

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Rep. Knollenberg

ENROLLED HOUSE BILL No. 6363

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 20112a, 20113, and 20114 (MCL 324.20112a, 324.20113, and 324.20114), section 20112a as added and section 20114 as amended by 1995 PA 71 and section 20113 as amended by 1996 PA 383.

The People of the State of Michigan enact:

Sec. 20112a. (1) Subject to subsection (3), the department shall create, and update on an ongoing basis, an inventory of residential closures and a separate inventory of other known facilities. Each inventory shall contain, if applicable, at least the following information for each facility:

(a) Location.

(b) Whether 1 or more response activity plans were submitted under section 20114b and the status of department approval.

(c) Whether a notice of land use or resource use restrictions under section 20114c was submitted to the department.

(d) Whether a no further action report under section 20114d was submitted to the department and whether the report included a postclosure plan or proposed postclosure agreement and the status of department approval.

(2) The department may categorize facilities on the inventory created under subsection (1) in a manner that the department believes is useful for the general public.

(3) The department shall create and update on an ongoing basis a separate inventory of residential closures.

(4) The department shall post the inventories created under subsections (1) and (2) on the department's website.

(5) The department shall compile the following data on a quarterly basis and post the data on its website:

(a) The number of response activity plans received by the department and itemized as follows:

(i) Approved by the department.

(ii) Disapproved by the department.

(iii) Recommended for approval by the panel.

(iv) Recommended for disapproval by the panel.

(v) Approved by operation of law under section 20114b.

(b) The number of no further action reports received by the department and itemized as follows:

(i) Approved by the department.

(ii) Disapproved by the department.

(iii) Recommended for approval by the panel.

(iv) Recommended for disapproval by the panel.

(v) Approved by operation of law.

(c) The number of baseline environmental assessments received by the department.

(6) The department shall annually determine the percentage of no further action reports approved by operation of law under section 20114d. If the percentage in any year is in excess of 10%, the department shall notify the standing committees of the senate and the house of representatives with jurisdiction over issues related to natural resources and the environment of this occurrence.

Sec. 20113. (1) Money required to implement the programs described under this part and to pay for response activities recommended under this part shall be appropriated from the fund and any other source the legislature considers necessary to implement the requirements of this part.

(2) The department shall annually submit to the governor a request for appropriation from the fund. The request will include a lump sum amount for the purposes of subsection (3)(e). For the purposes set forth in subsection (3)(a), (b), (c), and (d), the request shall include a list of facilities where the department is proposing to expend funds. The list shall include the following information for each facility: the common name of the facility, the response activities that are planned to be conducted, and the estimated amount of money that is needed to conduct the response activities. The legislature shall approve by law the list of facilities to be addressed and shall provide a lump sum appropriation for these sites based on the total estimated amount needed for the approved facilities.

(3) Money from the fund may be used, upon appropriation, for the following as determined by the department:

(a) Superfund match, which includes funding for any response activity that is required to match federal dollars at a superfund site as required under the comprehensive environmental response, compensation, and liability act, 42 USC 9601 to 9675.

(b) Response activities to address actual or potential public health or environmental problems.

(c) Completion of response activities initiated by the state using environmental protection bond funds or completion of response activities at facilities initiated by a person who was liable under this part prior to 1995 PA 71 but is not liable under section 20126 of this part, where such response activities have ceased.

(d) Response activities at facilities that will facilitate redevelopment.

(e) Emergency response actions for facilities to be determined by the department.

(4) Money in the fund shall be expended first for the purposes described in subsection (3)(a) and (e) and health or environmental problems under subsection (3)(b) that are related to acute health or environmental problems. Following these expenditures, not less than 50% of the remaining money expended under this section shall be expended for response activities that facilitate redevelopment of urbanized areas. All additional expenditures under this section shall be expended following the expenditures described in this subsection. As used in this subsection, "urbanized area" means an urbanized area as determined by the economics and statistics administration, United States bureau of census, according to the 2000 census.

(5) Not later than April 1 of each year, the department shall provide to the governor, the senate and house of representatives standing committees with jurisdiction over issues pertaining to natural resources and the environment, and the senate and house of representatives appropriations committees a list of all projects financed under this part through the preceding fiscal year. The list shall include the project site and location, the nature of the project, the total amount of money authorized, the total amount of money expended, and project status.

