

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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5			ORIGINAL STAMP BELOW
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11 The Committee on Environmental Protection offered the
12 following:

13
14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause
16
17 and insert in lieu thereof:

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

21 206.9935 Taxes imposed.--

22 (2) TAX FOR WATER QUALITY.--

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

27 2. The tax shall be imposed only once on each barrel
28 or other unit of pollutant, other than petroleum products,
29 when first produced in or imported into this state. The tax on
30 pollutants first imported into or produced in this state shall
31 be imposed when the product is first sold or first removed

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

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

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

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

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

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

17 (3) TAX FOR INLAND PROTECTION.--

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

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

29 (b)1. The excise tax per barrel of pollutant, or
30 equivalent measure as established by the department, produced
31 in or imported into this state shall be:

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

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

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

5 252.87 Supplemental state reporting requirements.--

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

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

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

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

20 288.047 Quick-response training for economic
21 development.--

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

31 Section 4. Section 288.107, Florida Statutes, is

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1 amended to read:

2 288.107 Brownfield redevelopment bonus refunds.--

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

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

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

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

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

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

29 (f) "Jobs" means full-time equivalent positions,
30 consistent with the use of such terms by the Department of
31 Labor and Employment Security for the purpose of unemployment

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

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

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

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

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

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

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

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1 county in which the business is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (j) Upon approval of the brownfield redevelopment

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

5 (5) ADMINISTRATION.--

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

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

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

22 288.905 Duties of the board of directors of Enterprise
23 Florida, Inc.--

24 (3)

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

29 2. Enterprise Florida, Inc., shall involve local
30 governments, local and regional economic development
31 organizations, and other local, state, and federal economic,

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

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

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

19 Section 6. Section 376.301, Florida Statutes, is
20 amended to read:

21 376.301 Definitions of terms used in ss.
22 376.30-376.319, 376.70, and 376.75.--When used in ss.
23 376.30-376.319, 376.70, and 376.75, unless the context clearly
24 requires otherwise, the term:

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

30 (2) "Additive effects" means a scientific principle
31 that the toxicity that occurs as a result of exposure is the

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1 sum of the toxicities of the individual chemicals to which the
2 individual is exposed.

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

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

13 (5) "Barrel" means 42 U.S. gallons at 60 degrees
14 Fahrenheit.

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

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

28 (8) "Compression vessel" means any stationary
29 container, tank, or onsite integral piping system, or
30 combination thereof, which has a capacity of greater than 110
31 gallons, that is primarily used to store pollutants or

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1 hazardous substances above atmospheric pressure or at a
2 reduced temperature in order to lower the vapor pressure of
3 the contents. Manifold compression vessels that function as a
4 single vessel shall be considered as one vessel.

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

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

14 (11) "Department" means the Department of
15 Environmental Protection.

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

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

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1 a drycleaning facility.

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

10 (15) "Dry drop-off facility" means any commercial
11 retail store that receives from customers clothing and other
12 fabrics for drycleaning or laundering at an offsite
13 drycleaning facility and that does not clean the clothing or
14 fabrics at the store utilizing drycleaning solvents.

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

21 (17) "Wholesale supply facility" means a commercial
22 establishment that supplies drycleaning solvents to
23 drycleaning facilities.

24 (18) "Facility" means a nonresidential location
25 containing, or which contained, any underground stationary
26 tank or tanks which contain hazardous substances or pollutants
27 and have individual storage capacities greater than 110
28 gallons, or any aboveground stationary tank or tanks which
29 contain pollutants which are liquids at standard ambient
30 temperature and pressure and have individual storage
31 capacities greater than 550 gallons. This subsection shall not

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1 apply to facilities covered by chapter 377, or containers
2 storing solid or gaseous pollutants, and agricultural tanks
3 having storage capacities of less than 550 gallons.

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

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

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

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

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

4 (24) "Natural attenuation" means a verifiable an
5 approach to site rehabilitation that allows natural processes
6 to contain the spread of contamination and reduce the
7 concentrations of contaminants in contaminated groundwater and
8 soil. Natural attenuation processes may include the following:
9 sorption, biodegradation, chemical reactions with subsurface
10 materials, diffusion, dispersion, and volatilization.

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

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

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

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

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

26 (30) "Petroleum" includes:

27 (a) Oil, including crude petroleum oil and other
28 hydrocarbons, regardless of gravity, which are produced at the
29 well in liquid form by ordinary methods and which are not the
30 result of condensation of gas after it leaves the reservoir;
31 and

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

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

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

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

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1 continuing discharge in violation of department rules.

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

5 (35) "Pollution" means the presence on the land or in
6 the waters of the state of pollutants in quantities which are
7 or may be potentially harmful or injurious to human health or
8 welfare, animal or plant life, or property or which may
9 unreasonably interfere with the enjoyment of life or property,
10 including outdoor recreation.

11 (36) "Real property owner" means the individual or
12 entity that is vested with ownership, dominion, or legal or
13 rightful title to the real property, or which has a ground
14 lease interest in the real property, on which a drycleaning
15 facility or wholesale supply facility is or has ever been
16 located.

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

24 (38) "Response action contractor" means a person who
25 is carrying out any response action, including a person
26 retained or hired by such person to provide services relating
27 to a response action.

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

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1 ~~(40)~~~~(39)~~ "Secretary" means the Secretary of
2 Environmental Protection.

3 ~~(41)~~~~(40)~~ "Site rehabilitation" means the assessment of
4 site contamination and the remediation activities that reduce
5 the levels of contaminants at a site through accepted
6 treatment methods to meet the cleanup target levels
7 established for that site. For purposes of sites subject to
8 the Resource Conservation and Recovery Act, as amended, the
9 term includes removal, decontamination, and corrective action
10 of releases of hazardous substances.

11 ~~(42)~~~~(41)~~ "Source removal" means the removal of free
12 product, or the removal of contaminants from soil or sediment
13 that has been contaminated to the extent that leaching to
14 groundwater or surface water has occurred or is occurring.

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

23 ~~(44)~~~~(43)~~ "Synergistic effects" means a scientific
24 principle that the toxicity that occurs as a result of
25 exposure is more than the sum of the toxicities of the
26 individual chemicals to which the individual is exposed.

27 ~~(45)~~~~(44)~~ "Terminal facility" means any structure,
28 group of structures, motor vehicle, rolling stock, pipeline,
29 equipment, or related appurtenances which are used or capable
30 of being used for one or more of the following purposes:
31 pumping, refining, drilling for, producing, storing, handling,

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

23 ~~(46)(45)~~ "Transfer" or "transferred" includes
24 onloading, offloading, fueling, bunkering, lightering, removal
25 of waste pollutants, or other similar transfers, between
26 terminal facility and vessel or vessel and vessel.

27 Section 7. Section 376.30701, Florida Statutes, is
28 created to read:

29 376.30701 Application of risk-based corrective action
30 principles to contaminated sites; applicability; legislative
31 intent; rulemaking authority; contamination cleanup criteria;

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1 limitations; reopeners; mapping; registry.--

2 (1) APPLICABILITY.--

3 (a) This section shall not create or establish any new
4 liability for site rehabilitation at contaminated sites. This
5 section is intended to describe a risk-based corrective action
6 process to be applied at sites where legal responsibility for
7 site rehabilitation exists pursuant to other provisions of
8 chapter 376 or chapter 403.

9 (b) This section shall apply to all contaminated sites
10 resulting from a discharge of pollutants or hazardous
11 substances where legal responsibility for site rehabilitation
12 exists pursuant to other provisions of chapter 376 or chapter
13 403 except for those contaminated sites subject to the
14 risk-based corrective action cleanup criteria established for
15 the petroleum, brownfields, and drycleaning programs pursuant
16 to ss. 376.3071, 376.81, and 376.3078, respectively.

17 (c) This section shall apply to a variety of site
18 rehabilitation scenarios, including, but not limited to, site
19 rehabilitation conducted voluntarily, conducted pursuant to
20 the department's enforcement authority, or conducted as a
21 state-managed cleanup by the department.

22 (d) This section, and any rules adopted pursuant
23 thereto, shall apply retroactively to all existing
24 contaminated sites where legal responsibility for site
25 rehabilitation exists pursuant to other provisions of chapter
26 376 or chapter 403 except those sites for which as of March 1,
27 2000, a report has been submitted to the department which
28 documents that cleanup has been completed, at sites for which
29 cleanup target levels have been accepted by the department in
30 an approved technical document, current permit, or other
31 written agreement, and at those sites that have received a no

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1 further action order or a site rehabilitation completion order
2 from the department. However, the person responsible for site
3 rehabilitation can elect to have the provisions of this
4 section, including cleanup target levels established pursuant
5 thereto, apply in lieu of those in an approved technical
6 document, current permit, or other written agreement.

7 (e) The cleanup criteria established in subsection (2)
8 shall apply as Applicable or Relevant and Appropriate
9 Requirements to all contaminated sites in Florida that have
10 been identified to qualify for listing, or are listed, on the
11 National Priority List pursuant to the Comprehensive
12 Environmental Response, Compensation, and Liability Act of
13 1980 as amended by the Superfund Amendments and
14 Reauthorization Act of 1986, and as subsequently amended.

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

27 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP
28 CRITERIA.--It is the intent of the Legislature to protect the
29 health of all people under actual circumstances of exposure.
30 By July 1, 2001, the secretary of the department shall
31 establish criteria by rule for the purpose of determining, on

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

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

29 (c) Ensure that the site-specific cleanup goal is that
30 all contaminated sites being cleaned up under this section
31 ultimately achieve the applicable cleanup target levels

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

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

29 (e) Consider the additive effects of contaminants.
30 The synergistic and antagonistic effects must also be
31 considered when the scientific data become available.

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

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

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

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

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

3 3. The department shall approve alternative cleanup
4 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,
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, that has been
16 completed at the site and the practical likelihood of the use
17 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.

25 (h) Provide for the department to issue a "no further
26 action order," with conditions including, but not limited to,
27 the use of institutional or engineering controls where
28 appropriate, when alternative cleanup target levels
29 established pursuant to subparagraph (g)3. have been achieved,
30 or when the person responsible for site rehabilitation can
31 demonstrate that the cleanup target level is unachievable

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1 within available technologies. Prior to issuing such an
2 order, the department shall consider the feasibility of an
3 alternative site rehabilitation technology at the contaminated
4 site.

5 (i) Establish appropriate cleanup target levels for
6 soils.

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

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

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1 leach into the groundwater at levels that pose a threat to
2 human health, public safety, or the environment.

3 3. The department shall approve alternative cleanup
4 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,
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.

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

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

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

31 (a) That fraud was committed in demonstrating site

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1 conditions or completion of site rehabilitation;

2 (b) That new information confirms the existence of an
3 area of previously unknown contamination that exceeds the
4 site-specific rehabilitation levels established in accordance
5 with subsection (2), or that otherwise poses the threat of
6 real and substantial harm to public health, safety, or the
7 environment;

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

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

19 (e) That a new discharge of pollutants or hazardous
20 substances or disposal of solid waste or hazardous waste
21 occurs at the site subsequent to the issuance of a no further
22 action letter or site rehabilitation completion order
23 associated with the original contamination being addressed
24 pursuant to this section.

25 (5) MAPPING.--Notwithstanding the exceptions in
26 paragraph (1)(b), if an institutional control is implemented
27 at any contaminated site, including sites in the petroleum,
28 brownfields, or drycleaning programs, the property owner must
29 provide information regarding the institutional control to the
30 local government for mapping purposes. The local government
31 must then note the existence of the institutional control on

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1 any relevant local land use and zoning maps with a cross
2 reference to the department's site registry developed pursuant
3 to subsection (6). If the type of institutional control used
4 requires recording with the local government, then the map
5 notation shall also provide a cross reference to the book and
6 page number where recorded. When a local government is
7 provided with evidence that the department has subsequently
8 issued a no further action order without institutional
9 controls for a site currently noted on such maps, the local
10 government shall remove the notation.

