

1                   A bill to be entitled  
2           An act relating to contaminated sites; amending s.  
3           376.301, F.S.; defining the terms "background  
4           concentration" and "long-term natural attenuation";  
5           amending s. 376.30701, F.S.; exempting nonprogram  
6           petroleum-contaminated sites from the application of  
7           risk-based corrective action principles under certain  
8           circumstances; requiring the Department of  
9           Environmental Protection to include protocols for the  
10          use of long-term natural attenuation where site  
11          conditions warrant; requiring specified interactive  
12          effects of contaminants to be considered as cleanup  
13          criteria; revising how cleanup target levels are  
14          applied where surface waters are exposed to  
15          contaminated groundwater; authorizing the use of  
16          relevant data and information when assessing cleanup  
17          target levels; providing that institutional controls  
18          are not required under certain circumstances if  
19          alternative cleanup target levels are used; amending  
20          s. 376.79, F.S.; defining the terms "background  
21          concentration" and "long-term natural attenuation";  
22          amending s. 376.81, F.S.; providing additional  
23          contamination cleanup criteria for brownfield sites  
24          and brownfield areas; amending ss. 196.1995, 287.0595,  
25          and 288.1175, F.S.; conforming cross-references;  
26          providing an effective date.

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

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

376.301 Definitions of terms used in ss. 376.30-376.317, 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and 376.75, unless the context clearly requires otherwise, the term:

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

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

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

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

53 (1) APPLICABILITY.—

54 (b) This section shall apply to all contaminated sites  
55 resulting from a discharge of pollutants or hazardous substances  
56 where legal responsibility for site rehabilitation exists  
57 pursuant to other provisions of this chapter or chapter 403,  
58 except for those contaminated sites subject to the risk-based  
59 corrective action cleanup criteria established for the  
60 petroleum, brownfields, and drycleaning programs pursuant to ss.  
61 376.3071, 376.81, and 376.3078, respectively. This section does  
62 not apply to nonprogram petroleum-contaminated sites unless  
63 application of this section is requested by the person  
64 responsible for site rehabilitation.

65 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is  
66 the intent of the Legislature to protect the health of all  
67 people under actual circumstances of exposure. By July 1, 2004,  
68 the secretary of the department shall establish criteria by rule  
69 for the purpose of determining, on a site-specific basis, the  
70 rehabilitation program tasks that comprise a site rehabilitation  
71 program, including a voluntary site rehabilitation program, and  
72 the level at which a rehabilitation program task and a site  
73 rehabilitation program may be deemed completed. In establishing  
74 these rules, the department shall apply, to the maximum extent  
75 feasible, a risk-based corrective action process to achieve  
76 protection of human health and safety and the environment in a  
77 cost-effective manner based on the principles set forth in this  
78 subsection. These rules shall prescribe a phased risk-based

79 corrective action process that is iterative and that tailors  
80 site rehabilitation tasks to site-specific conditions and risks.  
81 The department and the person responsible for site  
82 rehabilitation are encouraged to establish decision points at  
83 which risk management decisions will be made. The department  
84 shall provide an early decision, when requested, regarding  
85 applicable exposure factors and a risk management approach based  
86 on the current and future land use at the site. These rules must  
87 ~~shall also~~ include protocols for the use of natural attenuation,  
88 including long-term natural attenuation where site conditions  
89 warrant, the use of institutional and engineering controls, and  
90 the issuance of "No Further Action" orders. The criteria for  
91 determining what constitutes a rehabilitation program task or  
92 completion of a site rehabilitation program task or site  
93 rehabilitation program, including a voluntary site  
94 rehabilitation program, must:

95 (a) Consider the current exposure and potential risk of  
96 exposure to humans and the environment, including multiple  
97 pathways of exposure. The physical, chemical, and biological  
98 characteristics of each contaminant must be considered in order  
99 to determine the feasibility of a risk-based corrective action  
100 assessment.

101 (b) Establish the point of compliance at the source of the  
102 contamination. However, the department may ~~is authorized to~~  
103 temporarily move the point of compliance to the boundary of the  
104 property, or to the edge of the plume when the plume is within

105 the property boundary, while cleanup, including cleanup through  
106 natural attenuation processes in conjunction with appropriate  
107 monitoring, is proceeding. The department may ~~also is~~  
108 ~~authorized~~, pursuant to criteria provided in this section, ~~to~~  
109 temporarily extend the point of compliance beyond the property  
110 boundary with appropriate monitoring, if such extension is  
111 needed to facilitate natural attenuation or to address the  
112 current conditions of the plume, provided human health, public  
113 safety, and the environment are protected. When temporarily  
114 extending the point of compliance beyond the property boundary,  
115 it cannot be extended further than the lateral extent of the  
116 plume, if known, at the time of execution of a cleanup  
117 agreement, if required, or the lateral extent of the plume as  
118 defined at the time of site assessment. Temporary extension of  
119 the point of compliance beyond the property boundary, as  
120 provided in this paragraph, must include actual notice by the  
121 person responsible for site rehabilitation to local governments  
122 and the owners of any property into which the point of  
123 compliance is allowed to extend and constructive notice to  
124 residents and business tenants of the property into which the  
125 point of compliance is allowed to extend. Persons receiving  
126 notice pursuant to this paragraph shall have the opportunity to  
127 comment within 30 days after receipt of the notice. Additional  
128 notice concerning the status of natural attenuation processes  
129 shall be similarly provided to persons receiving notice pursuant  
130 to this paragraph every 5 years.

131 (c) Ensure that the site-specific cleanup goal is that all  
132 contaminated sites being cleaned up pursuant to this section  
133 ultimately achieve the applicable cleanup target levels provided  
134 in this subsection. In the circumstances provided in this  
135 subsection, and after constructive notice and opportunity to  
136 comment within 30 days after receipt of the notice to local  
137 government, owners of any property into which the point of  
138 compliance is allowed to extend, and residents of any property  
139 into which the point of compliance is allowed to extend, the  
140 department may allow concentrations of contaminants to  
141 temporarily exceed the applicable cleanup target levels while  
142 cleanup, including cleanup through natural attenuation processes  
143 in conjunction with appropriate monitoring, is proceeding, if  
144 human health, public safety, and the environment are protected.

145 (d) Allow the use of institutional or engineering controls  
146 at contaminated sites being cleaned up pursuant to this section,  
147 where appropriate, to eliminate or control the potential  
148 exposure to contaminants of humans or the environment. The use  
149 of controls must be preapproved by the department and only after  
150 constructive notice and opportunity to comment within 30 days  
151 after receipt of notice is provided to local governments, owners  
152 of any property into which the point of compliance is allowed to  
153 extend, and residents on any property into which the point of  
154 compliance is allowed to extend. When institutional or  
155 engineering controls are implemented to control exposure, the  
156 removal of the controls must have prior department approval and

157 must be accompanied by the resumption of active cleanup, or  
158 other approved controls, unless cleanup target levels under this  
159 section have been achieved.

160 (e) Consider the interactive ~~additive~~ effects of  
161 contaminants, including additive, synergistic, and antagonistic  
162 effects. ~~The synergistic and antagonistic effects shall also be~~  
163 ~~considered when the scientific data become available.~~

164 (f) Take into consideration individual site  
165 characteristics, which shall include, but not be limited to, the  
166 current and projected use of the affected groundwater and  
167 surface water in the vicinity of the site, current and projected  
168 land uses of the area affected by the contamination, the exposed  
169 population, the degree and extent of contamination, the rate of  
170 contaminant migration, the apparent or potential rate of  
171 contaminant degradation through natural attenuation processes,  
172 the location of the plume, and the potential for further  
173 migration in relation to site property boundaries.

