

HOUSE BILL No. 5302

October 22, 1997, Introduced by Reps. Middaugh and Alley and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 21302, 21304, 21304a, 21307, 21307a, 21308a,
21309a, 21310a, 21311a, 21312a, 21313a, 21314a, and 21315 (MCL
324.21302, 324.21304, 324.21304a, 324.21307, 324.21307a,
324.21308a, 324.21309a, 324.21310a, 324.21311a, 324.21312a,
324.21313a, 324.21314a, and 324.21315), sections 21302 and 21307
as amended and sections 21307a and 21314a as added by 1995 PA 22
and sections 21304a, 21308a, 21309a, 21310a, 21311a, 21312a,
21313a, and 21315 as amended by 1996 PA 116.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 21302. As used in this part:
- 2 (a) "Biota" means the plant and animal life in an area
- 3 affected by a corrective action plan.

1 ~~-(b)-~~ "Consultant" means a person on the list of qualified
2 underground storage tank consultants prepared pursuant to section
3 21542.—

4 (B) ~~-(c)-~~ "Contamination" means the presence of a regulated
5 substance in soil or groundwater.

6 (C) ~~-(d)-~~ "Corrective action" means the investigation,
7 assessment, cleanup, removal, containment, isolation, treatment,
8 or monitoring of regulated substances released into the environ-
9 ment, or the taking of such other actions as may be necessary to
10 prevent, minimize, or mitigate injury to the public health,
11 safety, or welfare, the environment, or natural resources.

12 (D) ~~-(e)-~~ "De minimis spill" means a spill of petroleum as
13 that term is described in section 21303(d)(ii) that contaminates
14 not more than 20 cubic yards of soil per underground storage tank
15 or 50 cubic yards of soil per location, in which groundwater has
16 not been affected by the spill. ~~—, and which is abated pursuant~~
17 ~~to section 21306.—~~

18 (E) ~~-(f)-~~ "Free product" means a regulated substance in a
19 liquid phase equal to or greater than 1/8 inch of measurable
20 thickness, that is not dissolved in water, and that has been
21 released into the environment.

22 (F) ~~-(g)-~~ "Groundwater" means water below the land surface
23 in the zone of saturation.

24 (G) ~~-(h)-~~ "Heating oil" means petroleum that is no. 1,
25 no. 2, no. 4-light, no. 4-heavy, no. 5-light, no. 5-heavy, and
26 no. 6 technical grades of fuel oil; other residual fuel oils
27 including navy special fuel oil and bunker c; and other fuels

1 when used as substitutes for 1 of these fuel oils. Heating oil
2 is typically used in the operation of heating equipment, boilers,
3 or furnaces.

4 (H) ~~(i)~~ "Local unit of government" means a city, village,
5 township, county, fire department, or local health department as
6 defined in section 1105 of the public health code, ~~Act No. 368~~
7 ~~of the Public Acts of 1978, being section 333.1105 of the~~
8 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.1105.

9 Sec. 21304. ~~(1)~~ Actions taken by a consultant ~~pursuant~~
10 ~~to~~ OR CONTRACTOR RETAINED BY AN OWNER OR OPERATOR TO CARRY OUT
11 THE OWNER'S OR OPERATOR'S RESPONSIBILITIES UNDER this part do not
12 limit or remove the liability of an owner or operator. ~~except as~~
13 ~~specifically provided for in this part.~~

14 ~~(2) Notwithstanding any other provision in this part, if an~~
15 ~~owner or operator is a consultant or employs a consultant, this~~
16 ~~part does not require the owner or operator to retain an outside~~
17 ~~consultant to perform the responsibilities required under this~~
18 ~~part. Those responsibilities may be performed by an owner or~~
19 ~~operator who is a consultant or by a consultant employed by the~~
20 ~~owner or operator.~~

21 Sec. 21304a. (1) Corrective action activities undertaken
22 pursuant to this part shall be conducted in accordance with the
23 process outlined in RBCA in a manner that is protective of the
24 public health, safety, and welfare, and the environment.

25 (2) Subject to subsections (3) and (4), the department shall
26 establish cleanup criteria for corrective action activities
27 undertaken under this part using the process outlined in RBCA.

