

1 A bill to be entitled
2 An act relating to site rehabilitation of
3 contaminated sites; creating s. 376.30701,
4 F.S.; extending application of risk-based
5 corrective action principles to all
6 contaminated sites resulting from a discharge
7 of pollutants or hazardous substances;
8 providing for contamination cleanup criteria
9 that incorporate risk-based corrective action
10 principles to be adopted by rule; providing
11 clarification that cleanup criteria do not
12 apply to offsite relocation or treatment;
13 providing the conditions under which further
14 rehabilitation may be required; amending s.
15 199.1055, F.S.; clarifying who may apply for
16 tax credits; clarifying time period for use of
17 tax credits; amending s. 220.1845, F.S.;
18 clarifying who may apply for tax credits;
19 clarifying time period for use of tax credits;
20 allowing taxpayers to claim credit on a
21 consolidated return up to the amount of the
22 consolidated group's tax liability; amending s.
23 376.30781, F.S.; clarifying who may apply for
24 tax credits; converting tax credit application
25 time period to calendar year; moving
26 application deadline to January 15; clarifying
27 that placeholder applications are prohibited;
28 cross-referencing sections governing
29 transferability of tax credits; eliminating
30 outdated language; amending s. 403.087, F.S.;
31 adding hazardous waste, corrective action

1 permits to a list of approvals; amending s.
2 403.722, F.S.; adding a "corrective action
3 permit" to a list of approvals; providing an
4 effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Section 376.30701, Florida Statutes, is
9 created to read:

10 376.30701 Application of risk-based corrective action
11 principles to contaminated sites; applicability; legislative
12 intent; rulemaking authority; contamination cleanup criteria;
13 limitations; reopeners.--

14 (1) APPLICABILITY.--

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

1 authority to prohibit or limit the legal placement of
2 materials or products on land.

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

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

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

1 (e) Nothing in this section shall be construed to
2 prohibit or delay actions to respond to a discharge of
3 pollutants or hazardous substances prior to any contact with
4 the department. The risk-based corrective action process
5 contemplates appropriate emergency response action or initial
6 remedial action prior to any formal application of the
7 risk-based corrective action process involving site assessment
8 and, if required, subsequent remedial action. Any emergency
9 response actions or initial remedial actions must be conducted
10 in accordance with all applicable federal, state, and local
11 laws and regulations.

12 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP
13 CRITERIA.--It is the intent of the Legislature to protect the
14 health of all people under actual circumstances of exposure.
15 By July 1, 2004, the secretary of the department shall
16 establish criteria by rule for the purpose of determining, on
17 a site-specific basis, the rehabilitation program tasks that
18 comprise a site rehabilitation program, including a voluntary
19 site rehabilitation program, and the level at which a
20 rehabilitation program task and a site rehabilitation program
21 may be deemed completed. In establishing these rules, the
22 department shall apply, to the maximum extent feasible, a
23 risk-based corrective action process to achieve protection of
24 human health and safety and the environment in a
25 cost-effective manner based on the principles set forth in
26 this subsection. These rules shall prescribe a phased
27 risk-based corrective action process that is iterative and
28 that tailors site rehabilitation tasks to site-specific
29 conditions and risks. The department and the person
30 responsible for site rehabilitation are encouraged to
31 establish decision points at which risk management decisions

1 will be made. The department shall provide an early decision,
2 when requested, regarding applicable exposure factors and a
3 risk management approach based on the current and future land
4 use at the site. These rules shall also include protocols for
5 the use of natural attenuation, the use of institutional and
6 engineering controls, and the issuance of "No Further Action"
7 orders. The criteria for determining what constitutes a
8 rehabilitation program task or completion of a site
9 rehabilitation program task or site rehabilitation program,
10 including a voluntary site rehabilitation program, must:
11 (a) Consider the current exposure and potential risk
12 of exposure to humans and the environment, including multiple
13 pathways of exposure. The physical, chemical, and biological
14 characteristics of each contaminant must be considered in
15 order to determine the feasibility of risk-based corrective
16 action assessment.
17 (b) Establish the point of compliance at the source of
18 the contamination. However, the department is authorized to
19 temporarily move the point of compliance to the boundary of
20 the property, or to the edge of the plume when the plume is
21 within the property boundary, while cleanup, including cleanup
22 through natural attenuation processes in conjunction with
23 appropriate monitoring, is proceeding. The department also is
24 authorized, pursuant to criteria provided for in this section,
25 to temporarily extend the point of compliance beyond the
26 property boundary with appropriate monitoring, if such
27 extension is needed to facilitate natural attenuation or to
28 address the current conditions of the plume, provided human
29 health, public safety, and the environment are protected.
30 When temporarily extending the point of compliance beyond the
31 property boundary, it cannot be extended further than the

