

By the Committees on Fiscal Policy; Commerce and Economic Opportunities; Natural Resources; and Senator Latvala

309-2147-00

1                                   A bill to be entitled  
2           An act relating to state regulation of lands;  
3           amending s. 288.047, F.S.; requiring Enterprise  
4           Florida, Inc., to set aside each fiscal year a  
5           certain amount of the appropriation for the  
6           Quick Response Training Program for businesses  
7           located in a brownfield area; amending s.  
8           288.107, F.S.; redefining the term "eligible  
9           business"; providing for bonus refunds for  
10          businesses that can demonstrate a fixed capital  
11          investment in certain mixed use activities in  
12          the brownfield area; prescribing limits on  
13          total funds; amending s. 288.905, F.S.;  
14          requiring Enterprise Florida, Inc., to develop  
15          comprehensive marketing strategies for  
16          redevelopment of brownfield areas; amending s.  
17          376.301, F.S.; redefining the terms  
18          "antagonistic effects," "discharge,"  
19          "institutional controls," "natural  
20          attenuation," and "site rehabilitation" and  
21          defining the term "risk reduction"; creating s.  
22          376.30701, F.S.; extending application of  
23          risk-based corrective action principles to all  
24          contaminated sites resulting from a discharge  
25          of pollutants or hazardous substances;  
26          providing for contamination cleanup criteria  
27          that incorporates risk-based corrective actions  
28          to be adopted by rule; providing clarification  
29          that cleanup criteria do not apply to offsite  
30          relocation or treatment; providing the  
31          conditions under which further rehabilitation

1           may be required; amending s. 376.3078, F.S.;

2           providing for rehabilitation criteria; amending

3           s. 376.79, F.S.; defining the terms

4           "contaminant" and "risk reduction"; redefining

5           the terms "natural attenuation," "institutional

6           control," and "source removal"; amending s.

7           376.80, F.S.; allowing local governments or

8           persons responsible for brownfield area

9           rehabilitation and redevelopment to use an

10          existing advisory committee; deleting the

11          requirement that the advisory committee must

12          review and provide recommendations to the local

13          government with jurisdiction on the proposed

14          brownfield site rehabilitation agreement;

15          providing that the person responsible for site

16          rehabilitation must notify the advisory

17          committee of the intent to rehabilitate and

18          redevelop the site before executing the

19          brownfield site rehabilitation agreement;

20          requiring the person responsible for site

21          rehabilitation to hold a meeting or attend a

22          regularly scheduled meeting of the advisory

23          committee to inform the advisory committee of

24          the outcome of the environmental assessment;

25          requiring the person responsible for site

26          rehabilitation to enter into a brownfield site

27          rehabilitation agreement only if actual

28          contamination exists; clarifying provisions

29          relating to the required comprehensive general

30          liability and comprehensive automobile

31          liability insurance; amending s. 376.81, F.S.;

1 providing direction regarding the risk-based  
2 corrective action rule; requiring the  
3 department to establish alternative cleanup  
4 levels under certain circumstances; amending s.  
5 376.82, F.S.; providing immunity for liability  
6 regarding contaminated site remediation under  
7 certain circumstances; creating s. 376.88,  
8 F.S.; providing for the Brownfield Program  
9 Review Advisory Council; providing duties and  
10 responsibilities; amending s. 403.973, F.S.;  
11 providing that projects located in a designated  
12 brownfield area are eligible for the expedited  
13 permitting process; amending s. 190.012, F.S.;  
14 authorizing community development districts to  
15 fund certain environmental costs under certain  
16 circumstances; amending ss. 712.01, 712.03,  
17 F.S.; prohibiting subsequent property owners  
18 from removing certain deed restrictions under  
19 other provisions of the Marketable Record Title  
20 Act; amending s. 252.87, F.S.; revising  
21 reporting requirements under the Hazardous  
22 Materials Emergency Response and Community  
23 Right-to-Know Act; providing an effective date.

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

26  
27 Section 1. Subsection (5) of section 288.047, Florida  
28 Statutes, is amended to read:

29 288.047 Quick-response training for economic  
30 development.--

31

1           (5) For the first 6 months of each fiscal year,  
2 Enterprise Florida, Inc., shall set aside 30 percent of the  
3 amount appropriated for the Quick-Response Training Program by  
4 the Legislature to fund instructional programs for businesses  
5 located in an enterprise zone or brownfield area ~~to instruct~~  
6 ~~residents of an enterprise zone~~. Any unencumbered funds  
7 remaining undisbursed from this set-aside at the end of the  
8 6-month period may be used to provide funding for any program  
9 qualifying for funding pursuant to this section.

10           Section 2. Section 288.107, Florida Statutes, is  
11 amended to read:

12           288.107 Brownfield redevelopment bonus refunds.--

13           (1) DEFINITIONS.--As used in this section:

14           (a) "Account" means the Economic Development  
15 Incentives Account as authorized in s. 288.095.

16           (b) "Brownfield sites" means sites that are generally  
17 abandoned, idled, or underused industrial and commercial  
18 properties where expansion or redevelopment is complicated by  
19 actual or perceived environmental contamination.

20           (c) "Brownfield area" means a contiguous area of one  
21 or more brownfield sites, some of which may not be  
22 contaminated, and which has been designated by a local  
23 government by resolution. Such areas may include all or  
24 portions of community redevelopment areas, enterprise zones,  
25 empowerment zones, other such designated economically deprived  
26 communities and areas, and  
27 Environmental-Protection-Agency-designated brownfield pilot  
28 projects.

29           (d) "Director" means the director of the Office of  
30 Tourism, Trade, and Economic Development.

31

1           (e) "Eligible business" means a qualified target  
2 industry business as defined in s. 288.106(2)(o) or other  
3 business that can demonstrate a fixed capital investment of at  
4 least \$2 million in mixed-use business activities, including  
5 multi-unit housing, commercial, retail, and industrial in  
6 brownfield areas and which pays wages that are at least 80  
7 percent of the average of all private-sector wages in the  
8 county in which the business is located.

9           (f) "Jobs" means full-time equivalent positions,  
10 consistent with the use of such terms by the Department of  
11 Labor and Employment Security for the purpose of unemployment  
12 compensation tax, resulting directly from a project in this  
13 state. This number does not include temporary construction  
14 jobs involved with the construction of facilities for the  
15 project and which are not associated with the implementation  
16 of the site rehabilitation as provided in s. 376.80.

17           (g) "Office" means the Office of Tourism, Trade, and  
18 Economic Development.

19           (h) "Project" means the creation of a new business or  
20 the expansion of an existing business as defined in s.  
21 288.106.

22           (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.--There  
23 shall be allowed from the account a bonus refund of \$2,500 to  
24 any qualified target industry business or other eligible  
25 business as defined in paragraph (1)(e)for each new Florida  
26 job created in a brownfield which is claimed on the qualified  
27 target industry business's annual refund claim authorized in  
28 s. 288.106(6) or other similar annual claim procedure for  
29 other eligible business as defined in paragraph (1)(e)and  
30 approved by the office as specified in the final order issued  
31 by the director.

1           (3) CRITERIA.--The minimum criteria for participation  
2 in the brownfield redevelopment bonus refund are:

3           (a) The creation of at least 10 new full-time  
4 permanent jobs. Such jobs shall not include construction or  
5 site rehabilitation jobs associated with the implementation of  
6 a brownfield site agreement as described in s. 376.80(5).

7           **(b) The completion of a fixed capital investment of at**  
8 **least \$2 million in mixed-use business activities, including**  
9 **multi-unit housing, commercial, retail, and industrial in**  
10 **brownfield areas and which pay wages that are at least 80**  
11 **percent of the average of all private-sector wages in the**  
12 **county in which the business is located.**

13           ~~(c)~~**(b)** That the designation as a brownfield will  
14 diversify and strengthen the economy of the area surrounding  
15 the site.

16           ~~(d)~~**(c)** That the designation as a brownfield will  
17 promote capital investment in the area beyond that  
18 contemplated for the rehabilitation of the site.

19           (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS  
20 REFUNDS.--

21           (a) To be eligible to receive a bonus refund for new  
22 Florida jobs created in a brownfield, a business must have  
23 been certified as a qualified target industry business under  
24 s. 288.106 or eligible business as defined in paragraph (1)(e)  
25 and must have indicated on the qualified target industry tax  
26 refund application form submitted in accordance with s.  
27 288.106(4) or other similar agreement for other eligible  
28 business as defined in paragraph (1)(e)that the project for  
29 which the application is submitted is or will be located in a  
30 brownfield and that the business is applying for certification  
31 as a qualified brownfield business under this section, and

1 must have signed a qualified target industry tax refund  
2 agreement or other similar agreement for other eligible  
3 business as defined in paragraph (1)(e) with the office which  
4 indicates that the business has been certified as a qualified  
5 target industry business or eligible business as defined in  
6 paragraph (1)(e) ~~agreement with the office which indicates~~  
7 ~~that the business has been certified as a qualified target~~  
8 ~~industry business~~ located in a brownfield and specifies the  
9 schedule of brownfield redevelopment bonus refunds that the  
10 business may be eligible to receive in each fiscal year.

11 (b) To be considered to receive an eligible brownfield  
12 redevelopment bonus refund payment, the business meeting the  
13 requirements of paragraph (a) must submit a claim once each  
14 fiscal year on a claim form approved by the office which  
15 indicates the location of the brownfield, the address of the  
16 business facility's brownfield location, the name of the  
17 brownfield in which it is located, the number of jobs created,  
18 and the average wage of the jobs created by the business  
19 within the brownfield as defined in s. 288.106 and in the case  
20 of other eligible business as defined in paragraph (1)(e), the  
21 amount of capital investment and the administrative rules and  
22 policies for this that section or s. 288.106. ~~within the~~  
23 ~~brownfield as defined in s. 288.106 and the administrative~~  
24 ~~rules and policies for that section.~~

25 (c) The bonus refunds shall be available on the same  
26 schedule as the qualified target industry tax refund payments  
27 scheduled in the qualified target industry tax refund  
28 agreement authorized in s. 288.106 or other similar agreement  
29 for other eligible businesses as defined in paragraph (1)(e).