1 The department shall utilize only reasonable and relevant
2 exposure assumptions and pathways in determining the cleanup
3 criteria.

4 (3) If a regulated substance poses a carcinogenic risk to
5 humans, the cleanup criteria derived for cancer risk shall be the
6 95% upper bound on the calculated risk of 1 additional cancer
7 above the background cancer rate per 100,000 individuals using
8 the exposure assumptions and pathways established by the depart-
9 ment and the process in RBCA. If a regulated substance poses a
10 risk of both cancer and an adverse health effect other than
11 cancer, cleanup criteria shall be derived for cancer and each
12 adverse health effect.

13 (4) If a cleanup criterion for groundwater differs from
14 either (a) the state drinking water standard established pursuant
15 to section 5 of the safe drinking water act, ~~Act No. 399 of the~~
16 ~~Public Acts of 1976, being section 325.1005 of the Michigan~~
17 ~~Compiled Laws~~ 1976 PA 399, MCL 325.1005, or (b) criteria for
18 adverse aesthetic characteristics derived pursuant to R 299.5709
19 of the Michigan administrative code, the cleanup criterion shall
20 be the more stringent of (a) or (b) unless ~~a consultant retained~~
21 ~~by the owner or operator determines that~~ compliance with (a) or
22 (b) is not necessary because the use of the groundwater is reli-
23 ably restricted pursuant to section 21310a.

24 (5) Notwithstanding any other provision of this part, if a
25 release or threat of release at a site is not solely the result
26 of a release or threat of release from an underground storage
27 tank system, the owner or operator of the underground storage

1 tank system may choose to perform response activities pursuant to
2 part 201 in lieu of corrective actions pursuant to this part.

3 Sec. 21307. (1) Upon confirmation of a release from an
4 underground storage tank system, the owner or operator shall
5 report the release and whether free product has been discovered
6 to the department within 24 hours after discovery. The depart-
7 ment may investigate the release. However, an investigation by
8 the department does not relieve the owner or operator from any
9 responsibilities related to the release provided for in this
10 part.

11 (2) After a release has been reported under subsection (1),
12 the owner or operator ~~or a consultant retained by the owner or~~
13 ~~operator~~ shall immediately begin and expeditiously perform all
14 of the following initial response actions:

15 (a) Identify and mitigate fire, explosion, and vapor
16 hazards.

17 (b) Take action to prevent further release of the regulated
18 substance into the environment including removing the regulated
19 substance from the underground storage tank system that is caus-
20 ing the release.

21 (c) Identify and recover free product. If free product is
22 identified, do all of the following:

23 (i) Conduct free product removal in a manner that minimizes
24 the spread of contamination into previously uncontaminated zones
25 by using recovery and disposal techniques appropriate to the con-
26 ditions at the site and in a manner that properly treats,

1 discharges, or disposes of recovery by-products as required by
2 law.

3 (ii) Use abatement of free product migration as a minimum
4 objective for the design of the free product removal system.

5 (iii) Handle any flammable products in a safe and competent
6 manner to prevent fires or explosions.

7 (iv) If a discharge is necessary in conducting free product
8 removal, obtain all necessary permits or authorization as
9 required by law.

10 (d) Excavate and contain, treat, or dispose of soils above
11 the water table that are visibly contaminated with a regulated
12 substance if the contamination is likely to cause a fire hazard
13 or spread and increase the cost of corrective action.

14 (e) Take any other action necessary to abate an immediate
15 threat to public health, safety, or welfare, or the environment.

16 (f) If free product is discovered after the release was
17 reported under subsection (1), report the free product discovery
18 to the department within 24 hours of its discovery.

19 (3) Immediately following initiation of initial response
20 actions under this section, ~~the consultant retained by~~ the
21 owner or operator shall do all of the following:

22 (a) Visually inspect the areas of any aboveground releases
23 or exposed areas of belowground releases and prevent further
24 migration of the released substance into surrounding soils,
25 groundwater, and surface water.

26 (b) Continue to monitor and mitigate any additional fire and
27 safety hazards posed by vapors or free product that have migrated

1 from the underground storage tank system excavation zone and
2 entered into subsurface structures.

3 (c) If free product is discovered at any time at a location
4 not previously identified under subsection (2)(c), report the
5 discovery within 24 hours to the department and initiate free
6 product recovery in compliance with subsection (2)(c).

7 Sec. 21307a. (1) Following initiation of initial response
8 actions under section 21307, ~~a consultant retained by~~ the owner
9 or operator shall complete the requirements of this part and
10 submit related reports or executive summaries detailed in this
11 part to address the contamination at the site. At any time that
12 sufficient corrective action has been undertaken to address con-
13 tamination, ~~a consultant retained by~~ the owner or operator
14 shall complete and submit a site closure report pursuant to
15 section 21312a and omit the remaining interim steps.

16 (2) In addition to the reporting requirements specified in
17 this part, ~~a consultant retained by~~ the owner or operator shall
18 provide 48-hour notification to the department prior to initiat-
19 ing any of the following activities:

20 (a) Soil excavation.

21 (b) Well drilling, including monitoring well installation.

22 (c) Sampling of soil or groundwater.

23 (d) Construction of treatment systems.

24 Sec. 21308a. (1) Within 90 days after a release has been
25 discovered, ~~a consultant retained by~~ the owner or operator
26 shall complete an initial assessment report and submit the report
27 to the department on a form created pursuant to section 21316.

1 The report shall include, but is not limited to, the following
2 information:

3 (a) Results of initial response actions taken under
4 section 21307(2).

5 (b) Site information and site characterization results. The
6 following items shall be included as appropriate given the site
7 conditions:

8 (i) The facility address.

9 (ii) The name of the facility.

10 (iii) The name, address, and telephone number of facility
11 compliance contact person.

12 (iv) The time and date of release discovery.

13 (v) The time and date the release was reported to the
14 department.

15 (vi) A site map that includes all of the following:

16 (A) The location of each underground storage tank in the
17 leaking underground storage tank system.

18 (B) The location of any other underground storage tank
19 system on the site.

20 (C) The location of fill ports, dispensers, and other perti-
21 nent system components.

22 (D) Soil and groundwater sample locations, if applicable.

23 (E) The locations of nearby buildings, roadways, paved
24 areas, or other structures.

25 (vii) A description of how the release was discovered.

26 (viii) A list of regulated substances the underground
27 storage tank system contained when the release occurred.

1 (ix) A list of the regulated substances the underground
2 storage tank system contained in the past other than those listed
3 in subparagraph (viii).

4 (x) The location of nearby surface waters and wetlands.

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

7 (xii) The component of the underground storage tank system
8 from which the release occurred (e.g., piping, underground stor-
9 age tank, overfill).

10 (xiii) Whether the underground storage tank system was emp-
11 tied to prevent further release.

12 (xiv) A description of what other steps were taken to pre-
13 vent further migration of the regulated substance into the soil
14 or groundwater.

15 (xv) Whether vapors or free product was found and what steps
16 were taken to abate those conditions and the current levels of
17 vapors or free product in nearby structures.

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

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

22 (xviii) A description of the free product investigation and
23 removal if free product was present, including all of the
24 following:

25 (A) A description of the actions taken to remove any free
26 product.

1 (B) The name of the person or persons responsible for
2 implementing the free product removal measures.

3 (C) The estimated quantity, type, and thickness of free pro-
4 duct observed or measured in wells, boreholes, and excavations.

5 (D) The type of free product recovery system used.

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

9 (F) The type of treatment applied to, and the effluent qual-
10 ity expected from, any discharge.

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

13 (H) The quantity and disposition of the recovered free
14 product.

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

17 (xx) An estimate of the horizontal and vertical extent of
18 on-site and off-site soil contamination.

19 (xxi) The depth to groundwater.

20 (xxii) An identification of potential migration and exposure
21 pathways and receptors.

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

24 (xxiv) If the on-site assessment indicates that off-site
25 soil or groundwater may be affected, report the steps that have
26 been taken or will be taken including an implementation schedule

1 to expeditiously secure access to off-site properties to complete
2 the delineation of the extent of the release.