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

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1 Section 8. Section 376.30702, Florida Statutes, is
2 created to read:

3 376.30702 The State-Owned-Lands Cleanup Program;
4 findings; intent; purpose; program requirements; limited
5 liability protection; cost recovery.--

6 (1) FINDINGS; INTENT.--In addition to the legislative
7 findings set forth in s. 376.30, the Legislature finds and
8 declares that:

9 (a) Significant quantities of pollutants or hazardous
10 substances have been discharged in the past on state-owned
11 lands. Generally, these discharges have occurred as part of
12 the normal operation of facilities that existed on the
13 property. Many of these discharges occurred prior to the state
14 acquiring title to the property, or the discharges resulted
15 from the acts of tenants or lessees of the state-owned lands.

16 (b) These discharges of pollutants and hazardous
17 substances on state-owned lands may pose a significant threat
18 to the quality of the groundwaters and inland surface waters
19 of this state.

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

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

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1 rehabilitation without delay of contaminated sites on
2 state-owned lands.

3 (e) Site rehabilitation at contaminated sites on
4 state-owned lands should be based on the actual risk that
5 contamination may pose to the environment and public health,
6 taking into account current and future land and water use and
7 the degree to which contamination may spread and place the
8 public or the environment at risk.

9 (2) CREATION; PURPOSES OF PROGRAM.--

10 (a) There is created the Florida State-Owned-Lands
11 Cleanup Program to be administered by the department. To
12 encourage detection, reporting, and cleanup of contamination
13 on state-owned lands, the department shall, within the
14 guidelines established in this section, implement a cleanup
15 program to provide state-funded and state-managed site
16 rehabilitation for all state-owned property contaminated by
17 discharges of pollutants or hazardous substances that are
18 reported to the department. It is not the intent of this
19 program to provide funding for environmental compliance for
20 ongoing operations on state-owned lands.

21 (b) Continuation of this program is subject to an
22 annual appropriation from the Legislature. Continued state
23 funding will not be considered an entitlement or a vested
24 right under this section. The department shall not obligate
25 funds in excess of the annual appropriation for this program.

26 (c) Whenever, in its determination, incidents of
27 contamination on state-owned lands caused by pollutants or
28 hazardous substances may pose a threat to the environment or
29 the public health, safety, or welfare, the department shall
30 obligate moneys available under this section to provide for:

31 1. Prompt investigation and assessment of the

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1 contaminated site.

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

4 3. Rehabilitation of contaminated sites, which shall
5 consist of rehabilitation of affected soil, groundwater,
6 sediment, and surface waters, using the most cost-effective
7 alternative that is technologically feasible and reliable and
8 that provides adequate protection of the public health,
9 safety, and welfare and minimizes environmental damage, in
10 accordance with the rehabilitation criteria established by the
11 department under s. 376.30701, except that nothing in this
12 subsection may be construed to authorize the department to
13 obligate funds for payment of costs that may be associated
14 with, but are not integral to, site rehabilitation.

15 4. Maintenance and monitoring of contaminated sites.

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

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

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

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

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1 (3) SITE PRIORITY RANKING AND CLEANUP CRITERIA.--
2 (a) The department shall determine the priority ranking
3 of all known contaminated sites on state-owned lands using the
4 criteria listed in s. 376.3078(7) and (8), except for s.
5 376.3078(7)(e). In applying s. 376.3078(8)(h), the department
6 shall consider all pollutants and hazardous substances. It is
7 the intent of the Legislature that site rehabilitation be
8 conducted first at those sites that pose the greatest threat
9 to human health and the environment, within the availability
10 of funds appropriated annually for this program. However,
11 nothing in this subsection shall be construed to restrict the
12 department from modifying the priority status of a
13 rehabilitation site where conditions warrant, taking into
14 consideration the actual distance between the contamination
15 site and groundwater or surface water receptors or other
16 factors that affect the risk of exposure to pollutants and
17 hazardous substances.
18 (b) The department shall conduct site rehabilitation
19 at contaminated sites being cleaned up under this program
20 using the cleanup criteria established in s. 376.30701 and
21 chapter 62-777, Florida Administrative Code, as that chapter
22 may hereafter be amended.
23 (c) It is recognized that restoration of groundwater
24 resources contaminated with pollutants or hazardous substances
25 may not be achievable using currently available technology. In
26 situations where the use of available technology is not
27 expected to achieve water quality standards, the department
28 may use innovative technology that has been field-tested and
29 that has engineering and cost data available.
30 (d) This subsection may not be construed to restrict
31 the department from temporarily postponing completion of any

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1 site rehabilitation activities at a contaminated site on
2 state-owned lands for which funds are being expended under
3 this section whenever the postponement is deemed necessary in
4 order to make funds available for rehabilitation of another
5 contamination site on state-owned lands having a higher
6 priority status.

7 (e) Regardless of a site's priority ranking, the
8 department is authorized to temporarily postpone site
9 rehabilitation at a contaminated site on state-owned lands for
10 which federal funding may be available pursuant to the
11 Formerly Used Defense Sites Program. The department, at its
12 discretion, may proceed with state-funded cleanup of such
13 sites if the likelihood of timely federal response is low.

14 (4) LIMITED LIABILITY PROTECTION.--

15 (a) The department shall not compel any state agency
16 that controls or manages state-owned lands that are
17 contaminated with pollutants or hazardous substances to
18 conduct site rehabilitation at a contaminated site that has
19 been reported to the department pursuant to paragraph (2)(a).
20 Further, notwithstanding subsection (5), the department shall
21 not pursue cost recovery from any such state agency for site
22 rehabilitation costs incurred to clean up state-owned lands
23 that are contaminated with pollutants or hazardous substances.

24 (b) Except as provided in paragraph (a), this section
25 shall not affect the department's ability or authority to
26 pursue enforcement against any person who may have liability
27 for site rehabilitation with respect to a contaminated site on
28 state-owned lands.

29 (c) This section shall not affect the ability or
30 authority to seek contribution from any person who may have
31 liability with respect to a contaminated site on state-owned

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1 lands.

2 (d) Nothing in this section shall subject the
3 department to liability for any action that may be required of
4 the property owner or the owner or operator of a facility on
5 state-owned lands by any private party or any local, state, or
6 Federal Government entity.

7 (5) DEPARTMENTAL DUTY TO SEEK RECOVERY AND
8 REIMBURSEMENT.--Except as provided in subsection (4) and as
9 otherwise provided by law, the department may recover from any
10 person causing or having caused the discharge of pollutants or
11 hazardous substances on state-owned lands all sums owed or
12 expended for site rehabilitation at a site designated under
13 the State-Owned-Lands Cleanup Program. For the purposes of s.
14 95.11, the limitation period within which to institute an
15 action to recover such sums shall commence on the last date on
16 which any such sums were expended and not the date on which
17 the discharge occurred.

18 Section 9. Paragraph (i) of subsection (4) and
19 paragraph (a) of subsection (9) of section 376.3078, Florida
20 Statutes, are amended, to read:

21 376.3078 Drycleaning facility restoration; funds;
22 uses; liability; recovery of expenditures.--

23 (4) REHABILITATION CRITERIA.--It is the intent of the
24 Legislature to protect the health of all people under actual
25 circumstances of exposure. By July 1, 1999, the secretary of
26 the department shall establish criteria by rule for the
27 purpose of determining, on a site-specific basis, the
28 rehabilitation program tasks that comprise a site
29 rehabilitation program, including a voluntary site
30 rehabilitation program, and the level at which a
31 rehabilitation program task and a site rehabilitation program

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

12 (i) Establish appropriate cleanup target levels for
13 soils.

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

25 2. Leachability-based soil target levels shall be
26 based on protection of the groundwater cleanup target levels
27 or the alternate cleanup target levels for groundwater
28 established pursuant to this paragraph, as appropriate. Source
29 removal and other cost-effective alternatives that are
30 technologically feasible shall be considered in achieving the
31 leachability soil target levels established by the department.

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1 The leachability goals shall not be applicable if the
2 department determines, based upon individual site
3 characteristics, that contaminants will not leach into the
4 groundwater at levels which pose a threat to human health,
5 public safety, and the environment.

6 3. The department may set alternative cleanup target
7 levels based upon the person responsible for site
8 rehabilitation demonstrating, using site-specific modeling and
9 risk assessment studies, that human health, public safety, and
10 the environment are protected.

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

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

26 (a) Owners or operators of drycleaning facilities
27 shall by January 1, 1997, install dikes or other containment
28 structures around each machine or item of equipment in which
29 drycleaning solvents are used and around any area in which
30 solvents or waste-containing solvents are stored. Such dikes
31 or containment structures shall be capable of containing 110

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1 percent of the capacity of each such machine and each such
2 storage area. To the extent practicable, each owner or
3 operator of a drycleaning facility shall seal or otherwise
4 render impervious those portions of all dikes' floor surfaces
5 upon which any drycleaning solvents may leak, spill, or
6 otherwise be released. Drycleaning facilities that commenced
7 operating prior to January 1, 1996, applied to the program by
8 December 30, 1997, and reported in the completed application
9 that the facility was not in compliance with this paragraph
10 shall be considered to have had secondary containment timely
11 installed for the purpose of determining eligibility for
12 state-funded site rehabilitation under this section if such
13 drycleaning facility entered into a consent order with the
14 department to install secondary containment and installed the
15 required containment by April 15, 1999. The department shall
16 reconsider the applications of facilities that meet the
17 criteria set forth in this paragraph and that were previously
18 determined to be ineligible due to failure to comply with
19 secondary containment requirements. Such facilities must meet
20 all other eligibility requirements.

21 Section 10. Section 376.79, Florida Statutes, is
22 amended to read:

23 376.79 Definitions.--As used in ss. 376.77-376.85, the
24 term:

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

29 (2) "Antagonistic effects" means a scientific
30 principle that the toxicity that occurs as a result of
31 exposure is less than the sum of the toxicities of the

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1 individual chemicals to which the individual is exposed.

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

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

14 (5) "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 ~~(6)(5)~~ "Contaminated site" means any contiguous land,
20 surface water, or groundwater areas that contain contaminants
21 that may be harmful to human health or the environment.

22 ~~(7)(6)~~ "Department" means the Department of
23 Environmental Protection.

24 ~~(8)(7)~~ "Engineering controls" means modifications to a
25 site to reduce or eliminate the potential for exposure to
26 contaminants. Such modifications may include, but are not
27 limited to, physical or hydraulic control measures, capping,
28 point of use treatments, or slurry walls.

29 ~~(9)(8)~~ "Environmental justice" means the fair
30 treatment of all people of all races, cultures, and incomes
31 with respect to the development, implementation, and

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1 enforcement of environmental laws, regulations, and policies.

2 (10)~~(9)~~ "Institutional controls" means the restriction
3 on use of or access to a site to eliminate or minimize
4 exposure to contaminants. Such restrictions may include, but
5 are not limited to, deed restrictions, restrictive covenants,
6 or conservation easements ~~use restrictions, or restrictive~~
7 ~~zoning.~~

8 (11)~~(10)~~ "Local pollution control program" means a
9 local pollution control program that has received delegated
10 authority from the Department of Environmental Protection
11 under ss. 376.80(11) and 403.182.

12 (12)~~(11)~~ "Natural attenuation" means a verifiable
13 approach to site rehabilitation which allows natural processes
14 to contain the spread of contamination and reduce the
15 concentrations of contaminants in contaminated groundwater and
16 soil. Natural attenuation processes may include sorption,
17 biodegradation, chemical reactions with subsurface materials,
18 diffusion, dispersion, and volatilization. ~~the verifiable~~
19 ~~reduction of contaminants through natural processes, which may~~
20 ~~include diffusion, dispersion, adsorption, and biodegradation.~~

21 (13)~~(12)~~ "Person responsible for brownfield site
22 rehabilitation" means the individual or entity that is
23 designated by the local government to enter into the
24 brownfield site rehabilitation agreement with the department
25 or an approved local pollution control program and enters into
26 an agreement with the local government for redevelopment of
27 the site.

28 (14)~~(13)~~ "Person" means any individual, partner, joint
29 venture, or corporation; any group of the foregoing, organized
30 or united for a business purpose; or any governmental entity.

31 (15) "Risk reduction" means the lowering or

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1 elimination of the level of risk posed to human health or the
2 environment through interim remedial actions, remedial action,
3 or institutional, and if appropriate, engineering controls.

4 (16)~~(14)~~ "Secretary" means the secretary of the
5 Department of Environmental Protection.