1 lateral extent of the plume, if known, at the time of
2 execution of a cleanup agreement, if required, or the lateral
3 extent of the plume as defined at the time of site assessment.
4 Temporary extension of the point of compliance beyond the
5 property boundary, as provided in this paragraph, must include
6 actual notice by the person responsible for site
7 rehabilitation to local governments and the owners of any
8 property into which the point of compliance is allowed to
9 extend and constructive notice to residents and business
10 tenants of the property into which the point of compliance is
11 allowed to extend. Persons receiving notice pursuant to this
12 paragraph shall have the opportunity to comment within 30 days
13 of receipt of the notice. Additional notice concerning the
14 status of natural attenuation processes shall be similarly
15 provided to persons receiving notice pursuant to this
16 paragraph every 5 years.

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

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

17 (e) Consider the additive effects of contaminants. The
18 synergistic and antagonistic effects shall also be considered
19 when the scientific data become available.

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

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

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

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

22 3. Using risk-based corrective action principles, the
23 department shall approve alternative cleanup target levels in
24 conjunction with institutional and engineering controls, if
25 needed, based upon an applicant's demonstration, using
26 site-specific data, modeling results, risk assessment studies,
27 risk reduction techniques, or a combination thereof, that
28 human health, public safety, and the environment are protected
29 to the same degree as provided in subparagraphs 1. and 2.
30 Where a state water quality standard is applicable, a
31 deviation may not result in the application of cleanup target

1 levels more stringent than the standard. In determining
2 whether it is appropriate to establish alternative cleanup
3 target levels at a site, the department must consider the
4 effectiveness of source removal, if any, that has been
5 completed at the site and the practical likelihood of the use
6 of low yield or poor quality groundwater, the use of
7 groundwater near marine surface water bodies, the current and
8 projected use of the affected groundwater in the vicinity of
9 the site, or the use of groundwater in the immediate vicinity
10 of the contaminated area, where it has been demonstrated that
11 the groundwater contamination is not migrating away from such
12 localized source, provided human health, public safety, and
13 the environment are protected. Groundwater resource protection
14 remains the ultimate goal of cleanup, particularly in light of
15 Florida's continued growth and consequent demands for drinking
16 water resources. The Legislature recognizes the need for a
17 protective yet flexible cleanup approach, which risk-based
18 corrective action provides. Only where it is appropriate on a
19 site-specific basis, using the criteria in this paragraph and
20 careful evaluation by the department, shall proposed
21 alternative cleanup target levels be approved.

22 (h) Provide for the department to issue a "No Further
23 Action" order, with conditions, including, but not limited to,
24 the use of institutional or engineering controls where
25 appropriate, when alternative cleanup target levels
26 established pursuant to subparagraph (g)3. have been achieved
27 or when the person responsible for site rehabilitation can
28 demonstrate that the cleanup target level is unachievable with
29 the use of available technologies. Prior to issuing such an
30 order, the department shall consider the feasibility of an
31

1 alternative site rehabilitation technology at the contaminated
2 site.

3 (i) Establish appropriate cleanup target levels for
4 soils. Although there are existing state water quality
5 standards, there are no existing statewide soil quality
6 standards. The Legislature does not intend, through the
7 adoption of this section, to create such soil quality
8 standards. The specific rulemaking authority granted pursuant
9 to this section merely authorizes the department to establish
10 appropriate soil cleanup target levels. These soil cleanup
11 target levels will be applicable at sites only after a
12 determination as to legal responsibility for site
13 rehabilitation has been made pursuant to other provisions of
14 this chapter or chapter 403.

