

By Senator Evers

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1 A bill to be entitled
2 An act relating to contaminated sites; amending s.
3 376.301, F.S.; defining the terms "background
4 concentration" and "long-term natural attenuation";
5 amending s. 376.30701, F.S.; requiring the Department
6 of Environmental Protection to include protocols for
7 the use of long-term natural attenuation where site
8 conditions warrant; requiring specified interactive
9 effects of contaminants to be considered as cleanup
10 criteria; revising how cleanup target levels are
11 applied where surface waters are exposed to
12 contaminated groundwater; authorizing the use of
13 relevant data and information when assessing cleanup
14 target levels; providing that institutional controls
15 are not required under certain circumstances if
16 alternative cleanup target levels are used; amending
17 s. 376.79, F.S.; defining the terms "background
18 concentration" and "long-term natural attenuation";
19 amending s. 376.81, F.S.; providing additional
20 contamination cleanup criteria for brownfield sites
21 and brownfield areas; amending ss. 196.1995, 287.0595,
22 and 288.1175, F.S.; conforming cross-references;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Present subsections (4) through (22) of section
28 376.301, Florida Statutes, are redesignated as subsections (5)
29 through (23), respectively, present subsections (23) through

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30 (48) of that section are redesignated as subsections (25)
31 through (50), respectively, and new subsections (4) and (24) are
32 added to that section, to read:

33 376.301 Definitions of terms used in ss. 376.30-376.317,
34 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
35 376.75, unless the context clearly requires otherwise, the term:

36 (4) "Background concentration" means the concentration of
37 contaminants naturally occurring or resulting from anthropogenic
38 impacts unrelated to the discharge of pollutants or hazardous
39 substances at a contaminated site undergoing site
40 rehabilitation.

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

44 Section 2. Subsection (2) of section 376.30701, Florida
45 Statutes, is amended to read:

46 376.30701 Application of risk-based corrective action
47 principles to contaminated sites; applicability; legislative
48 intent; rulemaking authority; contamination cleanup criteria;
49 limitations; reopeners.—

50 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is
51 the intent of the Legislature to protect the health of all
52 people under actual circumstances of exposure. By July 1, 2004,
53 the secretary of the department shall establish criteria by rule
54 for the purpose of determining, on a site-specific basis, the
55 rehabilitation program tasks that comprise a site rehabilitation
56 program, including a voluntary site rehabilitation program, and
57 the level at which a rehabilitation program task and a site
58 rehabilitation program may be deemed completed. In establishing

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59 these rules, the department shall apply, to the maximum extent
60 feasible, a risk-based corrective action process to achieve
61 protection of human health and safety and the environment in a
62 cost-effective manner based on the principles set forth in this
63 subsection. These rules shall prescribe a phased risk-based
64 corrective action process that is iterative and that tailors
65 site rehabilitation tasks to site-specific conditions and risks.
66 The department and the person responsible for site
67 rehabilitation are encouraged to establish decision points at
68 which risk management decisions will be made. The department
69 shall provide an early decision, when requested, regarding
70 applicable exposure factors and a risk management approach based
71 on the current and future land use at the site. These rules must
72 ~~shall also~~ include protocols for the use of natural attenuation,
73 including long-term natural attenuation where site conditions
74 warrant, the use of institutional and engineering controls, and
75 the issuance of "No Further Action" orders. The criteria for
76 determining what constitutes a rehabilitation program task or
77 completion of a site rehabilitation program task or site
78 rehabilitation program, including a voluntary site
79 rehabilitation program, must:

80 (a) Consider the current exposure and potential risk of
81 exposure to humans and the environment, including multiple
82 pathways of exposure. The physical, chemical, and biological
83 characteristics of each contaminant must be considered in order
84 to determine the feasibility of a risk-based corrective action
85 assessment.

