

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.