

By the Committee on Appropriations; and 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.; exempting nonprogram  
6       petroleum-contaminated sites from the application of  
7       risk-based corrective action principles under certain  
8       circumstances; requiring the Department of  
9       Environmental Protection to include protocols for the  
10      use of long-term natural attenuation where site  
11      conditions warrant; requiring specified interactive  
12      effects of contaminants to be considered as cleanup  
13      criteria; revising how cleanup target levels are  
14      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      providing an effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Present subsections (4) through (22) of section  
31 376.301, Florida Statutes, are redesignated as subsections (5)  
32 through (23), respectively, present subsections (23) through  
33 (48) of that section are redesignated as subsections (25)  
34 through (50), respectively, and new subsections (4) and (24) are  
35 added to that section, to read:

36 376.301 Definitions of terms used in ss. 376.30-376.317,  
37 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and  
38 376.75, unless the context clearly requires otherwise, the term:

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

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

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

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

53 (1) APPLICABILITY.—

54 (b) This section shall apply to all contaminated sites  
55 resulting from a discharge of pollutants or hazardous substances  
56 where legal responsibility for site rehabilitation exists  
57 pursuant to other provisions of this chapter or chapter 403,  
58 except for those contaminated sites subject to the risk-based

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59 corrective action cleanup criteria established for the  
60 petroleum, brownfields, and drycleaning programs pursuant to ss.  
61 376.3071, 376.81, and 376.3078, respectively. This section does  
62 not apply to nonprogram petroleum-contaminated sites unless  
63 application of this section is requested by the person  
64 responsible for site rehabilitation.

65 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is  
66 the intent of the Legislature to protect the health of all  
67 people under actual circumstances of exposure. By July 1, 2004,  
68 the secretary of the department shall establish criteria by rule  
69 for the purpose of determining, on a site-specific basis, the  
70 rehabilitation program tasks that comprise a site rehabilitation  
71 program, including a voluntary site rehabilitation program, and  
72 the level at which a rehabilitation program task and a site  
73 rehabilitation program may be deemed completed. In establishing  
74 these rules, the department shall apply, to the maximum extent  
75 feasible, a risk-based corrective action process to achieve  
76 protection of human health and safety and the environment in a  
77 cost-effective manner based on the principles set forth in this  
78 subsection. These rules shall prescribe a phased risk-based  
79 corrective action process that is iterative and that tailors  
80 site rehabilitation tasks to site-specific conditions and risks.  
81 The department and the person responsible for site  
82 rehabilitation are encouraged to establish decision points at  
83 which risk management decisions will be made. The department  
84 shall provide an early decision, when requested, regarding  
85 applicable exposure factors and a risk management approach based  
86 on the current and future land use at the site. These rules must  
87 ~~shall also~~ include protocols for the use of natural attenuation,

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88 including long-term natural attenuation where site conditions  
89 warrant, the use of institutional and engineering controls, and  
90 the issuance of "No Further Action" orders. The criteria for  
91 determining what constitutes a rehabilitation program task or  
92 completion of a site rehabilitation program task or site  
93 rehabilitation program, including a voluntary site  
94 rehabilitation program, must:

95 (a) Consider the current exposure and potential risk of  
96 exposure to humans and the environment, including multiple  
97 pathways of exposure. The physical, chemical, and biological  
98 characteristics of each contaminant must be considered in order  
99 to determine the feasibility of a risk-based corrective action  
100 assessment.

101 (b) Establish the point of compliance at the source of the  
102 contamination. However, the department may ~~is authorized to~~  
103 temporarily move the point of compliance to the boundary of the  
104 property, or to the edge of the plume when the plume is within  
105 the property boundary, while cleanup, including cleanup through  
106 natural attenuation processes in conjunction with appropriate  
107 monitoring, is proceeding. The department may ~~also is~~  
108 ~~authorized,~~ pursuant to criteria provided in this section, ~~to~~  
109 temporarily extend the point of compliance beyond the property  
110 boundary with appropriate monitoring, if such extension is  
111 needed to facilitate natural attenuation or to address the  
112 current conditions of the plume, provided human health, public  
113 safety, and the environment are protected. When temporarily  
114 extending the point of compliance beyond the property boundary,  
115 it cannot be extended further than the lateral extent of the  
116 plume, if known, at the time of execution of a cleanup

