

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 530

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 21308a, 21311a, and 21312a (MCL 324.21308a,
324.21311a, and 324.21312a), as amended by 1996 PA 116.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21308a. (1) Within ~~90~~**180** days after a release has been
2 discovered, ~~a consultant retained by~~ the owner or operator shall
3 complete an initial assessment report and submit the report to the
4 department on a form created pursuant to section 21316. The report
5 shall include ~~, but is not limited to,~~ the following information:

6 (a) Results of initial ~~response~~ actions taken under section
7 21307(2).

8 (b) Site information and site characterization results. The

following items shall be included as appropriate given the site conditions:

- (i) The ~~facility~~**PROPERTY** address.
- (ii) The name of the ~~facility~~**BUSINESS, IF APPLICABLE.**
- (iii) The name, address, and telephone number of ~~facility~~
~~compliance~~**A contact person FOR THE OWNER OR OPERATOR.**
- (iv) The time and date of release discovery.
- (v) The time and date the release was reported to the department.
- (vi) A site map that includes all of the following:
 - (A) The location of each underground storage tank in the leaking underground storage tank system.
 - (B) The location of any other **KNOWN CURRENT OR FORMER** underground storage tank system on the site.
 - (C) The location of fill ports, dispensers, and other pertinent system components **FOR KNOWN CURRENT OR FORMER UNDERGROUND STORAGE TANK SYSTEMS ON THE SITE.**
 - (D) Soil and groundwater sample locations, if applicable.
 - (E) The locations of nearby buildings, roadways, paved areas, or other structures.
- (vii) A description of how the release was discovered.
- (viii) A list of regulated substances the underground storage tank system contained when the release occurred.
- (ix) A list of the regulated substances the underground storage tank system contained in the past other than those listed in subparagraph (viii).
- (x) The location of nearby surface waters and wetlands.

(xi) The location of nearby underground sewers and utility lines.

(xii) The component of the underground storage tank system from which the release occurred (e.g., piping, underground storage tank, overfill).

(xiii) Whether the underground storage tank system was emptied to prevent further release.

(xiv) A description of what other steps were taken to prevent further migration of the regulated substance into the soil or groundwater.

(xv) Whether **TOXIC OR EXPLOSIVE** vapors or ~~free product~~ **MIGRATING OR MOBILE NAPL** was found and what steps were taken to ~~abate~~ **EVALUATE** those conditions and the current levels of **TOXIC OR EXPLOSIVE** vapors or ~~free product~~ **MIGRATING OR MOBILE NAPL** in nearby structures.

(xvi) The extent to which all or part of the underground storage tank system or soil, or both, was removed.

(xvii) Data from analytical testing of soil and groundwater samples.

(xviii) A description of the ~~free product~~ **MOBILE OR MIGRATING NAPL** investigation and ~~removal if free product was present,~~ **EVALUATION CONDUCTED PURSUANT TO SECTION 21307(2)(C) AND, IF THE EVALUATION OF NAPL CONCLUDES THAT NAPL IS RECOVERABLE AND REMOVAL IS NECESSARY UNDER THIS PART TO ABATE AN UNACCEPTABLE RISK PURSUANT TO THE PROVISIONS OUTLINED IN RBCA, A DESCRIPTION OF THE REMOVAL,** including all of the following:

(A) A description of the actions taken to remove any ~~free~~

1 ~~product-NAPL.~~

2 (B) The name of the person or persons responsible for
3 implementing the ~~free-product-NAPL~~ removal measures.

4 (C) The estimated quantity, type, and thickness of ~~free~~
5 ~~product-NAPL~~ observed or measured in wells, boreholes, and
6 excavations.

7 (D) The type of ~~free-product-NAPL~~ recovery system used.

8 (E) Whether any discharge will take place on site or off site
9 during the recovery operation and where this discharge will be
10 located.

11 (F) The type of treatment applied to, and the effluent quality
12 expected from, any discharge.

13 (G) The steps that have been or are being taken to obtain
14 necessary permits for any discharge.

15 (H) The quantity and disposition of the recovered ~~free~~
16 ~~product-NAPL.~~

17 (xix) Identification of any other contamination on the site not
18 resulting from the release and the source, if known.

19 (xx) An estimate of the horizontal and vertical extent of on-
20 site and off-site soil contamination **EXCEEDING THE APPLICABLE RBSL**
21 **FOR TIER I SITES OR THE APPLICABLE SSTL FOR TIER II OR TIER III**
22 **SITES.**

23 (xxi) The depth to groundwater.

24 (xxii) An identification of potential migration and exposure
25 pathways and receptors.

26 (xxiii) An estimate of the amount of soil in the vadose zone
27 that is contaminated.

