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1 A bill to be entitled

2 An act relating to site rehabilitation of contaminated
3 sites; creating s. 376.30701, F.S.; extending application
4 of risk-based corrective action principles to all
5 contaminated sites resulting from a discharge of
6 pollutants or hazardous substances; providing for
7 contamination cleanup criteria that incorporate risk-based
8 corrective action principles to be adopted by rule;
9 providing clarification that cleanup criteria do not apply
10 to offsite relocation or treatment; providing the
11 conditions under which further rehabilitation may be
12 required; creating s. 376.30702, F.S.; creating the State-
13 Owned Lands Cleanup Program to address site rehabilitation
14 of contaminated state-owned lands; stating legislative
15 findings and intent; directing the department to use
16 existing site priority ranking and cleanup criteria;
17 establishing liability protection; describing conditions
18 under which the department shall seek cost recovery;
19 providing exclusions; amending s. 199.1055, F.S.;
20 clarifying who may apply for tax credits; clarifying time
21 period for use of tax credits; amending s. 220.1845, F.S.;
22 clarifying who may apply for tax credits; clarifying time
23 period for use of tax credits; allowing tax credit
24 applicants to claim credit on a consolidated return up to
25 the amount of the consolidated group's tax liability;
26 amending s. 376.30781, F.S.; clarifying who may apply for
27 tax credits; converting tax credit application time period
28 to calendar year; moving application deadline to January
29 15; clarifying that placeholder applications are
30 prohibited; eliminating outdated language; providing an



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31 effective date.

32

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

34

35 Section 1. Section 376.30701, Florida Statutes, is created
36 to read:

37 376.30701 Application of risk-based corrective action
38 principles to contaminated sites; applicability; legislative
39 intent; rulemaking authority; contamination cleanup criteria;
40 limitations; reopeners.--

41 (1) APPLICABILITY.--

42 (a) This section shall not create or establish any new
43 liability for site rehabilitation at contaminated sites. This
44 section is intended to describe a risk-based corrective action
45 process to be applied at sites where legal responsibility for
46 site rehabilitation exists pursuant to other provisions of this
47 chapter or chapter 403.

48 (b) This section shall apply to all contaminated sites
49 resulting from a discharge of pollutants or hazardous substances
50 where legal responsibility for site rehabilitation exists
51 pursuant to other provisions of this chapter or chapter 403,
52 except for those contaminated sites subject to the risk-based
53 corrective action cleanup criteria established for the
54 petroleum, brownfields, and drycleaning programs pursuant to ss.
55 376.3071, 376.81, and 376.3078, respectively.

56 (c) This section shall apply to a variety of site
57 rehabilitation scenarios including, but not limited to, site
58 rehabilitation conducted voluntarily, site rehabilitation
59 conducted pursuant to the department's enforcement authority, or
60 site rehabilitation conducted as a state-managed cleanup by the



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61 department.

62 (d) This section, and any rules adopted pursuant thereto,
63 shall apply retroactively to all existing contaminated sites
64 where legal responsibility for site rehabilitation exists
65 pursuant to other provisions of this chapter or chapter 403,
66 except those sites for which cleanup target levels have been
67 accepted by the department in an approved technical document,
68 current permit, or other written agreement and except at those
69 sites that have received a "No Further Action" order or a "Site
70 Rehabilitation Completion" order from the department. However,
71 the person responsible for site rehabilitation can elect to have
72 the provisions of this section, including cleanup target levels
73 established pursuant thereto, apply in lieu of those in an
74 approved technical document, current permit, or other written
75 agreement.

76 (e) Nothing in this section shall be construed to prohibit
77 or delay actions to respond to a discharge of pollutants or
78 hazardous substances prior to any contact with the department.
79 The risk-based corrective action process contemplates
80 appropriate emergency response action or initial remedial action
81 prior to any formal application of the risk-based corrective
82 action process involving site assessment and, if required,
83 subsequent remedial action. Any emergency response actions or
84 initial remedial actions must be conducted in accordance with
85 all applicable federal, state, and local laws and regulations.

86 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.--It is
87 the intent of the Legislature to protect the health of all
88 people under actual circumstances of exposure. By July 1, 2004,
89 the Secretary of Environmental Protection shall establish
90 criteria by rule for the purpose of determining, on a site-



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91 specific basis, the rehabilitation program tasks that comprise a
92 site rehabilitation program, including a voluntary site
93 rehabilitation program, and the level at which a rehabilitation
94 program task and a site rehabilitation program may be deemed
95 completed. In establishing these rules, the department shall
96 apply, to the maximum extent feasible, a risk-based corrective
97 action process to achieve protection of human health and safety
98 and the environment in a cost-effective manner based on the
99 principles set forth in this subsection. These rules shall
100 prescribe a phased risk-based corrective action process that is
101 iterative and that tailors site rehabilitation tasks to site-
102 specific conditions and risks. The department and the person
103 responsible for site rehabilitation are encouraged to establish
104 decision points at which risk management decisions will be made.
105 The department shall provide an early decision, when requested,
106 regarding applicable exposure factors and a risk management
107 approach based on the current and future land use at the site.
108 These rules shall also include protocols for the use of natural
109 attenuation, the use of institutional and engineering controls,
110 and the issuance of "No Further Action" orders. The criteria for
111 determining what constitutes a rehabilitation program task or
112 completion of a site rehabilitation program task or site
113 rehabilitation program, including a voluntary site
114 rehabilitation program, must:

115 (a) Consider the current exposure and potential risk of
116 exposure to humans and the environment, including multiple
117 pathways of exposure. The physical, chemical, and biological
118 characteristics of each contaminant must be considered in order
119 to determine the feasibility of a risk-based corrective action
120 assessment.



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121 (b) Establish the point of compliance at the source of the
122 contamination. However, the department is authorized to
123 temporarily move the point of compliance to the boundary of the
124 property, or to the edge of the plume when the plume is within
125 the property boundary, while cleanup, including cleanup through
126 natural attenuation processes in conjunction with appropriate
127 monitoring, is proceeding. The department also is authorized,
128 pursuant to criteria provided in this section, to temporarily
129 extend the point of compliance beyond the property boundary with
130 appropriate monitoring, if such extension is needed to
131 facilitate natural attenuation or to address the current
132 conditions of the plume, provided human health, public safety,
133 and the environment are protected. When temporarily extending
134 the point of compliance beyond the property boundary, it cannot
135 be extended further than the lateral extent of the plume, if
136 known, at the time of execution of a cleanup agreement, if
137 required, or the lateral extent of the plume as defined at the
138 time of site assessment. Temporary extension of the point of
139 compliance beyond the property boundary, as provided in this
140 paragraph, must include actual notice by the person responsible
141 for site rehabilitation to local governments and the owners of
142 any property into which the point of compliance is allowed to
143 extend and constructive notice to residents and business tenants
144 of the property into which the point of compliance is allowed to
145 extend. Persons receiving notice pursuant to this paragraph
146 shall have the opportunity to comment within 30 days after
147 receipt of the notice.

148 (c) Ensure that the site-specific cleanup goal is that all
149 contaminated sites being cleaned up pursuant to this section
150 ultimately achieve the applicable cleanup target levels provided



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151 in this subsection. In the circumstances provided in this
152 subsection, and after constructive notice and opportunity to
153 comment within 30 days after receipt of the notice to local
154 government, owners of any property into which the point of
155 compliance is allowed to extend, and residents of any property
156 into which the point of compliance is allowed to extend, the
157 department may allow concentrations of contaminants to
158 temporarily exceed the applicable cleanup target levels while
159 cleanup, including cleanup through natural attenuation processes
160 in conjunction with appropriate monitoring, is proceeding, if
161 human health, public safety, and the environment are protected.

162 (d) Allow the use of institutional or engineering controls
163 at contaminated sites being cleaned up pursuant to this section,
164 where appropriate, to eliminate or control the potential
165 exposure to contaminants of humans or the environment. The use
166 of controls must be preapproved by the department and only after
167 constructive notice and opportunity to comment within 30 days
168 after receipt of notice is provided to local governments, owners
169 of any property into which the point of compliance is allowed to
170 extend, and residents on any property into which the point of
171 compliance is allowed to extend. When institutional or
172 engineering controls are implemented to control exposure, the
173 removal of the controls must have prior department approval and
174 must be accompanied by the resumption of active cleanup, or
175 other approved controls, unless cleanup target levels under this
176 section have been achieved.

177 (e) Consider the additive effects of contaminants. The
178 synergistic and antagonistic effects shall also be considered
179 when the scientific data become available.

180 (f) Take into consideration individual site



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181 characteristics, which shall include, but not be limited to, the
182 current and projected use of the affected groundwater and
183 surface water in the vicinity of the site, current and projected
184 land uses of the area affected by the contamination, the exposed
185 population, the degree and extent of contamination, the rate of
186 contaminant migration, the apparent or potential rate of
187 contaminant degradation through natural attenuation processes,
188 the location of the plume, and the potential for further
189 migration in relation to site property boundaries.

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

191 1. Cleanup target levels for each contaminant found in
192 groundwater shall be the applicable state water quality
193 standards. Where such standards do not exist, the cleanup target
194 levels for groundwater shall be based on the minimum criteria
195 specified in department rule. The department shall apply the
196 following, as appropriate, in establishing the applicable
197 cleanup target levels: calculations using a lifetime cancer risk
198 level of 1.0E-6; a hazard index of 1 or less; the best
199 achievable detection limit; and nuisance, organoleptic, and
200 aesthetic considerations. However, the department shall not
201 require site rehabilitation to achieve a cleanup target level
202 for any individual contaminant that is more stringent than the
203 site-specific, naturally occurring background concentration for
204 that contaminant.

205 2. Where surface waters are exposed to contaminated
206 groundwater, the cleanup target levels for the contaminants
207 shall be based on the more protective of the groundwater or
208 surface water standards as established by department rule. The
209 point of measuring compliance with the surface water standards
210 shall be in the groundwater immediately adjacent to the surface



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211 water body.

