

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

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

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

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

(a) If at any time during site rehabilitation conducted pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an administrative or court order the person responsible for site rehabilitation, the person's authorized agent, or another representative of the person discovers from

57 | laboratory analytical results that comply with appropriate
 58 | quality assurance protocols specified in department rules that
 59 | contamination as defined in applicable department rules exists
 60 | in any groundwater, surface water, or soil ~~medium~~ beyond the
 61 | boundaries of the property at which site rehabilitation was
 62 | initiated ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~
 63 | ~~or s. 376.30701,~~ the person responsible for site rehabilitation
 64 | shall give actual notice as soon as possible, but no later than
 65 | 45 ~~10~~ days after the ~~from such~~ discovery, to the Division of
 66 | Waste Management at the department's Tallahassee office. The
 67 | actual notice must ~~shall~~ be provided on a form adopted by
 68 | department rule and mailed by certified mail, return receipt
 69 | requested. The person responsible for site rehabilitation shall
 70 | simultaneously provide by certified mail, return receipt
 71 | requested, ~~mail~~ a copy of the ~~such~~ notice to the appropriate
 72 | department district office and, ~~county health department,~~ ~~and~~
 73 | ~~all known lessees and tenants of the source property.~~

74 | **(b)** The notice must ~~shall~~ include the following
 75 | information:

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

81 | **2.**~~(b)~~ A listing of all record owners of the ~~any~~ real
 82 | property, ~~other than the property at which site rehabilitation~~
 83 | ~~was initiated pursuant to s. 376.3071(5), s. 376.3078(4), s.~~
 84 | ~~376.81, or s. 376.30701,~~ at which contamination has been

85 discovered; the parcel identification number for ~~any~~ such ~~real~~
 86 property; and the owner's address listed in the current county
 87 property tax office records; ~~and the owner's telephone number.~~
 88 ~~The requirements of this paragraph do not apply to the notice to~~
 89 ~~known tenants and lessees of the source property.~~

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

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

108 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

109 (a) Within 15 ~~30~~ days after receiving the actual notice
 110 required under ~~pursuant to~~ subsection (2), ~~or within 30 days of~~
 111 ~~the effective date of this act if the department already~~
 112 ~~possesses information equivalent to that required by the notice,~~

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113 the department shall verify that the person responsible for site
114 rehabilitation has complied with the notice requirements of
115 subsection (2) ~~send a copy of such notice, or an equivalent~~
116 notification, to all record owners of any real property, other
117 than the property at which site rehabilitation was initiated
118 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.
119 376.30701, at which contamination has been discovered. If the
120 person responsible for site rehabilitation has not complied with
121 the notice requirements of subsection (2), then the department
122 may pursue enforcement as provided under this chapter and
123 chapter 403.

124 (b) Within 30 days after receiving the actual notice
125 required under subsection (2), the department shall notify the
126 following persons of the contamination for which notice was
127 required pursuant to subsection (2):

128 1. The mayor, the chair of the county commission, or the
129 comparable senior elected official representing the affected
130 area.

131 2. The city manager, the county administrator, or the
132 comparable senior administrative official representing the
133 affected area.

134 3. The state senator and state representative representing
135 the affected area.

136 4. All real property owners, presidents of any condominium
137 associations or sole owners of condominiums, presidents of any
138 cooperative associations or sole owners of cooperatives,
139 lessees, and the tenants of record for:

140 a. Any real property, other than the property at which

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141 site rehabilitation was initiated pursuant to s. 376.30701, s.
142 376.3071(5), s. 376.3078(4), or s. 376.81, at which
143 contamination has been discovered;

144 b. Any properties identified within the boundaries of a
145 contaminant plume located on a contaminant plume map provided
146 pursuant to subparagraph (2)(b)4., any properties identified by
147 a state-licensed professional engineer or professional geologist
148 through a certified site-specific determination that such
149 contamination is reasonably likely to be present beyond the
150 boundaries of the source property, or any properties within a
151 500-foot radius of each sampling point at which contamination is
152 discovered where a contaminant plume map is not provided, if
153 site rehabilitation was initiated pursuant to s. 376.30701 or an
154 administrative or court order; and

155 c. Any properties identified within the boundaries of a
156 contaminant plume located on a contaminant plume map provided
157 pursuant to subparagraph (2)(b)4., any properties identified by
158 a state-licensed professional engineer or professional geologist
159 through a certified site-specific determination that such
160 contamination is reasonably likely to be present beyond the
161 boundaries of the source property, or any properties within a
162 250-foot radius of each sampling point at which contamination is
163 discovered where a contaminant plume map is not provided, if
164 site rehabilitation was initiated pursuant to s. 376.3071(5), s.
165 376.3078(4), or s. 376.81, or at, or in connection with, a
166 permitted solid waste management facility subject to a
167 groundwater monitoring plan.

168 (c) The notice provided to:

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169 1. Local government officials described in subparagraphs
170 (b)1. and 2. shall be mailed by certified mail, return receipt
171 requested.

172 2. Real property owners, presidents of any condominium
173 associations or sole owners of condominiums, presidents of any
174 cooperative associations or sole owners of cooperatives,
175 lessees, and tenants of record shall be delivered by certified
176 mail, return receipt requested, first-class mail, hand delivery,
177 or door hanger.

178 (d)1. If the property at which contamination has been
179 discovered is the site of a public pre-K or K-12 school as
180 defined in s. 1003.01, the department shall mail also send a
181 copy of the notice to the superintendent chair of the school
182 board of the school district in which the property is located
183 and direct the superintendent said school board to provide
184 actual notice within 10 days to teachers and parents or
185 guardians of students attending the public pre-K or K-12 school
186 during the period of site rehabilitation.

187 2. If the property at which contamination has been
188 discovered is the site of a private pre-K or K-12 school or a
189 child care facility as defined in s. 402.302, the department
190 shall mail a copy of the notice to the governing board,
191 principal, or owner of the private pre-K or K-12 school or child
192 care facility and direct the governing board, principal, or
193 owner to provide actual notice within 10 days to teachers and
194 parents or guardians of students or children attending the
195 private pre-K or K-12 school or child care facility during the
196 period of site rehabilitation.

197 3. If any property within a 1-mile radius of the sampling
 198 point at which contamination has been discovered during site
 199 rehabilitation pursuant to s. 376.30701 or an administrative or
 200 court order is the site of a public pre-K or K-12 school as
 201 defined in s. 1003.01, the department shall mail a copy of the
 202 notice to the superintendent of the school district in which the
 203 property is located.

204 4. If any property within a 250-foot radius of the
 205 sampling point at which contamination has been discovered during
 206 site rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4),
 207 or s. 376.81, or at, or in connection with, a permitted solid
 208 waste management facility subject to a groundwater monitoring
 209 plan, is the site of a public pre-K or K-12 school as defined in
 210 s. 1003.01, the department shall mail a copy of the notice to
 211 the superintendent of the school district in which the property
 212 is located.

213 5. If the property at which contamination has been
 214 discovered is the site of a public or private college or
 215 university, the department shall mail a copy of the notice to
 216 the president of the public or private college or university and
 217 the chair of the Board of Governors or board of trustees.

218 6. If any property within a 1-mile radius of the sampling
 219 point at which contamination has been discovered during site
 220 rehabilitation pursuant to s. 376.30701 or an administrative or
 221 court order is the site of a public or private college or
 222 university, the department shall mail a copy of the notice to
 223 the president of the public or private college or university and
 224 the chair of the Board of Governors or board of trustees.

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225 7. If any property within a 250-foot radius of the
226 sampling point at which contamination has been discovered during
227 site rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4),
228 or s. 376.81 is the site of a public or private college or
229 university, the department shall mail a copy of the notice to
230 the president of the public or private college or university and
231 the chair of the Board of Governors or board of trustees.

232 (e) Along with the copy of the notice ~~or its equivalent,~~
233 the department shall include a letter identifying sources of
234 additional information about the contamination and a telephone
235 number to which further inquiries should be directed. The
236 department may collaborate with the Department of Health to
237 develop such sources of information and to establish procedures
238 for responding to public inquiries about health risks associated
239 with contaminated sites.

240 (f) The department shall provide quarterly a list to both
241 United States Senators for the state of all contaminated sites
242 being rehabilitated pursuant to s. 376.30701, s. 376.3071(5), s.
243 376.3078(4), or s. 376.81 that are located within the state and
244 to each representative to Congress for the state of all
245 contaminated sites being rehabilitated pursuant to s. 376.30701,
246 s. 376.3071(5), s. 376.3078(4), or s. 376.81 that are located
247 within that individual's congressional district.

248 (4) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—Within 30
249 days after receiving the actual notice required under subsection
250 (3), the local government shall mail a copy of the notice to the
251 president of any homeowners' association created pursuant to
252 chapter 720, the president or equivalent representative of any

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253 incorporated voluntary homeowners' or neighborhood association,
254 and the president or equivalent representative of any other
255 existing voluntary homeowners' or neighborhood association that
256 is not incorporated but has registered with the applicable local
257 government pursuant to local governmental requirements that are
258 located within the areas identified in sub-subparagraph
259 (3) (b) 4.a., sub-subparagraph (3) (b) 4.b., or sub-subparagraph
260 (3) (b) 4.c.

261 (5) RECOVERY OF NOTIFICATION COSTS.—The department may
262 recover the costs of postage, materials, and labor associated
263 with notification from the party responsible for the
264 contamination, unless site rehabilitation is eligible for state-
265 funded cleanup pursuant to the risk-based corrective action
266 provisions found in s. 376.3071(5) or s. 376.3078(4), provided
267 that sufficient funds exist within the trust funds to cover the
268 cost of the notification.

269 (6) ~~(4)~~ RULEMAKING AUTHORITY.—The department shall adopt
270 rules and forms pursuant to ss. 120.536(1) and 120.54 to
271 administer ~~implement~~ the requirements of this section.

272 Section 2. This act shall take effect July 1, 2011.