

1 A bill to be entitled

2 An act relating to contamination notification; amending s.
3 376.301, F.S.; defining specified terms; creating s.
4 376.30702, F.S.; requiring notice when contamination is
5 discovered as a result of site rehabilitation activities;
6 providing requirements for notice; requiring notice when
7 laboratory analytical results demonstrate that
8 contamination exists in any medium beyond the boundaries
9 of the property of the site rehabilitation; providing
10 requirements for notice; providing rulemaking authority;
11 amending ss. 287.0595 and 316.302, F.S.; conforming cross
12 references; providing an effective date.

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

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16 Section 1. Subsections (8) through (29), (30) through
17 (44), and (45) through (47) of section 376.301, Florida
18 Statutes, are renumbered as subsections (9) through (30), (32)
19 through (46), and (48) through (50), respectively, and new
20 subsections (8), (31), and (47) are added to said section to
21 read:

22 376.301 Definitions of terms used in ss. 376.30-376.319,
23 376.70, and 376.75.--When used in ss. 376.30-376.319, 376.70,
24 and 376.75, unless the context clearly requires otherwise, the
25 term:

26 (8) "Cleanup target level" means the concentration for
27 each contaminant identified by an applicable analytical test

28 method, in the medium of concern, at which a site rehabilitation
29 program is deemed complete.

30 (31) "Person responsible for site rehabilitation" means
31 the person performing site rehabilitation pursuant to s.
32 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701. Such
33 person may include, but is not limited to, any person who has
34 legal responsibility for site rehabilitation pursuant to this
35 chapter or chapter 403, the department when it conducts site
36 rehabilitation, a real property owner, a facility owner or
37 operator, any person responsible for brownfield site
38 rehabilitation, or any person who voluntarily rehabilitates a
39 site and seeks acknowledgment from the department for approval
40 of site rehabilitation program tasks.

41 (47) "Temporary point of compliance" means the boundary
42 represented by one or more designated monitoring wells at which
43 groundwater cleanup target levels may not be exceeded while site
44 rehabilitation is proceeding.

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

47 376.30702 Contamination notification.--

48 (1) FINDINGS; INTENT; APPLICABILITY.--The Legislature
49 finds and declares that when contamination is discovered by any
50 person as a result of site rehabilitation activities conducted
51 pursuant to the risk-based corrective action provisions found in
52 s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, it
53 is in the public's best interest that potentially affected
54 persons be notified of the existence of such contamination.
55 Therefore, persons discovering such contamination shall notify

56 the department of such discovery in accordance with the
57 requirements of this section, and the department shall be
58 responsible for notifying the affected public. The Legislature
59 intends for the provisions of this section to govern the notice
60 requirements for early notification of the discovery of
61 contamination.

62 (2) INITIAL NOTICE OF CONTAMINATION BEYOND PROPERTY
63 BOUNDARIES.--If at any time during site rehabilitation conducted
64 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.
65 376.30701 the person responsible for site rehabilitation, the
66 person's authorized agent, or another representative of the
67 person discovers from laboratory analytical results that comply
68 with appropriate quality assurance protocols specified in
69 department rules that contamination as defined in applicable
70 department rules exists in any medium beyond the boundaries of
71 the property at which site rehabilitation was initiated pursuant
72 to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701,
73 the person responsible for site rehabilitation shall give actual
74 notice as soon as possible, but no later than 10 days from such
75 discovery, to the Division of Waste Management at the
76 department's Tallahassee office. The actual notice shall be
77 provided on a form adopted by department rule and mailed by
78 certified mail, return receipt requested. The person responsible
79 for site rehabilitation shall simultaneously mail a copy of such
80 notice to the appropriate department district office, county
81 health department, and all known lessees and tenants of the
82 source property. The notice shall include the following
83 information:

84 (a) The location of the property at which site
85 rehabilitation was initiated pursuant to s. 376.3071(5), s.
86 376.3078(4), s. 376.81, or s. 376.30701 and contact information
87 for the person responsible for site rehabilitation, the person's
88 authorized agent, or another representative of the person.

89 (b) A listing of all record owners of any real property,
90 other than the property at which site rehabilitation was
91 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,
92 or s. 376.30701, at which contamination has been discovered; the
93 parcel identification number for any such real property; the
94 owner's address listed in the current county property tax office
95 records; and the owner's telephone number. The requirements of
96 this paragraph do not apply to the notice to known tenants and
97 lessees of the source property.

98 (c) Separate tables by medium, such as groundwater, soil,
99 surface water, or sediment, that list sampling locations;
100 sampling dates; names of contaminants detected above cleanup
101 target levels; their corresponding cleanup target levels; the
102 contaminant concentrations; and whether the cleanup target level
103 is based on health, nuisance, organoleptic, or aesthetic
104 concerns.

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

112 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.--Within 30 days
113 after receiving the actual notice required pursuant to
114 subsection (2), or within 30 days of the effective date of this
115 act if the department already possesses information equivalent
116 to that required by the notice, the department shall send a copy
117 of such notice, or an equivalent notification, to all record
118 owners of any real property, other than the property at which
119 site rehabilitation was initiated pursuant to s. 376.3071(5), s.
120 376.3078(4), s. 376.81, or s. 376.30701, at which contamination
121 has been discovered. If the property at which contamination has
122 been discovered is the site of a school as defined in s.
123 1003.01, the department shall also send a copy of the notice to
124 the chair of the school board of the district in which the
125 property is located and direct said school board to provide
126 actual notice to teachers and parents or guardians of students
127 attending the school during the period of site rehabilitation.
128 Along with the copy of the notice or its equivalent, the
129 department shall include a letter identifying sources of
130 additional information about the contamination and a telephone
131 number to which further inquiries should be directed. The
132 department may collaborate with the Department of Health to
133 develop such sources of information and to establish procedures
134 for responding to public inquiries about health risks associated
135 with contaminated sites.

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

139 Section 3. Paragraph (a) of subsection (1) of section
 140 287.0595, Florida Statutes, is amended to read:

141 287.0595 Pollution response action contracts; department
 142 rules.--

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

146 (a) Procedures for determining the qualifications of
 147 responsible potential vendors prior to advertisement for and
 148 receipt of bids, proposals, or replies for pollution response
 149 action contracts, including procedures for the rejection of
 150 unqualified vendors. Response actions are those activities
 151 described in s. 376.301~~(39)~~(37).

152 Section 4. Paragraph (f) of subsection (2) of section
 153 316.302, Florida Statutes, is amended to read:

154 316.302 Commercial motor vehicles; safety regulations;
 155 transporters and shippers of hazardous materials; enforcement.--

156 (2)

157 (f) A person who operates a commercial motor vehicle
 158 having a declared gross vehicle weight of less than 26,000
 159 pounds solely in intrastate commerce and who is not transporting
 160 hazardous materials in amounts that require placarding pursuant
 161 to 49 C.F.R. part 172, or who is transporting petroleum products
 162 as defined in s. 376.301~~(31)~~, is exempt from subsection (1).
 163 However, such person must comply with 49 C.F.R. parts 382, 392,
 164 and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

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