

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on General Government Appropriations offered the following:

Substitute Amendment for Amendment (435235) (with title amendment)

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Paragraph (b) of subsection (2) and paragraph (b) of subsection (3) of section 206.9935, Florida Statutes, is amended to read:

206.9935 Taxes imposed.--

(2) TAX FOR WATER QUALITY.--

(a)1. There is hereby levied an excise tax for the privilege of producing in, importing into, or causing to be imported into this state pollutants for sale, use, or otherwise.

2. The tax shall be imposed only once on each barrel or other unit of pollutant, other than petroleum products, when first produced in or imported into this state. The tax on pollutants first imported into or produced in this state shall

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1 be imposed when the product is first sold or first removed
2 from storage. The tax shall be paid and remitted by any
3 person who is licensed by the department to engage in the
4 production or importation of motor fuel, diesel fuel, aviation
5 fuel, or other pollutants.

6 3. The tax shall be imposed on petroleum products and
7 remitted to the department in the same manner as the motor
8 fuel tax imposed pursuant to s. 206.41.

9 (b) The excise tax shall be the applicable rate as
10 specified in subparagraph 1. per barrel or per unit of
11 pollutant, or equivalent measure as established by the
12 department, produced in or imported into the state. If the
13 unobligated balance of the Water Quality Assurance Trust Fund
14 is or falls below \$3 million, the tax shall be increased to
15 the applicable rates specified in subparagraph 2. and shall
16 remain at said rates until the unobligated balance in the fund
17 exceeds \$5 million, at which time the tax shall be imposed at
18 the rates specified in subparagraph 1. If the unobligated
19 balance of the fund exceeds \$12 million, the levy of the tax
20 shall be discontinued until the unobligated balance of the
21 fund falls below \$5 million, at which time the tax shall be
22 imposed at the rates specified in subparagraph 1. Changes in
23 the tax rates pursuant to this paragraph shall take effect on
24 the first day of the month after 30 days' notification to the
25 Department of Revenue when the unobligated balance of the fund
26 falls below or exceeds a limit set pursuant to this paragraph.
27 The unobligated balance of the Water Quality Assurance Trust
28 Fund as it relates to determination of the applicable excise
29 tax rate shall exclude the unobligated balances of funds of
30 the Dry Cleaning, Operator Certification, and nonagricultural
31 nonpoint source programs, and other required reservations of

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1 fund balance. The unobligated balance in the Water Quality
2 Assurance Trust Fund is based upon the current unreserved fund
3 balance, projected revenues, authorized legislative
4 appropriations, and funding for the department's base budget
5 for the subsequent fiscal year. Determination of the
6 unobligated balance of the Water Quality Assurance Trust Fund
7 shall be performed annually subsequent to the annual
8 legislative appropriations becoming law.

9 1. As provided in this paragraph, the tax shall be
10 2.36 cents per gallon of solvents, 1 cent per gallon of motor
11 oil or other lubricants, and 2 cents per barrel of petroleum
12 products, pesticides, ammonia, and chlorine.

13 2. As provided in this paragraph, the tax shall be 5.9
14 cents per gallon of solvents, 2.5 cents per gallon of motor
15 oil or other lubricants, 2 cents per barrel of ammonia, and 5
16 cents per barrel of petroleum products, pesticides, and
17 chlorine. ingestion.

18 (3) TAX FOR INLAND PROTECTION.--

19 (a)1. There is hereby levied an excise tax for the
20 privilege of producing in, importing into, or causing to be
21 imported into this state pollutants for sale, use, or
22 otherwise.

23 2. The tax shall be imposed only once on each barrel
24 of pollutant produced in or imported into this state in the
25 same manner as the motor fuel tax imposed pursuant to s.
26 206.41. The tax shall be paid or remitted by any person who
27 is licensed by the department to engage in the production or
28 importation of motor fuel, diesel fuel, aviation fuel, or
29 other pollutants.

30 (b)1. The excise tax per barrel of pollutant, or
31 equivalent measure as established by the department, produced

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1 in or imported into this state shall be:
2 a. Thirty cents if the unobligated balance of the fund
3 is between \$100 million and \$150 million.
4 b. Sixty cents if the unobligated balance of the fund
5 is above \$50 million, but below \$100 million.
6 c. Eighty cents if the unobligated balance of the fund
7 is \$50 million or less.
8 2. Any change in the tax rate shall be effective for a
9 minimum of 6 months, unless the unobligated balance of the
10 fund requires that a higher rate be levied.
11 3. If the unobligated balance of the fund exceeds \$150
12 million, the tax shall be discontinued until such time as the
13 unobligated balance of the fund reaches \$100 million.
14 4. The Secretary of Environmental Protection shall
15 immediately notify the Department of Revenue when the
16 unobligated balance of the fund falls below or exceeds an
17 amount set herein. Changes in the tax rates pursuant to this
18 subsection shall take effect on the first day of the month
19 after 30 days' notification to the Department of Revenue by
20 the Secretary of Environmental Protection when the unobligated
21 balance of the fund falls below or exceeds a limit set
22 pursuant to this subsection. The unobligated balance of the
23 Inland Protection Trust Fund as it relates to determination of
24 the applicable excise tax rate shall exclude any required
25 reservations of fund balance. The unobligated balance of the
26 Inland Protection Trust Fund is based upon the current
27 unreserved fund balance, projected revenues, authorized
28 legislative appropriations, and funding for the department's
29 base budget for the subsequent fiscal year. Determination of
30 the unobligated balance of the Inland Protection Trust Fund
31 shall be performed annually subsequent to the annual

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1 legislative appropriations becoming law.

2 (c) This subsection shall be reviewed by the
3 Legislature during the 1998 regular legislative session.

4 Section 2. Subsections (4) and (7) of section 252.87,
5 Florida Statutes, are amended to read:

6 252.87 Supplemental state reporting requirements.--

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

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

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

19 Section 3. Subsection (5) of section 288.047, Florida
20 Statutes, is amended to read:

21 288.047 Quick-response training for economic
22 development.--

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

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1 Section 4. Section 288.107, Florida Statutes, is
2 amended to read:

3 288.107 Brownfield redevelopment bonus refunds.--

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

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

7 (b) "Brownfield sites" means sites that are generally
8 abandoned, idled, or underused industrial and commercial
9 properties where expansion or redevelopment is complicated by
10 actual or perceived environmental contamination.

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

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

22 (e) "Eligible business" means a qualified target
23 industry business as defined in s. 288.106(2)(o) or other
24 business that can demonstrate a fixed capital investment of at
25 least \$2 million in mixed-use business activities, including
26 multiunit housing, commercial, retail, and industrial in
27 brownfield areas and which pays wages that are at least 80
28 percent of the average of all private sector wages in the
29 county in which the business is located.

30 (f) "Jobs" means full-time equivalent positions,
31 consistent with the use of such terms by the Department of

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1 Labor and Employment Security for the purpose of unemployment
2 compensation tax, resulting directly from a project in this
3 state. This number does not include temporary construction
4 jobs involved with the construction of facilities for the
5 project and which are not associated with the implementation
6 of the site rehabilitation as provided in s. 376.80.

7 (g) "Office" means the Office of Tourism, Trade, and
8 Economic Development.

9 (h) "Project" means the creation of a new business or
10 the expansion of an existing business as defined in s.
11 288.106.

12 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.--There
13 shall be allowed from the account a bonus refund of \$2,500 to
14 any qualified target industry business or other eligible
15 business as defined in paragraph (1)(e)for each new Florida
16 job created in a brownfield which is claimed on the qualified
17 target industry business's annual refund claim authorized in
18 s. 288.106(6) or other similar annual claim procedure for
19 other eligible business as defined in paragraph (1)(e)and
20 approved by the office as specified in the final order issued
21 by the director.

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

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

28 (b) The completion of a fixed capital investment of at
29 least \$2 million in mixed-use business activities, including
30 multiunit housing, commercial, retail, and industrial in
31 brownfield areas and which pay wages that are at least 80

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1 percent of the average of all private sector wages in the
2 county in which the business is located.

3 (c)~~(b)~~ That the designation as a brownfield will
4 diversify and strengthen the economy of the area surrounding
5 the site.

6 (d)~~(c)~~ That the designation as a brownfield will
7 promote capital investment in the area beyond that
8 contemplated for the rehabilitation of the site.

9 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS
10 REFUNDS.--

11 (a) To be eligible to receive a bonus refund for new
12 Florida jobs created in a brownfield, a business must have
13 been certified as a qualified target industry business under
14 s. 288.106 or eligible business as defined in paragraph (1)(e)
15 and must have indicated on the qualified target industry tax
16 refund application form submitted in accordance with s.
17 288.106(4) or other similar agreement for other eligible
18 business as defined in paragraph (1)(e) that the project for
19 which the application is submitted is or will be located in a
20 brownfield and that the business is applying for certification
21 as a qualified brownfield business under this section, and
22 must have signed a qualified target industry tax refund
23 agreement with the office which indicates that the business
24 has been certified as a qualified target industry business
25 located in a brownfield and specifies the schedule of
26 brownfield redevelopment bonus refunds that the business may
27 be eligible to receive in each fiscal year.

28 (b) To be considered to receive an eligible brownfield
29 redevelopment bonus refund payment, the business meeting the
30 requirements of paragraph (a) must submit a claim once each
31 fiscal year on a claim form approved by the office which

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1 indicates the location of the brownfield, the address of the
2 business facility's brownfield location, the name of the
3 brownfield in which it is located, the number of jobs created,
4 and the average wage of the jobs created by the business
5 within the brownfield as defined in s. 288.106 or other
6 eligible business as defined in paragraph (1)(e) and the
7 administrative rules and policies for that section.

8 (c) The bonus refunds shall be available on the same
9 schedule as the qualified target industry tax refund payments
10 scheduled in the qualified target industry tax refund
11 agreement authorized in s. 288.106 or other similar agreement
12 for other eligible businesses as defined in paragraph (1)(e).

13 (d) After entering into a tax refund agreement as
14 provided in s. 288.106 or other similar agreement for other
15 eligible businesses as defined in paragraph (1)(e), an
16 eligible business may receive brownfield redevelopment bonus
17 refunds from the account pursuant to s. 288.106(3)(c).

18 (e) An eligible business that fraudulently claims a
19 refund under this section:

20 1. Is liable for repayment of the amount of the refund
21 to the account, plus a mandatory penalty in the amount of 200
22 percent of the tax refund, which shall be deposited into the
23 General Revenue Fund.

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

26 (f) The office shall review all applications submitted
27 under s. 288.106 or other similar application forms for other
28 eligible businesses as defined in paragraph (1)(e) which
29 indicate that the proposed project will be located in a
30 brownfield and determine, with the assistance of the
31 Department of Environmental Protection, that the project

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1 location is within a brownfield as provided in this act.

