure to each contaminant found in soils from the land
554 surface to 2 feet below land surface, the department shall apply
555 the following, as appropriate: calculations using a lifetime
556 cancer risk level of 1.0E-6; a hazard index of 1 or less; and
557 the best achievable detection limit. However, the department may
558 ~~shall~~ not require site rehabilitation to achieve a cleanup
559 target level for an individual contaminant which is more
560 stringent than the site-specific, ~~naturally occurring~~ background
561 concentration for that contaminant. Institutional controls or
562 other methods shall be used to prevent human exposure to
563 contaminated soils more than 2 feet below the land surface. Any
564 removal of such institutional controls shall require such
565 contaminated soils to be remediated.

566 2. Leachability-based soil cleanup target levels shall be
567 based on protection of the groundwater cleanup target levels or
568 the alternate cleanup target levels for groundwater established
569 pursuant to this paragraph, as appropriate. Source removal and
570 other cost-effective alternatives that are technologically
571 feasible shall be considered in achieving the leachability soil
572 cleanup target levels established by the department. The
573 leachability goals are ~~shall~~ not be applicable if the department
574 determines, based upon individual site characteristics, and in
575 conjunction with institutional and engineering controls, if
576 needed, that contaminants will not leach into the groundwater at
577 levels that pose a threat to human health, public safety, and
578 the environment.

579 3. Using risk-based corrective action principles, the
580 department shall approve alternative cleanup target levels in

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581 conjunction with institutional and engineering controls, if
582 needed, based upon an applicant's demonstration, using site-
583 specific or other relevant data and information, risk assessment
584 modeling results, including results from probabilistic risk
585 assessment modeling, risk assessment studies, risk reduction
586 techniques, or a combination thereof, that human health, public
587 safety, and the environment are protected to the same degree as
588 provided in subparagraphs 1. and 2.

589 (2) The department shall require source removal, as a risk
590 reduction measure, if warranted and cost-effective. Once source
591 removal at a site is complete, the department shall reevaluate
592 the site to determine the degree of active cleanup needed to
593 continue. Further, the department shall determine if the
594 reevaluated site qualifies for monitoring only or if no further
595 action is required to rehabilitate the site. If additional site
596 rehabilitation is necessary to reach "no further action" status,
597 the department is encouraged to utilize natural attenuation
598 monitoring, including long-term natural attenuation and
599 monitoring, where site conditions warrant.

600 (3) The cleanup criteria described in this section govern
601 only site rehabilitation activities occurring at the
602 contaminated site. Removal of contaminated media from a site for
603 offsite relocation or treatment must be in accordance with all
604 applicable federal, state, and local laws and regulations.

605 Section 5. Subsection (3) of section 196.1995, Florida
606 Statutes, is amended to read:

607 196.1995 Economic development ad valorem tax exemption.—

608 (3) The board of county commissioners or the governing
609 authority of the municipality that calls a referendum within its

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610 total jurisdiction to determine whether its respective
611 jurisdiction may grant economic development ad valorem tax
612 exemptions may vote to limit the effect of the referendum to
613 authority to grant economic development tax exemptions for new
614 businesses and expansions of existing businesses located in an
615 enterprise zone or a brownfield area, as defined in s. 376.79(5)
616 ~~s. 376.79(4)~~. If an area nominated to be an enterprise zone
617 pursuant to s. 290.0055 has not yet been designated pursuant to
618 s. 290.0065, the board of county commissioners or the governing
619 authority of the municipality may call such referendum prior to
620 such designation; however, the authority to grant economic
621 development ad valorem tax exemptions does not apply until such
622 area is designated pursuant to s. 290.0065. The ballot question
623 in such referendum shall be in substantially the following form
624 and shall be used in lieu of the ballot question prescribed in
625 subsection (2):

626

627 Shall the board of county commissioners of this county (or the
628 governing authority of this municipality, or both) be authorized
629 to grant, pursuant to s. 3, Art. VII of the State Constitution,
630 property tax exemptions for new businesses and expansions of
631 existing businesses that are located in an enterprise zone or a
632 brownfield area and that are expected to create new, full-time
633 jobs in the county (or municipality, or both)?

634

635Yes-For authority to grant exemptions.

636No-Against authority to grant exemptions.

637 Section 6. Paragraph (a) of subsection (1) of section
638 287.0595, Florida Statutes, is amended to read:

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639 287.0595 Pollution response action contracts; department
640 rules.—

641 (1) The Department of Environmental Protection shall
642 establish, by adopting administrative rules as provided in
643 chapter 120:

644 (a) Procedures for determining the qualifications of
645 responsible potential vendors prior to advertisement for and
646 receipt of bids, proposals, or replies for pollution response
647 action contracts, including procedures for the rejection of
648 unqualified vendors. Response actions are those activities
649 described in s. 376.301(39) ~~s. 376.301(37)~~.