30 (d) After entering into a tax refund agreement as  
31 provided in s. 288.106 or other similar agreement for other

1 eligible businesses as defined in paragraph (1)(e), an  
2 eligible business may receive brownfield redevelopment bonus  
3 refunds from the account pursuant to s. 288.106(3)(c).

4 (e) An eligible business that fraudulently claims a  
5 refund under this section:

6 1. Is liable for repayment of the amount of the refund  
7 to the account, plus a mandatory penalty in the amount of 200  
8 percent of the tax refund, which shall be deposited into the  
9 General Revenue Fund.

10 2. Commits a felony of the third degree, punishable as  
11 provided in s. 775.082, s. 775.083, or s. 775.084.

12 (f) The office shall review all applications submitted  
13 under s. 288.106 or other similar application forms for other  
14 eligible businesses as defined in paragraph (1)(e)which  
15 indicate that the proposed project will be located in a  
16 brownfield and determine, with the assistance of the  
17 Department of Environmental Protection, that the project  
18 location is within a brownfield as provided in this act.

19 (g) The office shall approve all claims for a  
20 brownfield redevelopment bonus refund payment that are found  
21 to meet the requirements of paragraphs (b) and (d).

22 (h) The director, with such assistance as may be  
23 required from the office and the Department of Environmental  
24 Protection, shall specify by written final order the amount of  
25 the brownfield redevelopment bonus refund that is authorized  
26 for the qualified target industry business for the fiscal year  
27 within 30 days after the date that the claim for the annual  
28 tax refund is received by the office.

29 (i) The office may approve applications for  
30 certification pursuant to this section; however, the total of  
31



1 tax refund payments scheduled in all active certifications for  
2 any fiscal year shall not exceed \$3 million.

3 (j)(i) The total amount of the bonus refunds approved  
4 by the director under this section in any fiscal year must not  
5 exceed the total amount appropriated to the Economic  
6 Development Incentives Account for this purpose for the fiscal  
7 year. In the event that the Legislature does not appropriate  
8 an amount sufficient to satisfy projections by the office for  
9 brownfield redevelopment bonus refunds under this section in a  
10 fiscal year, the office shall, not later than July 15 of such  
11 year, determine the proportion of each brownfield  
12 redevelopment bonus refund claim which shall be paid by  
13 dividing the amount appropriated for tax refunds for the  
14 fiscal year by the projected total of brownfield redevelopment  
15 bonus refund claims for the fiscal year. The amount of each  
16 claim for a brownfield redevelopment bonus tax refund shall be  
17 multiplied by the resulting quotient. If, after the payment  
18 of all such refund claims, funds remain in the Economic  
19 Development Incentives Account for brownfield redevelopment  
20 tax refunds, the office shall recalculate the proportion for  
21 each refund claim and adjust the amount of each claim  
22 accordingly.

23 (k)(j) Upon approval of the brownfield redevelopment  
24 bonus refund, payment shall be made for the amount specified  
25 in the final order. If the final order is appealed, payment  
26 may not be made for a refund to the qualified target industry  
27 business until the conclusion of all appeals of that order.

28 (5) ADMINISTRATION.--

29 (a) The office is authorized to verify information  
30 provided in any claim submitted for tax credits under this  
31 section with regard to employment and wage levels or the

1 payment of the taxes to the appropriate agency or authority,  
2 including the Department of Revenue, the Department of Labor  
3 and Employment Security, or any local government or authority.

4 (b) To facilitate the process of monitoring and  
5 auditing applications made under this program, the office may  
6 provide a list of qualified target industry businesses or  
7 other eligible businesses as defined in paragraph (1)(e) to  
8 the Department of Revenue, to the Department of Labor and  
9 Employment Security, to the Department of Environmental  
10 Protection, or to any local government authority. The office  
11 may request the assistance of those entities with respect to  
12 monitoring the payment of the taxes listed in s. 288.106(3).

13 Section 3. Paragraph (b) of subsection (3) of section  
14 288.905, Florida Statutes, is amended to read:

15 288.905 Duties of the board of directors of Enterprise  
16 Florida, Inc.--

17 (3)

18 (b)1. The strategic plan required under this section  
19 shall include specific provisions for the stimulation of  
20 economic development and job creation in rural areas and  
21 midsize cities and counties of the state.

22 2. Enterprise Florida, Inc., shall involve local  
23 governments, local and regional economic development  
24 organizations, and other local, state, and federal economic,  
25 international, and workforce development entities, both public  
26 and private, in developing and carrying out policies,  
27 strategies, and programs, seeking to partner and collaborate  
28 to produce enhanced public benefit at a lesser cost.

29 3. Enterprise Florida, Inc., shall involve rural,  
30 urban, small-business, and minority-business development  
31 agencies and organizations, both public and private, in

1 developing and carrying out policies, strategies, and  
2 programs.

3 4. Enterprise Florida, Inc., shall develop a  
4 comprehensive marketing plan for redevelopment of brownfield  
5 areas designated pursuant to s. 376.80. The plan must include,  
6 but is not limited to, strategies to distribute information  
7 about current designated brownfield areas and the available  
8 economic incentives for redevelopment of brownfield areas.  
9 Such strategies are to be used in the promotion of business  
10 formation, expansion, recruitment, retention, and work-force  
11 development programs.

12 Section 4. Section 376.301, Florida Statutes, is  
13 amended to read:

14 376.301 Definitions of terms used in ss.  
15 376.30-376.319, 376.70, and 376.75.--When used in ss.  
16 376.30-376.319, 376.70, and 376.75, unless the context clearly  
17 requires otherwise, the term:

18 (1) "Aboveground hazardous substance tank" means any  
19 stationary aboveground storage tank and onsite integral piping  
20 that contains hazardous substances which are liquid at  
21 standard temperature and pressure and has an individual  
22 storage capacity greater than 110 gallons.

23 (2) "Additive effects" means a scientific principle  
24 that the toxicity that occurs as a result of exposure is the  
25 sum of the toxicities of the individual chemicals to which the  
26 individual is exposed.

27 (3) "Antagonistic effects" means a scientific  
28 principle that the toxicity that occurs as a result of  
29 exposure is less than the sum of the toxicities of the  
30 individual chemicals to which the individual is exposed.

31

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

7           (5) "Barrel" means 42 U.S. gallons at 60 degrees  
8 Fahrenheit.

9           (6) "Bulk product facility" means a waterfront  
10 location with at least one aboveground tank with a capacity  
11 greater than 30,000 gallons which is used for the storage of  
12 pollutants.

13           (7) "Cattle-dipping vat" means any structure,  
14 excavation, or other facility constructed by any person, or  
15 the site where such structure, excavation, or other facility  
16 once existed, for the purpose of treating cattle or other  
17 livestock with a chemical solution pursuant to or in  
18 compliance with any local, state, or federal governmental  
19 program for the prevention, suppression, control, or  
20 eradication of any dangerous, contagious, or infectious  
21 diseases.

22           (8) "Compression vessel" means any stationary  
23 container, tank, or onsite integral piping system, or  
24 combination thereof, which has a capacity of greater than 110  
25 gallons, that is primarily used to store pollutants or  
26 hazardous substances above atmospheric pressure or at a  
27 reduced temperature in order to lower the vapor pressure of  
28 the contents. Manifold compression vessels that function as a  
29 single vessel shall be considered as one vessel.

30           (9) "Contaminant" means any physical, chemical,  
31 biological, or radiological substance present in any medium

1 | which may result in adverse effects to human health or the  
2 | environment or which creates an adverse nuisance,  
3 | organoleptic, or aesthetic condition in groundwater.

4 |         (10) "Contaminated site" means any contiguous land,  
5 | sediment, surface water, or groundwater areas that contain  
6 | contaminants that may be harmful to human health or the  
7 | environment.

8 |         (11) "Department" means the Department of  
9 | Environmental Protection.

10 |         (12) "Discharge" includes, but is not limited to, any  
11 | spilling, leaking, seeping, pouring, misapplying, emitting,  
12 | emptying, releasing, or dumping of any pollutant or hazardous  
13 | substance which occurs and which affects lands and the surface  
14 | and ground waters of the state not regulated by ss.  
15 | 376.011-376.21.

16 |         (13) "Drycleaning facility" means a commercial  
17 | establishment that operates or has at some time in the past  
18 | operated for the primary purpose of drycleaning clothing and  
19 | other fabrics utilizing a process that involves any use of  
20 | drycleaning solvents. The term "drycleaning facility" includes  
21 | laundry facilities that use drycleaning solvents as part of  
22 | their cleaning process. The term does not include a facility  
23 | that operates or has at some time in the past operated as a  
24 | uniform rental company or a linen supply company regardless of  
25 | whether the facility operates as or was previously operated as  
26 | a drycleaning facility.

27 |         (14) "Drycleaning solvents" means any and all  
28 | nonaqueous solvents used in the cleaning of clothing and other  
29 | fabrics and includes perchloroethylene (also known as  
30 | tetrachloroethylene) and petroleum-based solvents, and their  
31 | breakdown products. For purposes of this definition,

1 "drycleaning solvents" only includes those drycleaning  
2 solvents originating from use at a drycleaning facility or by  
3 a wholesale supply facility.

4 (15) "Dry drop-off facility" means any commercial  
5 retail store that receives from customers clothing and other  
6 fabrics for drycleaning or laundering at an offsite  
7 drycleaning facility and that does not clean the clothing or  
8 fabrics at the store utilizing drycleaning solvents.

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

15 (17) "Wholesale supply facility" means a commercial  
16 establishment that supplies drycleaning solvents to  
17 drycleaning facilities.

18 (18) "Facility" means a nonresidential location  
19 containing, or which contained, any underground stationary  
20 tank or tanks which contain hazardous substances or pollutants  
21 and have individual storage capacities greater than 110  
22 gallons, or any aboveground stationary tank or tanks which  
23 contain pollutants which are liquids at standard ambient  
24 temperature and pressure and have individual storage  
25 capacities greater than 550 gallons. This subsection shall not  
26 apply to facilities covered by chapter 377, or containers  
27 storing solid or gaseous pollutants, and agricultural tanks  
28 having storage capacities of less than 550 gallons.

29 (19) "Flow-through process tank" means an aboveground  
30 tank that contains hazardous substances or specified mineral  
31 acids as defined in s. 376.321 and that forms an integral part

1 of a production process through which there is a steady,  
2 variable, recurring, or intermittent flow of materials during  
3 the operation of the process. Flow-through process tanks  
4 include, but are not limited to, seal tanks, vapor recovery  
5 units, surge tanks, blend tanks, feed tanks, check and delay  
6 tanks, batch tanks, oil-water separators, or tanks in which  
7 mechanical, physical, or chemical change of a material is  
8 accomplished.

9 (20) "Hazardous substances" means those substances  
10 defined as hazardous substances in the Comprehensive  
11 Environmental Response, Compensation and Liability Act of  
12 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the  
13 Superfund Amendments and Reauthorization Act of 1986.

14 (21) "Institutional controls" means the restriction on  
15 use or access to a site to eliminate or minimize exposure to  
16 petroleum products' chemicals of concern, drycleaning  
17 solvents, or other contaminants. Such restrictions may  
18 include, but are not limited to, deed restrictions,  
19 restrictive covenants, or conservation easements ~~use~~  
20 ~~restrictions, or restrictive zoning.~~

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

26 (23) "Marine fueling facility" means a commercial or  
27 recreational coastal facility, excluding a bulk product  
28 facility, providing fuel to vessels.

29 (24) "Natural attenuation" means a verifiable an  
30 approach to site rehabilitation that allows natural processes  
31 to contain the spread of contamination and reduce the

1 concentrations of contaminants in contaminated groundwater and  
2 soil. Natural attenuation processes may include the following:  
3 sorption, biodegradation, chemical reactions with subsurface  
4 materials, diffusion, dispersion, and volatilization.

5 (25) "Operator" means any person operating a facility,  
6 whether by lease, contract, or other form of agreement.

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

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

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

14 (29) "Person responsible for conducting site  
15 rehabilitation" means the site owner, operator, or the person  
16 designated by the site owner or operator on the reimbursement  
17 application. Mortgage holders and trust holders may be  
18 eligible to participate in the reimbursement program pursuant  
19 to s. 376.3071(12).

20 (30) "Petroleum" includes:

21 (a) Oil, including crude petroleum oil and other  
22 hydrocarbons, regardless of gravity, which are produced at the  
23 well in liquid form by ordinary methods and which are not the  
24 result of condensation of gas after it leaves the reservoir;  
25 and

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

28 (31) "Petroleum product" means any liquid fuel  
29 commodity made from petroleum, including, but not limited to,  
30 all forms of fuel known or sold as diesel fuel, kerosene, all  
31 forms of fuel known or sold as gasoline, and fuels containing



1 a mixture of gasoline and other products, excluding liquefied  
2 petroleum gas and American Society for Testing and Materials  
3 (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual  
4 oils, intermediate fuel oils (IFO) used for marine bunkering  
5 with a viscosity of 30 and higher, asphalt oils, and  
6 petrochemical feedstocks.

7 (32) "Petroleum products' chemicals of concern" means  
8 the constituents of petroleum products, including, but not  
9 limited to, xylene, benzene, toluene, ethylbenzene,  
10 naphthalene, and similar chemicals, and constituents in  
11 petroleum products, including, but not limited to, methyl  
12 tert-butyl ether (MTBE), lead, and similar chemicals found in  
13 additives, provided the chemicals of concern are present as a  
14 result of a discharge of petroleum products.

15 (33) "Petroleum storage system" means a stationary  
16 tank not covered under the provisions of chapter 377, together  
17 with any onsite integral piping or dispensing system  
18 associated therewith, which is used, or intended to be used,  
19 for the storage or supply of any petroleum product. Petroleum  
20 storage systems may also include oil/water separators, and  
21 other pollution control devices installed at petroleum product  
22 terminals as defined in this chapter and bulk product  
23 facilities pursuant to, or required by, permits or best  
24 management practices in an effort to control surface discharge  
25 of pollutants. Nothing herein shall be construed to allow a  
26 continuing discharge in violation of department rules.

27 (34) "Pollutants" includes any "product" as defined in  
28 s. 377.19(11), pesticides, ammonia, chlorine, and derivatives  
29 thereof, excluding liquefied petroleum gas.

30 (35) "Pollution" means the presence on the land or in  
31 the waters of the state of pollutants in quantities which are

1 or may be potentially harmful or injurious to human health or  
2 welfare, animal or plant life, or property or which may  
3 unreasonably interfere with the enjoyment of life or property,  
4 including outdoor recreation.

5 (36) "Real property owner" means the individual or  
6 entity that is vested with ownership, dominion, or legal or  
7 rightful title to the real property, or which has a ground  
8 lease interest in the real property, on which a drycleaning  
9 facility or wholesale supply facility is or has ever been  
10 located.

11 (37) "Response action" means any activity, including  
12 evaluation, planning, design, engineering, construction, and  
13 ancillary services, which is carried out in response to any  
14 discharge, release, or threatened release of a hazardous  
15 substance, pollutant, or other contaminant from a facility or  
16 site identified by the department under the provisions of ss.  
17 376.30-376.319.

18 (38) "Response action contractor" means a person who  
19 is carrying out any response action, including a person  
20 retained or hired by such person to provide services relating  
21 to a response action.

22 (39) "Risk reduction" means the lowering or  
23 elimination of the level of risk posed to human health or the  
24 environment through interim remedial actions, remedial action,  
25 or institutional and, if appropriate, engineering controls.

26 (40)~~(39)~~ "Secretary" means the Secretary of  
27 Environmental Protection.

28 (41)~~(40)~~ "Site rehabilitation" means the assessment of  
29 site contamination and the remediation activities that reduce  
30 the levels of contaminants at a site through accepted  
31 treatment methods to meet the cleanup target levels

1 established for that site. For purposes of sites subject to  
2 the Resource Conservation and Recovery Act, as amended, the  
3 term includes removal, decontamination, and corrective action  
4 of releases of hazardous substances.

5 (42)~~(41)~~ "Source removal" means the removal of free  
6 product, or the removal of contaminants from soil or sediment  
7 that has been contaminated to the extent that leaching to  
8 groundwater or surface water has occurred or is occurring.

9 (43)~~(42)~~ "Storage system" means a stationary tank not  
10 covered under the provisions of chapter 377, together with any  
11 onsite integral piping or dispensing system associated  
12 therewith, which is or has been used for the storage or supply  
13 of any petroleum product, pollutant, or hazardous substance as  
14 defined herein, and which is registered with the Department of  
15 Environmental Protection under this chapter or any rule  
16 adopted pursuant hereto.

17 (44)~~(43)~~ "Synergistic effects" means a scientific  
18 principle that the toxicity that occurs as a result of  
19 exposure is more than the sum of the toxicities of the  
20 individual chemicals to which the individual is exposed.

21 (45)~~(44)~~ "Terminal facility" means any structure,  
22 group of structures, motor vehicle, rolling stock, pipeline,  
23 equipment, or related appurtenances which are used or capable  
24 of being used for one or more of the following purposes:  
25 pumping, refining, drilling for, producing, storing, handling,  
26 transferring, or processing pollutants, provided such  
27 pollutants are transferred over, under, or across any water,  
28 estuaries, tidal flats, beaches, or waterfront lands,  
29 including, but not limited to, any such facility and related  
30 appurtenances owned or operated by a public utility or a  
31 governmental or quasi-governmental body. In the event of a

1 ship-to-ship transfer of pollutants, the vessel going to or  
2 coming from the place of transfer and a terminal facility  
3 shall also be considered a terminal facility. For the purposes  
4 of ss. 376.30-376.319, the term "terminal facility" shall not  
5 be construed to include spill response vessels engaged in  
6 response activities related to removal of pollutants, or  
7 temporary storage facilities created to temporarily store  
8 recovered pollutants and matter, or waterfront facilities  
9 owned and operated by governmental entities acting as agents  
10 of public convenience for persons engaged in the drilling for  
11 or pumping, storing, handling, transferring, processing, or  
12 refining of pollutants. However, each person engaged in the  
13 drilling for or pumping, storing, handling, transferring,  
14 processing, or refining of pollutants through a waterfront  
15 facility owned and operated by such a governmental entity  
16 shall be construed as a terminal facility.

17 ~~(46)~~~~(45)~~ "Transfer" or "transferred" includes  
18 onloading, offloading, fueling, bunkering, lightering, removal  
19 of waste pollutants, or other similar transfers, between  
20 terminal facility and vessel or vessel and vessel.