212 3. Using risk-based corrective action principles, the
213 department shall approve alternative cleanup target levels in
214 conjunction with institutional and engineering controls, if
215 needed, based upon an applicant's demonstration, using site-
216 specific data, modeling results, risk assessment studies, risk
217 reduction techniques, or a combination thereof, that human
218 health, public safety, and the environment are protected to the
219 same degree as provided in subparagraphs 1. and 2. Where a state
220 water quality standard is applicable, a deviation may not result
221 in the application of cleanup target levels more stringent than
222 the standard. In determining whether it is appropriate to
223 establish alternative cleanup target levels at a site, the
224 department must consider the effectiveness of source removal, if
225 any, that has been completed at the site and the practical
226 likelihood of the use of low yield or poor quality groundwater,
227 the use of groundwater near marine surface water bodies, the
228 current and projected use of the affected groundwater in the
229 vicinity of the site, or the use of groundwater in the immediate
230 vicinity of the contaminated area, where it has been
231 demonstrated that the groundwater contamination is not migrating
232 away from such localized source, provided human health, public
233 safety, and the environment are protected.

234 (h) Provide for the department to issue a "No Further
235 Action" order, with conditions, including, but not limited to,
236 the use of institutional or engineering controls where
237 appropriate, when alternative cleanup target levels established
238 pursuant to subparagraph (g)3. have been achieved or when the
239 person responsible for site rehabilitation can demonstrate that
240 the cleanup target level is unachievable with the use of



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241 available technologies. Prior to issuing such an order, the
242 department shall consider the feasibility of an alternative site
243 rehabilitation technology at the contaminated site.

244 (i) Establish appropriate cleanup target levels for soils.

245 1. In establishing soil cleanup target levels for human
246 exposure to each contaminant found in soils from the land
247 surface to 2 feet below land surface, the department shall apply
248 the following, as appropriate: calculations using a lifetime
249 cancer risk level of 1.0E-6; a hazard index of 1 or less; and
250 the best achievable detection limit. However, the department
251 shall not require site rehabilitation to achieve a cleanup
252 target level for an individual contaminant that is more
253 stringent than the site-specific, naturally occurring background
254 concentration for that contaminant. Institutional controls or
255 other methods shall be used to prevent human exposure to
256 contaminated soils more than 2 feet below the land surface. Any
257 removal of such institutional controls shall require such
258 contaminated soils to be remediated.

259 2. Leachability-based soil cleanup target levels shall be
260 based on protection of the groundwater cleanup target levels or
261 the alternate cleanup target levels for groundwater established
262 pursuant to this paragraph, as appropriate. Source removal and
263 other cost-effective alternatives that are technologically
264 feasible shall be considered in achieving the leachability soil
265 cleanup target levels established by the department. The
266 leachability goals shall not be applicable if the department
267 determines, based upon individual site characteristics, and in
268 conjunction with institutional and engineering controls, if
269 needed, that contaminants will not leach into the groundwater at
270 levels that pose a threat to human health, public safety, and



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271 the environment.

272 3. Using risk-based corrective action principles, the
273 department shall approve alternative cleanup target levels in
274 conjunction with institutional and engineering controls, if
275 needed, based upon an applicant's demonstration, using site-
276 specific data, modeling results, risk assessment studies, risk
277 reduction techniques, or a combination thereof, that human
278 health, public safety, and the environment are protected to the
279 same degree as provided in subparagraphs 1. and 2.

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281 The department shall require source removal as a risk reduction
282 measure if warranted and cost-effective. Once source removal at
283 a site is complete, the department shall reevaluate the site to
284 determine the degree of active cleanup needed to continue.
285 Further, the department shall determine if the reevaluated site
286 qualifies for monitoring only or if no further action is
287 required to rehabilitate the site. If additional site
288 rehabilitation is necessary to reach "No Further Action" status,
289 the department is encouraged to utilize natural attenuation and
290 monitoring where site conditions warrant.

291 (3) LIMITATIONS.--The cleanup criteria established
292 pursuant to this section govern only site rehabilitation
293 activities occurring at the contaminated site. Removal of
294 contaminated media from a site for offsite relocation or
295 treatment must be in accordance with all applicable federal,
296 state, and local laws and regulations.

297 (4) REOPENERS.--Upon completion of site rehabilitation in
298 compliance with subsection (2), additional site rehabilitation
299 is not required unless it is demonstrated that:

300 (a) Fraud was committed in demonstrating site conditions



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301 or completion of site rehabilitation;

302 (b) New information confirms the existence of an area of
303 previously unknown contamination which exceeds the site-specific
304 rehabilitation levels established in accordance with subsection
305 (2), or which otherwise poses the threat of real and substantial
306 harm to public health, safety, or the environment;

307 (c) The remediation efforts failed to achieve the site
308 rehabilitation criteria established under this section;

309 (d) The level of risk is increased beyond the acceptable
310 risk established under subsection (2) due to substantial changes
311 in exposure conditions, such as a change in land use from
312 nonresidential to residential use. Any person who changes the
313 land use of the site, thereby causing the level of risk to
314 increase beyond the acceptable risk level, may be required by
315 the department to undertake additional remediation measures to
316 ensure that human health, public safety, and the environment are
317 protected consistent with this section; or

318 (e) A new discharge of pollutants or hazardous substances
319 occurs at the site subsequent to the issuance of a "No Further
320 Action" order or a "Site Rehabilitation Completion" order
321 associated with the original contamination being addressed
322 pursuant to this section.

323 Section 2. Section 376.30702, Florida Statutes, is created
324 to read:

325 376.30702 The State-Owned Lands Cleanup Program; findings;
326 intent; purpose; program requirements; limited liability
327 protection; cost recovery; exclusions.--

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



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331 (a) Significant quantities of pollutants or hazardous
332 substances have been discharged in the past on state-owned
333 lands. Generally, these discharges occurred as part of the
334 normal operation of facilities that existed on the property.
335 Many of these discharges occurred prior to the state acquiring
336 title to the property, or the discharges resulted from the acts
337 of tenants or lessees of the state-owned lands.

338 (b) These discharges of pollutants and hazardous
339 substances on state-owned lands pose a significant threat to the
340 quality of the groundwaters and inland surface waters of this
341 state.

342 (c) Where contamination of the groundwater or surface
343 water has occurred, remedial measures have often been delayed
344 for long periods while determinations as to liability and the
345 extent of liability are made, and such delays result in the
346 continuation and intensification of the threat to the public
347 health, safety, and welfare; greater damage to the environment;
348 and significantly higher costs to contain and remove the
349 contamination.

350 (d) Adequate financial resources must be readily available
351 to provide for the expeditious supply of safe and reliable
352 alternative sources of potable water to affected persons and to
353 provide a means for investigation and rehabilitation without
354 delay of contaminated sites on state-owned lands.

355 (e) Site rehabilitation at contaminated sites on state-
356 owned lands should be based on the actual risk that
357 contamination may pose to the environment and public health,
358 taking into account current and future land and water use and
359 the degree to which contamination may spread and place the
360 public or the environment at risk.



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

362 (a) There is created the Florida State-Owned Lands Cleanup
363 Program to be administered by the department. To encourage
364 detection, reporting, and cleanup of contamination on state-
365 owned lands, the department shall, within the guidelines
366 established in this section, implement a cleanup program to
367 provide state-funded and state-managed site rehabilitation for
368 all state-owned property contaminated by discharges of
369 pollutants or hazardous substances that are reported to the
370 department. It is not the intent of this program to provide
371 funding for environmental compliance for ongoing operations on
372 state-owned lands. Failure to maintain substantial compliance
373 with state regulatory requirements applicable to the ongoing
374 operations on the state-owned lands, as determined by the
375 department, shall be grounds for revocation of eligibility for
376 this program. Nothing contained in this section shall prevent
377 the department from assessing civil penalties for noncompliance
378 pursuant to its existing authority under state law.

379 (b) Continuation of this program shall be subject to an
380 annual appropriation from the Legislature. Such continued state
381 funding shall not be deemed an entitlement or a vested right
382 under this section. The department shall not obligate funds in
383 excess of the annual appropriation for this program.

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

389 1. Prompt investigation and assessment of the contaminated
390 site.



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

393 3. Rehabilitation of contaminated sites, which shall
394 consist of rehabilitation of affected soil, groundwater,
395 sediment, and surface waters, using the most cost-effective
396 alternative that is technologically feasible and reliable and
397 that provides adequate protection of the public health, safety,
398 and welfare and minimizes environmental damage, in accordance
399 with the rehabilitation criteria established by the department
400 under s. 376.30701, except that nothing in this subsection may
401 be construed to authorize the department to obligate funds for
402 the payment of costs that may be associated with, but are not
403 integral to, site rehabilitation.

404 4. Maintenance and monitoring of contaminated sites.

405 5. Inspection and supervision of activities described in
406 this subsection.

407 6. Payment of expenses incurred by the department in its
408 efforts to obtain from responsible parties the payment or
409 recovery of reasonable costs resulting from the activities
410 described in this subsection.

411 7. Payment of any other reasonable costs of
412 administration, including those administrative costs incurred by
413 the Department of Health in providing field and laboratory
414 services, toxicological risk assessment, and other assistance to
415 the department in the investigation of drinking water
416 contamination complaints and costs associated with public
417 information and education activities.

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



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421 (3) SITE PRIORITY RANKING AND CLEANUP CRITERIA.--

422 (a) The department shall determine the priority ranking of
423 all known contaminated sites on state-owned lands using the
424 criteria listed in s. 376.3078(7) and (8), except for s.
425 376.3078(7)(e). In applying s. 376.3078(8)(h), the department
426 shall consider all pollutants and hazardous substances. It is
427 the intent of the Legislature that site rehabilitation be
428 conducted first at those sites that pose the greatest threat to
429 human health and the environment, within the availability of
430 funds appropriated annually for this program. However, nothing
431 in this subsection shall be construed to restrict the department
432 from modifying the priority status of a rehabilitation site
433 where conditions warrant, taking into consideration the actual
434 distance between the contamination site and groundwater or
435 surface water receptors or other factors that affect the risk of
436 exposure to pollutants and hazardous substances.

437 (b) The department shall conduct site rehabilitation at
438 contaminated sites being cleaned up under this program using the
439 cleanup criteria established in s. 376.30701 and chapter 62-777,
440 Florida Administrative Code, as that chapter may hereafter be
441 amended.

442 (c) It is recognized that restoration of groundwater
443 resources contaminated with pollutants or hazardous substances
444 may not be achievable using currently available technology. In
445 situations where the use of available technology is not expected
446 to achieve water quality standards, the department, at its
447 discretion, may use innovative technology that has been field-
448 tested and that has engineering and cost data available.

449 (d) This subsection may not be construed to restrict the
450 department from temporarily postponing completion of any site



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451 rehabilitation activities at a contaminated site on state-owned
452 lands for which funds are being expended under this section
453 whenever such postponement is deemed necessary in order to make
454 funds available for rehabilitation of another contamination site
455 on state-owned lands having a higher priority status.

456 (e) Regardless of a site's priority ranking, the
457 department is authorized to temporarily postpone site
458 rehabilitation at a contaminated site on state-owned lands for
459 which federal funding may be available pursuant to the Formerly
460 Used Defense Sites Program. The department, at its discretion,
461 may proceed with state-funded cleanup of such sites if the
462 likelihood of timely federal response is low.

463 (4) LIMITED LIABILITY PROTECTION.--

464 (a) Except at contaminated sites subject to site
465 rehabilitation requirements under a federally delegated program,
466 the department shall not compel any state agency that controls
467 or manages state-owned lands which are contaminated with
468 pollutants or hazardous substances to conduct site
469 rehabilitation at a contaminated site which has been reported to
470 the department pursuant to paragraph (2)(a). Further,
471 notwithstanding subsection (5), the department shall not pursue
472 cost recovery from any such state agency for site rehabilitation
473 costs incurred to clean up state-owned lands which are
474 contaminated with pollutants or hazardous substances.

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

480 (c) This section shall not affect the ability or authority



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481 to seek contribution from any person who may have liability with
482 respect to a contaminated site on state-owned lands.

483 (d) Nothing in this section shall subject the department
484 to liability for any action that may be required of the property
485 owner or the owner or operator of a facility on state-owned
486 lands by any private party or any local, state, or federal
487 government entity.

488 (5) DEPARTMENTAL DUTY TO SEEK RECOVERY AND
489 REIMBURSEMENT.--

490 (a) Except as provided in subsection (4) and as otherwise
491 provided by law, the department shall recover from any person
492 causing or having caused the discharge of pollutants or
493 hazardous substances on state-owned lands, jointly and severally
494 pursuant to s. 376.308, all sums owed or expended for site
495 rehabilitation at a site being cleaned up in the State-Owned
496 Lands Cleanup Program, except that the department may decline to
497 pursue such recovery if it finds the amount involved to be too
498 small or the likelihood of recovery too uncertain.

499 (b) Except as provided in subsection (4) and as otherwise
500 provided by law, it is the duty of the department in
501 administering the State-Owned Lands Cleanup Program to
502 diligently pursue the recovery of any sum expended from the fund
503 for site rehabilitation in accordance with the provisions of
504 this section, unless the department finds the amount involved to
505 be too small or the likelihood of recovery too uncertain. For
506 the purposes of s. 95.11, the limitation period within which to
507 institute an action to recover such sums shall commence on the
508 last date on which any such sums were expended and not the date
509 that the discharge occurred.

510 (c) In any action brought pursuant to this subsection, a



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511 person against whom the department pursues cost recovery shall
 512 not be required to reimburse the department for that percentage
 513 of the site rehabilitation costs that the presiding judicial
 514 officer apportions to a state agency that has received limited
 515 liability protection pursuant to subsection (4).

516 (6) EXCLUSIONS.--The provisions of this section shall not
 517 apply to the abatement of phosphorus pollution that the state is
 518 addressing under the provisions of ss. 373.4592, 373.4595, and
 519 373.461.

520 Section 3. Subsection (1) of section 199.1055, Florida
 521 Statutes, is amended to read:

522 199.1055 Contaminated site rehabilitation tax credit.--

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

524 (a) A credit in the amount of 35 percent of the costs of
 525 voluntary cleanup activity that is integral to site
 526 rehabilitation at the following sites is available ~~allowed~~
 527 against any tax due for a taxable year under s. 199.032, less
 528 any credit allowed by former s. 220.68 for that year:

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

531 2. A drycleaning-solvent-contaminated site at which
 532 cleanup is undertaken by the real property owner pursuant to s.
 533 376.3078(11), if the real property owner is not also, and has
 534 never been, the owner or operator of the drycleaning facility
 535 where the contamination exists; or

536 3. A brownfield site in a designated brownfield area under
 537 s. 376.80.

538 (b) A tax credit applicant, or multiple tax credit
 539 applicants ~~taxpayer, or multiple taxpayers~~ working jointly to
 540 clean up a single site, may not be granted ~~receive~~ more than



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541 \$250,000 per year in tax credits for each site voluntarily
542 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall be
543 granted ~~receive~~ tax credits in the same proportion as their
544 contribution to payment of cleanup costs. Subject to the same
545 conditions and limitations as provided in this section, a
546 municipality, ~~or~~ county, or other tax credit applicant which
547 voluntarily rehabilitates a site may receive not more than
548 \$250,000 per year in tax credits which it can subsequently
549 transfer subject to the provisions in paragraph (g).

550 (c) If the credit granted under this section is not fully
551 used in any one year because of insufficient tax liability on
552 the part of the tax credit applicant ~~taxpayer~~, the unused amount
553 may be carried forward for a period not to exceed 5 years. Five
554 years after the date a credit is granted under this section,
555 such credit expires and may not be used. However, if during the
556 5-year period the credit is transferred, in whole or in part,
557 pursuant to paragraph (g), each transferee has 5 years after the
558 date of transfer to use its credit.

559 (d) A taxpayer that receives a credit under s. 220.1845 is
560 ineligible to receive credit under this section in a given tax
561 year.