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

5 (h) The director, with such assistance as may be
6 required from the office and the Department of Environmental
7 Protection, shall specify by written final order the amount of
8 the brownfield redevelopment bonus refund that is authorized
9 for the qualified target industry business for the fiscal year
10 within 30 days after the date that the claim for the annual
11 tax refund is received by the office.

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

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1 (j) Upon approval of the brownfield redevelopment
2 bonus refund, payment shall be made for the amount specified
3 in the final order. If the final order is appealed, payment
4 may not be made for a refund to the qualified target industry
5 business until the conclusion of all appeals of that order.

6 (5) ADMINISTRATION.--

7 (a) The office is authorized to verify information
8 provided in any claim submitted for tax credits under this
9 section with regard to employment and wage levels or the
10 payment of the taxes to the appropriate agency or authority,
11 including the Department of Revenue, the Department of Labor
12 and Employment Security, or any local government or authority.

13 (b) To facilitate the process of monitoring and
14 auditing applications made under this program, the office may
15 provide a list of qualified target industry businesses to the
16 Department of Revenue, to the Department of Labor and
17 Employment Security, to the Department of Environmental
18 Protection, or to any local government authority. The office
19 may request the assistance of those entities with respect to
20 monitoring the payment of the taxes listed in s. 288.106(3).

21 Section 5. Paragraph (b) of subsection (3) of section
22 288.905, Florida Statutes, is amended to read:

23 288.905 Duties of the board of directors of Enterprise
24 Florida, Inc.--

25 (3)

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

30 2. Enterprise Florida, Inc., shall involve local
31 governments, local and regional economic development

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1 organizations, and other local, state, and federal economic,
2 international, and workforce development entities, both public
3 and private, in developing and carrying out policies,
4 strategies, and programs, seeking to partner and collaborate
5 to produce enhanced public benefit at a lesser cost.

6 3. Enterprise Florida, Inc., shall involve rural,
7 urban, small-business, and minority-business development
8 agencies and organizations, both public and private, in
9 developing and carrying out policies, strategies, and
10 programs.

11 4. Enterprise Florida, Inc., shall develop a
12 comprehensive marketing plan for redevelopment of brownfield
13 areas designated pursuant to s. 376.80. The plan must include,
14 but is not limited to, strategies to distribute information
15 about current designated brownfield areas and the available
16 economic incentives for redevelopment of brownfield areas.
17 Such strategies are to be used in the promotion of business
18 formation, expansion, recruitment, retention, and workforce
19 development programs.

20 Section 6. Subsection (6) of section 376.051, Florida
21 Statutes, is added to said section to read:

22 376.051 Powers and duties of the Department of
23 Environmental Protection.--

24 (6) The department is specifically authorized to
25 utilize risk-based cleanup criteria as described in ss.
26 376.3071, 376.3078, and 376.81 in conducting cleanups on lands
27 owned by the state university system.

28 Section 7. Section 376.301, Florida Statutes, is
29 amended to read:

30 376.301 Definitions of terms used in ss.
31 376.30-376.319, 376.70, and 376.75.--When used in ss.

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1 376.30-376.319, 376.70, and 376.75, unless the context clearly
2 requires otherwise, the term:

3 (1) "Aboveground hazardous substance tank" means any
4 stationary aboveground storage tank and onsite integral piping
5 that contains hazardous substances which are liquid at
6 standard temperature and pressure and has an individual
7 storage capacity greater than 110 gallons.

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

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

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

22 (5) "Barrel" means 42 U.S. gallons at 60 degrees
23 Fahrenheit.

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

28 (7) "Cattle-dipping vat" means any structure,
29 excavation, or other facility constructed by any person, or
30 the site where such structure, excavation, or other facility
31 once existed, for the purpose of treating cattle or other

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1 livestock with a chemical solution pursuant to or in
2 compliance with any local, state, or federal governmental
3 program for the prevention, suppression, control, or
4 eradication of any dangerous, contagious, or infectious
5 diseases.

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

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

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

23 (11) "Department" means the Department of
24 Environmental Protection.

25 (12) "Discharge" includes, but is not limited to, any
26 spilling, leaking, seeping, pouring, misapplying, emitting,
27 emptying, releasing, or dumping of any pollutant or hazardous
28 substance which occurs and which affects lands and the surface
29 and ground waters of the state not regulated by ss.
30 376.011-376.21.

31 (13) "Drycleaning facility" means a commercial

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1 establishment that operates or has at some time in the past
2 operated for the primary purpose of drycleaning clothing and
3 other fabrics utilizing a process that involves any use of
4 drycleaning solvents. The term "drycleaning facility" includes
5 laundry facilities that use drycleaning solvents as part of
6 their cleaning process. The term does not include a facility
7 that operates or has at some time in the past operated as a
8 uniform rental company or a linen supply company regardless of
9 whether the facility operates as or was previously operated as
10 a drycleaning facility.

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

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

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

30 (17) "Wholesale supply facility" means a commercial
31 establishment that supplies drycleaning solvents to

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1 drycleaning facilities.

2 (18) "Facility" means a nonresidential location
3 containing, or which contained, any underground stationary
4 tank or tanks which contain hazardous substances or pollutants
5 and have individual storage capacities greater than 110
6 gallons, or any aboveground stationary tank or tanks which
7 contain pollutants which are liquids at standard ambient
8 temperature and pressure and have individual storage
9 capacities greater than 550 gallons. This subsection shall not
10 apply to facilities covered by chapter 377, or containers
11 storing solid or gaseous pollutants, and agricultural tanks
12 having storage capacities of less than 550 gallons.