6 (17)~~(15)~~ "Site rehabilitation" means the assessment of
7 site contamination and the remediation activities that reduce
8 the levels of contaminants at a site through accepted
9 treatment methods to meet the cleanup target levels
10 established for that site.

11 (18)~~(16)~~ "Source removal" means the removal of free
12 product, or the removal of contaminants from soil or sediment
13 that has been contaminated to the extent that leaching to
14 groundwater or surface water has occurred or is occurring.

15 (19)~~(17)~~ "Synergistic effects" means a scientific
16 principle that the toxicity that occurs as a result of
17 exposure is more than the sum of the toxicities of the
18 individual chemicals to which the individual is exposed.

19 Section 11. Subsections (4) and (5) and paragraph (c)
20 of subsection (7) of section 376.80, Florida Statutes, are
21 amended to read:

22 376.80 Brownfield program administration process.--

23 (4) Local governments or persons responsible for
24 rehabilitation and redevelopment of brownfield areas must
25 establish an advisory committee or use an existing advisory
26 committee that has formally expressed its intent to address
27 redevelopment of the specific brownfield area for the purpose
28 of improving public participation and receiving public
29 comments on rehabilitation and redevelopment of the brownfield
30 area, future land use, local employment opportunities,
31 community safety, and environmental justice. Such advisory

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1 committee should include residents within or adjacent to the
2 brownfield area, businesses operating within the brownfield
3 area, and others deemed appropriate. The person responsible
4 for brownfield site rehabilitation must notify the advisory
5 committee of the intent to rehabilitate and redevelop the site
6 before executing the brownfield site rehabilitation agreement,
7 and provide the committee with a copy of the draft plan for
8 site rehabilitation which addresses elements required by
9 subsection (5). This includes disclosing potential reuse of
10 the property as well as site rehabilitation activities, if
11 any, to be performed. The advisory committee shall review the
12 proposed redevelopment agreement required pursuant to
13 paragraph (5)(i) and provide comments, if appropriate, to the
14 board of the local government with jurisdiction over the
15 brownfield area. The advisory committee must receive a copy of
16 the executed brownfield site rehabilitation agreement. When
17 the person responsible for brownfield site rehabilitation
18 submits a site assessment report or the technical document
19 containing the proposed course of action following site
20 assessment to the department or the local pollution control
21 program for review, the person responsible for brownfield site
22 rehabilitation must hold a meeting or attend a regularly
23 scheduled meeting to inform the advisory committee of the
24 findings and recommendations in the site assessment report or
25 the technical document containing the proposed course of
26 action following site assessment. ~~The advisory committee must~~
27 ~~review and provide recommendations to the board of the local~~
28 ~~government with jurisdiction on the proposed site~~
29 ~~rehabilitation agreement provided in subsection (5).~~

30 (5) The person responsible for brownfield site
31 rehabilitation must enter into a brownfield site

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1 rehabilitation agreement with the department or an approved
2 local pollution control program if actual contamination exists
3 at the brownfield site. The brownfield site rehabilitation
4 agreement must include:
5 (a) A brownfield site rehabilitation schedule,
6 including milestones for completion of site rehabilitation
7 tasks and submittal of technical reports and rehabilitation
8 plans as agreed upon by the parties to the agreement;
9 (b) A commitment to conduct site rehabilitation
10 activities under the observation of professional engineers or
11 geologists who are registered in accordance with the
12 requirements of chapter 471 or chapter 492, respectively.
13 Submittals provided by the person responsible for brownfield
14 site rehabilitation must be signed and sealed by a
15 professional engineer registered under chapter 471, or a
16 professional geologist registered under chapter 492,
17 certifying that the submittal and associated work comply with
18 the law and rules of the department and those governing the
19 profession. In addition, upon completion of the approved
20 remedial action, the department shall require a professional
21 engineer registered under chapter 471 or a professional
22 geologist registered under chapter 492 to certify that the
23 corrective action was, to the best of his or her knowledge,
24 completed in substantial conformance with the plans and
25 specifications approved by the department;
26 (c) A commitment to conduct site rehabilitation in
27 accordance with an approved comprehensive quality assurance
28 plan under department rules;
29 (d) A commitment to conduct site rehabilitation
30 consistent with state, federal, and local laws and consistent
31 with the brownfield site contamination cleanup criteria in s.

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1 376.81, including any applicable requirements for risk-based
2 corrective action;

3 (e) Timeframes for the department's review of
4 technical reports and plans submitted in accordance with the
5 agreement. The department shall make every effort to adhere
6 to established agency goals for reasonable timeframes for
7 review of such documents;

8 (f) A commitment to secure site access for the
9 department or approved local pollution control program to all
10 brownfield sites within the eligible brownfield area for
11 activities associated with site rehabilitation;

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

16 (h) A commitment to consider appropriate pollution
17 prevention measures and to implement those that the person
18 responsible for brownfield site rehabilitation determines are
19 reasonable and cost-effective, taking into account the
20 ultimate use or uses of the brownfield site. Such measures
21 may include improved inventory or production controls and
22 procedures for preventing loss, spills, and leaks of hazardous
23 waste and materials, and include goals for the reduction of
24 releases of toxic materials; and

25 (i) Certification that an agreement exists between the
26 person responsible for brownfield site rehabilitation and the
27 local government with jurisdiction over the brownfield area.
28 Such agreement shall contain terms for the redevelopment of
29 the brownfield area.

30 (7) The contractor must certify to the department that
31 the contractor:

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1 (c) Maintains comprehensive general liability and
2 comprehensive automobile liability insurance with minimum
3 limits of at least \$1 million per claim ~~occurrence~~ and \$1
4 million annual aggregate, sufficient to protect it from claims
5 for damage for personal injury, including accidental death, as
6 well as claims for property damage which may arise from
7 performance of work under the program, designating the state
8 as an additional insured party.

