



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; amending s. 199.1055, F.S.; clarifying who may
13 apply for tax credits; clarifying time period for use of
14 tax credits; amending s. 220.1845, F.S.; clarifying who
15 may apply for tax credits; clarifying time period for use
16 of tax credits; allowing tax credit applicants to claim
17 credit on a consolidated return up to the amount of the
18 consolidated group's tax liability; amending s. 376.30781,
19 F.S.; clarifying who may apply for tax credits; converting
20 tax credit application time period to calendar year;
21 moving application deadline to January 15; clarifying that
22 placeholder applications are prohibited; amending s.
23 403.087, F.S.; limiting a hazardous waste corrective
24 action permit fee; amending s. 403.722, F.S.; requiring a
25 corrective action permit for certain actions affecting a
26 hazardous waste disposal facility; conforming references
27 governing transferability of tax credits; eliminating
28 outdated language; providing an effective date.



29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55

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

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

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

(1) APPLICABILITY.--

(a) This section shall not create or establish any new liability for site rehabilitation at contaminated sites. This section is intended to describe a risk-based corrective action process to be applied at sites where legal responsibility for site rehabilitation exists pursuant to other provisions of this chapter or chapter 403. An exceedance of any cleanup target level derived from the cleanup criteria established in subsection (2) shall not, at sites where legal responsibility for site rehabilitation does not exist pursuant to other provisions of this chapter or chapter 403, create liability for site rehabilitation. This section may also apply to other contaminated sites at which a person conducting site rehabilitation elects to have it apply, even where such person does not have legal responsibility for site rehabilitation pursuant to this chapter or chapter 403. This section and any rules adopted pursuant thereto, including the cleanup criteria described in subsection (2), shall not create additional



56 authority to prohibit or limit the legal placement of materials
57 or products on land.

58 (b) This section shall apply to all contaminated sites
59 resulting from a discharge of pollutants or hazardous substances
60 where legal responsibility for site rehabilitation exists
61 pursuant to other provisions of this chapter or chapter 403,
62 except for those contaminated sites subject to the risk-based
63 corrective action cleanup criteria established for the
64 petroleum, brownfields, and drycleaning programs pursuant to ss.
65 376.3071, 376.81, and 376.3078, respectively.

66 (c) This section shall apply to a variety of site
67 rehabilitation scenarios including, but not limited to, site
68 rehabilitation conducted voluntarily, site rehabilitation
69 conducted pursuant to the department's enforcement authority, or
70 site rehabilitation conducted as a state-managed cleanup by the
71 department.

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



84 approved technical document, current permit, or other written
85 agreement.

86 (e) Nothing in this section shall be construed to prohibit
87 or delay actions to respond to a discharge of pollutants or
88 hazardous substances prior to any contact with the department.
89 The risk-based corrective action process contemplates
90 appropriate emergency response action or initial remedial action
91 prior to any formal application of the risk-based corrective
92 action process involving site assessment and, if required,
93 subsequent remedial action. Any emergency response actions or
94 initial remedial actions must be conducted in accordance with
95 all applicable federal, state, and local laws and regulations.

96 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.--It is
97 the intent of the Legislature to protect the health of all
98 people under actual circumstances of exposure. By July 1, 2004,
99 the secretary of the department shall establish criteria by rule
100 for the purpose of determining, on a site-specific basis, the
101 rehabilitation program tasks that comprise a site rehabilitation
102 program, including a voluntary site rehabilitation program, and
103 the level at which a rehabilitation program task and a site
104 rehabilitation program may be deemed completed. In establishing
105 these rules, the department shall apply, to the maximum extent
106 feasible, a risk-based corrective action process to achieve
107 protection of human health and safety and the environment in a
108 cost-effective manner based on the principles set forth in this
109 subsection. These rules shall prescribe a phased risk-based
110 corrective action process that is iterative and that tailors
111 site rehabilitation tasks to site-specific conditions and risks.



112 The department and the person responsible for site
113 rehabilitation are encouraged to establish decision points at
114 which risk management decisions will be made. The department
115 shall provide an early decision, when requested, regarding
116 applicable exposure factors and a risk management approach based
117 on the current and future land use at the site. These rules
118 shall also include protocols for the use of natural attenuation,
119 the use of institutional and engineering controls, and the
120 issuance of "No Further Action" orders. The criteria for
121 determining what constitutes a rehabilitation program task or
122 completion of a site rehabilitation program task or site
123 rehabilitation program, including a voluntary site
124 rehabilitation program, must:

125 (a) Consider the current exposure and potential risk of
126 exposure to humans and the environment, including multiple
127 pathways of exposure. The physical, chemical, and biological
128 characteristics of each contaminant must be considered in order
129 to determine the feasibility of a risk-based corrective action
130 assessment.