13 (19) "Flow-through process tank" means an aboveground
14 tank that contains hazardous substances or specified mineral
15 acids as defined in s. 376.321 and that forms an integral part
16 of a production process through which there is a steady,
17 variable, recurring, or intermittent flow of materials during
18 the operation of the process. Flow-through process tanks
19 include, but are not limited to, seal tanks, vapor recovery
20 units, surge tanks, blend tanks, feed tanks, check and delay
21 tanks, batch tanks, oil-water separators, or tanks in which
22 mechanical, physical, or chemical change of a material is
23 accomplished.

24 (20) "Hazardous substances" means those substances
25 defined as hazardous substances in the Comprehensive
26 Environmental Response, Compensation and Liability Act of
27 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the
28 Superfund Amendments and Reauthorization Act of 1986.

29 (21) "Institutional controls" means the restriction on
30 use or access to a site to eliminate or minimize exposure to
31 petroleum products' chemicals of concern, drycleaning

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1 solvents, or other contaminants. Such restrictions may
2 include, but are not limited to, deed restrictions,
3 restrictive covenants, or conservation easements ~~use~~
4 ~~restrictions, or restrictive zoning.~~

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

10 (23) "Marine fueling facility" means a commercial or
11 recreational coastal facility, excluding a bulk product
12 facility, providing fuel to vessels.

13 (24) "Natural attenuation" means a verifiable ~~an~~
14 approach to site rehabilitation that allows natural processes
15 to contain the spread of contamination and reduce the
16 concentrations of contaminants in contaminated groundwater and
17 soil. Natural attenuation processes may include the following:
18 sorption, biodegradation, chemical reactions with subsurface
19 materials, diffusion, dispersion, and volatilization.

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

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

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

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

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

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

4 (30) "Petroleum" includes:

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

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

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

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

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

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

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

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

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

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

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1 376.30-376.319.

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

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

10 (40)~~(39)~~ "Secretary" means the Secretary of
11 Environmental Protection.

12 (41)~~(40)~~ "Site rehabilitation" means the assessment of
13 site contamination and the remediation activities that reduce
14 the levels of contaminants at a site through accepted
15 treatment methods to meet the cleanup target levels
16 established for that site. For purposes of sites subject to
17 the Resource Conservation and Recovery Act, as amended, the
18 term includes removal, decontamination, and corrective action
19 of releases of hazardous substances.

20 (42)~~(41)~~ "Source removal" means the removal of free
21 product, or the removal of contaminants from soil or sediment
22 that has been contaminated to the extent that leaching to
23 groundwater or surface water has occurred or is occurring.

24 (43)~~(42)~~ "Storage system" means a stationary tank not
25 covered under the provisions of chapter 377, together with any
26 onsite integral piping or dispensing system associated
27 therewith, which is or has been used for the storage or supply
28 of any petroleum product, pollutant, or hazardous substance as
29 defined herein, and which is registered with the Department of
30 Environmental Protection under this chapter or any rule
31 adopted pursuant hereto.

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1 ~~(44)~~(43) "Synergistic effects" means a scientific
2 principle that the toxicity that occurs as a result of
3 exposure is more than the sum of the toxicities of the
4 individual chemicals to which the individual is exposed.

5 ~~(45)~~(44) "Terminal facility" means any structure,
6 group of structures, motor vehicle, rolling stock, pipeline,
7 equipment, or related appurtenances which are used or capable
8 of being used for one or more of the following purposes:
9 pumping, refining, drilling for, producing, storing, handling,
10 transferring, or processing pollutants, provided such
11 pollutants are transferred over, under, or across any water,
12 estuaries, tidal flats, beaches, or waterfront lands,
13 including, but not limited to, any such facility and related
14 appurtenances owned or operated by a public utility or a
15 governmental or quasi-governmental body. In the event of a
16 ship-to-ship transfer of pollutants, the vessel going to or
17 coming from the place of transfer and a terminal facility
18 shall also be considered a terminal facility. For the purposes
19 of ss. 376.30-376.319, the term "terminal facility" shall not
20 be construed to include spill response vessels engaged in
21 response activities related to removal of pollutants, or
22 temporary storage facilities created to temporarily store
23 recovered pollutants and matter, or waterfront facilities
24 owned and operated by governmental entities acting as agents
25 of public convenience for persons engaged in the drilling for
26 or pumping, storing, handling, transferring, processing, or
27 refining of pollutants. However, each person engaged in the
28 drilling for or pumping, storing, handling, transferring,
29 processing, or refining of pollutants through a waterfront
30 facility owned and operated by such a governmental entity
31 shall be construed as a terminal facility.

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1 ~~(46)~~(45) "Transfer" or "transferred" includes
2 onloading, offloading, fueling, bunkering, lightering, removal
3 of waste pollutants, or other similar transfers, between
4 terminal facility and vessel or vessel and vessel.

5 Section 8. Paragraph (i) of subsection (4) and
6 paragraph (a) of subsection (9) of section 376.3078, Florida
7 Statutes, are amended, to read:

8 376.3078 Drycleaning facility restoration; funds;
9 uses; liability; recovery of expenditures.--

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

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

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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 consider the following, as appropriate: calculations
5 using a lifetime cancer risk level of 1.0E-6; a hazard index
6 of 1 or less; the best achievable detection limit; or the
7 naturally occurring background concentration. Institutional
8 controls or other methods shall be used to prevent human
9 exposure to contaminated soils more than 2 feet below the land
10 surface. Any removal of such institutional controls shall
11 require such contaminated soils to be remediated.