650 Section 7. Paragraph (c) of subsection (5) of section
651 288.1175, Florida Statutes, is amended to read:

652 288.1175 Agriculture education and promotion facility.—

653 (5) The Department of Agriculture and Consumer Services
654 shall competitively evaluate applications for funding of an
655 agriculture education and promotion facility. If the number of
656 applicants exceeds three, the Department of Agriculture and
657 Consumer Services shall rank the applications based upon
658 criteria developed by the Department of Agriculture and Consumer
659 Services, with priority given in descending order to the
660 following items:

661 (c) The location of the facility in a brownfield site as
662 defined in s. 376.79(4) ~~s. 376.79(3)~~, a rural enterprise zone as
663 defined in s. 290.004, an agriculturally depressed area as
664 defined in s. 570.74, or a county that has lost its agricultural
665 land to environmental restoration projects.

666 Section 8. Subsection (6) of section 376.305, Florida
667 Statutes, is amended to read:

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668 376.305 Removal of prohibited discharges.—

669 (6) The Legislature created the Abandoned Tank Restoration
670 Program in response to the need to provide financial assistance
671 for cleanup of sites that have abandoned petroleum storage
672 systems. For purposes of this subsection, the term "abandoned
673 petroleum storage system" means a petroleum storage system that
674 has not stored petroleum products for consumption, use, or sale
675 since March 1, 1990. The department shall establish the
676 Abandoned Tank Restoration Program to facilitate the restoration
677 of sites contaminated by abandoned petroleum storage systems.

678 (a) To be included in the program:

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

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

687 3. The site is not otherwise eligible for the cleanup
688 programs pursuant to ~~s. 376.3071~~ or s. 376.3072.

689 4. The site is not otherwise eligible for the Petroleum
690 Cleanup Participation Program under s. 376.3071(13) based on any
691 discharge reporting form received by the department before
692 January 1, 1995, or a written report of contamination submitted
693 to the department on or before December 31, 1998.

694 (b) In order to be eligible for the program, petroleum
695 storage systems from which a discharge occurred must be closed
696 pursuant to department rules before an eligibility

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697 determination. However, if the department determines that the
698 owner of the facility cannot financially comply with the
699 department's petroleum storage system closure requirements and
700 all other eligibility requirements are met, the petroleum
701 storage system closure requirements shall be waived. The
702 department shall take into consideration the owner's net worth
703 and the economic impact on the owner in making the determination
704 of the owner's financial ability. ~~The June 30, 1996, application~~
705 ~~deadline shall be waived for owners who cannot financially~~
706 ~~comply.~~

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

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

- 710 1. Sites on property of the Federal Government;
711 2. Sites contaminated by pollutants that are not petroleum
712 products; or
713 3. Sites where the department has been denied site access;
714 ~~or~~

715 ~~4. Sites which are owned by a person who had knowledge of~~
716 ~~the polluting condition when title was acquired unless the~~
717 ~~person acquired title to the site after issuance of a notice of~~
718 ~~site eligibility by the department.~~

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

721
722 ~~This subsection does not relieve a person who has acquired title~~
723 ~~after July 1, 1992, from the duty to establish by a~~
724 ~~preponderance of the evidence that he or she undertook, at the~~
725 ~~time of acquisition, all appropriate inquiry into the previous~~

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726 ~~ownership and use of the property consistent with good~~
727 ~~commercial or customary practice in an effort to minimize~~
728 ~~liability, as required by s. 376.308(1)(c).~~

729 Section 9. Paragraph (b) of subsection (2), subsection (4),
730 paragraph (b) of subsection (5), paragraph (b) of subsection
731 (12), and subsection (13) of section 376.3071, Florida Statutes,
732 are amended to read:

733 376.3071 Inland Protection Trust Fund; creation; purposes;
734 funding.—

735 (2) INTENT AND PURPOSE.—

736 (b) It is the intent of the Legislature that the department
737 implement rules and procedures to improve the efficiency and
738 productivity of the Petroleum Restoration Program. The
739 department is directed to implement rules and policies to
740 eliminate and reduce duplication of site rehabilitation efforts,
741 paperwork, and documentation, and micromanagement of site
742 rehabilitation tasks. The department shall make efficiency and
743 productivity a priority in the administration of the Petroleum
744 Restoration Program and to this end, when necessary, shall use
745 petroleum program contracted services to improve the efficiency
746 and productivity of the program. Furthermore, when implementing
747 rules and procedures to improve such efficiency and
748 productivity, the department shall recognize and consider the
749 potential value of utilizing contracted inspection and
750 professional resources to efficiently and productively
751 administer the program.

752 (4) USES.—Whenever, in its determination, incidents of
753 inland contamination related to the storage of petroleum or
754 petroleum products may pose a threat to the public health,

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755 safety, or welfare, water resources, or the environment, the
756 department shall obligate moneys available in the fund to
757 provide for:

758 (a) Prompt investigation and assessment of contamination
759 sites.

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

762 (c) Rehabilitation of contamination sites, which shall
763 consist of cleanup of affected soil, groundwater, and inland
764 surface waters, using the most cost-effective alternative that
765 is technologically feasible and reliable and that provides
766 adequate protection of the public health, safety, and welfare,
767 and water resources, and that minimizes environmental damage,
768 pursuant to the site selection and cleanup criteria established
769 by the department under subsection (5), except that this
770 paragraph does not authorize the department to obligate funds
771 for payment of costs which may be associated with, but are not
772 integral to, site rehabilitation, such as the cost for
773 retrofitting or replacing petroleum storage systems.

774 (d) Maintenance and monitoring of contamination sites.

775 (e) Inspection and supervision of activities described in
776 this subsection.

777 (f) Payment of expenses incurred by the department in its
778 efforts to obtain from responsible parties the payment or
779 recovery of reasonable costs resulting from the activities
780 described in this subsection.

781 (g) Payment of any other reasonable costs of
782 administration, including those administrative costs incurred by
783 the Department of Health in providing field and laboratory

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784 services, toxicological risk assessment, and other assistance to
785 the department in the investigation of drinking water
786 contamination complaints and costs associated with public
787 information and education activities.

788 (h) Establishment and implementation of the compliance
789 verification program as authorized in s. 376.303(1)(a),
790 including contracting with local governments or state agencies
791 to provide for the administration of such program through
792 locally administered programs, to minimize the potential for
793 further contamination sites.

794 (i) Funding of the provisions of ss. 376.305(6) and
795 376.3072.

796 (j) Activities related to removal and replacement of
797 petroleum storage systems, exclusive of costs of any tank,
798 piping, dispensing unit, or related hardware, if soil removal is
799 approved as a component of site rehabilitation and requires
800 removal of the tank where remediation is conducted under this
801 section or if such activities were justified in an approved
802 remedial action plan.

803 (k) Reasonable costs of restoring property as nearly as
804 practicable to the conditions which existed before activities
805 associated with contamination assessment or remedial action
806 taken under s. 376.303(4).

807 (l) Repayment of loans to the fund.

808 (m) Expenditure of sums from the fund to cover ineligible
809 sites or costs as set forth in subsection (13), if the
810 department in its discretion deems it necessary to do so. In
811 such cases, the department may seek recovery and reimbursement
812 of costs in the same manner and pursuant to the same procedures

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813 established for recovery and reimbursement of sums otherwise
814 owed to or expended from the fund.

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

818 (o) Petroleum remediation pursuant to this section
819 throughout a state fiscal year. The department shall establish a
820 process to uniformly encumber appropriated funds throughout a
821 state fiscal year and shall allow for emergencies and imminent
822 threats to public health, safety, and welfare, water resources,
823 and the environment as provided in paragraph (5) (a). This
824 paragraph does not apply to appropriations associated with the
825 free product recovery initiative provided in paragraph (5) (c) or
826 the advanced cleanup program provided in s. 376.30713.

827 (p) Enforcement of this section and ss. 376.30-376.317 by
828 the Fish and Wildlife Conservation Commission. The department
829 shall disburse moneys to the commission for such purpose.

830 (q) Payments for program deductibles, copayments, and
831 limited contamination assessment reports that otherwise would be
832 paid by another state agency for state-funded petroleum
833 contamination site rehabilitation. ~~This paragraph expires July~~
834 ~~1, 2016.~~

835
836 The issuance of a site rehabilitation completion order pursuant
837 to subsection (5) or paragraph (12) (b) for contamination
838 eligible for programs funded by this section does not alter the
839 project's eligibility for state-funded remediation if the
840 department determines that site conditions are not protective of
841 human health under actual or proposed circumstances of exposure

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842 under subsection (5). The Inland Protection Trust Fund may ~~only~~
843 be used only to fund the activities in ss. 376.30-376.317 except
844 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
845 each fiscal year must ~~shall~~ first be applied or allocated for
846 the payment of amounts payable by the department pursuant to
847 paragraph (n) under a service contract entered into by the
848 department pursuant to s. 376.3075 and appropriated in each year
849 by the Legislature before making or providing for other
850 disbursements from the fund. This subsection does not authorize
851 the use of the fund for cleanup of contamination caused
852 primarily by a discharge of solvents as defined in s.
853 206.9925(6), or polychlorinated biphenyls when their presence
854 causes them to be hazardous wastes, except solvent contamination
855 which is the result of chemical or physical breakdown of
856 petroleum products and is otherwise eligible. Facilities used
857 primarily for the storage of motor or diesel fuels as defined in
858 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
859 to this section.

860 (5) SITE SELECTION AND CLEANUP CRITERIA.—

861 (b) It is the intent of the Legislature to protect the
862 health of all people under actual circumstances of exposure. The
863 secretary shall establish criteria by rule for the purpose of
864 determining, on a site-specific basis, the rehabilitation
865 program tasks that comprise a site rehabilitation program and
866 the level at which a rehabilitation program task and a site
867 rehabilitation program are completed. In establishing the rule,
868 the department shall incorporate, to the maximum extent
869 feasible, risk-based corrective action principles to achieve
870 protection of the public health, safety, and welfare, water

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871 resources, and the environment in a cost-effective manner as
872 provided in this subsection. Criteria for determining what
873 constitutes a rehabilitation program task or completion of site
874 rehabilitation program tasks and site rehabilitation programs
875 shall be based upon the factors set forth in paragraph (a) and
876 the following additional factors:

877 1. The current exposure and potential risk of exposure to
878 humans and the environment including multiple pathways of
879 exposure.