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

175 1. Cleanup target levels for each contaminant found in  
176 groundwater shall be the applicable state water quality  
177 standards. Where such standards do not exist, the cleanup target  
178 levels for groundwater shall be based on the minimum criteria  
179 specified in department rule. The department shall apply the  
180 following, as appropriate, in establishing the applicable  
181 cleanup target levels: calculations using a lifetime cancer risk  
182 level of 1.0E-6; a hazard index of 1 or less; the best

183 | achievable detection limit; and nuisance, organoleptic, and  
184 | aesthetic considerations. However, the department may ~~shall~~ not  
185 | require site rehabilitation to achieve a cleanup target level  
186 | for any individual contaminant that is more stringent than the  
187 | site-specific, ~~naturally occurring~~ background concentration for  
188 | that contaminant.

189 |         2. Where surface waters are exposed to contaminated  
190 | groundwater, the cleanup target levels for the contaminants must  
191 | ~~shall~~ be based on the more protective of the groundwater or  
192 | surface water standards as established by department rule,  
193 | unless it has been demonstrated that the contaminants do not  
194 | cause or contribute to the exceedance of applicable surface  
195 | water quality criteria. In such circumstance, the point of  
196 | measuring compliance with the surface water standards shall be  
197 | in the groundwater immediately adjacent to the surface water  
198 | body.

199 |         3. Using risk-based corrective action principles, the  
200 | department shall approve alternative cleanup target levels in  
201 | conjunction with institutional and engineering controls, if  
202 | needed, based upon an applicant's demonstration, using site-  
203 | specific or other relevant data and information, risk assessment  
204 | modeling results, including results from probabilistic risk  
205 | assessment modeling, risk assessment studies, risk reduction  
206 | techniques, or a combination thereof, that human health, public  
207 | safety, and the environment are protected to the same degree as  
208 | provided in subparagraphs 1. and 2. Where a state water quality



209 standard is applicable, a deviation may not result in the  
210 application of cleanup target levels more stringent than the  
211 standard. In determining whether it is appropriate to establish  
212 alternative cleanup target levels at a site, the department must  
213 consider the effectiveness of source removal, if any, that has  
214 been completed at the site and the practical likelihood of the  
215 use of low yield or poor quality groundwater, the use of  
216 groundwater near marine surface water bodies, the current and  
217 projected use of the affected groundwater in the vicinity of the  
218 site, or the use of groundwater in the immediate vicinity of the  
219 contaminated area, where it has been demonstrated that the  
220 groundwater contamination is not migrating away from such  
221 localized source, provided human health, public safety, and the  
222 environment are protected. Groundwater resource protection  
223 remains the ultimate goal of cleanup, particularly in light of  
224 the state's continued growth and consequent demands for drinking  
225 water resources. The Legislature recognizes the need for a  
226 protective yet flexible cleanup approach that risk-based  
227 corrective action provides. Only where it is appropriate on a  
228 site-specific basis, using the criteria in this paragraph and  
229 careful evaluation by the department, shall proposed alternative  
230 cleanup target levels be approved. If alternative cleanup target  
231 levels are used, institutional controls are not required if:  
232 a. The only cleanup target levels exceeded are the  
233 groundwater cleanup target levels derived from nuisance,  
234 organoleptic, or aesthetic considerations;

235 b. Concentrations of all contaminants meet the state water  
236 quality standards or the minimum criteria, based on the  
237 protection of human health, public safety, and the environment,  
238 as provided in subparagraph 1.;

239 c. All of the groundwater cleanup target levels  
240 established pursuant to subparagraph 1. are met at the property  
241 boundary;

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

246 e. The property has access to and is using an offsite  
247 water supply, and an unplugged private well is not used for  
248 domestic purposes; and

249 f. The real property owner does not object to the "No  
250 Further Action" proposal to the department or the local  
251 pollution control program.

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

261 site rehabilitation technology at the contaminated site.

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

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

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

300           3. Using risk-based corrective action principles, the  
301 department shall approve alternative cleanup target levels in  
302 conjunction with institutional and engineering controls, if  
303 needed, based upon an applicant's demonstration, using site-  
304 specific or other relevant data and information, risk assessment  
305 modeling results, including results from probabilistic risk  
306 assessment modeling, risk assessment studies, risk reduction  
307 techniques, or a combination thereof, that human health, public  
308 safety, and the environment are protected to the same degree as  
309 provided in subparagraphs 1. and 2.

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311 The department shall require source removal as a risk reduction  
312 measure if warranted and cost-effective. Once source removal at

313 a site is complete, the department shall reevaluate the site to  
314 determine the degree of active cleanup needed to continue.  
315 Further, the department shall determine if the reevaluated site  
316 qualifies for monitoring only or if no further action is  
317 required to rehabilitate the site. If additional site  
318 rehabilitation is necessary to reach "No Further Action" status,  
319 the department is encouraged to utilize natural attenuation  
320 monitoring, including long-term natural attenuation ~~and~~  
321 monitoring, where site conditions warrant.

322 Section 3. Present subsections (3) through (11) of section  
323 376.79, Florida Statutes, are redesignated as subsections (4)  
324 through (12), respectively, present subsections (12) through  
325 (19) are redesignated as subsections (14) through (21),  
326 respectively, and new subsections (3) and (13) are added to that  
327 section, to read:

328 376.79 Definitions relating to Brownfields Redevelopment  
329 Act.—As used in ss. 376.77-376.85, the term:

330 (3) "Background concentration" means the concentration of  
331 contaminants naturally occurring or resulting from anthropogenic  
332 impacts unrelated to the discharge of pollutants or hazardous  
333 substances at a contaminated site undergoing site  
334 rehabilitation.

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

338 Section 4. Section 376.81, Florida Statutes, is amended to

339 read:

340 376.81 Brownfield site and brownfield areas contamination  
341 cleanup criteria.—

342 (1) It is the intent of the Legislature to protect the  
343 health of all people under actual circumstances of exposure. By  
344 July 1, 2001, the secretary of the department shall establish  
345 criteria by rule for the purpose of determining, on a site-  
346 specific basis, the rehabilitation program tasks that comprise a  
347 site rehabilitation program and the level at which a  
348 rehabilitation program task and a site rehabilitation program  
349 may be deemed completed. In establishing the rule, the  
350 department shall apply, to the maximum extent feasible, a risk-  
351 based corrective action process to achieve protection of human  
352 health and safety and the environment in a cost-effective manner  
353 based on the principles set forth in this subsection. The rule  
354 must prescribe a phased risk-based corrective action process  
355 that is iterative and that tailors site rehabilitation tasks to  
356 site-specific conditions and risks. The department and the  
357 person responsible for brownfield site rehabilitation are  
358 encouraged to establish decision points at which risk management  
359 decisions will be made. The department shall provide an early  
360 decision, when requested, regarding applicable exposure factors  
361 and a risk management approach based on the current and future  
362 land use at the site. The rule must ~~shall also~~ include protocols  
363 for the use of natural attenuation, including long-term natural  
364 attenuation where site conditions warrant, the use of

365 institutional and engineering controls, and the issuance of "no  
366 further action" letters. The criteria for determining what  
367 constitutes a rehabilitation program task or completion of a  
368 site rehabilitation program task or site rehabilitation program  
369 must:

370 (a) Consider the current exposure and potential risk of  
371 exposure to humans and the environment, including multiple  
372 pathways of exposure. The physical, chemical, and biological  
373 characteristics of each contaminant must be considered in order  
374 to determine the feasibility of risk-based corrective action  
375 assessment.

376 (b) Establish the point of compliance at the source of the  
377 contamination. However, the department may ~~is authorized to~~  
378 temporarily move the point of compliance to the boundary of the  
379 property, or to the edge of the plume when the plume is within  
380 the property boundary, while cleanup, including cleanup through  
381 natural attenuation processes in conjunction with appropriate  
382 monitoring, is proceeding. The department may ~~also is~~  
383 ~~authorized,~~ pursuant to criteria provided for in this section,  
384 ~~to~~ temporarily extend the point of compliance beyond the  
385 property boundary with appropriate monitoring, if such extension  
386 is needed to facilitate natural attenuation or to address the  
387 current conditions of the plume, provided human health, public  
388 safety, and the environment are protected. When temporarily  
389 extending the point of compliance beyond the property boundary,  
390 it cannot be extended further than the lateral extent of the

391 plume at the time of execution of the brownfield site  
392 rehabilitation agreement, if known, or the lateral extent of the  
393 plume as defined at the time of site assessment. Temporary  
394 extension of the point of compliance beyond the property  
395 boundary, as provided in this paragraph, must include actual  
396 notice by the person responsible for brownfield site  
397 rehabilitation to local governments and the owners of any  
398 property into which the point of compliance is allowed to extend  
399 and constructive notice to residents and business tenants of the  
400 property into which the point of compliance is allowed to  
401 extend. Persons receiving notice pursuant to this paragraph  
402 shall have the opportunity to comment within 30 days of receipt  
403 of the notice.

404 (c) Ensure that the site-specific cleanup goal is that all  
405 contaminated brownfield sites and brownfield areas ultimately  
406 achieve the applicable cleanup target levels provided in this  
407 section. In the circumstances provided below, and after  
408 constructive notice and opportunity to comment within 30 days  
409 from receipt of the notice to local government, to owners of any  
410 property into which the point of compliance is allowed to  
411 extend, and to residents on any property into which the point of  
412 compliance is allowed to extend, the department may allow  
413 concentrations of contaminants to temporarily exceed the  
414 applicable cleanup target levels while cleanup, including  
415 cleanup through natural attenuation processes in conjunction  
416 with appropriate monitoring, is proceeding, if human health,



417 public safety, and the environment are protected.

418 (d) Allow brownfield site and brownfield area  
419 rehabilitation programs to include the use of institutional or  
420 engineering controls, where appropriate, to eliminate or control  
421 the potential exposure to contaminants of humans or the  
422 environment. The use of controls must be preapproved by the  
423 department and only after constructive notice and opportunity to  
424 comment within 30 days from receipt of notice is provided to  
425 local governments, to owners of any property into which the  
426 point of compliance is allowed to extend, and to residents on  
427 any property into which the point of compliance is allowed to  
428 extend. When institutional or engineering controls are  
429 implemented to control exposure, the removal of the controls  
430 must have prior department approval and must be accompanied by  
431 the resumption of active cleanup, or other approved controls,  
432 unless cleanup target levels under this section have been  
433 achieved.

434 (e) Consider the interactive ~~additive~~ effects of  
435 contaminants, including additive, synergistic, and antagonistic  
436 effects. ~~The synergistic and antagonistic effects shall also be~~  
437 ~~considered when the scientific data become available.~~

438 (f) Take into consideration individual site  
439 characteristics, which shall include, but not be limited to, the  
440 current and projected use of the affected groundwater and  
441 surface water in the vicinity of the site, current and projected  
442 land uses of the area affected by the contamination, the exposed

443 population, the degree and extent of contamination, the rate of  
444 contaminant migration, the apparent or potential rate of  
445 contaminant degradation through natural attenuation processes,  
446 the location of the plume, and the potential for further  
447 migration in relation to site property boundaries.

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

449 1. Cleanup target levels for each contaminant found in  
450 groundwater shall be the applicable state water quality  
451 standards. Where such standards do not exist, the cleanup target  
452 levels for groundwater shall be based on the minimum criteria  
453 specified in department rule. The department shall apply the  
454 following, as appropriate, in establishing the applicable  
455 cleanup target levels: calculations using a lifetime cancer risk  
456 level of 1.0E-6; a hazard index of 1 or less; the best  
457 achievable detection limit; and nuisance, organoleptic, and  
458 aesthetic considerations. However, the department may ~~shall~~ not  
459 require site rehabilitation to achieve a cleanup target level  
460 for any individual contaminant which is more stringent than the  
461 site-specific, ~~naturally occurring~~ background concentration for  
462 that contaminant.

463 2. Where surface waters are exposed to contaminated  
464 groundwater, the cleanup target levels for the contaminants must  
465 ~~shall~~ be based on the more protective of the groundwater or  
466 surface water standards as established by department rule,  
467 unless it has been demonstrated that the contaminants do not  
468 cause or contribute to the exceedance of applicable surface

469 water quality criteria. In such circumstances, the point of  
470 measuring compliance with the surface water standards shall be  
471 in the groundwater immediately adjacent to the surface water  
472 body.

