

By the Committee on General Government Appropriations; and
Senators Justice, Smith, Lawson, Sobel, Gelber, Bennett, Jones,
Siplin, and Storms

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1 A bill to be entitled
2 An act relating to contamination notification;
3 amending s. 376.30702, F.S.; revising contamination
4 notification provisions; requiring individuals
5 responsible for site rehabilitation to provide notice
6 of site rehabilitation to specified entities; revising
7 provisions relating to the content of such notice;
8 requiring the Department of Environmental Protection
9 to provide notice of site rehabilitation to specified
10 entities and certain property owners; providing an
11 exemption; requiring the department to verify
12 compliance with notice requirements; authorizing the
13 department to pursue enforcement measures for
14 noncompliance with notice requirements; revising the
15 department's contamination notification requirements
16 for certain public schools; requiring the department
17 to provide specified notice to private K-12 schools
18 and child care facilities; requiring the department to
19 provide specified notice to public schools within a
20 specified area; providing notice requirements,
21 including directives to extend such notice to certain
22 other persons; requiring local governments to provide
23 specified notice of site rehabilitation; authorizing
24 the local government and the department to recover
25 notification costs from responsible parties; providing
26 a statement of important state interest; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. 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 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 and those identified under this section of the ~~such~~ discovery in accordance with the requirements of this section, ~~and the department shall be responsible for notifying the affected public.~~ The Legislature intends that ~~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.~~—

(a) 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, or an administrative or court order 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

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59 in any groundwater, surface water, or soil ~~medium~~ beyond the
60 boundaries of the property at which site rehabilitation was
61 initiated ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~
62 ~~or s. 376.30701~~, the person responsible for site rehabilitation
63 shall give actual notice as soon as possible, but no later than
64 10 days after the ~~from such~~ discovery, to the Division of Waste
65 Management at the department's Tallahassee office. The actual
66 notice must ~~shall~~ be provided on a form adopted by department
67 rule and mailed by certified mail, return receipt requested. The
68 person responsible for site rehabilitation shall simultaneously
69 provide ~~mail~~ a copy of the ~~such~~ notice to the appropriate
70 department district office and, ~~county health department, and~~
71 ~~all known lessees and tenants of the source property.~~

72 (b) The notice must ~~shall~~ include the following
73 information:

74 1. ~~(a)~~ The location of the property at which site
75 rehabilitation was initiated ~~pursuant to s. 376.3071(5), s.~~
76 ~~376.3078(4), s. 376.81, or s. 376.30701~~ and contact information
77 for the person responsible for site rehabilitation, the person's
78 authorized agent, or another representative of the person.

79 2. ~~(b)~~ A listing of all record owners of the ~~any~~ real
80 property, ~~other than the property at which site rehabilitation~~
81 ~~was initiated pursuant to s. 376.3071(5), s. 376.3078(4), s.~~
82 ~~376.81, or s. 376.30701~~, at which contamination has been
83 discovered; the parcel identification number for ~~any~~ such ~~real~~
84 property; the owner's address listed in the current county
85 property tax office records; and the owner's telephone number.
86 ~~The requirements of this paragraph do not apply to the notice to~~
87 ~~known tenants and lessees of the source property.~~

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88 3.(e) Separate tables for ~~by medium, such as~~ groundwater,
89 soil, and surface water which, ~~or sediment, that~~ list sampling
90 locations identified on the vicinity map described in
91 subparagraph 4.; sampling dates; names of contaminants detected
92 above cleanup target levels; their corresponding cleanup target
93 levels; the contaminant concentrations; and whether the cleanup
94 target level is based on health, nuisance, organoleptic, or
95 aesthetic concerns.

96 4.(d) A vicinity map that shows each sampling location with
97 corresponding laboratory analytical results described in
98 subparagraph 3. ~~and the date on which the sample was collected~~
99 and that identifies the property boundaries of the property at
100 which site rehabilitation was initiated ~~pursuant to s.~~
101 ~~376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701~~ and any
102 ~~the~~ other properties at which contamination has been discovered
103 during such site rehabilitation. If available, a contaminant
104 plume map signed and sealed by a state-licensed professional
105 engineer or geologist may be included with the vicinity map.

106 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

107 (a) After receiving the initial notice required under
108 subsection (2), the department shall notify the following
109 persons of the contamination:

110 1. The mayor, the chair of the county commission, or the
111 comparable senior elected official representing the affected
112 area.