131 (b) Establish the point of compliance at the source of the
132 contamination. However, the department is authorized to
133 temporarily move the point of compliance to the boundary of the
134 property, or to the edge of the plume when the plume is within
135 the property boundary, while cleanup, including cleanup through
136 natural attenuation processes in conjunction with appropriate
137 monitoring, is proceeding. The department also is authorized,
138 pursuant to criteria provided in this section, to temporarily
139 extend the point of compliance beyond the property boundary with



140 appropriate monitoring, if such extension is needed to
141 facilitate natural attenuation or to address the current
142 conditions of the plume, provided human health, public safety,
143 and the environment are protected. When temporarily extending
144 the point of compliance beyond the property boundary, it cannot
145 be extended further than the lateral extent of the plume, if
146 known, at the time of execution of a cleanup agreement, if
147 required, or the lateral extent of the plume as defined at the
148 time of site assessment. Temporary extension of the point of
149 compliance beyond the property boundary, as provided in this
150 paragraph, must include actual notice by the person responsible
151 for site rehabilitation to local governments and the owners of
152 any property into which the point of compliance is allowed to
153 extend and constructive notice to residents and business tenants
154 of the property into which the point of compliance is allowed to
155 extend. Persons receiving notice pursuant to this paragraph
156 shall have the opportunity to comment within 30 days after
157 receipt of the notice. Additional notice concerning the status
158 of natural attenuation processes shall be similarly provided to
159 persons receiving notice pursuant to this paragraph every 5
160 years.

161 (c) Ensure that the site-specific cleanup goal is that all
162 contaminated sites being cleaned up pursuant to this section
163 ultimately achieve the applicable cleanup target levels provided
164 in this subsection. In the circumstances provided in this
165 subsection, and after constructive notice and opportunity to
166 comment within 30 days after receipt of the notice to local
167 government, owners of any property into which the point of



168 compliance is allowed to extend, and residents of any property
169 into which the point of compliance is allowed to extend, the
170 department may allow concentrations of contaminants to
171 temporarily exceed the applicable cleanup target levels while
172 cleanup, including cleanup through natural attenuation processes
173 in conjunction with appropriate monitoring, is proceeding, if
174 human health, public safety, and the environment are protected.

175 (d) Allow the use of institutional or engineering controls
176 at contaminated sites being cleaned up pursuant to this section,
177 where appropriate, to eliminate or control the potential
178 exposure to contaminants of humans or the environment. The use
179 of controls must be preapproved by the department and only after
180 constructive notice and opportunity to comment within 30 days
181 after receipt of notice is provided to local governments, owners
182 of any property into which the point of compliance is allowed to
183 extend, and residents on any property into which the point of
184 compliance is allowed to extend. When institutional or
185 engineering controls are implemented to control exposure, the
186 removal of the controls must have prior department approval and
187 must be accompanied by the resumption of active cleanup, or
188 other approved controls, unless cleanup target levels under this
189 section have been achieved.

190 (e) Consider the additive effects of contaminants. The
191 synergistic and antagonistic effects shall also be considered
192 when the scientific data become available.

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



196 surface water in the vicinity of the site, current and projected
197 land uses of the area affected by the contamination, the exposed
198 population, the degree and extent of contamination, the rate of
199 contaminant migration, the apparent or potential rate of
200 contaminant degradation through natural attenuation processes,
201 the location of the plume, and the potential for further
202 migration in relation to site property boundaries.

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

204 1. Cleanup target levels for each contaminant found in
205 groundwater shall be the applicable state water quality
206 standards. Where such standards do not exist, the cleanup target
207 levels for groundwater shall be based on the minimum criteria
208 specified in department rule. The department shall apply the
209 following, as appropriate, in establishing the applicable
210 cleanup target levels: calculations using a lifetime cancer risk
211 level of 1.0E-6; a hazard index of 1 or less; the best
212 achievable detection limit; and nuisance, organoleptic, and
213 aesthetic considerations. However, the department shall not
214 require site rehabilitation to achieve a cleanup target level
215 for any individual contaminant that is more stringent than the
216 site-specific, naturally occurring background concentration for
217 that contaminant.

218 2. Where surface waters are exposed to contaminated
219 groundwater, the cleanup target levels for the contaminants
220 shall be based on the more protective of the groundwater or
221 surface water standards as established by department rule. The
222 point of measuring compliance with the surface water standards



223 shall be in the groundwater immediately adjacent to the surface
224 water body.