9 Section 12. Section 376.81, Florida Statutes, is
10 amended to read:

11 376.81 Brownfield site and brownfield areas
12 contamination cleanup criteria.--

13 (1) It is the intent of the Legislature to protect the
14 health of all people under actual circumstances of exposure.
15 By July 1, 2001 ~~1998~~, the secretary of the department shall
16 establish criteria by rule for the purpose of determining, on
17 a site-specific basis, the rehabilitation program tasks that
18 comprise a site rehabilitation program and the level at which
19 a rehabilitation program task and a site rehabilitation
20 program may be deemed completed. In establishing the rule,
21 the department shall apply ~~incorporate~~, to the maximum extent
22 feasible, a risk-based corrective action process principles to
23 achieve protection of human health and safety and the
24 environment in a cost-effective manner based on the principles
25 set forth as provided in this subsection. The rule must
26 prescribe a phased risk-based corrective action process that
27 is iterative and that tailors site rehabilitation tasks to
28 site-specific conditions and risks. The department and the
29 person responsible for brownfield site rehabilitation are
30 encouraged to establish decision points at which risk
31 management decisions will be made. The department shall

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1 provide an early decision, when requested, regarding
2 applicable exposure factors and a risk management approach
3 based on the current and future land use at the site.The rule
4 shall also include protocols for the use of natural
5 attenuation, the use of institutional and engineering
6 controls,and the issuance of "no further action" letters. The
7 criteria for determining what constitutes a rehabilitation
8 program task or completion of a site rehabilitation program
9 task or site rehabilitation program must:

10 (a) Consider the current exposure and potential risk
11 of exposure to humans and the environment, including multiple
12 pathways of exposure. The physical, chemical, and biological
13 characteristics of each contaminant must be considered in
14 order to determine the feasibility of risk-based corrective
15 action assessment.

16 (b) Establish the point of compliance at the source of
17 the contamination. However, the department is authorized to
18 temporarily move the point of compliance to the boundary of
19 the property, or to the edge of the plume when the plume is
20 within the property boundary, while cleanup, including cleanup
21 through natural attenuation processes in conjunction with
22 appropriate monitoring, is proceeding. The department also is
23 authorized, pursuant to criteria provided for in this section,
24 to temporarily extend the point of compliance beyond the
25 property boundary with appropriate monitoring, if such
26 extension is needed to facilitate natural attenuation or to
27 address the current conditions of the plume, provided human
28 health, public safety, and the environment are protected.
29 When temporarily extending the point of compliance beyond the
30 property boundary, it cannot be extended further than the
31 lateral extent of the plume at the time of execution of the

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1 brownfield site rehabilitation agreement, if known, or the
2 lateral extent of the plume as defined at the time of site
3 assessment. Temporary extension of the point of compliance
4 beyond the property boundary, as provided in this paragraph,
5 must include actual notice by the person responsible for
6 brownfield site rehabilitation to local governments and the
7 owners of any property into which the point of compliance is
8 allowed to extend and constructive notice to residents and
9 business tenants of the property into which the point of
10 compliance is allowed to extend. Persons receiving notice
11 pursuant to this paragraph shall have the opportunity to
12 comment within 30 days of receipt of the notice.

13 (c) Ensure that the site-specific cleanup goal is that
14 all contaminated brownfield sites and brownfield areas
15 ultimately achieve the applicable cleanup target levels
16 provided in this section. In the circumstances provided below,
17 and after constructive notice and opportunity to comment
18 within 30 days from receipt of the notice to local government,
19 to owners of any property into which the point of compliance
20 is allowed to extend, and to residents on any property into
21 which the point of compliance is allowed to extend, the
22 department may allow concentrations of contaminants to
23 temporarily exceed the applicable cleanup target levels while
24 cleanup, including cleanup through natural attenuation
25 processes in conjunction with appropriate monitoring, is
26 proceeding, if human health, public safety, and the
27 environment are protected.

28 (d) Allow brownfield site and brownfield area
29 rehabilitation programs to include the use of institutional or
30 engineering controls, where appropriate, to eliminate or
31 control the potential exposure to contaminants of humans or

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1 the environment. The use of controls must be preapproved by
2 the department and only after constructive notice and
3 opportunity to comment within 30 days from receipt of notice
4 is provided to local governments, to owners of any property
5 into which the point of compliance is allowed to extend, and
6 to residents on any property into which the point of
7 compliance is allowed to extend. When institutional or
8 engineering controls are implemented to control exposure, the
9 removal of the controls must have prior department approval
10 and must be accompanied by the resumption of active cleanup,
11 or other approved controls, unless cleanup target levels under
12 this section have been achieved.

13 (e) Consider the additive effects of contaminants.
14 The synergistic and antagonistic effects shall also be
15 considered when the scientific data become available.

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

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

28 1. Cleanup target levels for each contaminant found in
29 groundwater shall be the applicable state water quality
30 standards. Where such standards do not exist, the cleanup
31 target levels for groundwater shall be based on the minimum

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1 criteria specified in department rule. The department shall
2 apply ~~consider~~ the following, as appropriate, in establishing
3 the applicable cleanup target levels ~~minimum criteria~~:
4 calculations using a lifetime cancer risk level of 1.0E-6; a
5 hazard index of 1 or less; the best achievable detection
6 limit; and the naturally occurring background concentration;
7 ~~or~~ nuisance, organoleptic, and aesthetic considerations.
8 However, the department shall not require site rehabilitation
9 to achieve a cleanup target level for any individual
10 contaminant which is more stringent than the site-specific,
11 naturally occurring background concentration for that
12 contaminant.

