

Act No. 321
Public Acts of 2006
Approved by the Governor
July 20, 2006
Filed with the Secretary of State
July 20, 2006
EFFECTIVE DATE: July 20, 2006

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Reps. Kolb, Lipsey, Vagnozzi and Kathleen Law

ENROLLED HOUSE BILL No. 6047

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," (MCL 324.101 to 324.90106) by adding sections 21553, 21554, 21555, 21556, and 21557.

The People of the State of Michigan enact:

Sec. 21553. The department shall establish a refined petroleum product cleanup initial program to conduct corrective actions associated with releases from petroleum underground storage tank systems.

Sec. 21554. The department shall establish a temporary reimbursement program to promote progress toward site closure of releases from petroleum underground storage tank systems by providing financial incentives for eligible persons to conduct corrective actions for those releases.

Sec. 21555. The department shall administer the temporary reimbursement program and process precertification applications and subsequent work invoices submitted by eligible persons in accordance with this part. Beginning on the effective date of the amendatory act that added this section, the department shall commence implementation of the temporary reimbursement program as provided in sections 21556 and 21557. The initiation date of the first round precertification application period shall occur not later than 120 days after the effective date of the amendatory act that added this section. The department shall provide notice of the initiation date to applicable trade associations and shall provide notice through an electronic distribution list to interested persons and the department's website. Not later than 210 days after the initiation date of the first round, the department shall determine whether sufficient funding is available to implement a second round temporary reimbursement program pursuant to section 21557. If the department determines that sufficient funds are available, the department shall provide notice of the initiation date of the second round precertification application period in the same manner as the first round notification process. The initiation date of the second round precertification application period shall occur not later than 60 days after the department determines funding is available for the second round of the temporary reimbursement program.

Sec. 21556. (1) To be considered for eligibility for reimbursement under the first round of the temporary reimbursement program, a person shall submit to the department a completed first round precertification application on a form provided by the department. A person may submit more than 1 first round precertification application if he or she possesses more than 1 approved claim for releases that meet the eligibility requirements in subsection (3)(a) to (d).

(2) To be considered for approval, first round precertification applications shall be received by the department at or before 5 p.m. on the one hundred eightieth day following the department's initiation date of the application period.

(3) In order for a person to be eligible for reimbursement under the first round of the temporary reimbursement program, the completed first round precertification application shall demonstrate all of the following:

(a) That the person was the owner or operator who submitted and had an approved claim or that the person received a valid assignment of an approved claim in accordance with section 21516.

(b) That the release for which the approved claim was obtained has not been closed pursuant to part 213.

(c) That the release for which the approved claim was obtained caused the site to be classified as a class 1 or class 2 site, based on the most recently submitted data or reports prior to May 9, 2005, or as otherwise determined by the department prior to May 9, 2005.

(d) For underground storage tank systems that are operating at the location from which the release occurred, that the owner or operator, if he or she is the applicant, is currently in compliance with the registration and fee requirements of part 211.

(4) All applications for the temporary reimbursement program shall be considered on a first-come, first-served basis. If the first round precertification application received by the department successfully demonstrates eligibility in accordance with subsections (2) and (3), the department shall approve the first round precertification application. Not more than 900 precertification applications shall be approved by the department.

(5) An eligible person shall have 540 days after the date of approval of the precertification application to perform corrective actions pursuant to part 213 at the site of release in accordance with section 21558.

(6) Only corrective action costs incurred after the date of approval of the precertification application and up to the five hundred fortieth day following precertification application approval shall be considered for reimbursement by the department. Corrective action costs incurred after the five hundred fortieth day are not eligible for reimbursement.

(7) An eligible person may receive up to \$50,000.00 or such additional amount as may be made available pursuant to section 21557(8), for approved corrective action costs for each approved precertification application.

(8) An eligible person shall submit all work invoices for which reimbursement is being sought to the department within 600 days following the precertification application approval date. An eligible person shall not submit a request for reimbursement that totals less than \$5,000.00 for the costs of corrective action, except for the last reimbursement request.