562 (e) A tax credit applicant ~~taxpayer~~ that receives state-
563 funded site rehabilitation pursuant to s. 376.3078(3) for
564 rehabilitation of a drycleaning-solvent-contaminated site is
565 ineligible to receive credit under this section for costs
566 incurred by the tax credit applicant ~~taxpayer~~ in conjunction
567 with the rehabilitation of that site during the same time period
568 that state-administered site rehabilitation was underway.



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

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

576 2. The entity or its surviving or acquiring entity as
577 described in subparagraph 1., may transfer any unused credit in
578 whole or in units of no less than 25 percent of the remaining
579 credit. The entity acquiring such credit may use it in the same
580 manner and with the same limitation as described in this
581 section. Such transferred credits may not be transferred again
582 although they may succeed to a surviving or acquiring entity
583 subject to the same conditions and limitations as described in
584 this section.

585 3. In the event the credit provided for under this section
586 is reduced either as a result of a determination by the
587 Department of Environmental Protection or an examination or
588 audit by the Department of Revenue, such tax deficiency shall be
589 recovered from the first entity, or the surviving or acquiring
590 entity, to have claimed such credit up to the amount of credit
591 taken. Any subsequent deficiencies shall be assessed against any
592 entity acquiring and claiming such credit, or in the case of
593 multiple succeeding entities in the order of credit succession.

594 (h) In order to encourage completion of site
595 rehabilitation at contaminated sites being voluntarily cleaned
596 up and eligible for a tax credit under this section, the tax
597 credit applicant ~~taxpayer~~ may claim an additional 10 percent of
598 the total cleanup costs, not to exceed \$50,000, in the final



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599 year of cleanup as evidenced by the Department of Environmental
600 Protection issuing a "No Further Action" order for that site.

601 Section 4. Subsection (1) of section 220.1845, Florida
602 Statutes, is amended to read:

603 220.1845 Contaminated site rehabilitation tax credit.--

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

605 (a) A credit in the amount of 35 percent of the costs of
606 voluntary cleanup activity that is integral to site
607 rehabilitation at the following sites is available ~~allowed~~
608 against any tax due for a taxable year under this chapter:

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

611 2. A drycleaning-solvent-contaminated site at which
612 cleanup is undertaken by the real property owner pursuant to s.
613 376.3078(11), if the real property owner is not also, and has
614 never been, the owner or operator of the drycleaning facility
615 where the contamination exists; or

616 3. A brownfield site in a designated brownfield area under
617 s. 376.80.

618 (b) A tax credit applicant, or multiple tax credit
619 applicants taxpayer, or multiple taxpayers working jointly to
620 clean up a single site, may not be granted ~~receive~~ more than
621 \$250,000 per year in tax credits for each site voluntarily
622 rehabilitated. Multiple tax credit applicants taxpayers shall be
623 granted ~~receive~~ tax credits in the same proportion as their
624 contribution to payment of cleanup costs. Subject to the same
625 conditions and limitations as provided in this section, a
626 municipality, ~~or~~ county, or other tax credit applicant which
627 voluntarily rehabilitates a site may receive not more than



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628 \$250,000 per year in tax credits which it can subsequently
629 transfer subject to the provisions in paragraph (h).

630 (c) If the credit granted under this section is not fully
631 used in any one year because of insufficient tax liability on
632 the part of the corporation, the unused amount may be carried
633 forward for a period not to exceed 5 years. The carryover credit
634 may be used in a subsequent year when the tax imposed by this
635 chapter for that year exceeds the credit for which the
636 corporation is eligible in that year under this section after
637 applying the other credits and unused carryovers in the order
638 provided by s. 220.02(8). Five years after the date a credit is
639 granted under this section, such credit expires and may not be
640 used. However, if during the 5-year period the credit is
641 transferred, in whole or in part, pursuant to paragraph (h),
642 each transferee has 5 years after the date of transfer to use
643 its credit.

644 (d) A taxpayer that files a consolidated return in this
645 state as a member of an affiliated group under s. 220.131(1) may
646 be allowed the credit on a consolidated return basis up to the
647 amount of tax imposed upon the consolidated group ~~and paid by~~
648 ~~the taxpayer that incurred the rehabilitation costs.~~

649 (e) A taxpayer that receives credit under s. 199.1055 is
650 ineligible to receive credit under this section in a given tax
651 year.

652 (f) A tax credit applicant ~~taxpayer~~ that receives state-
653 funded site rehabilitation under s. 376.3078(3) for
654 rehabilitation of a drycleaning-solvent-contaminated site is
655 ineligible to receive credit under this section for costs
656 incurred by the tax credit applicant ~~taxpayer~~ in conjunction



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657 with the rehabilitation of that site during the same time period
658 that state-administered site rehabilitation was underway.

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

662 (h)1. Tax credits that may be available under this section
663 to an entity eligible under s. 376.30781 may be transferred
664 after a merger or acquisition to the surviving or acquiring
665 entity and used in the same manner and with the same
666 limitations.

667 2. The entity or its surviving or acquiring entity as
668 described in subparagraph 1., may transfer any unused credit in
669 whole or in units of no less than 25 percent of the remaining
670 credit. The entity acquiring such credit may use it in the same
671 manner and with the same limitation as described in this
672 section. Such transferred credits may not be transferred again
673 although they may succeed to a surviving or acquiring entity
674 subject to the same conditions and limitations as described in
675 this section.

