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Reporting Requirements: Florida Department of Environmental Protection Emergency Rules Requiring Public Notification of "Pollution Incidents"

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Florida Governor Rick Scott ordered the Florida Department of Environmental Protection ("DEP") to issue an emergency rule establishing new requirements for public notification of "pollution incidents."

The purpose of the emergency rule is stated to ensure that the public, local governments, and DEP are notified within 24 hours by all responsible parties following a "pollution incident."

Various federal and state environmental statutory or regulatory provisions require a notification of some type to the government if certain types of events occur. Examples might include:

- Federal Superfund/CERCLA – report to National Response Center in the event of a release of reportable quantity of hazardous substances
- Clean Water Act (Section 311) – report to National Response Center of spill of oil to navigable water causing a "sheen"
- Arkansas Pollution Control and Ecology Commission Regulation 12 (incorporating federal petroleum underground storage tank [UST] regulations) – report to UST regulatory implementing authority within 24 hours of suspected release from UST

The new Florida requirements will arguable apply to a broad set of circumstances or scenarios in view of the phrase that triggers reporting – "pollution incident."

Governor Scott in a news release summarizes the notification requirements as requiring:

- Within 24 hours, DEP, local governments and the general public must be notified of pollution by any and all responsible parties;
- Within 48 hours, DEP, local governments and the general public must be notified of any potential risks to public health, safety or welfare and to surrounding areas by any and all responsible parties; and
- Within 24 hours of becoming aware pollution has affected areas off-site, adjacent nearby property owners, in addition to DEP and local governments, must be notified of any potential health risks by any and all responsible parties.

A sewage spill in Pinellas County, Florida and a sinkhole at Mosaic's New Wales facility are referenced as events that illustrate a need to revise the state's notification requirements.

Florida Governor Scott is quoted as stating:

It does not make sense that the public is not immediately notified when pollution incidents occur and that is why I am directing DEP to immediately issue an emergency rule implementing strict requirements for public notification within 24 hours. Today, I am demanding any business, county or city government responsible for a pollution incident to immediately tell the public. That is common sense and our residents deserve that.

[A copy of the Florida Governor's news release can be downloaded here.](#)

[A copy of the DEP's Notice of Emergency Rule can be downloaded here.](#)