225 3. Using risk-based corrective action principles, the
226 department shall approve alternative cleanup target levels in
227 conjunction with institutional and engineering controls, if
228 needed, based upon an applicant's demonstration, using site-
229 specific data, modeling results, risk assessment studies, risk
230 reduction techniques, or a combination thereof, that human
231 health, public safety, and the environment are protected to the
232 same degree as provided in subparagraphs 1. and 2. Where a state
233 water quality standard is applicable, a deviation may not result
234 in the application of cleanup target levels more stringent than
235 the standard. In determining whether it is appropriate to
236 establish alternative cleanup target levels at a site, the
237 department must consider the effectiveness of source removal, if
238 any, that has been completed at the site and the practical
239 likelihood of the use of low yield or poor quality groundwater,
240 the use of groundwater near marine surface water bodies, the
241 current and projected use of the affected groundwater in the
242 vicinity of the site, or the use of groundwater in the immediate
243 vicinity of the contaminated area, where it has been
244 demonstrated that the groundwater contamination is not migrating
245 away from such localized source, provided human health, public
246 safety, and the environment are protected. Groundwater resource
247 protection remains the ultimate goal of cleanup, particularly in
248 light of the state's continued growth and consequent demands for
249 drinking water resources. The Legislature recognizes the need
250 for a protective yet flexible cleanup approach that risk-based



251 corrective action provides. Only where it is appropriate on a
252 site-specific basis, using the criteria in this paragraph and
253 careful evaluation by the department, shall proposed alternative
254 cleanup target levels be approved.

255 (h) Provide for the department to issue a "No Further
256 Action" order, with conditions, including, but not limited to,
257 the use of institutional or engineering controls where
258 appropriate, when alternative cleanup target levels established
259 pursuant to subparagraph (g)3. have been achieved or when the
260 person responsible for site rehabilitation can demonstrate that
261 the cleanup target level is unachievable with the use of
262 available technologies. Prior to issuing such an order, the
263 department shall consider the feasibility of an alternative site
264 rehabilitation technology at the contaminated site.

265 (i) Establish appropriate cleanup target levels for soils.
266 Although there are existing state water quality standards, there
267 are no existing state soil quality standards. The Legislature
268 does not intend, through the adoption of this section, to create
269 such soil quality standards. The specific rulemaking authority
270 granted pursuant to this section merely authorizes the
271 department to establish appropriate soil cleanup target levels.
272 These soil cleanup target levels shall be applicable at sites
273 only after a determination as to legal responsibility for site
274 rehabilitation has been made pursuant to other provisions of
275 this chapter or chapter 403.

276 1. In establishing soil cleanup target levels for human
277 exposure to each contaminant found in soils from the land
278 surface to 2 feet below land surface, the department shall apply



279 | the following, as appropriate: calculations using a lifetime
280 | cancer risk level of 1.0E-6; a hazard index of 1 or less; and
281 | the best achievable detection limit. However, the department
282 | shall not require site rehabilitation to achieve a cleanup
283 | target level for an individual contaminant that is more
284 | stringent than the site-specific, naturally occurring background
285 | concentration for that contaminant. Institutional controls or
286 | other methods shall be used to prevent human exposure to
287 | contaminated soils more than 2 feet below the land surface. Any
288 | removal of such institutional controls shall require such
289 | contaminated soils to be remediated.

290 | 2. Leachability-based soil cleanup target levels shall be
291 | based on protection of the groundwater cleanup target levels or
292 | the alternate cleanup target levels for groundwater established
293 | pursuant to this paragraph, as appropriate. Source removal and
294 | other cost-effective alternatives that are technologically
295 | feasible shall be considered in achieving the leachability soil
296 | cleanup target levels established by the department. The
297 | leachability goals shall not be applicable if the department
298 | determines, based upon individual site characteristics, and in
299 | conjunction with institutional and engineering controls, if
300 | needed, that contaminants will not leach into the groundwater at
301 | levels that pose a threat to human health, public safety, and
302 | the environment.

303 | 3. Using risk-based corrective action principles, the
304 | department shall approve alternative cleanup target levels in
305 | conjunction with institutional and engineering controls, if
306 | needed, based upon an applicant's demonstration, using site-



307 specific data, modeling results, risk assessment studies, risk
308 reduction techniques, or a combination thereof, that human
309 health, public safety, and the environment are protected to the
310 same degree as provided in subparagraphs 1. and 2.

311
312 The department shall require source removal as a risk reduction
313 measure if warranted and cost-effective. Once source removal at
314 a site is complete, the department shall reevaluate the site to
315 determine the degree of active cleanup needed to continue.
316 Further, the department shall determine if the reevaluated site
317 qualifies for monitoring only or if no further action is
318 required to rehabilitate the site. If additional site
319 rehabilitation is necessary to reach "No Further Action" status,
320 the department is encouraged to utilize natural attenuation and
321 monitoring where site conditions warrant.

322 (3) LIMITATIONS.--The cleanup criteria established
323 pursuant to this section govern only site rehabilitation
324 activities occurring at the contaminated site. Removal of
325 contaminated media from a site for offsite relocation or
326 treatment must be in accordance with all applicable federal,
327 state, and local laws and regulations.

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

331 (a) Fraud was committed in demonstrating site conditions
332 or completion of site rehabilitation;

333 (b) New information confirms the existence of an area of
334 previously unknown contamination which exceeds the site-specific



335 rehabilitation levels established in accordance with subsection
 336 (2), or which otherwise poses the threat of real and substantial
 337 harm to public health, safety, or the environment;

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

340 (d) The level of risk is increased beyond the acceptable
 341 risk established under subsection (2) due to substantial changes
 342 in exposure conditions, such as a change in land use from
 343 nonresidential to residential use. Any person who changes the
 344 land use of the site, thereby causing the level of risk to
 345 increase beyond the acceptable risk level, may be required by
 346 the department to undertake additional remediation measures to
 347 ensure that human health, public safety, and the environment are
 348 protected consistent with this section; or

349 (e) A new discharge of pollutants or hazardous substances
 350 occurs at the site subsequent to the issuance of a "No Further
 351 Action" order or a "Site Rehabilitation Completion" order
 352 associated with the original contamination being addressed
 353 pursuant to this section.

354 Section 2. Subsection (1) of section 199.1055, Florida
 355 Statutes, is amended to read:

356 199.1055 Contaminated site rehabilitation tax credit.--

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

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



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

365 2. A drycleaning-solvent-contaminated site at which
366 cleanup is undertaken by the real property owner pursuant to s.
367 376.3078(11), if the real property owner is not also, and has
368 never been, the owner or operator of the drycleaning facility
369 where the contamination exists; or

370 3. A brownfield site in a designated brownfield area under
371 s. 376.80.

372 (b) A tax credit applicant, or multiple tax credit
373 applicants taxpayer, or multiple taxpayers working jointly to
374 clean up a single site, may not be granted ~~receive~~ more than
375 \$250,000 per year in tax credits for each site voluntarily
376 rehabilitated. Multiple tax credit applicants taxpayers shall be
377 granted ~~receive~~ tax credits in the same proportion as their
378 contribution to payment of cleanup costs. Subject to the same
379 conditions and limitations as provided in this section, a
380 municipality, ~~or~~ county, or other tax credit applicant which
381 voluntarily rehabilitates a site may receive not more than
382 \$250,000 per year in tax credits which it can subsequently
383 transfer subject to the provisions in paragraph (g).

384 (c) If the credit granted under this section is not fully
385 used in any one year because of insufficient tax liability on
386 the part of the tax credit applicant taxpayer, the unused amount
387 may be carried forward for a period not to exceed 5 years. Five
388 years after the date a credit is granted under this section,
389 such credit expires and may not be used. However, if during the
390 5-year period the credit is transferred, in whole or in part,



391 pursuant to paragraph (g), each transferee has 5 years after the
392 date of transfer to use its credit.

393 (d) A taxpayer that receives a credit under s. 220.1845 is
394 ineligible to receive credit under this section in a given tax
395 year.

396 (e) A tax credit applicant ~~taxpayer~~ that receives state-
397 funded site rehabilitation pursuant to s. 376.3078(3) for
398 rehabilitation of a drycleaning-solvent-contaminated site is
399 ineligible to receive credit under this section for costs
400 incurred by the tax credit applicant ~~taxpayer~~ in conjunction
401 with the rehabilitation of that site during the same time period
402 that state-administered site rehabilitation was underway.

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

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

410 2. The entity or its surviving or acquiring entity as
411 described in subparagraph 1., may transfer any unused credit in
412 whole or in units of no less than 25 percent of the remaining
413 credit. The entity acquiring such credit may use it in the same
414 manner and with the same limitation as described in this
415 section. Such transferred credits may not be transferred again
416 although they may succeed to a surviving or acquiring entity
417 subject to the same conditions and limitations as described in
418 this section.



419 3. In the event the credit provided for under this section
 420 is reduced either as a result of a determination by the
 421 Department of Environmental Protection or an examination or
 422 audit by the Department of Revenue, such tax deficiency shall be
 423 recovered from the first entity, or the surviving or acquiring
 424 entity, to have claimed such credit up to the amount of credit
 425 taken. Any subsequent deficiencies shall be assessed against any
 426 entity acquiring and claiming such credit, or in the case of
 427 multiple succeeding entities in the order of credit succession.

428 (h) In order to encourage completion of site
 429 rehabilitation at contaminated sites being voluntarily cleaned
 430 up and eligible for a tax credit under this section, the tax
 431 credit applicant taxpayer may claim an additional 10 percent of
 432 the total cleanup costs, not to exceed \$50,000, in the final
 433 year of cleanup as evidenced by the Department of Environmental
 434 Protection issuing a "No Further Action" order for that site.

435 Section 3. Subsection (1) of section 220.1845, Florida
 436 Statutes, is amended to read:

437 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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

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



447 376.3078(11), if the real property owner is not also, and has
 448 never been, the owner or operator of the drycleaning facility
 449 where the contamination exists; or

450 3. A brownfield site in a designated brownfield area under
 451 s. 376.80.

452 (b) A tax credit applicant, or multiple tax credit
 453 applicants taxpayer, or multiple taxpayers working jointly to
 454 clean up a single site, may not be granted ~~receive~~ more than
 455 \$250,000 per year in tax credits for each site voluntarily
 456 rehabilitated. Multiple tax credit applicants taxpayers shall be
 457 granted ~~receive~~ tax credits in the same proportion as their
 458 contribution to payment of cleanup costs. Subject to the same
 459 conditions and limitations as provided in this section, a
 460 municipality, ~~or~~ county, or other tax credit applicant which
 461 voluntarily rehabilitates a site may receive not more than
 462 \$250,000 per year in tax credits which it can subsequently
 463 transfer subject to the provisions in paragraph (h).

464 (c) If the credit granted under this section is not fully
 465 used in any one year because of insufficient tax liability on
 466 the part of the corporation, the unused amount may be carried
 467 forward for a period not to exceed 5 years. The carryover credit
 468 may be used in a subsequent year when the tax imposed by this
 469 chapter for that year exceeds the credit for which the
 470 corporation is eligible in that year under this section after
 471 applying the other credits and unused carryovers in the order
 472 provided by s. 220.02(8). Five years after the date a credit is
 473 granted under this section, such credit expires and may not be
 474 used. However, if during the 5-year period the credit is



475 transferred, in whole or in part, pursuant to paragraph (h),
476 each transferee has 5 years after the date of transfer to use
477 its credit.

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

483 (e) A taxpayer that receives credit under s. 199.1055 is
484 ineligible to receive credit under this section in a given tax
485 year.

486 (f) A tax credit applicant ~~taxpayer~~ that receives state-
487 funded site rehabilitation under s. 376.3078(3) for
488 rehabilitation of a drycleaning-solvent-contaminated site is
489 ineligible to receive credit under this section for costs
490 incurred by the tax credit applicant ~~taxpayer~~ in conjunction
491 with the rehabilitation of that site during the same time period
492 that state-administered site rehabilitation was underway.

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

496 (h)1. Tax credits that may be available under this section
497 to an entity eligible under s. 376.30781 may be transferred
498 after a merger or acquisition to the surviving or acquiring
499 entity and used in the same manner and with the same
500 limitations.

501 2. The entity or its surviving or acquiring entity as
502 described in subparagraph 1., may transfer any unused credit in



503 whole or in units of no less than 25 percent of the remaining
504 credit. The entity acquiring such credit may use it in the same
505 manner and with the same limitation as described in this
506 section. Such transferred credits may not be transferred again
507 although they may succeed to a surviving or acquiring entity
508 subject to the same conditions and limitations as described in
509 this section.

510 3. In the event the credit provided for under this section
511 is reduced either as a result of a determination by the
512 Department of Environmental Protection or an examination or
513 audit by the Department of Revenue, such tax deficiency shall be
514 recovered from the first entity, or the surviving or acquiring
515 entity, to have claimed such credit up to the amount of credit
516 taken. Any subsequent deficiencies shall be assessed against any
517 entity acquiring and claiming such credit, or in the case of
518 multiple succeeding entities in the order of credit succession.

519 (i) In order to encourage completion of site
520 rehabilitation at contaminated sites being voluntarily cleaned
521 up and eligible for a tax credit under this section, the tax
522 credit applicant ~~taxpayer~~ may claim an additional 10 percent of
523 the total cleanup costs, not to exceed \$50,000, in the final
524 year of cleanup as evidenced by the Department of Environmental
525 Protection issuing a "No Further Action" order for that site.

526 Section 4. Section 376.30781, Florida Statutes, is amended
527 to read:

528 376.30781 Partial tax credits for rehabilitation of
529 drycleaning-solvent-contaminated sites and brownfield sites in



530 designated brownfield areas; application process; rulemaking
 531 authority; revocation authority.--

532 (1) The Legislature finds that:

533 (a) To facilitate property transactions and economic
 534 growth and development, it is in the interest of the state to
 535 encourage the cleanup, at the earliest possible time, of
 536 drycleaning-solvent-contaminated sites and brownfield sites in
 537 designated brownfield areas.

538 (b) It is the intent of the Legislature to encourage the
 539 voluntary cleanup of drycleaning-solvent-contaminated sites and
 540 brownfield sites in designated brownfield areas by providing a
 541 partial tax credit for the restoration of such property in
 542 specified circumstances.

543 (2)(a) A credit in the amount of 35 percent of the costs
 544 of voluntary cleanup activity that is integral to site
 545 rehabilitation at the following sites is allowed pursuant to ss.
 546 199.1055 and 220.1845:

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

549 2. A drycleaning-solvent-contaminated site at which
 550 cleanup is undertaken by the real property owner pursuant to s.
 551 376.3078(11), if the real property owner is not also, and has
 552 never been, the owner or operator of the drycleaning facility
 553 where the contamination exists; or

554 3. A brownfield site in a designated brownfield area under
 555 s. 376.80.

556 (b) A tax credit applicant taxpayer, or multiple tax
 557 credit applicants taxpayers working jointly to clean up a single



558 site, may not be granted ~~receive~~ more than \$250,000 per year in
559 tax credits for each site voluntarily rehabilitated. Multiple
560 tax credit applicants ~~taxpayers~~ shall be granted ~~receive~~ tax
561 credits in the same proportion as their contribution to payment
562 of cleanup costs. Tax credits are available only for site
563 rehabilitation conducted during the calendar ~~tax~~ year for ~~in~~
564 which the tax credit application is submitted.

565 (c) In order to encourage completion of site
566 rehabilitation at contaminated sites that are being voluntarily
567 cleaned up and that are eligible for a tax credit under this
568 section, the tax credit applicant may claim an additional 10
569 percent of the total cleanup costs, not to exceed \$50,000, in
570 the final year of cleanup as evidenced by the Department of
571 Environmental Protection issuing a "No Further Action" order for
572 that site.

573 (3) The Department of Environmental Protection shall be
574 responsible for allocating the tax credits provided for in ss.
575 199.1055 and 220.1845, not to exceed a total of \$2 million in
576 tax credits annually.

577 (4) To claim the credit for site rehabilitation conducted
578 during the current calendar year, each tax credit applicant must
579 apply to the Department of Environmental Protection for an
580 allocation of the \$2 million annual credit by January 15 of the
581 following year ~~December 31~~ on a form developed by the Department
582 of Environmental Protection in cooperation with the Department
583 of Revenue. The form shall include an affidavit from each tax
584 credit applicant certifying that all information contained in
585 the application, including all records of costs incurred and



586 claimed in the tax credit application, are true and correct. If
 587 the application is submitted pursuant to subparagraph (2)(a)2.,
 588 the form must include an affidavit signed by the real property
 589 owner stating that it is not, and has never been, the owner or
 590 operator of the drycleaning facility where the contamination
 591 exists. Approval of partial tax credits must be accomplished on
 592 a first-come, first-served basis based upon the date complete
 593 applications are received by the Division of Waste Management. A
 594 tax credit ~~An~~ applicant shall submit only one complete
 595 application per site for each calendar year's site
 596 rehabilitation costs. Incomplete placeholder applications shall
 597 not be accepted and will not secure a place in the first-come,
 598 first-served application line per year. To be eligible for a tax
 599 credit the tax credit applicant must:

600 (a) Have entered into a voluntary cleanup agreement with
 601 the Department of Environmental Protection for a drycleaning-
 602 solvent-contaminated site or a Brownfield Site Rehabilitation
 603 Agreement, as applicable; and

604 (b) Have paid all deductibles pursuant to s.
 605 376.3078(3)(d) for eligible drycleaning-solvent-cleanup program
 606 sites.

607 (5) To obtain the tax credit certificate, a tax credit ~~an~~
 608 applicant must annually file an application for certification,
 609 which must be received by the Division of Waste Management of
 610 the Department of Environmental Protection by January 15 of the
 611 year following the calendar year for which site rehabilitation
 612 costs are being claimed in a tax credit application ~~December 31.~~
 613 The tax credit applicant must provide all pertinent information



614 requested on the tax credit application form, including, at a
615 minimum, the name and address of the tax credit applicant and
616 the address and tracking identification number of the eligible
617 site. Along with the tax credit application form, the tax credit
618 applicant must submit the following:

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

623 (b) Copies of contracts and documentation of contract
624 negotiations, accounts, invoices, sales tickets, or other
625 payment records from purchases, sales, leases, or other
626 transactions involving actual costs incurred for that tax year
627 related to site rehabilitation, as that term is defined in ss.
628 376.301 and 376.79;