Sec. 20114. (1) Except as provided in subsection (4), an owner or operator of property who has knowledge that the property is a facility and who is liable under section 20126 shall do all of the following:

(a) Determine the nature and extent of a release at the facility.

(b) Make the following notifications:

(i) If the release is of a reportable quantity of a hazardous substance under 40 CFR 302.4 and 302.6 (1989), report the release to the department within 24 hours after obtaining knowledge of the release.

(ii) If the owner or operator has reason to believe that 1 or more hazardous substances are emanating from or have emanated from and are present beyond the boundary of his or her property at a concentration in excess of cleanup criteria for unrestricted residential use, notify the department and the owners of property where the hazardous substances are present within 30 days after obtaining knowledge that the release has migrated.

(iii) If the release is a result of an activity that is subject to permitting under part 615 and the owner or operator is not the owner of the surface property and the release results in hazardous substance concentrations in excess of cleanup criteria for unrestricted residential use, notify the department and the surface owner within 30 days after obtaining knowledge of the release.

(c) Immediately stop or prevent the release at the source.

(d) Immediately implement source control or removal measures to remove or contain hazardous substances that are released after June 5, 1995 if those measures are technically practical, cost effective, and provide protection to the environment. At a facility where hazardous substances are released after June 5, 1995, and those hazardous substances have not affected groundwater but are likely to, groundwater contamination shall be prevented if it can be prevented by measures that are technically practical, cost effective, and provide protection to the environment.

(e) Immediately identify and eliminate any threat of fire or explosion or any direct contact hazards.

(f) Immediately initiate removal of a hazardous substance that is in a liquid phase, that is not dissolved in water, and that has been released.

(g) Diligently pursue response activities necessary to achieve the cleanup criteria established under this part. Except as otherwise provided in this part, in pursuing response activities under this subdivision, the owner or operator may do either of the following:

(i) Proceed under section 20114a to conduct self-implemented response activities.

(ii) Proceed under section 20114b if the owner or operator wishes to, or is required to, obtain departmental approval of 1 or more aspects of planning response activities.

(h) Upon written request by the department, take 1 or more of the following actions:

(i) Provide a response activity plan containing a plan for undertaking interim response activities and undertake interim response activities consistent with that plan.

(ii) Provide a response activity plan containing a plan for undertaking evaluation activities and undertake evaluation activities consistent with that plan.

(iii) Pursue remedial actions under section 20114a and, upon completion, submit a no further action report under section 20114d.

(iv) Take any other response activity determined by the department to be technically sound and necessary to protect the public health, safety, welfare, or the environment.

(v) Submit to the department for approval a response activity plan containing a remedial action plan that, when implemented, will achieve the cleanup criteria established under this part.

(vi) Implement an approved response activity plan in accordance with a schedule approved by the department pursuant to this part.

(vii) Submit a no further action report under section 20114d after completion of remedial action.

(2) Subsection (1) does not preclude a person from simultaneously undertaking 1 or more aspects of planning or implementing response activities at a facility under section 20114a without the prior approval of the department, unless 1 or more response activities are being conducted pursuant to an administrative order or agreement or judicial decree that requires prior department approval, and submitting a response activity plan to the department under section 20114b.

(3) Except as provided in subsection (4), a person who holds an easement interest in a portion of a property who has knowledge that there may be a release within that easement shall report the release to the department within 24 hours after obtaining knowledge of the release. This subsection applies to reportable quantities of hazardous substances established pursuant to 40 CFR 302.4 and 302.6 (1989).

(4) The requirements of subsections (1) and (3) do not apply to a permitted release or a release in compliance with applicable federal, state, and local air pollution control laws.

(5) This section does not do either of the following:

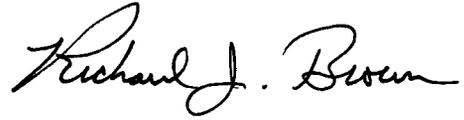
(a) Limit the authority of the department to take or conduct response activities pursuant to this part.

(b) Limit the liability of a person who is liable under section 20126.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) Senate Bill No. 1345.
- (b) Senate Bill No. 1346.
- (c) Senate Bill No. 1348.
- (d) House Bill No. 6359.
- (e) House Bill No. 6360.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor