

By the Committees on Education Pre-K - 12; and Environmental Preservation and Conservation; and Senators Justice, Bullard, Jones, and Joyner

581-04486-09

2009114c2

1 A bill to be entitled
2 An act relating to environmental cleanup; amending s.
3 376.30702, F.S.; revising contamination notification
4 provisions; requiring individuals responsible for site
5 rehabilitation to provide notice of site
6 rehabilitation to specified entities; revising
7 provisions relating to the content and delivery of
8 such notice; requiring local governments to provide
9 specified notice of site rehabilitation; requiring the
10 Department of Environmental Protection to verify
11 compliance with notice requirements; authorizing the
12 department to pursue enforcement measures for
13 noncompliance with notice requirements; requiring the
14 department to provide specified notice to certain
15 property owners; revising the department's
16 contamination notification requirements for certain
17 public schools; requiring the department to provide
18 specified notice to private K-12 schools and child
19 care facilities; requiring the department to provide
20 specified notice to public schools within a specified
21 area; providing notice requirements; creating s.
22 376.30717, F.S.; creating the Petroleum Restoration
23 Program Advisory Board; providing for membership,
24 terms, appointment of a chair and vice chair,
25 reimbursement for expenses, and meetings; requiring
26 the board to review the Petroleum Restoration Program;
27 requiring an annual report to the Secretary of
28 Environmental Protection and the Legislature;
29 providing for the content of the report; providing an

581-04486-09

2009114c2

30 effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Section 376.30702, Florida Statutes, is amended
35 to read:

36 376.30702 Contamination notification.—

37 (1) FINDINGS; INTENT; APPLICABILITY.—The Legislature finds
38 and declares that when contamination is discovered by any person
39 as a result of site rehabilitation activities conducted pursuant
40 to the risk-based corrective action provisions found in s.
41 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, or
42 pursuant to an administrative or court order, it is in the
43 public's best interest that potentially affected persons be
44 notified of the existence of such contamination. Therefore,
45 persons discovering such contamination shall notify the
46 department and those identified in this section of such
47 discovery in accordance with the requirements of this section,
48 ~~and the department shall be responsible for notifying the~~
49 ~~affected public~~. The Legislature intends for the provisions of
50 this section to govern the notice requirements for early
51 notification of the discovery of contamination.

52 (2) (a) INITIAL NOTICE OF CONTAMINATION BEYOND PROPERTY
53 BOUNDARIES.—If at any time during site rehabilitation conducted
54 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s.
55 376.30701, or an administrative or court order the person
56 responsible for site rehabilitation, the person's authorized
57 agent, or another representative of the person discovers from
58 laboratory analytical results that comply with appropriate

581-04486-09

2009114c2

59 quality assurance protocols specified in department rules that
60 contamination as defined in applicable department rules exists
61 in any groundwater, surface water, or soil either at or ~~medium~~
62 beyond the boundaries 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, or an administrative or
65 court order, the person responsible for site rehabilitation
66 shall give actual notice as soon as possible, but no later than
67 10 days from such discovery, to the Division of Waste Management
68 at the department's Tallahassee office. The actual notice shall
69 be provided on a form adopted by department rule and mailed by
70 certified mail, return receipt requested. The person responsible
71 for site rehabilitation shall simultaneously provide ~~mail~~ a copy
72 of such notice to:

73 1. The appropriate department district office;~~T~~

74 2. The appropriate county health department;~~T~~

75 3. The mayor, the chair of the county commission, or the
76 comparable senior elected official representing the affected
77 area;

78 4. The city manager, the county administrator, or the
79 comparable senior elected official representing the affected
80 area;

81 5. The state senator and state representative representing
82 the affected area, both United States Senators, and the United
83 States Representatives; and

84 6. All real property owners, ~~known~~ lessees, and tenants of
85 the ~~source~~ property at which site rehabilitation is being
86 conducted, if different from the person responsible for site
87 rehabilitation, and all real property owners, lessees, and

581-04486-09

2009114c2

88 tenants of any properties within a 1,000-foot radius of each
89 sampling point at which contamination is discovered.

90
91 Persons responsible for site rehabilitation pursuant to the
92 risk-based corrective action provisions found in ss. 376.3071,
93 376.3078, and 376.81 are exempt from the notice requirements in
94 subparagraphs 3., 4., 5., and 6.

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

96 1.(a) The location of the property at which site
97 rehabilitation was initiated pursuant to s. 376.3071(5), s.
98 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an administrative or
99 court order and contact information for the person responsible
100 for site rehabilitation, the person's authorized agent, or
101 another representative of the person.

102 2.(b) A listing of all record owners of any real property,
103 ~~other than the property at which site rehabilitation was~~
104 ~~initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~
105 ~~or s. 376.30701,~~ at which contamination has been discovered; the
106 parcel identification number for any such real property; the
107 owner's address listed in the current county property tax office
108 records; and the owner's telephone number. ~~The requirements of~~
109 ~~this paragraph do not apply to the notice to known tenants and~~
110 ~~lessees of the source property.~~

111 3.(c) Separate tables for ~~by medium,~~ such as groundwater,
112 soil, or surface water which, ~~or sediment,~~ that list sampling
113 locations identified on the vicinity map as provided in
114 subparagraph 4.; sampling dates; names of contaminants detected
115 above cleanup target levels; their corresponding cleanup target
116 levels; the contaminant concentrations; and whether the cleanup

581-04486-09

2009114c2

117 target level is based on health, nuisance, organoleptic, or
118 aesthetic concerns.

