

By Senator Alexander

17-1583-03

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 tax credit applicants to claim credit
21 on a consolidated return up to the amount of
22 the consolidated group's tax liability;
23 amending s. 376.30781, F.S.; clarifying who may
24 apply for tax credits; converting tax credit
25 application time period to calendar year;
26 moving application deadline to January 15;
27 clarifying that placeholder applications are
28 prohibited; eliminating outdated provisions;
29 providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

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

3 376.30701 Application of risk-based corrective action
4 principles to contaminated sites; applicability; legislative
5 intent; rulemaking authority; contamination cleanup criteria;
6 limitations; reopeners.--

7 (1) APPLICABILITY.--

8 (a) Any person conducting site rehabilitation due to a
9 discharge of pollutants or hazardous substances prohibited
10 under this chapter or chapter 403, may voluntarily, or
11 pursuant to the department's enforcement authority if site
12 rehabilitation of such discharge is not subject to s.
13 376.3071(5), s. 376.3078(4), or s. 376.81, request that the
14 department apply the cleanup criteria and risk-based
15 corrective action process provided in subsection (2).

16 (b) This section does not create or establish any
17 liability for site rehabilitation at a contaminated site. This
18 section is intended to describe a risk-based correction action
19 process to be applied at sites where the department and the
20 person responsible for site rehabilitation have agreed to use
21 risk-based corrective action at the contaminated site. An
22 exceedance of any cleanup target level derived from the
23 cleanup criteria established in subsection (2) does not, in an
24 of itself, create liability for site rehabilitation.

25 (c) This section, and any rules adopted under this
26 section, including the cleanup criteria described in
27 subsection (2) do not create additional authority to prohibit
28 or limit the legal placement of materials or products on land.

29 (d) This section may be applied to a variety of site
30 rehabilitation scenarios, including, but not limited to, site
31 rehabilitation conducted voluntarily, conducted under the

1 department's enforcement authority, or conducted as a
2 state-managed cleanup by the department.

3 (e) This section does not prohibit or delay actions by
4 a person to respond to a discharge of pollutants or hazardous
5 substances. The risk-based corrective action process
6 contemplates appropriate emergency response action or initial
7 remedial action, including appropriate field-screening
8 techniques, prior to any formal application of the risk-based
9 corrective action process involving site assessment, and, if
10 required, subsequent remedial action. Any emergency response
11 actions or initial remedial actions must be conducted in
12 accordance with all applicable federal, state, and local laws
13 and rules.

14 (f) This section may also apply to other contaminated
15 sites at which a person conducting site rehabilitation elects
16 to have it apply, regardless of whether the contamination is
17 the result of a discharge, as defined in s. 376.301.

18 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP
19 CRITERIA.--It is the intent of the Legislature to protect the
20 health of all people under actual circumstances of exposure.
21 By July 1, 2004, the Secretary of Environmental Protection
22 shall establish criteria by rule for the purpose of
23 determining, on a site-specific basis, the rehabilitation
24 program tasks that comprise a site rehabilitation program,
25 including a voluntary site rehabilitation program, and the
26 level at which a rehabilitation program task and a site
27 rehabilitation program may be deemed completed. In
28 establishing these rules, the department shall apply, to the
29 maximum extent feasible, a risk-based corrective action
30 process to achieve protection of human health and safety and
31 the environment in a cost-effective manner based on the

1 principles set forth in this subsection. These rules shall
2 prescribe a phased risk-based corrective action process that
3 is iterative and that tailors site rehabilitation tasks to
4 site-specific conditions and risks. The department and the
5 person responsible for site rehabilitation are encouraged to
6 establish decision points at which risk management decisions
7 will be made. The department shall provide an early decision,
8 when requested, regarding applicable exposure factors and a
9 risk management approach based on the current and future land
10 use at the site. These rules shall also include protocols for
11 the use of natural attenuation, the use of institutional and
12 engineering controls, and the issuance of "No Further Action"
13 orders. The criteria for determining what constitutes a
14 rehabilitation program task or completion of a site
15 rehabilitation program task or site rehabilitation program,
16 including a voluntary site rehabilitation program, must:
17 (a) Consider the current exposure and potential risk
18 of exposure to humans and the environment, including multiple
19 pathways of exposure. The physical, chemical, and biological
20 characteristics of each contaminant must be considered in
21 order to determine the feasibility of a risk-based corrective
22 action assessment.
23 (b) Establish the point of compliance at the source of
24 the contamination. However, the department is authorized to
25 temporarily move the point of compliance to the boundary of
26 the property, or to the edge of the plume when the plume is
27 within the property boundary, while cleanup, including cleanup
28 through natural attenuation processes in conjunction with
29 appropriate monitoring, is proceeding. The department also is
30 authorized, pursuant to criteria provided in this section, to
31 temporarily extend the point of compliance beyond the property

1 boundary with appropriate monitoring, if such extension is
2 needed to facilitate natural attenuation or to address the
3 current conditions of the plume, provided human health, public
4 safety, and the environment are protected. When temporarily
5 extending the point of compliance beyond the property
6 boundary, it cannot be extended further than the lateral
7 extent of the plume, if known, at the time of execution of a
8 cleanup agreement, if required, or the lateral extent of the
9 plume as defined at the time of site assessment. Temporary
10 extension of the point of compliance beyond the property
11 boundary, as provided in this paragraph, must include actual
12 notice by the person responsible for site rehabilitation to
13 local governments and the owners of any property into which
14 the point of compliance is allowed to extend and constructive
15 notice to residents and business tenants of the property into
16 which the point of compliance is allowed to extend. Persons
17 receiving notice pursuant to this paragraph shall have the
18 opportunity to comment within 30 days after receipt of the
19 notice.

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

1 attenuation processes in conjunction with appropriate
2 monitoring, is proceeding, if human health, public safety, and
3 the environment are protected.

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

20 (e) Consider the additive effects of contaminants. The
21 synergistic and antagonistic effects shall also be considered
22 when the scientific data become available.

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

1 potential for further migration in relation to site property
2 boundaries.

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

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

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

25 3. Using risk-based corrective action principles, the
26 department shall approve alternative cleanup target levels in
27 conjunction with institutional and engineering controls, if
28 needed, based upon an applicant's demonstration, using
29 site-specific data, modeling results, risk assessment studies,
30 risk reduction techniques, or a combination thereof, that
31 human health, public safety, and the environment are protected

1 to the same degree as provided in subparagraphs 1. and 2.
2 Where a state water quality standard is applicable, a
3 deviation may not result in the application of cleanup target
4 levels more stringent than the standard. In determining
5 whether it is appropriate to establish alternative cleanup
6 target levels at a site, the department must consider the
7 effectiveness of source removal, if any, that has been
8 completed at the site and the practical likelihood of the use
9 of low yield or poor quality groundwater, the use of
10 groundwater near marine surface water bodies, the current and
11 projected use of the affected groundwater in the vicinity of
12 the site, or the use of groundwater in the immediate vicinity
13 of the contaminated area, where it has been demonstrated that
14 the groundwater contamination is not migrating away from such
15 localized source, provided human health, public safety, and
16 the environment are protected.

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

28 (i) Establish appropriate cleanup target levels for
29 soils.

30 1. In establishing soil cleanup target levels for
31 human exposure to each contaminant found in soils from the

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

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

26 3. Using risk-based corrective action principles, the
27 department shall approve alternative cleanup target levels in
28 conjunction with institutional and engineering controls, if
29 needed, based upon an applicant's demonstration, using
30 site-specific data, modeling results, risk assessment studies,
31 risk reduction techniques, or a combination thereof, that

1 human health, public safety, and the environment are protected
2 to the same degree as provided in subparagraphs 1. and 2.

3
4 The department shall require source removal as a risk
5 reduction measure if warranted and cost-effective. Once source
6 removal at a site is complete, the department shall reevaluate
7 the site to determine the degree of active cleanup needed to
8 continue. Further, the department shall determine if the
9 reevaluated site qualifies for monitoring only or if no
10 further action is required to rehabilitate the site. If
11 additional site rehabilitation is necessary to reach "No
12 Further Action" status, the department is encouraged to
13 utilize natural attenuation and monitoring where site
14 conditions warrant.

