

By the Committee on Environmental Protection and
Representatives Putnam, Dockery and Burroughs

1 A bill to be entitled
2 An act relating to drycleaning solvent cleanup;
3 amending s. 376.30, F.S.; providing legislative
4 intent regarding drycleaning solvents; amending
5 s. 376.301, F.S.; providing definitions;
6 amending s. 376.303, F.S.; providing for late
7 fees for registration renewals; amending s.
8 376.3078, F.S.; providing legislative intent
9 regarding voluntary cleanup; providing that
10 certain deductibles must be deposited into the
11 Water Quality Assurance Trust Fund; clarifying
12 circumstances under which drycleaning
13 restoration fund may not be used; providing
14 additional criteria for determining eligibility
15 for rehabilitation; specifying when certain
16 deductibles must be paid; amending the date
17 after which no restoration funds may be used
18 for drycleaning site rehabilitation; clarifying
19 who may apply jointly for participation in the
20 program; providing certain liability immunity
21 for certain adjacent landowners; providing for
22 contamination cleanup criteria that incorporate
23 risk-based corrective action principles to be
24 adopted by rule; requiring certain third-party
25 liability insurance coverage for each operating
26 facility; specifying the circumstances under
27 which work may proceed on the next site
28 rehabilitation task without prior approval;
29 requiring the Department of Environmental
30 Protection to give priority consideration to
31 the processing and approval of permits for

1 voluntary cleanup projects; providing the
2 conditions under which further rehabilitation
3 may be required; providing for continuing
4 application of certain immunity for real
5 property owners; requiring the Department of
6 Environmental Protection to attempt to
7 negotiate certain agreements with the U.S.
8 Environmental Protection Agency; amending s.
9 376.308, F.S.; protecting certain immunity for
10 real property owners; amending s. 376.313,
11 F.S.; correcting a statutory cross reference;
12 amending s. 376.70, F.S.; clarifying certain
13 registration provisions; requiring dry drop-off
14 facilities to pay the gross receipts tax;
15 providing for the payment of taxes and the
16 determination of eligibility in the program;
17 amending ss. 287.0595 and 316.302, F.S.;
18 correcting statutory cross references; amending
19 s. 213.053, F.S.; authorizing the Department of
20 Revenue to release certain information to
21 certain persons; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (2) of section 376.30, Florida
26 Statutes, is amended to read:

27 376.30 Legislative intent with respect to pollution of
28 surface and ground waters.--

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

30 (a) The storage, transportation, and disposal of
31 pollutants, drycleaning solvents, and hazardous substances

1 within the jurisdiction of the state and state waters is a
2 hazardous undertaking;

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

10 (c) Such hazards have occurred in the past, are
11 occurring now, and present future threats of potentially
12 catastrophic proportions, all of which are expressly declared
13 to be inimical to the paramount interests of the state as set
14 forth in this section; and

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

19 Section 2. Section 376.301, Florida Statutes, is
20 amended to read:

21 376.301 Definitions of terms used in ss.

22 376.30-376.319, 376.70, and 376.75.--When used in ss.

23 376.30-376.319, 376.70, and 376.75, unless the context clearly
24 requires otherwise, the term:

25 (1) "Aboveground hazardous substance tank" means any
26 stationary aboveground storage tank and onsite integral piping
27 that contains hazardous substances which are liquid at
28 standard temperature and pressure and has an individual
29 storage capacity greater than 110 gallons.

30 (2) "Additive effects" means a scientific principle
31 that theory under which the toxicity that occurs as a result

1 of exposure is the sum of the toxicities of the individual
2 chemicals to which the individual is exposed ~~of chemicals~~
3 ~~increases in linear proportion to the increase in the number~~
4 ~~of substances.~~

5 (3) "Antagonistic effects" means a scientific
6 principle that the toxicity that occurs is less than the sum
7 of the toxicities of the individual chemicals to which the
8 individual is exposed.

9 (4)~~(3)~~ "Backlog" means reimbursement obligations
10 incurred pursuant to s. 376.3071(12), prior to March 29, 1995,
11 or authorized for reimbursement under the provisions of s.
12 376.3071(12), pursuant to chapter 95-2, Laws of Florida.
13 Claims within the backlog are subject to adjustment, where
14 appropriate.

15 (5)~~(4)~~ "Barrel" means 42 U.S. gallons at 60 degrees
16 Fahrenheit.

17 (6)~~(5)~~ "Bulk product facility" means a waterfront
18 location with at least one aboveground tank with a capacity
19 greater than 30,000 gallons which is used for the storage of
20 pollutants.

21 (7)~~(6)~~ "Cattle-dipping vat" means any structure,
22 excavation, or other facility constructed by any person, or
23 the site where such structure, excavation, or other facility
24 once existed, for the purpose of treating cattle or other
25 livestock with a chemical solution pursuant to or in
26 compliance with any local, state, or federal governmental
27 program for the prevention, suppression, control, or
28 eradication of any dangerous, contagious, or infectious
29 diseases.

30 (8)~~(7)~~ "Compression vessel" means any stationary
31 container, tank, or onsite integral piping system, or

1 combination thereof, which has a capacity of greater than 110
2 gallons, that is primarily used to store pollutants or
3 hazardous substances above atmospheric pressure or at a
4 reduced temperature in order to lower the vapor pressure of
5 the contents. Manifold compression vessels that function as a
6 single vessel shall be considered as one vessel.

7 (9) "Contaminant" means any physical, chemical,
8 biological, or radiological substance present in any medium
9 which may result in adverse effects to human health or the
10 environment or which creates an adverse nuisance,
11 organoleptic, or aesthetic condition in groundwater.

12 (10) "Contaminated site" means any contiguous land,
13 sediment, surface water, or groundwater areas that contain
14 contaminants that may be harmful to human health or the
15 environment.

16 (11)~~(8)~~ "Department" means the Department of
17 Environmental Protection.

18 (12)~~(9)~~ "Discharge" includes, but is not limited to,
19 any spilling, leaking, seeping, pouring, misapplying,
20 emitting, emptying, or dumping of any pollutant which occurs
21 and which affects lands and the surface and ground waters of
22 the state not regulated by ss. 376.011-376.21.