119 ~~4.(d)~~ A vicinity map that shows each sampling location with
120 corresponding laboratory analytical results pursuant to
121 subparagraph 3. ~~and the date on which the sample was collected~~
122 and that identifies the property boundaries of the property at
123 which site rehabilitation was initiated pursuant to s.
124 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an
125 administrative or court order and any ~~the~~ other properties at
126 which contamination has been discovered during such site
127 rehabilitation.

128 (c) The notice provided to local government officials shall
129 be mailed by certified mail, return receipt requested, and shall
130 advise the local government of its responsibilities under
131 subsection (3). Copies of the notices and receipts shall be
132 provided to the department as proof of compliance with this
133 subsection.

134 (d) The notice provided to real property owners, lessees,
135 and tenants may be delivered by certified mail, return receipt
136 requested, hand delivery, or door-hanger. Copies of the notices
137 and receipts, or a copy or sample of the hand-delivered notice
138 or door-hanger and a list of addresses to which the notice or
139 door-hanger was distributed, shall be provided to the department
140 as proof of compliance with this subsection.

141 (3) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—Within 30
142 days after receiving the actual notice required under subsection
143 (2), the local government shall mail a copy of the notice to the
144 president or comparable executive officer of each homeowners'
145 association or neighborhood association within the potentially

581-04486-09

2009114c2

146 affected area as described in subsection (2).

147 ~~(4)-(3)~~ DEPARTMENT'S NOTICE RESPONSIBILITIES.—

148 (a) Within 30 days after receiving the actual notice
149 required under ~~pursuant to~~ subsection (2), ~~or within 30 days of~~
150 ~~the effective date of this act if the department already~~
151 ~~possesses information equivalent to that required by the notice,~~
152 the department shall verify that the person responsible for site
153 rehabilitation has complied with the notice requirements of this
154 section send a copy of such notice, or an equivalent
155 notification, to all record owners of any real property, other
156 than the property at which site rehabilitation was initiated
157 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.
158 376.30701, at which contamination has been discovered. If the
159 person responsible for site rehabilitation has not complied with
160 the notice requirements of this section, the department may
161 pursue enforcement as provided under this chapter and chapter
162 403.

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

171 (c) If the property at which contamination has been
172 discovered is the site of a private K-12 school or a child care
173 facility as defined in s. 402.302, the department shall mail a
174 copy of the notice to the governing board, principal, or owner

581-04486-09

2009114c2

175 of the school or child care facility and direct the governing
176 board, principal, or owner to provide actual notice annually to
177 teachers and parents or guardians of students or children
178 attending the school or child care facility during the period of
179 site rehabilitation.

180 (d) If any property within a 1-mile radius of the property
181 at which contamination has been discovered is the site of a
182 school as defined in s. 1003.01, the department shall mail a
183 copy of the notice to the superintendent of the school district
184 in which the property is located and direct the superintendent
185 to provide actual notice annually to the principal of the
186 school. This paragraph does not apply to those sites at which
187 site rehabilitation was initiated pursuant to s. 376.30701, s.
188 376.3078, or s. 376.81.

189 (e) Along with the copy of the notice ~~or its equivalent,~~
190 the department shall include a letter identifying sources of
191 additional information about the contamination and a telephone
192 number to which further inquiries should be directed. The
193 department may collaborate with the Department of Health to
194 develop such sources of information and to establish procedures
195 for responding to public inquiries about health risks associated
196 with contaminated sites.

197 (5) ~~(4)~~ RULEMAKING AUTHORITY.—The department shall adopt
198 rules and forms pursuant to ss. 120.536(1) and 120.54 to
199 implement the requirements of this section.

200 Section 2. Section 376.30717, Florida Statutes, is created
201 to read:

202 376.30717 Advisory board.—

203 (1) There shall be a Petroleum Restoration Program Advisory

581-04486-09

2009114c2

204 Board that shall report to the secretary and the Legislature
205 regarding improvements to the Petroleum Restoration Program
206 which have a goal of reducing costs and increasing site cleanups
207 by 10 percent per year and achieving restoration of all sites in
208 the program by 2025.

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

210 (a) The President of the Senate and the Speaker of the
211 House of Representatives shall each appoint one member who
212 possesses knowledge, skill, and experience in the areas of
213 geology or insurance.

214 (b) The secretary of the department shall appoint five
215 members as follows:

216 1. Four members nominated by the Florida Petroleum
217 Marketers and Convenience Store Association; and

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

219 (3) Each member of the board shall be appointed to a 3-year
220 term, except two members shall be appointed to an initial term
221 of 1 year, two members shall be appointed to an initial term of
222 2 years, and three members shall be appointed to an initial term
223 of 3 years as determined by lot at the first meeting of the
224 board.

225 (a) If a vacancy on the board occurs before the expiration
226 of a term, a successor shall be appointed for the remainder of
227 the unexpired term.

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

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

581-04486-09

2009114c2

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

238 (a) A majority of the members of the board constitute a
239 quorum, and action by a majority of a quorum is necessary for
240 the board to take any official action.

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

243 (6) Semiannually, the secretary, or a designee, shall meet
244 with the board to review the Petroleum Restoration Program,
245 statutory or rule hindrances to the program, funding strategies,
246 program staffing strategies, site-ranking strategies, and other
247 strategies to improve the quality and cost-effectiveness of the
248 program.

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

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

256 (b) Issues affecting the quality and cost of site
257 assessments and restoration.

258 (c) Program productivity and efficiency.

259 (d) The adequacy of supporting program policies, with the
260 goal of increasing the number of site-completion orders issued
261 by 10 percent annually.

581-04486-09

2009114c2

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

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