3 (xxv) Groundwater flow rate and direction.

4 (xxvi) Laboratory analytical data collected.

5 (xxvii) The vertical distribution of contaminants.

6 (c) Site classification under section 21314a.

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

9 (e) A work plan, including an implementation schedule for
10 conducting a final assessment report under section 21311a, to
11 determine the vertical and horizontal extent of the contamination
12 as necessary for preparation of the corrective action plan.

13 (2) If free product is discovered at a site after the sub-
14 mittal of an initial assessment report pursuant to
15 subsection (1), the owner or operator ~~—, or consultant retained~~
16 ~~by the owner or operator,~~ shall do both of the following:

17 (a) Perform initial response actions identified in section
18 ~~21307(2)(c)(i) to (iv)~~ 21307(2)(C).

19 (b) Submit to the department an amendment to the initial
20 assessment report within 30 days of discovery of the free product
21 that describes response actions taken as a result of the free
22 product discovery.

23 Sec. 21309a. (1) If initial response actions under
24 section 21307 have not resulted in completion of corrective
25 action, ~~a consultant retained by an~~ THE owner or operator shall
26 prepare a corrective action plan to address contamination at the
27 site. For corrective action plans submitted as part of a final

1 assessment report pursuant to section 21311a after October 1,
2 1995, the corrective action plan shall use the process described
3 in RBCA.

4 (2) A corrective action plan shall include all of the
5 following:

6 (a) A description of the corrective action to be imple-
7 mented, including an explanation of how that action will meet the
8 requirements of the RBCA process. The corrective action plan
9 shall also include an analysis of the selection of indicator
10 parameters to be used in evaluating the implementation of the
11 corrective action plan, if indicator parameters are to be used.
12 The corrective action plan shall include a description of ambient
13 air quality monitoring activities to be undertaken during the
14 corrective action if such activities are appropriate.

15 (b) An operation and maintenance plan if any element of the
16 corrective action requires operation and maintenance. The opera-
17 tion and maintenance plan shall include all of the following:

18 (i) Name, telephone number, and address of the person who is
19 responsible for operation and maintenance.

20 (ii) Operation and maintenance schedule.

21 (iii) Written and pictorial plan of operation and
22 maintenance.

23 (iv) Design and construction plans.

24 (v) Equipment diagrams, specifications, and manufacturers'
25 guidelines.

26 (vi) Safety plan.

1 (vii) Emergency plan, including emergency contact telephone
2 numbers.

3 (viii) A list of spare parts available for emergency
4 repairs.

5 (ix) Other information required by the department to deter-
6 mine the adequacy of the operation and maintenance plan.

7 Department requests for information pursuant to this subparagraph
8 shall be limited to factors not adequately addressed by informa-
9 tion required by subparagraphs (i) through (viii) and shall be
10 accompanied by an explanation of the need for the additional
11 information.

12 (c) A monitoring plan if monitoring of environmental media
13 or site activities or both is required to confirm the effective-
14 ness and integrity of the remedy. The monitoring plan shall
15 include all of the following:

16 (i) Location of monitoring points.

17 (ii) Environmental media to be monitored, including, but not
18 limited to, soil, air, water, or biota.

19 (iii) Monitoring schedule.

20 (iv) Monitoring methodology, including sample collection
21 procedures.

22 (v) Substances to be monitored, including an explanation of
23 the selection of any indicator parameters to be used.

24 (vi) Laboratory methodology, including the name of the labo-
25 ratory responsible for analysis of monitoring samples, method
26 detection limits, and practical quantitation levels. Raw data

1 used to determine method detection limits shall be made available
2 to the department on request.

3 (vii) Quality control/quality assurance plan.

4 (viii) Data presentation and evaluation plan.

5 (ix) Contingency plan to address ineffective monitoring.

6 (x) Operation and maintenance plan for monitoring.

7 (xi) How the monitoring data will be used to demonstrate
8 effectiveness of corrective action activities.

9 (xii) Other elements required by the department to determine
10 the adequacy of the monitoring plan. Department requests for
11 information pursuant to this subparagraph shall be limited to
12 factors not adequately addressed by information required under
13 subparagraphs (i) through (xi) and shall be accompanied by an
14 explanation of the need for the additional information.