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117 agreement, if required, or the lateral extent of the plume as  
118 defined at the time of site assessment. Temporary extension of  
119 the point of compliance beyond the property boundary, as  
120 provided in this paragraph, must include actual notice by the  
121 person responsible for site rehabilitation to local governments  
122 and the owners of any property into which the point of  
123 compliance is allowed to extend and constructive notice to  
124 residents and business tenants of the property into which the  
125 point of compliance is allowed to extend. Persons receiving  
126 notice pursuant to this paragraph shall have the opportunity to  
127 comment within 30 days after receipt of the notice. Additional  
128 notice concerning the status of natural attenuation processes  
129 shall be similarly provided to persons receiving notice pursuant  
130 to this paragraph every 5 years.

131 (c) Ensure that the site-specific cleanup goal is that all  
132 contaminated sites being cleaned up pursuant to this section  
133 ultimately achieve the applicable cleanup target levels provided  
134 in this subsection. In the circumstances provided in this  
135 subsection, and after constructive notice and opportunity to  
136 comment within 30 days after receipt of the notice to local  
137 government, owners of any property into which the point of  
138 compliance is allowed to extend, and residents of any property  
139 into which the point of compliance is allowed to extend, the  
140 department may allow concentrations of contaminants to  
141 temporarily exceed the applicable cleanup target levels while  
142 cleanup, including cleanup through natural attenuation processes  
143 in conjunction with appropriate monitoring, is proceeding, if  
144 human health, public safety, and the environment are protected.

145 (d) Allow the use of institutional or engineering controls

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146 at contaminated sites being cleaned up pursuant to this section,  
147 where appropriate, to eliminate or control the potential  
148 exposure to contaminants of humans or the environment. The use  
149 of controls must be preapproved by the department and only after  
150 constructive notice and opportunity to comment within 30 days  
151 after receipt of notice is provided to local governments, owners  
152 of any property into which the point of compliance is allowed to  
153 extend, and residents on any property into which the point of  
154 compliance is allowed to extend. When institutional or  
155 engineering controls are implemented to control exposure, the  
156 removal of the controls must have prior department approval and  
157 must be accompanied by the resumption of active cleanup, or  
158 other approved controls, unless cleanup target levels under this  
159 section have been achieved.

160 (e) Consider the interactive ~~additive~~ effects of  
161 contaminants, including additive, synergistic, and antagonistic  
162 effects. ~~The synergistic and antagonistic effects shall also be~~  
163 ~~considered when the scientific data become available.~~

164 (f) Take into consideration individual site  
165 characteristics, which shall include, but not be limited to, the  
166 current and projected use of the affected groundwater and  
167 surface water in the vicinity of the site, current and projected  
168 land uses of the area affected by the contamination, the exposed  
169 population, the degree and extent of contamination, the rate of  
170 contaminant migration, the apparent or potential rate of  
171 contaminant degradation through natural attenuation processes,  
172 the location of the plume, and the potential for further  
173 migration in relation to site property boundaries.

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

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175 1. Cleanup target levels for each contaminant found in  
176 groundwater shall be the applicable state water quality  
177 standards. Where such standards do not exist, the cleanup target  
178 levels for groundwater shall be based on the minimum criteria  
179 specified in department rule. The department shall apply the  
180 following, as appropriate, in establishing the applicable  
181 cleanup target levels: calculations using a lifetime cancer risk  
182 level of 1.0E-6; a hazard index of 1 or less; the best  
183 achievable detection limit; and nuisance, organoleptic, and  
184 aesthetic considerations. However, the department may ~~shall~~ not  
185 require site rehabilitation to achieve a cleanup target level  
186 for any individual contaminant that is more stringent than the  
187 site-specific, ~~naturally occurring~~ background concentration for  
188 that contaminant.

189 2. Where surface waters are exposed to contaminated  
190 groundwater, the cleanup target levels for the contaminants must  
191 ~~shall~~ be based on the more protective of the groundwater or  
192 surface water standards as established by department rule,  
193 unless it has been demonstrated that the contaminants do not  
194 cause or contribute to the exceedance of applicable surface  
195 water quality criteria. In such circumstance, the point of  
196 measuring compliance with the surface water standards shall be  
197 in the groundwater immediately adjacent to the surface water  
198 body.