86 (b) Establish the point of compliance at the source of the
87 contamination. However, the department may ~~is authorized to~~

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88 temporarily move the point of compliance to the boundary of the
89 property, or to the edge of the plume when the plume is within
90 the property boundary, while cleanup, including cleanup through
91 natural attenuation processes in conjunction with appropriate
92 monitoring, is proceeding. The department may ~~also is~~
93 ~~authorized~~, pursuant to criteria provided in this section, ~~to~~
94 temporarily extend the point of compliance beyond the property
95 boundary with appropriate monitoring, if such extension is
96 needed to facilitate natural attenuation or to address the
97 current conditions of the plume, provided human health, public
98 safety, and the environment are protected. When temporarily
99 extending the point of compliance beyond the property boundary,
100 it cannot be extended further than the lateral extent of the
101 plume, if known, at the time of execution of a cleanup
102 agreement, if required, or the lateral extent of the plume as
103 defined at the time of site assessment. Temporary extension of
104 the point of compliance beyond the property boundary, as
105 provided in this paragraph, must include actual notice by the
106 person responsible for site rehabilitation to local governments
107 and the owners of any property into which the point of
108 compliance is allowed to extend and constructive notice to
109 residents and business tenants of the property into which the
110 point of compliance is allowed to extend. Persons receiving
111 notice pursuant to this paragraph shall have the opportunity to
112 comment within 30 days after receipt of the notice. Additional
113 notice concerning the status of natural attenuation processes
114 shall be similarly provided to persons receiving notice pursuant
115 to this paragraph every 5 years.

116 (c) Ensure that the site-specific cleanup goal is that all

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117 contaminated sites being cleaned up pursuant to this section
118 ultimately achieve the applicable cleanup target levels provided
119 in this subsection. In the circumstances provided in this
120 subsection, and after constructive notice and opportunity to
121 comment within 30 days after receipt of the notice to local
122 government, owners of any property into which the point of
123 compliance is allowed to extend, and residents of any property
124 into which the point of compliance is allowed to extend, the
125 department may allow concentrations of contaminants to
126 temporarily exceed the applicable cleanup target levels while
127 cleanup, including cleanup through natural attenuation processes
128 in conjunction with appropriate monitoring, is proceeding, if
129 human health, public safety, and the environment are protected.

130 (d) Allow the use of institutional or engineering controls
131 at contaminated sites being cleaned up pursuant to this section,
132 where appropriate, to eliminate or control the potential
133 exposure to contaminants of humans or the environment. The use
134 of controls must be preapproved by the department and only after
135 constructive notice and opportunity to comment within 30 days
136 after receipt of notice is provided to local governments, owners
137 of any property into which the point of compliance is allowed to
138 extend, and residents on any property into which the point of
139 compliance is allowed to extend. When institutional or
140 engineering controls are implemented to control exposure, the
141 removal of the controls must have prior department approval and
142 must be accompanied by the resumption of active cleanup, or
143 other approved controls, unless cleanup target levels under this
144 section have been achieved.

145 (e) Consider the interactive ~~additive~~ effects of

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146 contaminants, including additive, synergistic, and antagonistic
147 effects. ~~The synergistic and antagonistic effects shall also be~~
148 ~~considered when the scientific data become available.~~

149 (f) Take into consideration individual site
150 characteristics, which shall include, but not be limited to, the
151 current and projected use of the affected groundwater and
152 surface water in the vicinity of the site, current and projected
153 land uses of the area affected by the contamination, the exposed
154 population, the degree and extent of contamination, the rate of
155 contaminant migration, the apparent or potential rate of
156 contaminant degradation through natural attenuation processes,
157 the location of the plume, and the potential for further
158 migration in relation to site property boundaries.

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

160 1. Cleanup target levels for each contaminant found in
161 groundwater shall be the applicable state water quality
162 standards. Where such standards do not exist, the cleanup target
163 levels for groundwater shall be based on the minimum criteria
164 specified in department rule. The department shall apply the
165 following, as appropriate, in establishing the applicable
166 cleanup target levels: calculations using a lifetime cancer risk
167 level of 1.0E-6; a hazard index of 1 or less; the best
168 achievable detection limit; and nuisance, organoleptic, and
169 aesthetic considerations. However, the department may ~~shall~~ not
170 require site rehabilitation to achieve a cleanup target level
171 for any individual contaminant that is more stringent than the
172 site-specific, ~~naturally occurring~~ background concentration for
173 that contaminant.