21 Section 5. Section 376.30701, Florida Statutes, is  
22 created to read:

23 376.30701 Application of risk-based corrective action  
24 principles to contaminated sites; applicability; legislative  
25 intent; rulemaking authority; contamination cleanup criteria;  
26 limitations; reopeners; mapping; registry.--

27 (1) APPLICABILITY.--

28 (a) This section shall not create or establish any new  
29 liability for site rehabilitation at contaminated sites. This  
30 section is intended to describe a risk-based corrective action  
31 process to be applied at sites where legal responsibility for

1 site rehabilitation exists pursuant to other provisions of  
2 chapter 376 or chapter 403.

3 (b) This section shall apply to all contaminated sites  
4 resulting from a discharge of pollutants or hazardous  
5 substances where legal responsibility for site rehabilitation  
6 exists pursuant to other provisions of chapter 376 or chapter  
7 403 except for those contaminated sites subject to the  
8 risk-based corrective action cleanup criteria established for  
9 the petroleum, brownfields, and drycleaning programs pursuant  
10 to ss. 376.3071, 376.81, and 376.3078, respectively.

11 (c) This section shall apply to a variety of site  
12 rehabilitation scenarios including, but not limited to, site  
13 rehabilitation conducted voluntarily, conducted pursuant to  
14 the department's enforcement authority, or conducted as a  
15 state-managed cleanup by the department.

16 (d) This section, and any rules adopted pursuant  
17 thereto, shall apply retroactively to all existing  
18 contaminated sites where legal responsibility for site  
19 rehabilitation exists pursuant to other provisions of chapter  
20 376 or chapter 403 except those sites for which as of March 1,  
21 2000, a report has been submitted to the department which  
22 documents that cleanup has been completed, at sites for which  
23 cleanup target levels have been accepted by the department in  
24 an approved technical document, current permit, or other  
25 written agreement, and at those sites that have received a No  
26 Further Action Order or a Site Rehabilitation Completion Order  
27 from the department. However, the person responsible for site  
28 rehabilitation can elect to have the provisions of this  
29 section, including cleanup target levels established pursuant  
30 thereto, apply in lieu of those in an approved technical  
31 document, current permit, or other written agreement.

1           (e) The cleanup criteria established in subsection (2)  
2 shall apply as Applicable or Relevant and Appropriate  
3 Requirements to all contaminated sites in Florida that have  
4 been identified to qualify for listing, or are listed, on the  
5 National Priority List pursuant to the Comprehensive  
6 Environmental Response, Compensation, and Liability Act of  
7 1980 as amended by the Superfund Amendments and  
8 Reauthorization Act of 1986, and as subsequently amended.

9           (f) This section does not affect the goal of  
10 expediency in emergency response actions to releases to soil  
11 that result in soil contamination at levels above the soil  
12 target cleanup levels. The need for uniformity in requirements  
13 and accountability necessitates that emergency response  
14 actions to releases be subject solely to the requirements of  
15 the department, the Department of Community Affairs, and any  
16 federal agencies with statewide enforcement authority that are  
17 given jurisdiction over releases by federal law. The  
18 risk-based corrective action process at these sites shall  
19 allow department-recognized field screening techniques to be  
20 used.

21           (2) INTENT; RULEMAKING AUTHORITY; CLEANUP  
22 CRITERIA.--It is the intent of the Legislature to protect the  
23 health of all people under actual circumstances of exposure.  
24 By July 1, 2001, the secretary of the department shall  
25 establish criteria by rule for the purpose of determining, on  
26 a site-specific basis, the rehabilitation program tasks that  
27 comprise a site rehabilitation program, including a voluntary  
28 site rehabilitation program, and the level at which a  
29 rehabilitation program task and a site rehabilitation program  
30 may be deemed completed. In establishing these rules, the  
31 department shall apply, to the maximum extent feasible, a

1 risk-based corrective action process to achieve protection of  
2 human health and safety and the environment in a  
3 cost-effective manner based on the principles set forth in  
4 this subsection. These rules shall prescribe a phased  
5 risk-based corrective-action process that is iterative and  
6 that tailors site rehabilitation tasks to site-specific  
7 conditions and risk. The department and the person responsible  
8 for site rehabilitation are encouraged to establish decision  
9 points at which risk management decisions will be made. The  
10 department shall provide an early decision, when requested,  
11 regarding applicable exposure factors and a risk management  
12 approach based on the current and future land use at the site.  
13 These rules must also include protocols for the use of natural  
14 attenuation, the use of institutional and engineering  
15 controls, and the issuance of "no further action" letters. The  
16 criteria for determining what constitutes a rehabilitation  
17 program task or completion of a site rehabilitation program  
18 task or site rehabilitation program, including a voluntary  
19 site rehabilitation program, must:  
20       (a) Consider the current exposure and potential risk  
21 of exposure to humans and the environment, including multiple  
22 pathways of exposure. The physical, chemical, and biological  
23 characteristics of each contaminant must be considered in  
24 order to determine the feasibility of risk-based corrective  
25 action assessment.  
26       (b) Establish the point of compliance at the source of  
27 the contamination. However, the department is authorized to  
28 temporarily move the point of compliance to the boundary of  
29 the property, or to the edge of the plume when the plume is  
30 within the property boundary, while cleanup, including cleanup  
31 through natural attenuation processes in conjunction with

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

23 (c) Ensure that the site-specific cleanup goal is that  
24 all contaminated sites being cleaned up under this section  
25 ultimately achieve the applicable cleanup target levels  
26 provided in this subsection. In the circumstances provided  
27 below, and after constructive notice and opportunity to  
28 comment within 30 days from receipt of the notice to local  
29 government, to owners of any property into which the point of  
30 compliance is allowed to extend, and to residents on any  
31 property into which the point of compliance is allowed to



1 extend, the department may allow concentrations of  
2 contaminants to temporarily exceed the applicable cleanup  
3 target levels while cleanup, including cleanup through natural  
4 attenuation processes in conjunction with appropriate  
5 monitoring, is proceeding, if human health, public safety, and  
6 the environment are protected.

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

23 (e) Consider the additive effects of contaminants.  
24 The synergistic and antagonistic effects must also be  
25 considered when the scientific data become available.

26 (f) Take into consideration individual site  
27 characteristics, which shall include, but not be limited to,  
28 the current and projected use of the affected groundwater and  
29 surface water in the vicinity of the site, current and  
30 projected land uses of the area affected by the contamination,  
31 the exposed population, the degree and extent of

1 contamination, the rate of contaminant migration, the apparent  
2 or potential rate of contaminant degradation through natural  
3 attenuation processes, the location of the plume, and the  
4 potential for further migration in relation to site property  
5 boundaries.

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

7 1. Cleanup target levels for each contaminant found in  
8 groundwater shall be the applicable state water quality  
9 standards. Where such standards do not exist, the cleanup  
10 target levels for groundwater shall be based on the minimum  
11 criteria specified in department rule. The department shall  
12 apply the following, as appropriate, in establishing the  
13 applicable cleanup target levels: calculations using a  
14 lifetime cancer risk level of 1.0E-6; a hazard index of 1 or  
15 less; the best achievable detection limit; and nuisance,  
16 organoleptic, and aesthetic considerations. However, the  
17 department shall not require site rehabilitation to achieve a  
18 cleanup target level for any individual contaminant that is  
19 more stringent than the site-specific, naturally occurring  
20 background concentration for that contaminant.

21 2. Where surface waters are exposed to contaminated  
22 groundwater, the cleanup target levels for the contaminants  
23 shall be based on the more protective of the groundwater or  
24 surface water standards as established by department rule. The  
25 point of measuring compliance with the surface water standards  
26 shall be in the groundwater immediately adjacent to the  
27 surface water body.

28 3. The department shall approve alternative cleanup  
29 target levels in conjunction with institutional and  
30 engineering controls, if needed, based upon an applicant's  
31 demonstration, using site-specific data, modeling results,

1 risk assessment studies, risk-reduction techniques, or a  
2 combination thereof, that human health, public safety, and the  
3 environment are protected to the same degree as provided in  
4 subparagraphs 1. and 2. Where a state water-quality standard  
5 is applicable, a deviation may not result in the application  
6 of cleanup target levels more stringent than the standard. In  
7 determining whether it is appropriate to establish alternative  
8 cleanup target levels at a site, the department must consider  
9 the effectiveness of source removal, if any, that has been  
10 completed at the site and the practical likelihood of the use  
11 of low yield or poor quality groundwater, the use of  
12 groundwater near marine surface water bodies, the current and  
13 projected use of the affected groundwater in the vicinity of  
14 the site, or the use of groundwater in the immediate vicinity  
15 of the contaminated area, where it has been demonstrated that  
16 the groundwater contamination is not migrating away from such  
17 localized source, provided human health, public safety, and  
18 the environment are protected.

19 (h) Provide for the department to issue a "no further  
20 action order," with conditions including, but not limited to,  
21 the use of institutional or engineering controls where  
22 appropriate, when alternative cleanup target levels  
23 established pursuant to subparagraph (g)3. have been achieved,  
24 or when the person responsible for site rehabilitation can  
25 demonstrate that the cleanup target level is unachievable  
26 within available technologies. Prior to issuing such an  
27 order, the department shall consider the feasibility of an  
28 alternative site rehabilitation technology at the contaminated  
29 site.

30 (i) Establish appropriate cleanup target levels for  
31 soils.

1           1. In establishing soil cleanup target levels for  
2 human exposure to each contaminant found in soils from the  
3 land surface to 2 feet below land surface, the department  
4 shall apply the following, as appropriate: calculations using  
5 a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or  
6 less; and the best achievable detection limit. However, the  
7 department shall not require site rehabilitation to achieve a  
8 cleanup target level for an individual contaminant that is  
9 more stringent than the site-specific, naturally occurring  
10 background concentration for that contaminant. Institutional  
11 controls or other methods shall be used to prevent human  
12 exposure to contaminated soils more than 2 feet below the land  
13 surface. Any removal of such institutional controls shall  
14 require such contaminated soils to be remediated.