199 3. Using risk-based corrective action principles, the  
200 department shall approve alternative cleanup target levels in  
201 conjunction with institutional and engineering controls, if  
202 needed, based upon an applicant's demonstration, using site-  
203 specific or other relevant data and information, risk assessment

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204 modeling results, including results from probabilistic risk  
205 assessment modeling, risk assessment studies, risk reduction  
206 techniques, or a combination thereof, that human health, public  
207 safety, and the environment are protected to the same degree as  
208 provided in subparagraphs 1. and 2. Where a state water quality  
209 standard is applicable, a deviation may not result in the  
210 application of cleanup target levels more stringent than the  
211 standard. In determining whether it is appropriate to establish  
212 alternative cleanup target levels at a site, the department must  
213 consider the effectiveness of source removal, if any, that has  
214 been completed at the site and the practical likelihood of the  
215 use of low yield or poor quality groundwater, the use of  
216 groundwater near marine surface water bodies, the current and  
217 projected use of the affected groundwater in the vicinity of the  
218 site, or the use of groundwater in the immediate vicinity of the  
219 contaminated area, where it has been demonstrated that the  
220 groundwater contamination is not migrating away from such  
221 localized source, provided human health, public safety, and the  
222 environment are protected. Groundwater resource protection  
223 remains the ultimate goal of cleanup, particularly in light of  
224 the state's continued growth and consequent demands for drinking  
225 water resources. The Legislature recognizes the need for a  
226 protective yet flexible cleanup approach that risk-based  
227 corrective action provides. Only where it is appropriate on a  
228 site-specific basis, using the criteria in this paragraph and  
229 careful evaluation by the department, shall proposed alternative  
230 cleanup target levels be approved. If alternative cleanup target  
231 levels are used, institutional controls are not required if:  
232 a. The only cleanup target levels exceeded are the



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233 groundwater cleanup target levels derived from nuisance,  
234 organoleptic, or aesthetic considerations;

235 b. Concentrations of all contaminants meet the state water  
236 quality standards or the minimum criteria, based on the  
237 protection of human health, public safety, and the environment,  
238 as provided in subparagraph 1.;

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

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

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

248 f. The real property owner does not object to the "No  
249 Further Action" proposal to the department or the local  
250 pollution control program.

251 (h) Provide for the department to issue a "No Further  
252 Action" order, with conditions, including, but not limited to,  
253 the use of institutional or engineering controls where  
254 appropriate, when alternative cleanup target levels established  
255 pursuant to subparagraph (g)3. have been achieved or when the  
256 person responsible for site rehabilitation can demonstrate that  
257 the cleanup target level is unachievable with the use of  
258 available technologies. Before ~~Prior to~~ issuing such an order,  
259 the department shall consider the feasibility of an alternative  
260 site rehabilitation technology at the contaminated site.

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

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262 Although there are existing state water quality standards, there  
263 are no existing state soil quality standards. The Legislature  
264 does not intend, through the adoption of this section, to create  
265 such soil quality standards. The specific rulemaking authority  
266 granted pursuant to this section merely authorizes the  
267 department to establish appropriate soil cleanup target levels.  
268 These soil cleanup target levels shall be applicable at sites  
269 only after a determination as to legal responsibility for site  
270 rehabilitation has been made pursuant to other provisions of  
271 this chapter or chapter 403.

272 1. In establishing soil cleanup target levels for human  
273 exposure to each contaminant found in soils from the land  
274 surface to 2 feet below land surface, the department shall apply  
275 the following, as appropriate: calculations using a lifetime  
276 cancer risk level of 1.0E-6; a hazard index of 1 or less; and  
277 the best achievable detection limit. However, the department may  
278 ~~shall~~ not require site rehabilitation to achieve a cleanup  
279 target level for an individual contaminant that is more  
280 stringent than the site-specific, ~~naturally occurring~~ background  
281 concentration for that contaminant. Institutional controls or  
282 other methods shall be used to prevent human exposure to  
283 contaminated soils more than 2 feet below the land surface. Any  
284 removal of such institutional controls shall require such  
285 contaminated soils to be remediated.

286 2. Leachability-based soil cleanup target levels shall be  
287 based on protection of the groundwater cleanup target levels or  
288 the alternate cleanup target levels for groundwater established  
289 pursuant to this paragraph, as appropriate. Source removal and  
290 other cost-effective alternatives that are technologically

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291 feasible shall be considered in achieving the leachability soil  
292 cleanup target levels established by the department. The  
293 leachability goals are ~~shall~~ not ~~be~~ applicable if the department  
294 determines, based upon individual site characteristics, and in  
295 conjunction with institutional and engineering controls, if  
296 needed, that contaminants will not leach into the groundwater at  
297 levels that pose a threat to human health, public safety, and  
298 the environment.