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

29 2. Leachability-based soil cleanup target levels shall
30 be based on protection of the groundwater cleanup target
31 levels or the alternate cleanup target levels for groundwater

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

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

19
20 The department shall require source removal, as a risk
21 reduction measure, if warranted and cost-effective. Once
22 source removal at a site is complete, the department shall
23 reevaluate the site to determine the degree of active cleanup
24 needed to continue. Further, the department shall determine
25 if the reevaluated site qualifies for monitoring only or if no
26 further action is required to rehabilitate the site. If
27 additional site rehabilitation is necessary to reach "No
28 Further Action" status, the department is encouraged to
29 utilize natural attenuation and monitoring where site
30 conditions warrant.

31

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

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

10 (a) Fraud was committed in demonstrating site
11 conditions or completion of site rehabilitation;

12 (b) New information confirms the existence of an area
13 of previously unknown contamination which exceeds the
14 site-specific rehabilitation levels established in accordance
15 with subsection (2), or which otherwise poses the threat of
16 real and substantial harm to public health, safety, or the
17 environment;

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

20 (d) The level of risk is increased beyond the
21 acceptable risk established under subsection (2) due to
22 substantial changes in exposure conditions, such as a change
23 in land use from nonresidential to residential use. Any
24 person who changes the land use of the site, thereby causing
25 the level of risk to increase beyond the acceptable risk
26 level, may be required by the department to undertake
27 additional remediation measures to ensure that human health,
28 public safety, and the environment are protected consistent
29 with this section; or

30 (e) A new discharge of pollutants or hazardous
31 substances occurs at the site subsequent to the issuance of a

1 "No Further Action" order or a "Site Rehabilitation
2 Completion" order associated with the original contamination
3 being addressed pursuant to this section.

4 Section 2. Subsection (1) of Section 199.1055, Florida
5 Statutes, is amended to read:

6 199.1055 Contaminated site rehabilitation tax credit.--

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

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

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

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

20 3. A brownfield site in a designated brownfield area
21 under s. 376.80.

22 (b) A tax credit applicant, or multiple tax credit
23 applicants ~~taxpayer, or multiple taxpayers~~ working jointly to
24 clean up a single site, may not be granted ~~receive~~ more than
25 \$250,000 per year in tax credits for each site voluntarily
26 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall
27 be granted ~~receive~~ tax credits in the same proportion as their
28 contribution to payment of cleanup costs. Subject to the same
29 conditions and limitations as provided in this section, a
30 municipality, or county, or other taxcredit applicant which
31 voluntarily rehabilitates a site may receive not more than

1 \$250,000 per year in tax credits which it can subsequently
2 transfer subject to the provisions in paragraph (g).

3 (c) If the credit granted under this section is not
4 fully used in any one year because of insufficient tax
5 liability on the part of the tax credit applicant taxpayer,
6 the unused amount may be carried forward for a period not to
7 exceed 5 years. Five years after the date a credit is granted
8 under this section, such credit expires and may not be used.
9 However, if during the 5-year period the credit is
10 transferred, in whole or in part, pursuant to paragraph (g),
11 each transferee has 5 years after the date of transfer to use
12 its credit.

13 (d) A taxpayer that receives a credit under s.
14 220.1845 is ineligible to receive credit under this section in
15 a given tax year.

16 (e) A tax credit applicant taxpayer that receives
17 state-funded site rehabilitation pursuant to s. 376.3078(3)
18 for rehabilitation of a drycleaning-solvent-contaminated site
19 is ineligible to receive credit under this section for costs
20 incurred by the tax credit applicant taxpayer in conjunction
21 with the rehabilitation of that site during the same time
22 period that state-administered site rehabilitation was
23 underway.

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

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

1 2. The entity or its surviving or acquiring entity as
2 described in subparagraph 1., may transfer any unused credit
3 in whole or in units of no less than 25 percent of the
4 remaining credit. The entity acquiring such credit may use it
5 in the same manner and with the same limitation as described
6 in this section. Such transferred credits may not be
7 transferred again although they may succeed to a surviving or
8 acquiring entity subject to the same conditions and
9 limitations as described in this section.

10 3. In the event the credit provided for under this
11 section is reduced either as a result of a determination by
12 the Department of Environmental Protection or an examination
13 or audit by the Department of Revenue, such tax deficiency
14 shall be recovered from the first entity, or the surviving or
15 acquiring entity, to have claimed such credit up to the amount
16 of credit taken. Any subsequent deficiencies shall be assessed
17 against any entity acquiring and claiming such credit, or in
18 the case of multiple succeeding entities in the order of
19 credit succession.

