

Due to frequent pollution incidents around the state in which the public was not immediately made aware of the potential health and safety risks associated with these releases, Governor Rick Scott implemented Emergency Rule 62ER 16-01 which requires the owners/operators of the installation where the release took place, to notify the Florida Department of Environmental Protection at [www.dep.state.fl.us/pollutionnotice](http://www.dep.state.fl.us/pollutionnotice), local government and the general public of the release within 24 hours of the release. The owners/operators of the installation where the release occurred are required to notify the same entities (FDEP/local gov/Public) within 48 hours of first becoming aware of the release of the potential risks to public health, safety or welfare relating to the release. In addition, owners/operators of an installation where a release occurred have 24 hours to notify affected property owners, FDEP and local governments of first becoming aware that a release has migrated outside of the installation's property boundary.

To properly notify the public of a release, notices must be submitted electronically or by hand delivery to at least one broadcast television affiliate and one newspaper of general circulation.

<http://dos.myflorida.com/library-archives/research/florida-information/florida-newspapers-online/>

Hand delivery or electronic notification is an approved method of notification for local governments.

Failure to submit the required notification to FDEP is subject to a one-time administrative fine of \$1,000 but could be subject to penalties from FDEP up to \$10,000 per violation per day along with other legal actions.

Some of the concerns from general industry include the following:

- Places excessive reporting burden/economic hardship on industry and local governments
- Tend to argue that this rule seems to be written more so for land and water pollution vs. air pollution
- Rule may lead to uncontrolled public hysteria

#### **Public Notice of Pollution Rule 62-4.161**

The Pollution Notification Rule change was published on 11/15/2016 in the Florida Administrative Register (Volume 42, Number 222, November 15, 2016).

**Intent:** of the rule is to prevent harm to human health, welfare or property.

Reportable releases are required to be reported to FDEP, the general public, local government and effected property owners. "Reportable releases" is defined as a release that could pose an immediate danger to public health, safety and welfare and includes any substance to air, land or waters of the state that is not authorized by law and includes:

- (a) Reportable to the state watch office under department requirements contained in rules, permits, orders or variances

- (b) Is reportable to the Department or its contracted county 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(21), F.S.) at or above the quantity established in Table 302.4 of 40 CFR 302.4
- (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)

**Notification Requirements:** In the event of a reportable release from an installation/facility, any owners or operators at the installation/facility when the release occurred must:

1. **Within 24 hours** notify the Florida Department of Environmental Protection, local government and the general public of the pollution incident. Public Notification is by notice to at least one broadcast television affiliate that serves the area where the release took place, and includes a newspaper of general circulation as described in 50.011 F.S.
2. **Within 48 hours** of becoming aware of a reportable release or discovery of a reportable release notify the Department, local government and the general public of any potential risks to public health, safety or welfare.
3. **Within 24 hours** of becoming aware that a substance released during a reportable release is present at any level or quantity in the land, outdoor air, or water of the state, outside the property boundaries of the installation/facility, must notify affected property owners, FDEP and local government

**Notification Elements (1):** The notification required according to this rule must include the following listed elements:

- (a) Name/address of the installation at which the reportable release occurred.
- (b) Name/title of the reporting individual and the nature of their relationship to the installation
- (c) Identification numbers for any active permits, variances, registrations, or orders that are relevant to the reportable release.
- (d) Name/number of person to be contacted for further information
- (e) Substance released
- (f) Estimated quantity of the substance released along w/ quantity that has since been recovered
- (g) Cause or source of the release
- (h) Location of the release
- (i) Date/time/duration of release
- (j) Medium into which the substance was released
- (k) Any other persons notified, under this rule or the reportable release

**Notification Elements (2):** The notification required according to this rule must include the following listed elements to the extent known at the time of the reporting:

- (a) Whether the release of the 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 migrated to
- (c) To the extent available, toxicological information and recommended precautions associated with the release as specified on a safety data sheet or comparable source published by Dept. of Labor, OSHA, CDC

**Notification Elements [3]:** The notification required according to this rule must include Notification Elements 1 & 2.