23 (13)~~(10)~~ "Drycleaning facility" means a commercial
24 establishment that operates or has at some time in the past
25 operated for the primary purpose of drycleaning clothing and
26 other fabrics utilizing a process that involves any use of
27 drycleaning solvents. The term "drycleaning facility" includes
28 laundry facilities that use drycleaning solvents as part of
29 their cleaning process. The term does not include a facility
30 that operates or has at some time in the past operated as a
31 uniform rental company or a companies, and linen supply

1 company ~~companies~~ regardless of whether the facility operates
2 as or was previously operated as a drycleaning facility.
3 ~~(14)(11)~~ "Drycleaning solvents" means any and all
4 nonaqueous solvents used in the cleaning of clothing and other
5 fabrics and includes perchloroethylene (also known as
6 tetrachloroethylene) and petroleum-based solvents, and their
7 breakdown products. For purposes of this definition,
8 "drycleaning solvents" only includes those drycleaning
9 solvents originating from use at a drycleaning facility or by
10 a wholesale supply facility.
11 ~~(15)(12)~~ "Dry drop-off facility" means any commercial
12 retail store that receives from customers clothing and other
13 fabrics for drycleaning or laundering at an offsite
14 drycleaning facility and that does not clean the clothing or
15 fabrics at the store utilizing drycleaning solvents.
16 ~~(16)(13)~~ "Engineering controls" means modifications to
17 a site to reduce or eliminate the potential for exposure to
18 petroleum products' chemicals of concern, drycleaning
19 solvents, or other contaminants. Such modifications may
20 include, but are not limited to, physical or hydraulic control
21 measures, capping, point of use treatments, or slurry walls.
22 ~~(17)(14)~~ "Wholesale supply facility" means a
23 commercial establishment that supplies drycleaning solvents to
24 drycleaning facilities.
25 ~~(18)(15)~~ "Facility" means a nonresidential location
26 containing, or which contained, any underground stationary
27 tank or tanks which contain hazardous substances or pollutants
28 and have individual storage capacities greater than 110
29 gallons, or any aboveground stationary tank or tanks which
30 contain pollutants which are liquids at standard ambient
31 temperature and pressure and have individual storage

1 capacities greater than 550 gallons. This subsection shall not
2 apply to facilities covered by chapter 377, or containers
3 storing solid or gaseous pollutants, and agricultural tanks
4 having storage capacities of less than 550 gallons.

5 (19)~~(16)~~ "Flow-through process tank" means an
6 aboveground tank that contains hazardous substances or
7 specified mineral acids as defined in s. 376.321 and that
8 forms an integral part of a production process through which
9 there is a steady, variable, recurring, or intermittent flow
10 of materials during the operation of the process.

11 Flow-through process tanks include, but are not limited to,
12 seal tanks, vapor recovery units, surge tanks, blend tanks,
13 feed tanks, check and delay tanks, batch tanks, oil-water
14 separators, or tanks in which mechanical, physical, or
15 chemical change of a material is accomplished.

16 (20)~~(17)~~ "Hazardous substances" means those substances
17 defined as hazardous substances in the Comprehensive
18 Environmental Response, Compensation and Liability Act of
19 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the
20 Superfund Amendments and Reauthorization Act of 1986.

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

27 (22) "Laundering on a wash, dry, and fold basis" means
28 the service provided by the owner or operator of a
29 coin-operated laundry to its customers whereby an employee of
30 the laundry washes, dries, and folds laundry for its
31 customers.

1 ~~(23)(19)~~ "Marine fueling facility" means a commercial
2 or recreational coastal facility, excluding a bulk product
3 facility, providing fuel to vessels.

4 ~~(24)(20)~~ "Natural attenuation" means an approach to
5 site rehabilitation that allows natural processes to contain
6 the spread of contamination and reduce the concentrations of
7 contaminants in contaminated groundwater and soil. Natural
8 attenuation processes may include the following: sorption,
9 biodegradation, chemical reactions with subsurface materials,
10 diffusion, dispersion, and volatilization.~~the verifiable~~
11 ~~reduction of petroleum products' chemicals of concern through~~
12 ~~natural processes which may include diffusion, dispersion,~~
13 ~~absorption, and biodegradation.~~

14 ~~(25)(21)~~ "Operator" means any person operating a
15 facility, whether by lease, contract, or other form of
16 agreement.

17 ~~(26)(22)~~ "Owner" means any person owning a facility.

18 ~~(27)(23)~~ "Person" means any individual, partner, joint
19 venture, or corporation; any group of the foregoing, organized
20 or united for a business purpose; or any governmental entity.

21 ~~(28)(24)~~ "Person in charge" means the person on the
22 scene who is in direct, responsible charge of a facility from
23 which pollutants are discharged, when the discharge occurs.

24 ~~(29)(25)~~ "Person responsible for conducting site
25 rehabilitation" means the site owner, operator, or the person
26 designated by the site owner or operator on the reimbursement
27 application. Mortgage holders and trust holders may be
28 eligible to participate in the reimbursement program pursuant
29 to s. 376.3071(12).

30 ~~(30)(26)~~ "Petroleum" includes:
31

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

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

8 (31)~~(27)~~ "Petroleum product" means any liquid fuel
9 commodity made from petroleum, including, but not limited to,
10 all forms of fuel known or sold as diesel fuel, kerosene, all
11 forms of fuel known or sold as gasoline, and fuels containing
12 a mixture of gasoline and other products, excluding liquefied
13 petroleum gas and American Society for Testing and Materials
14 (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual
15 oils, intermediate fuel oils (IFO) used for marine bunkering
16 with a viscosity of 30 and higher, asphalt oils, and
17 petrochemical feedstocks.

18 (32)~~(28)~~ "Petroleum products' chemicals of concern"
19 means the constituents of petroleum products, including, but
20 not limited to, xylene, benzene, toluene, ethylbenzene,
21 naphthalene, and similar chemicals, and constituents in
22 petroleum products, including, but not limited to, methyl
23 tert-butyl ether (MTBE), lead, and similar chemicals found in
24 additives, provided the chemicals of concern are present as a
25 result of a discharge of petroleum products.