880 2. The appropriate point of compliance with cleanup target
881 levels for petroleum products' chemicals of concern. The point
882 of compliance shall be at the source of the petroleum
883 contamination. However, the department may temporarily move the
884 point of compliance to the boundary of the property, or to the
885 edge of the plume when the plume is within the property
886 boundary, while cleanup, including cleanup through natural
887 attenuation processes in conjunction with appropriate
888 monitoring, is proceeding. The department may also, pursuant to
889 criteria provided for in this paragraph, temporarily extend the
890 point of compliance beyond the property boundary with
891 appropriate monitoring, if such extension is needed to
892 facilitate natural attenuation or to address the current
893 conditions of the plume, if the public health, safety, and
894 welfare, water resources, and the environment are adequately
895 protected. Temporary extension of the point of compliance beyond
896 the property boundary, as provided in this subparagraph, must
897 include notice to local governments and owners of any property
898 into which the point of compliance is allowed to extend.

899 3. The appropriate site-specific cleanup goal. The site-

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900 specific cleanup goal shall be that all petroleum contamination
901 sites ultimately achieve the applicable cleanup target levels
902 provided in this paragraph. However, the department may allow
903 concentrations of the petroleum products' chemicals of concern
904 to temporarily exceed the applicable cleanup target levels while
905 cleanup, including cleanup through natural attenuation processes
906 in conjunction with appropriate monitoring, is proceeding, if
907 the public health, safety, and welfare, water resources, and the
908 environment are adequately protected.

909 4. The appropriateness of using institutional or
910 engineering controls. Site rehabilitation programs may include
911 the use of institutional or engineering controls to eliminate
912 the potential exposure to petroleum products' chemicals of
913 concern to humans or the environment. Use of such controls must
914 have prior department approval, and institutional controls may
915 not be acquired with moneys from the fund other than the costs
916 associated with a professional land survey or a specific purpose
917 survey, if such is needed, and costs associated with obtaining a
918 title report and recording fees. When institutional or
919 engineering controls are implemented to control exposure, the
920 removal of such controls must have prior department approval and
921 must be accompanied immediately by the resumption of active
922 cleanup or other approved controls unless cleanup target levels
923 pursuant to this paragraph have been achieved.

924 5. The additive effects of the petroleum products'
925 chemicals of concern. The synergistic effects of petroleum
926 products' chemicals of concern must also be considered when the
927 scientific data becomes available.

928 6. Individual site characteristics which must include, but

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929 not be limited to, the current and projected use of the affected
930 groundwater in the vicinity of the site, current and projected
931 land uses of the area affected by the contamination, the exposed
932 population, the degree and extent of contamination, the rate of
933 contaminant migration, the apparent or potential rate of
934 contaminant degradation through natural attenuation processes,
935 the location of the plume, and the potential for further
936 migration in relation to site property boundaries.

937 7. Applicable state water quality standards.

938 a. Cleanup target levels for petroleum products' chemicals
939 of concern found in groundwater shall be the applicable state
940 water quality standards. Where such standards do not exist, the
941 cleanup target levels for groundwater shall be based on the
942 minimum criteria specified in department rule. The department
943 shall consider the following, as appropriate, in establishing
944 the applicable minimum criteria: calculations using a lifetime
945 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
946 best achievable detection limit; the naturally occurring
947 background concentration; or nuisance, organoleptic, and
948 aesthetic considerations.

949 b. Where surface waters are exposed to petroleum
950 contaminated groundwater, the cleanup target levels for the
951 petroleum products' chemicals of concern shall be based on the
952 surface water standards as established by department rule. The
953 point of measuring compliance with the surface water standards
954 shall be in the groundwater immediately adjacent to the surface
955 water body.

956 8. Whether deviation from state water quality standards or
957 from established criteria is appropriate. The department may

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958 issue a "No Further Action Order" based upon the degree to which
959 the desired cleanup target level is achievable and can be
960 reasonably and cost-effectively implemented within available
961 technologies or engineering and institutional control
962 strategies. Where a state water quality standard is applicable,
963 a deviation may not result in the application of cleanup target
964 levels more stringent than the standard. In determining whether
965 it is appropriate to establish alternate cleanup target levels
966 at a site, the department may consider the effectiveness of
967 source removal that has been completed at the site and the
968 practical likelihood of the use of low yield or poor quality
969 groundwater; the use of groundwater near marine surface water
970 bodies; the current and projected use of the affected
971 groundwater in the vicinity of the site; or the use of
972 groundwater in the immediate vicinity of the storage tank area,
973 where it has been demonstrated that the groundwater
974 contamination is not migrating away from such localized source,
975 if the public health, safety, and welfare, water resources, and
976 the environment are adequately protected.

977 9. Appropriate cleanup target levels for soils.

978 a. In establishing soil cleanup target levels for human
979 exposure to petroleum products' chemicals of concern found in
980 soils from the land surface to 2 feet below land surface, the
981 department shall consider the following, as appropriate:
982 calculations using a lifetime cancer risk level of 1.0E-6; a
983 hazard index of 1 or less; the best achievable detection limit;
984 or the naturally occurring background concentration.

