



498836

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
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
and insert:

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.



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12 376.3071(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 those identified in this section of 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 for the provisions of
21 this section to govern the notice requirements for early
22 notification of the discovery of contamination.

23 (2) (a) 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 either within or
33 ~~medium~~ 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~~ s. 376.30701, or an administrative or
36 court order, the person responsible for site rehabilitation
37 shall give actual notice as soon as possible, but no later than
38 10 days from such discovery, to the Division of Waste Management
39 at the department's Tallahassee office. The actual notice shall
40 be provided on a form adopted by department rule and mailed by



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41 certified mail, return receipt requested. The person responsible
42 for site rehabilitation shall simultaneously provide ~~mail~~ a copy
43 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, representing
53 the affected area, and both United States Senators, and United
54 States Representatives; 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 7. Persons responsible for site rehabilitation pursuant to
62 the risk-based corrective action provisions found in s.
63 376.3071, s. 376.3078, and s. 376.81 are exempt from the notice
64 requirements in subparagraphs 3., 4., 5., and 6.

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

66 1. ~~(a)~~ The location of the property at which site
67 rehabilitation was initiated pursuant to s. 376.3071(5), s.
68 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an administrative or
69 court order and contact information for the person responsible



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70 for site rehabilitation, the person's authorized agent, or
71 another representative of the person.

72 ~~2.(b)~~ A listing of all record owners of any real property ~~7~~
73 ~~other than the property at which site rehabilitation was~~
74 ~~initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~
75 ~~or s. 376.30701,~~ at which contamination has been discovered; the
76 parcel identification number for any such real property; the
77 owner's address listed in the current county property tax office
78 records; and the owner's telephone number. ~~The requirements of~~
79 ~~this paragraph do not apply to the notice to known tenants and~~
80 ~~lessees of the source property.~~

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

89 ~~4.(d)~~ A vicinity map that shows each sampling location with
90 corresponding laboratory analytical results pursuant to
91 subparagraph 3. ~~and the date on which the sample was collected~~
92 and that identifies the property boundaries of the property at
93 which site rehabilitation was initiated pursuant to s.
94 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an
95 administrative or court order and any ~~the~~ other properties at
96 which contamination has been discovered during such site
97 rehabilitation.

98 (c) The notice provided to local government officials shall



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99 be mailed by certified mail, return receipt requested, and shall
100 advise the local government of its responsibilities under
101 subsection (3). Copies of the notices and receipts shall be
102 provided to the department as proof of compliance with this
103 subsection.

104 (d) The notice provided to real property owners, lessees,
105 and tenants may be delivered by certified mail, return receipt
106 requested, hand delivery, or door-hanger. Copies of the notices
107 and receipts, or a copy or sample of the hand-delivered notice
108 or door-hanger and a list of addresses to which the notice or
109 door-hanger was distributed, shall be provided to the department
110 as proof of compliance with this subsection.

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

117 (4) ~~(3)~~ DEPARTMENT'S NOTICE RESPONSIBILITIES.—

118 (a) Within 30 days after receiving the actual notice
119 required under pursuant to subsection (2), or within 30 days of
120 the effective date of this act if the department already
121 possesses information equivalent to that required by the notice,
122 the department shall verify that the person responsible for site
123 rehabilitation has complied with the notice requirements of this
124 section send a copy of such notice, or an equivalent
125 notification, to all record owners of any real property, other
126 than the property at which site rehabilitation was initiated
127 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.



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128 ~~376.30701, at which contamination has been discovered. If the~~
129 ~~person responsible for site rehabilitation has not complied with~~
130 ~~the notice requirements of this section, the department may~~
131 ~~pursue enforcement as provided under this chapter and chapter~~
132 ~~403.~~

133 (b) 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 (c) 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 (d) 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. The requirement of this paragraph shall not apply to



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157 those sites at which site rehabilitation was initiated pursuant
158 to s. 376.30701, s. 376.3078, and s. 376.81.

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

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

170 Section 2. Section 376.30717, Florida Statutes, is created
171 to read:

172 376.30717 Advisory board.—

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

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

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

184 (b) The secretary of the department shall appoint five
185 members as follows:



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186 1. Four members nominated by the Florida Petroleum
187 Marketers and Convenience Store Association; and

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

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

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

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

200 (4) Board members may not be compensated for their services
201 and are not entitled to reimbursement for per diem and travel
202 expenses in accordance with s. 112.061.

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

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

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

213 (6) Semiannually, the secretary, or a designee, shall meet
214 with the board to review the Petroleum Restoration Program,



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215 statutory or rule hindrances to the program, funding strategies,
216 program staffing strategies, site-ranking strategies, and other
217 strategies to improve the quality and cost-effectiveness of the
218 program.

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

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

226 (b) Issues affecting the quality and cost of site
227 assessments and restoration.

228 (c) Program productivity and efficiency.

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

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

235 Section 2. This act shall take effect July 1, 2009.

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238 ===== T I T L E A M E N D M E N T =====

239 And the title is amended as follows:

240 Delete everything before the enacting clause
241 and insert:

242 A bill to be entitled

243 An act relating to environmental cleanup; amending s.



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244 376.30702, F.S.; revising contamination notification provisions;
245 requiring individuals responsible for site rehabilitation to
246 provide notice of site rehabilitation to specified entities;
247 revising provisions relating to the content and delivery of such
248 notice; requiring local governments to provide specified notice
249 of site rehabilitation; requiring the Department of
250 Environmental Protection to verify compliance with notice
251 requirements; authorizing the department to pursue enforcement
252 measures for noncompliance with notice requirements; requiring
253 the department to provide specified notice to certain property
254 owners; revising the department's contamination notification
255 requirements for certain public schools; requiring the
256 department to provide specified notice to private K-12 schools
257 and child care facilities; requiring the department to provide
258 specified notice to public schools within a specified area;
259 providing notice requirements; creating s. 376.30717, F.S.;
260 creating the Petroleum Restoration Program Advisory Board;
261 providing for membership, terms, appointment of a chair and vice
262 chair, reimbursement for expenses, and meetings; requiring the
263 board to review the Petroleum Restoration Program; requiring an
264 annual report to the Secretary of Environmental Protection and
265 the Legislature; providing for the content of the report;
266 providing an effective date.

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