20 (h) In order to encourage completion of site
21 rehabilitation at contaminated sites being voluntarily cleaned
22 up and eligible for a tax credit under this section, the tax
23 credit applicant ~~taxpayer~~ may claim an additional 10 percent
24 of the total cleanup costs, not to exceed \$50,000, in the
25 final year of cleanup as evidenced by the Department of
26 Environmental Protection issuing a "No Further Action" order
27 for that site.

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

30 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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

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

12 3. A brownfield site in a designated brownfield area
13 under s. 376.80.

14 (b) A tax credit applicant, or multiple tax credit
15 applicants ~~taxpayer, or multiple taxpayers~~ working jointly to
16 clean up a single site, may not be granted ~~receive~~ more than
17 \$250,000 per year in tax credits for each site voluntarily
18 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall
19 be granted ~~receive~~ tax credits in the same proportion as their
20 contribution to payment of cleanup costs. Subject to the same
21 conditions and limitations as provided in this section, a
22 municipality, or county, or other tax credit applicant which
23 voluntarily rehabilitates a site may receive not more than
24 \$250,000 per year in tax credits which it can subsequently
25 transfer subject to the provisions in paragraph (h).

26 (c) If the credit granted under this section is not
27 fully used in any one year because of insufficient tax
28 liability on the part of the corporation, the unused amount
29 may be carried forward for a period not to exceed 5 years. The
30 carryover credit may be used in a subsequent year when the tax
31 imposed by this chapter for that year exceeds the credit for

1 which the corporation is eligible in that year under this
2 section after applying the other credits and unused carryovers
3 in the order provided by s. 220.02(8). Five years after the
4 date a credit is granted under this section, such credit
5 expires and may not be used. However, if during the 5-year
6 period the credit is transferred, in whole or in part,
7 pursuant to paragraph (h), each transferee has 5 years after
8 the date of transfer to use its credit.

9 (d) A taxpayer that files a consolidated return in
10 this state as a member of an affiliated group under s.
11 220.131(1) may be allowed the credit on a consolidated return
12 basis up to the amount of tax imposed upon the consolidated
13 group ~~and paid by the taxpayer that incurred the~~
14 ~~rehabilitation costs.~~

15 (e) A taxpayer that receives credit under s. 199.1055
16 is ineligible to receive credit under this section in a given
17 tax year.

18 (f) A tax credit applicant ~~taxpayer~~ that receives
19 state-funded site rehabilitation under s. 376.3078(3) for
20 rehabilitation of a drycleaning-solvent-contaminated site is
21 ineligible to receive credit under this section for costs
22 incurred by the tax credit applicant ~~taxpayer~~ in conjunction
23 with the rehabilitation of that site during the same time
24 period that state-administered site rehabilitation was
25 underway.

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

29 (h)1. Tax credits that may be available under this
30 section to an entity eligible under s. 376.30781 may be
31 transferred after a merger or acquisition to the surviving or

1 acquiring entity and used in the same manner and with the same
2 limitations.

3 2. The entity or its surviving or acquiring entity as
4 described in subparagraph 1., may transfer any unused credit
5 in whole or in units of no less than 25 percent of the
6 remaining credit. The entity acquiring such credit may use it
7 in the same manner and with the same limitation as described
8 in this section. Such transferred credits may not be
9 transferred again although they may succeed to a surviving or
10 acquiring entity subject to the same conditions and
11 limitations as described in this section.

12 3. In the event the credit provided for under this
13 section is reduced either as a result of a determination by
14 the Department of Environmental Protection or an examination
15 or audit by the Department of Revenue, such tax deficiency
16 shall be recovered from the first entity, or the surviving or
17 acquiring entity, to have claimed such credit up to the amount
18 of credit taken. Any subsequent deficiencies shall be
19 assessed against any entity acquiring and claiming such
20 credit, or in the case of multiple succeeding entities in the
21 order of credit succession.