174 2. Where surface waters are exposed to contaminated

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175 groundwater, the cleanup target levels for the contaminants must
176 ~~shall~~ be based on the more protective of the groundwater or
177 surface water standards as established by department rule,
178 unless it has been demonstrated that the contaminants do not
179 cause or contribute to the exceedance of applicable surface
180 water quality criteria. In such circumstance, the point of
181 measuring compliance with the surface water standards shall be
182 in the groundwater immediately adjacent to the surface water
183 body.

184 3. Using risk-based corrective action principles, the
185 department shall approve alternative cleanup target levels in
186 conjunction with institutional and engineering controls, if
187 needed, based upon an applicant's demonstration, using site-
188 specific or other relevant data and information, risk assessment
189 modeling results, including results from probabilistic risk
190 assessment modeling, risk assessment studies, risk reduction
191 techniques, or a combination thereof, that human health, public
192 safety, and the environment are protected to the same degree as
193 provided in subparagraphs 1. and 2. Where a state water quality
194 standard is applicable, a deviation may not result in the
195 application of cleanup target levels more stringent than the
196 standard. In determining whether it is appropriate to establish
197 alternative cleanup target levels at a site, the department must
198 consider the effectiveness of source removal, if any, that has
199 been completed at the site and the practical likelihood of the
200 use of low yield or poor quality groundwater, the use of
201 groundwater near marine surface water bodies, the current and
202 projected use of the affected groundwater in the vicinity of the
203 site, or the use of groundwater in the immediate vicinity of the

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204 contaminated area, where it has been demonstrated that the
205 groundwater contamination is not migrating away from such
206 localized source, provided human health, public safety, and the
207 environment are protected. Groundwater resource protection
208 remains the ultimate goal of cleanup, particularly in light of
209 the state's continued growth and consequent demands for drinking
210 water resources. The Legislature recognizes the need for a
211 protective yet flexible cleanup approach that risk-based
212 corrective action provides. Only where it is appropriate on a
213 site-specific basis, using the criteria in this paragraph and
214 careful evaluation by the department, shall proposed alternative
215 cleanup target levels be approved. If alternative cleanup target
216 levels are used, institutional controls are not required if:

217 a. The only cleanup target levels exceeded are the
218 groundwater cleanup target levels derived from nuisance,
219 organoleptic, or aesthetic considerations;

220 b. Concentrations of all contaminants meet the state water
221 quality standards or the minimum criteria, based on the
222 protection of human health, public safety, and the environment,
223 as provided in subparagraph 1.;

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

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

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

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233 f. The real property owner does not object to the "No
234 Further Action" proposal to the department or the local
235 pollution control program.

236 (h) Provide for the department to issue a "No Further
237 Action" order, with conditions, including, but not limited to,
238 the use of institutional or engineering controls where
239 appropriate, when alternative cleanup target levels established
240 pursuant to subparagraph (g)3. have been achieved or when the
241 person responsible for site rehabilitation can demonstrate that
242 the cleanup target level is unachievable with the use of
243 available technologies. Before ~~Prior to~~ issuing such an order,
244 the department shall consider the feasibility of an alternative
245 site rehabilitation technology at the contaminated site.

246 (i) Establish appropriate cleanup target levels for soils.
247 Although there are existing state water quality standards, there
248 are no existing state soil quality standards. The Legislature
249 does not intend, through the adoption of this section, to create
250 such soil quality standards. The specific rulemaking authority
251 granted pursuant to this section merely authorizes the
252 department to establish appropriate soil cleanup target levels.
253 These soil cleanup target levels shall be applicable at sites
254 only after a determination as to legal responsibility for site
255 rehabilitation has been made pursuant to other provisions of
256 this chapter or chapter 403.

257 1. In establishing soil cleanup target levels for human
258 exposure to each contaminant found in soils from the land
259 surface to 2 feet below land surface, the department shall apply
260 the following, as appropriate: calculations using a lifetime
261 cancer risk level of 1.0E-6; a hazard index of 1 or less; and

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262 the best achievable detection limit. However, the department may
263 ~~shall~~ not require site rehabilitation to achieve a cleanup
264 target level for an individual contaminant that is more
265 stringent than the site-specific, ~~naturally occurring~~ background
266 concentration for that contaminant. Institutional controls or
267 other methods shall be used to prevent human exposure to
268 contaminated soils more than 2 feet below the land surface. Any
269 removal of such institutional controls shall require such
270 contaminated soils to be remediated.