26 (33)~~(29)~~ "Petroleum storage system" means a stationary
27 tank not covered under the provisions of chapter 377, together
28 with any onsite integral piping or dispensing system
29 associated therewith, which is used, or intended to be used,
30 for the storage or supply of any petroleum product. Petroleum
31 storage systems may also include oil/water separators, and

1 other pollution control devices installed at petroleum product
2 terminals as defined in this chapter and bulk product
3 facilities pursuant to, or required by, permits or best
4 management practices in an effort to control surface discharge
5 of pollutants. Nothing herein shall be construed to allow a
6 continuing discharge in violation of department rules.

7 (34)~~(30)~~ "Pollutants" includes any "product" as
8 defined in s. 377.19(11), pesticides, ammonia, chlorine, and
9 derivatives thereof, excluding liquefied petroleum gas.

10 (35)~~(31)~~ "Pollution" means the presence on the land or
11 in the waters of the state of pollutants in quantities which
12 are or may be potentially harmful or injurious to human health
13 or welfare, animal or plant life, or property or which may
14 unreasonably interfere with the enjoyment of life or property,
15 including outdoor recreation.

16 (36)~~(32)~~ "Real property owner" means the individual or
17 entity that is vested with ownership, dominion, or legal or
18 rightful title to the real property, or which has a ground
19 lease interest in the real property, on which a drycleaning
20 facility or wholesale supply facility is or has ever been
21 located.

22 (37)~~(33)~~ "Response action" means any activity,
23 including evaluation, planning, design, engineering,
24 construction, and ancillary services, which is carried out in
25 response to any discharge, release, or threatened release of a
26 hazardous substance, pollutant, or other contaminant from a
27 facility or site identified by the department under the
28 provisions of ss. 376.30-376.319.

29 (38)~~(34)~~ "Response action contractor" means a person
30 who is carrying out any response action, including a person
31

1 retained or hired by such person to provide services relating
2 to a response action.

3 (39)~~(35)~~ "Secretary" means the Secretary of
4 Environmental Protection.

5 (40)~~(36)~~ "Site rehabilitation" means the assessment of
6 site contamination and the remediation activities that reduce
7 the levels of contaminants at a site through accepted
8 treatment methods to meet the cleanup target levels
9 established for that site.

10 (41)~~(37)~~ "Source removal" means the removal of free
11 product, or the removal of contaminants from soil or sediment
12 that has been contaminated ~~by petroleum or petroleum products~~
13 to the extent that leaching to groundwater or surface water
14 has occurred or is occurring ~~petroleum products' chemicals of~~
15 ~~concern leach into groundwater.~~

16 (42)~~(38)~~ "Storage system" means a stationary tank not
17 covered under the provisions of chapter 377, together with any
18 onsite integral piping or dispensing system associated
19 therewith, which is or has been used for the storage or supply
20 of any petroleum product, pollutant, or hazardous substance as
21 defined herein, and which is registered with the Department of
22 Environmental Protection under this chapter or any rule
23 adopted pursuant hereto.

24 (43)~~(39)~~ "Synergistic effects" means a scientific
25 principle that the toxicity that occurs as a result of
26 exposure is more than the sum of the toxicities of the
27 individual chemicals to which the individual is exposed ~~theory~~
28 ~~under which the toxicity of chemicals exponentially increases~~
29 ~~as the number of chemicals in a combination increases.~~

30 (44)~~(40)~~ "Terminal facility" means any structure,
31 group of structures, motor vehicle, rolling stock, pipeline,

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

26 (45)~~(41)~~ "Transfer" or "transferred" includes
27 onloading, offloading, fueling, bunkering, lightering, removal
28 of waste pollutants, or other similar transfers, between
29 terminal facility and vessel or vessel and vessel.

30 Section 3. Paragraph (d) of subsection (1) of section
31 376.303, Florida Statutes, is amended to read:

1 376.303 Powers and duties of the Department of
2 Environmental Protection.--
3 (1) The department has the power and the duty to:
4 (d) Establish a registration program for drycleaning
5 facilities and wholesale supply facilities.
6 1. Owners or operators of drycleaning facilities and
7 wholesale supply facilities and real property owners ~~suppliers~~
8 shall jointly register each facility owned and in operation
9 with the department by June 30, 1995, pay initial registration
10 fees by December 31, 1995, and pay annual renewal registration
11 fees by December 31, 1996, and each year thereafter, in
12 accordance with this subsection. If the registration form
13 cannot be jointly submitted, then the applicant shall provide
14 notice of the registration to other interested parties. The
15 department shall establish reasonable requirements for the
16 registration of such facilities. The department shall use
17 reasonable efforts to identify and notify drycleaning
18 facilities and wholesale supply facilities of the registration
19 requirements by certified mail, return receipt requested. The
20 department shall provide to the Department of Revenue a copy
21 of each applicant's registration materials, within 30 working
22 days of the receipt of the materials. This copy may be in such
23 electronic format as the two agencies mutually designate.
24 2.a. The department shall issue an invoice for annual
25 registration fees to each registered drycleaning facility or
26 wholesale supply facility by December 31 of each year. Owners
27 of drycleaning facilities and wholesale supply facilities
28 shall submit to the department an initial fee of \$100 and an
29 annual renewal registration fee of \$100 for each drycleaning
30 facility or wholesale supply facility owned and in operation.
31 The fee shall be paid within 30 days after receipt of billing

1 by the department. Facilities that fail to pay their renewal
2 fee within 30 days after receipt of billing are subject to a
3 late fee of \$75.

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

7 Section 4. Section 376.3078, Florida Statutes, is
8 amended to read:

9 376.3078 Drycleaning facility restoration; funds;
10 uses; liability; recovery of expenditures.--

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

14 (a) Significant quantities of drycleaning solvents
15 have been discharged in the past at drycleaning facilities as
16 part of the normal operation of these facilities.

17 (b) Discharges of drycleaning solvents at such
18 drycleaning facilities have occurred and are occurring, and
19 pose a significant threat to the quality of the groundwaters
20 and inland surface waters of this state.