(9) Eligible persons shall receive reimbursement of 80% of the amount of each approved work invoice until the maximum reimbursement amount is reached. The remaining 20% shall be considered the co-pay amount. Proof of payment of the co-pay amount is required with each work invoice submittal.

(10) Corrective actions for which reimbursement is sought shall conform to the requirements of part 213 and section 21558. Requests for reimbursement are subject to sections 21559 to 21561.

(11) Any allocated amount for reimbursement in the first round that is not expended, but subject to appeal pursuant to section 21561, shall be held in reserve until the appeal is exhausted and a final reimbursement determination is made.

Sec. 21557. (1) If the department determines pursuant to section 21555 that sufficient funds are available for a second round of the temporary reimbursement program, the second round shall be implemented in accordance with this section.

(2) To be considered for eligibility for reimbursement under the second round of the temporary reimbursement program, a person shall submit to the department a completed second round precertification application on a form provided by the department. A person may submit more than 1 second round precertification application if he or she possesses more than 1 approved claim for releases that meet the eligibility requirements in this section.

(3) To be considered for approval, second round precertification applications shall be received by the department at or before 5 p.m. on the thirtieth day following the initiation date of the second round application period.

(4) In order for a person to be eligible for reimbursement under the second round of the temporary reimbursement program, the completed second round precertification application shall demonstrate all of the following:

(a) That the person was the owner or operator who submitted and had an approved claim or that the person received a valid assignment of the approved claim in accordance with section 21516.

(b) That the release for which the approved claim was obtained has not been closed pursuant to part 213.

(c) That the release for which the approved claim was obtained caused the site to be classified as a class 1 or class 2 site, based on the most recently submitted data or reports, or as otherwise determined by the department.

(d) For underground storage tank systems that are operating at the location from which the release occurred, that the owner or operator, if he or she is the applicant, is currently in compliance with the registration and fee requirements of part 211.

(5) An eligible person may receive up to \$50,000.00 for approved corrective action costs for each approved second round precertification application or such additional amount as may be made available pursuant to subsection (8). If the number of precertification applications exceeds available temporary reimbursement program funding for the second round, the remaining temporary reimbursement program funds shall be allocated at \$50,000.00 per location on a first-come, first-served basis except as follows:

(a) First priority shall be given to persons that received no precertification application approvals in the first round and that meet the requirements of subsections (2) to (4).

(b) If temporary reimbursement program funds remain after allocating funds under subdivision (a), second priority shall be given to persons that received precertification application approval in the first round and that submit a second round precertification application to the department for a different location that meets the requirements of subsections (2) to (4).

(6) If the second round precertification application successfully demonstrates eligibility in accordance with this section, the department shall approve the second round precertification application in accordance with subsection (5), to the extent that funding is available.

(7) The second round of the temporary reimbursement program is subject to the requirements of section 21556(5) to (10), including the co-pay requirements.

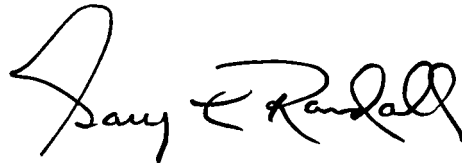
(8) If temporary reimbursement program funds remain after all allocations are made, then, upon appropriation, the remaining money shall be allocated on a prorated basis among approved first round and second round precertification applicants for reimbursement, subject to section 21556(5) to (10). The department shall notify all approved first round and second round applicants of the amount of additional reimbursement available within 14 days of the effective date of the appropriation.

(9) Any allocated amount for reimbursement that is not expended but subject to appeal, pursuant to section 21561, shall be held in reserve until the appeal is exhausted and a final reimbursement determination is made.

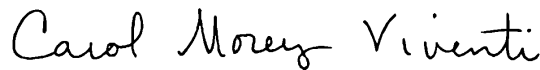
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6202.
- (b) Senate Bill No. 1260.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor