

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 to provide notice of site rehabilitation to
6 specified entities; revising provisions relating to the
7 content of such notice; requiring the Department of
8 Environmental Protection to provide notice of site
9 rehabilitation to specified entities and certain property
10 owners; providing an exemption; requiring the department
11 to verify compliance with notice requirements; authorizing
12 the department to pursue enforcement measures for
13 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 local governments to provide specified notice of site
22 rehabilitation; requiring the department to recover
23 notification costs from responsible parties; providing an
24 exception; providing an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Section 376.30702, Florida Statutes, is amended

29 | to read:

30 | 376.30702 Contamination notification.--

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

46 | (2) INITIAL NOTICE OF CONTAMINATION ~~BEYOND PROPERTY~~
 47 | ~~BOUNDARIES~~.--

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

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

70 | **(b)** The notice shall include the following information:

71 | **1.**~~(a)~~ The location of the property at which site
 72 | rehabilitation was initiated pursuant to s. 376.3071(5), s.
 73 | 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an administrative or
 74 | court order and contact information for the person responsible
 75 | for site rehabilitation, the person's authorized agent, or
 76 | another representative of the person.

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

85 ~~lessees of the source property.~~

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

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

105 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.--

106 (a) Within 30 days after receiving the actual notice
107 required under subsection (2), the department shall notify the
108 following persons of such contamination:

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

112 2. The city manager, the county administrator, or the

113 comparable senior administrative official representing the
114 affected area.

115 3. The state senator, state representative, and United
116 States Representative representing the affected area and both
117 United States Senators.

118 4.a. All real property owners, presidents of any
119 condominium associations or sole owners of condominiums,
120 lessees, and tenants of record of the property at which site
121 rehabilitation is being conducted, if different from the person
122 responsible for site rehabilitation;

123 b. All real property owners, presidents of any condominium
124 associations or sole owners of condominiums, lessees, and
125 tenants of record of any properties within a 500-foot radius of
126 each sampling point at which contamination is discovered, if
127 site rehabilitation was initiated pursuant to s. 376.30701 or an
128 administrative or court order; and

129 c. All real property owners, presidents of any condominium
130 associations or sole owners of condominiums, lessees, and
131 tenants of record of any properties within a 250-foot radius of
132 each sampling point at which contamination is discovered or any
133 properties identified on a contaminant plume map provided
134 pursuant to subparagraph (2)(b)4., if site rehabilitation was
135 initiated pursuant to s. 376.3071(5), s. 376.3078(4), or s.
136 376.81.

137 (b)1. The notice provided to local government officials
138 shall be mailed by certified mail, return receipt requested, and
139 shall advise the local government of its responsibilities under
140 subsection (4).

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

146 (c) 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 (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
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. If any property within a 1-mile radius of the property
179 at which contamination has been discovered during site
180 rehabilitation pursuant to s. 376.30701 or an administrative or
181 court order is the site of a school as defined in s. 1003.01,
182 the department shall mail a copy of the notice to the
183 superintendent of the school district in which the property is
184 located and direct the superintendent to provide actual notice
185 annually to the principal of the school.

186 4. If any property within a 250-foot radius of the
187 property at which contamination has been discovered during site
188 rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), or s.
189 376.81 is the site of a school as defined in s. 1003.01, the
190 department shall mail a copy of the notice to the superintendent
191 of the school district in which the property is located and
192 direct the superintendent to provide actual notice annually to
193 the principal of the school.

194 (e) Along with the copy of the notice ~~or its equivalent,~~
195 the department shall include a letter identifying sources of
196 additional information about the contamination and a telephone

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197 number to which further inquiries should be directed. The
198 department may collaborate with the Department of Health to
199 develop such sources of information and to establish procedures
200 for responding to public inquiries about health risks associated
201 with contaminated sites.

202 (4) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.--Within 30
203 days after receiving the actual notice required under subsection
204 (2), the local government shall mail a copy of the notice to the
205 president or comparable executive officer of each homeowners'
206 association or neighborhood association within the potentially
207 affected area as described in subsection (2).

208 (5)~~(4)~~ RULEMAKING AUTHORITY; RECOVERY OF COSTS OF
209 NOTIFICATION.--The department shall adopt rules and forms
210 pursuant to ss. 120.536(1) and 120.54 to implement the
211 requirements of this section and shall recover the costs of
212 postage, materials, and labor associated with notification from
213 the responsible party, except when site rehabilitation is
214 eligible for state-funded cleanup pursuant to the risk-based
215 corrective action provisions found in s. 376.3071(5) or s.
216 376.3078(4).

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