

1                                   A bill to be entitled  
2           An act relating to drycleaning solvent cleanup;  
3           creating s. 199.1055, F.S.; providing for a  
4           contaminated site rehabilitation tax credit  
5           against the intangible personal property tax;  
6           authorizing the Department of Revenue to adopt  
7           rules; amending s. 220.02, F.S.; providing for  
8           an additional cross-reference; creating s.  
9           220.1845, F.S.; providing for a contaminated  
10          site rehabilitation tax credit against the  
11          corporate income tax; authorizing the  
12          Department of Revenue to adopt rules; creating  
13          s. 376.30781, F.S.; providing for a partial tax  
14          credit for the rehabilitation of  
15          drycleaning-solvent-contaminated sites and  
16          brownfield sites; providing for the Department  
17          of Environmental Protection to allocate such  
18          partial credits; providing procedures for  
19          application for tax credits; providing for a  
20          nonrefundable review fee; providing  
21          verification requirements; authorizing the  
22          Department of Environmental Protection to adopt  
23          rules; providing for revocation or modification  
24          of eligibility for tax credit under certain  
25          conditions; amending s. 213.053, F.S.;  
26          providing for information-sharing; reducing  
27          appropriation provisions for fiscal year  
28          1998-1999 for brownfield redevelopment  
29          activities; amending s. 376.30, F.S.; providing  
30          legislative intent regarding drycleaning  
31          solvents; amending s. 376.301, F.S.; providing

1 definitions; amending s. 376.303, F.S.;

2 providing for late fees for registration

3 renewals; amending s. 376.3078, F.S.; providing

4 legislative intent regarding voluntary cleanup;

5 providing that certain deductibles must be

6 deposited into the Water Quality Assurance

7 Trust Fund; clarifying circumstances under

8 which drycleaning restoration fund may not be

9 used; providing additional criteria for

10 determining eligibility for rehabilitation;

11 specifying when certain deductibles must be

12 paid; amending the date after which no

13 restoration funds may be used for drycleaning

14 site rehabilitation; clarifying who may apply

15 jointly for participation in the program;

16 providing certain liability immunity for

17 certain adjacent landowners; providing for

18 contamination cleanup criteria that incorporate

19 risk-based corrective action principles to be

20 adopted by rule; requiring certain third-party

21 liability insurance coverage for each operating

22 facility; eliminating a tax credit for small

23 spills at drycleaning facilities; allowing

24 certain group coverage policies; specifying the

25 circumstances under which work may proceed on

26 the next site rehabilitation task without prior

27 approval; requiring the Department of

28 Environmental Protection to give priority

29 consideration to the processing and approval of

30 permits for voluntary cleanup projects;

31 providing the conditions under which further

1 rehabilitation may be required; providing for  
2 continuing application of certain immunity for  
3 real property owners; requiring the Department  
4 of Environmental Protection to attempt to  
5 negotiate certain agreements with the U.S.  
6 Environmental Protection Agency; amending s.  
7 376.308, F.S.; protecting certain immunity for  
8 real property owners; amending s. 376.313,  
9 F.S.; correcting a statutory cross-reference;  
10 amending s. 376.70, F.S.; clarifying certain  
11 registration provisions; requiring certain  
12 facilities to pay the gross receipts tax;  
13 providing for the payment of taxes and the  
14 determination of eligibility in the program;  
15 amending s. 376.75, F.S.; providing that the  
16 tax on perchloroethylene is not subject to  
17 sales tax; amending ss. 287.0595, 316.302,  
18 F.S.; correcting statutory cross-references;  
19 amending s. 213.053, F.S.; authorizing the  
20 Department of Revenue to release certain  
21 information to certain persons; providing an  
22 effective date.

23

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

25

26 Section 1. Section 199.1055, Florida Statutes, is  
27 created to read:28 199.1055 Contaminated site rehabilitation tax  
29 credit.--30 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

31

1           (a) A credit in the amount of 35 percent of the costs  
2 of voluntary cleanup activity that is integral to site  
3 rehabilitation at the following sites is allowed against any  
4 tax due for a taxable year under s. 199.032, less any credit  
5 allowed by s. 220.68 for that year:

6           1. A drycleaning-solvent-contaminated site eligible  
7 for state-funded site rehabilitation under s. 376.3078(3);

8           2. A drycleaning-solvent-contaminated site at which  
9 cleanup is undertaken by the real property owner pursuant to  
10 s. 376.3078(11), if the real property owner is not also, and  
11 has never been, the owner or operator of the drycleaning  
12 facility where the contamination exists; or

13           3. A brownfield site in a designated brownfield area  
14 under s. 376.80.

15           (b) A taxpayer, or multiple taxpayers working jointly  
16 to clean up a single site, may not receive more than \$250,000  
17 per year in tax credits for each site voluntarily  
18 rehabilitated. Multiple taxpayers shall receive tax credits in  
19 the same proportion as their contribution to payment of  
20 cleanup costs. Subject to the same conditions and limitations  
21 as provided in this section a municipality or county which  
22 voluntarily rehabilitates a site may receive not more than  
23 \$250,000 per year in tax credits which it can subsequently  
24 transfer subject to the provisions in (g).

25           (c) If the credit granted under this section is not  
26 fully used in any one year because of insufficient tax  
27 liability on the part of the taxpayer, the unused amount may  
28 be carried forward for a period not to exceed 5 years.

29           (d) A taxpayer that receives a credit under s.  
30 220.1845 is ineligible to receive credit under this section in  
31 a given tax year.

1           (e) A taxpayer that receives state-funded site  
2 rehabilitation pursuant to s. 376.3078(3) for rehabilitation  
3 of a drycleaning-solvent-contaminated site is ineligible to  
4 receive credit under this section for costs incurred by the  
5 taxpayer in conjunction with the rehabilitation of that site  
6 during the same time period that state-administered site  
7 rehabilitation was underway.

8           (f) The total amount of the tax credits which may be  
9 granted under this section and s. 220.1845 is \$2 million  
10 annually.

11           (g)1. Tax credits that may be available under this  
12 section to an entity eligible under s. 376.30781 may be  
13 transferred after a merger or acquisition to the surviving or  
14 acquiring entity and used in the same manner with the same  
15 limitations.

16           2. The entity or its surviving or acquiring entity as  
17 described in (g)1., may transfer any unused credit in whole or  
18 in units of no less than 25 percent of the remaining credit.  
19 The entity acquiring such credit may use it in the same manner  
20 and with the same limitation as described in this section.  
21 Such transferred credits may not be transferred again although  
22 they may succeed to a surviving or acquiring entity subject to  
23 the same conditions and limitations as described in this  
24 section.

25           3. In the event the credit provided for under this  
26 section is reduced either as a result of a determination by  
27 the Department of Environmental Protection or an examination  
28 or audit by the Department of Revenue, such tax deficiency  
29 shall be recovered from the first entity, or the surviving or  
30 acquiring entity, to have claimed such credit up to the amount  
31 of credit taken. Any subsequent deficiencies shall be

1 assessed against any entity acquiring and claiming such  
2 credit, or in the case of multiple succeeding entities in the  
3 order of credit succession.

4 (h) In order to encourage completion of site  
5 rehabilitation at contaminated sites being voluntarily cleaned  
6 up and eligible for a tax credit under this section, the  
7 taxpayer may claim an additional 10 percent of the total  
8 cleanup costs, not to exceed \$50,000, in the final year of  
9 cleanup as evidenced by the Department of Environmental  
10 Protection issuing a "No Further Action" order for that site.

11 (2) FILING REQUIREMENTS.--Any taxpayer that wishes to  
12 obtain credit under this section must submit with its return a  
13 tax credit certificate approving partial tax credits issued by  
14 the Department of Environmental Protection under s. 376.30781.

15 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT  
16 FORFEITURE.--

17 (a) The Department of Revenue may adopt rules to  
18 prescribe any necessary forms required to claim a tax credit  
19 under this section and to provide the administrative  
20 guidelines and procedures required to administer this section.

21 (b) In addition to its existing audit and  
22 investigation authority relating to chapters 199 and 220, the  
23 Department of Revenue may perform any additional financial and  
24 technical audits and investigations, including examining the  
25 accounts, books, or records of the tax credit applicant, which  
26 are necessary to verify the site-rehabilitation costs included  
27 in a tax credit return and to ensure compliance with this  
28 section. The Department of Environmental Protection shall  
29 provide technical assistance, when requested by the Department  
30 of Revenue, on any technical audits performed under this  
31 section.

1           (c) It is grounds for forfeiture of previously claimed  
2 and received tax credits if the Department of Revenue  
3 determines, as a result of either an audit or information  
4 received from the Department of Environmental Protection, that  
5 a taxpayer received tax credits under this section to which  
6 the taxpayer was not entitled. In the case of fraud, the  
7 taxpayer shall be prohibited from claiming any future tax  
8 credits under this section or s. 220.1845.

9           1. The taxpayer is responsible for returning forfeited  
10 tax credits to the Department of Revenue and such funds shall  
11 be paid into the General Revenue Fund of the state.

12           2. The taxpayer shall file with the Department of  
13 Revenue an amended tax return or such other report as the  
14 Department of Revenue prescribes by rule and shall pay any  
15 required tax within 60 days after the taxpayer receives  
16 notification from the Department of Environmental Protection  
17 pursuant to s. 376.30781 that previously approved tax credits  
18 have been revoked or modified, if uncontested, or within 60  
19 days after a final order is issued following proceedings  
20 involving a contested revocation or modification order.

21           3. A notice of deficiency may be issued by the  
22 Department of Revenue at any time within 5 years after the  
23 date the taxpayer receives notification from the Department of  
24 Environmental Protection pursuant to s. 376.30781 that  
25 previously approved tax credits have been revoked or modified.  
26 If a taxpayer fails to notify the Department of Revenue of any  
27 change in its tax credit claimed, a notice of deficiency may  
28 be issued at any time. In either case, the amount of any  
29 proposed assessment set forth in such notice of deficiency  
30 shall be limited to the amount of any deficiency resulting  
31

1 under this section from the recomputation of the taxpayer's  
2 tax for the taxable year.

3 4. Any taxpayer that fails to report and timely pay  
4 any tax due as a result of the forfeiture of its tax credit is  
5 in violation of this section and is subject to applicable  
6 penalty and interest.

7 Section 2. Subsection (10) of section 220.02, Florida  
8 Statutes, is amended to read:

9 220.02 Legislative intent.--

10 (10) It is the intent of the Legislature that credits  
11 against either the corporate income tax or the franchise tax  
12 be applied in the following order: those enumerated in s.  
13 220.68, those enumerated in s. 631.719(1), those enumerated in  
14 s. 631.705, those enumerated in s. 220.18, those enumerated in  
15 s. 631.828, those enumerated in s. 220.181, those enumerated  
16 in s. 220.183, those enumerated in s. 220.182, those  
17 enumerated in s. 220.1895, those enumerated in s. 221.02,  
18 those enumerated in s. 220.184, those enumerated in s.  
19 220.186, ~~and~~ those enumerated in s. 220.188, and those  
20 enumerated in s. 220.1845.

21 Section 3. Section 220.1845, Florida Statutes, is  
22 created to read:

23 220.1845 Contaminated site rehabilitation tax  
24 credit.--

25 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

26 (a) A credit in the amount of 35 percent of the costs  
27 of voluntary cleanup activity that is integral to site  
28 rehabilitation at the following sites is allowed against any  
29 tax due for a taxable year under this chapter:

30 1. A drycleaning-solvent-contaminated site eligible  
31 for state-funded site rehabilitation under s. 376.3078(3);



1           2. A drycleaning-solvent-contaminated site at which  
2 cleanup is undertaken by the real property owner pursuant to  
3 s. 376.3078(11), if the real property owner is not also, and  
4 has never been, the owner or operator of the drycleaning  
5 facility where the contamination exists; or

6           3. A brownfield site in a designated brownfield area  
7 under s. 376.80.

8           (b) A taxpayer, or multiple taxpayers working jointly  
9 to clean up a single site, may not receive more than \$250,000  
10 per year in tax credits for each site voluntarily  
11 rehabilitated. Multiple taxpayers shall receive tax credits in  
12 the same proportion as their contribution to payment of  
13 cleanup costs. Subject to the same conditions and limitations  
14 as provided in this section a municipality or county which  
15 voluntarily rehabilitates a site may receive not more than  
16 \$250,000 per year in tax credits which it can subsequently  
17 transfer subject to the provisions in (h).

18           (c) If the credit granted under this section is not  
19 fully used in any one year because of insufficient tax  
20 liability on the part of the corporation, the unused amount  
21 may be carried forward for a period not to exceed 5 years. The  
22 carryover credit may be used in a subsequent year when the tax  
23 imposed by this chapter for that year exceeds the credit for  
24 which the corporation is eligible in that year under this  
25 section after applying the other credits and unused carryovers  
26 in the order provided by s. 220.02(10).

27           (d) A taxpayer that files a consolidated return in  
28 this state as a member of an affiliated group under s.  
29 220.131(1) may be allowed the credit on a consolidated return  
30 basis up to the amount of tax imposed upon and paid by the  
31 taxpayer that incurred the rehabilitation costs.

1       (e) A taxpayer that receives credit under s. 199.1055  
2 is ineligible to receive credit under this section in a given  
3 tax year.

4       (f) A taxpayer that receives state-funded site  
5 rehabilitation under s. 376.3078(3) for rehabilitation of a  
6 drycleaning-solvent-contaminated site is ineligible to receive  
7 credit under this section for costs incurred by the taxpayer  
8 in conjunction with the rehabilitation of that site during the  
9 same time period that state-administered site rehabilitation  
10 was underway.

11       (g) The total amount of the tax credits which may be  
12 granted under this section and s. 199.1055 is \$2 million  
13 annually.

14       (h)1. Tax credits that may be available under this  
15 section to an entity eligible under s. 376.30781 may be  
16 transferred after a merger or acquisition to the surviving or  
17 acquiring entity and used in the same manner and with the same  
18 limitations.

19       2. The entity or its surviving or acquiring entity as  
20 described in (h)1., may transfer any unused credit in whole or  
21 in units of no less than 25 percent of the remaining credit.  
22 The entity acquiring such credit may use it in the same manner  
23 and with the same limitation as described in this section.  
24 Such transferred credits may not be transferred again although  
25 they may succeed to a surviving or acquiring entity subject to  
26 the same conditions and limitations as described in this  
27 section.

28       3. In the event the credit provided for under this  
29 section is reduced either as a result of a determination by  
30 the Department of Environmental Protection or an examination  
31 or audit by the Department of Revenue, such tax deficiency

1 shall be recovered from the first entity, or the surviving or  
2 acquiring entity, to have claimed such credit up to the amount  
3 of credit taken. Any subsequent deficiencies shall be  
4 assessed against any entity acquiring and claiming such  
5 credit, or in the case of multiple succeeding entities in the  
6 order of credit succession.

7 (i) In order to encourage completion of site  
8 rehabilitation at contaminated sites being voluntarily cleaned  
9 up and eligible for a tax credit under this section, the  
10 taxpayer may claim an additional 10 percent of the total  
11 cleanup costs, not to exceed \$50,000, in the final year of  
12 cleanup as evidenced by the Department of Environmental  
13 Protection issuing a "No Further Action" order for that site.

14 (2) FILING REQUIREMENTS.--Any corporation that wishes  
15 to obtain credit under this section must submit with its  
16 return a tax credit certificate approving partial tax credits  
17 issued by the Department of Environmental Protection under s.  
18 376.30781.

19 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT  
20 FORFEITURE.--

21 (a) The Department of Revenue may adopt rules to  
22 prescribe any necessary forms required to claim a tax credit  
23 under this section and to provide the administrative  
24 guidelines and procedures required to administer this section.

25 (b) In addition to its existing audit and  
26 investigation authority relating to chapters 199 and 220, the  
27 Department of Revenue may perform any additional financial and  
28 technical audits and investigations, including examining the  
29 accounts, books, or records of the tax credit applicant, which  
30 are necessary to verify the site-rehabilitation costs included  
31 in a tax credit return and to ensure compliance with this

1 section. The Department of Environmental Protection shall  
2 provide technical assistance, when requested by the Department  
3 of Revenue, on any technical audits performed pursuant to this  
4 section.

5 (c) It is grounds for forfeiture of previously claimed  
6 and received tax credits if the Department of Revenue  
7 determines, as a result of either an audit or information  
8 received from the Department of Environmental Protection, that  
9 a taxpayer received tax credits pursuant to this section to  
10 which the taxpayer was not entitled. In the case of fraud, the  
11 taxpayer shall be prohibited from claiming any future tax  
12 credits under this section or s. 199.1055.

13 1. The taxpayer is responsible for returning forfeited  
14 tax credits to the Department of Revenue and such funds shall  
15 be paid into the General Revenue Fund of the state.

16 2. The taxpayer shall file with the Department of  
17 Revenue an amended tax return or such other report as the  
18 Department of Revenue prescribes by rule and shall pay any  
19 required tax within 60 days after the taxpayer receives  
20 notification from the Department of Environmental Protection  
21 pursuant to s. 376.30781 that previously approved tax credits  
22 have been revoked or modified, if uncontested, or within 60  
23 days after a final order is issued following proceedings  
24 involving a contested revocation or modification order.

25 3. A notice of deficiency may be issued by the  
26 Department of Revenue at any time within 5 years after the  
27 date the taxpayer receives notification from the Department of  
28 Environmental Protection pursuant to s. 376.30781 that  
29 previously approved tax credits have been revoked or modified.  
30 If a taxpayer fails to notify the Department of Revenue of any  
31 change in its tax credit claimed, a notice of deficiency may

1 be issued at any time. In either case, the amount of any  
2 proposed assessment set forth in such notice of deficiency  
3 shall be limited to the amount of any deficiency resulting  
4 under this section from the recomputation of the taxpayer's  
5 tax for the taxable year.

6 4. Any taxpayer that fails to report and timely pay  
7 any tax due as a result of the forfeiture of its tax credit is  
8 in violation of this section and is subject to applicable  
9 penalty and interest.

10 Section 4. Section 376.30781, Florida Statutes, is  
11 created to read:

12 376.30781 Partial tax credits for rehabilitation of  
13 drycleaning-solvent-contaminated sites and brownfield sites in  
14 designated brownfield areas; application process; rulemaking  
15 authority; revocation authority.--

16 (1) The Legislature finds that:

17 (a) To facilitate property transactions and economic  
18 growth and development, it is in the interest of the state to  
19 encourage the cleanup, at the earliest possible time, of  
20 drycleaning-solvent-contaminated sites and brownfield sites in  
21 designated brownfield areas.

22 (b) It is the intent of the Legislature to encourage  
23 the voluntary cleanup of drycleaning-solvent-contaminated  
24 sites and brownfield sites in designated brownfield areas by  
25 providing a partial tax credit for the restoration of such  
26 property in specified circumstances.

27 (2)(a) A credit in the amount of 35 percent of the  
28 costs of voluntary cleanup activity that is integral to site  
29 rehabilitation at the following sites is allowed pursuant to  
30 ss. 199.1055 and 220.1845:

31

1           1. A drycleaning-solvent-contaminated site eligible  
2 for state-funded site rehabilitation under s. 376.3078(3);

3           2. A drycleaning-solvent-contaminated site at which  
4 cleanup is undertaken by the real property owner pursuant to  
5 s. 376.3078(10), if the real property owner is not also, and  
6 has never been, the owner or operator of the drycleaning  
7 facility where the contamination exists; or

8           3. A brownfield site in a designated brownfield area  
9 under s. 376.80.

10           (b) A taxpayer, or multiple taxpayers working jointly  
11 to clean up a single site, may not receive more than \$250,000  
12 per year in tax credits for each site voluntarily  
13 rehabilitated. Multiple taxpayers shall receive tax credits in  
14 the same proportion as their contribution to payment of  
15 cleanup costs. Tax credits are available only for site  
16 rehabilitation conducted during the tax year in which the tax  
17 credit application is submitted.

18           (c) In order to encourage completion of site  
19 rehabilitation at contaminated sites that are being  
20 voluntarily cleaned up and that are eligible for a tax credit  
21 under this section, the tax credit applicant may claim an  
22 additional 10 percent of the total cleanup costs, not to  
23 exceed \$50,000, in the final year of cleanup as evidenced by  
24 the Department of Environmental Protection issuing a "No  
25 Further Action" order for that site.

26           (3) The Department of Environmental Protection shall  
27 be responsible for allocating the tax credits provided for in  
28 ss. 199.1055 and 220.1845, not to exceed a total of \$2 million  
29 in tax credits annually.

30           (4) To claim the credit, each applicant must apply to  
31 the Department of Environmental Protection for an allocation

1 of the \$2 million annual credit by December 31 on a form  
2 developed by the Department of Environmental Protection in  
3 cooperation with the Department of Revenue. The form shall  
4 include an affidavit from each applicant certifying that all  
5 information contained in the application, including all  
6 records of costs incurred and claimed in the tax credit  
7 application, are true and correct. If the application is  
8 submitted pursuant to subparagraph (2)(a)2., the form must  
9 include an affidavit signed by the real property owner stating  
10 that it is not, and has never been, the owner or operator of  
11 the drycleaning facility where the contamination exists.  
12 Approval of partial tax credits must be accomplished on a  
13 first-come, first-served basis based upon the date complete  
14 applications are received by the Division of Waste Management.  
15 An applicant shall submit only one application per site per  
16 year. To be eligible for a tax credit the applicant must:  
17 (a) Have entered into a voluntary cleanup agreement  
18 with the Department of Environmental Protection for a  
19 drycleaning-solvent-contaminated site or a Brownfield Site  
20 Rehabilitation Agreement, as applicable; and  
21 (b) Have paid all deductibles pursuant to s.  
22 376.3078(3)(d) for eligible drycleaning-solvent-cleanup  
23 program sites.  
24 (5) To obtain the tax credit certificate, an applicant  
25 must annually file an application for certification, which  
26 must be received by the Department of Environmental Protection  
27 by December 31. The applicant must provide all pertinent  
28 information requested on the tax credit application form,  
29 including, at a minimum, the name and address of the applicant  
30 and the address and tracking identification number of the  
31

1 eligible site. Along with the application form, the applicant  
2 must submit the following:

3 (a) A nonrefundable review fee of \$250 made payable to  
4 the Water Quality Assurance Trust Fund to cover the  
5 administrative costs associated with the department's review  
6 of the tax credit application;

7 (b) Copies of contracts and documentation of contract  
8 negotiations, accounts, invoices, sales tickets, or other  
9 payment records from purchases, sales, leases, or other  
10 transactions involving actual costs incurred for that tax year  
11 related to site rehabilitation, as that term is defined in ss.  
12 376.301 and 376.79;

13 (c) Proof that the documentation submitted pursuant to  
14 paragraph (b) has been reviewed and verified by an independent  
15 certified public accountant in accordance with standards  
16 established by the American Institute of Certified Public  
17 Accountants. Specifically, the certified public accountant  
18 must attest to the accuracy and validity of the costs incurred  
19 and paid by conducting an independent review of the data  
20 presented by the applicant. Accuracy and validity of costs  
21 incurred and paid would be determined once the level of effort  
22 was certified by an appropriate professional registered in  
23 this state in each contributing technical discipline. The  
24 certified public accountant's report would also attest that  
25 the costs included in the application form are not duplicated  
26 within the application. A copy of the accountant's report  
27 shall be submitted to the Department of Environmental  
28 Protection with the tax credit application; and

29 (d) A certification form stating that site  
30 rehabilitation activities associated with the documentation  
31 submitted pursuant to paragraph (b) have been conducted under



1 the observation of, and related technical documents have been  
2 signed and sealed by, an appropriate professional registered  
3 in this state in each contributing technical discipline. The  
4 certification form shall be signed and sealed by the  
5 appropriate registered professionals stating that the costs  
6 incurred were integral, necessary, and required for site  
7 rehabilitation, as that term is defined in ss. 376.301 and  
8 376.79.

9 (6) The certified public accountant and appropriate  
10 registered professionals submitting forms as part of a tax  
11 credit application must verify such forms. Verification must  
12 be accomplished as provided in s. 92.525(1)(b) and subject to  
13 the provisions of s. 92.525(3).

14 (7) The Department of Environmental Protection shall  
15 review the tax credit application and any supplemental  
16 documentation submitted by each applicant, for the purpose of  
17 verifying that the applicant has met the qualifying criteria  
18 in subsections (2) and (4) and has submitted all required  
19 documentation listed in subsection (5). Upon verification that  
20 the applicant has met these requirements, the department shall  
21 issue a written decision granting eligibility for partial tax  
22 credits (a tax credit certificate) in the amount of 35 percent  
23 of the total costs claimed, subject to the \$250,000  
24 limitation, for the tax year in which the tax credit  
25 application is submitted based on the report of the certified  
26 public accountant and the certifications from the appropriate  
27 registered technical professionals.

28 (8) On or before March 1, the Department of  
29 Environmental Protection shall inform each eligible applicant  
30 of the amount of its partial tax credit and provide each  
31 eligible applicant with a tax credit certificate that must be

1 submitted with its tax return to the Department of Revenue to  
2 claim the tax credit. Credits will not result in the payment  
3 of refunds if total credits exceed the amount of tax owed.

4 (9) If an applicant does not receive a tax credit  
5 allocation due to an exhaustion of the \$2-million annual tax  
6 credit authorization, such application will then be included  
7 in the same first-come, first-served order in the next year's  
8 annual tax credit allocation, if any, based on the prior year  
9 application.

10 (10) The Department of Environmental Protection may  
11 adopt rules to prescribe the necessary forms required to claim  
12 tax credits under this section and to provide the  
13 administrative guidelines and procedures required to  
14 administer this section. Prior to the adoption of rules  
15 regulating the tax credit application, the department shall,  
16 by September 1, 1998, establish reasonable interim application  
17 requirements and forms.

18 (11) The Department of Environmental Protection may  
19 revoke or modify any written decision granting eligibility for  
20 partial tax credits under this section if it is discovered  
21 that the tax credit applicant submitted any false statement,  
22 representation, or certification in any application, record,  
23 report, plan, or other document filed in an attempt to receive  
24 partial tax credits under this section. The Department of  
25 Environmental Protection shall immediately notify the  
26 Department of Revenue of any revoked or modified orders  
27 affecting previously granted partial tax credits.  
28 Additionally, the taxpayer must notify the Department of  
29 Revenue of any change in its tax credit claimed.

30 (12) An owner, operator, or real property owner who  
31 receives state-funded site rehabilitation under s. 376.3078(3)

1 for rehabilitation of a drycleaning-solvent-contaminated site  
2 is ineligible to receive a tax credit under s. 199.1055 or s.  
3 220.1845 for costs incurred by the taxpayer in conjunction  
4 with the rehabilitation of that site during the same time  
5 period that state-administered site rehabilitation was  
6 underway.

7 Section 5. Paragraph (o) is added to subsection (7) of  
8 section 213.053, Florida Statutes, to read:

9 213.053 Confidentiality and information sharing.--

10 (7) Notwithstanding any other provision of this  
11 section, the department may provide:

12 (o) Information relative to ss. 199.1055, 220.1845,  
13 and 376.30781 to the Department of Environmental Protection in  
14 the conduct of its official business.

15  
16 Disclosure of information under this subsection shall be  
17 pursuant to a written agreement between the executive director  
18 and the agency. Such agencies, governmental or  
19 nongovernmental, shall be bound by the same requirements of  
20 confidentiality as the Department of Revenue. Breach of  
21 confidentiality is a misdemeanor of the first degree,  
22 punishable as provided by s. 775.082 or s. 775.083.

23 Section 6. The \$4,000,000 appropriated from the  
24 General Revenue Fund Specific Appropriation 1727 for  
25 Brownfield Redevelopment in the Conference Report on House  
26 Bill 4201 is hereby reduced by \$1 million and the \$1 million  
27 is to cover the cost of tax credit provisions authorized by  
28 this act.

29 Section 7. Subsection (2) of section 376.30, Florida  
30 Statutes, is amended to read:

31

1           376.30 Legislative intent with respect to pollution of  
2 surface and ground waters.--

3           (2) The Legislature further finds and declares that:

4           (a) The storage, transportation, and disposal of  
5 pollutants, drycleaning solvents,and hazardous substances  
6 within the jurisdiction of the state and state waters is a  
7 hazardous undertaking;

8           (b) Spills, discharges, and escapes of pollutants,  
9 drycleaning solvents,and hazardous substances that occur as a  
10 result of procedures taken by private and governmental  
11 entities involving the storage, transportation, and disposal  
12 of such products pose threats of great danger and damage to  
13 the environment of the state, to citizens of the state, and to  
14 other interests deriving livelihood from the state;

15           (c) Such hazards have occurred in the past, are  
16 occurring now, and present future threats of potentially  
17 catastrophic proportions, all of which are expressly declared  
18 to be inimical to the paramount interests of the state as set  
19 forth in this section; and

20           (d) Such state interests outweigh any economic burdens  
21 imposed by the Legislature upon those engaged in storing,  
22 transporting, or disposing of pollutants, drycleaning  
23 solvents,and hazardous substances and related activities.

24           Section 8. Section 376.301, Florida Statutes, is  
25 amended to read:

26           376.301 Definitions of terms used in ss.  
27 376.30-376.319, 376.70, and 376.75.--When used in ss.  
28 376.30-376.319, 376.70, and 376.75, unless the context clearly  
29 requires otherwise, the term:

30           (1) "Aboveground hazardous substance tank" means any  
31 stationary aboveground storage tank and onsite integral piping

1 that contains hazardous substances which are liquid at  
2 standard temperature and pressure and has an individual  
3 storage capacity greater than 110 gallons.

4 (2) "Additive effects" means a scientific principle  
5 that theory under which the toxicity that occurs as a result  
6 of exposure is the sum of the toxicities of the individual  
7 chemicals to which the individual is exposed ~~of chemicals~~  
8 ~~increases in linear proportion to the increase in the number~~  
9 ~~of substances.~~

10 (3) "Antagonistic effects" means a scientific  
11 principle that the toxicity that occurs is less than the sum  
12 of the toxicities of the individual chemicals to which the  
13 individual is exposed.

14 ~~(4)(3)~~ "Backlog" means reimbursement obligations  
15 incurred pursuant to s. 376.3071(12), prior to March 29, 1995,  
16 or authorized for reimbursement under the provisions of s.  
17 376.3071(12), pursuant to chapter 95-2, Laws of Florida.  
18 Claims within the backlog are subject to adjustment, where  
19 appropriate.

20 ~~(5)(4)~~ "Barrel" means 42 U.S. gallons at 60 degrees  
21 Fahrenheit.

22 ~~(6)(5)~~ "Bulk product facility" means a waterfront  
23 location with at least one aboveground tank with a capacity  
24 greater than 30,000 gallons which is used for the storage of  
25 pollutants.

26 ~~(7)(6)~~ "Cattle-dipping vat" means any structure,  
27 excavation, or other facility constructed by any person, or  
28 the site where such structure, excavation, or other facility  
29 once existed, for the purpose of treating cattle or other  
30 livestock with a chemical solution pursuant to or in  
31 compliance with any local, state, or federal governmental

1 program for the prevention, suppression, control, or  
2 eradication of any dangerous, contagious, or infectious  
3 diseases.

4 (8)~~(7)~~ "Compression vessel" means any stationary  
5 container, tank, or onsite integral piping system, or  
6 combination thereof, which has a capacity of greater than 110  
7 gallons, that is primarily used to store pollutants or  
8 hazardous substances above atmospheric pressure or at a  
9 reduced temperature in order to lower the vapor pressure of  
10 the contents. Manifold compression vessels that function as a  
11 single vessel shall be considered as one vessel.

12 (9) "Contaminant" means any physical, chemical,  
13 biological, or radiological substance present in any medium  
14 which may result in adverse effects to human health or the  
15 environment or which creates an adverse nuisance,  
16 organoleptic, or aesthetic condition in groundwater.

17 (10) "Contaminated site" means any contiguous land,  
18 sediment, surface water, or groundwater areas that contain  
19 contaminants that may be harmful to human health or the  
20 environment.

21 (11)~~(8)~~ "Department" means the Department of  
22 Environmental Protection.

23 (12)~~(9)~~ "Discharge" includes, but is not limited to,  
24 any spilling, leaking, seeping, pouring, misapplying,  
25 emitting, emptying, or dumping of any pollutant which occurs  
26 and which affects lands and the surface and ground waters of  
27 the state not regulated by ss. 376.011-376.21.

28 (13)~~(10)~~ "Drycleaning facility" means a commercial  
29 establishment that operates or has at some time in the past  
30 operated for the primary purpose of drycleaning clothing and  
31 other fabrics utilizing a process that involves any use of

1 drycleaning solvents. The term "drycleaning facility" includes  
2 laundry facilities that use drycleaning solvents as part of  
3 their cleaning process. The term does not include a facility  
4 that operates or has at some time in the past operated as a  
5 uniform rental company or a ~~companies,~~ and linen supply  
6 company ~~companies~~ regardless of whether the facility operates  
7 as or was previously operated as a drycleaning facility.

8 (14)~~(11)~~ "Drycleaning solvents" means any and all  
9 nonaqueous solvents used in the cleaning of clothing and other  
10 fabrics and includes perchloroethylene (also known as  
11 tetrachloroethylene) and petroleum-based solvents, and their  
12 breakdown products. For purposes of this definition,  
13 "drycleaning solvents" only includes those drycleaning  
14 solvents originating from use at a drycleaning facility or by  
15 a wholesale supply facility.

16 (15)~~(12)~~ "Dry drop-off facility" means any commercial  
17 retail store that receives from customers clothing and other  
18 fabrics for drycleaning or laundering at an offsite  
19 drycleaning facility and that does not clean the clothing or  
20 fabrics at the store utilizing drycleaning solvents.

21 (16)~~(13)~~ "Engineering controls" means modifications to  
22 a site to reduce or eliminate the potential for exposure to  
23 petroleum products' chemicals of concern, drycleaning  
24 solvents, or other contaminants. Such modifications may  
25 include, but are not limited to, physical or hydraulic control  
26 measures, capping, point of use treatments, or slurry walls.

27 (17)~~(14)~~ "Wholesale supply facility" means a  
28 commercial establishment that supplies drycleaning solvents to  
29 drycleaning facilities.

30 (18)~~(15)~~ "Facility" means a nonresidential location  
31 containing, or which contained, any underground stationary

1 tank or tanks which contain hazardous substances or pollutants  
2 and have individual storage capacities greater than 110  
3 gallons, or any aboveground stationary tank or tanks which  
4 contain pollutants which are liquids at standard ambient  
5 temperature and pressure and have individual storage  
6 capacities greater than 550 gallons. This subsection shall not  
7 apply to facilities covered by chapter 377, or containers  
8 storing solid or gaseous pollutants, and agricultural tanks  
9 having storage capacities of less than 550 gallons.

10 (19)~~(16)~~ "Flow-through process tank" means an  
11 aboveground tank that contains hazardous substances or  
12 specified mineral acids as defined in s. 376.321 and that  
13 forms an integral part of a production process through which  
14 there is a steady, variable, recurring, or intermittent flow  
15 of materials during the operation of the process.

16 Flow-through process tanks include, but are not limited to,  
17 seal tanks, vapor recovery units, surge tanks, blend tanks,  
18 feed tanks, check and delay tanks, batch tanks, oil-water  
19 separators, or tanks in which mechanical, physical, or  
20 chemical change of a material is accomplished.

21 (20)~~(17)~~ "Hazardous substances" means those substances  
22 defined as hazardous substances in the Comprehensive  
23 Environmental Response, Compensation and Liability Act of  
24 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the  
25 Superfund Amendments and Reauthorization Act of 1986.

26 (21)~~(18)~~ "Institutional controls" means the  
27 restriction on use or access to a site to eliminate or  
28 minimize exposure to petroleum products' chemicals of concern,  
29 drycleaning solvents, or other contaminants. Such  
30 restrictions may include, but are not limited to, deed  
31 restrictions, use restrictions, or restrictive zoning.



1           (22) "Laundering on a wash, dry, and fold basis" means  
2 the service provided by the owner or operator of a  
3 coin-operated laundry to its customers whereby an employee of  
4 the laundry washes, dries, and folds laundry for its  
5 customers.

6           ~~(23)~~~~(19)~~ "Marine fueling facility" means a commercial  
7 or recreational coastal facility, excluding a bulk product  
8 facility, providing fuel to vessels.

9           ~~(24)~~~~(20)~~ "Natural attenuation" means an approach to  
10 site rehabilitation that allows natural processes to contain  
11 the spread of contamination and reduce the concentrations of  
12 contaminants in contaminated groundwater and soil. Natural  
13 attenuation processes may include the following: sorption,  
14 biodegradation, chemical reactions with subsurface materials,  
15 diffusion, dispersion, and volatilization.~~the verifiable~~  
16 ~~reduction of petroleum products' chemicals of concern through~~  
17 ~~natural processes which may include diffusion, dispersion,~~  
18 ~~absorption, and biodegradation.~~

19           ~~(25)~~~~(21)~~ "Operator" means any person operating a  
20 facility, whether by lease, contract, or other form of  
21 agreement.

22           ~~(26)~~~~(22)~~ "Owner" means any person owning a facility.

23           ~~(27)~~~~(23)~~ "Person" means any individual, partner, joint  
24 venture, or corporation; any group of the foregoing, organized  
25 or united for a business purpose; or any governmental entity.

26           ~~(28)~~~~(24)~~ "Person in charge" means the person on the  
27 scene who is in direct, responsible charge of a facility from  
28 which pollutants are discharged, when the discharge occurs.

29           ~~(29)~~~~(25)~~ "Person responsible for conducting site  
30 rehabilitation" means the site owner, operator, or the person  
31 designated by the site owner or operator on the reimbursement

1 application. Mortgage holders and trust holders may be  
2 eligible to participate in the reimbursement program pursuant  
3 to s. 376.3071(12).

4 (30)~~(26)~~ "Petroleum" includes:

5 (a) Oil, including crude petroleum oil and other  
6 hydrocarbons, regardless of gravity, which are produced at the  
7 well in liquid form by ordinary methods and which are not the  
8 result of condensation of gas after it leaves the reservoir;  
9 and

10 (b) All natural gas, including casinghead gas, and all  
11 other hydrocarbons not defined as oil in paragraph (a).

12 (31)~~(27)~~ "Petroleum product" means any liquid fuel  
13 commodity made from petroleum, including, but not limited to,  
14 all forms of fuel known or sold as diesel fuel, kerosene, all  
15 forms of fuel known or sold as gasoline, and fuels containing  
16 a mixture of gasoline and other products, excluding liquefied  
17 petroleum gas and American Society for Testing and Materials  
18 (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual  
19 oils, intermediate fuel oils (IFO) used for marine bunkering  
20 with a viscosity of 30 and higher, asphalt oils, and  
21 petrochemical feedstocks.

22 (32)~~(28)~~ "Petroleum products' chemicals of concern"  
23 means the constituents of petroleum products, including, but  
24 not limited to, xylene, benzene, toluene, ethylbenzene,  
25 naphthalene, and similar chemicals, and constituents in  
26 petroleum products, including, but not limited to, methyl  
27 tert-butyl ether (MTBE), lead, and similar chemicals found in  
28 additives, provided the chemicals of concern are present as a  
29 result of a discharge of petroleum products.

30 (33)~~(29)~~ "Petroleum storage system" means a stationary  
31 tank not covered under the provisions of chapter 377, together

1 with any onsite integral piping or dispensing system  
2 associated therewith, which is used, or intended to be used,  
3 for the storage or supply of any petroleum product. Petroleum  
4 storage systems may also include oil/water separators, and  
5 other pollution control devices installed at petroleum product  
6 terminals as defined in this chapter and bulk product  
7 facilities pursuant to, or required by, permits or best  
8 management practices in an effort to control surface discharge  
9 of pollutants. Nothing herein shall be construed to allow a  
10 continuing discharge in violation of department rules.

11 (34)~~(30)~~ "Pollutants" includes any "product" as  
12 defined in s. 377.19(11), pesticides, ammonia, chlorine, and  
13 derivatives thereof, excluding liquefied petroleum gas.

14 (35)~~(31)~~ "Pollution" means the presence on the land or  
15 in the waters of the state of pollutants in quantities which  
16 are or may be potentially harmful or injurious to human health  
17 or welfare, animal or plant life, or property or which may  
18 unreasonably interfere with the enjoyment of life or property,  
19 including outdoor recreation.

20 (36)~~(32)~~ "Real property owner" means the individual or  
21 entity that is vested with ownership, dominion, or legal or  
22 rightful title to the real property, or which has a ground  
23 lease interest in the real property, on which a drycleaning  
24 facility or wholesale supply facility is or has ever been  
25 located.

26 (37)~~(33)~~ "Response action" means any activity,  
27 including evaluation, planning, design, engineering,  
28 construction, and ancillary services, which is carried out in  
29 response to any discharge, release, or threatened release of a  
30 hazardous substance, pollutant, or other contaminant from a

31

1 facility or site identified by the department under the  
2 provisions of ss. 376.30-376.319.

3 (38)~~(34)~~ "Response action contractor" means a person  
4 who is carrying out any response action, including a person  
5 retained or hired by such person to provide services relating  
6 to a response action.

7 (39)~~(35)~~ "Secretary" means the Secretary of  
8 Environmental Protection.

9 (40)~~(36)~~ "Site rehabilitation" means the assessment of  
10 site contamination and the remediation activities that reduce  
11 the levels of contaminants at a site through accepted  
12 treatment methods to meet the cleanup target levels  
13 established for that site.

14 (41)~~(37)~~ "Source removal" means the removal of free  
15 product, or the removal of contaminants from soil or sediment  
16 that has been contaminated ~~by petroleum or petroleum products~~  
17 to the extent that leaching to groundwater or surface water  
18 has occurred or is occurring ~~petroleum products' chemicals of~~  
19 ~~concern leach into groundwater.~~

20 (42)~~(38)~~ "Storage system" means a stationary tank not  
21 covered under the provisions of chapter 377, together with any  
22 onsite integral piping or dispensing system associated  
23 therewith, which is or has been used for the storage or supply  
24 of any petroleum product, pollutant, or hazardous substance as  
25 defined herein, and which is registered with the Department of  
26 Environmental Protection under this chapter or any rule  
27 adopted pursuant hereto.

28 (43)~~(39)~~ "Synergistic effects" means a scientific  
29 principle that the toxicity that occurs as a result of  
30 exposure is more than the sum of the toxicities of the  
31 individual chemicals to which the individual is exposed ~~theory~~

1 ~~under which the toxicity of chemicals exponentially increases~~  
2 ~~as the number of chemicals in a combination increases.~~

3 (44)~~(40)~~ "Terminal facility" means any structure,  
4 group of structures, motor vehicle, rolling stock, pipeline,  
5 equipment, or related appurtenances which are used or capable  
6 of being used for one or more of the following purposes:  
7 pumping, refining, drilling for, producing, storing, handling,  
8 transferring, or processing pollutants, provided such  
9 pollutants are transferred over, under, or across any water,  
10 estuaries, tidal flats, beaches, or waterfront lands,  
11 including, but not limited to, any such facility and related  
12 appurtenances owned or operated by a public utility or a  
13 governmental or quasi-governmental body. In the event of a  
14 ship-to-ship transfer of pollutants, the vessel going to or  
15 coming from the place of transfer and a terminal facility  
16 shall also be considered a terminal facility. For the  
17 purposes of ss. 376.30-376.319, the term "terminal facility"  
18 shall not be construed to include spill response vessels  
19 engaged in response activities related to removal of  
20 pollutants, or temporary storage facilities created to  
21 temporarily store recovered pollutants and matter, or  
22 waterfront facilities owned and operated by governmental  
23 entities acting as agents of public convenience for persons  
24 engaged in the drilling for or pumping, storing, handling,  
25 transferring, processing, or refining of pollutants. However,  
26 each person engaged in the drilling for or pumping, storing,  
27 handling, transferring, processing, or refining of pollutants  
28 through a waterfront facility owned and operated by such a  
29 governmental entity shall be construed as a terminal facility.

30 (45)~~(41)~~ "Transfer" or "transferred" includes  
31 onloading, offloading, fueling, bunkering, lightering, removal

1 of waste pollutants, or other similar transfers, between  
2 terminal facility and vessel or vessel and vessel.

3 Section 9. Paragraph (d) of subsection (1) of section  
4 376.303, Florida Statutes, is amended to read:

5 376.303 Powers and duties of the Department of  
6 Environmental Protection.--

7 (1) The department has the power and the duty to:

8 (d) Establish a registration program for drycleaning  
9 facilities and wholesale supply facilities.

10 1. Owners or operators of drycleaning facilities and  
11 wholesale supply facilities and real property owners ~~suppliers~~  
12 shall jointly register each facility owned and in operation  
13 with the department by June 30, 1995, pay initial registration  
14 fees by December 31, 1995, and pay annual renewal registration  
15 fees by December 31, 1996, and each year thereafter, in  
16 accordance with this subsection. If the registration form  
17 cannot be jointly submitted, then the applicant shall provide  
18 notice of the registration to other interested parties. The  
19 department shall establish reasonable requirements for the  
20 registration of such facilities. The department shall use  
21 reasonable efforts to identify and notify drycleaning  
22 facilities and wholesale supply facilities of the registration  
23 requirements by certified mail, return receipt requested. The  
24 department shall provide to the Department of Revenue a copy  
25 of each applicant's registration materials, within 30 working  
26 days of the receipt of the materials. This copy may be in such  
27 electronic format as the two agencies mutually designate.

28 2.a. The department shall issue an invoice for annual  
29 registration fees to each registered drycleaning facility or  
30 wholesale supply facility by December 31 of each year. Owners  
31 of drycleaning facilities and wholesale supply facilities

1 shall submit to the department an initial fee of \$100 and an  
2 annual renewal registration fee of \$100 for each drycleaning  
3 facility or wholesale supply facility owned and in operation.  
4 The fee shall be paid within 30 days after receipt of billing  
5 by the department. Facilities that fail to pay their renewal  
6 fee within 30 days after receipt of billing are subject to a  
7 late fee of \$75.

8 b. Revenues derived from registration, ~~and~~ renewal,  
9 and late fees shall be deposited into the Water Quality  
10 Assurance Trust Fund to be used as provided in s. 376.3078.

11 Section 10. Section 376.3078, Florida Statutes, is  
12 amended to read:

13 376.3078 Drycleaning facility restoration; funds;  
14 uses; liability; recovery of expenditures.--

15 (1) FINDINGS.--In addition to the legislative findings  
16 set forth in s. 376.30, the Legislature finds and declares  
17 that:

18 (a) Significant quantities of drycleaning solvents  
19 have been discharged in the past at drycleaning facilities as  
20 part of the normal operation of these facilities.

21 (b) Discharges of drycleaning solvents at such  
22 drycleaning facilities have occurred and are occurring, and  
23 pose a significant threat to the quality of the groundwaters  
24 and inland surface waters of this state.

25 (c) Where contamination of the groundwater or surface  
26 water has occurred, remedial measures have often been delayed  
27 for long periods while determinations as to liability and the  
28 extent of liability are made, and such delays result in the  
29 continuation and intensification of the threat to the public  
30 health, safety, and welfare; in greater damage to the  
31

1 environment; and in significantly higher costs to contain and  
2 remove the contamination.

3 (d) Adequate financial resources must be readily  
4 available to provide for the expeditious supply of safe and  
5 reliable alternative sources of potable water to affected  
6 persons and to provide a means for investigation and  
7 rehabilitation of contaminated sites without delay.

8 (e) It is the intent of the Legislature to encourage  
9 real property owners to undertake the voluntary cleanup of  
10 property contaminated with drycleaning solvents and that the  
11 immunity provisions of this section and all other available  
12 defenses be construed in favor of real property owners.

13 (2) FUNDS; USES.--

14 (a) All penalties, judgments, recoveries,  
15 reimbursements, loans, and other fees and charges related to  
16 the implementation of this section and the tax revenues  
17 levied, collected, and credited pursuant to ss. 376.70 and  
18 376.75, and ~~registration~~ fees collected pursuant to s.  
19 376.303(1)(d), and deductibles collected pursuant to paragraph  
20 (3)(d), shall be deposited into the Water Quality Assurance  
21 Trust Fund, to be used upon appropriation as provided in this  
22 section. Charges against the funds for drycleaning facility  
23 or wholesale supply site rehabilitation shall be made in  
24 accordance with the provisions of this section.

25 (b) Whenever, in its determination, incidents of  
26 contamination by drycleaning solvents related to the operation  
27 of drycleaning facilities and wholesale supply facilities may  
28 pose a threat to the environment or the public health, safety,  
29 or welfare, the department shall obligate moneys available  
30 pursuant to this section to provide for:

31



1           1. Prompt investigation and assessment of the  
2 contaminated drycleaning facility or wholesale supply facility  
3 sites.

4           2. Expeditious treatment, restoration, or replacement  
5 of potable water supplies as provided in s. 376.30(3)(c)1.

6           3. Rehabilitation of contaminated drycleaning facility  
7 or wholesale supply facility sites, which shall consist of  
8 rehabilitation of affected soil, groundwater, and surface  
9 waters, using the most cost-effective alternative that is  
10 technologically feasible and reliable and that provides  
11 adequate protection of the public health, safety, and welfare  
12 and minimizes environmental damage, in accordance with the  
13 site selection and rehabilitation criteria established by the  
14 department under subsection (4), except that nothing in this  
15 subsection shall be construed to authorize the department to  
16 obligate drycleaning facility restoration funds for payment of  
17 costs that may be associated with, but are not integral to,  
18 drycleaning facility or wholesale supply facility site  
19 rehabilitation.

20           4. Maintenance and monitoring of contaminated  
21 drycleaning facility or wholesale supply facility sites.

22           5. Inspection and supervision of activities described  
23 in this subsection.

24           6. Payment of expenses incurred by the department in  
25 its efforts to obtain from responsible parties the payment or  
26 recovery of reasonable costs resulting from the activities  
27 described in this subsection.

28           7. Payment of any other reasonable costs of  
29 administration, including those administrative costs incurred  
30 by the Department of Health ~~and Rehabilitative Services~~ in  
31 providing field and laboratory services, toxicological risk

1 assessment, and other assistance to the department in the  
2 investigation of drinking water contamination complaints and  
3 costs associated with public information and education  
4 activities.

5 8. Reasonable costs of restoring property as nearly as  
6 practicable to the conditions that existed prior to activities  
7 associated with contamination assessment or remedial action.

8  
9 The department shall not obligate funds in excess of the  
10 annual appropriation.

11 (c) Drycleaning facility restoration funds may not be  
12 used to:

13 1. Restore sites that are contaminated by solvents  
14 normally used in drycleaning operations where the  
15 contamination at such sites did not result from the operation  
16 of a drycleaning facility or wholesale supply facility.

17 2. Restore sites that are contaminated by drycleaning  
18 solvents being transported to or from a drycleaning facility  
19 or wholesale supply facility.

20 3. Fund any costs related to the restoration of any  
21 site that has been identified to qualify for listing, or is  
22 listed, on the National Priority List pursuant to the  
23 Comprehensive Environmental Response, Compensation, and  
24 Liability Act of 1980 as amended by the Superfund Amendments  
25 and Reauthorization Act of 1986, or that is under an order  
26 from the United States Environmental Protection Agency  
27 pursuant to s. 3008(h) of the Resource Conservation and  
28 Recovery Act as amended, or has obtained, or is required to  
29 obtain a permit for the operation of a hazardous waste  
30 treatment, storage, or disposal facility, a postclosure  
31

1 permit, or a permit pursuant to the federal Hazardous and  
2 Solid Waste Amendments of 1984.

3 4. Pay any costs associated with any fine, penalty, or  
4 action brought against a drycleaning facility owner or  
5 operator or wholesale supply facility or real property owner  
6 under local, state, or federal law.

7 5. Pay any costs related to the restoration of any  
8 site that is operated or has at some time in the past operated  
9 as a uniform rental or linen supply facility, regardless of  
10 whether the site operates as or was previously operated as a  
11 drycleaning facility or wholesale supply facility.

12 (3) REHABILITATION LIABILITY.--In accordance with the  
13 eligibility provisions of this section, no real property owner  
14 or no person who owns or operates, or who otherwise could be  
15 liable as a result of the operation of, a drycleaning facility  
16 or a wholesale supply facility shall be subject to  
17 administrative or judicial action brought by or on behalf of  
18 any state or local government or agency thereof or by or on  
19 behalf of any person to compel rehabilitation or pay for the  
20 costs of rehabilitation of environmental contamination  
21 resulting from the discharge of drycleaning solvents. Subject  
22 to the delays that may occur as a result of the prioritization  
23 of sites under this section for any qualified site, costs for  
24 activities described in paragraph (2)(b) shall be absorbed at  
25 the expense of the drycleaning facility restoration funds,  
26 without recourse to reimbursement or recovery from the real  
27 property owner or the owner or operator of the drycleaning  
28 facility or the wholesale supply facility.

29 (a) With regard to drycleaning facilities or wholesale  
30 supply facilities that have operated as drycleaning facilities  
31 or wholesale supply facilities on or after October 1, 1994,

1 any such drycleaning facility or wholesale supply facility at  
2 which there exists contamination by drycleaning solvents shall  
3 be eligible under this subsection regardless of when the  
4 drycleaning contamination was discovered, provided that the  
5 drycleaning facility or the wholesale supply facility:

6 1. Has been registered with the department;

7 2. Is determined by the department to be in compliance  
8 with the department's rules regulating drycleaning solvents,  
9 drycleaning facilities, or wholesale supply facilities on or  
10 after November 19, 1980;

11 3. Has not been operated in a grossly negligent manner  
12 at any time on or after November 19, 1980;

13 4. Has not been identified to qualify for listing, nor  
14 is listed, on the National Priority List pursuant to the  
15 Comprehensive Environmental Response, Compensation, and  
16 Liability Act of 1980 as amended by the Superfund Amendments  
17 and Reauthorization Act of 1986, and as subsequently amended;

18 5. Is not under an order from the United States  
19 Environmental Protection Agency pursuant to s. 3008(h) of the  
20 Resource Conservation and Recovery Act as amended (42 U.S.C.A.  
21 s. 6928(h)), or has not obtained and is not required to obtain  
22 a permit for the operation of a hazardous waste treatment,  
23 storage, or disposal facility, a postclosure permit, or a  
24 permit pursuant to the federal Hazardous and Solid Waste  
25 Amendments of 1984;

26  
27 and provided that the real property owner or the owner or  
28 operator of the drycleaning facility or the wholesale supply  
29 facility has not willfully concealed the discharge of  
30 drycleaning solvents and has remitted all taxes due pursuant  
31 to ss. 376.70 and 376.75, has provided documented evidence of

1 contamination by drycleaning solvents as required by the rules  
2 developed pursuant to this section, has reported the  
3 contamination prior to December 31, 1998 ~~2005~~, and has not  
4 denied the department access to the site.

5 (b) With regard to drycleaning facilities or wholesale  
6 supply facilities that cease to be operated as drycleaning  
7 facilities or wholesale supply facilities prior to October 1,  
8 1994, such facilities, at which there exists contamination by  
9 drycleaning solvents, shall be eligible under this subsection  
10 regardless of when the contamination was discovered, provided  
11 that the drycleaning facility or wholesale supply facility:

12 1. Was not determined by the department, within a  
13 reasonable time after the department's discovery, to have been  
14 out of compliance with the department rules regulating  
15 drycleaning solvents, drycleaning facilities, or wholesale  
16 supply facilities implemented ~~which were in effect at the time~~  
17 ~~of operation~~ at any time on or after November 19, 1980;

18 2. Was not operated in a grossly negligent manner at  
19 any time on or after November 19, 1980;

20 3. Has not been identified to qualify for listing, nor  
21 is listed, on the National Priority List pursuant to the  
22 Comprehensive Environmental Response, Compensation, and  
23 Liability Act of 1980, as amended by the Superfund Amendments  
24 and Reauthorization Act of 1986, and as subsequently amended;  
25 and

26 4. Is not under an order from the United States  
27 Environmental Protection Agency pursuant to s. 3008(h) of the  
28 Resource Conservation and Recovery Act, as amended, or has not  
29 obtained and is not required to obtain a permit for the  
30 operation of a hazardous waste treatment, storage, or disposal  
31

1 facility, a postclosure permit, or a permit pursuant to the  
2 federal Hazardous and Solid Waste Amendments of 1984;

3  
4 and provided that the real property owner or the owner or  
5 operator of the drycleaning facility or the wholesale supply  
6 facility has not willfully concealed the discharge of  
7 drycleaning solvents, has provided documented evidence of  
8 contamination by drycleaning solvents as required by the rules  
9 developed pursuant to this section, has reported the  
10 contamination prior to December 31, 1998, ~~December 31, 2005~~,  
11 and has not denied the department access to the site.

12 (c) For purposes of determining eligibility, a  
13 drycleaning facility or wholesale supply facility was operated  
14 in a grossly negligent manner if the department determines  
15 that the owner or operator of the drycleaning facility or the  
16 wholesale supply facility:

17 1. Willfully discharged drycleaning solvents onto the  
18 soils or into the waters of the state after November 19, 1980,  
19 with the knowledge, intent, and purpose that the discharge  
20 would result in harm to the environment or to public health or  
21 result in a violation of the law;

22 2. Willfully concealed a discharge of drycleaning  
23 solvents with the knowledge, intent, and purpose that the  
24 concealment would result in harm to the environment or to  
25 public health or result in a violation of the law; or

26 3. Willfully violated a local, state, or federal law  
27 or rule regulating the operation of drycleaning facilities or  
28 wholesale supply facilities with the knowledge, intent, and  
29 purpose that the act would result in harm to the environment  
30 or to public health or result in a violation of the law. ~~For~~  
31 ~~purposes of this subsection, the willful discharge of~~

1 ~~drycleaning solvents onto the soils or into the waters of the~~  
2 ~~state after November 19, 1980, or the willful concealment of a~~  
3 ~~discharge of drycleaning solvents, or a willful violation of~~  
4 ~~local, state, or federal law or rule regulating the operation~~  
5 ~~of drycleaning facilities or wholesale supply facilities shall~~  
6 ~~be construed to be gross negligence in the operation of a~~  
7 ~~drycleaning facility or wholesale supply facility.~~

8 (d)1. With respect to eligible drycleaning solvent  
9 contamination reported to the department as part of a  
10 completed application as required by the rules developed  
11 pursuant to this section by June 30, 1997, the costs of  
12 activities described in paragraph (2)(b) shall be absorbed at  
13 the expense of the drycleaning facility restoration funds,  
14 less a \$1,000 deductible per incident, which shall be paid by  
15 the applicant or current property owner. The deductible shall  
16 be paid within 60 days after receipt of billing by the  
17 department.

18 2. For contamination reported to the department as  
19 part of a completed application as required by the rules  
20 developed under this section, from July 1, 1997, through  
21 September 30, 1998 ~~June 30, 2001~~, the costs shall be absorbed  
22 at the expense of the drycleaning facility restoration funds,  
23 less a \$5,000 deductible per incident. The deductible shall be  
24 paid within 60 days after receipt of billing by the  
25 department.

26 3. For contamination reported to the department as  
27 part of a completed application as required by the rules  
28 developed pursuant to this section from October 1, 1998 ~~July~~  
29 ~~1, 2001~~, through December 31, 1998 ~~2005~~, the costs shall be  
30 absorbed at the expense of the drycleaning facility  
31 restoration funds, less a \$10,000 deductible per incident. The

1 deductible shall be paid within 60 days after receipt of  
2 billing by the department.

3 4. For contamination reported after December 31, 1998  
4 ~~2005~~, no costs will be absorbed at the expense of the  
5 drycleaning facility restoration funds.

6 (e) The provisions of this subsection shall not apply  
7 to any site where the department has been denied site access  
8 to implement the provisions of this section.

9 (f) In order to identify those drycleaning facilities  
10 and wholesale supply facilities that have experienced  
11 contamination resulting from the discharge of drycleaning  
12 solvents and to ensure the most expedient rehabilitation of  
13 such sites, the owners and operators of drycleaning facilities  
14 and wholesale supply facilities are encouraged to detect and  
15 report contamination from drycleaning solvents related to the  
16 operation of drycleaning facilities and wholesale supply  
17 facilities. The department shall establish reasonable  
18 guidelines for the written reporting of drycleaning  
19 contamination and shall distribute forms to registrants under  
20 s. 376.303(1)(d), and to other interested parties upon  
21 request, to be used for such purpose.

22 (g) A report of drycleaning solvent contamination at a  
23 drycleaning facility or wholesale supply facility made to the  
24 department by any person in accordance with this subsection,  
25 or any rules promulgated pursuant hereto, may not be used  
26 directly as evidence of liability for such discharge in any  
27 civil or criminal trial arising out of the discharge.

28 (h) The provisions of this subsection shall not apply  
29 to drycleaning facilities owned or operated by the state or  
30 Federal Government.

31



1 (i) Due to the value of Florida's potable water, it is  
2 the intent of the Legislature that the department initiate and  
3 facilitate as many cleanups as possible utilizing the  
4 resources of the state, local governments, and the private  
5 sector. The department is authorized to adopt necessary rules  
6 and enter into contracts to carry out the intent of this  
7 subsection and to limit or prevent future contamination from  
8 the operation of drycleaning facilities and wholesale supply  
9 facilities.

10 (j) It is not the intent of the Legislature that the  
11 state become the owner or operator of a drycleaning facility  
12 or wholesale supply facility by engaging in state-conducted  
13 cleanup.

14 (k) The owner, operator, and either the real property  
15 owner or agent of the real property owner may apply for the  
16 Drycleaning Contamination Cleanup Program by jointly  
17 submitting a completed application package to the department  
18 pursuant to the rules that shall be adopted by the department.  
19 If the application cannot be jointly submitted, then the  
20 applicant shall provide notice of the application to other  
21 interested parties. After reviewing the completed application  
22 package, the department shall notify the applicant in writing  
23 as to whether the drycleaning facility or wholesale supply  
24 facility is eligible for the program. If the department denies  
25 eligibility for a completed application package, the notice of  
26 denial shall specify the reasons for the denial, including  
27 specific and substantive findings of fact, and shall  
28 constitute agency action subject to the provisions of chapter  
29 120. For the purposes of ss. 120.569 and 120.57, the real  
30 property owner and the owner and operator of a drycleaning  
31 facility or wholesale supply facility which is the subject of

1 a decision by the department with regard to eligibility shall  
2 be deemed to be parties whose substantial interests are  
3 determined by the department's decision to approve or deny  
4 eligibility.

5 (l) Eligibility under this subsection applies to the  
6 drycleaning facility or wholesale supply facility. A  
7 determination of eligibility or ineligibility shall not be  
8 affected by any conveyance of the ownership of the drycleaning  
9 facility, wholesale supply facility, or the real property on  
10 which such facility is located. Nothing contained in this  
11 chapter shall be construed to allow a drycleaning facility or  
12 wholesale supply facility which would not be eligible under  
13 this subsection to become eligible as a result of the  
14 conveyance of the ownership of the ineligible drycleaning  
15 facility or wholesale supply facility to another owner.

16 (m) If funding for the drycleaning contamination  
17 rehabilitation program is eliminated, the provisions of this  
18 subsection shall not apply.

19 (n)1. The department shall have the authority to  
20 cancel the eligibility of any drycleaning facility or  
21 wholesale supply facility that submits fraudulent information  
22 in the application package or that fails to continuously  
23 comply with the conditions of eligibility set forth in this  
24 subsection, or has not remitted all fees pursuant to s.  
25 376.303(1)(d), or has not remitted the deductible payments  
26 pursuant to paragraph (d).

27 2. If the program eligibility of a drycleaning  
28 facility or wholesale supply facility is subject to  
29 cancellation pursuant to this section, then the department  
30 shall notify the applicant in writing of its intent to cancel  
31 program eligibility and shall state the reason or reasons for

1 cancellation. The applicant shall have 45 days to resolve the  
2 reason or reasons for cancellation to the satisfaction of the  
3 department. If, after 45 days, the applicant has not resolved  
4 the reason or reasons for cancellation to the satisfaction of  
5 the department, the order of cancellation shall become final  
6 and shall be subject to the provisions of chapter 120.