985 b. Leachability-based soil target levels shall be based on
986 protection of the groundwater cleanup target levels or the

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987 alternate cleanup target levels for groundwater established
988 pursuant to this paragraph, as appropriate. Source removal and
989 other cost-effective alternatives that are technologically
990 feasible shall be considered in achieving the leachability soil
991 target levels established by the department. The leachability
992 goals do not apply if the department determines, based upon
993 individual site characteristics, that petroleum products'
994 chemicals of concern will not leach into the groundwater at
995 levels which pose a threat to public health, safety, and
996 welfare, water resources, or the environment.

997
998 This paragraph does not restrict the department from temporarily
999 postponing completion of any site rehabilitation program for
1000 which funds are being expended whenever such postponement is
1001 necessary in order to make funds available for rehabilitation of
1002 a contamination site with a higher priority status.

1003 (12) SITE CLEANUP.—

1004 (b) *Low-scored site initiative.*—Notwithstanding subsections
1005 (5) and (6), a site with a priority ranking score of 29 points
1006 or less may voluntarily participate in the low-scored site
1007 initiative regardless of whether the site is eligible for state
1008 restoration funding.

1009 1. To participate in the low-scored site initiative, the
1010 ~~responsible party or~~ property owner, or a responsible party who
1011 provides evidence of authorization from the property owner, must
1012 submit a "No Further Action" proposal and affirmatively
1013 demonstrate that the following conditions imposed under
1014 subparagraph 4. are met.÷

1015 ~~a. Upon reassessment pursuant to department rule, the site~~

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1016 ~~retains a priority ranking score of 29 points or less.~~

1017 ~~b. Excessively contaminated soil, as defined by department~~
1018 ~~rule, does not exist onsite as a result of a release of~~
1019 ~~petroleum products.~~

1020 ~~e. A minimum of 6 months of groundwater monitoring~~
1021 ~~indicates that the plume is shrinking or stable.~~

1022 ~~d. The release of petroleum products at the site does not~~
1023 ~~adversely affect adjacent surface waters, including their~~
1024 ~~effects on human health and the environment.~~

1025 ~~e. The area of groundwater containing the petroleum~~
1026 ~~products' chemicals of concern is less than one quarter acre and~~
1027 ~~is confined to the source property boundaries of the real~~
1028 ~~property on which the discharge originated.~~

1029 ~~f. Soils onsite that are subject to human exposure found~~
1030 ~~between land surface and 2 feet below land surface meet the soil~~
1031 ~~cleanup target levels established by department rule or human~~
1032 ~~exposure is limited by appropriate institutional or engineering~~
1033 ~~controls.~~

1034 2. Upon affirmative demonstration that ~~of~~ the conditions
1035 imposed under subparagraph 4. are met ~~subparagraph 1.~~, the
1036 department shall issue a site rehabilitation completion order
1037 incorporating the determination of "No Further Action." proposal
1038 submitted by the property owner or the responsible party, who
1039 must provide evidence of authorization from the property owner
1040 ~~Such determination acknowledges that minimal contamination~~
1041 ~~exists onsite and that such contamination is not a threat to the~~
1042 ~~public health, safety, or welfare, water resources, or the~~
1043 ~~environment.~~ If no contamination is detected, the department may
1044 issue a site rehabilitation completion order.

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1045 3. Sites that are eligible for state restoration funding
1046 may receive payment of costs for the low-scored site initiative
1047 as follows:

1048 a. ~~A responsible party or property owner,~~ or a responsible
1049 party who provides evidence of authorization from the property
1050 owner, may submit an assessment and limited remediation plan
1051 designed to affirmatively demonstrate that the site meets the
1052 conditions imposed under subparagraph 4 ~~subparagraph 1~~.
1053 Notwithstanding the priority ranking score of the site, the
1054 department may approve the cost of the assessment and limited
1055 remediation, including up to 12 ~~6~~ months of groundwater
1056 monitoring and 12 months of limited remediation activities in
1057 one or more task assignments or modifications thereof, not to
1058 exceed the threshold amount provided in s. 287.017 for CATEGORY
1059 TWO, \$30,000 for each site where the department has determined
1060 that the assessment and limited remediation, if applicable, will
1061 likely result in a determination of "No Further Action." ~~The~~
1062 department may not pay the costs associated with the
1063 establishment of institutional or engineering controls other
1064 than the costs associated with a professional land survey or a
1065 specific purpose survey, if such is needed, and the costs
1066 associated with obtaining a title report and paying recording
1067 fees.

1068 b. After the approval of initial site assessment results
1069 provided pursuant to state funding under sub-subparagraph a.,
1070 the department may approve an additional amount not to exceed
1071 the threshold amount provided in s. 287.017 for CATEGORY TWO for
1072 limited remediation needed to achieve a determination of "No
1073 Further Action."

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1074 ~~c.b.~~ The assessment and limited remediation work shall be
1075 completed no later than 15 ~~6~~ months after the department
1076 authorizes the start of a state-funded, low-score site
1077 initiative task. If groundwater monitoring is required after the
1078 assessment and limited remediation in order to satisfy the
1079 conditions under subparagraph 4., the department may authorize
1080 an additional 12 months to complete the monitoring ~~issues its~~
1081 ~~approval.~~

1082 ~~d.e.~~ No more than \$15 ~~\$10~~ million for the low-scored site
1083 initiative may be encumbered from the fund in any fiscal year.
1084 Funds shall be made available on a first-come, first-served
1085 basis and shall be limited to 10 sites in each fiscal year for
1086 each ~~responsible party or~~ property owner or each responsible
1087 party who provides evidence of authorization from the property
1088 owner.