299 3. Using risk-based corrective action principles, the  
300 department shall approve alternative cleanup target levels in  
301 conjunction with institutional and engineering controls, if  
302 needed, based upon an applicant's demonstration, using site-  
303 specific or other relevant data and information, risk assessment  
304 modeling results, including results from probabilistic risk  
305 assessment modeling, risk assessment studies, risk reduction  
306 techniques, or a combination thereof, that human health, public  
307 safety, and the environment are protected to the same degree as  
308 provided in subparagraphs 1. and 2.

309  
310 The department shall require source removal as a risk reduction  
311 measure if warranted and cost-effective. Once source removal at  
312 a site is complete, the department shall reevaluate the site to  
313 determine the degree of active cleanup needed to continue.  
314 Further, the department shall determine if the reevaluated site  
315 qualifies for monitoring only or if no further action is  
316 required to rehabilitate the site. If additional site  
317 rehabilitation is necessary to reach "No Further Action" status,  
318 the department is encouraged to utilize natural attenuation  
319 monitoring, including long-term natural attenuation ~~and~~

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320 monitoring, where site conditions warrant.

321 Section 3. Present subsections (3) through (11) of section  
322 376.79, Florida Statutes, are redesignated as subsections (4)  
323 through (12), respectively, present subsections (12) through  
324 (19) are redesignated as subsections (14) through (21),  
325 respectively, and new subsections (3) and (13) are added to that  
326 section, to read:

327 376.79 Definitions relating to Brownfields Redevelopment  
328 Act.—As used in ss. 376.77-376.85, the term:

329 (3) "Background concentration" means the concentration of  
330 contaminants naturally occurring or resulting from anthropogenic  
331 impacts unrelated to the discharge of pollutants or hazardous  
332 substances at a contaminated site undergoing site  
333 rehabilitation.

334 (13) "Long-term natural attenuation" means natural  
335 attenuation approved by the department as a site rehabilitation  
336 program task for a period of more than 5 years.

337 Section 4. Section 376.81, Florida Statutes, is amended to  
338 read:

339 376.81 Brownfield site and brownfield areas contamination  
340 cleanup criteria.—

341 (1) It is the intent of the Legislature to protect the  
342 health of all people under actual circumstances of exposure. By  
343 July 1, 2001, the secretary of the department shall establish  
344 criteria by rule for the purpose of determining, on a site-  
345 specific basis, the rehabilitation program tasks that comprise a  
346 site rehabilitation program and the level at which a  
347 rehabilitation program task and a site rehabilitation program  
348 may be deemed completed. In establishing the rule, the

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349 department shall apply, to the maximum extent feasible, a risk-  
350 based corrective action process to achieve protection of human  
351 health and safety and the environment in a cost-effective manner  
352 based on the principles set forth in this subsection. The rule  
353 must prescribe a phased risk-based corrective action process  
354 that is iterative and that tailors site rehabilitation tasks to  
355 site-specific conditions and risks. The department and the  
356 person responsible for brownfield site rehabilitation are  
357 encouraged to establish decision points at which risk management  
358 decisions will be made. The department shall provide an early  
359 decision, when requested, regarding applicable exposure factors  
360 and a risk management approach based on the current and future  
361 land use at the site. The rule must ~~shall also~~ include protocols  
362 for the use of natural attenuation, including long-term natural  
363 attenuation where site conditions warrant, the use of  
364 institutional and engineering controls, and the issuance of "no  
365 further action" letters. The criteria for determining what  
366 constitutes a rehabilitation program task or completion of a  
367 site rehabilitation program task or site rehabilitation program  
368 must:

369 (a) Consider the current exposure and potential risk of  
370 exposure to humans and the environment, including multiple  
371 pathways of exposure. The physical, chemical, and biological  
372 characteristics of each contaminant must be considered in order  
373 to determine the feasibility of risk-based corrective action  
374 assessment.

375 (b) Establish the point of compliance at the source of the  
376 contamination. However, the department may ~~is authorized to~~  
377 temporarily move the point of compliance to the boundary of the

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378 property, or to the edge of the plume when the plume is within  
379 the property boundary, while cleanup, including cleanup through  
380 natural attenuation processes in conjunction with appropriate  
381 monitoring, is proceeding. The department may also ~~is~~  
382 ~~authorized~~, pursuant to criteria provided for in this section,  
383 ~~to~~ temporarily extend the point of compliance beyond the  
384 property boundary with appropriate monitoring, if such extension  
385 is needed to facilitate natural attenuation or to address the  
386 current conditions of the plume, provided human health, public  
387 safety, and the environment are protected. When temporarily  
388 extending the point of compliance beyond the property boundary,  
389 it cannot be extended further than the lateral extent of the  
390 plume at the time of execution of the brownfield site  
391 rehabilitation agreement, if known, or the lateral extent of the  
392 plume as defined at the time of site assessment. Temporary  
393 extension of the point of compliance beyond the property  
394 boundary, as provided in this paragraph, must include actual  
395 notice by the person responsible for brownfield site  
396 rehabilitation to local governments and the owners of any  
397 property into which the point of compliance is allowed to extend  
398 and constructive notice to residents and business tenants of the  
399 property into which the point of compliance is allowed to  
400 extend. Persons receiving notice pursuant to this paragraph  
401 shall have the opportunity to comment within 30 days of receipt  
402 of the notice.

403 (c) Ensure that the site-specific cleanup goal is that all  
404 contaminated brownfield sites and brownfield areas ultimately  
405 achieve the applicable cleanup target levels provided in this  
406 section. In the circumstances provided below, and after

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407 constructive notice and opportunity to comment within 30 days  
408 from receipt of the notice to local government, to owners of any  
409 property into which the point of compliance is allowed to  
410 extend, and to residents on any property into which the point of  
411 compliance is allowed to extend, the department may allow  
412 concentrations of contaminants to temporarily exceed the  
413 applicable cleanup target levels while cleanup, including  
414 cleanup through natural attenuation processes in conjunction  
415 with appropriate monitoring, is proceeding, if human health,  
416 public safety, and the environment are protected.

417 (d) Allow brownfield site and brownfield area  
418 rehabilitation programs to include the use of institutional or  
419 engineering controls, where appropriate, to eliminate or control  
420 the potential exposure to contaminants of humans or the  
421 environment. The use of controls must be preapproved by the  
422 department and only after constructive notice and opportunity to  
423 comment within 30 days from receipt of notice is provided to  
424 local governments, to owners of any property into which the  
425 point of compliance is allowed to extend, and to residents on  
426 any property into which the point of compliance is allowed to  
427 extend. When institutional or engineering controls are  
428 implemented to control exposure, the removal of the controls  
429 must have prior department approval and must be accompanied by  
430 the resumption of active cleanup, or other approved controls,  
431 unless cleanup target levels under this section have been  
432 achieved.

433 (e) Consider the interactive ~~additive~~ effects of  
434 contaminants, including additive, synergistic, and antagonistic  
435 effects. ~~The synergistic and antagonistic effects shall also be~~

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436 ~~considered when the scientific data become available.~~

437 (f) Take into consideration individual site  
438 characteristics, which shall include, but not be limited to, the  
439 current and projected use of the affected groundwater and  
440 surface water in the vicinity of the site, current and projected  
441 land uses of the area affected by the contamination, the exposed  
442 population, the degree and extent of contamination, the rate of  
443 contaminant migration, the apparent or potential rate of  
444 contaminant degradation through natural attenuation processes,  
445 the location of the plume, and the potential for further  
446 migration in relation to site property boundaries.

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

448 1. Cleanup target levels for each contaminant found in  
449 groundwater shall be the applicable state water quality  
450 standards. Where such standards do not exist, the cleanup target  
451 levels for groundwater shall be based on the minimum criteria  
452 specified in department rule. The department shall apply the  
453 following, as appropriate, in establishing the applicable  
454 cleanup target levels: calculations using a lifetime cancer risk  
455 level of 1.0E-6; a hazard index of 1 or less; the best  
456 achievable detection limit; and nuisance, organoleptic, and  
457 aesthetic considerations. However, the department may ~~shall~~ not  
458 require site rehabilitation to achieve a cleanup target level  
459 for any individual contaminant which is more stringent than the  
460 site-specific, ~~naturally occurring~~ background concentration for  
461 that contaminant.

