

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

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 376.30702, Florida Statutes, is amended
27 to read:

28 376.30702 Contamination notification.--

29 (1) FINDINGS; INTENT; APPLICABILITY.--The Legislature
 30 finds and declares that when contamination is discovered by any
 31 person as a result of site rehabilitation activities conducted
 32 pursuant to the risk-based corrective action provisions found in
 33 s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, or
 34 pursuant to an administrative or court order, it is in the
 35 public's best interest that potentially affected persons be
 36 notified of the existence of such contamination. Therefore,
 37 persons discovering such contamination shall notify the
 38 department and those identified under this section of such
 39 discovery in accordance with the requirements of this section,
 40 ~~and the department shall be responsible for notifying the~~
 41 ~~affected public.~~ The Legislature intends for the provisions of
 42 this section to govern the notice requirements for early
 43 notification of the discovery of contamination. The notification
 44 requirements in this section shall not apply to de minimis
 45 discharges as defined in department rules.

46 (2) (a) INITIAL NOTICE OF CONTAMINATION ~~BEYOND PROPERTY~~
 47 ~~BOUNDARIES.~~--If at any time during site rehabilitation conducted
 48 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s.
 49 376.30701, or an administrative or court order the person
 50 responsible for site rehabilitation, the person's authorized
 51 agent, or another representative of the person discovers from
 52 laboratory analytical results that comply with appropriate
 53 quality assurance protocols specified in department rules that
 54 contamination as defined in applicable department rules exists
 55 in any groundwater, surface water, and soil ~~medium~~ beyond the
 56 boundaries of the property at which site rehabilitation was

57 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,
 58 or s. 376.30701 and which threatens a release of such
 59 contamination beyond the boundaries of such property or poses a
 60 health risk to persons beyond the boundaries of such property,
 61 the person responsible for site rehabilitation shall give actual
 62 notice as soon as possible, but no later than 10 days from such
 63 discovery, to the Division of Waste Management at the
 64 department's Tallahassee office. The actual notice shall be
 65 provided on a form adopted by department rule and mailed by
 66 certified mail, return receipt requested.

67 1. The person responsible for site rehabilitation shall
 68 simultaneously provide ~~mail~~ a copy of such notice to:

69 a. The appropriate department district office; and~~7~~

70 b. The appropriate county health department.~~7~~

71 2. After receipt of a notice of contamination from a
 72 person responsible for site rehabilitation, the department shall
 73 notify the following persons of such contamination:

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

77 b. The city manager, the county administrator, or the
 78 comparable senior administrative official representing the
 79 affected area;

80 c. The state senator, state representative, and United
 81 States Representative representing the affected area and both
 82 United States Senators; and

83 d. All real property owners, presidents and board members
 84 of any condominium associations or sole owners of condominiums,

85 ~~known~~ lessees, and tenants of record of the ~~source~~ property at
 86 which site rehabilitation is being conducted, if different from
 87 the person responsible for site rehabilitation, and all real
 88 property owners, presidents and board members of any condominium
 89 associations or sole owners of condominiums, lessees, and
 90 tenants of record of any properties within a 500-foot radius of
 91 each sampling point at which contamination is discovered.

92
 93 Persons responsible for site rehabilitation pursuant to the
 94 risk-based corrective action provisions found in ss. 376.3071,
 95 376.3078, and 376.81 are exempt from the notice requirements in
 96 this subparagraph.

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

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

113 ~~3.(e)~~ Separate tables for ~~by medium, such as~~ groundwater,
114 soil, and surface water which, ~~or sediment, that~~ list sampling
115 locations identified on the vicinity map as provided in
116 subparagraph 4.; sampling dates; names of contaminants detected
117 above cleanup target levels; their corresponding cleanup target
118 levels; the contaminant concentrations; and whether the cleanup
119 target level is based on health, nuisance, organoleptic, or
120 aesthetic concerns.

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

130 (c) The notice provided to local government officials
131 shall be mailed by certified mail, return receipt requested, and
132 shall advise the local government of its responsibilities under
133 subsection (3).

134 (d) The notice provided to real property owners,
135 presidents and board members of any condominium associations or
136 sole owners of condominiums, lessees, and tenants of record may
137 be delivered by certified mail, return receipt requested, hand
138 delivery, or door-hanger.

139 (3) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.--Within 30
140 days after receiving the actual notice required under subsection

141 (2), the local government shall mail a copy of the notice to the
 142 president or comparable executive officer of each homeowners'
 143 association or neighborhood association within the potentially
 144 affected area as described in subsection (2).

145 (4)(3)- DEPARTMENT'S NOTICE RESPONSIBILITIES.--

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

161 (b) 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 (c) 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
 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 (d) If any property within a 1-mile radius of the property
 179 at which contamination has been discovered is the site of a
 180 school as defined in s. 1003.01, the department shall mail a
 181 copy of the notice to the superintendent of the school district
 182 in which the property is located and direct the superintendent
 183 to provide actual notice annually to the principal of the
 184 school. This paragraph does not apply to those sites at which
 185 site rehabilitation was initiated pursuant to s. 376.3071, s.
 186 376.3078, or s. 376.81.

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

195 (5) ~~(4)~~ RULEMAKING AUTHORITY; RECOVERY OF COSTS OF
 196 NOTIFICATION.--The department shall adopt rules and forms

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197 | pursuant to ss. 120.536(1) and 120.54 to implement the
198 | requirements of this section and shall recover all costs
199 | associated with notification from the responsible party.

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