15 (d) An explanation of any land use or resource use restric-
16 tions, if the restrictions are required pursuant to
17 section 21310a.

18 (e) A schedule for implementation of the corrective action.

19 (f) A financial assurance mechanism, as provided for in
20 R 29.2161 to R 29.2169 of the Michigan administrative code, in an
21 amount approved by the department, to pay for monitoring, opera-
22 tion and maintenance, oversight, and other costs if required by
23 the department as necessary to assure the effectiveness and
24 integrity of the corrective action.

25 (g) If provisions for operation and maintenance, monitoring,
26 or financial assurance are included in the corrective action
27 plan, and those provisions are not complied with, the corrective

1 action plan is void from the time of lapse or violation unless
2 the lapse or violation is corrected to the satisfaction of the
3 department.

4 (3) If a corrective action plan prepared under this section
5 does not result in an unrestricted use of the property for any
6 purpose, the owner or operator ~~or a consultant retained by the~~
7 ~~owner or operator~~ shall provide notice to the public by means
8 designed to reach those members of the public directly impacted
9 by the release and the proposed corrective action. The notice
10 shall include the name, address, and telephone number of a con-
11 tact person. A copy of the notice and proof of providing the
12 notice shall be submitted to the department. The department
13 shall ensure that site release information and corrective action
14 plans that do not result in an unrestricted use of property are
15 made available to the public for inspection upon request.

16 Sec. 21310a. (1) If the corrective action activities at a
17 site result in a final remedy that relies on tier I commercial or
18 industrial criteria, institutional controls shall be implemented
19 as provided in this subsection. A notice of corrective action
20 shall be recorded with the register of deeds for the county in
21 which the site is located prior to submittal of a closure report
22 under section 21312a. A notice shall be filed under this subsec-
23 tion only by the property owner or with the express written per-
24 mission of the property owner. The form and content of the
25 notice shall be subject to approval by the department. A notice
26 of corrective action recorded under this subsection shall state
27 the land use that was the basis of the corrective action selected

1 by a consultant retained by the owner or operator. The notice
2 shall state that if there is a proposed change in the land use at
3 any time in the future, that change may necessitate further eval-
4 uation of potential risks to the public health, safety, and wel-
5 fare and to the environment and that the department shall be con-
6 tacted regarding any proposed change in the land use. Additional
7 requirements for financial assurance, monitoring, or operation
8 and maintenance shall not apply if contamination levels do not
9 exceed the levels established in the tier I evaluation.

10 (2) If corrective action activities at a site rely on insti-
11 tutional controls other than as provided in subsection (1), the
12 institutional controls shall be implemented as provided in this
13 subsection. The restrictive covenant shall be recorded with the
14 register of deeds for the county in which the property is located
15 within 30 days from submittal of the final assessment report pur-
16 suant to section 21311a, unless otherwise agreed to by the
17 department. The restrictive covenant shall be filed only by the
18 property owner or with the express written permission of the
19 property owner. The restrictions shall run with the land and be
20 binding on the owner's successors, assigns, and lessees. The
21 restrictions shall apply until the department determines that
22 regulated substances no longer present an unacceptable risk to
23 the public health, safety, or welfare or to the environment. The
24 restrictive covenant shall include a survey and property descrip-
25 tion which define the areas addressed by the corrective action
26 plan and the scope of any land use or resource use limitations.
27 The form and content of the restrictive covenant are subject to

1 approval by the department and shall include provisions to
2 accomplish all of the following:

3 (a) Restrict activities at the site that may interfere with
4 corrective action, operation and maintenance, monitoring, or
5 other measures necessary to assure the effectiveness and integ-
6 rity of the corrective action.

7 (b) Restrict activities that may result in exposure to regu-
8 lated substances above levels established in the corrective
9 action plan.

10 (c) Prevent a conveyance of title, an easement, or other
11 interest in the property from being consummated by the property
12 owner without adequate and complete provision for compliance with
13 the corrective action plan and prevention of exposure to regu-
14 lated substances described in subdivision (b).

