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LEGISLATIVE ACTION

Senate

House

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Floor: 2/F/3R

04/29/2010 01:52 PM

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Senator Justice moved the following:

**Senate Amendment (with title amendment)**

Before line 11

insert:

Section 1. 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. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, or pursuant to an administrative or court order, it is in the



752048

14 public's best interest that potentially affected persons be  
15 notified of the existence of such contamination. Therefore,  
16 persons discovering such contamination shall notify the  
17 department and those identified under this section of the such  
18 discovery in accordance with the requirements of this section,  
19 ~~and the department shall be responsible for notifying the~~  
20 ~~affected public.~~ The Legislature intends that for the provisions  
21 ~~of this section to~~ govern the notice requirements for early  
22 notification of the discovery of contamination.

23 (2) INITIAL NOTICE OF CONTAMINATION ~~BEYOND PROPERTY~~  
24 ~~BOUNDARIES.~~-

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



752048

43 provide ~~mail~~ a copy of the ~~such~~ notice to the appropriate  
44 department district office and, county health department, ~~and~~  
45 ~~all known lessees and tenants of the source property.~~

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

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

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

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

70 4.(d) A vicinity map that shows each sampling location with  
71 corresponding laboratory analytical results described in



752048

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

80 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

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

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

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

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

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

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

98 a. The property at which site rehabilitation is being  
99 conducted, if different from the person responsible for site  
100 rehabilitation;



752048

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

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

112           (b) The notice provided to:

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

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

121           (c) Within 30 days after receiving the initial actual  
122 notice required under pursuant to subsection (2), or within 30  
123 days of the effective date of this act if the department already  
124 possesses information equivalent to that required by the notice,  
125 the department shall verify that the person responsible for site  
126 rehabilitation has complied with the notice requirements of this  
127 section send a copy of such notice, or an equivalent  
128 notification, to all record owners of any real property, other  
129 than the property at which site rehabilitation was initiated



752048

130 ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.~~  
131 ~~376.30701, at which contamination has been discovered. If the~~  
132 ~~person responsible for site rehabilitation has not complied with~~  
133 ~~the notice requirements, the department may pursue enforcement~~  
134 ~~as provided under this chapter and chapter 403.~~

135 (d)1. If the property at which contamination has been  
136 discovered is the site of a school as defined in s. 1003.01, the  
137 department shall mail ~~also send~~ a copy of the notice to the  
138 superintendent ~~chair of the school board~~ of the school district  
139 in which the property is located and direct the superintendent  
140 ~~said school board~~ to provide actual notice annually to teachers  
141 and parents or guardians of students attending the school during  
142 the period of site rehabilitation.

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

152 3. After receiving the initial notice required under  
153 subsection (2), if any property within a 500-foot radius of the  
154 property at which contamination has been discovered during site  
155 rehabilitation pursuant to s. 376.30701 or an administrative or  
156 court order is the site of a school as defined in s. 1003.01,  
157 the department shall mail a copy of the notice to the  
158 superintendent of the school district in which the property is



752048

159 located and direct the superintendent to provide actual notice  
160 annually to the principal of the school.

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

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

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

186 (5) RECOVERY OF NOTIFICATION COSTS.—The department and the  
187 local government shall recover the costs of postage, materials,



752048

188 and labor associated with providing notification from the  
189 responsible party, unless site rehabilitation is eligible for  
190 state-funded cleanup pursuant to the risk-based corrective  
191 action provisions found in s. 376.3071(5) or s. 376.3078(4).

192 (6)(4) RULEMAKING AUTHORITY.—The department shall adopt  
193 rules and forms ~~pursuant to ss. 120.536(1) and 120.54~~ to  
194 administer ~~implement~~ the requirements of this section.

195 Section 2. The Legislature finds that this act fulfills an  
196 important state interest.

197  
198 ===== T I T L E A M E N D M E N T =====

199 And the title is amended as follows:

200 Delete line 2

201 and insert:

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





752048

217 to provide specified notice to private K-12 schools  
218 and child care facilities; requiring the department to  
219 provide specified notice to public schools within a  
220 specified area; providing notice requirements,  
221 including directives to extend such notice to certain  
222 other persons; requiring local governments to provide  
223 specified notice of site rehabilitation; authorizing  
224 the local government and the department to recover  
225 notification costs from responsible parties; providing  
226 a statement of important state interest; amending s.  
227 403.708, F.S.;