

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Grant offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 30 and 31, insert:

5 Section 1. Present subsections (4) through (22) of section  
6 376.301, Florida Statutes, are redesignated as subsections (5)  
7 through (23), respectively, present subsections (23) through  
8 (48) of that section are redesignated as subsections (25)  
9 through (50), respectively, and new subsections (4) and (24) are  
10 added to that section, to read:

11 376.301 Definitions of terms used in ss. 376.30-376.317,  
12 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and  
13 376.75, unless the context clearly requires otherwise, the term:  
14 (4) "Background concentration" means the concentration of

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15 contaminants naturally occurring or resulting from anthropogenic  
16 impacts unrelated to the discharge of pollutants or hazardous  
17 substances at a contaminated site undergoing site  
18 rehabilitation.

19 (24) "Long-term natural attenuation" means natural  
20 attenuation approved by the department as a site rehabilitation  
21 program task for a period of more than 5 years.

22 Section 2. Paragraph (b) of subsection (1) and subsection  
23 (2) of section 376.30701, Florida Statutes, are amended to read:

24 376.30701 Application of risk-based corrective action  
25 principles to contaminated sites; applicability; legislative  
26 intent; rulemaking authority; contamination cleanup criteria;  
27 limitations; reopeners.—

28 (1) APPLICABILITY.—

29 (b) This section shall apply to all contaminated sites  
30 resulting from a discharge of pollutants or hazardous substances  
31 where legal responsibility for site rehabilitation exists  
32 pursuant to other provisions of this chapter or chapter 403,  
33 except for those contaminated sites subject to the risk-based  
34 corrective action cleanup criteria established for the  
35 petroleum, brownfields, and drycleaning programs pursuant to ss.  
36 376.3071, 376.81, and 376.3078, respectively. This section does  
37 not apply to nonprogram petroleum-contaminated sites unless  
38 application of this section is requested by the person  
39 responsible for site rehabilitation.

40 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is

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41 the intent of the Legislature to protect the health of all  
42 people under actual circumstances of exposure. By July 1, 2004,  
43 the secretary of the department shall establish criteria by rule  
44 for the purpose of determining, on a site-specific basis, the  
45 rehabilitation program tasks that comprise a site rehabilitation  
46 program, including a voluntary site rehabilitation program, and  
47 the level at which a rehabilitation program task and a site  
48 rehabilitation program may be deemed completed. In establishing  
49 these rules, the department shall apply, to the maximum extent  
50 feasible, a risk-based corrective action process to achieve  
51 protection of human health and safety and the environment in a  
52 cost-effective manner based on the principles set forth in this  
53 subsection. These rules shall prescribe a phased risk-based  
54 corrective action process that is iterative and that tailors  
55 site rehabilitation tasks to site-specific conditions and risks.  
56 The department and the person responsible for site  
57 rehabilitation are encouraged to establish decision points at  
58 which risk management decisions will be made. The department  
59 shall provide an early decision, when requested, regarding  
60 applicable exposure factors and a risk management approach based  
61 on the current and future land use at the site. These rules must  
62 ~~shall also~~ include protocols for the use of natural attenuation,  
63 including long-term natural attenuation where site conditions  
64 warrant, the use of institutional and engineering controls, and  
65 the issuance of "No Further Action" orders. The criteria for  
66 determining what constitutes a rehabilitation program task or

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67 completion of a site rehabilitation program task or site  
68 rehabilitation program, including a voluntary site  
69 rehabilitation program, must:

70 (a) Consider the current exposure and potential risk of  
71 exposure to humans and the environment, including multiple  
72 pathways of exposure. The physical, chemical, and biological  
73 characteristics of each contaminant must be considered in order  
74 to determine the feasibility of a risk-based corrective action  
75 assessment.

76 (b) Establish the point of compliance at the source of the  
77 contamination. However, the department may ~~is authorized to~~  
78 temporarily move the point of compliance to the boundary of the  
79 property, or to the edge of the plume when the plume is within  
80 the property boundary, while cleanup, including cleanup through  
81 natural attenuation processes in conjunction with appropriate  
82 monitoring, is proceeding. The department may also ~~is~~  
83 ~~authorized,~~ pursuant to criteria provided in this section, ~~to~~  
84 temporarily extend the point of compliance beyond the property  
85 boundary with appropriate monitoring, if such extension is  
86 needed to facilitate natural attenuation or to address the  
87 current conditions of the plume, provided human health, public  
88 safety, and the environment are protected. When temporarily  
89 extending the point of compliance beyond the property boundary,  
90 it cannot be extended further than the lateral extent of the  
91 plume, if known, at the time of execution of a cleanup  
92 agreement, if required, or the lateral extent of the plume as

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93 defined at the time of site assessment. Temporary extension of  
94 the point of compliance beyond the property boundary, as  
95 provided in this paragraph, must include actual notice by the  
96 person responsible for site rehabilitation to local governments  
97 and the owners of any property into which the point of  
98 compliance is allowed to extend and constructive notice to  
99 residents and business tenants of the property into which the  
100 point of compliance is allowed to extend. Persons receiving  
101 notice pursuant to this paragraph shall have the opportunity to  
102 comment within 30 days after receipt of the notice. Additional  
103 notice concerning the status of natural attenuation processes  
104 shall be similarly provided to persons receiving notice pursuant  
105 to this paragraph every 5 years.

106 (c) Ensure that the site-specific cleanup goal is that all  
107 contaminated sites being cleaned up pursuant to this section  
108 ultimately achieve the applicable cleanup target levels provided  
109 in this subsection. In the circumstances provided in this  
110 subsection, and after constructive notice and opportunity to  
111 comment within 30 days after receipt of the notice to local  
112 government, owners of any property into which the point of  
113 compliance is allowed to extend, and residents of any property  
114 into which the point of compliance is allowed to extend, the  
115 department may allow concentrations of contaminants to  
116 temporarily exceed the applicable cleanup target levels while  
117 cleanup, including cleanup through natural attenuation processes  
118 in conjunction with appropriate monitoring, is proceeding, if

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119 human health, public safety, and the environment are protected.

120 (d) Allow the use of institutional or engineering controls  
121 at contaminated sites being cleaned up pursuant to this section,  
122 where appropriate, to eliminate or control the potential  
123 exposure to contaminants of humans or the environment. The use  
124 of controls must be preapproved by the department and only after  
125 constructive notice and opportunity to comment within 30 days  
126 after receipt of notice is provided to local governments, owners  
127 of any property into which the point of compliance is allowed to  
128 extend, and residents on any property into which the point of  
129 compliance is allowed to extend. When institutional or  
130 engineering controls are implemented to control exposure, the  
131 removal of the controls must have prior department approval and  
132 must be accompanied by the resumption of active cleanup, or  
133 other approved controls, unless cleanup target levels under this  
134 section have been achieved.

135 (e) Consider the interactive ~~additive~~ effects of  
136 contaminants, including additive, synergistic, and antagonistic  
137 effects. ~~The synergistic and antagonistic effects shall also be~~  
138 ~~considered when the scientific data become available.~~

139 (f) Take into consideration individual site  
140 characteristics, which shall include, but not be limited to, the  
141 current and projected use of the affected groundwater and  
142 surface water in the vicinity of the site, current and projected  
143 land uses of the area affected by the contamination, the exposed  
144 population, the degree and extent of contamination, the rate of

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145 contaminant migration, the apparent or potential rate of  
146 contaminant degradation through natural attenuation processes,  
147 the location of the plume, and the potential for further  
148 migration in relation to site property boundaries.

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

150 1. Cleanup target levels for each contaminant found in  
151 groundwater shall be the applicable state water quality  
152 standards. Where such standards do not exist, the cleanup target  
153 levels for groundwater shall be based on the minimum criteria  
154 specified in department rule. The department shall apply the  
155 following, as appropriate, in establishing the applicable  
156 cleanup target levels: calculations using a lifetime cancer risk  
157 level of 1.0E-6; a hazard index of 1 or less; the best  
158 achievable detection limit; and nuisance, organoleptic, and  
159 aesthetic considerations. However, the department may ~~shall~~ not  
160 require site rehabilitation to achieve a cleanup target level  
161 for any individual contaminant that is more stringent than the  
162 site-specific, ~~naturally occurring~~ background concentration for  
163 that contaminant.

164 2. Where surface waters are exposed to contaminated  
165 groundwater, the cleanup target levels for the contaminants must  
166 ~~shall~~ be based on the more protective of the groundwater or  
167 surface water standards as established by department rule,  
168 unless it has been demonstrated that the contaminants do not  
169 cause or contribute to the exceedance of applicable surface  
170 water quality criteria. In such circumstance, the point of

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171 measuring compliance with the surface water standards shall be  
172 in the groundwater immediately adjacent to the surface water  
173 body.

