

By Senator Justice

16-00615A-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

16-00615A-10

2010602__

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 ~~medium~~ beyond the
58 boundaries of the property at which site rehabilitation was

16-00615A-10

2010602__

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

16-00615A-10

2010602__

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) After receiving the initial notice required under
106 subsection (2), the department shall notify the following
107 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 school district superintendent representing the
115 affected area.

116 4. The state senator, state representative, and United

16-00615A-10

2010602

117 States Representative representing the affected area and both
118 United States Senators.

119 5. All real property owners, presidents of any condominium
120 associations, or sole owners of condominiums, lessees, and the
121 tenants of record for:

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

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

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

136 (b) The notice provided to:

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

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

145 (c) Within 30 days after receiving the ~~initial~~ actual

16-00615A-10

2010602

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

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

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

16-00615A-10

2010602

175 site rehabilitation.

176 3. After receiving the initial notice required under
177 subsection (2), if any property within a 500-foot radius of the
178 property at which contamination has been discovered during site
179 rehabilitation pursuant to s. 376.30701 or an administrative or
180 court order is the site of a school as defined in s. 1003.01,
181 the department shall mail a copy of the notice to the
182 superintendent of the school district in which the property is
183 located and direct the superintendent to provide actual notice
184 annually to the principal of the school.

185 4. After receiving the initial notice required under
186 subsection (2), 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, or at, or in connection with, a permitted solid waste
190 management facility subject to a groundwater monitoring plan, is
191 the site of a school as defined in s. 1003.01, the department
192 shall mail a copy of the notice to the superintendent of the
193 school district in which the property is located and direct the
194 superintendent to provide actual notice annually to the
195 principal of the school.

196 (e) Along with the copy of the notice ~~or its equivalent,~~
197 the department shall include a letter identifying sources of
198 additional information about the contamination and a telephone
199 number to which further inquiries should be directed. The
200 department may collaborate with the Department of Health to
201 develop such sources of information and to establish procedures
202 for responding to public inquiries about health risks associated
203 with contaminated sites.

16-00615A-10

2010602__

204 (4) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—Within 30
205 days after receiving the notice required under subsection (3),
206 the local government shall mail a copy of the notice to the
207 president or equivalent officer of each homeowners' association
208 or neighborhood association within the potentially affected area
209 described in subsection (3).

210 (5) RECOVERY OF NOTIFICATION COSTS.—The department shall
211 recover the costs of postage, materials, and labor associated
212 with notification from the responsible party, unless site
213 rehabilitation is eligible for state-funded cleanup pursuant to
214 the risk-based corrective action provisions found in s.
215 376.3071(5) or s. 376.3078(4).

216 (6)~~(4)~~ RULEMAKING AUTHORITY.—The department shall adopt
217 rules and forms ~~pursuant to ss. 120.536(1) and 120.54~~ to
218 administer ~~implement~~ the requirements of this section.

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