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

24 3. The department may set alternative cleanup target
25 levels based upon the person responsible for site
26 rehabilitation demonstrating, using site-specific modeling and
27 risk assessment studies, that human health, public safety, and
28 the environment are protected.

29
30 The department shall require source removal, if warranted and
31 cost-effective. Once source removal at a site is complete,

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1 the department shall reevaluate the site to determine the
2 degree of active cleanup needed to continue. Further, the
3 department shall determine if the reevaluated site qualifies
4 for monitoring only or if no further action is required to
5 rehabilitate the site. If additional site rehabilitation is
6 necessary to reach "no further action" status, the department
7 is encouraged to utilize natural attenuation and monitoring
8 where site conditions warrant.

9 (9) REQUIREMENT FOR DRYCLEANING FACILITIES.--It is the
10 intent of the Legislature that the following drycleaning
11 solvent containment shall be required of the owners or
12 operators of drycleaning facilities, as follows:

13 (a) Owners or operators of drycleaning facilities
14 shall by January 1, 1997, install dikes or other containment
15 structures around each machine or item of equipment in which
16 drycleaning solvents are used and around any area in which
17 solvents or waste-containing solvents are stored. Such dikes
18 or containment structures shall be capable of containing 110
19 percent of the capacity of each such machine and each such
20 storage area. To the extent practicable, each owner or
21 operator of a drycleaning facility shall seal or otherwise
22 render impervious those portions of all dikes' floor surfaces
23 upon which any drycleaning solvents may leak, spill, or
24 otherwise be released. Drycleaning facilities that commenced
25 operating prior to January 1, 1996, applied to the program by
26 December 30, 1997, and reported in the completed application
27 that the facility was not in compliance with this paragraph
28 shall be considered to have had secondary containment timely
29 installed for the purpose of determining eligibility for
30 state-funded site rehabilitation under this section if such
31 drycleaning facility entered into a consent order with the

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1 department to install secondary containment and installed the
2 required containment by April 15, 1999. The department shall
3 reconsider the applications of facilities that meet the
4 criteria set forth in this paragraph and that were previously
5 determined to be ineligible due to failure to comply with
6 secondary containment requirements. Such facilities must meet
7 all other eligibility requirements.

8 Section 9. Section 376.79, Florida Statutes, is
9 amended to read:

10 376.79 Definitions.--As used in ss. 376.77-376.85, the
11 term:

12 (1) "Additive effects" means a scientific principle
13 that the toxicity that occurs as a result of exposure is the
14 sum of the toxicities of the individual chemicals to which the
15 individual is exposed.

16 (2) "Antagonistic effects" means a scientific
17 principle that the toxicity that occurs as a result of
18 exposure is less than the sum of the toxicities of the
19 individual chemicals to which the individual is exposed.

20 (3) "Brownfield sites" means sites that are generally
21 abandoned, idled, or underused industrial and commercial
22 properties where expansion or redevelopment is complicated by
23 actual or perceived environmental contamination.

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

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1 (5) "Contaminant" means any physical, chemical,
2 biological, or radiological substance present in any medium
3 which may result in adverse effects to human health or the
4 environment or which creates an adverse nuisance,
5 organoleptic, or aesthetic condition in groundwater.

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

9 ~~(7)(6)~~ "Department" means the Department of
10 Environmental Protection.

11 ~~(8)(7)~~ "Engineering controls" means modifications to a
12 site to reduce or eliminate the potential for exposure to
13 contaminants. Such modifications may include, but are not
14 limited to, physical or hydraulic control measures, capping,
15 point of use treatments, or slurry walls.

16 ~~(9)(8)~~ "Environmental justice" means the fair
17 treatment of all people of all races, cultures, and incomes
18 with respect to the development, implementation, and
19 enforcement of environmental laws, regulations, and policies.

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

26 ~~(11)(10)~~ "Local pollution control program" means a
27 local pollution control program that has received delegated
28 authority from the Department of Environmental Protection
29 under ss. 376.80(11) and 403.182.

30 ~~(12)(11)~~ "Natural attenuation" means a verifiable
31 approach to site rehabilitation which allows natural processes

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1 to contain the spread of contamination and reduce the
2 concentrations of contaminants in contaminated groundwater and
3 soil. Natural attenuation processes may include sorption,
4 biodegradation, chemical reactions with subsurface materials,
5 diffusion, dispersion, and volatilization.~~the verifiable~~
6 ~~reduction of contaminants through natural processes, which may~~
7 ~~include diffusion, dispersion, adsorption, and biodegradation.~~

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

15 (14)~~(13)~~ "Person" means any individual, partner, joint
16 venture, or corporation; any group of the foregoing, organized
17 or united for a business purpose; or any governmental entity.

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

22 (16)~~(14)~~ "Secretary" means the secretary of the
23 Department of Environmental Protection.

24 (17)~~(15)~~ "Site rehabilitation" means the assessment of
25 site contamination and the remediation activities that reduce
26 the levels of contaminants at a site through accepted
27 treatment methods to meet the cleanup target levels
28 established for that site.

29 (18)~~(16)~~ "Source removal" means the removal of free
30 product, or the removal of contaminants from soil or sediment
31 that has been contaminated to the extent that leaching to

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1 groundwater or surface water has occurred or is occurring.

2 (19)(17) "Synergistic effects" means a scientific
3 principle that the toxicity that occurs as a result of
4 exposure is more than the sum of the toxicities of the
5 individual chemicals to which the individual is exposed.

6 Section 10. Subsections (4) and (5) and paragraph (c)
7 of subsection (7) of section 376.80, Florida Statutes, are
8 amended to read:

9 376.80 Brownfield program administration process.--

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

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

17 (5) The person responsible for brownfield site
18 rehabilitation must enter into a brownfield site
19 rehabilitation agreement with the department or an approved
20 local pollution control program if actual contamination exists
21 at the brownfield site. The brownfield site rehabilitation
22 agreement must include:

23 (a) A brownfield site rehabilitation schedule,
24 including milestones for completion of site rehabilitation
25 tasks and submittal of technical reports and rehabilitation
26 plans as agreed upon by the parties to the agreement;

27 (b) A commitment to conduct site rehabilitation
28 activities under the observation of professional engineers or
29 geologists who are registered in accordance with the
30 requirements of chapter 471 or chapter 492, respectively.

31 Submittals provided by the person responsible for brownfield

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1 site rehabilitation must be signed and sealed by a
2 professional engineer registered under chapter 471, or a
3 professional geologist registered under chapter 492,
4 certifying that the submittal and associated work comply with
5 the law and rules of the department and those governing the
6 profession. In addition, upon completion of the approved
7 remedial action, the department shall require a professional
8 engineer registered under chapter 471 or a professional
9 geologist registered under chapter 492 to certify that the
10 corrective action was, to the best of his or her knowledge,
11 completed in substantial conformance with the plans and
12 specifications approved by the department;

13 (c) A commitment to conduct site rehabilitation in
14 accordance with an approved comprehensive quality assurance
15 plan under department rules;

16 (d) A commitment to conduct site rehabilitation
17 consistent with state, federal, and local laws and consistent
18 with the brownfield site contamination cleanup criteria in s.
19 376.81, including any applicable requirements for risk-based
20 corrective action;

21 (e) Timeframes for the department's review of
22 technical reports and plans submitted in accordance with the
23 agreement. The department shall make every effort to adhere
24 to established agency goals for reasonable timeframes for
25 review of such documents;

26 (f) A commitment to secure site access for the
27 department or approved local pollution control program to all
28 brownfield sites within the eligible brownfield area for
29 activities associated with site rehabilitation;

30 (g) Other provisions that the person responsible for
31 brownfield site rehabilitation and the department agree upon,

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1 that are consistent with ss. 376.77-376.85, and that will
2 improve or enhance the brownfield site rehabilitation process;
3 (h) A commitment to consider appropriate pollution
4 prevention measures and to implement those that the person
5 responsible for brownfield site rehabilitation determines are
6 reasonable and cost-effective, taking into account the
7 ultimate use or uses of the brownfield site. Such measures
8 may include improved inventory or production controls and
9 procedures for preventing loss, spills, and leaks of hazardous
10 waste and materials, and include goals for the reduction of
11 releases of toxic materials; and

12 (i) Certification that an agreement exists between the
13 person responsible for brownfield site rehabilitation and the
14 local government with jurisdiction over the brownfield area.
15 Such agreement shall contain terms for the redevelopment of
16 the brownfield area.

17 (7) The contractor must certify to the department that
18 the contractor:

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

27 Section 11. Section 376.81, Florida Statutes, is
28 amended to read:

29 376.81 Brownfield site and brownfield areas
30 contamination cleanup criteria.--

31 (1) It is the intent of the Legislature to protect the

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1 health of all people under actual circumstances of exposure.
2 By July 1, 2001 ~~1998~~, the secretary of the department shall
3 establish criteria by rule for the purpose of determining, on
4 a site-specific basis, the rehabilitation program tasks that
5 comprise a site rehabilitation program and the level at which
6 a rehabilitation program task and a site rehabilitation
7 program may be deemed completed. In establishing the rule,
8 the department shall apply ~~incorporate~~, to the maximum extent
9 feasible, a risk-based corrective action process principles to
10 achieve protection of human health and safety and the
11 environment in a cost-effective manner based on the principles
12 set forth as provided in this subsection. The rule must
13 prescribe a phased risk-based corrective action process that
14 is iterative and that tailors site rehabilitation tasks to
15 site-specific conditions and risks. The department and the
16 person responsible for brownfield site rehabilitation are
17 encouraged to establish decision points at which risk
18 management decisions will be made. The department shall
19 provide an early decision, when requested, regarding
20 applicable exposure factors and a risk management approach
21 based on the current and future land use at the site.The rule
22 shall also include protocols for the use of natural
23 attenuation, the use of institutional and engineering
24 controls,and the issuance of "no further action" letters. The
25 criteria for determining what constitutes a rehabilitation
26 program task or completion of a site rehabilitation program
27 task or site rehabilitation program must:

28 (a) Consider the current exposure and potential risk
29 of exposure to humans and the environment, including multiple
30 pathways of exposure. The physical, chemical, and biological
31 characteristics of each contaminant must be considered in

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1 order to determine the feasibility of risk-based corrective
2 action assessment.

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

31 (c) Ensure that the site-specific cleanup goal is that

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1 all contaminated brownfield sites and brownfield areas
2 ultimately achieve the applicable cleanup target levels
3 provided in this section. In the circumstances provided below,
4 and after constructive notice and opportunity to comment
5 within 30 days from receipt of the notice to local government,
6 to owners of any property into which the point of compliance
7 is allowed to extend, and to residents on any property into
8 which the point of compliance is allowed to extend, the
9 department may allow concentrations of contaminants to
10 temporarily exceed the applicable cleanup target levels while
11 cleanup, including cleanup through natural attenuation
12 processes in conjunction with appropriate monitoring, is
13 proceeding, if human health, public safety, and the
14 environment are protected.

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

31 (e) Consider the additive effects of contaminants.