629 (c) Proof that the documentation submitted pursuant to
630 paragraph (b) has been reviewed and verified by an independent
631 certified public accountant in accordance with standards
632 established by the American Institute of Certified Public
633 Accountants. Specifically, the certified public accountant must
634 attest to the accuracy and validity of the costs incurred and
635 paid by conducting an independent review of the data presented
636 by the tax credit applicant. Accuracy and validity of costs
637 incurred and paid would be determined once the level of effort
638 was certified by an appropriate professional registered in this
639 state in each contributing technical discipline. The certified
640 public accountant's report would also attest that the costs
641 included in the application form are not duplicated within the



642 application. A copy of the accountant's report shall be
643 submitted to the Department of Environmental Protection with the
644 tax credit application; and

645 (d) A certification form stating that site rehabilitation
646 activities associated with the documentation submitted pursuant
647 to paragraph (b) have been conducted under the observation of,
648 and related technical documents have been signed and sealed by,
649 an appropriate professional registered in this state in each
650 contributing technical discipline. The certification form shall
651 be signed and sealed by the appropriate registered professionals
652 stating that the costs incurred were integral, necessary, and
653 required for site rehabilitation, as that term is defined in ss.
654 376.301 and 376.79.

655 (6) The certified public accountant and appropriate
656 registered professionals submitting forms as part of a tax
657 credit application must verify such forms. Verification must be
658 accomplished as provided in s. 92.525(1)(b) and subject to the
659 provisions of s. 92.525(3).

660 (7) The Department of Environmental Protection shall
661 review the tax credit application and any supplemental
662 documentation that the tax credit applicant may submit prior to
663 the annual application deadline in order to have the application
664 considered complete ~~submitted by each applicant~~, for the purpose
665 of verifying that the tax credit applicant has met the
666 qualifying criteria in subsections (2) and (4) and has submitted
667 all required documentation listed in subsection (5). Upon
668 verification that the tax credit applicant has met these
669 requirements, the department shall issue a written decision



670 granting eligibility for partial tax credits (a tax credit
671 certificate) in the amount of 35 percent of the total costs
672 claimed, subject to the \$250,000 limitation, for the calendar
673 ~~tax~~ year for ~~in~~ which the tax credit application is submitted
674 based on the report of the certified public accountant and the
675 certifications from the appropriate registered technical
676 professionals.

677 (8) On or before March 1, the Department of Environmental
678 Protection shall inform each eligible tax credit applicant of
679 the amount of its partial tax credit and provide each eligible
680 tax credit applicant with a tax credit certificate that must be
681 submitted with its tax return to the Department of Revenue to
682 claim the tax credit or be transferred pursuant to s.
683 199.1055(1)(g) or s. 220.1845(1)(h). Credits will not result in
684 the payment of refunds if total credits exceed the amount of tax
685 owed.

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

692 (10) The Department of Environmental Protection may adopt
693 rules to prescribe the necessary forms required to claim tax
694 credits under this section and to provide the administrative
695 guidelines and procedures required to administer this section.
696 ~~Prior to the adoption of rules regulating the tax credit~~



697 ~~application, the department shall, by September 1, 1998,~~
698 ~~establish reasonable interim application requirements and forms.~~

699 (11) The Department of Environmental Protection may revoke
700 or modify any written decision granting eligibility for partial
701 tax credits under this section if it is discovered that the tax
702 credit applicant submitted any false statement, representation,
703 or certification in any application, record, report, plan, or
704 other document filed in an attempt to receive partial tax
705 credits under this section. The Department of Environmental
706 Protection shall immediately notify the Department of Revenue of
707 any revoked or modified orders affecting previously granted
708 partial tax credits. Additionally, the tax credit applicant
709 ~~taxpayer~~ must notify the Department of Revenue of any change in
710 its tax credit claimed.

711 (12) A tax credit applicant ~~An owner, operator, or real~~
712 ~~property owner~~ who receives state-funded site rehabilitation
713 under s. 376.3078(3) for rehabilitation of a drycleaning-
714 solvent-contaminated site is ineligible to receive a tax credit
715 under s. 199.1055 or s. 220.1845 for costs incurred by the tax
716 credit applicant ~~taxpayer~~ in conjunction with the rehabilitation
717 of that site during the same time period that state-administered
718 site rehabilitation was underway.