271 2. Leachability-based soil cleanup target levels shall be
272 based on protection of the groundwater cleanup target levels or
273 the alternate cleanup target levels for groundwater established
274 pursuant to this paragraph, as appropriate. Source removal and
275 other cost-effective alternatives that are technologically
276 feasible shall be considered in achieving the leachability soil
277 cleanup target levels established by the department. The
278 leachability goals are ~~shall~~ not be applicable if the department
279 determines, based upon individual site characteristics, and in
280 conjunction with institutional and engineering controls, if
281 needed, that contaminants will not leach into the groundwater at
282 levels that pose a threat to human health, public safety, and
283 the environment.

284 3. Using risk-based corrective action principles, the
285 department shall approve alternative cleanup target levels in
286 conjunction with institutional and engineering controls, if
287 needed, based upon an applicant's demonstration, using site-
288 specific or other relevant data and information, risk assessment
289 modeling results, including results from probabilistic risk
290 assessment modeling, risk assessment studies, risk reduction

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291 techniques, or a combination thereof, that human health, public
292 safety, and the environment are protected to the same degree as
293 provided in subparagraphs 1. and 2.

294
295 The department shall require source removal as a risk reduction
296 measure if warranted and cost-effective. Once source removal at
297 a site is complete, the department shall reevaluate the site to
298 determine the degree of active cleanup needed to continue.
299 Further, the department shall determine if the reevaluated site
300 qualifies for monitoring only or if no further action is
301 required to rehabilitate the site. If additional site
302 rehabilitation is necessary to reach "No Further Action" status,
303 the department is encouraged to utilize natural attenuation
304 monitoring, including long-term natural attenuation ~~and~~
305 monitoring, where site conditions warrant.

306 Section 3. Present subsections (3) through (11) of section
307 376.79, Florida Statutes, are redesignated as subsections (4)
308 through (12), respectively, present subsections (12) through
309 (19) are redesignated as subsections (14) through (21),
310 respectively, and new subsections (3) and (13) are added to that
311 section, to read:

312 376.79 Definitions relating to Brownfields Redevelopment
313 Act.—As used in ss. 376.77–376.85, the term:

314 (3) "Background concentration" means the concentration of
315 contaminants naturally occurring or resulting from anthropogenic
316 impacts unrelated to the discharge of pollutants or hazardous
317 substances at a contaminated site undergoing site
318 rehabilitation.

319 (13) "Long-term natural attenuation" means natural

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320 attenuation approved by the department as a site rehabilitation
321 program task for a period of more than 5 years.

322 Section 4. Section 376.81, Florida Statutes, is amended to
323 read:

324 376.81 Brownfield site and brownfield areas contamination
325 cleanup criteria.—

326 (1) It is the intent of the Legislature to protect the
327 health of all people under actual circumstances of exposure. By
328 July 1, 2001, the secretary of the department shall establish
329 criteria by rule for the purpose of determining, on a site-
330 specific basis, the rehabilitation program tasks that comprise a
331 site rehabilitation program and the level at which a
332 rehabilitation program task and a site rehabilitation program
333 may be deemed completed. In establishing the rule, the
334 department shall apply, to the maximum extent feasible, a risk-
335 based corrective action process to achieve protection of human
336 health and safety and the environment in a cost-effective manner
337 based on the principles set forth in this subsection. The rule
338 must prescribe a phased risk-based corrective action process
339 that is iterative and that tailors site rehabilitation tasks to
340 site-specific conditions and risks. The department and the
341 person responsible for brownfield site rehabilitation are
342 encouraged to establish decision points at which risk management
343 decisions will be made. The department shall provide an early
344 decision, when requested, regarding applicable exposure factors
345 and a risk management approach based on the current and future
346 land use at the site. The rule must ~~shall also~~ include protocols
347 for the use of natural attenuation, including long-term natural
348 attenuation where site conditions warrant, the use of

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349 institutional and engineering controls, and the issuance of "no
350 further action" letters. The criteria for determining what
351 constitutes a rehabilitation program task or completion of a
352 site rehabilitation program task or site rehabilitation program
353 must:

354 (a) Consider the current exposure and potential risk of
355 exposure to humans and the environment, including multiple
356 pathways of exposure. The physical, chemical, and biological
357 characteristics of each contaminant must be considered in order
358 to determine the feasibility of risk-based corrective action
359 assessment.

