

Act No. 110
Public Acts of 2012
Approved by the Governor
May 1, 2012
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May 1, 2012
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Pavlov, Proos, Kowall, Pappageorge, Marleau and Walker

ENROLLED SENATE BILL No. 530

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," 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:

Sec. 21308a. (1) Within 180 days after a release has been discovered, the owner or operator shall complete an initial assessment report and submit the report to the department on a form created pursuant to section 21316. The report shall include the following information:

- (a) Results of initial actions taken under section 21307(2).
- (b) Site information and site characterization results. The following items shall be included as appropriate given the site conditions:
 - (i) The property address.
 - (ii) The name of the business, if applicable.
 - (iii) The name, address, and telephone number of 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 migrating or mobile NAPL was found and what steps were taken to evaluate those conditions and the current levels of toxic or explosive vapors or 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 mobile or migrating NAPL investigation and 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 NAPL.
 - (B) The name of the person or persons responsible for implementing the NAPL removal measures.
 - (C) The estimated quantity, type, and thickness of NAPL observed or measured in wells, boreholes, and excavations.
 - (D) The type of NAPL recovery system used.
 - (E) Whether any discharge will take place on site or off site during the recovery operation and where this discharge will be located.
 - (F) The type of treatment applied to, and the effluent quality expected from, any discharge.
 - (G) The steps that have been or are being taken to obtain necessary permits for any discharge.
 - (H) The quantity and disposition of the recovered NAPL.
- (xix) Identification of any other contamination on the site not resulting from the release and the source, if known.
- (xx) An estimate of the horizontal and vertical extent of on-site and off-site soil contamination exceeding the applicable RBSL for tier I sites or the applicable SSTL for tier II or tier III sites.
- (xxi) The depth to groundwater.
- (xxii) An identification of potential migration and exposure pathways and receptors.
- (xxiii) An estimate of the amount of soil in the vadose zone 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 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 shall do both of the following:
 - (a) Perform initial actions identified in section 21307(2)(c).

(b) Submit to the department an amendment to the initial assessment report within 30 days of discovery of the migrating or mobile NAPL that describes response actions taken as a result of the migrating or mobile NAPL discovery.

(3) The department shall not require any additional information beyond that required under this section to be included in an initial assessment report. The owner or operator shall provide supporting documentation to the data and conclusions of the initial assessment report upon request by the department.

Sec. 21311a. (1) Within 365 days after a release has been discovered, an owner or operator shall complete a final assessment report that includes a corrective action plan developed under section 21309a and submit the report to the department on a form created pursuant to section 21316. The report shall include the following information:

(a) A site assessment under the RBCA process, as necessary for determining site classification, and the extent of contamination relative to the applicable RBSLs or applicable SSTLs set forth in the corrective action plan.

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

(c) A feasibility analysis. The following shall be included, as appropriate, given the site conditions and the applicable RBSL or applicable SSTL:

(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) 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) The effectiveness and feasibility of each corrective action alternative in meeting cleanup criteria that are above the applicable RBSL or applicable SSTL.

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

(vi) The preferred corrective action alternative based upon subparagraphs (i) through (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) 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) Upon completion of the corrective action, 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 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) 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 the closure report is based is true and accurate to the best of that consultant's knowledge. In addition, the consultant shall attach a certificate of insurance demonstrating that the consultant has obtained at least all of the insurance required under section 21325.

(d) A person submitting a closure report shall maintain all documents and data prepared, acquired, or relied upon in connection with the closure report for not less than 6 years after the date on which the closure report was submitted. All documents and data required to be maintained under this section shall be made available to the department upon request.

(2) Within 60 days after receipt of a closure report under subsection (1), the department shall provide the owner or operator who submitted the closure report with a confirmation of the department's receipt of the report.

(3) The department shall not require any additional information beyond that required under this section to be included in a closure report.

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

- (a) Senate Bill No. 528.
- (b) Senate Bill No. 529.
- (c) Senate Bill No. 531.
- (d) Senate Bill No. 532.
- (e) Senate Bill No. 533.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor