

House Bill No. 1533

An act relating to petroleum contamination; creating s. 376.30716, F.S.; providing definitions; creating a presumption regarding the source of a subsequently discovered discharge at certain petroleum contamination sites; providing exceptions to the application of the presumption; specifying that certain provisions concerning site rehabilitation agreements do not apply to a subsequently discovered discharge; prohibiting the Department of Environmental Protection from requiring soil or groundwater sampling relating to closure assessments at certain petroleum contamination sites; specifying responsibilities of a facility owner or operator; providing an effective date.

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

Section 1. Section 376.30716, Florida Statutes, is created to read:

376.30716 Cleanup of certain sites.—

(1) As used in this section, the term:

(a) “Exclusion zone” means the subsurface area within 10 feet of an underground storage tank, integral piping, and dispenser, and the area between the underground storage tank and dispenser.

(b) “Subsequently discovered discharge” means a discharge or suspected discharge that is discovered on or after July 1, 2005, at a site eligible for state funding under s. 376.305, s. 376.3071, or s. 376.3072.

(2) As noted in s. 376.30714, it may be difficult to distinguish between a discharge of petroleum products from a petroleum storage system which is eligible for state funding and a discharge reported after December 31, 1998, which is not eligible for state funding. Until the secondary containment upgrade of underground storage tanks, as required under rule 62-761, Florida Administrative Code, is complete at a site, a subsequently discovered discharge at the site is presumed to be part of the original discharge that qualifies for state funding. However, this presumption does not apply:

(a) If the department presents competent and substantial evidence demonstrating that the subsequently discovered discharge occurred from a source that is independent and separate from the discharge that qualifies for state funding.

(b) To a site where petroleum storage systems have been upgraded, prior to July 1, 2005, to secondary containment in accordance with rule 62-761, Florida Administrative Code.

(c) To a site having newly discovered free product outside the exclusion zone.

(d) To a site having an increase in the concentration of existing petroleum contamination outside the exclusion zone of 1,000 percent or greater.

(e) To a site for which the department has, by a current valid order, determined that the discharge that is eligible for state funding has been cleaned up or no further action is necessary.

(3) Section 376.30714 does not apply to a subsequently discovered discharge. The department shall not, as part of a closure report or assessment for a site that is eligible for state funding under s. 376.305, s. 376.3071, or s. 376.3072, require soil or groundwater sampling.

(4) Regardless of whether the presumption specified in subsection (2) applies, a facility owner or operator shall:

(a) Report all incidents or discharges in accordance with rules of the department.

(b) Provide to the department a copy of all test results of storage tank and piping tightness regardless of the results.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 7, 2006.

Filed in Office Secretary of State June 7, 2006.