

1 A bill to be entitled
 2 An act relating to contamination notification; amending s.
 3 376.031, F.S.; defining specified terms; creating s.
 4 376.30702, F.S.; requiring notice when an environmental
 5 contaminant may have spread beyond the boundaries of a
 6 source property; providing requirements for notice;
 7 providing requirements for temporary extension of a point
 8 of compliance; providing for additional notice
 9 requirements when using a temporary point of compliance;
 10 requiring warning signs in certain circumstances;
 11 providing an effective date.

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

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 15 Section 1. Subsections (5) through (25) of section
 16 376.031, Florida Statutes, are renumbered as subsections (7)
 17 through (27), respectively, and new subsections (5) and (6) are
 18 added to said section, to read:

19 376.031 Definitions; ss. 376.011-376.21.--When used in ss.
 20 376.011-376.21, unless the context clearly requires otherwise,
 21 the term:

22 (5) "Cleanup target level" means the concentration for
 23 each contaminant identified by an applicable analytical test
 24 method, in the medium of concern, at which a site rehabilitation
 25 program is deemed complete.

26 (6) "Contaminant" means any physical, chemical,
 27 biological, or radiological substance present in any medium that
 28 may result in adverse effects to human health or the environment

29 or that creates an adverse nuisance, organoleptic, or aesthetic
 30 condition in groundwater.

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

33 376.30702 Contamination notification.--

34 (1) At any time a property owner of the source property
 35 from which contamination originates, or an identifiable lessee,
 36 a property owner's authorized agent, or another representative
 37 of the property owner, discovers that a contaminant could
 38 reasonably have migrated into any medium or property beyond the
 39 boundaries of the source property, the owner shall give actual
 40 notice as soon as possible, but no later than 10 days from the
 41 discovery, to the department. The actual notice shall be
 42 provided on a form set out by rule and mailed by certified mail,
 43 return receipt requested. Within 10 days after receiving the
 44 actual notice, the department shall send a copy of such notice
 45 to all record owners of any real property into which the
 46 contamination reasonably could have migrated. The notice shall
 47 include the following:

48 (a) The location of the source property and contact
 49 information for the owner, the owner's authorized agent, or
 50 other owner's representative.

51 (b) Separate tables by medium, such as groundwater, soil,
 52 surface water, or sediment, that list each sampling location;
 53 each sampling date; the name of each contaminant detected above
 54 cleanup target levels; the corresponding cleanup target level
 55 for each such contaminant; the contaminant concentration for
 56 each such contaminant; and whether the cleanup target level is

57 based on health or nuisance, organoleptic, or aesthetic
 58 concerns.

59 (c) A vicinity map showing each sampling location with
 60 corresponding laboratory analytical results, the date on which
 61 each sample was collected, and the property boundaries for the
 62 source property and the real property into which contamination
 63 could reasonably have migrated.

64 (2) Copies of the notice in subsection (1) shall be
 65 provided to the appropriate district office of the department
 66 and the county health department. The notice provided to the
 67 district office and the county health department shall also
 68 include:

69 (a) A listing of all record owners of any real property
 70 into which the contamination could reasonably have migrated.

71 (b) An affidavit that these record owners have been
 72 notified pursuant to this section.

73 (c) The parcel identification number for any such real
 74 property.

75 (d) The owner's address listed in the current county
 76 property tax office records.

77 (e) The owner's telephone number.

78
 79 Compliance with this subsection does not constitute notice to
 80 all record owners.

81 (3) Before the department may authorize a temporary
 82 extension of the point of compliance beyond the boundary of the
 83 source property, in conjunction with natural attenuation with

84 monitoring or active remediation, the person responsible for
85 site rehabilitation shall provide the following notices:

86 (a) Actual notice in written form mailed by certified
87 mail, return receipt requested, to the appropriate county health
88 department and all record owners of any real property into which
89 the point of compliance would be extended. The notice to record
90 owners shall be mailed to the owner's address listed in the
91 current county property tax office records. The notice under
92 this paragraph shall include the following:

93 1. A description of the location of the subject site and
94 the name and address of the person responsible for site
95 rehabilitation.

96 2. The location at which complete copies of any relevant
97 documents concerning the site and the proposed remedial
98 strategy, including temporary extension of the point of
99 compliance, are available for public inspection.

100 3. The name and address of a contact person at the
101 department who is the project manager for the site
102 rehabilitation, to whom comments should be directed and from
103 whom copies of the department's actions regarding the site may
104 be requested.

105 4. A paragraph including the statement: "Persons receiving
106 this notice shall have the opportunity to comment on the
107 department's proposed action within 30 days after receipt of the
108 notice." For purposes of actual notice, the 30-day comment
109 period shall commence on the delivery date stamped on the return
110 receipt.

111 (b) Constructive notice to residents other than
112 identifiable lessees, if different from the real property owners
113 notified pursuant to paragraph (a), and business tenants of any
114 real property into which the point of compliance would be
115 extended. Such constructive notice, which shall include the same
116 information as required in the actual notice, shall be provided
117 by complying with the following:

118 1. Publishing the notice one time, at least two columns
119 wide by 10 inches long with a headline in a type no smaller than
120 18 point and the body of the notice in a type no smaller than 10
121 point, in a standard size newspaper of general circulation.

122 2. Including a statement in the notice indicating the 30-
123 day deadline by which comments must be received. For purposes of
124 constructive notice, the 30-day comment period shall commence on
125 the date the notice is published in the newspaper.

126 (c) Copies of notices, both actual and constructive, must
127 be provided to the department as proof of compliance with this
128 section. For purposes of the constructive notice, the person
129 responsible for site rehabilitation shall provide a copy of the
130 version printed in the newspaper or submit the actual newspaper
131 page itself.

132 (4) When using a temporary point of compliance beyond the
133 boundary of the source property to facilitate natural
134 attenuation with monitoring or active remediation, an additional
135 notice concerning the status of the site rehabilitation shall be
136 similarly provided every 5 years to those persons who received
137 notice pursuant to subsection (3) unless in the intervening time
138 such persons have been informed that the contamination no longer

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139 affects the property into which the point of compliance was
140 extended.

141 (5) At sites where a risk of exposure to the public exists
142 due to contamination of the soil, sediment, or surface water
143 with hazardous waste as defined in s. 403.703, the person
144 responsible for site rehabilitation shall place warning signs
145 pursuant to rules of the department.

146 Section 3. This act shall take effect July 1, 2005.