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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/20/2010	.	
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The Policy and Steering Committee on Ways and Means (Justice) recommended the following:

Senate Amendment to Amendment (156026) (with title amendment)

Between lines 4291 and 4292
insert:

Section 57. 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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13 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, or
14 pursuant to an administrative or court order, it is in the
15 public's best interest that potentially affected persons be
16 notified of the existence of such contamination. Therefore,
17 persons discovering such contamination shall notify the
18 department and those identified under this section of the ~~such~~
19 discovery in accordance with the requirements of this section,
20 ~~and the department shall be responsible for notifying the~~
21 ~~affected public~~. The Legislature intends that ~~for the provisions~~
22 ~~of~~ this section ~~to~~ govern the notice requirements for early
23 notification of the discovery of contamination.

24 (2) INITIAL NOTICE OF CONTAMINATION ~~BEYOND PROPERTY~~
25 ~~BOUNDARIES~~.—

26 (a) If at any time during site rehabilitation conducted
27 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s.
28 376.30701, or an administrative or court order the person
29 responsible for site rehabilitation, the person's authorized
30 agent, or another representative of the person discovers from
31 laboratory analytical results that comply with appropriate
32 quality assurance protocols specified in department rules that
33 contamination as defined in applicable department rules exists
34 in any ground water, surface water, or soil ~~medium~~ beyond the
35 boundaries of the property at which site rehabilitation was
36 initiated ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~
37 ~~or s. 376.30701~~, the person responsible for site rehabilitation
38 shall give actual notice as soon as possible, but no later than
39 10 days after the ~~from such~~ discovery, to the Division of Waste
40 Management at the department's Tallahassee office. The actual
41 notice must ~~shall~~ be provided on a form adopted by department



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42 rule and mailed by certified mail, return receipt requested. The
43 person responsible for site rehabilitation shall simultaneously
44 provide mail a copy of the ~~such~~ notice to the appropriate
45 department district office and, county health department, ~~and~~
46 ~~all known lessees and tenants of the source property.~~

47 (b) The notice must ~~shall~~ include the following
48 information:

49 1.(a) The location of the property at which site
50 rehabilitation was initiated ~~pursuant to s. 376.3071(5), s.~~
51 ~~376.3078(4), s. 376.81, or s. 376.30701~~ and contact information
52 for the person responsible for site rehabilitation, the person's
53 authorized agent, or another representative of the person.

54 2.(b) A listing of all record owners of the ~~any~~ real
55 property, ~~other than the property at which site rehabilitation~~
56 ~~was initiated pursuant to s. 376.3071(5), s. 376.3078(4), s.~~
57 ~~376.81, or s. 376.30701,~~ at which contamination has been
58 discovered; the parcel identification number for ~~any~~ such ~~real~~
59 property; the owner's address listed in the current county
60 property tax office records; and the owner's telephone number.
61 ~~The requirements of this paragraph do not apply to the notice to~~
62 ~~known tenants and lessees of the source property.~~

63 3.(c) Separate tables for ~~by~~ ~~medium,~~ such as groundwater,
64 soil, and surface water which, ~~or sediment,~~ that list sampling
65 locations identified on the vicinity map described in
66 subparagraph 4.; sampling dates; names of contaminants detected
67 above cleanup target levels; their corresponding cleanup target
68 levels; the contaminant concentrations; and whether the cleanup
69 target level is based on health, nuisance, organoleptic, or
70 aesthetic concerns.



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71 ~~4.(d)~~ A vicinity map that shows each sampling location with
72 corresponding laboratory analytical results described in
73 subparagraph 3. ~~and the date on which the sample was collected~~
74 and that identifies the property boundaries of the property at
75 which site rehabilitation was initiated ~~pursuant to s.~~
76 ~~376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701~~ and any
77 ~~the~~ other properties at which contamination has been discovered
78 during such site rehabilitation. If available, a contaminant
79 plume map signed and sealed by a state-licensed professional
80 engineer or geologist may be included with the vicinity map.

81 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

82 (a) After receiving the initial notice required under
83 subsection (2), the department shall notify the following
84 persons of the contamination:

85 1. The mayor, the chair of the county commission, or the
86 comparable senior elected official representing the affected
87 area.

88 2. The city manager, the county administrator, or the
89 comparable senior administrative official representing the
90 affected area.

91 3. The school district superintendent representing the
92 affected area.

93 4. The state senator, state representative, and United
94 States Representative representing the affected area and both
95 United States Senators.

96 5. All real property owners, presidents of any condominium
97 associations, or sole owners of condominiums, lessees, and the
98 tenants of record for:

99 a. The property at which site rehabilitation is being



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100 conducted, if different from the person responsible for site
101 rehabilitation;

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

106 c. Any properties within a 250-foot radius of each sampling
107 point at which contamination is discovered or any properties
108 identified on a contaminant plume map provided pursuant to
109 subparagraph (2)(b)4. if site rehabilitation was initiated
110 pursuant to s. 376.3071(5), s. 376.3078(4), or s. 376.81, or at,
111 or in connection with, a permitted solid waste management
112 facility subject to a groundwater monitoring plan.