7 (o) A real property owner shall not be subject to  
8 administrative or judicial action brought by or on behalf of  
9 any person or local or state government, or agency thereof,  
10 for gross negligence or violations of department rules prior  
11 to January 1, 1990, which resulted from the operation of a  
12 drycleaning facility, provided that the real property owner  
13 demonstrates that:

14 1. The real property owner had ownership in the  
15 property at the time of the gross negligence or violation of  
16 department rules and did not cause or contribute to  
17 contamination on the property;

18 2. The real property owner was a distinct and separate  
19 entity from the owner and operator of the drycleaning  
20 facility, and did not have an ownership interest in or share  
21 in the profits of the drycleaning facility;

22 3. The real property owner did not participate in the  
23 operation or management of the drycleaning facility;

24 4. The real property owner complied with all discharge  
25 reporting requirements, and did not conceal any contamination;  
26 and

27 5. The department has not been denied access.  
28

29 The ~~This~~ defense provided by this paragraph does ~~shall~~ not  
30 apply to any liability under ~~pursuant to~~ a federally delegated  
31 program.

1           (p) A person whose property becomes contaminated due  
2 to geophysical or hydrologic reasons from the operation of a  
3 nearby drycleaning or wholesale supply facility and whose  
4 property has never been occupied by a business that utilized  
5 or stored drycleaning solvents or similar constituents is not  
6 subject to administrative or judicial action brought by or on  
7 behalf of another to compel the rehabilitation of or the  
8 payment of the costs for the rehabilitation of sites  
9 contaminated by drycleaning solvents, provided that the  
10 person:

11           1. Does not own and has never held an ownership  
12 interest in, or shared in the profits of, the drycleaning  
13 facility operated at the source location;

14           2. Did not participate in the operation or management  
15 of the drycleaning facility at the source location; and

16           3. Did not cause, contribute to, or exacerbate the  
17 release or threat of release of any hazardous substance  
18 through any act or omission.

19  
20 The defense provided by this paragraph does not apply to any  
21 liability under a federally delegated program.

22           (q) Nothing in this subsection precludes the  
23 department from considering information and documentation  
24 provided by private consultants, local government programs,  
25 federal agencies, or any individual which is relevant to an  
26 eligibility determination if the department provides the  
27 applicant with reasonable access to the information and its  
28 origin.

29           (4) ~~SITE SELECTION AND REHABILITATION CRITERIA.~~--It is  
30 the intent of the Legislature to protect the health of all  
31 people under actual circumstances of exposure. By July 1,

1 1999, the secretary of the department shall establish criteria  
2 by rule for the purpose of determining, on a site-specific  
3 basis, the rehabilitation program tasks that comprise a site  
4 rehabilitation program, including a voluntary site  
5 rehabilitation program, and the level at which a  
6 rehabilitation program task and a site rehabilitation program  
7 may be deemed completed. In establishing the rule, the  
8 department shall incorporate, to the maximum extent feasible,  
9 risk-based corrective action principles to achieve protection  
10 of human health and safety and the environment in a  
11 cost-effective manner as provided in this subsection. The  
12 rule shall also include protocols for the use of natural  
13 attenuation and the issuance of "no further action" letters.  
14 The criteria for determining what constitutes a rehabilitation  
15 program task or completion of a site rehabilitation program  
16 task or site rehabilitation program, including a voluntary  
17 site rehabilitation program, must:

18 (a) Consider the current exposure and potential risk  
19 of exposure to humans and the environment, including multiple  
20 pathways of exposure. The physical, chemical, and biological  
21 characteristics of each contaminant must be considered in  
22 order to determine the feasibility of risk-based corrective  
23 action assessment.

24 (b) Establish the point of compliance at the source of  
25 the contamination. However, the department is authorized to  
26 temporarily move the point of compliance to the boundary of  
27 the property, or to the edge of the plume when the plume is  
28 within the property boundary, while cleanup, including cleanup  
29 through natural attenuation processes in conjunction with  
30 appropriate monitoring, is proceeding. The department also is  
31 authorized, pursuant to criteria provided for in this section,

1 to temporarily extend the point of compliance beyond the  
2 property boundary with appropriate monitoring, if such  
3 extension is needed to facilitate natural attenuation or to  
4 address the current conditions of the plume, provided human  
5 health, public safety, and the environment are protected.  
6 When temporarily extending the point of compliance beyond the  
7 property boundary, it cannot be extended further than the  
8 lateral extent of the plume at the time of execution of the  
9 voluntary cleanup agreement, if known, or the lateral extent  
10 of the plume as defined at the time of site assessment.  
11 Temporary extension of the point of compliance beyond the  
12 property boundary, as provided in this paragraph, must include  
13 actual notice by the person responsible for site  
14 rehabilitation to local governments and the owners of any  
15 property into which the point of compliance is allowed to  
16 extend and constructive notice to residents and business  
17 tenants of the property into which the point of compliance is  
18 allowed to extend. Persons receiving notice pursuant to this  
19 paragraph shall have the opportunity to comment within 30 days  
20 of receipt of the notice.

21 (c) Ensure that the site-specific cleanup goal is that  
22 all sites contaminated with drycleaning solvents ultimately  
23 achieve the applicable cleanup target levels provided in this  
24 section. In the circumstances provided below, and after  
25 constructive notice and opportunity to comment within 30 days  
26 from receipt of the notice to local government, to owners of  
27 any property into which the point of compliance is allowed to  
28 extend, and to residents on any property into which the point  
29 of compliance is allowed to extend, the department may allow  
30 concentrations of contaminants to temporarily exceed the  
31 applicable cleanup target levels while cleanup, including

1 cleanup through natural attenuation processes in conjunction  
2 with appropriate monitoring, is proceeding, if human health,  
3 public safety, and the environment are protected.

4 (d) Allow the use of institutional or engineering  
5 controls at sites contaminated with drycleaning solvents,  
6 where appropriate, to eliminate or control the potential  
7 exposure to contaminants of humans or the environment. The use  
8 of controls must be preapproved by the department and only  
9 after constructive notice and opportunity to comment within 30  
10 days from receipt of notice is provided to local governments,  
11 to owners of any property into which the point of compliance  
12 is allowed to extend, and to residents on any property into  
13 which the point of compliance is allowed to extend. When  
14 institutional or engineering controls are implemented to  
15 control exposure, the removal of the controls must have prior  
16 department approval and must be accompanied by the resumption  
17 of active cleanup, or other approved controls, unless cleanup  
18 target levels under this section have been achieved.

19 (e) Consider the additive effects of contaminants.  
20 The synergistic and antagonistic effects shall also be  
21 considered when the scientific data become available.

22 (f) Take into consideration individual site  
23 characteristics, which shall include, but not be limited to,  
24 the current and projected use of the affected groundwater and  
25 surface water in the vicinity of the site, current and  
26 projected land uses of the area affected by the contamination,  
27 the exposed population, the degree and extent of  
28 contamination, the rate of contaminant migration, the apparent  
29 or potential rate of contaminant degradation through natural  
30 attenuation processes, the location of the plume, and the  
31

1 potential for further migration in relation to site property  
2 boundaries.

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

4 1. Cleanup target levels for each contaminant found in  
5 groundwater shall be the applicable state water quality  
6 standards. Where such standards do not exist, the cleanup  
7 target levels for groundwater shall be based on the minimum  
8 criteria specified in department rule. The department shall  
9 consider the following, as appropriate, in establishing the  
10 applicable minimum criteria: calculations using a lifetime  
11 cancer risk level of 1.0E-6; a hazard index of 1 or less; the  
12 best achievable detection limit; the naturally occurring  
13 background concentration; or nuisance, organoleptic, and  
14 aesthetic considerations.

15 2. Where surface waters are exposed to contaminated  
16 groundwater, the cleanup target levels for the contaminants  
17 shall be based on the lower of the groundwater or surface  
18 water standards as established by department rule. The point  
19 of measuring compliance with the surface water standards shall  
20 be in the groundwater immediately adjacent to the surface  
21 water body.

22 3. The department may set alternative cleanup target  
23 levels based upon the person responsible for site  
24 rehabilitation demonstrating, using site-specific modeling and  
25 risk assessment studies, that human health, public safety, and  
26 the environment are protected to the same degree as provided  
27 in subparagraphs 1. and 2. Where a state water quality  
28 standard is applicable, a deviation may not result in the  
29 application of cleanup target levels more stringent than the  
30 standard. In determining whether it is appropriate to  
31 establish alternative cleanup target levels at a site, the



1 department must consider the effectiveness of source removal  
2 that has been completed at the site and the practical  
3 likelihood of the use of low yield or poor quality  
4 groundwater, the use of groundwater near marine surface water  
5 bodies, the current and projected use of the affected  
6 groundwater in the vicinity of the site, or the use of  
7 groundwater in the immediate vicinity of the contaminated  
8 area, where it has been demonstrated that the groundwater  
9 contamination is not migrating away from such localized  
10 source, provided human health, public safety, and the  
11 environment are protected.

12 (h) Provide for the department to issue a "no further  
13 action order," with conditions where appropriate, when  
14 alternative cleanup target levels established pursuant to  
15 subparagraph (g)3. have been achieved, or when the person  
16 responsible for site rehabilitation can demonstrate that the  
17 cleanup target level is unachievable within available  
18 technologies. Prior to issuing such an order, the department  
19 shall consider the feasibility of an alternative site  
20 rehabilitation technology in the area.

21 (i) Establish appropriate cleanup target levels for  
22 soils.

23 1. In establishing soil cleanup target levels for  
24 human exposure to each contaminant found in soils from the  
25 land surface to 2 feet below land surface, the department  
26 shall consider the following, as appropriate: calculations  
27 using a lifetime cancer risk level of 1.0E-6; a hazard index  
28 of 1 or less; the best achievable detection limit; or the  
29 naturally occurring background concentration. Institutional  
30 controls or other methods shall be used to prevent human  
31 exposure to contaminated soils more than 2 feet below the land

1 surface. Any removal of such institutional controls shall  
2 require such contaminated soils to be remediated.

3 2. Leachability-based soil target levels shall be  
4 based on protection of the groundwater cleanup target levels  
5 or the alternate cleanup target levels for groundwater  
6 established pursuant to this paragraph, as appropriate. Source  
7 removal and other cost-effective alternatives that are  
8 technologically feasible shall be considered in achieving the  
9 leachability soil target levels established by the department.

10 The leachability goals shall not be applicable if the  
11 department determines, based upon individual site  
12 characteristics, that contaminants will not leach into the  
13 groundwater at levels which pose a threat to human health,  
14 public safety, and the environment.

15 3. The department may set alternative cleanup target  
16 levels based upon the person responsible for site  
17 rehabilitation using site-specific modeling and risk  
18 assessment studies, that human health, public safety, and the  
19 environment are protected.

20  
21 The department shall require source removal, if warranted and  
22 cost-effective. Once source removal at a site is complete,  
23 the department shall reevaluate the site to determine the  
24 degree of active cleanup needed to continue. Further, the  
25 department shall determine if the reevaluated site qualifies  
26 for monitoring only or if no further action is required to  
27 rehabilitate the site. If additional site rehabilitation is  
28 necessary to reach "no further action" status, the department  
29 is encouraged to utilize natural attenuation and monitoring  
30 where site conditions warrant.

31

1           (5) DISPOSAL OR REUSE.--The cleanup criteria  
2 established pursuant to subsection (4) do not constitute  
3 disposal or reuse criteria. Offsite disposal or relocation  
4 must be in accordance with all applicable federal, state, and  
5 local regulations.~~that drycleaning facility restoration funds~~  
6 ~~in the Water Quality Assurance Trust Fund be used to fund the~~  
7 ~~rehabilitation of sites that pose a significant threat to the~~  
8 ~~public health, safety, or welfare.~~

9           ~~(a) The department shall adopt rules to establish~~  
10 ~~priorities for state-conducted rehabilitation at contaminated~~  
11 ~~drycleaning facility or wholesale supply facility sites based~~  
12 ~~upon factors that include, but need not be limited to:~~

13           1. ~~The degree to which human health, safety, or~~  
14 ~~welfare may be affected by exposure to the contamination.~~

15           2. ~~The size of the population or area affected by the~~  
16 ~~contamination.~~

17           3. ~~The present and future uses of the affected aquifer~~  
18 ~~or surface waters, with particular consideration as to the~~  
19 ~~probability that the contamination is substantially affecting,~~  
20 ~~or will migrate to and substantially affect, a known public or~~  
21 ~~private source of potable water.~~

22           4. ~~The effect of the contamination on the environment.~~

23  
24 ~~Drycleaning facility restoration funds shall then be obligated~~  
25 ~~for activities described in paragraph (2)(b) at individual~~  
26 ~~sites in accordance with the criteria established in this~~  
27 ~~subsection. However, nothing in this paragraph shall be~~  
28 ~~construed to restrict the department from modifying the~~  
29 ~~priority status of a drycleaning facility or wholesale supply~~  
30 ~~facility rehabilitation site where conditions warrant.~~

31

1           ~~(b) Criteria for determining completion of site~~  
2 ~~rehabilitation program tasks and site rehabilitation programs~~  
3 ~~shall be based upon the factors set forth in paragraph (a) and~~  
4 ~~the following additional factors:~~

5           ~~1. Individual site characteristics, including natural~~  
6 ~~rehabilitation processes.~~

7           ~~2. Applicable state water quality standards.~~

8           ~~3. Whether deviation from state water quality~~  
9 ~~standards or from established criteria is appropriate, based~~  
10 ~~upon the degree to which the desired rehabilitation level is~~  
11 ~~achievable and can be reasonably and cost-effectively~~  
12 ~~implemented within available technologies or control~~  
13 ~~strategies; except that, where a state water quality standard~~  
14 ~~is applicable, such deviation may not result in the~~  
15 ~~application of standards more stringent than said standard.~~

16           (6) INTENT; APPLICATION.--

17           (a)~~(c)~~ It is recognized that restoration of  
18 groundwater resources contaminated with certain drycleaning  
19 solvents, such as perchloroethylene, may not be achievable  
20 using currently available technology. In situations where the  
21 use of available technology is not anticipated to achieve  
22 water quality standards, the department, at its discretion,  
23 may use innovative technology that has been field-tested  
24 ~~through a federal innovative technology program and that has~~  
25 engineering and cost data available.

26           (b)~~(d)~~ Nothing in this subsection shall be construed  
27 to restrict the department from temporarily postponing  
28 completion of any site rehabilitation program for which  
29 drycleaning facility restoration funds are being expended  
30 whenever such postponement is deemed necessary in order to  
31 make funds available for rehabilitation of a drycleaning

1 facility or wholesale supply facility contamination site with  
2 a higher priority status.

3 (c)~~(e)~~ The department shall provide the rehabilitation  
4 of eligible drycleaning facilities and wholesale supply  
5 facilities consistent with this subsection. Nothing in this  
6 chapter shall subject the department to liability for any  
7 action that may be required of the owner, operator, or real  
8 property owner by any private party or any local, state, or  
9 federal government entity.

10 (6)~~(5)~~ SCORING SYSTEM.--The department shall use the  
11 following scoring system to rank and prioritize sites for  
12 rehabilitation that have been determined to be eligible for  
13 the program pursuant to subsection (3). If the application  
14 package documents that a site has one of the following  
15 characteristics, then the site shall be allocated the  
16 corresponding number of points.

17 (a) Any site having a condition that exhibits a fire  
18 or explosion hazard shall be of highest priority.

19 (b) Threat to drinking water supply wells.

20 1. Capacity:

21 a. A site shall be awarded points based on the  
22 permitted capacity of the largest uncontaminated public water  
23 supply well or the capacity of the largest uncontaminated  
24 private drinking water well constructed prior to the date of  
25 contamination discovery that is located within 1 mile of the  
26 site. If multiple uncontaminated wells of the same capacity  
27 are present within 1 mile, then select the uncontaminated well  
28 closest to the site. Points shall be awarded as follows:

29 For uncontaminated wells (only one shall apply):

30

31 Capacity (gallons per day) Points

1	greater than 1,000,000	90
2	100,000 to 1,000,000	60
3	less than 100,000	30

4  
 5           b. If no points were awarded from sub-subparagraph a.,  
 6 and contaminated wells are present, then the site shall be  
 7 awarded points based on the permitted capacity of the largest  
 8 contaminated public water supply well or the capacity of the  
 9 largest contaminated private drinking water well constructed  
 10 prior to the date of contamination discovery that is located  
 11 within 1 mile of the site. If multiple contaminated wells of  
 12 the same capacity are present within 1 mile, then select the  
 13 contaminated well closest to the site. Points shall be  
 14 awarded as follows:

15           For contaminated wells (only one shall apply):

16		
17	Capacity (gallons per day)	Points
18	greater than 1,000,000	25
19	100,000 to 1,000,000	15
20	less than 100,000	5

21  
 22           2. A site shall be awarded points based on the  
 23 proximity of the public water supply well or private well  
 24 selected in subparagraph 1. as follows. If the well selected  
 25 is an uncontaminated well, then select only one from  
 26 sub-subparagraph a. below. If the well selected is a  
 27 contaminated well, then select only one from sub-subparagraph  
 28 b. below:

29           a. For uncontaminated wells:

30		
31	Distance	Points

1	within 500 feet	40
2	within 1/4 mile	30
3	within 1/2 mile	20
4	within 1 mile	10

5

6 b. For contaminated wells:

7

8	Distance	Points
9	within 500 feet	15
10	within 1/4 mile	10
11	within 1/2 mile	8
12	within 1 mile	5

13

14 (c) A site shall be awarded points based on  
 15 groundwater vulnerability to contamination using the  
 16 department's current DRASTIC Index (only one shall apply):

17

18	DRASTIC Index	Points
19	79 and below	3
20	80 to 99	6
21	100 to 119	9
22	120 to 139	12
23	140 to 159	15
24	160 to 179	18
25	180 to 199	21
26	200 to 266	24

27

28 (d) Aquifer Classification (select all that apply):

29 1. A site located in a G-I or F-I aquifer area shall  
 30 be awarded 3 points.

31

1           2. A site located in a G-II aquifer area shall be  
2 awarded 2 points.

3           3. A site located in a United States Environmental  
4 Protection Agency designated sole source aquifer area shall be  
5 awarded 1 point.

6           (e) Conditions favoring a continual source (only one  
7 shall apply):

8           1. If a site has chlorinated drycleaning solvents in  
9 the soil at concentrations greater than or equal to 1  
10 milligram per kilogram or in the groundwater at concentrations  
11 greater than or equal to 1,500 micrograms per liter, then the  
12 site shall be awarded 7 points.

13           2. If the site has chlorinated drycleaning solvents in  
14 the soil at concentrations less than 1 milligram per kilogram  
15 or in the groundwater at concentrations less than 1,500  
16 micrograms per liter, then the site shall be awarded 2 points.

17           (f) Environmental Setting (select all that apply):

18           1. A site located within 1/2 mile of an  
19 uncontaminated surface water body used as a permitted public  
20 water system shall be awarded 10 points.

21           2. A site located within 1/2 mile of an Outstanding  
22 Florida Water body shall be awarded 2 points.

23           3. A site located within 1/4 mile of a surface water  
24 body shall be awarded 1 point.

25           4. A site located within 1/4 mile of an area of  
26 critical state concern as defined in chapter 380 shall be  
27 awarded 2 points.

28           (7)~~(6)~~ SCORING SYSTEM APPLICATION.--

29           (a) If the department determines that a site is  
30 eligible for the program, pursuant to this section, then the  
31



1 department shall develop a score for the site in accordance  
2 with provisions of subsection (5).

3 (b) A priority list of eligible sites shall be  
4 developed, by the department, based on an ordering of scored  
5 sites such that the highest-scored sites shall be of highest  
6 priority for rehabilitation.

7 (c) Scored sites shall be incorporated into the  
8 priority list on a quarterly basis with the ranking of all  
9 sites previously on the list being adjusted accordingly.

10 (d) Assignments for program tasks to be conducted by  
11 state contractors shall be made according to the current  
12 priority list and shall be based on the department  
13 determination of contractor logistics, geographical  
14 considerations, and other criteria the department determines  
15 are necessary to achieve cost-effective site rehabilitation.

16 (e) Assignments for the program tasks shall be made  
17 beginning with the highest-ranked sites on the priority list  
18 at the effective date the assignment is made and proceed  
19 through lower-ranked sites.

20 (f) All scored sites will be added to the priority  
21 list on a quarterly basis until all the sites have been  
22 assigned.

23 (g) Once an assignment is made, a subsequent quarterly  
24 adjustment to the priority list shall not alter that  
25 assignment unless a more cost-effective approach can be  
26 achieved by reassignment, a compelling public health condition  
27 or an environmental condition warrants a reassignment, or the  
28 reassignment is otherwise in the public interest.

29 (h) Regardless of the score of a site, the department  
30 may initiate emergency action for those sites that, in the  
31 judgment of the department, are a threat to human health and

1 safety, or where failure to prevent migration of drycleaning  
2 solvents would cause irreversible damage to the environment.

3 (8)~~(7)~~ REQUIREMENT FOR DRYCLEANING FACILITIES.--It is  
4 the intent of the Legislature that the following drycleaning  
5 solvent containment shall be required of the owners or  
6 operators of drycleaning facilities, as follows:

7 (a) Owners or operators of drycleaning facilities  
8 shall by January 1, 1997, install dikes or other containment  
9 structures around each machine or item of equipment in which  
10 drycleaning solvents are used and around any area in which  
11 solvents or waste-containing solvents are stored. Such dikes  
12 or containment structures shall be capable of containing 110  
13 percent of the capacity of each such machine and each such  
14 storage area. To the extent practicable, each owner or  
15 operator of a drycleaning facility shall seal or otherwise  
16 render impervious those portions of all dikes' floor surfaces  
17 upon which any drycleaning solvents may leak, spill, or  
18 otherwise be released.

19 (b) For drycleaning facilities that commence operating  
20 subsequent to January 1, 1996, the owners or operators of such  
21 facilities shall, prior to the commencement of operations,  
22 install beneath each machine or item of equipment in which  
23 drycleaning solvents are used a rigid and impermeable  
24 containment vessel capable of containing 110 percent of the  
25 total tank capacity of each machine.

26 (c) Notwithstanding the provisions of subsection (3),  
27 the owner or operator of a drycleaning facility or wholesale  
28 supply facility at which there is a spill of more than 1 quart  
29 of drycleaning solvent outside of a containment structure, on  
30 or after July 1, 1995, shall report the spill to the state  
31 through the State Warning Point pursuant to s. 403.161(1)(d)

1 immediately upon the discovery of such spill, and immediately  
2 initiate and complete actions to abate the source of the  
3 spill, remove product from all indoor and outdoor surface  
4 areas, remove product and dissolved product from any septic  
5 tank or catch basin in which the solvent has accumulated, and  
6 remove affected soils, if any. ~~Costs incurred by an owner or  
7 operator for such response actions, up to a maximum of \$10,000  
8 in the aggregate for all spills at a single facility, shall be  
9 credited to the owner or operator against the future gross  
10 receipts tax set forth in s. 376.70 and, in the case of a  
11 wholesale supply facility, against the future tax on  
12 production or importation of perchloroethylene, as set forth  
13 in s. 376.75.~~

14 (d) Failure to comply with the requirements of this  
15 subsection shall constitute gross negligence with regard to  
16 determining site eligibility in subsection (3).

17 ~~(9)(8)~~ INSURANCE REQUIREMENTS.--The owner or operator  
18 of an operating drycleaning facility or wholesale supply  
19 facility shall, by January 1, 1999 ~~180 days after October 1,~~  
20 ~~1995~~, have purchased third-party liability insurance for \$1  
21 million of coverage for each operating facility. The owner or  
22 operator shall maintain such insurance while operating as a  
23 drycleaning facility or wholesale supply facility and provide  
24 proof of such insurance to the department upon registration  
25 renewal each year thereafter. Such requirement applies only if  
26 such insurance becomes available to the owner or operator at a  
27 reasonable rate and covers liability for contamination  
28 subsequent to the effective date of the policy and prior to  
29 the effective date, retroactive to the commencement of  
30 operations at the drycleaning facility or wholesale supply  
31 facility. Such insurance may be offered in group coverage

1 policies with a minimum coverage of \$1 million for each member  
2 of the group per year that occurred both before and after the  
3 effective date of the policy. For the purposes of this  
4 subsection, reasonable rate means the rate developed based on  
5 exposure to loss and underwriting and administrative costs as  
6 determined by the Department of Insurance, in consultation  
7 with representatives of the drycleaning industry. ~~Failure to~~  
8 ~~comply with this subsection shall subject the owner and~~  
9 ~~operator to the provisions of s. 376.302.~~

10 (10)(9) VOLUNTARY CLEANUP.--A real property owner is  
11 authorized to conduct site rehabilitation activities at any  
12 time pursuant to department rules, either through agents of  
13 the real property owner or through responsible response action  
14 contractors or subcontractors, whether or not the facility has  
15 been determined by the department to be eligible for the  
16 drycleaning solvent cleanup program. A real property owner or  
17 any other person party that conducts site rehabilitation may  
18 not seek cost recovery from the department or the Water  
19 Quality Assurance Trust Fund for any such rehabilitation  
20 activities. A real property owner that voluntarily conducts  
21 such site rehabilitation, whether commenced before or on or  
22 after October 1, 1995, shall be immune from liability to any  
23 person, state or local government, or agency thereof to compel  
24 or enjoin site rehabilitation or pay for the cost of  
25 rehabilitation of environmental contamination, or to pay any  
26 fines or penalties regarding rehabilitation, as soon so long  
27 as the real property owner:

28 (a) Conducts contamination assessment and site  
29 rehabilitation consistent with state and federal laws and  
30 rules;

31

1 (b) Conducts such site rehabilitation in a timely  
2 manner according to a rehabilitation schedule approved by the  
3 department; and

4 (c) Does not deny the department access to the site.  
5 Upon completion of such site rehabilitation activities in  
6 accordance with the requirements of this subsection, the  
7 department shall render a site rehabilitation completion  
8 order.