113 2. The city manager, the county administrator, or the
114 comparable senior administrative official representing the
115 affected area.

116 3. The school district superintendent representing the

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117 affected area.

118 4. The state senator, state representative, and United
119 States Representative representing the affected area and both
120 United States Senators.

121 5. All real property owners, presidents of any condominium
122 associations, or sole owners of condominiums, lessees, and the
123 tenants of record for:

124 a. The property at which site rehabilitation is being
125 conducted, if different from the person responsible for site
126 rehabilitation;

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

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

138 (b) The notice provided to:

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

142 2. Real property owners, presidents of any condominium
143 associations or sole owners of condominiums, lessees, and
144 tenants of record may be delivered by certified mail, return
145 receipt requested, first-class mail, hand delivery, or door

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146 hanger.

147 (c) Within 30 days after receiving the initial actual
148 notice required under ~~pursuant to~~ subsection (2), ~~or within 30~~
149 ~~days of the effective date of this act if the department already~~
150 ~~possesses information equivalent to that required by the notice,~~
151 the department shall verify that the person responsible for site
152 rehabilitation has complied with the notice requirements of this
153 section send a copy of such notice, or an equivalent
154 notification, to all record owners of any real property, other
155 than the property at which site rehabilitation was initiated
156 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.
157 376.30701, at which contamination has been discovered. If the
158 person responsible for site rehabilitation has not complied with
159 the notice requirements, the department may pursue enforcement
160 as provided under this chapter and chapter 403.

161 (d)1. If the property at which contamination has been
162 discovered is the site of a school as defined in s. 1003.01, the
163 department shall mail ~~also send~~ a copy of the notice to the
164 superintendent chair of the school board of the school district
165 in which the property is located and direct the superintendent
166 ~~said school board~~ to provide actual notice annually to teachers
167 and parents or guardians of students attending the school during
168 the period of site rehabilitation.

169 2. If the property at which contamination has been
170 discovered is the site of a private K-12 school or a child care
171 facility as defined in s. 402.302, the department shall mail a
172 copy of the notice to the governing board, principal, or owner
173 of the school or child care facility and direct the governing
174 board, principal, or owner to provide actual notice annually to

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175 teachers and parents or guardians of students or children
176 attending the school or child care facility during the period of
177 site rehabilitation.

178 3. After receiving the initial notice required under
179 subsection (2), if any property within a 500-foot radius of the
180 property at which contamination has been discovered during site
181 rehabilitation pursuant to s. 376.30701 or an administrative or
182 court order is the site of a school as defined in s. 1003.01,
183 the department shall mail a copy of the notice to the
184 superintendent of the school district in which the property is
185 located and direct the superintendent to provide actual notice
186 annually to the principal of the school.

187 4. After receiving the initial notice required under
188 subsection (2), if any property within a 250-foot radius of the
189 property at which contamination has been discovered during site
190 rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), or s.
191 376.81, or at, or in connection with, a permitted solid waste
192 management facility subject to a groundwater monitoring plan, is
193 the site of a school as defined in s. 1003.01, the department
194 shall mail a copy of the notice to the superintendent of the
195 school district in which the property is located and direct the
196 superintendent to provide actual notice annually to the
197 principal of the school.

198 (e) Along with the copy of the notice ~~or its equivalent,~~
199 the department shall include a letter identifying sources of
200 additional information about the contamination and a telephone
201 number to which further inquiries should be directed. The
202 department may collaborate with the Department of Health to
203 develop such sources of information and to establish procedures

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204 for responding to public inquiries about health risks associated
205 with contaminated sites.

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

212 (5) RECOVERY OF NOTIFICATION COSTS.—The department and the
213 local government shall recover the costs of postage, materials,
214 and labor associated with providing notification from the
215 responsible party, unless site rehabilitation is eligible for
216 state-funded cleanup pursuant to the risk-based corrective
217 action provisions found in s. 376.3071(5) or s. 376.3078(4).

218 (6) ~~(4)~~ RULEMAKING AUTHORITY.—The department shall adopt
219 rules and forms ~~pursuant to ss. 120.536(1) and 120.54~~ to
220 administer ~~implement~~ the requirements of this section.

221 Section 2. The Legislature finds that this act fulfills an
222 important state interest.

223 Section 3. This act shall take effect July 1, 2010.