

House Bill No. 937

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

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

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

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

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

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

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

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

376.30702 Contamination notification.—

(1) FINDINGS; INTENT; APPLICABILITY.—The Legislature finds and declares that when contamination is discovered by any person as a result of site rehabilitation activities conducted pursuant to the risk-based corrective action provisions found in s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, it is in the public’s best interest that potentially affected persons

be notified of the existence of such contamination. Therefore, persons discovering such contamination shall notify the department of such discovery in accordance with the requirements of this section, and the department shall be responsible for notifying the affected public. The Legislature intends for the provisions of this section to govern the notice requirements for early notification of the discovery of contamination.

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

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

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

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

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

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

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

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

287.0595 Pollution response action contracts; department rules.—

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

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

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

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(2)

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

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

Approved by the Governor May 24, 2005.

Filed in Office Secretary of State May 24, 2005.