1089 ~~e.d.~~ Program deductibles, copayments, and the limited
1090 contamination assessment report requirements under paragraph
1091 (13) (d) ~~(13) (e)~~ do not apply to expenditures under this
1092 paragraph.

1093 4. The department shall issue an order incorporating the
1094 "No Further Action" proposal submitted by a property owner or a
1095 responsible party who provides evidence of authorization from
1096 the property owner upon affirmative demonstration that all of
1097 the following conditions are met:

1098 a. Soil saturated with petroleum or petroleum products, or
1099 soil that causes a total corrected hydrocarbon measurement of
1100 500 parts per million or higher for the Gasoline Analytical
1101 Group or 50 parts per million or higher for the Kerosene
1102 Analytical Group, as defined by department rule, does not exist

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1103 onsite as a result of a release of petroleum products.

1104 b. A minimum of 12 months of groundwater monitoring
1105 indicates that the plume is shrinking or stable.

1106 c. The release of petroleum products at the site does not
1107 adversely affect adjacent surface waters, including their
1108 effects on human health and the environment.

1109 d. The area containing the petroleum products' chemicals of
1110 concern:

1111 (I) Is confined to the source property boundaries of the
1112 real property on which the discharge originated, unless the
1113 property owner has requested or authorized a more limited area
1114 in the "No Further Action" proposal submitted under this
1115 subsection; or

1116 (II) Has migrated from the source property onto or beneath
1117 a transportation facility as defined s. 334.03(30) for which the
1118 department has approved, and governmental entity owning the
1119 transportation facility has agreed to institutional controls as
1120 defined in s. 376.301(21). This sub-sub-subparagraph does not,
1121 however, impose any legal liability on the transportation
1122 facility owner, obligate such owner to engage in remediation, or
1123 wave such owner's right to recover costs for damages.

1124 e. The groundwater contamination containing the petroleum
1125 products' chemicals of concern is not a threat to any permitted
1126 potable water supply well.

1127 f. Soils onsite found between land surface and 2 feet below
1128 land surface which are subject to human exposure meet the soil
1129 cleanup target levels established in subparagraph (5)(b)9., or
1130 human exposure is limited by appropriate institutional or
1131 engineering controls.

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1132
1133 Issuance of a site rehabilitation completion order under this
1134 paragraph acknowledges that minimal contamination exists onsite
1135 and that such contamination is not a threat to the public
1136 health, safety, or welfare; water resources; or the environment.
1137 Pursuant to subsection (4), the issuance of the site
1138 rehabilitation completion order, with or without conditions,
1139 does not alter eligibility for state-funded rehabilitation that
1140 would otherwise be applicable under this section.

1141 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage
1142 detection, reporting, and cleanup of contamination caused by
1143 discharges of petroleum or petroleum products, the department
1144 shall, within the guidelines established in this subsection,
1145 implement a cost-sharing cleanup program to provide
1146 rehabilitation funding assistance for all property contaminated
1147 by discharges of petroleum or petroleum products from a
1148 petroleum storage system occurring before January 1, 1995,
1149 subject to a copayment provided for in a Petroleum Cleanup
1150 Participation Program site rehabilitation agreement. Eligibility
1151 is subject to an annual appropriation from the fund.
1152 Additionally, funding for eligible sites is contingent upon
1153 annual appropriation in subsequent years. Such continued state
1154 funding is not an entitlement or a vested right under this
1155 subsection. Eligibility shall be determined in the program,
1156 notwithstanding any other provision of law, consent order,
1157 order, judgment, or ordinance to the contrary.

1158 (a)1. The department shall accept any discharge reporting
1159 form received before January 1, 1995, as an application for this
1160 program, and the facility owner or operator need not reapply.

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1161 2. Regardless of whether ownership has changed, owners or
1162 operators of property that is contaminated by petroleum or
1163 petroleum products from a petroleum storage system may apply for
1164 such program by filing a written report of the contamination
1165 incident, including evidence that such incident occurred before
1166 January 1, 1995, with the department. Incidents of petroleum
1167 contamination discovered after December 31, 1994, at sites which
1168 have not stored petroleum or petroleum products for consumption,
1169 use, or sale after such date shall be presumed to have occurred
1170 before January 1, 1995. An operator's filed report shall be an
1171 application of the owner for all purposes. ~~Sites reported to the~~
1172 ~~department after December 31, 1998, are not eligible for the~~
1173 ~~program.~~

1174 (b) Subject to annual appropriation from the fund, sites
1175 meeting the criteria of this subsection are eligible for up to
1176 \$400,000 of site rehabilitation funding assistance in priority
1177 order pursuant to subsections (5) and (6). Sites meeting the
1178 criteria of this subsection for which a site rehabilitation
1179 completion order was issued before June 1, 2008, do not qualify
1180 for the 2008 increase in site rehabilitation funding assistance
1181 and are bound by the pre-June 1, 2008, limits. Sites meeting the
1182 criteria of this subsection for which a site rehabilitation
1183 completion order was not issued before June 1, 2008, regardless
1184 of whether they have previously transitioned to nonstate-funded
1185 cleanup status, may continue state-funded cleanup pursuant to
1186 this section until a site rehabilitation completion order is
1187 issued or the increased site rehabilitation funding assistance
1188 limit is reached, whichever occurs first. The department may not
1189 pay expenses incurred beyond the scope of an approved contract.

