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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.

31  
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, unless it has been demonstrated that the contaminants do not  
487 cause or contribute to the exceedance of applicable surface  
488 water quality criteria. In such circumstances, the point of  
489 measuring compliance with the surface water standards shall be  
490 in the groundwater immediately adjacent to the surface water  
491 body.

492 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  
632 ....Yes-For authority to grant exemptions.

633 ....No-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.