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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

04/23/2010 03:09 PM

Senator Justice moved the following:

Senate Amendment (with title amendment)

Between lines 2664 and 2665

insert:

Section 35. Section 376.30702, Florida Statutes, is amended 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, or pursuant to an administrative or court order, it is in the



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14 public's best interest that potentially affected persons be
15 notified of the existence of such contamination. Therefore,
16 persons discovering such contamination shall notify the
17 department and those identified under this section of the such
18 discovery in accordance with the requirements of this section,
19 ~~and the department shall be responsible for notifying the~~
20 ~~affected public.~~ The Legislature intends that for the provisions
21 ~~of this section to~~ govern the notice requirements for early
22 notification of the discovery of contamination.

23 (2) INITIAL NOTICE OF CONTAMINATION ~~BEYOND PROPERTY~~
24 ~~BOUNDARIES.~~-

25 (a) If at any time during site rehabilitation conducted
26 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, ~~or s.~~
27 376.30701, or an administrative or court order the person
28 responsible for site rehabilitation, the person's authorized
29 agent, or another representative of the person discovers from
30 laboratory analytical results that comply with appropriate
31 quality assurance protocols specified in department rules that
32 contamination as defined in applicable department rules exists
33 in any ground water, surface water, or soil medium beyond the
34 boundaries of the property at which site rehabilitation was
35 initiated ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~
36 ~~or s. 376.30701,~~ the person responsible for site rehabilitation
37 shall give actual notice as soon as possible, but no later than
38 10 days after the ~~from such~~ discovery, to the Division of Waste
39 Management at the department's Tallahassee office. The actual
40 notice must ~~shall~~ be provided on a form adopted by department
41 rule and mailed by certified mail, return receipt requested. The
42 person responsible for site rehabilitation shall simultaneously



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43 provide ~~mail~~ a copy of the ~~such~~ notice to the appropriate
44 department district office and, county health department, ~~and~~
45 ~~all known lessees and tenants of the source property.~~

46 (b) The notice must ~~shall~~ include the following
47 information:

48 1.(a) The location of the property at which site
49 rehabilitation was initiated ~~pursuant to s. 376.3071(5), s.~~
50 ~~376.3078(4), s. 376.81, or s. 376.30701~~ and contact information
51 for the person responsible for site rehabilitation, the person's
52 authorized agent, or another representative of the person.

53 2.(b) A listing of all record owners of the ~~any~~ real
54 property, ~~other than the property at which site rehabilitation~~
55 ~~was initiated pursuant to s. 376.3071(5), s. 376.3078(4), s.~~
56 ~~376.81, or s. 376.30701,~~ at which contamination has been
57 discovered; the parcel identification number for ~~any~~ such ~~real~~
58 property; the owner's address listed in the current county
59 property tax office records; and the owner's telephone number.
60 ~~The requirements of this paragraph do not apply to the notice to~~
61 ~~known tenants and lessees of the source property.~~

62 3.(c) Separate tables for ~~by~~ ~~medium,~~ such as groundwater,
63 soil, and surface water which, ~~or sediment,~~ that list sampling
64 locations identified on the vicinity map described in
65 subparagraph 4.; sampling dates; names of contaminants detected
66 above cleanup target levels; their corresponding cleanup target
67 levels; the contaminant concentrations; and whether the cleanup
68 target level is based on health, nuisance, organoleptic, or
69 aesthetic concerns.

70 4.(d) A vicinity map that shows each sampling location with
71 corresponding laboratory analytical results described in



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72 subparagraph 3. and the date on which the sample was collected
73 and that identifies the property boundaries of the property at
74 which site rehabilitation was initiated pursuant to s.
75 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701 and any
76 the other properties at which contamination has been discovered
77 during such site rehabilitation. If available, a contaminant
78 plume map signed and sealed by a state-licensed professional
79 engineer or geologist may be included with the vicinity map.

80 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

81 (a) After receiving the initial notice required under
82 subsection (2), the department shall notify the following
83 persons of the contamination:

84 1. The mayor, the chair of the county commission, or the
85 comparable senior elected official representing the affected
86 area.

87 2. The city manager, the county administrator, or the
88 comparable senior administrative official representing the
89 affected area.

90 3. The school district superintendent representing the
91 affected area.

92 4. The state senator, state representative, and United
93 States Representative representing the affected area and both
94 United States Senators.

95 5. All real property owners, presidents of any condominium
96 associations, or sole owners of condominiums, lessees, and the
97 tenants of record for:

98 a. The property at which site rehabilitation is being
99 conducted, if different from the person responsible for site
100 rehabilitation;



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101 b. Any properties within a 500-foot radius of each sampling
102 point at which contamination is discovered, if site
103 rehabilitation was initiated pursuant to s. 376.30701 or an
104 administrative or court order; and

105 c. Any properties within a 250-foot radius of each sampling
106 point at which contamination is discovered or any properties
107 identified on a contaminant plume map provided pursuant to
108 subparagraph (2)(b)4. if site rehabilitation was initiated
109 pursuant to s. 376.3071(5), s. 376.3078(4), or s. 376.81, or at,
110 or in connection with, a permitted solid waste management
111 facility subject to a groundwater monitoring plan.

112 (b) The notice provided to:

113 1. Local government officials shall be mailed by certified
114 mail, return receipt requested, and must advise the local
115 government of its responsibilities under subsection (4).

116 2. Real property owners, presidents of any condominium
117 associations or sole owners of condominiums, lessees, and
118 tenants of record may be delivered by certified mail, return
119 receipt requested, first-class mail, hand delivery, or door
120 hanger.

121 (c) Within 30 days after receiving the initial actual
122 notice required under pursuant to subsection (2), or within 30
123 days of the effective date of this act if the department already
124 possesses information equivalent to that required by the notice,
125 the department shall verify that the person responsible for site
126 rehabilitation has complied with the notice requirements of this
127 section send a copy of such notice, or an equivalent
128 notification, to all record owners of any real property, other
129 than the property at which site rehabilitation was initiated



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130 ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.~~
131 ~~376.30701, at which contamination has been discovered. If the~~
132 ~~person responsible for site rehabilitation has not complied with~~
133 ~~the notice requirements, the department may pursue enforcement~~
134 ~~as provided under this chapter and chapter 403.~~

135 (d)1. If the property at which contamination has been
136 discovered is the site of a school as defined in s. 1003.01, the
137 department shall ~~mail~~ ~~also send~~ a copy of the notice to the
138 superintendent ~~chair of the school board~~ of the school district
139 in which the property is located and direct the superintendent
140 ~~said school board~~ to provide actual notice annually to teachers
141 and parents or guardians of students attending the school during
142 the period of site rehabilitation.

143 2. If the property at which contamination has been
144 discovered is the site of a private K-12 school or a child care
145 facility as defined in s. 402.302, the department shall mail a
146 copy of the notice to the governing board, principal, or owner
147 of the school or child care facility and direct the governing
148 board, principal, or owner to provide actual notice annually to
149 teachers and parents or guardians of students or children
150 attending the school or child care facility during the period of
151 site rehabilitation.

152 3. After receiving the initial notice required under
153 subsection (2), if any property within a 500-foot radius of the
154 property at which contamination has been discovered during site
155 rehabilitation pursuant to s. 376.30701 or an administrative or
156 court order is the site of a school as defined in s. 1003.01,
157 the department shall mail a copy of the notice to the
158 superintendent of the school district in which the property is



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159 located and direct the superintendent to provide actual notice
160 annually to the principal of the school.

161 4. After receiving the initial notice required under
162 subsection (2), if any property within a 250-foot radius of the
163 property at which contamination has been discovered during site
164 rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), or s.
165 376.81, or at, or in connection with, a permitted solid waste
166 management facility subject to a groundwater monitoring plan, is
167 the site of a school as defined in s. 1003.01, the department
168 shall mail a copy of the notice to the superintendent of the
169 school district in which the property is located and direct the
170 superintendent to provide actual notice annually to the
171 principal of the school.

172 (e) Along with the copy of the notice ~~or its equivalent~~,
173 the department shall include a letter identifying sources of
174 additional information about the contamination and a telephone
175 number to which further inquiries should be directed. The
176 department may collaborate with the Department of Health to
177 develop such sources of information and to establish procedures
178 for responding to public inquiries about health risks associated
179 with contaminated sites.

180 (4) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—If contact
181 information is available, within 30 days after receiving notice
182 under subsection (3), the local government shall mail a copy of
183 the notice to the president or equivalent officer of each
184 homeowners' association or neighborhood association within the
185 potentially affected area described in subsection (3).

186 (5) RECOVERY OF NOTIFICATION COSTS.—The department and the
187 local government shall recover the costs of postage, materials,



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188 and labor associated with providing notification from the
189 responsible party, unless site rehabilitation is eligible for
190 state-funded cleanup pursuant to the risk-based corrective
191 action provisions found in s. 376.3071(5) or s. 376.3078(4).

192 (6)(4) RULEMAKING AUTHORITY.—The department shall adopt
193 rules and forms ~~pursuant to ss. 120.536(1) and 120.54~~ to
194 administer ~~implement~~ the requirements of this section.

195
196 ===== T I T L E A M E N D M E N T =====

197 And the title is amended as follows:

198 Delete line 143

199 and insert:

200 Mitigation Plan; amending s. 376.30702, F.S.; revising
201 contamination notification provisions; requiring
202 individuals responsible for site rehabilitation to
203 provide notice of site rehabilitation to specified
204 entities; revising provisions relating to the content
205 of such notice; requiring the Department of
206 Environmental Protection to provide notice of site
207 rehabilitation to specified entities and certain
208 property owners; providing an exemption; requiring the
209 department to verify compliance with notice
210 requirements; authorizing the department to pursue
211 enforcement measures for noncompliance with notice
212 requirements; revising the department's contamination
213 notification requirements for certain public schools;
214 requiring the department to provide specified notice
215 to private K-12 schools and child care facilities;
216 requiring the department to provide specified notice



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217 to public schools within a specified area; providing
218 notice requirements, including directives to extend
219 such notice to certain other persons; requiring local
220 governments to provide specified notice of site
221 rehabilitation; authorizing the local government and
222 the department to recover notification costs from
223 responsible parties; amending s. 403.031, F.S.;
224 modifying