

CHAMBER ACTION

1 The Environmental Regulation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to contamination notification; amending s.
7 376.301, F.S.; defining specified terms; creating s.
8 376.30702, F.S.; requiring notice when contamination is
9 discovered as a result of site rehabilitation activities;
10 providing requirements for notice; requiring notice when
11 laboratory analytical results demonstrate that
12 contamination exists in any medium beyond the boundaries
13 of the property of the site rehabilitation; providing
14 requirements for notice; providing rulemaking authority;
15 amending ss. 287.0595 and 316.302, F.S.; conforming cross
16 references; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsections (8) through (10), (11) through
21 (29), (30) through (44), and (45) through (47) of section 376.
22 301, Florida Statutes, are renumbered as subsections (9) through
23 (11), (13) through (31), (33) through (47), and (49) through

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24 (51), respectively, and new subsections (8), (12), (32), and
25 (48) are added to said section, to read:

26 376.301 Definitions of terms used in ss. 376.30-376.319,
27 376.70, and 376.75.--When used in ss. 376.30-376.319, 376.70,
28 and 376.75, unless the context clearly requires otherwise, the
29 term:

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

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

39 (32) "Person responsible for site rehabilitation" means
40 the person performing site rehabilitation pursuant to s.
41 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701. Such
42 person may include, but is not limited to, any person who has
43 legal responsibility for site rehabilitation pursuant to this
44 chapter or chapter 403, the department when it conducts site
45 rehabilitation, a real property owner, a facility owner or
46 operator, any person responsible for brownfield site
47 rehabilitation, or any person who voluntarily rehabilitates a
48 site and seeks acknowledgment from the department for approval
49 of site rehabilitation program tasks.

50 (48) "Temporary point of compliance" means the boundary
51 represented by one or more designated monitoring wells at which

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52 groundwater cleanup target levels may not be exceeded while site
 53 rehabilitation is proceeding.

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

56 376.30702 Contamination notification.--

57 (1) FINDINGS; INTENT; APPLICABILITY.--The Legislature
 58 finds and declares that when contamination is discovered by any
 59 person as a result of site rehabilitation activities conducted
 60 pursuant to the risk-based corrective action provisions found in
 61 s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701 it is
 62 in the public's best interest that potentially affected persons
 63 be notified of the existence of such contamination. Therefore,
 64 persons discovering such contamination shall notify the
 65 department of such discovery in accordance with the requirements
 66 of this section, and the department shall be responsible for
 67 notifying the affected public. The Legislature intends for the
 68 provisions of this section to govern the notice requirements for
 69 early notification of the discovery of contamination.

70 (2) INITIAL NOTICE OF CONTAMINATION BEYOND PROPERTY
 71 BOUNDARIES.--If at any time during site rehabilitation conducted
 72 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.
 73 376.30701 the person responsible for site rehabilitation, the
 74 person's authorized agent, or another representative of the
 75 person discovers from laboratory analytical results that comply
 76 with appropriate quality assurance protocols specified in
 77 department rules that contamination exists in any medium beyond
 78 the boundaries of the property at which site rehabilitation was
 79 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,

80 or s. 376.30701, the person responsible for site rehabilitation
 81 shall give actual notice as soon as possible, but no later than
 82 10 days from such discovery, to the Division of Waste Management
 83 at the department's Tallahassee office. The actual notice shall
 84 be provided on a form adopted by department rule and mailed by
 85 certified mail, return receipt requested. The person responsible
 86 for site rehabilitation shall simultaneously mail a copy of such
 87 notice to the appropriate department district office and county
 88 health department. The notice shall include the following
 89 information:

90 (a) The location of the property at which site
 91 rehabilitation was initiated pursuant to s. 376.3071(5), s.
 92 376.3078(4), s. 376.81, or s. 376.30701 and contact information
 93 for the person responsible for site rehabilitation, the person's
 94 authorized agent, or another representative of the person.

95 (b) A listing of all record owners of any real property,
 96 other than the property at which site rehabilitation was
 97 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,
 98 or s. 376.30701, at which contamination has been discovered; the
 99 parcel identification number for any such real property; the
 100 owner's address listed in the current county property tax office
 101 records; and the owner's telephone number.

102 (c) Separate tables by medium, such as groundwater, soil,
 103 surface water, or sediment, that list sampling locations;
 104 sampling dates; names of contaminants detected above cleanup
 105 target levels; their corresponding cleanup target levels; the
 106 contaminant concentrations; and whether the cleanup target level

107 is based on health, nuisance, organoleptic, or aesthetic
 108 concerns.

109 (d) A vicinity map that shows each sampling location with
 110 corresponding laboratory analytical results and the date on
 111 which the sample was collected and that identifies the property
 112 boundaries of the property at which site rehabilitation was
 113 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,
 114 or s. 376.30701 and the other properties at which contamination
 115 has been discovered during such site rehabilitation.

116 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.--Within 30 days
 117 after receiving the actual notice required pursuant to
 118 subsection (2), or within 30 days of the effective date of this
 119 act if the department already possesses information equivalent
 120 to that required by the notice, the department shall send a copy
 121 of such notice, or an equivalent notification, to all record
 122 owners of any real property, other than the property at which
 123 site rehabilitation was initiated pursuant to s. 376.3071(5), s.
 124 376.3078(4), s. 376.81, or s. 376.30701, at which contamination
 125 has been discovered. Along with the copy of the notice or its
 126 equivalent, the department shall include a letter identifying
 127 sources of additional information about the contamination and a
 128 telephone number to which further inquiries should be directed.
 129 The department may collaborate with the Department of Health to
 130 develop such sources of information and to establish procedures
 131 for responding to public inquiries about health risks associated
 132 with contaminated sites.

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133 (4) RULEMAKING AUTHORITY.--The department shall adopt
 134 rules and forms pursuant to ss. 120.536(1) and 120.54 to
 135 implement the requirements of this section.

136 Section 3. Paragraph (a) of subsection (1) of section
 137 287.0595, Florida Statutes, is amended to read:

138 287.0595 Pollution response action contracts; department
 139 rules.--

140 (1) The Department of Environmental Protection shall
 141 establish, by adopting administrative rules as provided in
 142 chapter 120:

143 (a) Procedures for determining the qualifications of
 144 responsible potential vendors prior to advertisement for and
 145 receipt of bids, proposals, or replies for pollution response
 146 action contracts, including procedures for the rejection of
 147 unqualified vendors. Response actions are those activities
 148 described in s. 376.301(40)~~(37)~~.

149 Section 4. Paragraph (f) of subsection (2) of section
 150 316.302, Florida Statutes, is amended to read:

151 316.302 Commercial motor vehicles; safety regulations;
 152 transporters and shippers of hazardous materials; enforcement.--

153 (2)

154 (f) A person who operates a commercial motor vehicle
 155 having a declared gross vehicle weight of less than 26,000
 156 pounds solely in intrastate commerce and who is not transporting
 157 hazardous materials in amounts that require placarding pursuant
 158 to 49 C.F.R. part 172, or who is transporting petroleum products
 159 as defined in s. 376.301~~(31)~~, is exempt from subsection (1).

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160 | However, such person must comply with 49 C.F.R. parts 382, 392,
161 | and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

162 | Section 5. This act shall take effect September 1, 2005.