462 2. Where surface waters are exposed to contaminated  
463 groundwater, the cleanup target levels for the contaminants must  
464 ~~shall~~ be based on the more protective of the groundwater or



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465 surface water standards as established by department rule,  
466 unless it has been demonstrated that the contaminants do not  
467 cause or contribute to the exceedance of applicable surface  
468 water quality criteria. In such circumstances, the point of  
469 measuring compliance with the surface water standards shall be  
470 in the groundwater immediately adjacent to the surface water  
471 body.

472 3. Using risk-based corrective action principles, the  
473 department shall approve alternative cleanup target levels in  
474 conjunction with institutional and engineering controls, if  
475 needed, based upon an applicant's demonstration, using site-  
476 specific or other relevant data and information, risk assessment  
477 modeling results, including results from probabilistic risk  
478 assessment modeling, risk assessment studies, risk reduction  
479 techniques, or a combination thereof, that human health, public  
480 safety, and the environment are protected to the same degree as  
481 provided in subparagraphs 1. and 2. Where a state water quality  
482 standard is applicable, a deviation may not result in the  
483 application of cleanup target levels more stringent than the  
484 standard. In determining whether it is appropriate to establish  
485 alternative cleanup target levels at a site, the department must  
486 consider the effectiveness of source removal, if any, which has  
487 been completed at the site and the practical likelihood of the  
488 use of low yield or poor quality groundwater, the use of  
489 groundwater near marine surface water bodies, the current and  
490 projected use of the affected groundwater in the vicinity of the  
491 site, or the use of groundwater in the immediate vicinity of the  
492 contaminated area, where it has been demonstrated that the  
493 groundwater contamination is not migrating away from such

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494 localized source, provided human health, public safety, and the  
495 environment are protected. When using alternative cleanup target  
496 levels at a brownfield site, institutional controls are ~~shall~~  
497 not ~~be~~ required if:

498 a. The only cleanup target levels exceeded are the  
499 groundwater cleanup target levels derived from nuisance,  
500 organoleptic, or aesthetic considerations;

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

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

506 d. The person responsible for brownfield site  
507 rehabilitation has demonstrated that the contaminants will not  
508 migrate beyond the property boundary at concentrations exceeding  
509 the groundwater cleanup target levels established pursuant to  
510 subparagraph 1.;

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

514 f. The real property owner provides written acceptance of  
515 the "no further action" proposal to the department or the local  
516 pollution control program.

517 (h) Provide for the department to issue a "no further  
518 action order," with conditions, including, but not limited to,  
519 the use of institutional or engineering controls where  
520 appropriate, when alternative cleanup target levels established  
521 pursuant to subparagraph (g)3. have been achieved, or when the  
522 person responsible for brownfield site rehabilitation can

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523 demonstrate that the cleanup target level is unachievable within  
524 available technologies. Before ~~Prior to~~ issuing such an order,  
525 the department shall consider the feasibility of an alternative  
526 site rehabilitation technology at ~~in~~ the brownfield site ~~area~~.

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

528 1. In establishing soil cleanup target levels for human  
529 exposure to each contaminant found in soils from the land  
530 surface to 2 feet below land surface, the department shall apply  
531 the following, as appropriate: calculations using a lifetime  
532 cancer risk level of 1.0E-6; a hazard index of 1 or less; and  
533 the best achievable detection limit. However, the department may  
534 ~~shall~~ not require site rehabilitation to achieve a cleanup  
535 target level for an individual contaminant which is more  
536 stringent than the site-specific, ~~naturally occurring~~ background  
537 concentration for that contaminant. Institutional controls or  
538 other methods shall be used to prevent human exposure to  
539 contaminated soils more than 2 feet below the land surface. Any  
540 removal of such institutional controls shall require such  
541 contaminated soils to be remediated.

542 2. Leachability-based soil cleanup target levels shall be  
543 based on protection of the groundwater cleanup target levels or  
544 the alternate cleanup target levels for groundwater established  
545 pursuant to this paragraph, as appropriate. Source removal and  
546 other cost-effective alternatives that are technologically  
547 feasible shall be considered in achieving the leachability soil  
548 cleanup target levels established by the department. The  
549 leachability goals are ~~shall~~ not ~~be~~ applicable if the department  
550 determines, based upon individual site characteristics, and in  
551 conjunction with institutional and engineering controls, if

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552 needed, that contaminants will not leach into the groundwater at  
553 levels that pose a threat to human health, public safety, and  
554 the environment.