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

30 Section 4. Section 376.30781, Florida Statutes, is
31 amended to read:

1 376.30781 Partial tax credits for rehabilitation of
2 drycleaning-solvent-contaminated sites and brownfield sites in
3 designated brownfield areas; application process; rulemaking
4 authority; revocation authority.--

5 (1) The Legislature finds that:

6 (a) To facilitate property transactions and economic
7 growth and development, it is in the interest of the state to
8 encourage the cleanup, at the earliest possible time, of
9 drycleaning-solvent-contaminated sites and brownfield sites in
10 designated brownfield areas.

11 (b) It is the intent of the Legislature to encourage
12 the voluntary cleanup of drycleaning-solvent-contaminated
13 sites and brownfield sites in designated brownfield areas by
14 providing a partial tax credit for the restoration of such
15 property in specified circumstances.

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

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

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

27 3. A brownfield site in a designated brownfield area
28 under s. 376.80.

29 (b) A tax credit applicant taxpayer, or multiple tax
30 credit applicants taxpayers working jointly to clean up a
31 single site, may not be granted ~~receive~~ more than \$250,000 per

1 year in tax credits for each site voluntarily rehabilitated.
2 Multiple tax credit applicants ~~taxpayers~~ shall be granted
3 ~~receive~~ tax credits in the same proportion as their
4 contribution to payment of cleanup costs. Tax credits are
5 available only for site rehabilitation conducted during the
6 calendar ~~tax~~ year for ~~in~~ which the tax credit application is
7 submitted.

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

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

20 (4) To claim the credit for site rehabilitation
21 conducted during the current calendar year, each tax credit
22 applicant must apply to the Department of Environmental
23 Protection for an allocation of the \$2 million annual credit
24 by January 15 of the following year ~~December 31~~ on a form
25 developed by the Department of Environmental Protection in
26 cooperation with the Department of Revenue. The form shall
27 include an affidavit from each tax credit applicant certifying
28 that all information contained in the application, including
29 all records of costs incurred and claimed in the tax credit
30 application, are true and correct. If the application is
31 submitted pursuant to subparagraph (2)(a)2., the form must

1 include an affidavit signed by the real property owner stating
2 that it is not, and has never been, the owner or operator of
3 the drycleaning facility where the contamination exists.
4 Approval of partial tax credits must be accomplished on a
5 first-come, first-served basis based upon the date complete
6 applications are received by the Division of Waste Management.
7 A tax credit ~~An~~ applicant shall submit only one complete
8 application per site for each calendar year's site
9 rehabilitation costs. Incomplete placeholder applications
10 shall not be accepted and will not secure a place in the
11 first-come, first-served application line ~~per year~~. To be
12 eligible for a tax credit the tax credit applicant must:
13 (a) Have entered into a voluntary cleanup agreement
14 with the Department of Environmental Protection for a
15 drycleaning-solvent-contaminated site or a Brownfield Site
16 Rehabilitation Agreement, as applicable; and
17 (b) Have paid all deductibles pursuant to s.
18 376.3078(3)(d) for eligible drycleaning-solvent-cleanup
19 program sites.
20 (5) To obtain the tax credit certificate, a tax credit
21 ~~an~~ applicant must annually file an application for
22 certification, which must be received by the Division of Waste
23 Management of the Department of Environmental Protection by
24 January 15 of the year following the calendar year for which
25 site rehabilitation costs are being claimed in a tax credit
26 application ~~December 31~~. The tax credit applicant must
27 provide all pertinent information requested on the tax credit
28 application form, including, at a minimum, the name and
29 address of the tax credit applicant and the address and
30 tracking identification number of the eligible site. Along
31

1 with the tax credit application form, the tax credit applicant
2 must submit the following:

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

7 (b) Copies of contracts and documentation of contract
8 negotiations, accounts, invoices, sales tickets, or other
9 payment records from purchases, sales, leases, or other
10 transactions involving actual costs incurred for that tax year
11 related to site rehabilitation, as that term is defined in ss.
12 376.301 and 376.79;

13 (c) Proof that the documentation submitted pursuant to
14 paragraph (b) has been reviewed and verified by an independent
15 certified public accountant in accordance with standards
16 established by the American Institute of Certified Public
17 Accountants. Specifically, the certified public accountant
18 must attest to the accuracy and validity of the costs incurred
19 and paid by conducting an independent review of the data
20 presented by the tax credit applicant. Accuracy and validity
21 of costs incurred and paid would be determined once the level
22 of effort was certified by an appropriate professional
23 registered in this state in each contributing technical
24 discipline. The certified public accountant's report would
25 also attest that the costs included in the application form
26 are not duplicated within the application. A copy of the
27 accountant's report shall be submitted to the Department of
28 Environmental Protection with the tax credit application; and

