

By the Committee on Environmental Preservation; and Senator Dockery

592-1830-05

1                                   A bill to be entitled  
 2           An act relating to notification of  
 3           contamination; amending s. 376.301, F.S.;  
 4           defining specified terms; creating s.  
 5           376.30702, F.S.; requiring that a person  
 6           provide notice to the Division of Waste  
 7           Management of the Department of Environmental  
 8           Protection, the department's district office,  
 9           and the Department of Health when contamination  
 10          is discovered as a result of site  
 11          rehabilitation activities; providing  
 12          requirements for notice; requiring notice when  
 13          laboratory analytical results demonstrate that  
 14          contamination exists in any medium beyond the  
 15          boundaries of the property of the site  
 16          rehabilitation; providing requirements for  
 17          notice; requiring that the department notify  
 18          the record owners of real property at which  
 19          contamination has been discovered; authorizing  
 20          the department to collaborate with the  
 21          Department of Health to establish procedures  
 22          for responding to public inquiries; providing  
 23          rulemaking authority; providing an effective  
 24          date.

25  
 26 Be It Enacted by the Legislature of the State of Florida:  
 27

28           Section 1. Present subsections (8) through (10), (11)  
 29 through (29), (30) through (44), and (45) through (47) of  
 30 section 376.301, Florida Statutes, are renumbered as  
 31 subsections (9) through (11), (13) through (31), (33) through

1 (47), and (49) through (51), respectively, and new subsections  
2 (8), (12), (32), and (48) are added to that section, to read:

3 376.301 Definitions of terms used in ss.  
4 376.30-376.319, 376.70, and 376.75.--When used in ss.  
5 376.30-376.319, 376.70, and 376.75, unless the context clearly  
6 requires otherwise, the term:

7 (8) "Cleanup target level" means the concentration for  
8 each contaminant identified by an applicable analytical test  
9 method, in the medium of concern, at which a site  
10 rehabilitation program is deemed complete.

11 (12) "Contamination" means the presence of free  
12 product or any contaminant in surface water, groundwater,  
13 soil, or sediment, or upon the land, in concentrations that  
14 exceed the applicable cleanup target levels or that result in  
15 contaminated sediment, as specified in department rules.

16 (32) "Person responsible for site rehabilitation"  
17 means the person performing site rehabilitation pursuant to  
18 the requirements of s. 376.3071(5), s. 376.3078(4), s. 376.81,  
19 or s. 376.30701. Such persons may include, but are not limited  
20 to, any person who has legal responsibility for site  
21 rehabilitation pursuant to chapter 376 or chapter 403, the  
22 department when it conducts site rehabilitation, a real  
23 property owner, a facility owner or operator, any person  
24 responsible for brownfield site rehabilitation, or any person  
25 who voluntarily rehabilitates a site and seeks acknowledgement  
26 from the department for approval of site rehabilitation  
27 program tasks.

28 (48) "Temporary point of compliance" means the  
29 boundary represented by one or more designated monitoring  
30 wells at which groundwater cleanup target levels may not be  
31 exceeded while site rehabilitation is proceeding.

1           Section 2. Section 376.30702, Florida Statutes, is  
2 created to read:

3           376.30702 Contamination notification; findings;  
4 intent; applicability; initial notice of contamination;  
5 department's notice responsibilities; subsequent notice of  
6 contamination for temporary point of compliance; status update  
7 5-year notice; rulemaking authority.--

8           (1) FINDINGS; INTENT; APPLICABILITY.--The Legislature  
9 finds and declares that when contamination is discovered by  
10 any person as a result of site rehabilitation activities  
11 conducted pursuant to the risk-based corrective action  
12 provisions found in s. 376.3071(5), s. 376.3078(4), s. 376.81,  
13 or s. 376.30701, it is in the public's best interest that  
14 potentially affected persons be notified of the existence of  
15 such contamination. Therefore, persons discovering such  
16 contamination shall notify the department of such discovery in  
17 accordance with the requirements of this section, and the  
18 department shall be responsible for notifying the affected  
19 public. The Legislature intends for the provisions of this  
20 section to govern the notice requirements for early  
21 notification of the discovery of contamination.

22           (2) INITIAL NOTICE OF CONTAMINATION BEYOND PROPERTY  
23 BOUNDARIES.--After the effective date of this act, if at any  
24 time during site rehabilitation conducted pursuant to s.  
25 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, the  
26 person responsible for site rehabilitation, its authorized  
27 agent, or other representative discovers from laboratory  
28 analytical results that comply with appropriate quality  
29 assurance protocols specified in department rules that  
30 contamination exists in any medium beyond the boundaries of  
31 the property at which site rehabilitation was initiated

1 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.  
2 376.30701, the person responsible for site rehabilitation  
3 shall give actual notice as soon as possible, but no later  
4 than 10 days following such discovery, to the Division of  
5 Waste Management at the department's Tallahassee office. The  
6 actual notice shall be provided on a form adopted by  
7 department rule and mailed by certified mail, return receipt  
8 requested. The person responsible for site rehabilitation  
9 shall simultaneously mail a copy of such notice to the  
10 appropriate department district office and county health  
11 department. The notice shall include the following  
12 information:

13 (a) The location of the property at which site  
14 rehabilitation was initiated pursuant to s. 376.3071(5), s.  
15 376.3078(4), s. 376.81, or s. 376.30701, and contact  
16 information for the person responsible for site  
17 rehabilitation, its authorized agent, or other representative;

18 (b) A listing of all record owners of any real  
19 property, other than the property at which site rehabilitation  
20 was initiated pursuant to s. 376.3071(5), s. 376.3078(4), s.  
21 376.81, or s. 376.30701, at which contamination has been  
22 discovered; the parcel identification number for any such real  
23 property; the owner's address listed in the current county  
24 property tax office records; and the owner's telephone number;

25 (c) Separate tables by medium, including, groundwater,  
26 soil, surface water, or sediment, which list sampling  
27 locations; the sampling date; names of contaminants detected  
28 above cleanup target levels; their corresponding cleanup  
29 target levels; the contaminant concentrations; and whether the  
30 cleanup target level is based on health or nuisance,  
31 organoleptic, or aesthetic concerns; and

1           (d) A vicinity map that shows the sampling locations  
2 with corresponding laboratory analytical results and the date  
3 on which each sample was collected, and identifies the  
4 property boundaries of the property at which site  
5 rehabilitation was initiated pursuant to s. 376.3071(5), s.  
6 376.3078(4), s. 376.81, or s. 376.30701, and any other  
7 property at which contamination has been discovered during  
8 such site rehabilitation.

9           (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.--Within 30  
10 days after receiving the actual notice required pursuant to  
11 subsection (2), or within 30 days after the effective date of  
12 this act, if the department already possesses information  
13 equivalent to that required by the notice, the department  
14 shall send a copy of such notice, or an equivalent  
15 notification, to all record owners of any real property, other  
16 than the property at which site rehabilitation was initiated  
17 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.  
18 376.30701, at which contamination has been discovered. Along  
19 with the copy of the notice or its equivalent, the department  
20 shall include a letter identifying sources of additional  
21 information about the contamination and a telephone number to  
22 which further inquiries should be directed. The department may  
23 collaborate with the Department of Health to develop such  
24 sources of information and to establish procedures for  
25 responding to public inquiries about health risks associated  
26 with contaminated sites.

27           (4) RULEMAKING AUTHORITY.--The department may adopt  
28 rules to administer this section, and shall adopt any rules  
29 and forms that are necessary to administer the  
30 contamination-notification requirements of this section.  
31

1           Section 3. This act shall take effect September 1,  
2 2005.

3  
4           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
5                            COMMITTEE SUBSTITUTE FOR  
6                            Senate Bill 330

7 The committee substitute requires that a person provide notice  
8 to the Department of Environmental Protection (DEP) and the  
9 Department of Health when contamination is discovered as a  
10 result of site rehabilitation activities. The DEP is required  
11 to notify the record owners of real property at which  
12 contamination has been discovered. The DEP is authorized to  
13 collaborate with the Department of Health to establish  
14 procedures for responding to public inquiries.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31