

CHAMBER ACTION

1 The Water & Natural Resources Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

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

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

20
21 Section 1. Subsections (8) through (10), (11) through
22 (29), (30) through (44), and (45) through (47) of section
23 376.301, Florida Statutes, are renumbered as subsections (9)

24 through (11), (13) through (31), (33) through (47), and (49)
 25 through (51), respectively, and new subsections (8), (12), (32),
 26 and (48) are added to said section to read:

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

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

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

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

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

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

57 376.30702 Contamination notification.--

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

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

79 department rules that contamination exists in any medium beyond
 80 the boundaries of the property at which site rehabilitation was
 81 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,
 82 or s. 376.30701, the person responsible for site rehabilitation
 83 shall give actual notice as soon as possible, but no later than
 84 10 days from such discovery, to the Division of Waste Management
 85 at the department's Tallahassee office. The actual notice shall
 86 be provided on a form adopted by department rule and mailed by
 87 certified mail, return receipt requested. The person responsible
 88 for site rehabilitation shall simultaneously mail a copy of such
 89 notice to the appropriate department district office, county
 90 health department, and all known lessees and tenants of the
 91 source property. The notice shall include the following
 92 information:

93 (a) The location of the property at which site
 94 rehabilitation was initiated pursuant to s. 376.3071(5), s.
 95 376.3078(4), s. 376.81, or s. 376.30701 and contact information
 96 for the person responsible for site rehabilitation, the person's
 97 authorized agent, or another representative of the person.

98 (b) A listing of all record owners of any real property,
 99 other than the property at which site rehabilitation was
 100 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,
 101 or s. 376.30701, at which contamination has been discovered; the
 102 parcel identification number for any such real property; the
 103 owner's address listed in the current county property tax office
 104 records; and the owner's telephone number. The requirements of
 105 this paragraph do not apply to the notice to known tenants and
 106 lessees of the source property.

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107 (c) Separate tables by medium, such as groundwater, soil,
108 surface water, or sediment, that list sampling locations;
109 sampling dates; names of contaminants detected above cleanup
110 target levels; their corresponding cleanup target levels; the
111 contaminant concentrations; and whether the cleanup target level
112 is based on health, nuisance, organoleptic, or aesthetic
113 concerns.

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

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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135 develop such sources of information and to establish procedures
 136 for responding to public inquiries about health risks associated
 137 with contaminated sites.

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

141 Section 3. Paragraph (a) of subsection (1) of section
 142 287.0595, Florida Statutes, is amended to read:

143 287.0595 Pollution response action contracts; department
 144 rules.--

145 (1) The Department of Environmental Protection shall
 146 establish, by adopting administrative rules as provided in
 147 chapter 120:

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

154 Section 4. Paragraph (f) of subsection (2) of section
 155 316.302, Florida Statutes, is amended to read:

156 316.302 Commercial motor vehicles; safety regulations;
 157 transporters and shippers of hazardous materials; enforcement.--

158 (2)

159 (f) A person who operates a commercial motor vehicle
 160 having a declared gross vehicle weight of less than 26,000
 161 pounds solely in intrastate commerce and who is not transporting
 162 hazardous materials in amounts that require placarding pursuant

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163 | to 49 C.F.R. part 172, or who is transporting petroleum products
164 | as defined in s. 376.301(~~31~~), is exempt from subsection (1).
165 | However, such person must comply with 49 C.F.R. parts 382, 392,
166 | and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

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