676 3. In the event the credit provided for under this section
677 is reduced either as a result of a determination by the
678 Department of Environmental Protection or an examination or
679 audit by the Department of Revenue, such tax deficiency shall be
680 recovered from the first entity, or the surviving or acquiring
681 entity, to have claimed such credit up to the amount of credit
682 taken. Any subsequent deficiencies shall be assessed against any
683 entity acquiring and claiming such credit, or in the case of
684 multiple succeeding entities in the order of credit succession.

685 (i) In order to encourage completion of site
686 rehabilitation at contaminated sites being voluntarily cleaned



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687 up and eligible for a tax credit under this section, the tax
688 credit applicant taxpayer may claim an additional 10 percent of
689 the total cleanup costs, not to exceed \$50,000, in the final
690 year of cleanup as evidenced by the Department of Environmental
691 Protection issuing a "No Further Action" order for that site.

692 Section 5. Section 376.30781, Florida Statutes, is amended
693 to read:

694 376.30781 Partial tax credits for rehabilitation of
695 drycleaning-solvent-contaminated sites and brownfield sites in
696 designated brownfield areas; application process; rulemaking
697 authority; revocation authority.--

698 (1) The Legislature finds that:

699 (a) To facilitate property transactions and economic
700 growth and development, it is in the interest of the state to
701 encourage the cleanup, at the earliest possible time, of
702 drycleaning-solvent-contaminated sites and brownfield sites in
703 designated brownfield areas.

704 (b) It is the intent of the Legislature to encourage the
705 voluntary cleanup of drycleaning-solvent-contaminated sites and
706 brownfield sites in designated brownfield areas by providing a
707 partial tax credit for the restoration of such property in
708 specified circumstances.

709 (2)(a) A credit in the amount of 35 percent of the costs
710 of voluntary cleanup activity that is integral to site
711 rehabilitation at the following sites is allowed pursuant to ss.
712 199.1055 and 220.1845:

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

715 2. A drycleaning-solvent-contaminated site at which
716 cleanup is undertaken by the real property owner pursuant to s.



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717 376.3078(11), if the real property owner is not also, and has
 718 never been, the owner or operator of the drycleaning facility
 719 where the contamination exists; or

720 3. A brownfield site in a designated brownfield area under
 721 s. 376.80.

722 (b) A tax credit applicant taxpayer, or multiple tax
 723 credit applicants taxpayers working jointly to clean up a single
 724 site, may not be granted ~~receive~~ more than \$250,000 per year in
 725 tax credits for each site voluntarily rehabilitated. Multiple
 726 tax credit applicants taxpayers shall be granted ~~receive~~ tax
 727 credits in the same proportion as their contribution to payment
 728 of cleanup costs. Tax credits are available only for site
 729 rehabilitation conducted during the calendar tax year for in
 730 which the tax credit application is submitted.

731 (c) In order to encourage completion of site
 732 rehabilitation at contaminated sites that are being voluntarily
 733 cleaned up and that are eligible for a tax credit under this
 734 section, the tax credit applicant may claim an additional 10
 735 percent of the total cleanup costs, not to exceed \$50,000, in
 736 the final year of cleanup as evidenced by the Department of
 737 Environmental Protection issuing a "No Further Action" order for
 738 that site.

739 (3) The Department of Environmental Protection shall be
 740 responsible for allocating the tax credits provided for in ss.
 741 199.1055 and 220.1845, not to exceed a total of \$2 million in
 742 tax credits annually.

743 (4) To claim the credit for site rehabilitation conducted
 744 during the current calendar year, each tax credit applicant must
 745 apply to the Department of Environmental Protection for an
 746 allocation of the \$2 million annual credit by January 15 of the



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747 following year ~~December 31~~ on a form developed by the Department
 748 of Environmental Protection in cooperation with the Department
 749 of Revenue. The form shall include an affidavit from each tax
 750 credit applicant certifying that all information contained in
 751 the application, including all records of costs incurred and
 752 claimed in the tax credit application, are true and correct. If
 753 the application is submitted pursuant to subparagraph (2)(a)2.,
 754 the form must include an affidavit signed by the real property
 755 owner stating that it is not, and has never been, the owner or
 756 operator of the drycleaning facility where the contamination
 757 exists. Approval of partial tax credits must be accomplished on
 758 a first-come, first-served basis based upon the date complete
 759 applications are received by the Division of Waste Management. A
 760 tax credit ~~An~~ applicant shall submit only one complete
 761 application per site for each calendar year's site
 762 rehabilitation costs. Incomplete placeholder applications shall
 763 not be accepted and will not secure a place in the first-come,
 764 first-served application line ~~per year~~. To be eligible for a tax
 765 credit the tax credit applicant must:

766 (a) Have entered into a voluntary cleanup agreement with
 767 the Department of Environmental Protection for a drycleaning-
 768 solvent-contaminated site or a Brownfield Site Rehabilitation
 769 Agreement, as applicable; and

770 (b) Have paid all deductibles pursuant to s.
 771 376.3078(3)(d) for eligible drycleaning-solvent-cleanup program
 772 sites.

