

62-4.161 Public Notice of Pollution

(1) Intent. This rule is intended to prevent harm to human health or welfare, animal or plant life, or property by assisting the control of pollution. Reportable releases as defined herein are required to be reported to the Department, the general public, local government, and affected property owners. Making these parties aware of the releases in the timeframes provided by this rule, will position them to take action to protect human health or welfare, animal or plant life, or property.

(2) Definitions. The term “reportable release” as used in this rule means the release of any substance to the outdoor air, land, or waters of the state at an installation (within the meaning of section 403.031(4), F.S.) at any level or quantity that is not authorized by law and:

(a) is reportable to the State Watch Office (also known as the State Warning Point) under Department requirements such as those contained in rules, permits, orders, and variances;

(b) is reportable to the Department under subsections 62-761.450(3) and 62-762.451(3), F.A.C.;

(c) is reportable to the Department under paragraph 62-528.307(1)(x), F.A.C.;

(d) is a hazardous substance (within the meaning of section 376.301(20), F.S.) at or above the quantity established in [Table 302.4 of 40 CFR 302.4](#), July 1, 2016, and available at [WEBSITE], which is hereby incorporated by reference, for such substance;

(e) is an extremely hazardous substance (within the meaning of 40 CFR 355.61) at or above the quantity established in [Appendices A and B of 40 CFR 355](#), July 1, 2016, and available at [WEBSITE], which is hereby incorporated by reference, for such substance; or

(f) poses an immediate danger to public health, safety or welfare.

(3) Notification. In the event of a reportable release, any persons (within the meaning of section 403.031(5), F.S.) who are owners or operators of the installation at which the reportable release occurred, must:

(a) Within 24 hours of a reportable release or discovery of a reportable release, notify the following persons in accordance with the notice criteria in subparagraph (4)(a)1.:

1. the Department;

2. the general public via notice to at least one broadcast television affiliate that serves the area where the installation is located and a newspaper of general circulation as described in section 50.011, F.S.; and

3. local government as follows:

a. if the installation is in an incorporated municipality:

i. the mayor, the chair of the city commission, or the comparable senior elected official representing the municipality in which the installation is located, and

ii. the city manager or comparable senior official of the municipality in which the installation is located; or,

b. if the installation is not in an incorporated municipality:

i. the chair of the county commission or comparable senior elected official representing the county in which the installation is located, and

ii. the county administrator or comparable senior official of the county in which the installation is located.

(b) Within 48 hours of a reportable release or discovery of a reportable release, notify the persons listed in paragraph (3)(a) in accordance with the notice criteria in subparagraph (4)(a)2.

(c) Within 24 hours of becoming aware that a substance released during a reportable release is present at any level or quantity into land, outdoor air, or waters of the state located outside of

the property boundaries of the installation, notify the owners of the lands at which the substance is present and the Department and local government, as provided in subparagraph (3)(a)3., in accordance with the notice criteria in subsection (4).

(4) Notice Criteria.

(a) Content.

1. The notification required under paragraph (3)(a) must include the following to the extent known at the time of the notice:

- a. name and address of the installation at which the reportable release occurred;
- b. name and title of the reporting person and the nature of their relationship to the installation (e.g., owner or operator);
- c. identification number for any active Department permits, variances, registrations, or orders that apply to the installation;
- d. name and telephone number of the person to be contacted for further information;
- e. substance released;
- f. estimated quantity of the substance released and quantity that has since been recovered;
- g. cause or source of the release;
- h. location of the release;
- i. date, time, and duration of the release;
- j. medium into which the substance was released; and,
- k. any other persons notified of the reportable release.

2. The notification required under paragraph (3)(b) must include the following to the extent known at the time of the notice:

- a. whether the released substance is migrating or has migrated to land, outdoor air, or waters of the state outside the property boundaries of the installation;
- b. locations where the released substance has migrated to;
- c. risks to human health or welfare, plant life, or animal life associated with the release as specified on a material safety data sheet or comparable source published by the United States Department of Labor, Occupational Safety and Health Administration or Centers for Disease Control and Prevention; and
- d. recommended precautions to take as a result of the release (e.g., evacuation, abstaining from swimming, and abstaining from drinking groundwater).

3. The notification required under paragraph (3)(c) must include the information required under subparagraphs (4)(a)1. and (4)(a)2.

4. Other information that the reporting party wishes to include to assist in the protection of human health or welfare, animal or plant life, or property is permissible and encouraged.

(b) Method.

1. Notices required to be submitted to the Department must be submitted via electronic delivery to pollution.notice@dep.state.fl.us.

2. Notices required to be submitted to local governments, broadcast television affiliates, and newspapers of general circulation must be submitted via electronic or hand delivery.

3. Notices required to be submitted to property owners must be submitted via mail, electronic delivery, or hand delivery unless the substance is present in surface waters of the state in which case the notice must be submitted to the general public in accordance with subparagraphs (3)(a)2. and (4)(b)2.

4. Notices submitted to a newspaper of general circulation may be, but are not required to be, published in the notice section of the newspaper.

5. If notices are sent via electronic delivery, a single email to multiple parties is acceptable. Each party is not required to be separately notified.

(5) Failure to provide the notification required by this rule shall be considered a violation of Department rule and subject to the imposition of penalties pursuant to section 403.161, F.S. Where multiple parties are subject to the notification requirements based on a single reportable release, there need not be multiple notifications. A single notification made by one party in accordance with this rule shall constitute compliance on behalf of all parties that are subject to the requirement. However, where notification is not made in accordance with this rule, the Department may pursue enforcement against all parties subject to the requirement.