21 (c) Where contamination of the groundwater or surface
22 water has occurred, remedial measures have often been delayed
23 for long periods while determinations as to liability and the
24 extent of liability are made, and such delays result in the
25 continuation and intensification of the threat to the public
26 health, safety, and welfare; in greater damage to the
27 environment; and in significantly higher costs to contain and
28 remove the contamination.

29 (d) Adequate financial resources must be readily
30 available to provide for the expeditious supply of safe and
31 reliable alternative sources of potable water to affected

1 persons and to provide a means for investigation and
2 rehabilitation of contaminated sites without delay.

3 (e) It is the intent of the Legislature to encourage
4 real property owners to undertake the voluntary cleanup of
5 property contaminated with drycleaning solvents and that the
6 immunity provisions of this section and all other available
7 defenses be construed in favor of real property owners.

8 (2) FUNDS; USES.--

9 (a) All penalties, judgments, recoveries,
10 reimbursements, loans, and other fees and charges related to
11 the implementation of this section and the tax revenues
12 levied, collected, and credited pursuant to ss. 376.70 and
13 376.75, and ~~registration~~ fees collected pursuant to s.
14 376.303(1)(d), and deductibles collected pursuant to paragraph
15 (3)(d), shall be deposited into the Water Quality Assurance
16 Trust Fund, to be used upon appropriation as provided in this
17 section. Charges against the funds for drycleaning facility
18 or wholesale supply site rehabilitation shall be made in
19 accordance with the provisions of this section.

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

26 1. Prompt investigation and assessment of the
27 contaminated drycleaning facility or wholesale supply facility
28 sites.

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

31

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

15 4. Maintenance and monitoring of contaminated
16 drycleaning facility or wholesale supply facility sites.

17 5. Inspection and supervision of activities described
18 in this subsection.

19 6. Payment of expenses incurred by the department in
20 its efforts to obtain from responsible parties the payment or
21 recovery of reasonable costs resulting from the activities
22 described in this subsection.

23 7. Payment of any other reasonable costs of
24 administration, including those administrative costs incurred
25 by the Department of Health ~~and Rehabilitative Services~~ in
26 providing field and laboratory services, toxicological risk
27 assessment, and other assistance to the department in the
28 investigation of drinking water contamination complaints and
29 costs associated with public information and education
30 activities.

31

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

4
5 The department shall not obligate funds in excess of the
6 annual appropriation.

7 (c) Drycleaning facility restoration funds may not be
8 used to:

9 1. Restore sites that are contaminated by solvents
10 normally used in drycleaning operations where the
11 contamination at such sites did not result from the operation
12 of a drycleaning facility or wholesale supply facility.

13 2. Restore sites that are contaminated by drycleaning
14 solvents being transported to or from a drycleaning facility
15 or wholesale supply facility.

16 3. Fund any costs related to the restoration of any
17 site that has been identified to qualify for listing, or is
18 listed, on the National Priority List pursuant to the
19 Comprehensive Environmental Response, Compensation, and
20 Liability Act of 1980 as amended by the Superfund Amendments
21 and Reauthorization Act of 1986, or that is under an order
22 from the United States Environmental Protection Agency
23 pursuant to s. 3008(h) of the Resource Conservation and
24 Recovery Act as amended, or has obtained, or is required to
25 obtain a permit for the operation of a hazardous waste
26 treatment, storage, or disposal facility, a postclosure
27 permit, or a permit pursuant to the federal Hazardous and
28 Solid Waste Amendments of 1984.

29 4. Pay any costs associated with any fine, penalty, or
30 action brought against a drycleaning facility owner or
31

1 operator or wholesale supply facility or real property owner
2 under local, state, or federal law.

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

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

25 (a) With regard to drycleaning facilities or wholesale
26 supply facilities that have operated as drycleaning facilities
27 or wholesale supply facilities on or after October 1, 1994,
28 any such drycleaning facility or wholesale supply facility at
29 which there exists contamination by drycleaning solvents shall
30 be eligible under this subsection regardless of when the
31

1 drycleaning contamination was discovered, provided that the
2 drycleaning facility or the wholesale supply facility:
3 1. Has been registered with the department;
4 2. Is determined by the department to be in compliance
5 with the department's rules regulating drycleaning solvents,
6 drycleaning facilities, or wholesale supply facilities on or
7 after November 19, 1980;
8 3. Has not been operated in a grossly negligent manner
9 at any time on or after November 19, 1980;
10 4. Has not been identified to qualify for listing, nor
11 is listed, on the National Priority List pursuant to the
12 Comprehensive Environmental Response, Compensation, and
13 Liability Act of 1980 as amended by the Superfund Amendments
14 and Reauthorization Act of 1986, and as subsequently amended;
15 5. Is not under an order from the United States
16 Environmental Protection Agency pursuant to s. 3008(h) of the
17 Resource Conservation and Recovery Act as amended (42 U.S.C.A.
18 s. 6928(h)), or has not obtained and is not required to obtain
19 a permit for the operation of a hazardous waste treatment,
20 storage, or disposal facility, a postclosure permit, or a
21 permit pursuant to the federal Hazardous and Solid Waste
22 Amendments of 1984;
23
24 and provided that the real property owner or the owner or
25 operator of the drycleaning facility or the wholesale supply
26 facility has not willfully concealed the discharge of
27 drycleaning solvents and has remitted all taxes due pursuant
28 to ss. 376.70 and 376.75, has provided documented evidence of
29 contamination by drycleaning solvents as required by the rules
30 developed pursuant to this section, has reported the
31

1 contamination prior to December 31, 1998 ~~2005~~, and has not
2 denied the department access to the site.

