

By Senator Joyner

18-00034-12

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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 that individuals  
5       responsible for site rehabilitation provide notice of  
6       certain information related to contamination and site  
7       rehabilitation to specified entities; revising  
8       provisions relating to the content of such notice;  
9       requiring the Department of Environmental Protection  
10      to provide notice of contamination to specified  
11      entities and certain property owners; requiring the  
12      department to verify compliance with notice  
13      requirements; authorizing the department to pursue  
14      enforcement measures for noncompliance with notice  
15      requirements; revising the department's contamination  
16      notification requirements for certain public schools;  
17      requiring the department to provide specified notice  
18      to private K-12 schools and child care facilities;  
19      requiring the department to provide specified notice  
20      to public schools within a specified area; providing  
21      notice requirements, including directives to extend  
22      such notice to certain other persons; requiring local  
23      governments to provide specified notice of  
24      contamination; requiring that the local government and  
25      the department recover notification costs from  
26      responsible parties; providing a statement of  
27      important state interest; providing an 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 within ~~no~~  
64 ~~later than~~ 10 days after the ~~from such~~ discovery, to the  
65 Division of Waste Management at the department's Tallahassee  
66 office. The actual notice must ~~shall~~ be provided on a form  
67 adopted by department rule and mailed by certified mail, return  
68 receipt requested. The person responsible for site  
69 rehabilitation shall simultaneously provide ~~mail~~ a copy of the  
70 ~~such~~ notice to the appropriate department district office and,  
71 county health department, ~~and all known lessees and tenants of~~  
72 ~~the source property.~~

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

75 1. ~~(a)~~ The location of the property at which site  
76 rehabilitation was initiated ~~pursuant to s. 376.3071(5), s.~~  
77 ~~376.3078(4), s. 376.81, or s. 376.30701~~ and the contact  
78 information for the person responsible for site rehabilitation,  
79 the person's authorized agent, or another representative of the  
80 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; the owner's address listed in the current county  
87 property tax office records; and the owner's telephone number.

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88 ~~The requirements of this paragraph do not apply to the notice to~~  
89 ~~known tenants and lessees of the source property.~~

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

98 4.(d) A vicinity map that shows each sampling location with  
99 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 property properties at which contamination has been  
105 discovered during such site rehabilitation. If available, a  
106 contaminant plume map signed and sealed by a state-licensed  
107 professional engineer or geologist may be included with the  
108 vicinity map.

109 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

110 (a) After receiving the initial notice required under  
111 subsection (2), the department shall notify the following  
112 persons of the contamination:

113 1. The mayor, the chair of the county commission, or the  
114 comparable senior elected official representing the affected  
115 area.

116 2. The city manager, the county administrator, or the

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117 comparable senior administrative official representing the  
118 affected area.

119 3. The school district superintendent representing the  
120 affected area.

121 4. The state senator, state representative, and United  
122 States Representative representing the affected area and both  
123 United States Senators.

124 5. All real property owners, presidents of any condominium  
125 associations, or sole owners of condominiums, lessees, and  
126 tenants of record for:

127 a. The property at which site rehabilitation is being  
128 conducted, if different from the person responsible for site  
129 rehabilitation;

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

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

141 (b) The notice provided to:

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

145 2. Real property owners, presidents of any condominium

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146 associations, or sole owners of condominiums, lessees, and  
147 tenants of record may be delivered by certified mail, return  
148 receipt requested, first-class mail, hand delivery, or door  
149 hanger.

150 (c) Within 30 days after receiving the initial actual  
151 notice required under pursuant to subsection (2), or within 30  
152 days of the effective date of this act if the department already  
153 possesses information equivalent to that required by the notice,  
154 the department shall verify that the person responsible for site  
155 rehabilitation has complied with the notice requirements of this  
156 section send a copy of such notice, or an equivalent  
157 notification, to all record owners of any real property, other  
158 than the property at which site rehabilitation was initiated  
159 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.  
160 376.30701, at which contamination has been discovered. If the  
161 person responsible for site rehabilitation has not complied with  
162 the notice requirements, the department may pursue enforcement  
163 as provided under this chapter and chapter 403.

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

172 2. If the property at which contamination has been  
173 discovered is the site of a private K-12 school or a child care  
174 facility as defined in s. 402.302, the department shall mail a

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175 copy of the notice to the governing board, principal, or owner  
176 of the school or child care facility and direct the governing  
177 board, principal, or owner to provide actual notice annually to  
178 teachers and parents or guardians of students or children  
179 attending the school or child care facility during the period of  
180 site rehabilitation.

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

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

201 (e) Along with the copy of the notice ~~or its equivalent,~~  
202 the department shall include a letter identifying sources of  
203 additional information about the contamination and a telephone

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204 number to which further inquiries should be directed. The  
205 department may collaborate with the Department of Health to  
206 develop such sources of information and to establish procedures  
207 for responding to public inquiries about health risks associated  
208 with contaminated sites.

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

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

221 (6) (4) RULEMAKING AUTHORITY.—The department shall adopt  
222 rules and forms ~~pursuant to ss. 120.536(1) and 120.54~~ to  
223 administer ~~implement the requirements of~~ this section.

224 Section 2. The Legislature finds that this act fulfills an  
225 important state interest.

226 Section 3. This act shall take effect July 1, 2012.