719 Section 5. Paragraph (a) of subsection (6) of section
720 403.087, Florida Statutes, is amended to read:

721 403.087 Permits; general issuance; denial; revocation;
722 prohibition; penalty.--

723 (6)(a) The department shall require a processing fee in an
724 amount sufficient, to the greatest extent possible, to cover the



725 costs of reviewing and acting upon any application for a permit
726 or request for site-specific alternative criteria or for an
727 exemption from water quality criteria and to cover the costs of
728 surveillance and other field services and related support
729 activities associated with any permit or plan approval issued
730 pursuant to this chapter. However, when an application is
731 received without the required fee, the department shall
732 acknowledge receipt of the application and shall immediately
733 return the unprocessed application to the applicant and shall
734 take no further action until the application is received with
735 the appropriate fee. The department shall adopt a schedule of
736 fees by rule, subject to the following limitations:

- 737 1. The fee for any of the following may not exceed
738 \$32,500:
- 739 a. Hazardous waste, construction permit.
 - 740 b. Hazardous waste, operation permit.
 - 741 c. Hazardous waste, postclosure permit, or clean closure
742 plan approval.
 - 743 d. Hazardous waste, corrective action permit.
- 744
- 745 2. The permit fee for a Class I injection well
746 construction permit may not exceed \$12,500.
- 747 3. The permit fee for any of the following permits may not
748 exceed \$10,000:
- 749 a. Solid waste, construction permit.
 - 750 b. Solid waste, operation permit.
 - 751 c. Class I injection well, operation permit.



752 4. The permit fee for any of the following permits may not
 753 exceed \$7,500:

- 754 a. Air pollution, construction permit.
- 755 b. Solid waste, closure permit.
- 756 c. Drinking water, construction or operation permit.
- 757 d. Domestic waste residuals, construction or operation
 758 permit.
- 759 e. Industrial waste, operation permit.
- 760 f. Industrial waste, construction permit.

761 5. The permit fee for any of the following permits may not
 762 exceed \$5,000:

- 763 a. Domestic waste, operation permit.
- 764 b. Domestic waste, construction permit.

765 6. The permit fee for any of the following permits may not
 766 exceed \$4,000:

- 767 a. Wetlands resource management--(dredge and fill),
 768 standard form permit.
- 769 b. Hazardous waste, research and development permit.
- 770 c. Air pollution, operation permit, for sources not
 771 subject to s. 403.0872.
- 772 d. Class III injection well, construction, operation, or
 773 abandonment permits.

774 7. The permit fee for Class V injection wells,
 775 construction, operation, and abandonment permits may not exceed
 776 \$750.

777 8. The permit fee for any of the following permits may not
 778 exceed \$500:

- 779 a. Domestic waste, collection system permits.



780 b. Wetlands resource management--(dredge and fill and
781 mangrove alterations), short permit form.

782 c. Drinking water, distribution system permit.

783 9. The permit fee for stormwater operation permits may not
784 exceed \$100.

785 10. The general permit fees for permits that require
786 certification by a registered professional engineer or
787 professional geologist may not exceed \$500. The general permit
788 fee for other permit types may not exceed \$100.

789 11. The fee for a permit issued pursuant to s. 403.816 is
790 \$5,000, and the fee for any modification of such permit
791 requested by the applicant is \$1,000.

792 12. The regulatory program and surveillance fees for
793 facilities permitted pursuant to s. 403.088 or s. 403.0885, or
794 for facilities permitted pursuant to s. 402 of the Clean Water
795 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the
796 department has been granted administrative authority, shall be
797 limited as follows:

798 a. The fees for domestic wastewater facilities shall not
799 exceed \$7,500 annually. The department shall establish a sliding
800 scale of fees based on the permitted capacity and shall ensure
801 smaller domestic waste dischargers do not bear an inordinate
802 share of costs of the program.

803 b. The annual fees for industrial waste facilities shall
804 not exceed \$11,500. The department shall establish a sliding
805 scale of fees based upon the volume, concentration, or nature of
806 the industrial waste discharge and shall ensure smaller



807 industrial waste dischargers do not bear an inordinate share of
808 costs of the program.

809 c. The department may establish a fee, not to exceed the
810 amounts in subparagraphs 4. and 5., to cover additional costs of
811 review required for permit modification or construction
812 engineering plans.

813 Section 6. Subsection (1) of section 403.722, Florida
814 Statutes, is amended to read:

815 403.722 Permits; hazardous waste disposal, storage, and
816 treatment facilities.--

817 (1) Each person who intends to construct, modify, operate,
818 or close a hazardous waste disposal, storage, or treatment
819 facility shall obtain a construction permit, operation permit,
820 postclosure permit, ~~or~~ clean closure plan approval, or
821 corrective action permit from the department prior to
822 constructing, modifying, operating, or closing the facility. By
823 rule, the department may provide for the issuance of a single
824 permit instead of any two or more hazardous waste facility
825 permits.

826 Section 7. This act shall take effect upon becoming a law.