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

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

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

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

24 4. Is not under an order from the United States
25 Environmental Protection Agency pursuant to s. 3008(h) of the
26 Resource Conservation and Recovery Act, as amended, or has not
27 obtained and is not required to obtain a permit for the
28 operation of a hazardous waste treatment, storage, or disposal
29 facility, a postclosure permit, or a permit pursuant to the
30 federal Hazardous and Solid Waste Amendments of 1984;
31

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

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

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

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

23 3. Willfully violated a local, state, or federal law
24 or rule regulating the operation of drycleaning facilities or
25 wholesale supply facilities with the knowledge, intent, and
26 purpose that the act would result in harm to the environment
27 or to public health or result in a violation of the law.~~For~~
28 ~~purposes of this subsection, the willful discharge of~~
29 ~~drycleaning solvents onto the soils or into the waters of the~~
30 ~~state after November 19, 1980, or the willful concealment of a~~
31 ~~discharge of drycleaning solvents, or a willful violation of~~

1 ~~local, state, or federal law or rule regulating the operation~~
2 ~~of drycleaning facilities or wholesale supply facilities shall~~
3 ~~be construed to be gross negligence in the operation of a~~
4 ~~drycleaning facility or wholesale supply facility.~~

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

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

23 3. For contamination reported to the department as
24 part of a completed application, as required by the rules
25 developed pursuant to this section,from October 1, 1998 ~~July~~
26 ~~1, 2001~~, through December 31, 1998 ~~2005~~, the costs shall be
27 absorbed at the expense of the drycleaning facility
28 restoration funds, less a \$10,000 deductible per incident. The
29 deductible shall be paid within 60 days after receipt of
30 billing by the department.

31

1 4. For contamination reported after December 31, 1998
2 ~~2005~~, no costs will be absorbed at the expense of the
3 drycleaning facility restoration funds.

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

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

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

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

29 (i) Due to the value of Florida's potable water, it is
30 the intent of the Legislature that the department initiate and
31 facilitate as many cleanups as possible utilizing the

1 resources of the state, local governments, and the private
2 sector. The department is authorized to adopt necessary rules
3 and enter into contracts to carry out the intent of this
4 subsection and to limit or prevent future contamination from
5 the operation of drycleaning facilities and wholesale supply
6 facilities.

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

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

31

1 determined by the department's decision to approve or deny
2 eligibility.

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

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

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

25 2. If the program eligibility of a drycleaning
26 facility or wholesale supply facility is subject to
27 cancellation pursuant to this section, then the department
28 shall notify the applicant in writing of its intent to cancel
29 program eligibility and shall state the reason or reasons for
30 cancellation. The applicant shall have 45 days to resolve the
31 reason or reasons for cancellation to the satisfaction of the

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

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

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

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

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

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

25 5. The department has not been denied access.
26

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

30 (p) A person whose property becomes contaminated due
31 to geophysical or hydrologic reasons from the operation of a

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

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

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

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

17
18 The defense provided by this paragraph does not apply to any
19 liability under a federally delegated program.

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

27 (4) ~~SITE SELECTION AND REHABILITATION CRITERIA.~~--It is
28 the intent of the Legislature to protect the health of all
29 people under actual circumstances of exposure. By July 1,
30 1999, the secretary of the department shall establish criteria
31 by rule for the purpose of determining, on a site-specific

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

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

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

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

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

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

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

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

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

1 (g) Apply state water quality standards as follows:
2 1. Cleanup target levels for each contaminant found in
3 groundwater shall be the applicable state water quality
4 standards. Where such standards do not exist, the cleanup
5 target levels for groundwater shall be based on the minimum
6 criteria specified in department rule. The department shall
7 consider the following, as appropriate, in establishing the
8 applicable minimum criteria: calculations using a lifetime
9 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
10 best achievable detection limit; the naturally occurring
11 background concentration; or nuisance, organoleptic, and
12 aesthetic considerations.
13 2. Where surface waters are exposed to contaminated
14 groundwater, the cleanup target levels for the contaminants
15 shall be based on the lower of the groundwater or surface
16 water standards as established by department rule. The point
17 of measuring compliance with the surface water standards shall
18 be in the groundwater immediately adjacent to the surface
19 water body.
20 3. The department may set alternative cleanup target
21 levels based upon the person responsible for site
22 rehabilitation demonstrating, using site-specific modeling and
23 risk assessment studies, that human health, public safety, and
24 the environment are protected to the same degree as provided
25 in subparagraphs 1. and 2. Where a state water quality
26 standard is applicable, a deviation may not result in the
27 application of cleanup target levels more stringent than the
28 standard. In determining whether it is appropriate to
29 establish alternative cleanup target levels at a site, the
30 department must consider the effectiveness of source removal
31 that has been completed at the site and the practical

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

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

19 (i) Establish appropriate cleanup target levels for
20 soils.

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

1 2. Leachability-based soil target levels shall be
2 based on protection of the groundwater cleanup target levels
3 or the alternate cleanup target levels for groundwater
4 established pursuant to this paragraph, as appropriate. Source
5 removal and other cost-effective alternatives that are
6 technologically feasible shall be considered in achieving the
7 leachability soil target levels established by the department.
8 The leachability goals shall not be applicable if the
9 department determines, based upon individual site
10 characteristics, that contaminants will not leach into the
11 groundwater at levels which pose a threat to human health,
12 public safety, and the environment.

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

18
19 The department shall require source removal, if warranted and
20 cost-effective. Once source removal at a site is complete,
21 the department shall reevaluate the site to determine the
22 degree of active cleanup needed to continue. Further, the
23 department shall determine if the reevaluated site qualifies
24 for monitoring only or if no further action is required to
25 rehabilitate the site. If additional site rehabilitation is
26 necessary to reach "no further action" status, the department
27 is encouraged to utilize natural attenuation and monitoring
28 where site conditions warrant.

29 (5) DISPOSAL OR REUSE.--The cleanup criteria
30 established pursuant to subsection (4) do not constitute
31 disposal or reuse criteria. Offsite disposal or relocation