174 3. Using risk-based corrective action principles, the  
175 department shall approve alternative cleanup target levels in  
176 conjunction with institutional and engineering controls, if  
177 needed, based upon an applicant's demonstration, using site-  
178 specific or other relevant data and information, risk assessment  
179 modeling results, including results from probabilistic risk  
180 assessment modeling, risk assessment studies, risk reduction  
181 techniques, or a combination thereof, that human health, public  
182 safety, and the environment are protected to the same degree as  
183 provided in subparagraphs 1. and 2. Where a state water quality  
184 standard is applicable, a deviation may not result in the  
185 application of cleanup target levels more stringent than the  
186 standard. In determining whether it is appropriate to establish  
187 alternative cleanup target levels at a site, the department must  
188 consider the effectiveness of source removal, if any, that has  
189 been completed at the site and the practical likelihood of the  
190 use of low yield or poor quality groundwater, the use of  
191 groundwater near marine surface water bodies, the current and  
192 projected use of the affected groundwater in the vicinity of the  
193 site, or the use of groundwater in the immediate vicinity of the  
194 contaminated area, where it has been demonstrated that the  
195 groundwater contamination is not migrating away from such  
196 localized source, provided human health, public safety, and the

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197 environment are protected. Groundwater resource protection  
198 remains the ultimate goal of cleanup, particularly in light of  
199 the state's continued growth and consequent demands for drinking  
200 water resources. The Legislature recognizes the need for a  
201 protective yet flexible cleanup approach that risk-based  
202 corrective action provides. Only where it is appropriate on a  
203 site-specific basis, using the criteria in this paragraph and  
204 careful evaluation by the department, shall proposed alternative  
205 cleanup target levels be approved. If alternative cleanup target  
206 levels are used, institutional controls are not required if:

207 a. The only cleanup target levels exceeded are the  
208 groundwater cleanup target levels derived from nuisance,  
209 organoleptic, or aesthetic considerations;

210 b. Concentrations of all contaminants meet the state water  
211 quality standards or the minimum criteria, based on the  
212 protection of human health, public safety, and the environment,  
213 as provided in subparagraph 1.;

214 c. All of the groundwater cleanup target levels  
215 established pursuant to subparagraph 1. are met at the property  
216 boundary;

217 d. The person responsible for site rehabilitation has  
218 demonstrated that the contaminants will not migrate beyond the  
219 property boundary at concentrations that exceed the groundwater  
220 cleanup target levels established pursuant to subparagraph 1.;

221 e. The property has access to and is using an offsite  
222 water supply, and an unplugged private well is not used for

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223 domestic purposes; and

224 f. The real property owner does not object to the "No  
225 Further Action" proposal to the department or the local  
226 pollution control program.

227 (h) Provide for the department to issue a "No Further  
228 Action" order, with conditions, including, but not limited to,  
229 the use of institutional or engineering controls where  
230 appropriate, when alternative cleanup target levels established  
231 pursuant to subparagraph (g)3. have been achieved or when the  
232 person responsible for site rehabilitation can demonstrate that  
233 the cleanup target level is unachievable with the use of  
234 available technologies. Before ~~Prior to~~ issuing such an order,  
235 the department shall consider the feasibility of an alternative  
236 site rehabilitation technology at the contaminated site.

237 (i) Establish appropriate cleanup target levels for soils.  
238 Although there are existing state water quality standards, there  
239 are no existing state soil quality standards. The Legislature  
240 does not intend, through the adoption of this section, to create  
241 such soil quality standards. The specific rulemaking authority  
242 granted pursuant to this section merely authorizes the  
243 department to establish appropriate soil cleanup target levels.  
244 These soil cleanup target levels shall be applicable at sites  
245 only after a determination as to legal responsibility for site  
246 rehabilitation has been made pursuant to other provisions of  
247 this chapter or chapter 403.

248 1. In establishing soil cleanup target levels for human

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

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

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

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

297 Section 3. Present subsections (3) through (11) of section  
298 376.79, Florida Statutes, are redesignated as subsections (4)  
299 through (12), respectively, present subsections (12) through  
300 (19) are redesignated as subsections (14) through (21),

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301 respectively, and new subsections (3) and (13) are added to that  
302 section, to read:

303 376.79 Definitions relating to Brownfields Redevelopment  
304 Act.—As used in ss. 376.77–376.85, the term:

305 (3) "Background concentration" means the concentration of  
306 contaminants naturally occurring or resulting from anthropogenic  
307 impacts unrelated to the discharge of pollutants or hazardous  
308 substances at a contaminated site undergoing site  
309 rehabilitation.

310 (13) "Long-term natural attenuation" means natural  
311 attenuation approved by the department as a site rehabilitation  
312 program task for a period of more than 5 years.

313 Section 4. Section 376.81, Florida Statutes, is amended to  
314 read:

315 376.81 Brownfield site and brownfield areas contamination  
316 cleanup criteria.—

317 (1) It is the intent of the Legislature to protect the  
318 health of all people under actual circumstances of exposure. By  
319 July 1, 2001, the secretary of the department shall establish  
320 criteria by rule for the purpose of determining, on a site-  
321 specific basis, the rehabilitation program tasks that comprise a  
322 site rehabilitation program and the level at which a  
323 rehabilitation program task and a site rehabilitation program  
324 may be deemed completed. In establishing the rule, the  
325 department shall apply, to the maximum extent feasible, a risk-  
326 based corrective action process to achieve protection of human

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327 health and safety and the environment in a cost-effective manner  
328 based on the principles set forth in this subsection. The rule  
329 must prescribe a phased risk-based corrective action process  
330 that is iterative and that tailors site rehabilitation tasks to  
331 site-specific conditions and risks. The department and the  
332 person responsible for brownfield site rehabilitation are  
333 encouraged to establish decision points at which risk management  
334 decisions will be made. The department shall provide an early  
335 decision, when requested, regarding applicable exposure factors  
336 and a risk management approach based on the current and future  
337 land use at the site. The rule must ~~shall also~~ include protocols  
338 for the use of natural attenuation, including long-term natural  
339 attenuation where site conditions warrant, the use of  
340 institutional and engineering controls, and the issuance of "no  
341 further action" letters. The criteria for determining what  
342 constitutes a rehabilitation program task or completion of a  
343 site rehabilitation program task or site rehabilitation program  
344 must:

345 (a) Consider the current exposure and potential risk of  
346 exposure to humans and the environment, including multiple  
347 pathways of exposure. The physical, chemical, and biological  
348 characteristics of each contaminant must be considered in order  
349 to determine the feasibility of risk-based corrective action  
350 assessment.

351 (b) Establish the point of compliance at the source of the  
352 contamination. However, the department may ~~is authorized to~~

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353 temporarily move the point of compliance to the boundary of the  
354 property, or to the edge of the plume when the plume is within  
355 the property boundary, while cleanup, including cleanup through  
356 natural attenuation processes in conjunction with appropriate  
357 monitoring, is proceeding. The department may ~~also is~~  
358 ~~authorized~~, pursuant to criteria provided for in this section,  
359 ~~to~~ temporarily extend the point of compliance beyond the  
360 property boundary with appropriate monitoring, if such extension  
361 is needed to facilitate natural attenuation or to address the  
362 current conditions of the plume, provided human health, public  
363 safety, and the environment are protected. When temporarily  
364 extending the point of compliance beyond the property boundary,  
365 it cannot be extended further than the lateral extent of the  
366 plume at the time of execution of the brownfield site  
367 rehabilitation agreement, if known, or the lateral extent of the  
368 plume as defined at the time of site assessment. Temporary  
369 extension of the point of compliance beyond the property  
370 boundary, as provided in this paragraph, must include actual  
371 notice by the person responsible for brownfield site  
372 rehabilitation to local governments and the owners of any  
373 property into which the point of compliance is allowed to extend  
374 and constructive notice to residents and business tenants of the  
375 property into which the point of compliance is allowed to  
376 extend. Persons receiving notice pursuant to this paragraph  
377 shall have the opportunity to comment within 30 days of receipt  
378 of the notice.

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379 (c) Ensure that the site-specific cleanup goal is that all  
380 contaminated brownfield sites and brownfield areas ultimately  
381 achieve the applicable cleanup target levels provided in this  
382 section. In the circumstances provided below, and after  
383 constructive notice and opportunity to comment within 30 days  
384 from receipt of the notice to local government, to owners of any  
385 property into which the point of compliance is allowed to  
386 extend, and to residents on any property into which the point of  
387 compliance is allowed to extend, the department may allow  
388 concentrations of contaminants to temporarily exceed the  
389 applicable cleanup target levels while cleanup, including  
390 cleanup through natural attenuation processes in conjunction  
391 with appropriate monitoring, is proceeding, if human health,  
392 public safety, and the environment are protected.