473 3. Using risk-based corrective action principles, the  
474 department shall approve alternative cleanup target levels in  
475 conjunction with institutional and engineering controls, if  
476 needed, based upon an applicant's demonstration, using site-  
477 specific or other relevant data and information, risk assessment  
478 modeling results, including results from probabilistic risk  
479 assessment modeling, risk assessment studies, risk reduction  
480 techniques, or a combination thereof, that human health, public  
481 safety, and the environment are protected to the same degree as  
482 provided in subparagraphs 1. and 2. Where a state water quality  
483 standard is applicable, a deviation may not result in the  
484 application of cleanup target levels more stringent than the  
485 standard. In determining whether it is appropriate to establish  
486 alternative cleanup target levels at a site, the department must  
487 consider the effectiveness of source removal, if any, which has  
488 been completed at the site and the practical likelihood of the  
489 use of low yield or poor quality groundwater, the use of  
490 groundwater near marine surface water bodies, the current and  
491 projected use of the affected groundwater in the vicinity of the  
492 site, or the use of groundwater in the immediate vicinity of the  
493 contaminated area, where it has been demonstrated that the  
494 groundwater contamination is not migrating away from such

495 localized source, provided human health, public safety, and the  
496 environment are protected. When using alternative cleanup target  
497 levels at a brownfield site, institutional controls are ~~shall~~  
498 not ~~be~~ required if:

499 a. The only cleanup target levels exceeded are the  
500 groundwater cleanup target levels derived from nuisance,  
501 organoleptic, or aesthetic considerations;

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

505 c. All of the groundwater cleanup target levels  
506 established pursuant to subparagraph 1. are met at the property  
507 boundary;

508 d. The person responsible for brownfield site  
509 rehabilitation has demonstrated that the contaminants will not  
510 migrate beyond the property boundary at concentrations exceeding  
511 the groundwater cleanup target levels established pursuant to  
512 subparagraph 1.;

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

516 f. The real property owner provides written acceptance of  
517 the "no further action" proposal to the department or the local  
518 pollution control program.

519 (h) Provide for the department to issue a "no further  
520 action order," with conditions, including, but not limited to,

521 the use of institutional or engineering controls where  
522 appropriate, when alternative cleanup target levels established  
523 pursuant to subparagraph (g)3. have been achieved, or when the  
524 person responsible for brownfield site rehabilitation can  
525 demonstrate that the cleanup target level is unachievable within  
526 available technologies. Before ~~Prior to~~ issuing such an order,  
527 the department shall consider the feasibility of an alternative  
528 site rehabilitation technology at ~~in~~ the brownfield site ~~area~~.

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

530 1. In establishing soil cleanup target levels for human  
531 exposure to each contaminant found in soils from the land  
532 surface to 2 feet below land surface, the department shall apply  
533 the following, as appropriate: calculations using a lifetime  
534 cancer risk level of 1.0E-6; a hazard index of 1 or less; and  
535 the best achievable detection limit. However, the department may  
536 ~~shall~~ not require site rehabilitation to achieve a cleanup  
537 target level for an individual contaminant which is more  
538 stringent than the site-specific, ~~naturally occurring~~ background  
539 concentration for that contaminant. Institutional controls or  
540 other methods shall be used to prevent human exposure to  
541 contaminated soils more than 2 feet below the land surface. Any  
542 removal of such institutional controls shall require such  
543 contaminated soils to be remediated.

544 2. Leachability-based soil cleanup target levels shall be  
545 based on protection of the groundwater cleanup target levels or  
546 the alternate cleanup target levels for groundwater established

547 pursuant to this paragraph, as appropriate. Source removal and  
548 other cost-effective alternatives that are technologically  
549 feasible shall be considered in achieving the leachability soil  
550 cleanup target levels established by the department. The  
551 leachability goals are ~~shall~~ not be applicable if the department  
552 determines, based upon individual site characteristics, and in  
553 conjunction with institutional and engineering controls, if  
554 needed, that contaminants will not leach into the groundwater at  
555 levels that pose a threat to human health, public safety, and  
556 the environment.