15 (3) LIMITATIONS.--The cleanup criteria established
16 pursuant to this section govern only site rehabilitation
17 activities occurring at the contaminated site. Removal of
18 contaminated media from a site for offsite relocation or
19 treatment must be in accordance with all applicable federal,
20 state, and local laws and regulations. Soil cleanup target
21 levels to be established under subsection (2) are not
22 standards as that term is defined in s. 403.803. Soil cleanup
23 target levels are only applicable in the context of the
24 risk-based corrective action process described in this
25 section. The risk-based corrective action process described in
26 this section and the rules concerning risk-based corrective
27 action adopted under this section do not create or establish
28 any liability for site rehabilitation independent of other
29 provisions of this chapter or chapter 403.

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

4 (a) Fraud was committed in demonstrating site
5 conditions or completion of site rehabilitation;

6 (b) New information confirms the existence of an area
7 of previously unknown contamination which exceeds the
8 site-specific rehabilitation levels established in accordance
9 with subsection (2), or which otherwise poses the threat of
10 real and substantial harm to public health, safety, or the
11 environment;

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

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

24 (e) A new discharge of pollutants or hazardous
25 substances occurs at the site subsequent to the issuance of a
26 "No Further Action" order or a "Site Rehabilitation
27 Completion" order associated with the original contamination
28 being addressed pursuant to this section.

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

31

1 199.1055 Contaminated site rehabilitation tax
2 credit.--
3 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--
4 (a) A credit in the amount of 35 percent of the costs
5 of voluntary cleanup activity that is integral to site
6 rehabilitation at the following sites is available ~~allowed~~
7 against any tax due for a taxable year under s. 199.032, less
8 any credit allowed by former s. 220.68 for that year:
9 1. A drycleaning-solvent-contaminated site eligible
10 for state-funded site rehabilitation under s. 376.3078(3);
11 2. A drycleaning-solvent-contaminated site at which
12 cleanup is undertaken by the real property owner pursuant to
13 s. 376.3078(11), if the real property owner is not also, and
14 has never been, the owner or operator of the drycleaning
15 facility where the contamination exists; or
16 3. A brownfield site in a designated brownfield area
17 under s. 376.80.
18 (b) A tax credit applicant, or multiple tax credit
19 applicants ~~taxpayer, or multiple taxpayers~~ working jointly to
20 clean up a single site, may not be granted ~~receive~~ more than
21 \$250,000 per year in tax credits for each site voluntarily
22 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall
23 be granted ~~receive~~ tax credits in the same proportion as their
24 contribution to payment of cleanup costs. Subject to the same
25 conditions and limitations as provided in this section, a
26 municipality, or county, or other tax credit applicant which
27 voluntarily rehabilitates a site may receive not more than
28 \$250,000 per year in tax credits which it can subsequently
29 transfer subject to the provisions in paragraph (g).
30 (c) If the credit granted under this section is not
31 fully used in any one year because of insufficient tax

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

9 (d) A taxpayer that receives a credit under s.
10 220.1845 is ineligible to receive credit under this section in
11 a given tax year.

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

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

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

28 2. The entity or its surviving or acquiring entity as
29 described in subparagraph 1., may transfer any unused credit
30 in whole or in units of no less than 25 percent of the
31 remaining credit. The entity acquiring such credit may use it

1 in the same manner and with the same limitation as described
2 in this section. Such transferred credits may not be
3 transferred again although they may succeed to a surviving or
4 acquiring entity subject to the same conditions and
5 limitations as described in this section.

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

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

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

26 220.1845 Contaminated site rehabilitation tax
27 credit.--

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

29 (a) A credit in the amount of 35 percent of the costs
30 of voluntary cleanup activity that is integral to site
31

1 rehabilitation at the following sites is available ~~allowed~~
2 against any tax due for a taxable year under this chapter:

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

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

10 3. A brownfield site in a designated brownfield area
11 under s. 376.80.

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

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

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

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

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

16 (f) A tax credit applicant taxpayer that receives
17 state-funded site rehabilitation under s. 376.3078(3) for
18 rehabilitation of a drycleaning-solvent-contaminated site is
19 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 (g) The total amount of the tax credits which may be
25 granted under this section and s. 199.1055 is \$2 million
26 annually.

27 (h)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 and 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 (i) 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 4. Section 376.30781, Florida Statutes, is
29 amended to read:

30 376.30781 Partial tax credits for rehabilitation of
31 drycleaning-solvent-contaminated sites and brownfield sites in

1 designated brownfield areas; application process; rulemaking
2 authority; revocation authority.--

3 (1) The Legislature finds that:

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

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

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

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

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

25 3. A brownfield site in a designated brownfield area
26 under s. 376.80.

27 (b) A tax credit applicant taxpayer, or multiple tax
28 credit applicants taxpayers working jointly to clean up a
29 single site, may not be granted receive more than \$250,000 per
30 year in tax credits for each site voluntarily rehabilitated.
31 Multiple tax credit applicants taxpayers shall be granted

1 ~~receive~~ tax credits in the same proportion as their
2 contribution to payment of cleanup costs. Tax credits are
3 available only for site rehabilitation conducted during the
4 calendar tax year for ~~in~~ which the tax credit application is
5 submitted.

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

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

18 (4) To claim the credit for site rehabilitation
19 conducted during the current calendar year, each tax credit
20 applicant must apply to the Department of Environmental
21 Protection for an allocation of the \$2 million annual credit
22 by January 15 of the following year ~~December 31~~ on a form
23 developed by the Department of Environmental Protection in
24 cooperation with the Department of Revenue. The form shall
25 include an affidavit from each tax credit applicant certifying
26 that all information contained in the application, including
27 all records of costs incurred and claimed in the tax credit
28 application, are true and correct. If the application is
29 submitted pursuant to subparagraph (2)(a)2., the form must
30 include an affidavit signed by the real property owner stating
31 that it is not, and has never been, the owner or operator of

1 the drycleaning facility where the contamination exists.
2 Approval of partial tax credits must be accomplished on a
3 first-come, first-served basis based upon the date complete
4 applications are received by the Division of Waste Management.
5 A tax credit ~~An~~ applicant shall submit only one complete
6 application per site for each calendar year's site
7 rehabilitation costs. Incomplete placeholder applications
8 shall not be accepted and will not secure a place in the
9 first-come, first-served application line per year. To be
10 eligible for a tax credit the tax credit applicant must:
11 (a) Have entered into a voluntary cleanup agreement
12 with the Department of Environmental Protection for a
13 drycleaning-solvent-contaminated site or a Brownfield Site
14 Rehabilitation Agreement, as applicable; and
15 (b) Have paid all deductibles pursuant to s.
16 376.3078(3)(d) for eligible drycleaning-solvent-cleanup
17 program sites.
18 (5) To obtain the tax credit certificate, a tax credit
19 ~~an~~ applicant must annually file an application for
20 certification, which must be received by the Division of Waste
21 Management of the Department of Environmental Protection by
22 January 15 of the year following the calendar year for which
23 site rehabilitation costs are being claimed in a tax credit
24 application ~~December 31~~. The tax credit applicant must provide
25 all pertinent information requested on the tax credit
26 application form, including, at a minimum, the name and
27 address of the tax credit applicant and the address and
28 tracking identification number of the eligible site. Along
29 with the tax credit application form, the tax credit applicant
30 must submit the following:
31

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

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

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

27 (d) A certification form stating that site
28 rehabilitation activities associated with the documentation
29 submitted pursuant to paragraph (b) have been conducted under
30 the observation of, and related technical documents have been
31 signed and sealed by, an appropriate professional registered

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

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

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

29 (8) On or before March 1, the Department of
30 Environmental Protection shall inform each eligible tax credit
31 applicant of the amount of its partial tax credit and provide

1 each eligible tax credit applicant with a tax credit
2 certificate that must be submitted with its tax return to the
3 Department of Revenue to claim the tax credit or be
4 transferred pursuant to s. 199.1055(1)(g) or s.

5 220.1845(1)(h). Credits will not result in the payment of
6 refunds if total credits exceed the amount of tax owed.

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

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

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

31 Additionally, the tax credit applicant ~~taxpayer~~ must notify