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1190 (c) The department may also approve supplemental funding of
1191 up to \$100,000 for additional remediation and monitoring if such
1192 remediation and monitoring is necessary to achieve a
1193 determination of "No Further Action."

1194 (d) Upon notification by the department that rehabilitation
1195 funding assistance is available for the site pursuant to
1196 subsections (5) and (6), the property owner, operator, or person
1197 otherwise responsible for site rehabilitation shall provide the
1198 department with a limited contamination assessment report and
1199 shall enter into a Petroleum Cleanup Participation Program site
1200 rehabilitation agreement with the department. The agreement must
1201 provide for a 25-percent copayment by the owner, operator, or
1202 person otherwise responsible for conducting site rehabilitation.
1203 The owner, operator, or person otherwise responsible for
1204 conducting site rehabilitation shall adequately demonstrate the
1205 ability to meet the copayment obligation. The limited
1206 contamination assessment report and the copayment costs may be
1207 reduced or eliminated if the owner and all operators responsible
1208 for restoration under s. 376.308 demonstrate that they cannot
1209 financially comply with the copayment and limited contamination
1210 assessment report requirements. The department shall take into
1211 consideration the owner's and operator's net worth in making the
1212 determination of financial ability. In the event the department
1213 and the owner, operator, or person otherwise responsible for
1214 site rehabilitation cannot complete negotiation of the cost-
1215 sharing agreement within 120 days after beginning negotiations,
1216 the department shall terminate negotiations and the site shall
1217 be ineligible for state funding under this subsection and all
1218 liability protections provided for in this subsection shall be

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1219 revoked.

1220 (e)~~(d)~~ A report of a discharge made to the department by a
1221 person pursuant to this subsection or any rules adopted pursuant
1222 to this subsection may not be used directly as evidence of
1223 liability for such discharge in any civil or criminal trial
1224 arising out of the discharge.

1225 (f)~~(e)~~ This subsection does not preclude the department
1226 from pursuing penalties under s. 403.141 for violations of any
1227 law or any rule, order, permit, registration, or certification
1228 adopted or issued by the department pursuant to its lawful
1229 authority.

1230 (g)~~(f)~~ Upon the filing of a discharge reporting form under
1231 paragraph (a), the department or local government may not pursue
1232 any judicial or enforcement action to compel rehabilitation of
1233 the discharge. This paragraph does not prevent any such action
1234 with respect to discharges determined ineligible under this
1235 subsection or to sites for which rehabilitation funding
1236 assistance is available pursuant to subsections (5) and (6).

1237 (h)~~(g)~~ The following are excluded from participation in the
1238 program:

1239 1. Sites at which the department has been denied reasonable
1240 site access to implement this section.

1241 2. Sites that were active facilities when owned or operated
1242 by the Federal Government.

1243 3. Sites that are identified by the United States
1244 Environmental Protection Agency to be on, or which qualify for
1245 listing on, the National Priorities List under Superfund. This
1246 exception does not apply to those sites for which eligibility
1247 has been requested or granted as of the effective date of this

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1248 act under the Early Detection Incentive Program established
1249 pursuant to s. 15, chapter 86-159, Laws of Florida.

1250 4. Sites for which contamination is covered under the Early
1251 Detection Incentive Program, the Abandoned Tank Restoration
1252 Program, or the Petroleum Liability and Restoration Insurance
1253 Program, in which case site rehabilitation funding assistance
1254 shall continue under the respective program.

1255 Section 10. Paragraph (d) of subsection (1), paragraph (a)
1256 of subsection (2), and subsection (4) of section 376.30713,
1257 Florida Statutes, are amended to read:

1258 376.30713 Advanced cleanup.—

1259 (1) In addition to the legislative findings provided in s.
1260 376.3071, the Legislature finds and declares:

1261 (d) It is appropriate for a person who is responsible for
1262 site rehabilitation to share the costs associated with managing
1263 and conducting advanced cleanup, to facilitate the opportunity
1264 for advanced cleanup, and to mitigate the additional costs that
1265 will be incurred by the state in conducting site rehabilitation
1266 in advance of the site's priority ranking. Such cost sharing
1267 will result in more contaminated sites being cleaned up and
1268 greater environmental benefits to the state. This section is
1269 only available for sites eligible for restoration funding under
1270 EDI, ATRP, or PLRIP. This section is available for discharges
1271 eligible for restoration funding under the petroleum cleanup
1272 participation program for the state's cost share of site
1273 rehabilitation. Applications must include a cost-sharing
1274 commitment for this section in addition to the 25-percent-
1275 copayment requirement of the petroleum cleanup participation
1276 program. This section is not available for any discharge under a

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1277 petroleum cleanup participation program where the 25-percent-
1278 copayment requirement of the petroleum cleanup participation
1279 program has been reduced or eliminated pursuant to s.
1280 376.3071(13)(d) ~~s. 376.3071(13)(e)~~.

