

## Section C.17: IC Notice Procedures

After the FDEP has issued its letter confirming approval of the recommended conditional closure, and in any case prior to FDEP approval of the IC, notice and a 30-day opportunity to comment on the conditional closure proposal is provided in Rule 62-780.220(7). Notice pursuant to that rule must be provided in the following manner:

As set forth in the rule, notice is to be given by mail (which may include US mail, courier, email or other means) to:

- local governments with jurisdiction over the property where the contaminated site is located, FDEP interprets this requirement to include the water management district, municipality (if applicable) and county in which the property is located (whether or not the county actually has jurisdiction over the property);
- owners of real property subject to the IC. If the real property owner is a Florida entity, or a foreign entity qualified to do business in Florida, to the registered agent for the entity as identified on Sunbiz; otherwise, to the address for the owner provided on the County Property appraiser's website;
- residents or business tenants on the property subject to the IC; provided however, where there are multiple residents, businesses or tenants on any property subject to the proposed IC, the PRSR may publish a Notice of Intent to Approve Use of Institutional Controls. See Attachment 19, Attachment 21, Attachment 22, and Attachment 23; and
- any party holding a "materially affected" encumbrance in the area subject to the control (see Section C. 11. of the Institutional Controls Procedures Guidance). With respect to such encumbrance holders, if the recorded encumbrance specifies the address and requirements for notice (e.g., format, delivery method, required cc's, etc.), then notice shall be provided in accordance with the written requirements of the recorded encumbrance, as well as by mail to the registered agent for the entity as identified in Sunbiz. Where there are multiple residences, businesses or tenants on any property subject to the proposed IC, the PRSR may publish a Notice of Intent to Approve Use of Institutional Controls in lieu of notice by mail. See above discussion under the Title Section and Attachment 9, and particularly under "Owner's Notice to Existing Encumbrance Holders".

Under Chapter 62-780, F.A.C., notice is to be given within 30 days of FDEP's approval of the recommendation for conditional closure, but may be provided earlier. Site/project managers should bring this notice requirement to the owners' attention early in the process because owners are often anxious to obtain the conditional SRCO due to pending real estate transactions or bank financing, and they may be frustrated to learn they have to give this notice and wait another 30 days for comments if notice was not already given.

The site/project manager shall send a copy of the FDEP's conditional closure approval to any party who provides comments to the FDEP or requests a copy.

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Deleted: Encumbrance Notice - to existing mortgage holders, holders of recorded leases and easement or other encumbrance holders identified in the Title Report, by notice made by the owner to the interest holder if the IC limitations or restrictions could impact ("materially conflict with") the encumbrance holder's interest.

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While not required by Chapter 62-780, F.A.C., owners cleaning up large-scale, high-interest sites may want to consider inviting the public to public forums to become involved while environmental conditions and risks are being assessed and while plans are being developed. For cleanups managed with EPA as the lead, such public forums may even be required (see the appropriate EPA rules for more information). If public involvement in the development of controls is requested, owners should focus on whether the restrictions, engineering controls, and land use controls have been drafted to adequately explain what the prohibited and permitted uses of the site will be, and whether there are any continuing obligations and conditions required of the property owner and tenants/lessees. Public comment should be accepted in this process and, if warranted, additional meetings and notices can be scheduled.

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