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1 A bill to be entitled
2 An act relating to contaminated sites; amending s.
3 288.8013, F.S.; revising the funding source of the
4 principal of the Recovery Fund for the Deepwater
5 Horizon incident; requiring that certain funds be
6 transferred to the Recovery Fund within a specified
7 timeframe; amending s. 376.301, F.S.; defining the
8 terms "background concentration" and "long-term
9 natural attenuation"; amending s. 376.30701, F.S.;
10 exempting nonprogram petroleum-contaminated sites from
11 the application of risk-based corrective action
12 principles under certain circumstances; requiring the
13 Department of Environmental Protection to include
14 protocols for the use of long-term natural attenuation
15 where site conditions warrant; requiring specified
16 interactive effects of contaminants to be considered
17 as cleanup criteria; revising how cleanup target
18 levels are applied where surface waters are exposed to
19 contaminated groundwater; authorizing the use of
20 relevant data and information when assessing cleanup
21 target levels; providing that institutional controls
22 are not required under certain circumstances if
23 alternative cleanup target levels are used; amending
24 s. 376.79, F.S.; defining the terms "background
25 concentration" and "long-term natural attenuation";
26 amending s. 376.81, F.S.; providing additional
27 contamination cleanup criteria for brownfield sites
28 and brownfield areas; amending ss. 196.1995, 287.0595,
29 and 288.1175, F.S.; conforming cross-references;

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30 providing an effective date.

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

33
34 Section 1. Subsection (2) of section 288.8013, Florida
35 Statutes, is amended to read:

36 288.8013 Triumph Gulf Coast, Inc.; Recovery Fund; creation;
37 investment.—

38 (2) Triumph Gulf Coast, Inc., must create and administer
39 the Recovery Fund for the benefit of the disproportionately
40 affected counties. The principal of the fund shall derive from
41 75 percent of all funds received by the state pursuant to the
42 settlement agreement between the gulf states and the BP entities
43 with respect to economic claims arising from the Deepwater
44 Horizon incident recovered by the Attorney General for economic
45 damage to the state resulting from the Deepwater Horizon
46 disaster, after payment of reasonable and necessary attorney
47 fees, costs, and expenses, including such attorney fees, costs,
48 and expenses pursuant to s. 16.0155. Moneys that account for the
49 principal of the Recovery Fund shall be transferred to the
50 Recovery Fund no later than 30 days after they are received.

51 Section 2. Present subsections (4) through (22) of section
52 376.301, Florida Statutes, are redesignated as subsections (5)
53 through (23), respectively, present subsections (23) through
54 (48) of that section are redesignated as subsections (25)
55 through (50), respectively, and new subsections (4) and (24) are
56 added to that section, to read:

57 376.301 Definitions of terms used in ss. 376.30-376.317,
58 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and

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59 376.75, unless the context clearly requires otherwise, the term:

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

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

68 Section 3. Paragraph (b) of subsection (1) and subsection
69 (2) of section 376.30701, Florida Statutes, are amended to read:

70 376.30701 Application of risk-based corrective action
71 principles to contaminated sites; applicability; legislative
72 intent; rulemaking authority; contamination cleanup criteria;
73 limitations; reopeners.—

74 (1) APPLICABILITY.—

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

86 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is
87 the intent of the Legislature to protect the health of all

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

116 (a) Consider the current exposure and potential risk of

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117 exposure to humans and the environment, including multiple
118 pathways of exposure. The physical, chemical, and biological
119 characteristics of each contaminant must be considered in order
120 to determine the feasibility of a risk-based corrective action
121 assessment.

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

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146 point of compliance is allowed to extend. Persons receiving
147 notice pursuant to this paragraph shall have the opportunity to
148 comment within 30 days after receipt of the notice. Additional
149 notice concerning the status of natural attenuation processes
150 shall be similarly provided to persons receiving notice pursuant
151 to this paragraph every 5 years.

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

166 (d) Allow the use of institutional or engineering controls
167 at contaminated sites being cleaned up pursuant to this section,
168 where appropriate, to eliminate or control the potential
169 exposure to contaminants of humans or the environment. The use
170 of controls must be preapproved by the department and only after
171 constructive notice and opportunity to comment within 30 days
172 after receipt of notice is provided to local governments, owners
173 of any property into which the point of compliance is allowed to
174 extend, and residents on any property into which the point of

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175 compliance is allowed to extend. When institutional or
176 engineering controls are implemented to control exposure, the
177 removal of the controls must have prior department approval and
178 must be accompanied by the resumption of active cleanup, or
179 other approved controls, unless cleanup target levels under this
180 section have been achieved.

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

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

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

196 1. Cleanup target levels for each contaminant found in
197 groundwater shall be the applicable state water quality
198 standards. Where such standards do not exist, the cleanup target
199 levels for groundwater shall be based on the minimum criteria
200 specified in department rule. The department shall apply the
201 following, as appropriate, in establishing the applicable
202 cleanup target levels: calculations using a lifetime cancer risk
203 level of 1.0E-6; a hazard index of 1 or less; the best

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204 achievable detection limit; and nuisance, organoleptic, and
205 aesthetic considerations. However, the department may ~~shall~~ not
206 require site rehabilitation to achieve a cleanup target level
207 for any individual contaminant that is more stringent than the
208 site-specific, ~~naturally occurring~~ background concentration for
209 that contaminant.

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

220 3. Using risk-based corrective action principles, the
221 department shall approve alternative cleanup target levels in
222 conjunction with institutional and engineering controls, if
223 needed, based upon an applicant's demonstration, using site-
224 specific or other relevant data and information, risk assessment
225 modeling results, including results from probabilistic risk
226 assessment modeling, risk assessment studies, risk reduction
227 techniques, or a combination thereof, that human health, public
228 safety, and the environment are protected to the same degree as
229 provided in subparagraphs 1. and 2. Where a state water quality
230 standard is applicable, a deviation may not result in the
231 application of cleanup target levels more stringent than the
232 standard. In determining whether it is appropriate to establish

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233 alternative cleanup target levels at a site, the department must
234 consider the effectiveness of source removal, if any, that has
235 been completed at the site and the practical likelihood of the
236 use of low yield or poor quality groundwater, the use of
237 groundwater near marine surface water bodies, the current and
238 projected use of the affected groundwater in the vicinity of the
239 site, or the use of groundwater in the immediate vicinity of the
240 contaminated area, where it has been demonstrated that the
241 groundwater contamination is not migrating away from such
242 localized source, provided human health, public safety, and the
243 environment are protected. Groundwater resource protection
244 remains the ultimate goal of cleanup, particularly in light of
245 the state's continued growth and consequent demands for drinking
246 water resources. The Legislature recognizes the need for a
247 protective yet flexible cleanup approach that risk-based
248 corrective action provides. Only where it is appropriate on a
249 site-specific basis, using the criteria in this paragraph and
250 careful evaluation by the department, shall proposed alternative
251 cleanup target levels be approved. If alternative cleanup target
252 levels are used, institutional controls are not required if:
253 a. The only cleanup target levels exceeded are the
254 groundwater cleanup target levels derived from nuisance,
255 organoleptic, or aesthetic considerations;
256 b. Concentrations of all contaminants meet the state water
257 quality standards or the minimum criteria, based on the
258 protection of human health, public safety, and the environment,
259 as provided in subparagraph 1.;
260 c. All of the groundwater cleanup target levels established
261 pursuant to subparagraph 1. are met at the property boundary;

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

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

269 f. The real property owner does not object to the "No
270 Further Action" proposal to the department or the local
271 pollution control program.

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

282 (i) Establish appropriate cleanup target levels for soils.
283 Although there are existing state water quality standards, there
284 are no existing state soil quality standards. The Legislature
285 does not intend, through the adoption of this section, to create
286 such soil quality standards. The specific rulemaking authority
287 granted pursuant to this section merely authorizes the
288 department to establish appropriate soil cleanup target levels.
289 These soil cleanup target levels shall be applicable at sites
290 only after a determination as to legal responsibility for site

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291 rehabilitation has been made pursuant to other provisions of
292 this chapter or chapter 403.

