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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/10/2009	.	
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The Committee on Environmental Preservation and Conservation  
(Dockery) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause.

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 if ~~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



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12 s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, or  
13 pursuant to an administrative or court order, it is in the  
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 potentially affected persons of such discovery in  
18 accordance with the requirements of this section, ~~and the~~  
19 ~~department shall be responsible for notifying the affected~~  
20 ~~public.~~ The Legislature intends for the provisions of this  
21 section to govern the notice requirements for early notification  
22 of the discovery of contamination.

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



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41 rule and mailed by certified mail, return receipt requested.

42 (a) The person responsible for site rehabilitation shall  
43 simultaneously provide ~~mail~~ a copy of such notice to:

44 1. The appropriate department district office;~~;~~;

45 2. The appropriate county health department;~~;;~~

46 3. The mayor, the chair of the county commission, or the  
47 comparable senior elected official representing the affected  
48 area;

49 4. The city manager, the county administrator, or the  
50 comparable senior elected official representing the affected  
51 area;

52 5. The state senator, state representative, United States  
53 Senator, and United States Representative representing the  
54 affected area; and

55 6. All real property owners, ~~known~~ lessees, and tenants of  
56 the ~~source~~ property at which site rehabilitation is being  
57 conducted, if different from the person responsible for site  
58 rehabilitation, and all real property owners, lessees, and  
59 tenants of any properties within a 1,000-foot radius of each  
60 sampling point at which contamination is discovered.

61 (b) The notice shall include the following information:

62 1.~~(a)~~ The location of the property at which site  
63 rehabilitation was initiated ~~pursuant to s. 376.3071(5), s.~~  
64 ~~376.3078(4), s. 376.81, or s. 376.30701~~ and contact information  
65 for the person responsible for site rehabilitation, the person's  
66 authorized agent, or another representative of the person.

67 2.~~(b)~~ A listing of all ~~record owners of any real property~~  
68 ~~owners of sites, other than the property at which site~~  
69 ~~rehabilitation was initiated pursuant to s. 376.3071(5), s.~~



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70 ~~376.3078(4), s. 376.81, or s. 376.30701, at which contamination~~  
71 ~~has been discovered; the parcel identification number for any~~  
72 ~~such real property; the owner's address listed in the current~~  
73 ~~county property tax office records; and the owner's telephone~~  
74 ~~number. The requirements of this paragraph do not apply to the~~  
75 ~~notice to known tenants and lessees of the source property.~~

76 3.(e) Separate tables for by medium, such as groundwater,  
77 soil, or surface water which, or sediment, that list sampling  
78 locations identified on the vicinity map as provided in  
79 subparagraph 4.; sampling dates; names of contaminants detected  
80 above cleanup target levels; their corresponding cleanup target  
81 levels; the contaminant concentrations; and whether the cleanup  
82 target level is based on health, nuisance, organoleptic, or  
83 aesthetic concerns.

84 4.(d) A vicinity map that shows each sampling location with  
85 corresponding laboratory analytical results pursuant to  
86 subparagraph 3. and the date on which the sample was collected  
87 and that identifies the property boundaries of the property at  
88 which site rehabilitation was initiated pursuant to s.  
89 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701 and any  
90 the other properties at which contamination has been discovered  
91 during such site rehabilitation.

92 (c) The notice to local government officials shall be  
93 provided by certified mail, return receipt requested, and must  
94 advise the local government of its responsibilities under  
95 subsection (3). Copies of the notices and receipts shall be  
96 provided to the department as proof of compliance with this  
97 subsection.

98 (d) The notice to real property owners, lessees, and



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99 tenants may be delivered by certified mail, return receipt  
100 requested, hand delivery, or door-hanger. Copies of the notices  
101 and receipts, or a copy or sample of the hand-delivered notice  
102 or door-hanger and a list of addresses to which the notice or  
103 door-hanger was distributed, shall be provided to the department  
104 as proof of compliance with this subsection.

105 (3) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—Within 30  
106 days after receiving the actual notice required under subsection  
107 (2), the local government shall mail a copy of the notice to the  
108 president or comparable executive officer of each homeowners'  
109 association or neighborhood association within the potentially  
110 affected area as described in subsection (2).

111 (4) ~~(3)~~ DEPARTMENT'S NOTICE RESPONSIBILITIES.—

112 (a) Within 30 days after receiving the actual notice  
113 required under pursuant to subsection (2), or within 30 days of  
114 the effective date of this act if the department already  
115 possesses information equivalent to that required by the notice,  
116 the department shall verify that the person responsible for site  
117 rehabilitation has complied with the notice requirements of this  
118 section send a copy of such notice, or an equivalent  
119 notification, to all record owners of any real property, other  
120 than the property at which site rehabilitation was initiated  
121 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.  
122 376.30701, at which contamination has been discovered. If the  
123 person responsible for site rehabilitation has not complied, the  
124 department may pursue enforcement as provided under this chapter  
125 and chapter 403.

126 (b) For sites conducting rehabilitation activities pursuant  
127 to the provisions for a risk-based corrective action plan found



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128 in s. 376.30701, within 60 days after receiving actual notice  
129 pursuant to subsection (2), the department shall send a copy of  
130 such notice, or an equivalent notification, to all record owners  
131 of any real property other than the property at which site  
132 rehabilitation was initiated pursuant to s. 376.30701.

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

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

150 (e) If any property within a 1-mile radius of the property  
151 at which contamination has been discovered is the site of a  
152 school as defined in s. 1003.01, the department shall mail a  
153 copy of the notice to the superintendent of the school district  
154 in which the property is located and direct the superintendent  
155 to provide actual notice annually to the principal of the  
156 school.



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157        (f) Along with the copy of the notice ~~or its equivalent~~,  
158 the department shall include a letter identifying sources of  
159 additional information about the contamination and a telephone  
160 number to which further inquiries should be directed. The  
161 department may collaborate with the Department of Health to  
162 develop such sources of information and to establish procedures  
163 for responding to public inquiries about health risks associated  
164 with contaminated sites.

165        (5) ~~(4)~~ RULEMAKING AUTHORITY.—The department shall adopt  
166 rules and forms ~~pursuant to ss. 120.536(1) and 120.54~~ to  
167 implement the requirements of this section.

168        Section 2. Section 376.30717, Florida Statutes, is created  
169 to read:

170        376.30717 Advisory board.—

171        (1) There shall be a Petroleum Restoration Program Advisory  
172 Board that shall report to the secretary and the Legislature  
173 regarding improvements to the Petroleum Restoration Program  
174 which have a goal of reducing costs and increasing site cleanups  
175 by 10 percent per year and achieving restoration of all sites in  
176 the program by 2025.

177        (2) The board shall consist of seven members.

178        (a) The President of the Senate and the Speaker of the  
179 House of Representatives shall each appoint one member who  
180 possesses knowledge, skill, and experience in the areas of  
181 geology or insurance.

182        (b) The secretary of the department shall appoint five  
183 members as follows:

184        1. Four members nominated by the Florida Petroleum  
185 Marketers and Convenience Store Association; and



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186 2. One member nominated by the Florida Petroleum Council.

187 (3) Each member of the board shall be appointed to a 3-year  
188 term, except two members shall be appointed to an initial term  
189 of 1 year, two members shall be appointed to an initial term of  
190 2 years, and three members shall be appointed to an initial term  
191 of 3 years as determined by lot at the first meeting of the  
192 board.

193 (a) If a vacancy on the board occurs before the expiration  
194 of a term, a successor shall be appointed for the remainder of  
195 the unexpired term.

196 (b) A member may not be appointed for more than two  
197 consecutive terms.

198 (4) Board members may not be compensated for their  
199 services, except that the members are entitled to reimbursement  
200 for per diem and travel expenses in accordance with s. 112.061.

201 (5) The board shall annually elect from among its members a  
202 chair and vice chair. The board shall meet at the chair's  
203 discretion; however, at least four meetings must be held per  
204 year. Official meetings of the board may be conducted via  
205 teleconference.

206 (a) A majority of the members of the board constitute a  
207 quorum, and action by a majority of a quorum is necessary for  
208 the board to take any official action.

209 (b) All meetings of the board must be open and available to  
210 the public in accordance s. 286.011.

211 (6) Biannually, the secretary, or a designee, shall meet  
212 with the board to review the Petroleum Restoration Program,  
213 statutory or rule hindrances to the program, funding strategies,  
214 program staffing strategies, site-ranking strategies, and other





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215 strategies to improve the quality and cost-effectiveness of the  
216 program.

217 (7) The board shall prepare an annual report on the  
218 Petroleum Restoration Program which recaps all areas reviewed by  
219 the board. The areas of review include, but are not limited to:

220 (a) The department's Preapproval Standard Operating  
221 Procedures Guidelines Manual as well as proposed program rules  
222 potentially impacting petroleum site owners, operators, or  
223 environmental contractors and methods of improvement.

224 (b) Issues affecting the quality and cost of site  
225 assessments and restoration.

226 (c) Program productivity and efficiency.

227 (d) The adequacy of supporting program policies, with the  
228 goal of increasing the number of site completion orders issued  
229 by 10 percent annually.

230 (8) The board shall submit its report to the secretary, the  
231 President of the Senate, and the Speaker of the House of  
232 Representatives by January 31 of each year.

233 Section 3. This act shall take effect July 1, 2009.

234  
235 ===== T I T L E A M E N D M E N T =====

236 And the title is amended as follows:

237 Delete everything before the enacting clause -  
238 and insert:

239 A bill to be entitled  
240 An act relating to contamination notification;  
241 amending s. 376.30702, F.S.; revising contamination  
242 notification provisions; requiring individuals  
243 responsible for site rehabilitation to provide a copy



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244 of the notice of site rehabilitation to specified  
245 entities; revising provisions relating to the content  
246 and delivery of such notice; requiring local  
247 governments to provide specified notice of site  
248 rehabilitation; requiring the Department of  
249 Environmental Protection to verify compliance with  
250 notice requirements; authorizing the department to  
251 pursue enforcement measures for noncompliance with  
252 notice requirements; requiring the department to  
253 provide specified notice to certain property owners;  
254 revising the department's contamination notification  
255 requirements for certain public schools; requiring the  
256 department to provide specified notice to private K-12  
257 schools and child care facilities; requiring the  
258 department to provide specified notice to public  
259 schools within a specified area; providing notice  
260 requirements; creating s. 376.30717, F.S.; creating  
261 the Petroleum Restoration Program Advisory Board;  
262 providing for membership, terms, appointment of a  
263 chair and vice chair, reimbursement for expenses, and  
264 meetings; requiring the board to review the Petroleum  
265 Restoration Program; requiring an annual report to the  
266 Secretary of Environmental Protection and the  
267 Legislature; providing for the content of the report;  
268 providing an effective date.