1 must be in accordance with all applicable federal, state, and
2 local rules and regulations.~~that drycleaning facility~~
3 ~~restoration funds in the Water Quality Assurance Trust Fund be~~
4 ~~used to fund the rehabilitation of sites that pose a~~
5 ~~significant threat to the public health, safety, or welfare.~~
6 ~~(a) The department shall adopt rules to establish~~
7 ~~priorities for state-conducted rehabilitation at contaminated~~
8 ~~drycleaning facility or wholesale supply facility sites based~~
9 ~~upon factors that include, but need not be limited to:~~
10 ~~1. The degree to which human health, safety, or~~
11 ~~welfare may be affected by exposure to the contamination.~~
12 ~~2. The size of the population or area affected by the~~
13 ~~contamination.~~
14 ~~3. The present and future uses of the affected aquifer~~
15 ~~or surface waters, with particular consideration as to the~~
16 ~~probability that the contamination is substantially affecting,~~
17 ~~or will migrate to and substantially affect, a known public or~~
18 ~~private source of potable water.~~
19 ~~4. The effect of the contamination on the environment.~~
20
21 ~~Drycleaning facility restoration funds shall then be obligated~~
22 ~~for activities described in paragraph (2)(b) at individual~~
23 ~~sites in accordance with the criteria established in this~~
24 ~~subsection. However, nothing in this paragraph shall be~~
25 ~~construed to restrict the department from modifying the~~
26 ~~priority status of a drycleaning facility or wholesale supply~~
27 ~~facility rehabilitation site where conditions warrant.~~
28 ~~(b) Criteria for determining completion of site~~
29 ~~rehabilitation program tasks and site rehabilitation programs~~
30 ~~shall be based upon the factors set forth in paragraph (a) and~~
31 ~~the following additional factors:~~

1 1. ~~Individual site characteristics, including natural~~
2 ~~rehabilitation processes.~~

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

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

12 (6) INTENT; APPLICATION.--

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

22 (b)~~(d)~~ Nothing in this subsection shall be construed
23 to restrict the department from temporarily postponing
24 completion of any site rehabilitation program for which
25 drycleaning facility restoration funds are being expended
26 whenever such postponement is deemed necessary in order to
27 make funds available for rehabilitation of a drycleaning
28 facility or wholesale supply facility contamination site with
29 a higher priority status.

30 (c)~~(e)~~ The department shall provide the rehabilitation
31 of eligible drycleaning facilities and wholesale supply

1 facilities consistent with this subsection. Nothing in this
2 chapter shall subject the department to liability for any
3 action that may be required of the owner, operator, or real
4 property owner by any private party or any local, state, or
5 federal government entity.

6 (7)~~(5)~~ SCORING SYSTEM.--The department shall use the
7 following scoring system to rank and prioritize sites for
8 rehabilitation that have been determined to be eligible for
9 the program pursuant to subsection (3). If the application
10 package documents that a site has one of the following
11 characteristics, then the site shall be allocated the
12 corresponding number of points.

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

15 (b) Threat to drinking water supply wells.

16 1. Capacity:

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

25 For uncontaminated wells (only one shall apply):

26

27 Capacity (gallons per day)	Points
28 greater than 1,000,000	90
29 100,000 to 1,000,000	60
30 less than 100,000	30

31

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

11 For contaminated wells (only one shall apply):

12

13 Capacity (gallons per day)	Points
14 greater than 1,000,000	25
15 100,000 to 1,000,000	15
16 less than 100,000	5

17

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

25 a. For uncontaminated wells:

26

27 Distance	Points
28 within 500 feet	40
29 within 1/4 mile	30
30 within 1/2 mile	20
31 within 1 mile	10

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b. For contaminated wells:

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

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

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

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

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

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

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

1 (e) Conditions favoring a continual source (only one
2 shall apply):

3 1. If a site has chlorinated drycleaning solvents in
4 the soil at concentrations greater than or equal to 1
5 milligram per kilogram or in the groundwater at concentrations
6 greater than or equal to 1,500 micrograms per liter, then the
7 site shall be awarded 7 points.

8 2. If the site has chlorinated drycleaning solvents in
9 the soil at concentrations less than 1 milligram per kilogram
10 or in the groundwater at concentrations less than 1,500
11 micrograms per liter, then the site shall be awarded 2 points.

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

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

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

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

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

23 (8)~~(6)~~ SCORING SYSTEM APPLICATION.--

24 (a) If the department determines that a site is
25 eligible for the program, pursuant to this section, then the
26 department shall develop a score for the site in accordance
27 with provisions of subsection (5).

28 (b) A priority list of eligible sites shall be
29 developed, by the department, based on an ordering of scored
30 sites such that the highest-scored sites shall be of highest
31 priority for rehabilitation.

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

4 (d) Assignments for program tasks to be conducted by
5 state contractors shall be made according to the current
6 priority list and shall be based on the department
7 determination of contractor logistics, geographical
8 considerations, and other criteria the department determines
9 are necessary to achieve cost-effective site rehabilitation.

10 (e) Assignments for the program tasks shall be made
11 beginning with the highest-ranked sites on the priority list
12 at the effective date the assignment is made and proceed
13 through lower-ranked sites.

14 (f) All scored sites will be added to the priority
15 list on a quarterly basis until all the sites have been
16 assigned.

17 (g) Once an assignment is made, a subsequent quarterly
18 adjustment to the priority list shall not alter that
19 assignment unless a more cost-effective approach can be
20 achieved by reassignment, a compelling public health condition
21 or an environmental condition warrants a reassignment, or the
22 reassignment is otherwise in the public interest.

23 (h) Regardless of the score of a site, the department
24 may initiate emergency action for those sites that, in the
25 judgment of the department, are a threat to human health and
26 safety, or where failure to prevent migration of drycleaning
27 solvents would cause irreversible damage to the environment.

28 (9)~~(7)~~ REQUIREMENT FOR DRYCLEANING FACILITIES.--It is
29 the intent of the Legislature that the following drycleaning
30 solvent containment shall be required of the owners or
31 operators of drycleaning facilities, as follows:

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

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

20 (c) Notwithstanding the provisions of subsection (3),
21 the owner or operator of a drycleaning facility or wholesale
22 supply facility at which there is a spill of more than 1 quart
23 of drycleaning solvent outside of a containment structure, on
24 or after July 1, 1995, shall report the spill to the state
25 through the State Warning Point pursuant to s. 403.161(1)(d)
26 immediately upon the discovery of such spill, and immediately
27 initiate and complete actions to abate the source of the
28 spill, remove product from all indoor and outdoor surface
29 areas, remove product and dissolved product from any septic
30 tank or catch basin in which the solvent has accumulated, and
31 remove affected soils, if any. Costs incurred by an owner or

1 operator for such response actions, up to a maximum of \$10,000
2 in the aggregate for all spills at a single facility, shall be
3 credited to the owner or operator against the future gross
4 receipts tax set forth in s. 376.70 and, in the case of a
5 wholesale supply facility, against the future tax on
6 production or importation of perchloroethylene, as set forth
7 in s. 376.75.

8 (d) Failure to comply with the requirements of this
9 subsection shall constitute gross negligence with regard to
10 determining site eligibility in subsection (3).

11 (10)(8) INSURANCE REQUIREMENTS.--The owner or operator
12 of an operating drycleaning facility or wholesale supply
13 facility shall, by January 1, 1999 ~~180 days after October 1,~~
14 ~~1995~~, have purchased third-party liability insurance for \$1
15 million of coverage for each operating facility. The owner or
16 operator shall maintain such insurance while operating as a
17 drycleaning facility or wholesale supply facility and provide
18 proof of such insurance to the department upon registration
19 renewal each year thereafter. Such requirement applies only if
20 such insurance becomes available to the owner or operator at a
21 reasonable rate and covers liability for contamination
22 subsequent to the effective date of the policy and prior to
23 the effective date, retroactive to the commencement of
24 operations at the drycleaning facility or wholesale supply
25 facility. Such insurance may be offered in group coverage
26 policies with a shared aggregate of not less than \$15 million
27 per year that occurred both before and after the effective
28 date of the policy. For the purposes of this subsection,
29 reasonable rate means the rate developed based on exposure to
30 loss and underwriting and administrative costs as determined
31 by the Department of Insurance, in consultation with

1 representatives of the drycleaning industry. ~~Failure to comply~~
2 ~~with this subsection shall subject the owner and operator to~~
3 ~~the provisions of s. 376.302.~~

4 (11)~~(9)~~ VOLUNTARY CLEANUP.--A real property owner is
5 authorized to conduct site rehabilitation activities at any
6 time pursuant to department rules, either through agents of
7 the real property owner or through responsible response action
8 contractors or subcontractors, whether or not the facility has
9 been determined by the department to be eligible for the
10 drycleaning solvent cleanup program. A real property owner or
11 any other person party that conducts site rehabilitation may
12 not seek cost recovery from the department or the Water
13 Quality Assurance Trust Fund for any such rehabilitation
14 activities. A real property owner that voluntarily conducts
15 such site rehabilitation, whether commenced before or on or
16 after October 1, 1995, shall be immune from liability to any
17 person, state or local government, or agency thereof to compel
18 or enjoin site rehabilitation or pay for the cost of
19 rehabilitation of environmental contamination, or to pay any
20 fines or penalties regarding rehabilitation, as soon so long
21 as the real property owner:

22 (a) Conducts contamination assessment and site
23 rehabilitation consistent with state and federal laws and
24 rules;

25 (b) Conducts such site rehabilitation in a timely
26 manner according to a rehabilitation schedule approved by the
27 department; and

28 (c) Does not deny the department access to the site.
29 Upon completion of such site rehabilitation activities in
30 accordance with the requirements of this subsection, the
31

1 department shall render a site rehabilitation completion
2 order.

3
4 This immunity shall continue to apply to any real property
5 owner who transfers, conveys, leases, or sells property on
6 which a drycleaning facility is located, so long as the
7 voluntary cleanup activities continue.

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

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

13 (b) That new information confirms the existence of an
14 area of previously unknown contamination which exceeds the
15 site-specific rehabilitation levels established in accordance
16 with subsection (4), or which otherwise poses the threat of
17 real and substantial harm to human health, public safety, or
18 the environment;

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

21 (d) That the level of risk is increased beyond the
22 acceptable risk established under subsection (4) due to
23 substantial changes in exposure conditions, such as a change
24 in land use from nonresidential to residential use. Any person
25 who changes the land use of the site thus causing the level of
26 risk to increase beyond the acceptable risk level may be
27 required by the department to undertake additional remediation
28 measures to assure that human health, public safety, and the
29 environment are protected consistent with this section; or

30 (e) That a new discharge occurs at the drycleaning
31 site subsequent to a determination of eligibility for

1 participation in the drycleaning program established under
2 this section.

3 ~~(13)(10)~~ DEPARTMENTAL DUTY TO SEEK RECOVERY AND
4 REIMBURSEMENT.--

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

15 (b) Except as provided in subsection (3) and as
16 otherwise provided by law, it is the duty of the department in
17 administering the drycleaning facility restoration funds to
18 diligently pursue the reimbursement to the Water Quality
19 Assurance Trust Fund of any sum expended from the fund for
20 rehabilitation in accordance with the provisions of this
21 section, unless the department finds the amount involved to be
22 too small or the likelihood of recovery too uncertain. For
23 the purposes of s. 95.11, the limitation period within which
24 to institute an action to recover such sums shall commence on
25 the last date on which any such sums were expended, and not
26 the date that the discharge occurred.

27 (c) The Legislature recognizes its limitations in
28 addressing cleanup liability under federal pollution control
29 programs. In an effort to secure federal liability protection
30 for persons willing to undertake remediation responsibility at
31 a drycleaning site, the department shall attempt to negotiate

1 a memorandum of agreement or similar document with the United
2 States Environmental Protection Agency, whereby the United
3 States Environmental Protection Agency agrees to forego
4 enforcement of federal corrective action authority at
5 drycleaning sites that have received a site rehabilitation
6 completion or "no further action" determination from the
7 department or that are in the process of implementing a
8 voluntary cleanup agreement in accordance with this section.

9 Section 5. Subsection (6) of section 376.308, Florida
10 Statutes, is amended to read:

11 376.308 Liabilities and defenses of facilities.--

12 (6) Nothing herein shall be construed to affect
13 cleanup program eligibility under ss. 376.305(6), 376.3071,
14 376.3072, 376.3078, and 376.3079. Except as otherwise
15 expressly provided in this chapter, nothing in this chapter
16 shall affect, void, or defeat any immunity of any real
17 property under s. 376.3078.