773 (5) To obtain the tax credit certificate, a tax credit ~~an~~
 774 applicant must annually file an application for certification,
 775 which must be received by the Division of Waste Management of
 776 the Department of Environmental Protection by January 15 of the



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777 year following the calendar year for which site rehabilitation
778 costs are being claimed in a tax credit application ~~December 31.~~

779 The tax credit applicant must provide all pertinent information
780 requested on the tax credit application form, including, at a
781 minimum, the name and address of the tax credit applicant and
782 the address and tracking identification number of the eligible
783 site. Along with the tax credit application form, the tax credit
784 applicant must submit the following:

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

789 (b) Copies of contracts and documentation of contract
790 negotiations, accounts, invoices, sales tickets, or other
791 payment records from purchases, sales, leases, or other
792 transactions involving actual costs incurred for that tax year
793 related to site rehabilitation, as that term is defined in ss.
794 376.301 and 376.79;

795 (c) Proof that the documentation submitted pursuant to
796 paragraph (b) has been reviewed and verified by an independent
797 certified public accountant in accordance with standards
798 established by the American Institute of Certified Public
799 Accountants. Specifically, the certified public accountant must
800 attest to the accuracy and validity of the costs incurred and
801 paid by conducting an independent review of the data presented
802 by the tax credit applicant. Accuracy and validity of costs
803 incurred and paid would be determined once the level of effort
804 was certified by an appropriate professional registered in this
805 state in each contributing technical discipline. The certified
806 public accountant's report would also attest that the costs



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807 included in the application form are not duplicated within the
808 application. A copy of the accountant's report shall be
809 submitted to the Department of Environmental Protection with the
810 tax credit application; and

811 (d) A certification form stating that site rehabilitation
812 activities associated with the documentation submitted pursuant
813 to paragraph (b) have been conducted under the observation of,
814 and related technical documents have been signed and sealed by,
815 an appropriate professional registered in this state in each
816 contributing technical discipline. The certification form shall
817 be signed and sealed by the appropriate registered professionals
818 stating that the costs incurred were integral, necessary, and
819 required for site rehabilitation, as that term is defined in ss.
820 376.301 and 376.79.

821 (6) The certified public accountant and appropriate
822 registered professionals submitting forms as part of a tax
823 credit application must verify such forms. Verification must be
824 accomplished as provided in s. 92.525(1)(b) and subject to the
825 provisions of s. 92.525(3).

826 (7) The Department of Environmental Protection shall
827 review the tax credit application and any supplemental
828 documentation that the tax credit applicant may submit prior to
829 the annual application deadline in order to have the application
830 considered complete ~~submitted by each applicant~~, for the purpose
831 of verifying that the tax credit applicant has met the
832 qualifying criteria in subsections (2) and (4) and has submitted
833 all required documentation listed in subsection (5). Upon
834 verification that the tax credit applicant has met these
835 requirements, the department shall issue a written decision
836 granting eligibility for partial tax credits (a tax credit



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837 certificate) in the amount of 35 percent of the total costs
838 claimed, subject to the \$250,000 limitation, for the calendar
839 ~~tax~~ year for ~~in~~ which the tax credit application is submitted
840 based on the report of the certified public accountant and the
841 certifications from the appropriate registered technical
842 professionals.

843 (8) On or before March 1, the Department of Environmental
844 Protection shall inform each eligible tax credit applicant of
845 the amount of its partial tax credit and provide each eligible
846 tax credit applicant with a tax credit certificate that must be
847 submitted with its tax return to the Department of Revenue to
848 claim the tax credit or be transferred pursuant to s.
849 199.1055(1)(g) or s. 220.1845(1)(h). Credits will not result in
850 the payment of refunds if total credits exceed the amount of tax
851 owed.

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

858 (10) The Department of Environmental Protection may adopt
859 rules to prescribe the necessary forms required to claim tax
860 credits under this section and to provide the administrative
861 guidelines and procedures required to administer this section.
862 ~~Prior to the adoption of rules regulating the tax credit~~
863 ~~application, the department shall, by September 1, 1998,~~
864 ~~establish reasonable interim application requirements and forms.~~

865 (11) The Department of Environmental Protection may revoke
866 or modify any written decision granting eligibility for partial



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867 tax credits under this section if it is discovered that the tax
 868 credit applicant submitted any false statement, representation,
 869 or certification in any application, record, report, plan, or
 870 other document filed in an attempt to receive partial tax
 871 credits under this section. The Department of Environmental
 872 Protection shall immediately notify the Department of Revenue of
 873 any revoked or modified orders affecting previously granted
 874 partial tax credits. Additionally, the tax credit applicant
 875 ~~taxpayer~~ must notify the Department of Revenue of any change in
 876 its tax credit claimed.

877 (12) A tax credit applicant ~~An owner, operator, or real~~
 878 ~~property owner~~ who receives state-funded site rehabilitation
 879 under s. 376.3078(3) for rehabilitation of a drycleaning-
 880 solvent-contaminated site is ineligible to receive a tax credit
 881 under s. 199.1055 or s. 220.1845 for costs incurred by the tax
 882 credit applicant ~~taxpayer~~ in conjunction with the rehabilitation
 883 of that site during the same time period that state-administered
 884 site rehabilitation was underway.

885 Section 6. This act shall take effect upon becoming a law.