15 (d) Grant to the department and its designated representa-
16 tives the right to enter the property at reasonable times for the
17 purpose of determining and monitoring compliance with the correc-
18 tive action plan, including but not limited to the right to take
19 samples, inspect the operation of the corrective action measures,
20 and inspect records.

21 (e) Allow the state to enforce restrictions set forth in the
22 covenant by legal action in a court of appropriate jurisdiction.

23 (f) Describe generally the uses of the property that are
24 consistent with the corrective action plan.

25 (3) If ~~a consultant retained by~~ the owner or operator
26 determines that exposure to regulated substances may be reliably
27 restricted by a means other than a restrictive covenant and that

1 imposition of land use or resource use restrictions through
2 restrictive covenants is impractical, the ~~consultant~~ OWNER OR
3 OPERATOR may select a corrective action plan that relies on
4 alternative mechanisms. Mechanisms that may be considered under
5 this subsection include, but are not limited to, an ordinance
6 that prohibits the use of groundwater in a manner and to a degree
7 that protects against unacceptable exposure to a regulated sub-
8 stance as defined by the cleanup criteria identified in the cor-
9 rective action plan. An ordinance that serves as an exposure
10 control under this subsection shall include both of the
11 following:

12 (a) A requirement that the local unit of government notify
13 the department 30 days before adopting a modification to the
14 ordinance or the lapsing or revocation of the ordinance.

15 (b) A requirement that the ordinance be filed with the reg-
16 ister of deeds as an ordinance affecting multiple properties.

17 (4) Notwithstanding subsections (1), (2), and (3), if a
18 mechanism other than a notice of corrective action, an ordinance,
19 or a restrictive covenant is requested by ~~a consultant retained~~
20 ~~by~~ an owner or operator and the department determines that the
21 alternative mechanism is appropriate, the department may approve
22 of the alternate mechanism.

23 (5) A person who implements corrective action activities
24 shall provide notice of the land use restrictions that are part
25 of the corrective action plan to the local unit of government in
26 which the site is located within 30 days of submittal of the

1 corrective action plan, unless otherwise approved by the
2 department.

3 Sec. 21311a. (1) Within 365 days after a release has been
4 discovered, ~~a consultant retained by an~~ THE owner or operator
5 shall complete a final assessment report that includes a correc-
6 tive action plan developed under section 21309a and submit the
7 report to the department on a form created pursuant to
8 section 21316. The report shall include, but is not limited to,
9 the following information:

10 (a) The extent of contamination.

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

13 (c) A feasibility analysis. The following shall be includ-
14 ed, as appropriate, given the site conditions:

15 (i) On-site and off-site corrective action alternatives to
16 remediate contaminated soil and groundwater for each cleanup
17 type, including alternatives that permanently and significantly
18 reduce the volume, toxicity, and mobility of the regulated
19 substances.

20 (ii) The costs associated with each corrective action alter-
21 native including alternatives that permanently and significantly
22 reduce the volume, toxicity, and mobility of the regulated
23 substances.

24 (iii) The effectiveness and feasibility of each corrective
25 action alternative in meeting cleanup criteria.

26 (iv) The time necessary to implement and complete each
27 corrective action alternative.

1 (v) The preferred corrective action alternative based upon
2 subparagraphs (i) through (iv) and an implementation schedule for
3 completion of the corrective action.

4 (d) A corrective action plan.

5 (e) A schedule for corrective action plan implementation.

6 (2) If the preferred corrective action alternative under
7 subsection (1)(c)(v) is based on the use of institutional con-
8 trols regarding off-site migration of regulated substances, the
9 corrective action plan shall not be implemented until it is
10 reviewed and determined by the department to be in compliance
11 with this part.

12 Sec. 21312a. (1) Within 30 days following completion of the
13 corrective action, ~~a consultant retained by~~ the owner or opera-
14 tor shall complete a closure report and submit the report to the
15 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) A summary of corrective action activities.

19 (b) Closure verification sampling results.

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

22 (2) Within 60 days after receipt of a closure report under
23 subsection (1), the department shall provide the ~~consultant who~~
24 ~~submitted the closure report~~ OWNER OR OPERATOR with a confirma-
25 tion of the department's receipt of the report.