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

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

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

330
331 The department shall require source removal as a risk reduction
332 measure if warranted and cost-effective. Once source removal at
333 a site is complete, the department shall reevaluate the site to
334 determine the degree of active cleanup needed to continue.
335 Further, the department shall determine if the reevaluated site
336 qualifies for monitoring only or if no further action is
337 required to rehabilitate the site. If additional site
338 rehabilitation is necessary to reach "No Further Action" status,
339 the department is encouraged to utilize natural attenuation
340 monitoring, including long-term natural attenuation ~~and~~
341 monitoring, where site conditions warrant.

342 Section 4. Present subsections (3) through (11) of section
343 376.79, Florida Statutes, are redesignated as subsections (4)
344 through (12), respectively, present subsections (12) through
345 (19) are redesignated as subsections (14) through (21),
346 respectively, and new subsections (3) and (13) are added to that
347 section, to read:

348 376.79 Definitions relating to Brownfields Redevelopment

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349 Act.—As used in ss. 376.77–376.85, the term:

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

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

358 Section 5. Section 376.81, Florida Statutes, is amended to
359 read:

360 376.81 Brownfield site and brownfield areas contamination
361 cleanup criteria.—

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

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

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

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

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

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

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436 with appropriate monitoring, is proceeding, if human health,
437 public safety, and the environment are protected.

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

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

458 (f) Take into consideration individual site
459 characteristics, which shall include, but not be limited to, the
460 current and projected use of the affected groundwater and
461 surface water in the vicinity of the site, current and projected
462 land uses of the area affected by the contamination, the exposed
463 population, the degree and extent of contamination, the rate of
464 contaminant migration, the apparent or potential rate of

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465 contaminant degradation through natural attenuation processes,
466 the location of the plume, and the potential for further
467 migration in relation to site property boundaries.

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

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

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

493 3. Using risk-based corrective action principles, the

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

519 a. The only cleanup target levels exceeded are the
520 groundwater cleanup target levels derived from nuisance,
521 organoleptic, or aesthetic considerations;

522 b. Concentrations of all contaminants meet the state water

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523 quality standards or the minimum criteria, based on the
524 protection of human health, provided in subparagraph 1.;

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

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

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

535 f. The real property owner provides written acceptance of
536 the "no further action" proposal to the department or the local
537 pollution control program.

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

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

549 1. In establishing soil cleanup target levels for human
550 exposure to each contaminant found in soils from the land
551 surface to 2 feet below land surface, the department shall apply

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

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

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

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581 modeling results, including results from probabilistic risk
582 assessment modeling, risk assessment studies, risk reduction
583 techniques, or a combination thereof, that human health, public
584 safety, and the environment are protected to the same degree as
585 provided in subparagraphs 1. and 2.

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

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

602 Section 6. Subsection (3) of section 196.1995, Florida
603 Statutes, is amended to read:

604 196.1995 Economic development ad valorem tax exemption.—

605 (3) The board of county commissioners or the governing
606 authority of the municipality that calls a referendum within its
607 total jurisdiction to determine whether its respective
608 jurisdiction may grant economic development ad valorem tax
609 exemptions may vote to limit the effect of the referendum to

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

623
624 Shall the board of county commissioners of this county (or the
625 governing authority of this municipality, or both) be authorized
626 to grant, pursuant to s. 3, Art. VII of the State Constitution,
627 property tax exemptions for new businesses and expansions of
628 existing businesses that are located in an enterprise zone or a
629 brownfield area and that are expected to create new, full-time
630 jobs in the county (or municipality, or both)?

631
632Yes—For authority to grant exemptions.

633No—Against authority to grant exemptions.

634 Section 7. Paragraph (a) of subsection (1) of section
635 287.0595, Florida Statutes, is amended to read:

636 287.0595 Pollution response action contracts; department
637 rules.—

638 (1) The Department of Environmental Protection shall

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639 establish, by adopting administrative rules as provided in
640 chapter 120:

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

647 Section 8. Paragraph (c) of subsection (5) of section
648 288.1175, Florida Statutes, is amended to read:

649 288.1175 Agriculture education and promotion facility.—

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

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

663 Section 9. This act shall take effect July 1, 2016.