15           2. Leachability-based soil target levels shall be  
16 based on protection of the groundwater cleanup target levels  
17 or the alternate cleanup target levels for groundwater  
18 established pursuant to this paragraph, as appropriate. Source  
19 removal and other cost-effective alternatives that are  
20 technologically feasible shall be considered in achieving the  
21 leachability soil target levels established by the department.  
22 The leachability goals shall not be applicable if the  
23 department determines, based upon individual site  
24 characteristics and in conjunction with institutional and  
25 engineering controls, if needed, that contaminants will not  
26 leach into the groundwater at levels that pose a threat to  
27 human health, public safety, or the environment.

28           3. The department shall approve alternative cleanup  
29 target levels in conjunction with institutional and  
30 engineering controls, if needed, based upon an applicant's  
31 demonstration, using site-specific data, modeling results,

1 risk assessment studies, risk-reduction techniques, or a  
2 combination thereof, that human health, public safety, and the  
3 environment are protected to the same degree as provided in  
4 subparagraphs 1. and 2.

5  
6 The department shall require source removal, if warranted and  
7 cost-effective. Once source removal at a site is complete,  
8 the department shall reevaluate the site to determine the  
9 degree of active cleanup needed to continue. Further, the  
10 department shall determine if the reevaluated site qualifies  
11 for monitoring only or if no further action is required to  
12 rehabilitate the site. If additional site rehabilitation is  
13 necessary to reach "no further action" status, the department  
14 is encouraged to utilize natural attenuation and monitoring  
15 where site conditions warrant.

16 (3) LIMITATIONS.--The cleanup criteria established  
17 pursuant to this section govern only site rehabilitation  
18 activities occurring at the contaminated site. Removal of  
19 contaminated media from a site for offsite relocation or  
20 treatment must be in accordance with all applicable federal,  
21 state, and local laws and regulations.

22 (4) REOPENERS.--Upon completion of site rehabilitation  
23 in compliance with subsection (2), additional site  
24 rehabilitation is not required unless it is demonstrated:

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

27 (b) That new information confirms the existence of an  
28 area of previously unknown contamination that exceeds the  
29 site-specific rehabilitation levels established in accordance  
30 with subsection (2), or that otherwise poses the threat of

31

1 real and substantial harm to public health, safety, or the  
2 environment;

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

5 (d) That the level of risk is increased beyond the  
6 acceptable risk established under subsection (2) due to  
7 substantial changes in exposure conditions, such as a change  
8 in land use from nonresidential to residential use. Any person  
9 who changes the land use of the site, thus causing the level  
10 of risk to increase beyond the acceptable risk level, may be  
11 required by the department to undertake additional remediation  
12 measures to assure that human health, public safety, and the  
13 environment are protected consistent with this section; or

14 (e) That a new discharge of pollutants or hazardous  
15 substances or disposal of solid waste or hazardous waste  
16 occurs at the site subsequent to the issuance of a "no further  
17 action" letter or site rehabilitation completion order  
18 associated with the original contamination being addressed  
19 pursuant to this section.

20 (5) MAPPING.--Notwithstanding the exceptions in  
21 paragraph (1)(b), if an institutional control is implemented  
22 at any contaminated site, including sites in the petroleum,  
23 brownfields, or drycleaning programs, the property owner must  
24 provide information regarding the institutional control to the  
25 local government for mapping purposes. The local government  
26 must then note the existence of the institutional control on  
27 any relevant local land use and zoning maps with a  
28 cross-reference to the department's site registry developed  
29 pursuant to subsection (6). If the type of institutional  
30 control used requires recording with the local government,  
31 then the map notation shall also provide a cross-reference to

1 the book and page number where recorded. When a local  
2 government is provided with evidence that the department has  
3 subsequently issued a No Further Action Order without  
4 institutional controls for a site currently noted on such  
5 maps, the local government shall remove the notation.

6 (6) REGISTRY.--Notwithstanding the exceptions in  
7 paragraph (1)(b), the department shall prepare and maintain a  
8 registry of all contaminated sites subject to institutional  
9 and engineering controls, in order to provide a mechanism for  
10 the public and local governments to: monitor the status of  
11 these controls; monitor the department's short-term and  
12 long-term protection of human health and the environment in  
13 relation to these sites; and evaluate economic revitalization  
14 efforts in these areas. At a minimum, the registry shall  
15 include the type of institutional or engineering controls  
16 employed at a particular site, types of contaminants and  
17 affected media, land use limitations, and the county in which  
18 the site is located. Sites listed on the registry at which the  
19 department has subsequently issued a No Further Action Order  
20 without institutional controls shall be removed from the  
21 registry. The department shall make the registry available to  
22 the public and local governments within 1 year after the  
23 effective date of this act. The department shall provide local  
24 governments with actual notice when the registry becomes  
25 available. Local zoning and planning offices shall post  
26 information on how to access the registry in public view.

27 Section 6. Paragraph (i) of subsection (4) of section  
28 376.3078, Florida Statutes, is amended to read:

29 376.3078 Drycleaning facility restoration; funds;  
30 uses; liability; recovery of expenditures.--

31

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

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 demonstrating using site-specific modeling and  
18 risk assessment studies, that human health, public safety, and  
19 the 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           Section 7. Section 376.79, Florida Statutes, is  
2 amended to read:

3           376.79 Definitions.--As used in ss. 376.77-376.85, the  
4 term:

5           (1) "Additive effects" means a scientific principle  
6 that the toxicity that occurs as a result of exposure is the  
7 sum of the toxicities of the individual chemicals to which the  
8 individual is exposed.

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

13           (3) "Brownfield sites" means sites that are generally  
14 abandoned, idled, or underused industrial and commercial  
15 properties where expansion or redevelopment is complicated by  
16 actual or perceived environmental contamination.

17           (4) "Brownfield area" means a contiguous area of one  
18 or more brownfield sites, some of which may not be  
19 contaminated, and which has been designated by a local  
20 government by resolution. Such areas may include all or  
21 portions of community redevelopment areas, enterprise zones,  
22 empowerment zones, other such designated economically deprived  
23 communities and areas, and Environmental Protection  
24 Agency-designated brownfield pilot projects.

25           (5) "Contaminant" means any physical, chemical,  
26 biological, or radiological substance present in any medium  
27 which may result in adverse effects to human health or the  
28 environment or which creates an adverse nuisance,  
29 organoleptic, or aesthetic condition in groundwater.

30  
31

1           ~~(6)~~(5) "Contaminated site" means any contiguous land,  
2 surface water, or groundwater areas that contain contaminants  
3 that may be harmful to human health or the environment.

4           ~~(7)~~(6) "Department" means the Department of  
5 Environmental Protection.

6           ~~(8)~~(7) "Engineering controls" means modifications to a  
7 site to reduce or eliminate the potential for exposure to  
8 contaminants. Such modifications may include, but are not  
9 limited to, physical or hydraulic control measures, capping,  
10 point of use treatments, or slurry walls.

11           ~~(9)~~(8) "Environmental justice" means the fair  
12 treatment of all people of all races, cultures, and incomes  
13 with respect to the development, implementation, and  
14 enforcement of environmental laws, regulations, and policies.

15           ~~(10)~~(9) "Institutional controls" means the restriction  
16 on use of or access to a site to eliminate or minimize  
17 exposure to contaminants. Such restrictions may include, but  
18 are not limited to, deed restrictions, restrictive covenants,  
19 or conservation easements ~~use restrictions, or restrictive~~  
20 ~~zoning.~~

21           ~~(11)~~(10) "Local pollution control program" means a  
22 local pollution control program that has received delegated  
23 authority from the Department of Environmental Protection  
24 under ss. 376.80(11) and 403.182.

25           ~~(12)~~(11) "Natural attenuation" means a verifiable  
26 approach to site rehabilitation which allows natural processes  
27 to contain the spread of contamination and reduce the  
28 concentrations of contaminants in contaminated groundwater and  
29 soil. Natural attenuation processes may include sorption,  
30 biodegradation, chemical reactions with subsurface materials,  
31 diffusion, dispersion, and volatilization.~~the verifiable~~

1 ~~reduction of contaminants through natural processes, which may~~  
2 ~~include diffusion, dispersion, adsorption, and biodegradation.~~

3       (13)~~(12)~~ "Person responsible for brownfield site  
4 rehabilitation" means the individual or entity that is  
5 designated by the local government to enter into the  
6 brownfield site rehabilitation agreement with the department  
7 or an approved local pollution control program and enters into  
8 an agreement with the local government for redevelopment of  
9 the site.

10       (14)~~(13)~~ "Person" means any individual, partner, joint  
11 venture, or corporation; any group of the foregoing, organized  
12 or united for a business purpose; or any governmental entity.

13       (15) "Risk reduction" means the lowering or  
14 elimination of the level of risk posed to human health or the  
15 environment through interim remedial actions, remedial action,  
16 or institutional, and if appropriate, engineering controls.

17       (16)~~(14)~~ "Secretary" means the secretary of the  
18 Department of Environmental Protection.

19       (17)~~(15)~~ "Site rehabilitation" means the assessment of  
20 site contamination and the remediation activities that reduce  
21 the levels of contaminants at a site through accepted  
22 treatment methods to meet the cleanup target levels  
23 established for that site.

24       (18)~~(16)~~ "Source removal" means the removal of free  
25 product, or the removal of contaminants from soil or sediment  
26 that has been contaminated to the extent that leaching to  
27 groundwater or surface water has occurred or is occurring.

28       (19)~~(17)~~ "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.

1           Section 8. Subsections (4) and (5) and paragraph (c)  
2 of subsection (7) of section 376.80, Florida Statutes, are  
3 amended to read:

4           376.80 Brownfield program administration process.--

5           (4) Local governments or persons responsible for  
6 rehabilitation and redevelopment of brownfield areas must  
7 establish an advisory committee or use an existing advisory  
8 committee that has formally expressed its intent to address  
9 redevelopment of the specific brownfield area for the purpose  
10 of improving public participation and receiving public  
11 comments on rehabilitation and redevelopment of the brownfield  
12 area, future land use, local employment opportunities,  
13 community safety, and environmental justice. Such advisory  
14 committee should include residents within or adjacent to the  
15 brownfield area, businesses operating within the brownfield  
16 area, and others deemed appropriate. The person responsible  
17 for brownfield site rehabilitation must notify the advisory  
18 committee of the intent to rehabilitate and redevelop the site  
19 before executing the brownfield site rehabilitation agreement,  
20 and provide the committee with a copy of the draft plan for  
21 site rehabilitation which addresses elements required by  
22 subsection (5). This includes disclosing potential reuse of  
23 the property as well as site rehabilitation activities, if  
24 any, to be performed. The advisory committee shall review the  
25 proposed redevelopment agreement required pursuant to  
26 paragraph (5)(i) and provide comments, if appropriate, to the  
27 board of the local government with jurisdiction over the  
28 brownfield area. The advisory committee must receive a copy of  
29 the executed brownfield site rehabilitation agreement. When  
30 the person responsible for brownfield site rehabilitation  
31 submits a site assessment report or the technical document

1 containing the proposed course of action following site  
2 assessment to the department or the local pollution control  
3 program for review, the person responsible for brownfield site  
4 rehabilitation must hold a meeting or attend a regularly  
5 scheduled meeting to inform the advisory committee of the  
6 findings and recommendations in the site assessment report or  
7 the technical document containing the proposed course of  
8 action following site assessment. ~~The advisory committee must~~  
9 ~~review and provide recommendations to the board of the local~~  
10 ~~government with jurisdiction on the proposed site~~  
11 ~~rehabilitation agreement provided in subsection (5).~~

12 (5) The person responsible for brownfield site  
13 rehabilitation must enter into a brownfield site  
14 rehabilitation agreement with the department or an approved  
15 local pollution control program if actual contamination exists  
16 at the brownfield site. The brownfield site rehabilitation  
17 agreement must include:

18 (a) A brownfield site rehabilitation schedule,  
19 including milestones for completion of site rehabilitation  
20 tasks and submittal of technical reports and rehabilitation  
21 plans as agreed upon by the parties to the agreement;

22 (b) A commitment to conduct site rehabilitation  
23 activities under the observation of professional engineers or  
24 geologists who are registered in accordance with the  
25 requirements of chapter 471 or chapter 492, respectively.  
26 Submittals provided by the person responsible for brownfield  
27 site rehabilitation must be signed and sealed by a  
28 professional engineer registered under chapter 471, or a  
29 professional geologist registered under chapter 492,  
30 certifying that the submittal and associated work comply with  
31 the law and rules of the department and those governing the

1 profession. In addition, upon completion of the approved  
2 remedial action, the department shall require a professional  
3 engineer registered under chapter 471 or a professional  
4 geologist registered under chapter 492 to certify that the  
5 corrective action was, to the best of his or her knowledge,  
6 completed in substantial conformance with the plans and  
7 specifications approved by the department;

8 (c) A commitment to conduct site rehabilitation in  
9 accordance with an approved comprehensive quality assurance  
10 plan under department rules;

11 (d) A commitment to conduct site rehabilitation  
12 consistent with state, federal, and local laws and consistent  
13 with the brownfield site contamination cleanup criteria in s.  
14 376.81, including any applicable requirements for risk-based  
15 corrective action;

16 (e) Timeframes for the department's review of  
17 technical reports and plans submitted in accordance with the  
18 agreement. The department shall make every effort to adhere  
19 to established agency goals for reasonable timeframes for  
20 review of such documents;

21 (f) A commitment to secure site access for the  
22 department or approved local pollution control program to all  
23 brownfield sites within the eligible brownfield area for  
24 activities associated with site rehabilitation;

25 (g) Other provisions that the person responsible for  
26 brownfield site rehabilitation and the department agree upon,  
27 that are consistent with ss. 376.77-376.85, and that will  
28 improve or enhance the brownfield site rehabilitation process;

29 (h) A commitment to consider appropriate pollution  
30 prevention measures and to implement those that the person  
31 responsible for brownfield site rehabilitation determines are

1 reasonable and cost-effective, taking into account the  
2 ultimate use or uses of the brownfield site. Such measures  
3 may include improved inventory or production controls and  
4 procedures for preventing loss, spills, and leaks of hazardous  
5 waste and materials, and include goals for the reduction of  
6 releases of toxic materials; and

7 (i) Certification that an agreement exists between the  
8 person responsible for brownfield site rehabilitation and the  
9 local government with jurisdiction over the brownfield area.  
10 Such agreement shall contain terms for the redevelopment of  
11 the brownfield area.

12 (7) The contractor must certify to the department that  
13 the contractor:

14 (c) Maintains comprehensive general liability and  
15 comprehensive automobile liability insurance with minimum  
16 limits of at least \$1 million per claim ~~occurrence~~ and \$1  
17 million annual aggregate, sufficient to protect it from claims  
18 for damage for personal injury, including accidental death, as  
19 well as claims for property damage which may arise from  
20 performance of work under the program, designating the state  
21 as an additional insured party.

22 Section 9. Section 376.81, Florida Statutes, is  
23 amended to read:

24 376.81 Brownfield site and brownfield areas  
25 contamination cleanup criteria.--

26 (1) It is the intent of the Legislature to protect the  
27 health of all people under actual circumstances of exposure.  
28 By July 1, 2001 ~~1998~~, the secretary of the department shall  
29 establish criteria by rule for the purpose of determining, on  
30 a site-specific basis, the rehabilitation program tasks that  
31 comprise a site rehabilitation program and the level at which



1 a rehabilitation program task and a site rehabilitation  
2 program may be deemed completed. In establishing the rule,  
3 the department shall apply ~~incorporate~~, to the maximum extent  
4 feasible, a risk-based corrective action process principles to  
5 achieve protection of human health and safety and the  
6 environment in a cost-effective manner based on the principles  
7 set forth as provided in this subsection. The rule must  
8 prescribe a phased risk-based corrective action process that  
9 is iterative and that tailors site rehabilitation tasks to  
10 site-specific conditions and risks. The department and the  
11 person responsible for brownfield site rehabilitation are  
12 encouraged to establish decision points at which risk  
13 management decisions will be made. The department shall  
14 provide an early decision, when requested, regarding  
15 applicable exposure factors and a risk management approach  
16 based on the current and future land use at the site.The rule  
17 shall also include protocols for the use of natural  
18 attenuation, the use of institutional and engineering  
19 controls,and the issuance of "no further action" letters. The  
20 criteria for determining what constitutes a rehabilitation  
21 program task or completion of a site rehabilitation program  
22 task or site rehabilitation program must:

23 (a) Consider the current exposure and potential risk  
24 of exposure to humans and the environment, including multiple  
25 pathways of exposure. The physical, chemical, and biological  
26 characteristics of each contaminant must be considered in  
27 order to determine the feasibility of risk-based corrective  
28 action assessment.

29 (b) Establish the point of compliance at the source of  
30 the contamination. However, the department is authorized to  
31 temporarily move the point of compliance to the boundary of

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

26 (c) Ensure that the site-specific cleanup goal is that  
27 all contaminated brownfield sites and brownfield areas  
28 ultimately achieve the applicable cleanup target levels  
29 provided in this section. In the circumstances provided below,  
30 and after constructive notice and opportunity to comment  
31 within 30 days from receipt of the notice to local government,

1 to owners of any property into which the point of compliance  
2 is allowed to extend, and to residents on any property into  
3 which the point of compliance is allowed to extend, the  
4 department may allow concentrations of contaminants to  
5 temporarily exceed the applicable cleanup target levels while  
6 cleanup, including cleanup through natural attenuation  
7 processes in conjunction with appropriate monitoring, is  
8 proceeding, if human health, public safety, and the  
9 environment are protected.

10 (d) Allow brownfield site and brownfield area  
11 rehabilitation programs to include the use of institutional or  
12 engineering controls, where appropriate, to eliminate or  
13 control the potential exposure to contaminants of humans or  
14 the environment. The use of controls must be preapproved by  
15 the department and only after constructive notice and  
16 opportunity to comment within 30 days from receipt of notice  
17 is provided to local governments, to owners of any property  
18 into which the point of compliance is allowed to extend, and  
19 to residents on any property into which the point of  
20 compliance is allowed to extend. When institutional or  
21 engineering controls are implemented to control exposure, the  
22 removal of the controls must have prior department approval  
23 and must be accompanied by the resumption of active cleanup,  
24 or other approved controls, unless cleanup target levels under  
25 this section have been achieved.

26 (e) Consider the additive effects of contaminants.  
27 The synergistic and antagonistic effects shall also be  
28 considered when the scientific data become available.

29 (f) Take into consideration individual site  
30 characteristics, which shall include, but not be limited to,  
31 the current and projected use of the affected groundwater and

1 surface water in the vicinity of the site, current and  
2 projected land uses of the area affected by the contamination,  
3 the exposed population, the degree and extent of  
4 contamination, the rate of contaminant migration, the apparent  
5 or potential rate of contaminant degradation through natural  
6 attenuation processes, the location of the plume, and the  
7 potential for further migration in relation to site property  
8 boundaries.