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

20 3. The department shall approve ~~may set~~ alternative
21 cleanup target levels in conjunction with institutional and
22 engineering controls, if needed, based upon an applicant's
23 demonstration, using site-specific data, modeling results, ~~and~~
24 risk assessment studies, risk reduction techniques, or a
25 combination thereof, that human health, public safety, and the
26 environment are protected to the same degree as provided in
27 subparagraphs 1. and 2. Where a state water quality standard
28 is applicable, a deviation may not result in the application
29 of cleanup target levels more stringent than the standard. In
30 determining whether it is appropriate to establish alternative
31 cleanup target levels at a site, the department must consider

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1 the effectiveness of source removal, if any, which that has
2 been completed at the site and the practical likelihood of the
3 use of low yield or poor quality groundwater, the use of
4 groundwater near marine surface water bodies, the current and
5 projected use of the affected groundwater in the vicinity of
6 the site, or the use of groundwater in the immediate vicinity
7 of the contaminated area, where it has been demonstrated that
8 the groundwater contamination is not migrating away from such
9 localized source, provided human health, public safety, and
10 the environment are protected. When using alternative cleanup
11 target levels at a brownfield site, institutional controls
12 shall not be required if:

13 a. The only cleanup target levels exceeded are the
14 groundwater cleanup target levels derived from nuisance,
15 organoleptic, or aesthetic considerations;

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

19 c. All of the groundwater cleanup target levels
20 established pursuant to subparagraph 1. are met at the
21 property boundary;

22 d. The person responsible for brownfield site
23 rehabilitation has demonstrated that the contaminants will not
24 migrate beyond the property boundary at concentrations
25 exceeding the groundwater cleanup target levels established
26 pursuant to subparagraph 1.;

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

30 f. The real property owner provides written acceptance
31 of the "no further action" proposal to the department or the

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1 local pollution control program.

2 (h) Provide for the department to issue a "no further
3 action order," with conditions, including, but not limited to,
4 the use of institutional or engineering controls where
5 appropriate, when alternative cleanup target levels
6 established pursuant to subparagraph (g)3. have been achieved,
7 or when the person responsible for brownfield site
8 rehabilitation can demonstrate that the cleanup target level
9 is unachievable within available technologies. Prior to
10 issuing such an order, the department shall consider the
11 feasibility of an alternative site rehabilitation technology
12 in the brownfield area.

13 (i) Establish appropriate cleanup target levels for
14 soils.

15 1. In establishing soil cleanup target levels for
16 human exposure to each contaminant found in soils from the
17 land surface to 2 feet below land surface, the department
18 shall apply ~~consider~~ the following, as appropriate:
19 calculations using a lifetime cancer risk level of 1.0E-6; a
20 hazard index of 1 or less; and the best achievable detection
21 limit; ~~or the naturally occurring background concentration.~~
22 However, the department shall not require site rehabilitation
23 to achieve a cleanup target level for an individual
24 contaminant which is more stringent than the site-specific,
25 naturally occurring background concentration for that
26 contaminant. Institutional controls or other methods shall be
27 used to prevent human exposure to contaminated soils more than
28 2 feet below the land surface. Any removal of such
29 institutional controls shall require such contaminated soils
30 to be remediated.

31 2. Leachability-based soil target levels shall be

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

13 3. The department shall approve ~~may set~~ alternative
14 cleanup target levels in conjunction with institutional and
15 engineering controls, if needed, based upon an applicant's
16 demonstration, using site-specific data, modeling results, ~~and~~
17 risk assessment studies, risk reduction techniques, or a
18 combination thereof, that human health, public safety, and the
19 environment are protected to the same degree as provided in
20 subparagraphs 1. and 2.

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

31 (3) The cleanup criteria established pursuant to this

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1 section govern only site rehabilitation activities occurring
2 at the contaminated site. Removal of contaminated media from a
3 site for offsite relocation or treatment must be in accordance
4 with all applicable federal, state, and local laws and
5 regulations.

6 Section 13. Paragraph (k) is added to subsection (2)
7 of section 376.82, Florida Statutes, to read:

8 376.82 Eligibility criteria and liability
9 protection.--

10 (2) LIABILITY PROTECTION.--

11 (k) A person whose property becomes contaminated due
12 to geophysical or hydrologic reasons, including the migration
13 of contaminants onto their property from the operation of
14 facilities and activities on a nearby designated brownfield
15 area, and whose property has never been occupied by a business
16 that utilized or stored the contaminants or similar
17 constituents is not subject to administrative or judicial
18 action brought by or on behalf of another to compel the
19 rehabilitation of or the payment of the costs for the
20 rehabilitation of sites contaminated by materials that
21 migrated onto the property from the designated brownfield
22 area, if the person:

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

26 2. Did not participate in the operation or management
27 of the activities in the designated brownfield area operated
28 at the source location; and

29 3. Did not cause, contribute to, or exacerbate the
30 release or threat of release of any hazardous substance
31 through any act or omission.

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1 Section 14. Paragraph (d) is added to subsection (3)
2 of section 403.973, Florida Statutes, to read:

3 403.973 Expedited permitting; comprehensive plan
4 amendments.--

5 (3)

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

8 Section 15. Subsection (1) of section 190.012, Florida
9 Statutes, is amended to read:

10 190.012 Special powers; public improvements and
11 community facilities.--The district shall have, and the board
12 may exercise, subject to the regulatory jurisdiction and
13 permitting authority of all applicable governmental bodies,
14 agencies, and special districts having authority with respect
15 to any area included therein, any or all of the following
16 special powers relating to public improvements and community
17 facilities authorized by this act:

18 (1) To finance, fund, plan, establish, acquire,
19 construct or reconstruct, enlarge or extend, equip, operate,
20 and maintain systems, facilities, and basic infrastructures
21 for the following:

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

25 (b) Water supply, sewer, and wastewater management,
26 reclamation, and reuse or any combination thereof, and to
27 construct and operate connecting intercepting or outlet sewers
28 and sewer mains and pipes and water mains, conduits, or
29 pipelines in, along, and under any street, alley, highway, or
30 other public place or ways, and to dispose of any effluent,
31 residue, or other byproducts of such system or sewer system.

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1 (c) Bridges or culverts that may be needed across any
2 drain, ditch, canal, floodway, holding basin, excavation,
3 public highway, tract, grade, fill, or cut and roadways over
4 levees and embankments, and to construct any and all of such
5 works and improvements across, through, or over any public
6 right-of-way, highway, grade, fill, or cut.

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

10 2. Buses, trolleys, transit shelters, ridesharing
11 facilities and services, parking improvements, and related
12 signage.

13 (e) Investigation and remediation costs associated
14 with the cleanup of actual or perceived environmental
15 contamination within the district under the supervision or
16 direction of a competent governmental authority unless the
17 covered costs benefit any person who is a landowner within the
18 district and who caused or contributed to the contamination.

19 (f)~~(e)~~ Conservation areas, mitigation areas, and
20 wildlife habitat, including the maintenance of any plant or
21 animal species, and any related interest in real or personal
22 property.