555 3. Using risk-based corrective action principles, the  
556 department shall approve alternative cleanup target levels in  
557 conjunction with institutional and engineering controls, if  
558 needed, based upon an applicant's demonstration, using site-  
559 specific or other relevant data and information, risk assessment  
560 modeling results, including results from probabilistic risk  
561 assessment modeling, risk assessment studies, risk reduction  
562 techniques, or a combination thereof, that human health, public  
563 safety, and the environment are protected to the same degree as  
564 provided in subparagraphs 1. and 2.

565 (2) The department shall require source removal, as a risk  
566 reduction measure, if warranted and cost-effective. Once source  
567 removal at a site is complete, the department shall reevaluate  
568 the site to determine the degree of active cleanup needed to  
569 continue. Further, the department shall determine if the  
570 reevaluated site qualifies for monitoring only or if no further  
571 action is required to rehabilitate the site. If additional site  
572 rehabilitation is necessary to reach "no further action" status,  
573 the department is encouraged to utilize natural attenuation  
574 monitoring, including long-term natural attenuation and  
575 monitoring, where site conditions warrant.

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

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

583 196.1995 Economic development ad valorem tax exemption.—

584 (3) The board of county commissioners or the governing  
585 authority of the municipality that calls a referendum within its  
586 total jurisdiction to determine whether its respective  
587 jurisdiction may grant economic development ad valorem tax  
588 exemptions may vote to limit the effect of the referendum to  
589 authority to grant economic development tax exemptions for new  
590 businesses and expansions of existing businesses located in an  
591 enterprise zone or a brownfield area, as defined in s. 376.79(5)  
592 ~~s. 376.79(4)~~. If an area nominated to be an enterprise zone  
593 pursuant to s. 290.0055 has not yet been designated pursuant to  
594 s. 290.0065, the board of county commissioners or the governing  
595 authority of the municipality may call such referendum prior to  
596 such designation; however, the authority to grant economic  
597 development ad valorem tax exemptions does not apply until such  
598 area is designated pursuant to s. 290.0065. The ballot question  
599 in such referendum shall be in substantially the following form  
600 and shall be used in lieu of the ballot question prescribed in  
601 subsection (2):

602

603 Shall the board of county commissioners of this county (or the  
604 governing authority of this municipality, or both) be authorized  
605 to grant, pursuant to s. 3, Art. VII of the State Constitution,  
606 property tax exemptions for new businesses and expansions of  
607 existing businesses that are located in an enterprise zone or a  
608 brownfield area and that are expected to create new, full-time  
609 jobs in the county (or municipality, or both)?

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610

611       ...Yes-For authority to grant exemptions.

612       ...No-Against authority to grant exemptions.

613       Section 6. Paragraph (a) of subsection (1) of section  
614 287.0595, Florida Statutes, is amended to read:615       287.0595 Pollution response action contracts; department  
616 rules.-617       (1) The Department of Environmental Protection shall  
618 establish, by adopting administrative rules as provided in  
619 chapter 120:620       (a) Procedures for determining the qualifications of  
621 responsible potential vendors prior to advertisement for and  
622 receipt of bids, proposals, or replies for pollution response  
623 action contracts, including procedures for the rejection of  
624 unqualified vendors. Response actions are those activities  
625 described in s. 376.301(39) ~~s. 376.301(37)~~.626       Section 7. Paragraph (c) of subsection (5) of section  
627 288.1175, Florida Statutes, is amended to read:

628       288.1175 Agriculture education and promotion facility.-

629       (5) The Department of Agriculture and Consumer Services  
630 shall competitively evaluate applications for funding of an  
631 agriculture education and promotion facility. If the number of  
632 applicants exceeds three, the Department of Agriculture and  
633 Consumer Services shall rank the applications based upon  
634 criteria developed by the Department of Agriculture and Consumer  
635 Services, with priority given in descending order to the  
636 following items:637       (c) The location of the facility in a brownfield site as  
638 defined in s. 376.79(4) ~~s. 376.79(3)~~, a rural enterprise zone as

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639 defined in s. 290.004, an agriculturally depressed area as  
640 defined in s. 570.74, or a county that has lost its agricultural  
641 land to environmental restoration projects.

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