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

10 1. Cleanup target levels for each contaminant found in  
11 groundwater shall be the applicable state water quality  
12 standards. Where such standards do not exist, the cleanup  
13 target levels for groundwater shall be based on the minimum  
14 criteria specified in department rule. The department shall  
15 apply ~~consider~~ the following, as appropriate, in establishing  
16 the applicable cleanup target levels ~~minimum criteria~~:  
17 calculations using a lifetime cancer risk level of 1.0E-6; a  
18 hazard index of 1 or less; the best achievable detection  
19 limit; and ~~the naturally occurring background concentration;~~  
20 ~~or~~ nuisance, organoleptic, and aesthetic considerations.  
21 However, the department shall not require site rehabilitation  
22 to achieve a cleanup target level for any individual  
23 contaminant which is more stringent than the site-specific,  
24 naturally occurring background concentration for that  
25 contaminant.

26 2. Where surface waters are exposed to contaminated  
27 groundwater, the cleanup target levels for the contaminants  
28 shall be based on the more protective of the groundwater or  
29 surface water standards as established by department rule.  
30 The point of measuring compliance with the surface water  
31

1 standards shall be in the groundwater immediately adjacent to  
2 the surface water body.

3           3. The department shall approve ~~may set~~ alternative  
4 cleanup target levels in conjunction with institutional and  
5 engineering controls, if needed, based upon an applicant's  
6 demonstration, using site-specific data, modeling results, and  
7 risk assessment studies, risk reduction techniques, or a  
8 combination thereof, that human health, public safety, and the  
9 environment are protected to the same degree as provided in  
10 subparagraphs 1. and 2. Where a state water quality standard  
11 is applicable, a deviation may not result in the application  
12 of cleanup target levels more stringent than the standard. In  
13 determining whether it is appropriate to establish alternative  
14 cleanup target levels at a site, the department must consider  
15 the effectiveness of source removal, if any, which ~~that~~ has  
16 been completed at the site and the practical likelihood of the  
17 use of low yield or poor quality groundwater, the use of  
18 groundwater near marine surface water bodies, the current and  
19 projected use of the affected groundwater in the vicinity of  
20 the site, or the use of groundwater in the immediate vicinity  
21 of the contaminated area, where it has been demonstrated that  
22 the groundwater contamination is not migrating away from such  
23 localized source, provided human health, public safety, and  
24 the environment are protected. When using alternative cleanup  
25 target levels at a brownfield site, institutional controls  
26 shall not be required if:

27           a. The only cleanup target levels exceeded are the  
28 groundwater cleanup target levels derived from nuisance,  
29 organoleptic, or aesthetic considerations;

1           b. Concentrations of all contaminants meet the state  
2 water quality standards or minimum criteria, based on  
3 protection of human health, provided in subparagraph 1.;

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

7           d. The person responsible for brownfield site  
8 rehabilitation has demonstrated that the contaminants will not  
9 migrate beyond the property boundary at concentrations  
10 exceeding the groundwater cleanup target levels established  
11 pursuant to subparagraph 1.;

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

15           f. The real property owner provides written acceptance  
16 of the "no further action" proposal to the department or the  
17 local pollution control program.

18           (h) Provide for the department to issue a "no further  
19 action order," with conditions, including, but not limited to,  
20 the use of institutional or engineering controls where  
21 appropriate, when alternative cleanup target levels  
22 established pursuant to subparagraph (g)3. have been achieved,  
23 or when the person responsible for brownfield site  
24 rehabilitation can demonstrate that the cleanup target level  
25 is unachievable within available technologies. Prior to  
26 issuing such an order, the department shall consider the  
27 feasibility of an alternative site rehabilitation technology  
28 in the brownfield area.

29           (i) Establish appropriate cleanup target levels for  
30 soils.

31

1           1. In establishing soil cleanup target levels for  
2 human exposure to each contaminant found in soils from the  
3 land surface to 2 feet below land surface, the department  
4 shall apply ~~consider~~ the following, as appropriate:  
5 calculations using a lifetime cancer risk level of 1.0E-6; a  
6 hazard index of 1 or less; and the best achievable detection  
7 limit; ~~or the naturally occurring background concentration.~~  
8 However, the department shall not require site rehabilitation  
9 to achieve a cleanup target level for an individual  
10 contaminant which is more stringent than the site-specific,  
11 naturally occurring background concentration for that  
12 contaminant. Institutional controls or other methods shall be  
13 used to prevent human exposure to contaminated soils more than  
14 2 feet below the land surface. Any removal of such  
15 institutional controls shall require such contaminated soils  
16 to be remediated.

17           2. Leachability-based soil target levels shall be  
18 based on protection of the groundwater cleanup target levels  
19 or the alternate cleanup target levels for groundwater  
20 established pursuant to this paragraph, as appropriate. Source  
21 removal and other cost-effective alternatives that are  
22 technologically feasible shall be considered in achieving the  
23 leachability soil target levels established by the department.  
24 The leachability goals shall not be applicable if the  
25 department determines, based upon individual site  
26 characteristics, and in conjunction with institutional and  
27 engineering controls, if needed, that contaminants will not  
28 leach into the groundwater at levels that ~~which~~ pose a threat  
29 to human health, public safety, and the environment.

30           3. The department shall approve ~~may set~~ alternative  
31 cleanup target levels in conjunction with institutional and

1 engineering controls, if needed,based upon an applicant's  
2 demonstration, using site-specific data,modeling results,and  
3 risk assessment studies, risk reduction techniques, or a  
4 combination thereof,that human health, public safety, and the  
5 environment are protected to the same degree as provided in  
6 subparagraphs 1. and 2.

7 (2) The department shall require source removal, if  
8 warranted and cost-effective. Once source removal at a site  
9 is complete, the department shall reevaluate the site to  
10 determine the degree of active cleanup needed to continue.  
11 Further, the department shall determine if the reevaluated  
12 site qualifies for monitoring only or if no further action is  
13 required to rehabilitate the site. If additional site  
14 rehabilitation is necessary to reach "no further action"  
15 status, the department is encouraged to utilize natural  
16 attenuation and monitoring where site conditions warrant.

17 (3) The cleanup criteria established pursuant to this  
18 section govern only site rehabilitation activities occurring  
19 at the contaminated site. Removal of contaminated media from a  
20 site for offsite relocation or treatment must be in accordance  
21 with all applicable federal, state, and local laws and  
22 regulations.

23 Section 10. Paragraph (k) is added to subsection (2)  
24 of section 376.82, Florida Statutes, to read:

25 376.82 Eligibility criteria and liability  
26 protection.--

27 (2) LIABILITY PROTECTION.--

28 (k) A person whose property becomes contaminated due  
29 to geophysical or hydrologic reasons, including the migration  
30 of contaminants onto their property from the operation of  
31 facilities and activities on a nearby designated brownfield



1 area, and whose property has never been occupied by a business  
2 that utilized or stored the contaminants or similar  
3 constituents is not subject to administrative or judicial  
4 action brought by or on behalf of another to compel the  
5 rehabilitation of or the payment of the costs for the  
6 rehabilitation of sites contaminated by materials that  
7 migrated onto the property from the designated brownfield  
8 area, if the person:

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

12 2. Did not participate in the operation or management  
13 of the activities in the designated brownfield area operated  
14 at the source location; and

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

18 Section 11. Section 376.88, Florida Statutes, is  
19 created to read:

20 376.88 Brownfield Program Review Advisory Council.--

21 (1) The Brownfield Program Review Advisory Council is  
22 created to provide for continuous review of the progress in  
23 the administration of Florida's Brownfield Program and to make  
24 recommendations for its improvement. The council shall consist  
25 of the following:

26 (a) A representative of a city that participated in  
27 the pilot grant program for brownfields sponsored by the U.S.  
28 Environmental Protection Agency;

29 (b) A representative of a county that participated in  
30 the pilot grant program for brownfields sponsored by the U.S.  
31 Environmental Protection Agency;

1           (c) A representative of a statewide business  
2 organization;

3           (d) A representative of Enterprise Florida, Inc.;

4           (e) A representative of response action contractor  
5 companies involved in activities at brownfield sites;

6           (f) The Secretary of the Department of Environmental  
7 Protection or his or her designee;

8           (g) The Secretary of the Department of Community  
9 Affairs or his or her designee;

10           (h) The Director of the Office of Tourism, Trade, and  
11 Economic Development in the Executive Office of the Governor;

12           (i) A representative of a financial institution;

13           (j) A representative of the Sierra Club; and

14           (k) A representative of the Community Environmental  
15 Health Advisory Board.

16           (2) Duties and responsibilities.--The Brownfield  
17 Program Review Advisory Council shall:

18           (a) Perform a comprehensive review of activities  
19 related to rehabilitation of brownfield areas;

20           (b) Determine and recommend any additional economic  
21 incentives that should be available to help accelerate  
22 rehabilitation activities; and

23           (c) Review the administrative processes for approving  
24 and permitting rehabilitation activities by the Department of  
25 Environmental Protection and local programs and make  
26 recommendations for improvements in these processes.

27           (3) The initial term for service of the council shall  
28 be 2 years from the date of the first meeting and may be  
29 extended at the discretion of the Secretary of Environmental  
30 Protection, or his or her designee, based upon the needs of  
31 the brownfields program.

1           (4) Each member shall provide his or her own per diem  
2 and expenses for travel while carrying out the business of the  
3 council.

4           (5) The Secretary of the Department of Environmental  
5 Protection or his or her designee shall appoint the council  
6 members, serve as chairperson of the council, and convene the  
7 council on at least a semi-annual basis.

8           (6) The council shall submit a report to the  
9 Legislature as often as needed to address issues requiring  
10 legislative changes or appropriations.

11           Section 12. Paragraph (d) is added to subsection (3)  
12 of section 403.973, Florida Statutes, to read:

13           403.973 Expedited permitting; comprehensive plan  
14 amendments.--

15           (3)

16           (d) Projects located in a designated brownfield area  
17 are eligible for the expedited permitting process.