(xxiv) If the on-site assessment indicates that off-site soil or groundwater may be affected, report the steps that have been taken or will be taken including an implementation schedule to expeditiously secure access to off-site properties to complete the delineation of the extent of the release **IF THE CONTAMINATION EXCEEDS THE APPLICABLE RBSL OR THE APPLICABLE SSTL.**

(xxv) Groundwater flow rate and direction.

(xxvi) Laboratory analytical data collected. **THE OWNER OR OPERATOR MAY ELECT TO OBTAIN GROUNDWATER SAMPLES UTILIZING A GRAB SAMPLE TECHNIQUE FOR INITIAL ASSESSMENT AND MONITORING PURPOSES THAT DO NOT REPRESENT INITIAL DELINEATION OF THE LIMIT OF CONTAMINATION OR CLOSURE VERIFICATION SAMPLING.**

(xxvii) The vertical distribution of contaminants **THAT EXCEED THE APPLICABLE RBSL OR APPLICABLE SSTL.**

(c) Site classification under section 21314a.

(d) Tier I or tier II evaluation according to the RBCA process.

(e) A work plan, including an implementation schedule for conducting a final assessment report under section 21311a, to determine the vertical and horizontal extent of the contamination **THAT EXCEEDS THE APPLICABLE RBSL OR APPLICABLE SSTL** as necessary for preparation of the corrective action plan.

(2) If ~~free product~~ **MIGRATING OR MOBILE NAPL** is discovered at a site after the submittal of an initial assessment report pursuant to subsection (1), the owner or operator ~~, or consultant retained by the owner or operator,~~ shall do both of the following:

(a) Perform initial ~~response~~ actions identified in section

1 21307(2)(c).~~(i) to (iv)~~.

2 (b) Submit to the department an amendment to the initial
3 assessment report within 30 days of discovery of the ~~free product~~
4 **MIGRATING OR MOBILE NAPL** that describes response actions taken as a
5 result of the ~~free product~~ **MIGRATING OR MOBILE NAPL** discovery.

6 (3) **THE DEPARTMENT SHALL NOT REQUIRE ANY ADDITIONAL**
7 **INFORMATION BEYOND THAT REQUIRED UNDER THIS SECTION TO BE INCLUDED**
8 **IN AN INITIAL ASSESSMENT REPORT. THE OWNER OR OPERATOR SHALL**
9 **PROVIDE SUPPORTING DOCUMENTATION TO THE DATA AND CONCLUSIONS OF THE**
10 **INITIAL ASSESSMENT REPORT UPON REQUEST BY THE DEPARTMENT.**

11 Sec. 21311a. (1) Within 365 days after a release has been
12 discovered, ~~a consultant retained by an owner or operator shall~~
13 complete a final assessment report that includes a corrective
14 action plan developed under section 21309a and submit the report to
15 the department on a form created pursuant to section 21316. The
16 report shall include ~~, but is not limited to,~~ the following
17 information:

18 (a) ~~The extent of contamination.~~ **A SITE ASSESSMENT UNDER THE**
19 **RBCA PROCESS, AS NECESSARY FOR DETERMINING SITE CLASSIFICATION, AND**
20 **THE EXTENT OF CONTAMINATION RELATIVE TO THE APPLICABLE RBSLS OR**
21 **APPLICABLE SSTLS SET FORTH IN THE CORRECTIVE ACTION PLAN.**

22 (b) Tier II and tier III evaluation, as appropriate, under the
23 RBCA process.

24 (c) A feasibility analysis. The following shall be included,
25 as appropriate, given the site conditions **AND THE APPLICABLE RBSL**
26 **OR APPLICABLE SSTL:**

27 (i) On-site and off-site corrective action alternatives to

remediate contaminated soil and groundwater for each cleanup type
ABOVE THE APPLICABLE RBSL OR APPLICABLE SSTL, including
alternatives that permanently and significantly reduce the volume,
toxicity, and mobility of the regulated substances **IF ABOVE THE**
APPLICABLE RBSL OR APPLICABLE SSTL.

(ii) **AN ANALYSIS OF THE RECOVERABILITY AND WHETHER THE NAPL IS**
MOBILE OR MIGRATING.

(iii) ~~(ii)~~—The costs associated with each corrective action
alternative including alternatives that permanently and
significantly reduce the volume, toxicity, and mobility of the
regulated substances **THAT ARE ABOVE THE APPLICABLE RBSL OR**
APPLICABLE SSTL.

(iv) ~~(iii)~~—The effectiveness and feasibility of each corrective
action alternative in meeting cleanup criteria **THAT ARE ABOVE THE**
APPLICABLE RBSL OR APPLICABLE SSTL.

(v) ~~(iv)~~—The time necessary to implement and complete each
corrective action alternative.