557 3. Using risk-based corrective action principles, the  
558 department shall approve alternative cleanup target levels in  
559 conjunction with institutional and engineering controls, if  
560 needed, based upon an applicant's demonstration, using site-  
561 specific or other relevant data and information, risk assessment  
562 modeling results, including results from probabilistic risk  
563 assessment modeling, risk assessment studies, risk reduction  
564 techniques, or a combination thereof, that human health, public  
565 safety, and the environment are protected to the same degree as  
566 provided in subparagraphs 1. and 2.

567 (2) The department shall require source removal, as a risk  
568 reduction measure, if warranted and cost-effective. Once source  
569 removal at a site is complete, the department shall reevaluate  
570 the site to determine the degree of active cleanup needed to  
571 continue. Further, the department shall determine if the  
572 reevaluated site qualifies for monitoring only or if no further

573 action is required to rehabilitate the site. If additional site  
 574 rehabilitation is necessary to reach "no further action" status,  
 575 the department is encouraged to utilize natural attenuation  
 576 monitoring, including long-term natural attenuation ~~and~~  
 577 monitoring, where site conditions warrant.

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

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

585 196.1995 Economic development ad valorem tax exemption.—

586 (3) The board of county commissioners or the governing  
 587 authority of the municipality that calls a referendum within its  
 588 total jurisdiction to determine whether its respective  
 589 jurisdiction may grant economic development ad valorem tax  
 590 exemptions may vote to limit the effect of the referendum to  
 591 authority to grant economic development tax exemptions for new  
 592 businesses and expansions of existing businesses located in an  
 593 enterprise zone or a brownfield area, as defined in s. 376.79(5)  
 594 ~~s. 376.79(4)~~. If an area nominated to be an enterprise zone  
 595 pursuant to s. 290.0055 has not yet been designated pursuant to  
 596 s. 290.0065, the board of county commissioners or the governing  
 597 authority of the municipality may call such referendum prior to  
 598 such designation; however, the authority to grant economic

599 development ad valorem tax exemptions does not apply until such  
 600 area is designated pursuant to s. 290.0065. The ballot question  
 601 in such referendum shall be in substantially the following form  
 602 and shall be used in lieu of the ballot question prescribed in  
 603 subsection (2):

604  
 605 Shall the board of county commissioners of this county (or the  
 606 governing authority of this municipality, or both) be authorized  
 607 to grant, pursuant to s. 3, Art. VII of the State Constitution,  
 608 property tax exemptions for new businesses and expansions of  
 609 existing businesses that are located in an enterprise zone or a  
 610 brownfield area and that are expected to create new, full-time  
 611 jobs in the county (or municipality, or both)?

612  
 613       ...Yes—For authority to grant exemptions.

614       ...No—Against authority to grant exemptions.

615       Section 6. Paragraph (a) of subsection (1) of section  
 616 287.0595, Florida Statutes, is amended to read:

617       287.0595 Pollution response action contracts; department  
 618 rules.—

619       (1) The Department of Environmental Protection shall  
 620 establish, by adopting administrative rules as provided in  
 621 chapter 120:

622       (a) Procedures for determining the qualifications of  
 623 responsible potential vendors prior to advertisement for and  
 624 receipt of bids, proposals, or replies for pollution response



625 action contracts, including procedures for the rejection of  
626 unqualified vendors. Response actions are those activities  
627 described in s. 376.301(39) ~~s. 376.301(37)~~.

628 Section 7. Paragraph (c) of subsection (5) of section  
629 288.1175, Florida Statutes, is amended to read:

630 288.1175 Agriculture education and promotion facility.—

631 (5) The Department of Agriculture and Consumer Services  
632 shall competitively evaluate applications for funding of an  
633 agriculture education and promotion facility. If the number of  
634 applicants exceeds three, the Department of Agriculture and  
635 Consumer Services shall rank the applications based upon  
636 criteria developed by the Department of Agriculture and Consumer  
637 Services, with priority given in descending order to the  
638 following items:

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

644 Section 8. This act shall take effect July 1, 2016.