18           Section 13. Subsection (1) of section 190.012, Florida  
19 Statutes, is amended to read:

20           190.012 Special powers; public improvements and  
21 community facilities.--The district shall have, and the board  
22 may exercise, subject to the regulatory jurisdiction and  
23 permitting authority of all applicable governmental bodies,  
24 agencies, and special districts having authority with respect  
25 to any area included therein, any or all of the following  
26 special powers relating to public improvements and community  
27 facilities authorized by this act:

28           (1) To finance, fund, plan, establish, acquire,  
29 construct or reconstruct, enlarge or extend, equip, operate,  
30 and maintain systems, facilities, and basic infrastructures  
31 for the following:

1 (a) Water management and control for the lands within  
2 the district and to connect some or any of such facilities  
3 with roads and bridges.

4 (b) Water supply, sewer, and wastewater management,  
5 reclamation, and reuse or any combination thereof, and to  
6 construct and operate connecting intercepting or outlet sewers  
7 and sewer mains and pipes and water mains, conduits, or  
8 pipelines in, along, and under any street, alley, highway, or  
9 other public place or ways, and to dispose of any effluent,  
10 residue, or other byproducts of such system or sewer system.

11 (c) Bridges or culverts that may be needed across any  
12 drain, ditch, canal, floodway, holding basin, excavation,  
13 public highway, tract, grade, fill, or cut and roadways over  
14 levees and embankments, and to construct any and all of such  
15 works and improvements across, through, or over any public  
16 right-of-way, highway, grade, fill, or cut.

17 (d)1. District roads equal to or exceeding the  
18 specifications of the county in which such district roads are  
19 located, and street lights.

20 2. Buses, trolleys, transit shelters, ridesharing  
21 facilities and services, parking improvements, and related  
22 signage.

23 (e) Investigation and remediation costs associated  
24 with the cleanup of actual or perceived environmental  
25 contamination within the district under the supervision or  
26 direction of a competent governmental authority unless the  
27 covered costs benefit any person who is a landowner within the  
28 district and who caused or contributed to the contamination.

29 (f)~~(e)~~ Conservation areas, mitigation areas, and  
30 wildlife habitat, including the maintenance of any plant or  
31

1 animal species, and any related interest in real or personal  
2 property.

3 (g)~~(f)~~ Any other project within or without the  
4 boundaries of a district when a local government issued a  
5 development order pursuant to s. 380.06 or s. 380.061  
6 approving or expressly requiring the construction or funding  
7 of the project by the district, or when the project is the  
8 subject of an agreement between the district and a  
9 governmental entity and is consistent with the local  
10 government comprehensive plan of the local government within  
11 which the project is to be located.

12 Section 14. Section 712.01, Florida Statutes, is  
13 amended to read:

14 712.01 Definitions.--As used in this law:

15 (1) The term "person" as used herein denotes singular  
16 or plural, natural or corporate, private or governmental,  
17 including the state and any political subdivision or agency  
18 thereof as the context for the use thereof requires or denotes  
19 and including any homeowners' association.

20 (2) "Root of title" means any title transaction  
21 purporting to create or transfer the estate claimed by any  
22 person and which is the last title transaction to have been  
23 recorded at least 30 years prior to the time when  
24 marketability is being determined. The effective date of the  
25 root of title is the date on which it was recorded.

26 (3) "Title transaction" means any recorded instrument  
27 or court proceeding which affects title to any estate or  
28 interest in land and which describes the land sufficiently to  
29 identify its location and boundaries.

30 (4) The term "homeowners' association" means a  
31 homeowners' association as defined in s. 617.301(7), or an

1 association of parcel owners which is authorized to enforce  
2 use restrictions that are imposed on the parcels.

3 (5) The term "parcel" means real property which is  
4 used for residential purposes that is subject to exclusive  
5 ownership and which is subject to any covenant or restriction  
6 of a homeowners' association.

7 (6) The term "covenant or restriction" means any  
8 agreement or limitation contained in a document recorded in  
9 the public records of the county in which a parcel is located  
10 which subjects the parcel to any use restriction which may be  
11 enforced by a homeowners' association or which authorizes a  
12 homeowners' association to impose a charge or assessment  
13 against the parcel or the owner of the parcel or which may be  
14 enforced by the Florida Department of Environmental Protection  
15 pursuant to chapter 376 or chapter 403.

16 Section 15. Section 712.03, Florida Statutes, is  
17 amended to read:

18 712.03 Exceptions to marketability.--Such marketable  
19 record title shall not affect or extinguish the following  
20 rights:

21 (1) Estates or interests, easements and use  
22 restrictions disclosed by and defects inherent in the  
23 muniments of title on which said estate is based beginning  
24 with the root of title; provided, however, that a general  
25 reference in any of such muniments to easements, use  
26 restrictions or other interests created prior to the root of  
27 title shall not be sufficient to preserve them unless specific  
28 identification by reference to book and page of record or by  
29 name of recorded plat be made therein to a recorded title  
30 transaction which imposed, transferred or continued such  
31

1 easement, use restrictions or other interests; subject,  
2 however, to the provisions of subsection (5).

3 (2) Estates, interests, claims, or charges, or any  
4 covenant or restriction, preserved by the filing of a proper  
5 notice in accordance with the provisions hereof.

6 (3) Rights of any person in possession of the lands,  
7 so long as such person is in such possession.

8 (4) Estates, interests, claims, or charges arising out  
9 of a title transaction which has been recorded subsequent to  
10 the effective date of the root of title.

11 (5) Recorded or unrecorded easements or rights,  
12 interest or servitude in the nature of easements,  
13 rights-of-way and terminal facilities, including those of a  
14 public utility or of a governmental agency, so long as the  
15 same are used and the use of any part thereof shall except  
16 from the operation hereof the right to the entire use thereof.  
17 No notice need be filed in order to preserve the lien of any  
18 mortgage or deed of trust or any supplement thereto  
19 encumbering any such recorded or unrecorded easements, or  
20 rights, interest, or servitude in the nature of easements,  
21 rights-of-way, and terminal facilities. However, nothing  
22 herein shall be construed as preserving to the mortgagee or  
23 grantee of any such mortgage or deed of trust or any  
24 supplement thereto any greater rights than the rights of the  
25 mortgagor or grantor.

26 (6) Rights of any person in whose name the land is  
27 assessed on the county tax rolls for such period of time as  
28 the land is so assessed and which rights are preserved for a  
29 period of 3 years after the land is last assessed in such  
30 person's name.

31

1           (7) State title to lands beneath navigable waters  
2 acquired by virtue of sovereignty.

3           (8) A restriction or covenant recorded pursuant to  
4 chapter 376 or chapter 403.

5           Section 16. Subsections (4) and (7) of section 252.87,  
6 Florida Statutes, are amended to read:

7           252.87 Supplemental state reporting requirements.--

8           (4) Each employer that owns or operates a facility in  
9 this state at which hazardous materials are present in  
10 quantities at or above the thresholds established under ss.  
11 311(b) and 312(b) of EPCRA shall comply with the reporting  
12 requirements of ss. 311 and 312 of EPCRA. Such employer shall  
13 also be responsible for notifying the department, the local  
14 emergency planning committee, and the local fire department in  
15 writing within 30 days if there is a discontinuance or  
16 abandonment of the employer's business activities that could  
17 affect any stored hazardous materials.

18           (7) The department shall avoid duplicative reporting  
19 requirements by utilizing the reporting requirements of other  
20 state agencies that regulate hazardous materials to the extent  
21 feasible and shall ~~only~~ request the ~~necessary~~ information  
22 authorized required under EPCRA ~~or required to implement the~~  
23 ~~fee provisions of this part.~~ With the advice and consent of  
24 the State Emergency Response Commission for Hazardous  
25 Materials, the department may require by rule that the maximum  
26 daily amount entry on the chemical inventory report required  
27 under s. 312 of EPCRA provide for reporting in estimated  
28 actual amounts. The department may also require by rule an  
29 entry for the Federal Employer Identification Number on this  
30 report. To the extent feasible, the department shall encourage  
31 and accept required information in a form initiated through



1 electronic data interchange and shall describe by rule the  
2 format, manner of execution, and method of electronic  
3 transmission necessary for using such form.To the extent  
4 feasible, the Department of Insurance, the Department of  
5 Agriculture and Consumer Services, the Department of  
6 Environmental Protection, the Public Service Commission, the  
7 Department of Revenue, the Department of Labor and Employment  
8 Security, and other state agencies which regulate hazardous  
9 materials shall coordinate with the department in order to  
10 avoid duplicative requirements contained in each agency's  
11 respective reporting or registration forms. The other state  
12 agencies that inspect facilities storing hazardous materials  
13 and suppliers and distributors of covered substances shall  
14 assist the department in informing the facility owner or  
15 operator of the requirements of this part. The department  
16 shall provide the other state agencies with the necessary  
17 information and materials to inform the owners and operators  
18 of the requirements of this part to ensure that the budgets of  
19 these agencies are not adversely affected.

20 Section 17. This act shall take effect upon becoming a  
21 law.

22  
23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
24 COMMITTEE SUBSTITUTE FOR  
25 CS/CS/SB 1408

26 Clarifies who the eligible businesses are that qualify for the  
27 brownfield bonus and requires an eligible business to report  
28 the amount of capital investment in a brownfield area and  
clarifies the rules and policies under which they are required  
to report.

29 Provides a cap of \$3 million of tax refund awards that may be  
30 made in any fiscal year for brownfield bonuses.

31 Provides the Department of Community Affairs with the specific  
authority necessary to implement a system to accept automated  
reports for the Hazardous Materials Planning Program.