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1 The synergistic and antagonistic effects shall also be
2 considered when the scientific data become available.

3 (f) Take into consideration individual site
4 characteristics, which shall include, but not be limited to,
5 the current and projected use of the affected groundwater and
6 surface water in the vicinity of the site, current and
7 projected land uses of the area affected by the contamination,
8 the exposed population, the degree and extent of
9 contamination, the rate of contaminant migration, the apparent
10 or potential rate of contaminant degradation through natural
11 attenuation processes, the location of the plume, and the
12 potential for further migration in relation to site property
13 boundaries.

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

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

31 2. Where surface waters are exposed to contaminated

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1 groundwater, the cleanup target levels for the contaminants
2 shall be based on the more protective of the groundwater or
3 surface water standards as established by department rule.
4 The point of measuring compliance with the surface water
5 standards shall be in the groundwater immediately adjacent to
6 the surface water body.

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

31 a. The only cleanup target levels exceeded are the

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- 1 groundwater cleanup target levels derived from nuisance,
2 organoleptic, or aesthetic considerations;
- 3 b. Concentrations of all contaminants meet the state
4 water quality standards or minimum criteria, based on
5 protection of human health, provided in subparagraph 1.;
- 6 c. All of the groundwater cleanup target levels
7 established pursuant to subparagraph 1. are met at the
8 property boundary;
- 9 d. The person responsible for brownfield site
10 rehabilitation has demonstrated that the contaminants will not
11 migrate beyond the property boundary at concentrations
12 exceeding the groundwater cleanup target levels established
13 pursuant to subparagraph 1.;
- 14 e. The property has access to and is using an offsite
15 water supply and no unplugged private wells are used for
16 domestic purposes; and
- 17 f. The real property owner provides written acceptance
18 of the "no further action" proposal to the department or the
19 local pollution control program.
- 20 (h) Provide for the department to issue a "no further
21 action order," with conditions, including, but not limited to,
22 the use of institutional or engineering controls where
23 appropriate, when alternative cleanup target levels
24 established pursuant to subparagraph (g)3. have been achieved,
25 or when the person responsible for brownfield site
26 rehabilitation can demonstrate that the cleanup target level
27 is unachievable within available technologies. Prior to
28 issuing such an order, the department shall consider the
29 feasibility of an alternative site rehabilitation technology
30 in the brownfield area.
- 31 (i) Establish appropriate cleanup target levels for

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1 soils.

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

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

31 3. The department shall approve ~~may set~~ alternative

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

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

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

24 Section 12. Paragraph (k) is added to subsection (2)
25 of section 376.82, Florida Statutes, to read:

26 376.82 Eligibility criteria and liability
27 protection.--

28 (2) LIABILITY PROTECTION.--

29 (k) A person whose property becomes contaminated due
30 to geophysical or hydrologic reasons, including the migration
31 of contaminants onto their property from the operation of

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

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

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

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

19 Section 13. Paragraph (d) is added to subsection (3)
20 of section 403.973, Florida Statutes, to read:

21 403.973 Expedited permitting; comprehensive plan
22 amendments.--

23 (3)

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

26 Section 14. Subsection (1) of section 190.012, Florida
27 Statutes, is amended to read:

28 190.012 Special powers; public improvements and
29 community facilities.--The district shall have, and the board
30 may exercise, subject to the regulatory jurisdiction and
31 permitting authority of all applicable governmental bodies,

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1 agencies, and special districts having authority with respect
2 to any area included therein, any or all of the following
3 special powers relating to public improvements and community
4 facilities authorized by this act:

5 (1) To finance, fund, plan, establish, acquire,
6 construct or reconstruct, enlarge or extend, equip, operate,
7 and maintain systems, facilities, and basic infrastructures
8 for the following:

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

12 (b) Water supply, sewer, and wastewater management,
13 reclamation, and reuse or any combination thereof, and to
14 construct and operate connecting intercepting or outlet sewers
15 and sewer mains and pipes and water mains, conduits, or
16 pipelines in, along, and under any street, alley, highway, or
17 other public place or ways, and to dispose of any effluent,
18 residue, or other byproducts of such system or sewer system.

19 (c) Bridges or culverts that may be needed across any
20 drain, ditch, canal, floodway, holding basin, excavation,
21 public highway, tract, grade, fill, or cut and roadways over
22 levees and embankments, and to construct any and all of such
23 works and improvements across, through, or over any public
24 right-of-way, highway, grade, fill, or cut.

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

28 2. Buses, trolleys, transit shelters, ridesharing
29 facilities and services, parking improvements, and related
30 signage.

31 (e) Investigation and remediation costs associated

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1 with the cleanup of actual or perceived environmental
2 contamination within the district under the supervision or
3 direction of a competent governmental authority unless the
4 covered costs benefit any person who is a landowner within the
5 district and who caused or contributed to the contamination.

6 (f)(e) Conservation areas, mitigation areas, and
7 wildlife habitat, including the maintenance of any plant or
8 animal species, and any related interest in real or personal
9 property.

10 (g)(f) Any other project within or without the
11 boundaries of a district when a local government issued a
12 development order pursuant to s. 380.06 or s. 380.061
13 approving or expressly requiring the construction or funding
14 of the project by the district, or when the project is the
15 subject of an agreement between the district and a
16 governmental entity and is consistent with the local
17 government comprehensive plan of the local government within
18 which the project is to be located.