26 Sec. 21313a. (1) Beginning on ~~the effective date of the~~
27 ~~amendatory act that added subsection (7),~~ APRIL 13, 1995, except

1 as provided in subsection ~~-(7)-~~ (6), and except for the
2 confirmation provided in section 21312a(2), if a report is not
3 completed or a required submittal under section 21308a, 21311a,
4 or 21312a(1) is not provided during the time required, the
5 department may impose a penalty according to the following
6 schedule:

7 (a) Not more than \$100.00 per day for the first 7 days that
8 the report is late.

9 (b) Not more than \$500.00 per day for days 8 through 14 that
10 the report is late.

11 (c) Not more than \$1,000.00 per day for each day beyond day
12 14 that the report is late.

13 (2) For purposes of this section, in computing a period of
14 time, the day of the act, event, or default, after which the des-
15 ignated period of time begins to run is not included. The last
16 day of the period is included, unless it is a Saturday, Sunday,
17 legal holiday, or holiday, in which event the period runs until
18 the end of the next day that is not a Saturday, Sunday, legal
19 holiday, or holiday.

20 (3) The department may, upon request, grant an extension to
21 a reporting deadline provided in this part for good cause upon
22 written request 15 days prior to the deadline.

23 ~~-(4) The owner or operator may by contract transfer the~~
24 ~~responsibility for paying fines under this section to a consul-~~
25 ~~tant retained by the owner or operator.~~

1 (4) ~~—(5)—~~ The department shall forward all money collected
2 pursuant to this section to the state treasurer for deposit in
3 the emergency response fund created in section 21507.

4 (5) ~~—(6)—~~ An appeal of a penalty imposed under this section
5 may be taken pursuant to section 631 of the revised judicature
6 act of 1961, ~~Act No. 236 of the Public Acts of 1961, being~~
7 ~~section 600.631 of the Michigan Compiled Laws~~ 1961 PA 236, MCL
8 600.631.

9 (6) ~~—(7)—~~ A penalty shall not begin to accrue under this
10 section unless the department has first notified the person on
11 whom the penalty is imposed that he or she is subject to the pen-
12 alties provided in this section.

13 Sec. 21314a. The department shall establish and implement a
14 classification system for sites considering impacts on public
15 health, safety, and welfare, and the environment.
16 Notwithstanding any other provision in this part, at sites posing
17 an imminent risk to the public health, safety, or welfare, or the
18 environment, corrective action shall be implemented immediately.
19 If the department determines that no imminent risk to the public
20 health, safety, or welfare, or the environment exists at a site,
21 the department may allow corrective action at these sites to be
22 conducted on a schedule approved by the department. ~~This provi-~~
23 ~~sion shall not be used by the department to limit the ability of~~
24 ~~a owner, operator or a consultant to submit a claim to the~~
25 ~~Michigan underground storage tank financial assurance fund, or~~
26 ~~delay payment on a valid claim to an owner, operator or~~
27 ~~consultant.~~

1 Sec. 21315. (1) The department shall design and implement a
2 program to selectively audit or oversee all aspects of corrective
3 actions undertaken under this part to assure compliance with this
4 part. The department may audit a site at any time prior to
5 receipt of a closure report pursuant to section 21312a and within
6 6 months after receipt of the closure report.

7 (2) If the department conducts an audit under this section
8 and the audit confirms that the cleanup criteria have been met,
9 the department shall provide the owner or operator with a letter
10 that describes the audit and its results. Notwithstanding sec-
11 tion 21312a, after conducting an audit under this section, the
12 department may issue a closure letter for any site that meets the
13 cleanup criteria pursuant to section 21304a.

14 (3) If an audit conducted under this section does not con-
15 firm that corrective action has been conducted in compliance with
16 this part or that cleanup criteria have been met, the department
17 may require an owner or operator to do either or both of the
18 following:

19 (a) Provide additional information related to any require-
20 ment of this part.

21 (b) ~~Retain a consultant to take~~ TAKE additional corrective
22 actions necessary to comply with this part or to protect public
23 health, safety, or welfare, or the environment.