393 (d) Allow brownfield site and brownfield area  
394 rehabilitation programs to include the use of institutional or  
395 engineering controls, where appropriate, to eliminate or control  
396 the potential exposure to contaminants of humans or the  
397 environment. The use of controls must be preapproved by the  
398 department and only after constructive notice and opportunity to  
399 comment within 30 days from receipt of notice is provided to  
400 local governments, to owners of any property into which the  
401 point of compliance is allowed to extend, and to residents on  
402 any property into which the point of compliance is allowed to  
403 extend. When institutional or engineering controls are  
404 implemented to control exposure, the removal of the controls

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405 must have prior department approval and must be accompanied by  
406 the resumption of active cleanup, or other approved controls,  
407 unless cleanup target levels under this section have been  
408 achieved.

409 (e) Consider the interactive ~~additive~~ effects of  
410 contaminants, including additive, synergistic, and antagonistic  
411 effects. ~~The synergistic and antagonistic effects shall also be~~  
412 ~~considered when the scientific data become available.~~

413 (f) Take into consideration individual site  
414 characteristics, which shall include, but not be limited to, the  
415 current and projected use of the affected groundwater and  
416 surface water in the vicinity of the site, current and projected  
417 land uses of the area affected by the contamination, the exposed  
418 population, the degree and extent of contamination, the rate of  
419 contaminant migration, the apparent or potential rate of  
420 contaminant degradation through natural attenuation processes,  
421 the location of the plume, and the potential for further  
422 migration in relation to site property boundaries.

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

424 1. Cleanup target levels for each contaminant found in  
425 groundwater shall be the applicable state water quality  
426 standards. Where such standards do not exist, the cleanup target  
427 levels for groundwater shall be based on the minimum criteria  
428 specified in department rule. The department shall apply the  
429 following, as appropriate, in establishing the applicable  
430 cleanup target levels: calculations using a lifetime cancer risk

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431 level of 1.0E-6; a hazard index of 1 or less; the best  
432 achievable detection limit; and nuisance, organoleptic, and  
433 aesthetic considerations. However, the department may ~~shall~~ not  
434 require site rehabilitation to achieve a cleanup target level  
435 for any individual contaminant which is more stringent than the  
436 site-specific, ~~naturally occurring~~ background concentration for  
437 that contaminant.

438 2. Where surface waters are exposed to contaminated  
439 groundwater, the cleanup target levels for the contaminants must  
440 ~~shall~~ be based on the more protective of the groundwater or  
441 surface water standards as established by department rule,  
442 unless it has been demonstrated that the contaminants do not  
443 cause or contribute to the exceedance of applicable surface  
444 water quality criteria. In such circumstances, the point of  
445 measuring compliance with the surface water standards shall be  
446 in the groundwater immediately adjacent to the surface water  
447 body.

448 3. Using risk-based corrective action principles, the  
449 department shall approve alternative cleanup target levels in  
450 conjunction with institutional and engineering controls, if  
451 needed, based upon an applicant's demonstration, using site-  
452 specific or other relevant data and information, risk assessment  
453 modeling results, including results from probabilistic risk  
454 assessment modeling, risk assessment studies, risk reduction  
455 techniques, or a combination thereof, that human health, public  
456 safety, and the environment are protected to the same degree as

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457 provided in subparagraphs 1. and 2. Where a state water quality  
458 standard is applicable, a deviation may not result in the  
459 application of cleanup target levels more stringent than the  
460 standard. In determining whether it is appropriate to establish  
461 alternative cleanup target levels at a site, the department must  
462 consider the effectiveness of source removal, if any, which has  
463 been completed at the site and the practical likelihood of the  
464 use of low yield or poor quality groundwater, the use of  
465 groundwater near marine surface water bodies, the current and  
466 projected use of the affected groundwater in the vicinity of the  
467 site, or the use of groundwater in the immediate vicinity of the  
468 contaminated area, where it has been demonstrated that the  
469 groundwater contamination is not migrating away from such  
470 localized source, provided human health, public safety, and the  
471 environment are protected. When using alternative cleanup target  
472 levels at a brownfield site, institutional controls are ~~shall~~  
473 not ~~be~~ required if:

474 a. The only cleanup target levels exceeded are the  
475 groundwater cleanup target levels derived from nuisance,  
476 organoleptic, or aesthetic considerations;

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

480 c. All of the groundwater cleanup target levels  
481 established pursuant to subparagraph 1. are met at the property  
482 boundary;

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483 d. The person responsible for brownfield site  
484 rehabilitation has demonstrated that the contaminants will not  
485 migrate beyond the property boundary at concentrations exceeding  
486 the groundwater cleanup target levels established pursuant to  
487 subparagraph 1.;

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

491 f. The real property owner provides written acceptance of  
492 the "no further action" proposal to the department or the local  
493 pollution control program.

494 (h) Provide for the department to issue a "no further  
495 action order," with conditions, including, but not limited to,  
496 the use of institutional or engineering controls where  
497 appropriate, when alternative cleanup target levels established  
498 pursuant to subparagraph (g)3. have been achieved, or when the  
499 person responsible for brownfield site rehabilitation can  
500 demonstrate that the cleanup target level is unachievable within  
501 available technologies. Before ~~Prior to~~ issuing such an order,  
502 the department shall consider the feasibility of an alternative  
503 site rehabilitation technology at ~~in~~ the brownfield site ~~area~~.

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

505 1. In establishing soil cleanup target levels for human  
506 exposure to each contaminant found in soils from the land  
507 surface to 2 feet below land surface, the department shall apply  
508 the following, as appropriate: calculations using a lifetime

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509 cancer risk level of 1.0E-6; a hazard index of 1 or less; and  
510 the best achievable detection limit. However, the department may  
511 ~~shall~~ not require site rehabilitation to achieve a cleanup  
512 target level for an individual contaminant which is more  
513 stringent than the site-specific, ~~naturally occurring~~ background  
514 concentration for that contaminant. Institutional controls or  
515 other methods shall be used to prevent human exposure to  
516 contaminated soils more than 2 feet below the land surface. Any  
517 removal of such institutional controls shall require such  
518 contaminated soils to be remediated.

519 2. Leachability-based soil cleanup target levels shall be  
520 based on protection of the groundwater cleanup target levels or  
521 the alternate cleanup target levels for groundwater established  
522 pursuant to this paragraph, as appropriate. Source removal and  
523 other cost-effective alternatives that are technologically  
524 feasible shall be considered in achieving the leachability soil  
525 cleanup target levels established by the department. The  
526 leachability goals are ~~shall~~ not be applicable if the department  
527 determines, based upon individual site characteristics, and in  
528 conjunction with institutional and engineering controls, if  
529 needed, that contaminants will not leach into the groundwater at  
530 levels that pose a threat to human health, public safety, and  
531 the environment.

532 3. Using risk-based corrective action principles, the  
533 department shall approve alternative cleanup target levels in  
534 conjunction with institutional and engineering controls, if

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535 needed, based upon an applicant's demonstration, using site-  
536 specific or other relevant data and information, risk assessment  
537 modeling results, including results from probabilistic risk  
538 assessment modeling, risk assessment studies, risk reduction  
539 techniques, or a combination thereof, that human health, public  
540 safety, and the environment are protected to the same degree as  
541 provided in subparagraphs 1. and 2.

542 (2) The department shall require source removal, as a risk  
543 reduction measure, if warranted and cost-effective. Once source  
544 removal at a site is complete, the department shall reevaluate  
545 the site to determine the degree of active cleanup needed to  
546 continue. Further, the department shall determine if the  
547 reevaluated site qualifies for monitoring only or if no further  
548 action is required to rehabilitate the site. If additional site  
549 rehabilitation is necessary to reach "no further action" status,  
550 the department is encouraged to utilize natural attenuation  
551 monitoring, including long-term natural attenuation and  
552 monitoring, where site conditions warrant.

553 (3) The cleanup criteria described in this section govern  
554 only site rehabilitation activities occurring at the  
555 contaminated site. Removal of contaminated media from a site for  
556 offsite relocation or treatment must be in accordance with all  
557 applicable federal, state, and local laws and regulations.

558 Section 5. Subsection (3) of section 196.1995, Florida  
559 Statutes, is amended to read:

560 196.1995 Economic development ad valorem tax exemption.—

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561 (3) The board of county commissioners or the governing  
562 authority of the municipality that calls a referendum within its  
563 total jurisdiction to determine whether its respective  
564 jurisdiction may grant economic development ad valorem tax  
565 exemptions may vote to limit the effect of the referendum to  
566 authority to grant economic development tax exemptions for new  
567 businesses and expansions of existing businesses located in an  
568 enterprise zone or a brownfield area, as defined in s. 376.79(5)  
569 ~~s. 376.79(4)~~. If an area nominated to be an enterprise zone  
570 pursuant to s. 290.0055 has not yet been designated pursuant to  
571 s. 290.0065, the board of county commissioners or the governing  
572 authority of the municipality may call such referendum prior to  
573 such designation; however, the authority to grant economic  
574 development ad valorem tax exemptions does not apply until such  
575 area is designated pursuant to s. 290.0065. The ballot question  
576 in such referendum shall be in substantially the following form  
577 and shall be used in lieu of the ballot question prescribed in  
578 subsection (2):

579  
580 Shall the board of county commissioners of this county (or the  
581 governing authority of this municipality, or both) be authorized  
582 to grant, pursuant to s. 3, Art. VII of the State Constitution,  
583 property tax exemptions for new businesses and expansions of  
584 existing businesses that are located in an enterprise zone or a  
585 brownfield area and that are expected to create new, full-time  
586 jobs in the county (or municipality, or both)?

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587  
588       ....Yes-For authority to grant exemptions.  
589       ....No-Against authority to grant exemptions.  
590       Section 6. Paragraph (a) of subsection (1) of section  
591 287.0595, Florida Statutes, is amended to read:  
592       287.0595 Pollution response action contracts; department  
593 rules.-  
594       (1) The Department of Environmental Protection shall  
595 establish, by adopting administrative rules as provided in  
596 chapter 120:  
597       (a) Procedures for determining the qualifications of  
598 responsible potential vendors prior to advertisement for and  
599 receipt of bids, proposals, or replies for pollution response  
600 action contracts, including procedures for the rejection of  
601 unqualified vendors. Response actions are those activities  
602 described in s. 376.301(39) ~~s. 376.301(37)~~.  
603       Section 7. Paragraph (c) of subsection (5) of section  
604 288.1175, Florida Statutes, is amended to read:  
605       288.1175 Agriculture education and promotion facility.-  
606       (5) The Department of Agriculture and Consumer Services  
607 shall competitively evaluate applications for funding of an  
608 agriculture education and promotion facility. If the number of  
609 applicants exceeds three, the Department of Agriculture and  
610 Consumer Services shall rank the applications based upon  
611 criteria developed by the Department of Agriculture and Consumer  
612 Services, with priority given in descending order to the

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613 following items:

614 (c) The location of the facility in a brownfield site as  
615 defined in s. 376.79(4) ~~s. 376.79(3)~~, a rural enterprise zone as  
616 defined in s. 290.004, an agriculturally depressed area as  
617 defined in s. 570.74, or a county that has lost its agricultural  
618 land to environmental restoration projects.

619

620 -----

621 **T I T L E A M E N D M E N T**

622 Remove line 2 and insert:

623 An act relating to pollution discharge removal and  
624 prevention; amending s. 376.301, F.S.; defining the  
625 terms "background concentration" and "long-term  
626 natural attenuation"; amending s. 376.30701, F.S.;  
627 exempting nonprogram petroleum-contaminated sites from  
628 the application of risk-based corrective action  
629 principles under certain circumstances; requiring the  
630 Department of Environmental Protection to include  
631 protocols for the use of long-term natural attenuation  
632 where site conditions warrant; requiring specified  
633 interactive effects of contaminants to be considered  
634 as cleanup criteria; revising how cleanup target  
635 levels are applied where surface waters are exposed to  
636 contaminated groundwater; authorizing the use of  
637 relevant data and information when assessing cleanup  
638 target levels; providing that institutional controls

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639 are not required under certain circumstances if  
640 alternative cleanup target levels are used; amending  
641 s. 376.79, F.S.; defining the terms "background  
642 concentration" and "long-term natural attenuation";  
643 amending s. 376.81, F.S.; providing additional  
644 contamination cleanup criteria for brownfield sites  
645 and brownfield areas; amending ss. 196.1995, 287.0595,  
646 and 288.1175, F.S.; conforming cross-references;

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