

## ENROLLED

HB 937, Engrossed 1

2005 Legislature

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:

15  
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

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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

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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:

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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.

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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.

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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.