360 (b) Establish the point of compliance at the source of the
361 contamination. However, the department may ~~is authorized to~~
362 temporarily move the point of compliance to the boundary of the
363 property, or to the edge of the plume when the plume is within
364 the property boundary, while cleanup, including cleanup through
365 natural attenuation processes in conjunction with appropriate
366 monitoring, is proceeding. The department may ~~also is~~
367 ~~authorized,~~ pursuant to criteria provided for in this section,
368 ~~to~~ temporarily extend the point of compliance beyond the
369 property boundary with appropriate monitoring, if such extension
370 is needed to facilitate natural attenuation or to address the
371 current conditions of the plume, provided human health, public
372 safety, and the environment are protected. When temporarily
373 extending the point of compliance beyond the property boundary,
374 it cannot be extended further than the lateral extent of the
375 plume at the time of execution of the brownfield site
376 rehabilitation agreement, if known, or the lateral extent of the
377 plume as defined at the time of site assessment. Temporary

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378 extension of the point of compliance beyond the property
379 boundary, as provided in this paragraph, must include actual
380 notice by the person responsible for brownfield site
381 rehabilitation to local governments and the owners of any
382 property into which the point of compliance is allowed to extend
383 and constructive notice to residents and business tenants of the
384 property into which the point of compliance is allowed to
385 extend. Persons receiving notice pursuant to this paragraph
386 shall have the opportunity to comment within 30 days of receipt
387 of the notice.

388 (c) Ensure that the site-specific cleanup goal is that all
389 contaminated brownfield sites and brownfield areas ultimately
390 achieve the applicable cleanup target levels provided in this
391 section. In the circumstances provided below, and after
392 constructive notice and opportunity to comment within 30 days
393 from receipt of the notice to local government, to owners of any
394 property into which the point of compliance is allowed to
395 extend, and to residents on any property into which the point of
396 compliance is allowed to extend, the department may allow
397 concentrations of contaminants to temporarily exceed the
398 applicable cleanup target levels while cleanup, including
399 cleanup through natural attenuation processes in conjunction
400 with appropriate monitoring, is proceeding, if human health,
401 public safety, and the environment are protected.

402 (d) Allow brownfield site and brownfield area
403 rehabilitation programs to include the use of institutional or
404 engineering controls, where appropriate, to eliminate or control
405 the potential exposure to contaminants of humans or the
406 environment. The use of controls must be preapproved by the

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407 department and only after constructive notice and opportunity to
408 comment within 30 days from receipt of notice is provided to
409 local governments, to owners of any property into which the
410 point of compliance is allowed to extend, and to residents on
411 any property into which the point of compliance is allowed to
412 extend. When institutional or engineering controls are
413 implemented to control exposure, the removal of the controls
414 must have prior department approval and must be accompanied by
415 the resumption of active cleanup, or other approved controls,
416 unless cleanup target levels under this section have been
417 achieved.

418 (e) Consider the interactive ~~additive~~ effects of
419 contaminants, including additive, synergistic, and antagonistic
420 effects. ~~The synergistic and antagonistic effects shall also be~~
421 ~~considered when the scientific data become available.~~

422 (f) Take into consideration individual site
423 characteristics, which shall include, but not be limited to, the
424 current and projected use of the affected groundwater and
425 surface water in the vicinity of the site, current and projected
426 land uses of the area affected by the contamination, the exposed
427 population, the degree and extent of contamination, the rate of
428 contaminant migration, the apparent or potential rate of
429 contaminant degradation through natural attenuation processes,
430 the location of the plume, and the potential for further
431 migration in relation to site property boundaries.

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

433 1. Cleanup target levels for each contaminant found in
434 groundwater shall be the applicable state water quality
435 standards. Where such standards do not exist, the cleanup target

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436 levels for groundwater shall be based on the minimum criteria
437 specified in department rule. The department shall apply the
438 following, as appropriate, in establishing the applicable
439 cleanup target levels: calculations using a lifetime cancer risk
440 level of 1.0E-6; a hazard index of 1 or less; the best
441 achievable detection limit; and nuisance, organoleptic, and
442 aesthetic considerations. However, the department may ~~shall~~ not
443 require site rehabilitation to achieve a cleanup target level
444 for any individual contaminant which is more stringent than the
445 site-specific, ~~naturally occurring~~ background concentration for
446 that contaminant.