18 Section 6. Paragraph (a) of subsection (5) of section
19 376.313, Florida Statutes, is amended to read:

20 376.313 Nonexclusiveness of remedies and individual
21 cause of action for damages under ss. 376.30-376.319.--

22 (5)(a) In any civil action against the owner or
23 operator of a drycleaning facility or a wholesale supply
24 facility, or the owner of the real property on which such
25 facility is located, if such facility is not eligible under s.
26 376.3078(3)~~s. 376.3978(3)~~, for damages arising from the
27 discharge of drycleaning solvents from a drycleaning facility
28 or wholesale supply facility, the provisions of subsection (3)
29 shall not apply if it can be proven that, at the time of the
30 discharge the alleged damages resulted solely from a discharge
31 from a drycleaning facility or wholesale supply facility that

1 was in compliance with department rules regulating drycleaning
2 facilities or wholesale supply facilities.

3 Section 7. Section 376.70, Florida Statutes, is
4 amended to read:

5 376.70 Tax on gross receipts of drycleaning
6 facilities.--

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

18 (2) Each drycleaning facility or dry drop-off facility
19 imposing a charge for the drycleaning or laundering of
20 clothing or other fabrics is required to register with the
21 Department of Revenue and become licensed for the purposes of
22 this section. The owner or operator of the facility shall
23 register the facility with the Department of Revenue.
24 Drycleaning facilities or dry drop-off facilities operating at
25 more than one location are only required to have a single
26 registration. The fee for registration is \$30. The owner or
27 operator of the facility shall pay the registration fee to the
28 Department of Revenue.

29 (3) The tax imposed by this section is due on the 1st
30 day of the month succeeding the month in which the charge is
31 imposed and shall be paid on or before the 20th day of each

1 month. The tax shall be reported on forms and in the manner
2 prescribed by the Department of Revenue by rule. The proceeds
3 of the taxes, after deducting the administrative costs
4 incurred by the Department of Revenue in administering,
5 auditing, collecting, distributing, and enforcing the tax,
6 shall be transferred by the Department of Revenue into the
7 Water Quality Assurance Trust Fund and shall be used as
8 provided in s. 376.3078. For the purposes of this section,
9 the proceeds of the tax include all funds collected and
10 received by the Department of Revenue, including interest and
11 penalties on delinquent taxes.

12 (4) Any drycleaning facility which includes in the
13 total retail charge to a consumer of drycleaning services any
14 portion of the tax imposed pursuant to this section shall
15 disclose on the receipt for the amount charged for such
16 services the amount of such tax and a statement that the
17 imposition of the tax was requested by the Florida Dry
18 Cleaners Coalition.

19 (5) Gross receipts arising from charges for services
20 taxable pursuant to this section to persons who also impose
21 charges to others for those same services are exempt from the
22 tax imposed pursuant to this section.

23 (6)~~(5)~~(a) The Department of Revenue shall administer,
24 collect, and enforce the tax imposed under this section
25 pursuant to the procedures for administration, collection, and
26 enforcement of the general state sales tax imposed under
27 chapter 212, except as provided in this subsection. Such
28 procedures include, but are not limited to, those regarding
29 the filing of consolidated returns, the granting of sale for
30 resale exemptions, and the interest and penalties on
31 delinquent taxes. The tax shall not be included in the

1 computation of estimated taxes pursuant to s. 212.11, nor
2 shall the dealer's credit for collecting taxes or fees in s.
3 212.12 apply. The provisions of s. 212.07(4) shall not apply
4 to the tax imposed by this section.

5 (b) The Department of Revenue, ~~under the applicable~~
6 ~~rules of the Public Employees Relations Commission,~~ is
7 authorized to employ persons and incur other expenses for
8 which funds are appropriated by the Legislature. The
9 Department of Revenue is empowered to adopt such rules and
10 shall prescribe and publish such forms as may be necessary to
11 effectuate the purposes of this section.

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

14 (7) The department shall not deny eligibility in the
15 drycleaning solvent cleanup program because of the facility
16 owner's, the facility operator's, and the real property
17 owner's failure to remit all taxes due pursuant to this
18 section and s. 376.75, unless the Department of Revenue:

19 (a) Ascertain the amount of the delinquent tax, if
20 any, and communicates this amount in writing to the
21 drycleaning solvent cleanup program applicant and the real
22 property owner; and

23 (b) Provides a method to the facility owner, the
24 facility operator, and the real property owner for the payment
25 of the taxes.

26
27 Pursuant to this subsection, the owner or operator of a
28 drycleaning facility must demonstrate to the satisfaction of
29 the Department of Revenue that failure to remit all taxes due
30 in a timely manner was not due to willful and overt actions to
31 avoid payment of taxes.

1 (8)~~(6)~~ The Legislature declares that the failure to
2 promptly implement the provisions of this section would
3 present an immediate threat to the welfare of the state.
4 Therefore, the executive director of the Department of Revenue
5 is authorized to adopt emergency rules pursuant to s.
6 120.54(4) to implement this section. Notwithstanding any other
7 provision of law, such emergency rules shall remain effective
8 for 180 days from the date of adoption. Other rules of the
9 Department of Revenue related to and in furtherance of the
10 orderly implementation of this section shall not be subject to
11 a s. 120.56(2) rule challenge or a s. 120.54(3)(c)2. drawout
12 proceeding, but, once adopted, shall be subject to a s.
13 120.56(3) invalidity challenge. Such rules shall be adopted by
14 the Governor and Cabinet and shall become effective upon
15 filing with the Department of State, notwithstanding the
16 provisions of s. 120.54(3)(e)6.

17 Section 8. Paragraph (a) of subsection (1) of section
18 287.0595, Florida Statutes, is amended to read:

19 287.0595 Pollution response action contracts;
20 department rules.--

21 (1) The Department of Environmental Protection shall
22 establish, through the promulgation of administrative rules as
23 provided in chapter 120:

24 (a) Procedures for determining the qualifications of
25 responsible potential bidders prior to advertisement for and
26 receipt of bids for pollution response action contracts,
27 including procedures for the rejection of unqualified bidders.
28 Response actions are those activities described in s.
29 376.301(37)~~s. 376.301(33)~~.

30 Section 9. Paragraph (f) of subsection (2) of section
31 316.302, Florida Statutes, is amended to read:

1 316.302 Commercial motor vehicles; safety regulations;
2 transporters and shippers of hazardous materials;
3 enforcement.--

4 (2)

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

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

14 213.053 Confidentiality and information sharing.--

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

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

21 Section 11. This act shall take effect July 1 of the
22 year in which enacted.

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