1281 (2) The department may approve an application for advanced
1282 cleanup at eligible sites, notwithstanding ~~before funding based~~
1283 ~~on~~ the site's priority ranking established pursuant to s.
1284 376.3071(5)(a), pursuant to this section. Only the facility
1285 owner or operator or the person otherwise responsible for site
1286 rehabilitation qualifies as an applicant under this section.

1287 (a) Advanced cleanup applications may be submitted between
1288 May 1 and June 30 and between November 1 and December 31 of each
1289 fiscal year. Applications submitted between May 1 and June 30
1290 shall be for the fiscal year beginning July 1. An application
1291 must consist of:

1292 1. A commitment to pay 25 percent or more of the total
1293 cleanup cost deemed recoverable under this section along with
1294 proof of the ability to pay the cost share. The department shall
1295 determine whether the cost savings demonstration is acceptable.
1296 Such determination is not subject to chapter 120.

1297 a. Applications for the aggregate cleanup of 5 or more
1298 sites may be submitted in one of two formats to meet the cost-
1299 share requirement:

1300 (I) For an aggregate application proposing that the
1301 department enter into a performance-based contract ~~for the~~
1302 ~~cleanup of 20 or more sites~~ may use a commitment to pay, a
1303 demonstrated cost savings to the department, or both to meet the
1304 ~~cost-share~~ requirement.

1305 (II) For an aggregate application relying on a demonstrated

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1306 cost savings to the department, the applicant shall, in
1307 conjunction with the proposed agency term contractor, establish
1308 and provide in the application the percentage of cost savings in
1309 the aggregate that is being provided to the department for
1310 cleanup of the sites under the application compared to the cost
1311 of cleanup of those same sites using the current rates provided
1312 to the department by the proposed agency term contractor. ~~The~~
1313 ~~department shall determine whether the cost savings~~
1314 ~~demonstration is acceptable. Such determination is not subject~~
1315 ~~to chapter 120.~~

1316 b. Applications for the cleanup of individual sites may be
1317 submitted in one of two formats to meet the cost-share
1318 requirement:

1319 (I) For an individual application proposing that the
1320 department enter into a performance-based contract may use a
1321 commitment to pay, a demonstrated cost savings to the
1322 department, or both to meet the requirement.

1323 (II) For an individual application relying on a
1324 demonstrated cost savings to the department, the applicant
1325 shall, in conjunction with the proposed agency term contractor,
1326 establish and provide in the application a 25-percent cost
1327 savings to the department for cleanup of the site under the
1328 application compared to the cost of cleanup of the same site
1329 using the current rates provided to the department by the
1330 proposed agency term contractor.

1331 2. A nonrefundable review fee of \$250 to cover the
1332 administrative costs associated with the department's review of
1333 the application.

1334 3. A limited contamination assessment report.

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1335 4. A proposed course of action.

1336 5. A department site access agreement, or similar
1337 agreements approved by the department that do not violate state
1338 law, entered into with the property owner or owners, as
1339 applicable, and evidence of authorization from such owner or
1340 owners for petroleum site rehabilitation program tasks
1341 consistent with the proposed course of action where the
1342 applicant is not the property owner for any of the sites
1343 contained in the application.

1344
1345 The limited contamination assessment report must be sufficient
1346 to support the proposed course of action and to estimate the
1347 cost of the proposed course of action. Costs incurred related to
1348 conducting the limited contamination assessment report are not
1349 refundable from the Inland Protection Trust Fund. Site
1350 eligibility under this subsection or any other provision of this
1351 section is not an entitlement to advanced cleanup or continued
1352 restoration funding. The applicant shall certify to the
1353 department that the applicant has the prerequisite authority to
1354 enter into an advanced cleanup contract with the department. The
1355 certification must be submitted with the application.

1356 (4) The department may enter into contracts for a total of
1357 up to \$25 ~~\$15~~ million of advanced cleanup work in each fiscal
1358 year. However, a facility or an applicant who bundles multiple
1359 sites as specified in subparagraph (2) (a)1. may not be approved
1360 for more than \$5 million of cleanup activity in each fiscal
1361 year. A property owner or responsible party may enter into a
1362 voluntary cost-share agreement in which the property owner or
1363 responsible party commits to bundle multiple sites and lists the

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1364 facilities that will be included in those future bundles. The
1365 facilities listed are not subject to agency term contractor
1366 assignment pursuant to department rule. The department reserves
1367 the right to terminate or amend the voluntary cost-share
1368 agreement for any identified site under the voluntary cost-share
1369 agreement if the property owner or responsible party fails to
1370 submit an application to bundle any site, not already covered by
1371 an advance cleanup contract, under such voluntary cost-share
1372 agreement within a subsequent open application period during
1373 which it is eligible to participate. For the purposes of this
1374 section, the term "facility" includes, but is not limited to,
1375 multiple site facilities such as airports, port facilities, and
1376 terminal facilities even though such enterprises may be treated
1377 as separate facilities for other purposes under this chapter.

1378 Section 11. This act shall take effect July 1, 2016.