447 2. Where surface waters are exposed to contaminated
448 groundwater, the cleanup target levels for the contaminants must
449 ~~shall~~ be based on the more protective of the groundwater or
450 surface water standards as established by department rule,
451 unless it has been demonstrated that the contaminants do not
452 cause or contribute to the exceedance of applicable surface
453 water quality criteria. In such circumstances, the point of
454 measuring compliance with the surface water standards shall be
455 in the groundwater immediately adjacent to the surface water
456 body.

457 3. Using risk-based corrective action principles, the
458 department shall approve alternative cleanup target levels in
459 conjunction with institutional and engineering controls, if
460 needed, based upon an applicant's demonstration, using site-
461 specific or other relevant data and information, risk assessment
462 modeling results, including results from probabilistic risk
463 assessment modeling, risk assessment studies, risk reduction
464 techniques, or a combination thereof, that human health, public

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465 safety, and the environment are protected to the same degree as
466 provided in subparagraphs 1. and 2. Where a state water quality
467 standard is applicable, a deviation may not result in the
468 application of cleanup target levels more stringent than the
469 standard. In determining whether it is appropriate to establish
470 alternative cleanup target levels at a site, the department must
471 consider the effectiveness of source removal, if any, which has
472 been completed at the site and the practical likelihood of the
473 use of low yield or poor quality groundwater, the use of
474 groundwater near marine surface water bodies, the current and
475 projected use of the affected groundwater in the vicinity of the
476 site, or the use of groundwater in the immediate vicinity of the
477 contaminated area, where it has been demonstrated that the
478 groundwater contamination is not migrating away from such
479 localized source, provided human health, public safety, and the
480 environment are protected. When using alternative cleanup target
481 levels at a brownfield site, institutional controls are ~~shall~~
482 not ~~be~~ required if:

483 a. The only cleanup target levels exceeded are the
484 groundwater cleanup target levels derived from nuisance,
485 organoleptic, or aesthetic considerations;

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

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

491 d. The person responsible for brownfield site
492 rehabilitation has demonstrated that the contaminants will not
493 migrate beyond the property boundary at concentrations exceeding

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494 the groundwater cleanup target levels established pursuant to
495 subparagraph 1.;

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

499 f. The real property owner provides written acceptance of
500 the "no further action" proposal to the department or the local
501 pollution control program.

502 (h) Provide for the department to issue a "no further
503 action order," with conditions, including, but not limited to,
504 the use of institutional or engineering controls where
505 appropriate, when alternative cleanup target levels established
506 pursuant to subparagraph (g)3. have been achieved, or when the
507 person responsible for brownfield site rehabilitation can
508 demonstrate that the cleanup target level is unachievable within
509 available technologies. Before ~~Prior to~~ issuing such an order,
510 the department shall consider the feasibility of an alternative
511 site rehabilitation technology at in the brownfield site area.

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

513 1. In establishing soil cleanup target levels for human
514 exposure to each contaminant found in soils from the land
515 surface to 2 feet below land surface, the department shall apply
516 the following, as appropriate: calculations using a lifetime
517 cancer risk level of 1.0E-6; a hazard index of 1 or less; and
518 the best achievable detection limit. However, the department may
519 ~~shall~~ not require site rehabilitation to achieve a cleanup
520 target level for an individual contaminant which is more
521 stringent than the site-specific, ~~naturally occurring~~ background
522 concentration for that contaminant. Institutional controls or

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523 other methods shall be used to prevent human exposure to
524 contaminated soils more than 2 feet below the land surface. Any
525 removal of such institutional controls shall require such
526 contaminated soils to be remediated.