19 Section 15. Section 712.01, Florida Statutes, is
20 amended to read:

21 712.01 Definitions.--As used in this law:

22 (1) The term "person" as used herein denotes singular
23 or plural, natural or corporate, private or governmental,
24 including the state and any political subdivision or agency
25 thereof as the context for the use thereof requires or denotes
26 and including any homeowners' association.

27 (2) "Root of title" means any title transaction
28 purporting to create or transfer the estate claimed by any
29 person and which is the last title transaction to have been
30 recorded at least 30 years prior to the time when
31 marketability is being determined. The effective date of the

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1 root of title is the date on which it was recorded.

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

6 (4) The term "homeowners' association" means a
7 homeowners' association as defined in s. 617.301(7), or an
8 association of parcel owners which is authorized to enforce
9 use restrictions that are imposed on the parcels.

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

14 (6) The term "covenant or restriction" means any
15 agreement or limitation contained in a document recorded in
16 the public records of the county in which a parcel is located
17 which subjects the parcel to any use restriction which may be
18 enforced by a homeowners' association or which authorizes a
19 homeowners' association to impose a charge or assessment
20 against the parcel or the owner of the parcel or which may be
21 enforced by the Florida Department of Environmental Protection
22 pursuant to chapter 376 or chapter 403.

23 Section 16. Section 712.03, Florida Statutes, is
24 amended to read:

25 712.03 Exceptions to marketability.--Such marketable
26 record title shall not affect or extinguish the following
27 rights:

28 (1) Estates or interests, easements and use
29 restrictions disclosed by and defects inherent in the
30 muniments of title on which said estate is based beginning
31 with the root of title; provided, however, that a general

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1 reference in any of such muniments to easements, use
2 restrictions or other interests created prior to the root of
3 title shall not be sufficient to preserve them unless specific
4 identification by reference to book and page of record or by
5 name of recorded plat be made therein to a recorded title
6 transaction which imposed, transferred or continued such
7 easement, use restrictions or other interests; subject,
8 however, to the provisions of subsection (5).

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

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

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

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

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

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

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

10 Section 17. Section 376.3195, Florida Statutes, is
11 repealed.

12 Section 18. This act shall take effect upon becoming a
13 law.

14
15
16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 On page 1, line 2 through page 4, line 4
19 remove from the title of the bill: all of said lines

20
21 and insert in lieu thereof:

22 An act relating to pollution control; amending
23 s. 206.9935, F.S.; providing requirements for
24 determination of the rate; amending s. 252.87,
25 F.S.; revising reporting requirements under the
26 Hazardous Materials Emergency Response and
27 Community Right-to-Know Act; amending s.
28 288.047, F.S.; requiring Enterprise Florida,
29 Inc., to set aside each fiscal year a certain
30 amount of the appropriation for the Quick
31 Response Training Program for businesses

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1 located in a brownfield area; amending s.
2 288.107, F.S.; redefining the term "eligible
3 business"; providing for bonus refunds for
4 businesses that can demonstrate a fixed capital
5 investment in certain mixed use activities in
6 the brownfield area; amending s. 288.905, F.S.;
7 requiring Enterprise Florida, Inc., to develop
8 comprehensive marketing strategies for
9 redevelopment of brownfield areas; amending s.
10 376.051, F.S.; providing for the use of
11 risk-based cleanup criteria on state university
12 lands; amending s. 376.301, F.S.; redefining
13 the terms "antagonistic effects," "discharge,"
14 "institutional controls," "natural
15 attenuation," and "site rehabilitation" and
16 defining the term "risk reduction"; amending s.
17 376.3078, F.S.; providing conditions with
18 respect to determination of eligibility of
19 specified drycleaning facilities for
20 state-funded site rehabilitation; providing for
21 rehabilitation criteria; amending s. 376.79,
22 F.S.; defining the terms "contaminant" and
23 "risk reduction"; redefining the terms "natural
24 attenuation," "institutional control," and
25 "source removal"; amending s. 376.80, F.S.;
26 allowing local governments or persons
27 responsible for brownfield area rehabilitation
28 and redevelopment to use an existing advisory
29 committee; deleting the requirement that the
30 advisory committee must review and provide
31 recommendations to the local government with

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1 jurisdiction on the proposed brownfield site
2 rehabilitation agreement; providing that the
3 person responsible for site rehabilitation must
4 notify the advisory committee of the intent to
5 rehabilitate and redevelop the site before
6 executing the brownfield site rehabilitation
7 agreement; requiring the person responsible for
8 site rehabilitation to hold a meeting or attend
9 a regularly scheduled meeting of the advisory
10 committee to inform the advisory committee of
11 the outcome of the environmental assessment;
12 requiring the person responsible for site
13 rehabilitation to enter into a brownfield site
14 rehabilitation agreement only if actual
15 contamination exists; clarifying provisions
16 relating to the required comprehensive general
17 liability and comprehensive automobile
18 liability insurance; amending s. 376.81, F.S.;
19 providing direction regarding the risk-based
20 corrective action rule; requiring the
21 department to establish alternative cleanup
22 levels under certain circumstances; amending s.
23 376.82, F.S.; providing immunity for liability
24 regarding contaminated site remediation under
25 certain circumstances; amending s. 403.973,
26 F.S.; providing that projects located in a
27 designated brownfield area are eligible for the
28 expedited permitting process; amending s.
29 190.012, F.S.; authorizing community
30 development districts to fund certain
31 environmental costs under certain

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circumstances; amending ss. 712.01, 712.03,
F.S.; prohibiting subsequent property owners
from removing certain deed restrictions under
other provisions of the Marketable Record Title
Act; repealing s. 376.3195, F.S.; providing an
effective date.