(vi) ~~(v)~~—The preferred corrective action alternative based upon
subparagraphs (i) through ~~(iv)~~—(v) and an implementation schedule for
completion of the corrective action.

(d) A corrective action plan.

(e) A schedule for corrective action plan implementation.

~~(2) If the preferred corrective action alternative under~~
~~subsection (1)(c)(v) is based on the use of institutional controls~~
~~regarding off-site migration of regulated substances, the~~
~~corrective action plan shall not be implemented until it is~~
~~reviewed and determined by the department to be in compliance with~~

~~this part.~~ THE OWNER OR OPERATOR SHALL PROVIDE SUPPORTING
DOCUMENTATION TO THE DATA AND CONCLUSIONS OF THE FINAL ASSESSMENT
REPORT UPON REQUEST BY THE DEPARTMENT. THE DEPARTMENT SHALL NOT
REQUIRE ANY ADDITIONAL INFORMATION BEYOND THAT REQUIRED UNDER THIS
SECTION TO BE INCLUDED IN ITS FINAL ASSESSMENT REPORT.

Sec. 21312a. (1) ~~Within 30 days following~~ UPON completion of
the corrective action, ~~a consultant retained by the owner or~~
operator shall complete a closure report and submit the report to
the department on a form created pursuant to section 21316. The
report shall include ~~, but is not limited to,~~ the following
information:

(a) A summary of corrective action activities AND
DOCUMENTATION OF THE BASIS FOR CONCLUDING THAT CORRECTIVE ACTIONS
HAVE BEEN COMPLETED.

(b) Closure verification sampling results. GROUNDWATER SAMPLES
SHALL BE COLLECTED UTILIZING A LOW-FLOW TECHNIQUE FOR CLOSURE
VERIFICATION OR OTHER METHOD APPROVED BY THE DEPARTMENT.

~~—— (c) A closure certification prepared by the consultant
retained by the owner or operator.~~

(C) THE PERSON SUBMITTING A CLOSURE REPORT SHALL INCLUDE A
SIGNED AFFIDAVIT ATTESTING TO THE FACT THAT THE INFORMATION UPON
WHICH THE CLOSURE REPORT IS BASED IS COMPLETE AND TRUE TO THE BEST
OF THAT PERSON'S KNOWLEDGE. THE CLOSURE REPORT SHALL ALSO INCLUDE A
SIGNED AFFIDAVIT FROM THE CONSULTANT WHO PREPARED THE CLOSURE
REPORT ATTESTING TO THE FACT THAT THE CORRECTIVE ACTIONS DETAILED
IN THE CLOSURE REPORT COMPLY WITH ALL APPLICABLE REQUIREMENTS UNDER
THE APPLICABLE RBCA STANDARD AND THAT THE INFORMATION UPON WHICH

1 THE CLOSURE REPORT IS BASED IS TRUE AND ACCURATE TO THE BEST OF
2 THAT CONSULTANT'S KNOWLEDGE. IN ADDITION, THE CONSULTANT SHALL
3 ATTACH A CERTIFICATE OF INSURANCE DEMONSTRATING THAT THE CONSULTANT
4 HAS OBTAINED AT LEAST ALL OF THE INSURANCE REQUIRED UNDER SECTION
5 21325.

6 (D) A PERSON SUBMITTING A CLOSURE REPORT SHALL MAINTAIN ALL
7 DOCUMENTS AND DATA PREPARED, ACQUIRED, OR RELIED UPON IN CONNECTION
8 WITH THE CLOSURE REPORT FOR NOT LESS THAN 6 YEARS AFTER THE DATE ON
9 WHICH THE CLOSURE REPORT WAS SUBMITTED. ALL DOCUMENTS AND DATA
10 REQUIRED TO BE MAINTAINED UNDER THIS SECTION SHALL BE MADE
11 AVAILABLE TO THE DEPARTMENT UPON REQUEST.

12 (2) Within 60 days after receipt of a closure report under
13 subsection (1), the department shall provide the ~~consultant~~ OWNER
14 OR OPERATOR who submitted the closure report with a confirmation of
15 the department's receipt of the report.

16 (3) THE DEPARTMENT SHALL NOT REQUIRE ANY ADDITIONAL
17 INFORMATION BEYOND THAT REQUIRED UNDER THIS SECTION TO BE INCLUDED
18 IN A CLOSURE REPORT.

19 Enacting section 1. This amendatory act does not take effect
20 unless all of the following bills of the 96th Legislature are
21 enacted into law:

22 (a) Senate Bill No. 528.

23 (b) Senate Bill No. 529.

24 (c) Senate Bill No. 531.

25 (d) Senate Bill No. 532.

26 (e) Senate Bill No. 533.