

6751

I N S E N A T E

February 3, 2010

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to notification of hazardous substance releases

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The environmental conservation law is amended by adding a  
2 new section 27-1310 to read as follows:

3 S 27-1310. NOTIFICATION.

4 1. THE DEPARTMENT SHALL GIVE NOTICE WITHIN SIXTY DAYS TO ALL PROPERTY  
5 OWNERS WITHIN TWO THOUSAND FIVE HUNDRED FEET OF AN INACTIVE HAZARDOUS  
6 WASTE DISPOSAL SITE AFFECTED BY ANY OF THE FOLLOWING CIRCUMSTANCES:

7 (A) WHENEVER THE DEPARTMENT FIRST BECOMES AWARE OF THE RELEASE OR THE  
8 THREAT OF THE RELEASE OF A HAZARDOUS SUBSTANCE FOR WHICH THE DEPARTMENT  
9 MAY ASSESS REMOVAL OR REMEDIATION COSTS;

10 (B) WHENEVER THE DEPARTMENT BECOMES AWARE OF EVIDENCE OF THE RELEASE  
11 OF A HAZARDOUS SUBSTANCE THAT MAY DIRECTLY AND FORESEEABLY IMPACT GROUND  
12 WATER OR THAT MAY DIRECTLY AND FORESEEABLY PRESENT A RISK OF EXPOSURE TO  
13 HUMANS;

14 (C) WHENEVER THE DEPARTMENT CONSIDERS IT APPROPRIATE TO EMPLOY A  
15 COMMUNITY RELATIONS SPECIALIST IN ANY CAPACITY WITH RESPECT TO A RELEASE  
16 OR THREAT OF RELEASE OF A HAZARDOUS SUBSTANCE; OR

17 (D) WHENEVER THE DEPARTMENT SERVES NOTICE ON A RESPONSIBLE PARTY AS A  
18 RESULT OF ANY SIGNIFICANT SPILLING, LEAKING, PUMPING, POURING, EMITTING,  
19 EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING, DUMPING, OR  
20 DISPOSING INTO THE ENVIRONMENT ANY WASTE, SPECIAL WASTE, POTENTIALLY  
21 INFECTIOUS MEDICAL WASTE, POLLUTION CONTROL WASTE, INDUSTRIAL PROCESS  
22 WASTE, HAZARDOUS WASTE, HAZARDOUS SUBSTANCE, OR CONTAMINANTS, THAT MAY  
23 CONSTITUTE AN IMMINENT OR SUBSTANTIAL ENDANGERMENT TO HUMANS.

24 2. AT A MINIMUM, NOTICE SHALL BE GIVEN BY DIRECT MAIL, WHETHER BY  
25 LETTER OR POSTCARD, AND MUST CONTAIN THE FOLLOWING INFORMATION:

26 (A) THE ADDRESS AND PHYSICAL DESCRIPTION OF EACH SITE;

27 (B) A BRIEF DESCRIPTION OF THE EVENTS SPECIFIED IN SUBDIVISION ONE OF  
28 THIS SECTION, INCLUDING, BUT NOT LIMITED TO:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 (I) THE PRESENCE AND TYPE OF HAZARDOUS SUBSTANCE OR CHEMICALS RELEASED  
2 OR THREATENED TO BE RELEASED;

3 (II) A BRIEF DESCRIPTION OF THE NATURE AND HEALTH RISKS, OR POTENTIAL  
4 HEALTH RISKS, OF THE HAZARDOUS SUBSTANCE OR A LINK TO THE DEPARTMENT  
5 WEBSITE, THAT IS FREQUENTLY UPDATED AND CONTAINS DESCRIPTIONS OF THE  
6 CHEMICALS' NATURE AND HEALTH RISKS; AND

7 (III) WHETHER THERE WAS ANY SPILLING, LEAKING, PUMPING, POURING, EMIT-  
8 TING, EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING, DUMPING, OR  
9 DISPOSING OF ANY HAZARDOUS SUBSTANCE INTO OR ONTO THE LAND, WATER, OR  
10 AIR; AND

11 (C) THE CASE NUMBER OF THE ENFORCEMENT ACTION FOR WHICH NOTICE HAS  
12 BEEN GIVEN.

13 3. THE DEPARTMENT SHALL PROVIDE NOTICE BY NEWSPAPER AND ON THE DEPART-  
14 MENT WEBSITE UNDER THE STANDARDS ESTABLISHED IN SUBDIVISION FOUR OF THIS  
15 SECTION WHENEVER ANY OF THE FOLLOWING EVENTS OCCUR:

16 (A) WHENEVER THE DEPARTMENT FIRST BECOMES AWARE OF A SITE UNDERGOING  
17 REMEDIAL ACTION;

18 (B) WHENEVER THE DEPARTMENT FIRST BECOMES AWARE OF THE EXISTENCE OF  
19 THE PRESENCE OF A CONTAMINANT OR HAZARDOUS SUBSTANCE VIA A NOTIFICATION  
20 REQUIREMENT UNDER ANY OF THE FOLLOWING ACTS OR REGULATIONS:

21 (I) PURSUANT TO NOTIFICATION REQUIRED BY THE FEDERAL COMPREHENSIVE  
22 ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA), 42  
23 U.S.C. SECTIONS 9603 (A) AND 9603 (C);

24 (II) PURSUANT TO ACTIONS TAKEN UNDER CERCLA SECTION 9604(A);

25 (III) ANY LISTING PURSUANT TO THE NATIONAL CONTINGENCY PLAN; OR

26 (IV) PURSUANT TO ANY ACTION FOR JUDICIAL RELIEF UNDERTAKEN PURSUANT TO  
27 THE FEDERAL SOLID WASTE ACT, 42 U.S.C. SECTIONS 6973 OR 6972 (A);

28 (C) WHENEVER THE DEPARTMENT HAS CONFIRMED, THROUGH SOUND SCIENTIFIC  
29 METHODS, THE PRESENCE OF AN ENVIRONMENTAL CONTAMINANT THAT EXCEEDS THE  
30 APPLICABLE FEDERAL OR STATE HEALTH AND SAFETY STANDARDS; OR

31 (D) WHENEVER THE DEPARTMENT IS AWARE OF THE PRESENCE OF A LEAKING  
32 UNDERGROUND STORAGE TANK.

33 4. NOTICE OF THE EVENTS DESCRIBED IN SUBDIVISION THREE OF THIS SECTION  
34 MUST BE PLACED ON A QUARTERLY BASIS IN A NEWSPAPER WIDELY CIRCULATED IN  
35 THE AREAS WHERE THE CONDITION DESCRIBED IN SUBDIVISION THREE OF THIS  
36 SECTION OCCURS FOR A MINIMUM PERIOD OF TWO YEARS. THE NEWSPAPER NOTICE  
37 MUST CONTAIN THE FOLLOWING INFORMATION IN NO LESS THAN ELEVEN-POINT  
38 FONT:

39 (A) A GENERAL DESCRIPTION OF THE EVENTS LEADING UP TO THE EVENTS  
40 DESCRIBED IN SUBDIVISION THREE OF THIS SECTION:

41 (I) WHETHER THERE WAS ANY SPILLING, LEAKING, PUMPING, POURING, EMIT-  
42 TING, EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING, DUMPING, OR  
43 DISPOSING OF ANY OF THE ITEMS LISTED IN SUBPARAGRAPH (II) OF THIS PARA-  
44 GRAPH INTO OR ONTO THE LAND, WATER, OR AIR; AND

45 (II) THE PRESENCE OF ANY WASTE, SPECIAL WASTE, POTENTIALLY INFECTIOUS  
46 MEDICAL WASTE, POLLUTION CONTROL WASTE, INDUSTRIAL PROCESS WASTE,  
47 HAZARDOUS WASTE, HAZARDOUS SUBSTANCE, OR CONTAMINANT;

48 (B) A DESCRIPTION OF THE PHYSICAL LOCATION OF EACH SITE, INCLUDING THE  
49 LEGAL DESCRIPTION OF THE PROPERTY AND THE STREET NAMES BORDERING EACH  
50 SITE;

51 (C) INFORMATION RELATING TO THE NATURE AND HEALTH RISKS OF THE HAZARD-  
52 OUS SUBSTANCES OR THE ADDRESS OF THE DEPARTMENT WEBSITE WHERE ADDITIONAL  
53 INFORMATION MAY BE GATHERED ABOUT THE NATURE AND HEALTH RISKS ASSOCIATED  
54 WITH THE POLLUTANTS; AND

55 (D) IN THE CIRCUMSTANCE WHEN NOTICE IS TO BE GIVEN REGARDING THE PRES-  
56 ENCE OF A LEAKING UNDERGROUND STORAGE TANK, IT IS SUFFICIENT THAT THE

1 NEWSPAPER NOTICE IDENTIFY THE GENERAL AREA WHERE EACH LEAKING UNDER-  
2 GROUND STORAGE TANK IS LOCATED AND SPECIFICALLY PROVIDE INSTRUCTIONS TO  
3 DETERMINE THE EXACT LOCATIONS OF THE LEAKING UNDERGROUND STORAGE TANKS  
4 THROUGH A WEBSITE OR OTHER SEARCHABLE DATA BASE MAINTAINED BY THE  
5 DEPARTMENT.

6 5. THE DEPARTMENT IS NOT LIABLE FOR THE ACCURACY, AVAILABILITY, OR USE  
7 OF ANY INFORMATION PROVIDED UNDER THIS SECTION UNLESS THE DEPARTMENT'S  
8 ACT OR OMISSION CONSTITUTES WILLFUL AND WANTON MISCONDUCT.

9 6. AT A MINIMUM, THE DEPARTMENT SHALL PROVIDE AN ANNUAL UPDATE ON  
10 INACTIVE HAZARDOUS WASTE DISPOSAL SITES ON THE DEPARTMENT WEBSITE.

11 S 2. This act shall take effect immediately.