9  
10 This immunity shall continue to apply to any real property  
11 owner who transfers, conveys, leases, or sells property on  
12 which a drycleaning facility is located so long as the  
13 voluntary cleanup activities continue.

14 (11) REOPENERS.--Upon completion of site  
15 rehabilitation in compliance with subsection (10), additional  
16 site rehabilitation is not required unless it is demonstrated:

17 (a) That fraud was committed in demonstrating site  
18 conditions or completion of site rehabilitation;

19 (b) That new information confirms the existence of an  
20 area of previously unknown contamination which exceeds the  
21 site-specific rehabilitation levels established in accordance  
22 with s. 376.3078(4), or which otherwise poses the threat of  
23 real and substantial harm to public health, safety, or the  
24 environment;

25 (c) That the remediation efforts failed to achieve the  
26 site rehabilitation criteria established under this section;

27 (d) That the level of risk is increased beyond the  
28 acceptable risk established under s. 376.3078(4) due to  
29 substantial changes in exposure conditions, such as a change  
30 in land use from nonresidential to residential use. Any person  
31 who changes the land use of the site thus causing the level of

1 risk to increase beyond the acceptable risk level may be  
2 required by the department to undertake additional remediation  
3 measures to assure that human health, public safety, and the  
4 environment are protected consistent with this section; or

5 (e) That a new discharge occurs at the drycleaning  
6 site subsequent to a determination of eligibility for  
7 participation in the drycleaning program established under  
8 this section.

9 (12)~~(10)~~ DEPARTMENTAL DUTY TO SEEK RECOVERY AND  
10 REIMBURSEMENT.--

11 (a) Except as provided in subsection (3) and as  
12 otherwise provided by law, the department shall recover from  
13 any person causing or having caused the discharge of  
14 drycleaning solvents in relation to the operation of a  
15 drycleaning facility or wholesale supply facility, jointly and  
16 severally, all sums owed or expended from drycleaning facility  
17 restoration funds, pursuant to s. 376.308, except that the  
18 department may decline to pursue such recovery if it finds the  
19 amount involved to be too small or the likelihood of recovery  
20 too uncertain.

21 (b) Except as provided in subsection (3) and as  
22 otherwise provided by law, it is the duty of the department in  
23 administering the drycleaning facility restoration funds to  
24 diligently pursue the reimbursement to the Water Quality  
25 Assurance Trust Fund of any sum expended from the fund for  
26 rehabilitation in accordance with the provisions of this  
27 section, unless the department finds the amount involved to be  
28 too small or the likelihood of recovery too uncertain. For  
29 the purposes of s. 95.11, the limitation period within which  
30 to institute an action to recover such sums shall commence on  
31

1 the last date on which any such sums were expended, and not  
2 the date that the discharge occurred.

3 (c) The Legislature recognizes its limitations in  
4 addressing cleanup liability under federal pollution control  
5 programs. In an effort to secure federal liability protection  
6 for persons willing to undertake remediation responsibility at  
7 a drycleaning site, the department shall attempt to negotiate  
8 a memorandum of agreement or similar document with the United  
9 States Environmental Protection Agency, whereby the United  
10 States Environmental Protection Agency agrees to forego  
11 enforcement of federal corrective action authority at  
12 drycleaning sites that have received a site rehabilitation  
13 completion or "no further action" determination from the  
14 department or that are in the process of implementing a  
15 voluntary cleanup agreement in accordance with this section.

16 Section 11. Subsection (6) of section 376.308, Florida  
17 Statutes, is amended to read:

18 376.308 Liabilities and defenses of facilities.--

19 (6) Nothing herein shall be construed to affect  
20 cleanup program eligibility under ss. 376.305(6), 376.3071,  
21 376.3072, 376.3078, and 376.3079. Except as otherwise  
22 expressly provided in this chapter, nothing in this chapter  
23 shall affect, void, or defeat any immunity of any real  
24 property under s. 376.3078.

25 Section 12. Paragraph (a) of subsection (5) of section  
26 376.313, Florida Statutes, is amended to read:

27 376.313 Nonexclusiveness of remedies and individual  
28 cause of action for damages under ss. 376.30-376.319.--

29 (5)(a) In any civil action against the owner or  
30 operator of a drycleaning facility or a wholesale supply  
31 facility, or the owner of the real property on which such

1 facility is located, if such facility is not eligible under s.  
2 376.3078(3)~~s. 376.3978(3)~~, for damages arising from the  
3 discharge of drycleaning solvents from a drycleaning facility  
4 or wholesale supply facility, the provisions of subsection (3)  
5 shall not apply if it can be proven that, at the time of the  
6 discharge the alleged damages resulted solely from a discharge  
7 from a drycleaning facility or wholesale supply facility that  
8 was in compliance with department rules regulating drycleaning  
9 facilities or wholesale supply facilities.

10 Section 13. Section 376.70, Florida Statutes, is  
11 amended to read:

12 376.70 Tax on gross receipts of drycleaning  
13 facilities.--

14 (1) There is levied a gross receipts tax on each  
15 drycleaning facility and dry drop-off facility, as defined in  
16 s. 376.301, for the privilege of engaging in the business of  
17 laundering and drycleaning clothing and other fabrics in this  
18 state. The tax shall be at a rate of 2 ~~1.5~~ percent of all  
19 charges imposed by the drycleaning facility or the dry  
20 drop-off facility for the drycleaning or laundering of  
21 clothing or other fabrics. ~~Beginning January 1, 1996, the tax~~  
22 ~~rate shall be 2 percent of such charges.~~ Gross receipts from  
23 coin-operated laundry machines and from laundry done on a  
24 wash, dry, and fold basis shall not be subject to tax.

25 (2) Each drycleaning facility or dry drop-off facility  
26 imposing a charge for the drycleaning or laundering of  
27 clothing or other fabrics is required to register with the  
28 Department of Revenue and become licensed for the purposes of  
29 this section. The owner or operator of the facility shall  
30 register the facility with the Department of Revenue.  
31 Drycleaning facilities or dry drop-off facilities operating at



1 more than one location are only required to have a single  
2 registration. The fee for registration is \$30. The owner or  
3 operator of the facility shall pay the registration fee to the  
4 Department of Revenue.

5 (3) The tax imposed by this section is due on the 1st  
6 day of the month succeeding the month in which the charge is  
7 imposed and shall be paid on or before the 20th day of each  
8 month. The tax shall be reported on forms and in the manner  
9 prescribed by the Department of Revenue by rule. The proceeds  
10 of the taxes, after deducting the administrative costs  
11 incurred by the Department of Revenue in administering,  
12 auditing, collecting, distributing, and enforcing the tax,  
13 shall be transferred by the Department of Revenue into the  
14 Water Quality Assurance Trust Fund and shall be used as  
15 provided in s. 376.3078. For the purposes of this section,  
16 the proceeds of the tax include all funds collected and  
17 received by the Department of Revenue, including interest and  
18 penalties on delinquent taxes.

19 (4) Any drycleaning facility which includes in the  
20 total retail charge to a consumer of drycleaning services any  
21 portion of the tax imposed pursuant to this section shall  
22 disclose on the receipt for the amount charged for such  
23 services the amount of such tax and a statement that the  
24 imposition of the tax was requested by the Florida Dry  
25 Cleaners Coalition.

26 (5) Gross receipts arising from charges for services  
27 taxable pursuant to this section to persons who also impose  
28 charges to others for those same services are exempt from the  
29 tax imposed pursuant to this section.

30 ~~(6)~~(5)(a) The Department of Revenue shall administer,  
31 collect, and enforce the tax imposed under this section

1 pursuant to the procedures for administration, collection, and  
2 enforcement of the general state sales tax imposed under  
3 chapter 212, except as provided in this subsection. Such  
4 procedures include, but are not limited to, those regarding  
5 the filing of consolidated returns, the granting of sale for  
6 resale exemptions, and the interest and penalties on  
7 delinquent taxes. The tax shall not be included in the  
8 computation of estimated taxes pursuant to s. 212.11, nor  
9 shall the dealer's credit for collecting taxes or fees in s.  
10 212.12 apply. The provisions of s. 212.07(4) shall not apply  
11 to the tax imposed by this section.

12 (b) The Department of Revenue, ~~under the applicable~~  
13 ~~rules of the Public Employees Relations Commission,~~ is  
14 authorized to employ persons and incur other expenses for  
15 which funds are appropriated by the Legislature. The  
16 Department of Revenue is empowered to adopt such rules and  
17 shall prescribe and publish such forms as may be necessary to  
18 effectuate the purposes of this section.

19 (c) The Department of Revenue is authorized to  
20 establish audit procedures and to assess delinquent taxes.

21 (7) The department shall not deny eligibility in the  
22 drycleaning solvent cleanup program because of the facility  
23 owner's, the facility operator's and the real property owner's  
24 failure to remit all taxes due pursuant to ss. 376.70 and  
25 376.75, unless the Department of Revenue:

26 (a) Ascertains the amount of the delinquent tax, if  
27 any, and communicates this amount in writing to the  
28 drycleaning solvent cleanup program applicant and the real  
29 property owner; and  
30  
31

1           (b) Provides a method to the facility owner, the  
2 facility operator, and the real property owner for the payment  
3 of the taxes.

4  
5 Pursuant to subsection (7), the owner or operator of a  
6 drycleaning facility must demonstrate to the satisfaction of  
7 the Department of Revenue that failure to remit all taxes due  
8 in a timely manner was not due to willful and overt actions to  
9 avoid payment of taxes.

10           ~~(8)(6)~~ The Legislature declares that the failure to  
11 promptly implement the provisions of this section would  
12 present an immediate threat to the welfare of the state.  
13 Therefore, the executive director of the Department of Revenue  
14 is authorized to adopt emergency rules pursuant to s.  
15 120.54(4) to implement this section. Notwithstanding any other  
16 provision of law, such emergency rules shall remain effective  
17 for 180 days from the date of adoption. Other rules of the  
18 Department of Revenue related to and in furtherance of the  
19 orderly implementation of this section shall not be subject to  
20 a s. 120.56(2) rule challenge or a s. 120.54(3)(c)2. drawout  
21 proceeding, but, once adopted, shall be subject to a s.  
22 120.56(3) invalidity challenge. Such rules shall be adopted by  
23 the Governor and Cabinet and shall become effective upon  
24 filing with the Department of State, notwithstanding the  
25 provisions of s. 120.54(3)(e)6.

26           Section 14. Subsections (1) and (12) of section  
27 376.75, Florida Statutes, are amended to read:

28           376.75 Tax on production or importation of  
29 perchloroethylene.--

30           (1) Beginning October 1, 1994, a tax of \$5 per gallon  
31 is levied on the sale of perchloroethylene

1 (tetrachloroethylene) in this state to a drycleaning facility  
2 located in this state or the import of perchloroethylene into  
3 this state by a drycleaning facility. This tax is not subject  
4 to sales and use tax pursuant to ch. 212.

5 (12) Any drycleaning facility which includes in the  
6 total retail charge to a consumer of drycleaning services any  
7 portion of the tax imposed pursuant to this section shall  
8 disclose on the receipt for the amount charged for such  
9 services the amount of such tax and a statement that the  
10 imposition of the tax was requested by the Florida Dry  
11 Cleaners Coalition.

12 Section 15. Paragraph (a) of subsection (1) of section  
13 287.0595, Florida Statutes, is amended to read:

14 287.0595 Pollution response action contracts;  
15 department rules.--

16 (1) The Department of Environmental Protection shall  
17 establish, through the promulgation of administrative rules as  
18 provided in chapter 120:

19 (a) Procedures for determining the qualifications of  
20 responsible potential bidders prior to advertisement for and  
21 receipt of bids for pollution response action contracts,  
22 including procedures for the rejection of unqualified bidders.  
23 Response actions are those activities described in s.  
24 376.301(35)~~s. 376.301(33)~~.

25 Section 16. Paragraph (f) of subsection (2) of section  
26 316.302, Florida Statutes, is amended to read:

27 316.302 Commercial motor vehicles; safety regulations;  
28 transporters and shippers of hazardous materials;  
29 enforcement.--

30 (2)

31

1 (f) A person who operates a commercial motor vehicle  
2 having a declared gross vehicle weight of less than 26,000  
3 pounds solely in intrastate commerce and who is not  
4 transporting hazardous materials, or who is transporting  
5 petroleum products as defined in s. 376.301(29)~~s.~~  
6 ~~376.301(27)~~, is exempt from subsection (1). However, such  
7 person must comply with 49 C.F.R. parts 382, 392, 393, and 49  
8 C.F.R. s. 396.9.

9 Section 17. Paragraph (o) is added to subsection (7)  
10 of section 213.053, Florida Statutes, to read:

11 213.053 Confidentiality and information sharing.--

12 (7) Notwithstanding any other provision of this  
13 section, the department may provide:

14 (o) Information relative to ss. 376.70 and 376.75 to  
15 the Department of Environmental Protection in the conduct of  
16 its official business and to the facility owner, facility  
17 operator, and real property owners as defined in s. 376.301.

18 Section 18. This act shall take effect July 1, 1998.  
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