29 (d) A certification form stating that site
30 rehabilitation activities associated with the documentation
31 submitted pursuant to paragraph (b) have been conducted under

1 the observation of, and related technical documents have been
2 signed and sealed by, an appropriate professional registered
3 in this state in each contributing technical discipline. The
4 certification form shall be signed and sealed by the
5 appropriate registered professionals stating that the costs
6 incurred were integral, necessary, and required for site
7 rehabilitation, as that term is defined in ss. 376.301 and
8 376.79.

9 (6) The certified public accountant and appropriate
10 registered professionals submitting forms as part of a tax
11 credit application must verify such forms. Verification must
12 be accomplished as provided in s. 92.525(1)(b) and subject to
13 the provisions of s. 92.525(3).

14 (7) The Department of Environmental Protection shall
15 review the tax credit application and any supplemental
16 documentation that the tax credit applicant may submit prior
17 to the annual application deadline in order to have the
18 application considered complete ~~submitted by each applicant,~~
19 for the purpose of verifying that the tax credit applicant has
20 met the qualifying criteria in subsections (2) and (4) and has
21 submitted all required documentation listed in subsection (5).
22 Upon verification that the tax credit applicant has met these
23 requirements, the department shall issue a written decision
24 granting eligibility for partial tax credits (a tax credit
25 certificate) in the amount of 35 percent of the total costs
26 claimed, subject to the \$250,000 limitation, for the calendar
27 tax year for ~~in~~ which the tax credit application is submitted
28 based on the report of the certified public accountant and the
29 certifications from the appropriate registered technical
30 professionals.

31

1 (8) On or before March 1, the Department of
2 Environmental Protection shall inform each eligible tax credit
3 applicant of the amount of its partial tax credit and provide
4 each eligible tax credit applicant with a tax credit
5 certificate that must be submitted with its tax return to the
6 Department of Revenue to claim the tax credit or be
7 transferred pursuant to s. 199.1055(1)(g) or s.
8 220.1845(1)(h). Credits will not result in the payment of
9 refunds if total credits exceed the amount of tax owed.

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

16 (10) The Department of Environmental Protection may
17 adopt rules to prescribe the necessary forms required to claim
18 tax credits under this section and to provide the
19 administrative guidelines and procedures required to
20 administer this section. ~~Prior to the adoption of rules~~
21 ~~regulating the tax credit application, the department shall,~~
22 ~~by September 1, 1998, establish reasonable interim application~~
23 ~~requirements and forms.~~

24 (11) The Department of Environmental Protection may
25 revoke or modify any written decision granting eligibility for
26 partial tax credits under this section if it is discovered
27 that the tax credit applicant submitted any false statement,
28 representation, or certification in any application, record,
29 report, plan, or other document filed in an attempt to receive
30 partial tax credits under this section. The Department of
31 Environmental Protection shall immediately notify the

1 Department of Revenue of any revoked or modified orders
2 affecting previously granted partial tax credits.
3 Additionally, the tax credit applicant ~~taxpayer~~ must notify
4 the Department of Revenue of any change in its tax credit
5 claimed.

6 (12) A tax credit applicant ~~An owner, operator, or~~
7 ~~real property owner~~ who receives state-funded site
8 rehabilitation under s. 376.3078(3) for rehabilitation of a
9 drycleaning-solvent-contaminated site is ineligible to receive
10 a tax credit under s. 199.1055 or s. 220.1845 for costs
11 incurred by the tax credit applicant ~~taxpayer~~ in conjunction
12 with the rehabilitation of that site during the same time
13 period that state-administered site rehabilitation was
14 underway.

