

By Senator Joyner

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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; authorizing  
24          the local government and the department to recover  
25          notification costs from responsible parties; providing  
26          a statement of important state interest; providing an  
27          effective date.

28  
29   Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. Section 376.30702, Florida Statutes, is amended  
32 to read:

33 376.30702 Contamination notification.—

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

49 (2) INITIAL NOTICE OF CONTAMINATION ~~BEYOND PROPERTY~~  
50 ~~BOUNDARIES~~.—

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

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

72 (b) The notice must ~~shall~~ include the following  
73 information:

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

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

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

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

106 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

107 (a) After receiving the initial notice required under  
108 subsection (2), the department shall notify the following  
109 persons of the contamination:

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

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

116 3. The school district superintendent representing the

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117 affected area.

118 4. The state senator, state representative, and United  
119 States Representative representing the affected area and both  
120 United States Senators.

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

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

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

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

138 (b) The notice provided to:

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

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

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146 hanger.

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

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

187 4. After receiving the initial notice required under  
188 subsection (2), if any property within a 250-foot radius of the  
189 property at which contamination has been discovered during site  
190 rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), or s.  
191 376.81, or at, or in connection with, a permitted solid waste  
192 management facility subject to a groundwater monitoring plan, is  
193 the site of a school as defined in s. 1003.01, the department  
194 shall mail a copy of the notice to the superintendent of the  
195 school district in which the property is located and direct the  
196 superintendent to provide actual notice annually to the  
197 principal of the school.

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

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204 for responding to public inquiries about health risks associated  
205 with contaminated sites.

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

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

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

221 Section 2. The Legislature finds that this act fulfills an  
222 important state interest.

223 Section 3. This act shall take effect July 1, 2011.