113 (b) The notice provided to:

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

117 2. Real property owners, presidents of any condominium
118 associations or sole owners of condominiums, lessees, and
119 tenants of record may be delivered by certified mail, return
120 receipt requested, first-class mail, hand delivery, or door
121 hanger.

122 (c) Within 30 days after receiving the ~~initial actual~~
123 notice required ~~under~~ pursuant to subsection (2), ~~or within 30~~
124 days of the effective date of this act if the department already
125 possesses information equivalent to that required by the notice,
126 the department shall verify that the person responsible for site
127 rehabilitation has complied with the notice requirements of this
128 section ~~send a copy of such notice, or an equivalent~~



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129 ~~notification, to all record owners of any real property, other~~
130 ~~than the property at which site rehabilitation was initiated~~
131 ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.~~
132 ~~376.30701, at which contamination has been discovered. If the~~
133 ~~person responsible for site rehabilitation has not complied with~~
134 ~~the notice requirements, the department may pursue enforcement~~
135 ~~as provided under this chapter and chapter 403.~~

136 (d) If the property at which contamination has been
137 discovered is the site of:

138 1. A school as defined in s. 1003.01, the department shall
139 ~~mail also send~~ a copy of the notice to the superintendent chair
140 ~~of the school board~~ of the school district in which the property
141 is located and direct the superintendent ~~said school board~~ to
142 provide actual notice annually to teachers and parents or
143 guardians of students attending the school during the period of
144 site rehabilitation.

145 2. A private K-12 school or a child care facility as
146 defined in s. 402.302, the department shall mail a copy of the
147 notice to the governing board, principal, or owner of the school
148 or child care facility and direct the governing board,
149 principal, or owner to provide actual notice annually to
150 teachers and parents or guardians of students or children
151 attending the school or child care facility during the period of
152 site rehabilitation.

153 (e) After receiving the initial notice required under
154 subsection (2), if any property within:

155 1. A 500-foot radius of the property at which contamination
156 has been discovered during site rehabilitation pursuant to s.
157 376.30701 or an administrative or court order is the site of a



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158 school as defined in s. 1003.01, the department shall mail a
159 copy of the notice to the superintendent of the school district
160 in which the property is located and direct the superintendent
161 to provide actual notice annually to the principal of the
162 school.

163 2. A 250-foot radius of the property at which contamination
164 has been discovered during site rehabilitation pursuant to s.
165 376.3071(5), s. 376.3078(4), or s. 376.81, or at, or in
166 connection with, a permitted solid waste management facility
167 subject to a groundwater monitoring plan, is the site of a
168 school as defined in s. 1003.01, the department shall mail a
169 copy of the notice to the superintendent of the school district
170 in which the property is located and direct the superintendent
171 to provide actual notice annually to the principal of the
172 school.

173 (f) Along with the copy of the notice ~~or its equivalent,~~
174 the department shall include a letter identifying sources of
175 additional information about the contamination and a telephone
176 number to which further inquiries should be directed. The
177 department may collaborate with the Department of Health to
178 develop such sources of information and to establish procedures
179 for responding to public inquiries about health risks associated
180 with contaminated sites.

181 (4) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.-If contact
182 information is available, within 30 days after receiving notice
183 under subsection (3), the local government shall mail a copy of
184 the notice to the president or equivalent officer of each
185 homeowners' association or neighborhood association within the
186 potentially affected area described in subsection (3).



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187 (5) RECOVERY OF NOTIFICATION COSTS.—The department and the
188 local government shall recover the costs of postage, materials,
189 and labor associated with providing notification from the
190 responsible party, unless site rehabilitation is eligible for
191 state-funded cleanup pursuant to the risk-based corrective
192 action provisions found in s. 376.3071(5) or s. 376.3078(4).

193 (6)-(4) RULEMAKING AUTHORITY.—The department shall adopt
194 rules and forms pursuant to ss. 120.536(1) and 120.54 to
195 administer implement the requirements of this section.

196 Section 58. The Legislature finds that this act fulfills an
197 important state interest.

198
199 ===== T I T L E A M E N D M E N T =====

200 And the title is amended as follows:

201 After line 4507
202 insert:

203 referendum; amending s. 376.30702, F.S.; revising
204 contamination notification provisions; requiring
205 individuals responsible for site rehabilitation to
206 provide notice of site rehabilitation to specified
207 entities; revising provisions relating to the content
208 of such notice; requiring the Department of
209 Environmental Protection to provide notice of site
210 rehabilitation to specified entities and certain
211 property owners; providing an exemption; requiring the
212 department to verify compliance with notice
213 requirements; authorizing the department to pursue
214 enforcement measures for noncompliance with notice
215 requirements; revising the department's contamination



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216 notification requirements for certain public schools;
217 requiring the department to provide specified notice
218 to private K-12 schools and child care facilities;
219 requiring the department to provide specified notice
220 to public schools within a specified area; providing
221 notice requirements, including directives to extend
222 such notice to certain other persons; requiring local
223 governments to provide specified notice of site
224 rehabilitation; authorizing the local government and
225 the department to recover notification costs from
226 responsible parties; providing a statement of
227 important state interest; providing legislative intent
228 that there are no