15 Section 5. Paragraph (a) of subsection (6) of section
16 403.087, Florida Statutes, is amended to read:

17 403.087 Permits; general issuance; denial; revocation;
18 prohibition; penalty.--

19 (6)(a) The department shall require a processing fee
20 in an amount sufficient, to the greatest extent possible, to
21 cover the costs of reviewing and acting upon any application
22 for a permit or request for site-specific alternative criteria
23 or for an exemption from water quality criteria and to cover
24 the costs of surveillance and other field services and related
25 support activities associated with any permit or plan approval
26 issued pursuant to this chapter. However, when an application
27 is received without the required fee, the department shall
28 acknowledge receipt of the application and shall immediately
29 return the unprocessed application to the applicant and shall
30 take no further action until the application is received with
31

- 1 the appropriate fee. The department shall adopt a schedule of
2 fees by rule, subject to the following limitations:
- 3 1. The fee for any of the following may not exceed
4 \$32,500:
- 5 a. Hazardous waste, construction permit.
6 b. Hazardous waste, operation permit.
7 c. Hazardous waste, postclosure permit, or clean
8 closure plan approval.
9 d. Hazardous waste, corrective action permit.
- 10 2. The permit fee for a Class I injection well
11 construction permit may not exceed \$12,500.
- 12 3. The permit fee for any of the following permits may
13 not exceed \$10,000:
- 14 a. Solid waste, construction permit.
15 b. Solid waste, operation permit.
16 c. Class I injection well, operation permit.
- 17 4. The permit fee for any of the following permits may
18 not exceed \$7,500:
- 19 a. Air pollution, construction permit.
20 b. Solid waste, closure permit.
21 c. Drinking water, construction or operation permit.
22 d. Domestic waste residuals, construction or operation
23 permit.
24 e. Industrial waste, operation permit.
25 f. Industrial waste, construction permit.
- 26 5. The permit fee for any of the following permits may
27 not exceed \$5,000:
- 28 a. Domestic waste, operation permit.
29 b. Domestic waste, construction permit.
- 30 6. The permit fee for any of the following permits may
31 not exceed \$4,000:

- 1 a. Wetlands resource management--(dredge and fill),
2 standard form permit.
- 3 b. Hazardous waste, research and development permit.
- 4 c. Air pollution, operation permit, for sources not
5 subject to s. 403.0872.
- 6 d. Class III injection well, construction, operation,
7 or abandonment permits.
- 8 7. The permit fee for Class V injection wells,
9 construction, operation, and abandonment permits may not
10 exceed \$750.
- 11 8. The permit fee for any of the following permits may
12 not exceed \$500:
- 13 a. Domestic waste, collection system permits.
- 14 b. Wetlands resource management--(dredge and fill and
15 mangrove alterations), short permit form.
- 16 c. Drinking water, distribution system permit.
- 17 9. The permit fee for stormwater operation permits may
18 not exceed \$100.
- 19 10. The general permit fees for permits that require
20 certification by a registered professional engineer or
21 professional geologist may not exceed \$500. The general
22 permit fee for other permit types may not exceed \$100.
- 23 11. The fee for a permit issued pursuant to s. 403.816
24 is \$5,000, and the fee for any modification of such permit
25 requested by the applicant is \$1,000.
- 26 12. The regulatory program and surveillance fees for
27 facilities permitted pursuant to s. 403.088 or s. 403.0885, or
28 for facilities permitted pursuant to s. 402 of the Clean Water
29 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the
30 department has been granted administrative authority, shall be
31 limited as follows:

1 a. The fees for domestic wastewater facilities shall
2 not exceed \$7,500 annually. The department shall establish a
3 sliding scale of fees based on the permitted capacity and
4 shall ensure smaller domestic waste dischargers do not bear an
5 inordinate share of costs of the program.

6 b. The annual fees for industrial waste facilities
7 shall not exceed \$11,500. The department shall establish a
8 sliding scale of fees based upon the volume, concentration, or
9 nature of the industrial waste discharge and shall ensure
10 smaller industrial waste dischargers do not bear an inordinate
11 share of costs of the program.

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

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

18 403.722 Permits; hazardous waste disposal, storage,
19 and treatment facilities.--

20 (1) Each person who intends to construct, modify,
21 operate, or close a hazardous waste disposal, storage, or
22 treatment facility must ~~shall~~ obtain a construction permit,
23 operation permit, postclosure permit, ~~or~~ clean closure plan
24 approval, or corrective action permit from the department
25 prior to constructing, modifying, operating, or closing the
26 facility. By rule, the department may provide for the
27 issuance of a single permit instead of any two or more
28 hazardous waste facility permits.

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

31