527 2. Leachability-based soil cleanup target levels shall be
528 based on protection of the groundwater cleanup target levels or
529 the alternate cleanup target levels for groundwater established
530 pursuant to this paragraph, as appropriate. Source removal and
531 other cost-effective alternatives that are technologically
532 feasible shall be considered in achieving the leachability soil
533 cleanup target levels established by the department. The
534 leachability goals are ~~shall~~ not be applicable if the department
535 determines, based upon individual site characteristics, and in
536 conjunction with institutional and engineering controls, if
537 needed, that contaminants will not leach into the groundwater at
538 levels that pose a threat to human health, public safety, and
539 the environment.

540 3. Using risk-based corrective action principles, the
541 department shall approve alternative cleanup target levels in
542 conjunction with institutional and engineering controls, if
543 needed, based upon an applicant's demonstration, using site-
544 specific or other relevant data and information, risk assessment
545 modeling results, including results from probabilistic risk
546 assessment modeling, risk assessment studies, risk reduction
547 techniques, or a combination thereof, that human health, public
548 safety, and the environment are protected to the same degree as
549 provided in subparagraphs 1. and 2.

550 (2) The department shall require source removal, as a risk
551 reduction measure, if warranted and cost-effective. Once source

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552 removal at a site is complete, the department shall reevaluate
553 the site to determine the degree of active cleanup needed to
554 continue. Further, the department shall determine if the
555 reevaluated site qualifies for monitoring only or if no further
556 action is required to rehabilitate the site. If additional site
557 rehabilitation is necessary to reach "no further action" status,
558 the department is encouraged to utilize natural attenuation
559 monitoring, including long-term natural attenuation ~~and~~
560 monitoring, where site conditions warrant.

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

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

568 196.1995 Economic development ad valorem tax exemption.—

569 (3) The board of county commissioners or the governing
570 authority of the municipality that calls a referendum within its
571 total jurisdiction to determine whether its respective
572 jurisdiction may grant economic development ad valorem tax
573 exemptions may vote to limit the effect of the referendum to
574 authority to grant economic development tax exemptions for new
575 businesses and expansions of existing businesses located in an
576 enterprise zone or a brownfield area, as defined in s. 376.79(5)
577 ~~s. 376.79(4)~~. If an area nominated to be an enterprise zone
578 pursuant to s. 290.0055 has not yet been designated pursuant to
579 s. 290.0065, the board of county commissioners or the governing
580 authority of the municipality may call such referendum prior to

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581 such designation; however, the authority to grant economic
582 development ad valorem tax exemptions does not apply until such
583 area is designated pursuant to s. 290.0065. The ballot question
584 in such referendum shall be in substantially the following form
585 and shall be used in lieu of the ballot question prescribed in
586 subsection (2):

587
588 Shall the board of county commissioners of this county (or the
589 governing authority of this municipality, or both) be authorized
590 to grant, pursuant to s. 3, Art. VII of the State Constitution,
591 property tax exemptions for new businesses and expansions of
592 existing businesses that are located in an enterprise zone or a
593 brownfield area and that are expected to create new, full-time
594 jobs in the county (or municipality, or both)?

595

596Yes-For authority to grant exemptions.

597No-Against authority to grant exemptions.

598 Section 6. Paragraph (a) of subsection (1) of section
599 287.0595, Florida Statutes, is amended to read:

600 287.0595 Pollution response action contracts; department
601 rules.-

602 (1) The Department of Environmental Protection shall
603 establish, by adopting administrative rules as provided in
604 chapter 120:

605 (a) Procedures for determining the qualifications of
606 responsible potential vendors prior to advertisement for and
607 receipt of bids, proposals, or replies for pollution response
608 action contracts, including procedures for the rejection of
609 unqualified vendors. Response actions are those activities

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610 described in s. 376.301(39) ~~s. 376.301(37)~~.

611 Section 7. Paragraph (c) of subsection (5) of section
612 288.1175, Florida Statutes, is amended to read:

613 288.1175 Agriculture education and promotion facility.—

614 (5) The Department of Agriculture and Consumer Services
615 shall competitively evaluate applications for funding of an
616 agriculture education and promotion facility. If the number of
617 applicants exceeds three, the Department of Agriculture and
618 Consumer Services shall rank the applications based upon
619 criteria developed by the Department of Agriculture and Consumer
620 Services, with priority given in descending order to the
621 following items:

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

627 Section 8. This act shall take effect July 1, 2016.