

By Senator Justice

16-00156-10

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

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

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

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30 to read:

31 376.30702 Contamination notification.—

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

47 (2) INITIAL NOTICE OF CONTAMINATION ~~BEYOND PROPERTY~~  
48 ~~BOUNDARIES~~.—

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

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

70 (b) The notice must ~~shall~~ include the following  
71 information:

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

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

86 3.(c) Separate tables for ~~by~~ medium, such as groundwater,  
87 soil, and surface water which, ~~or~~ sediment, that list sampling

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88 locations identified on the vicinity map described 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 with  
95 corresponding laboratory analytical results described in  
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~~ and any  
100 ~~the~~ other properties at which contamination has been discovered  
101 during such site rehabilitation. If available, a contaminant  
102 plume map signed and sealed by a state-licensed professional  
103 engineer or geologist may be included with the vicinity map.

104 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

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

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

111 2. The city manager, the county administrator, or the  
112 comparable senior administrative official representing the  
113 affected area.

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

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117 4. All real property owners, presidents of any condominium  
118 associations or sole owners of condominiums, lessees, and the  
119 tenants of record for:

120 a. The property at which site rehabilitation is being  
121 conducted, if different from the person responsible for site  
122 rehabilitation;

123 b. Any properties within a 500-foot radius of each sampling  
124 point at which contamination is discovered, if site  
125 rehabilitation was initiated pursuant to s. 376.30701 or an  
126 administrative or court order; and

127 c. Any properties within a 250-foot radius of each sampling  
128 point at which contamination is discovered or any properties  
129 identified on a contaminant plume map provided pursuant to  
130 subparagraph (2)(b)4., if site rehabilitation was initiated  
131 pursuant to s. 376.3071(5), s. 376.3078(4), or s. 376.81.

132 (b) The notice provided to:

133 1. Local government officials shall be mailed by certified  
134 mail, return receipt requested, and must advise the local  
135 government of its responsibilities under subsection (4).

136 2. Real property owners, presidents of any condominium  
137 associations or sole owners of condominiums, lessees, and  
138 tenants of record may be delivered by certified mail, return  
139 receipt requested, first-class mail, hand delivery, or door  
140 hanger.

141 (c) Within 30 days after receiving the actual notice  
142 required under pursuant to subsection (2), ~~or within 30 days of~~  
143 ~~the effective date of this act if the department already~~  
144 ~~possesses information equivalent to that required by the notice,~~  
145 the department shall verify that the person responsible for site

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146 rehabilitation has complied with the notice requirements of this  
147 section ~~send a copy of such notice, or an equivalent~~  
148 ~~notification, to all record owners of any real property, other~~  
149 ~~than the property at which site rehabilitation was initiated~~  
150 ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.~~  
151 ~~376.30701, at which contamination has been discovered. If the~~  
152 person responsible for site rehabilitation has not complied with  
153 the notice requirements, the department may pursue enforcement  
154 as provided under this chapter and chapter 403.

155 (d)1. If the property at which contamination has been  
156 discovered is the site of a school as defined in s. 1003.01, the  
157 department shall mail ~~also send~~ a copy of the notice to the  
158 superintendent ~~chair of the school board~~ of the school district  
159 in which the property is located and direct the superintendent  
160 ~~said school board~~ to provide actual notice annually to teachers  
161 and parents or guardians of students attending the school during  
162 the period of site rehabilitation.

163 2. If the property at which contamination has been  
164 discovered is the site of a private K-12 school or a child care  
165 facility as defined in s. 402.302, the department shall mail a  
166 copy of the notice to the governing board, principal, or owner  
167 of the school or child care facility and direct the governing  
168 board, principal, or owner to provide actual notice annually to  
169 teachers and parents or guardians of students or children  
170 attending the school or child care facility during the period of  
171 site rehabilitation.

172 3. If any property within a 1-mile radius of the property  
173 at which contamination has been discovered during site  
174 rehabilitation pursuant to s. 376.30701 or an administrative or

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175 court order is the site of a school as defined in s. 1003.01,  
176 the department shall mail a copy of the notice to the  
177 superintendent of the school district in which the property is  
178 located and direct the superintendent to provide actual notice  
179 annually to the principal of the school.

180 4. If any property within a 250-foot radius of the property  
181 at which contamination has been discovered during site  
182 rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), or s.  
183 376.81 is the site of a school as defined in s. 1003.01, the  
184 department shall mail a copy of the notice to the superintendent  
185 of the school district in which the property is located and  
186 direct the superintendent to provide actual notice annually to  
187 the principal of the school.

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

196 (4) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—Within 30  
197 days after receiving the actual notice required under subsection  
198 (2), the local government shall mail a copy of the notice to the  
199 president or equivalent officer of each homeowners' association  
200 or neighborhood association within the potentially affected area  
201 as described in subsection (2).

202 (5) RECOVERY OF NOTIFICATION COSTS.—The department shall  
203 recover the costs of postage, materials, and labor associated

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204 with notification from the responsible party, unless site  
205 rehabilitation is eligible for state-funded cleanup pursuant to  
206 the risk-based corrective action provisions found in s.  
207 376.3071(5) or s. 376.3078(4).

208 (6)~~(4)~~ RULEMAKING AUTHORITY.—The department shall adopt  
209 rules and forms ~~pursuant to ss. 120.536(1) and 120.54~~ to  
210 administer ~~implement~~ the requirements of this section.

211 Section 2. This act shall take effect July 1, 2010.