23 (g)~~(f)~~ Any other project within or without the
24 boundaries of a district when a local government issued a
25 development order pursuant to s. 380.06 or s. 380.061
26 approving or expressly requiring the construction or funding
27 of the project by the district, or when the project is the
28 subject of an agreement between the district and a
29 governmental entity and is consistent with the local
30 government comprehensive plan of the local government within
31 which the project is to be located.

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1 Section 16. Section 712.01, Florida Statutes, is
2 amended to read:

3 712.01 Definitions.--As used in this law:

4 (1) The term "person" as used herein denotes singular
5 or plural, natural or corporate, private or governmental,
6 including the state and any political subdivision or agency
7 thereof as the context for the use thereof requires or denotes
8 and including any homeowners' association.

9 (2) "Root of title" means any title transaction
10 purporting to create or transfer the estate claimed by any
11 person and which is the last title transaction to have been
12 recorded at least 30 years prior to the time when
13 marketability is being determined. The effective date of the
14 root of title is the date on which it was recorded.

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

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

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

27 (6) The term "covenant or restriction" means any
28 agreement or limitation contained in a document recorded in
29 the public records of the county in which a parcel is located
30 which subjects the parcel to any use restriction which may be
31 enforced by a homeowners' association or which authorizes a

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1 homeowners' association to impose a charge or assessment
2 against the parcel or the owner of the parcel or which may be
3 enforced by the Florida Department of Environmental Protection
4 pursuant to chapter 376 or chapter 403.

5 Section 17. Section 712.03, Florida Statutes, is
6 amended to read:

7 712.03 Exceptions to marketability.--Such marketable
8 record title shall not affect or extinguish the following
9 rights:

10 (1) Estates or interests, easements and use
11 restrictions disclosed by and defects inherent in the
12 muniments of title on which said estate is based beginning
13 with the root of title; provided, however, that a general
14 reference in any of such muniments to easements, use
15 restrictions or other interests created prior to the root of
16 title shall not be sufficient to preserve them unless specific
17 identification by reference to book and page of record or by
18 name of recorded plat be made therein to a recorded title
19 transaction which imposed, transferred or continued such
20 easement, use restrictions or other interests; subject,
21 however, to the provisions of subsection (5).

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

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

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

30 (5) Recorded or unrecorded easements or rights,
31 interest or servitude in the nature of easements,

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1 rights-of-way and terminal facilities, including those of a
2 public utility or of a governmental agency, so long as the
3 same are used and the use of any part thereof shall except
4 from the operation hereof the right to the entire use thereof.
5 No notice need be filed in order to preserve the lien of any
6 mortgage or deed of trust or any supplement thereto
7 encumbering any such recorded or unrecorded easements, or
8 rights, interest, or servitude in the nature of easements,
9 rights-of-way, and terminal facilities. However, nothing
10 herein shall be construed as preserving to the mortgagee or
11 grantee of any such mortgage or deed of trust or any
12 supplement thereto any greater rights than the rights of the
13 mortgagor or grantor.

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

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

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

23 Section 18. The sum of \$2 million is appropriated from
24 the General Revenue Fund to the Department of Environmental
25 Protection for the purpose of administering the
26 State-Owned-Lands Cleanup Program under section 376.30702,
27 Florida Statutes, as created by this act, during the 2000-2001
28 fiscal year.

29 Section 19. Section 376.3195, Florida Statutes, is
30 repealed.

31 Section 20. This act shall take effect upon becoming a

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1 law.

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4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

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

8

9 and insert in lieu thereof:

10 An act relating to pollution control; amending
11 s. 206.9935, F.S.; providing requirements for
12 determination of the rate; amending s. 252.87,
13 F.S.; revising reporting requirements under the
14 Hazardous Materials Emergency Response and
15 Community Right-to-Know Act; amending s.
16 288.047, F.S.; requiring Enterprise Florida,
17 Inc., to set aside each fiscal year a certain
18 amount of the appropriation for the Quick
19 Response Training Program for businesses
20 located in a brownfield area; amending s.
21 288.107, F.S.; redefining the term "eligible
22 business"; providing for bonus refunds for
23 businesses that can demonstrate a fixed capital
24 investment in certain mixed use activities in
25 the brownfield area; amending s. 288.905, F.S.;
26 requiring Enterprise Florida, Inc., to develop
27 comprehensive marketing strategies for
28 redevelopment of brownfield areas; amending s.
29 376.301, F.S.; redefining the terms
30 "antagonistic effects," "discharge,"
31 "institutional controls," "natural

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1 attenuation," and "site rehabilitation" and
2 defining the term "risk reduction"; creating s.
3 376.30701, F.S.; extending application of
4 risk-based corrective action principles to all
5 contaminated sites resulting from a discharge
6 of pollutants or hazardous substances;
7 providing for contamination cleanup criteria
8 that incorporates risk-based corrective actions
9 to be adopted by rule; providing clarification
10 that cleanup criteria do not apply to offsite
11 relocation or treatment; providing the
12 conditions under which further rehabilitation
13 may be required; creating s. 376.30702, F.S.;
14 creating the Florida State-Owned-Lands Cleanup
15 Program; providing intent; directing the
16 Department of Environmental Protection to use
17 existing site priority ranking and cleanup
18 criteria; establishing limited liability
19 protection; amending s. 376.3078, F.S.;
20 providing conditions with respect to
21 determination of eligibility of specified
22 drycleaning facilities for state-funded site
23 rehabilitation; providing for rehabilitation
24 criteria; amending s. 376.79, F.S.; defining
25 the terms "contaminant" and "risk reduction";
26 redefining the terms "natural attenuation,"
27 "institutional control," and "source removal";
28 amending s. 376.80, F.S.; allowing local
29 governments or persons responsible for
30 brownfield area rehabilitation and
31 redevelopment to use an existing advisory

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

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1 190.012, F.S.; authorizing community
2 development districts to fund certain
3 environmental costs under certain
4 circumstances; amending ss. 712.01, 712.03,
5 F.S.; prohibiting subsequent property owners
6 from removing certain deed restrictions under
7 other provisions of the Marketable Record Title
8 Act; providing an appropriation; repealing s.
9 376.3195, F.S.; providing an effective date.
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