

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Part 211

UNDERGROUND STORAGE TANK REGULATIONS

***** 324.21101 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) *****

324.21101 Definitions; applicability of certain authority.

Sec. 21101.

As used in this part:

- (a) "Department" means the department of natural resources, underground storage tank division.
- (b) "Fund" means the underground storage tank regulatory enforcement fund created in section 21104.
- (c) "Local unit of government" means a municipality, county, or governmental authority or any combination of municipalities, counties, or governmental authorities.
- (d) "Natural gas" means natural gas, synthetic gas, and manufactured gas.
- (e) "Operator" means a person who is presently, or was at the time of a release, in control of or responsible for the operation of an underground storage tank system.
- (f) "Owner" means a person who holds, or at the time of a release who held, a legal, equitable, or possessory interest of any kind in an underground storage tank system or in the property on which an underground storage tank system is located, including, but not limited to, a trust, vendor, vendee, lessor, or lessee. However, owner does not include a person or a regulated financial institution who, without participating in the management of an underground storage tank system and who is not otherwise engaged in petroleum production, refining, or marketing relating to the underground storage tank system, is acting in a fiduciary capacity or who holds indicia of ownership primarily to protect the person's or the regulated financial institution's security interest in the underground storage tank system or the property on which it is located. This exclusion does not apply to a grantor, beneficiary, remainderman, or other person who could directly or indirectly benefit financially from the exclusion other than by the receipt of payment for fees and expenses related to the administration of a trust.
- (g) "Regulated substance" means any of the following:
 - (i) A substance defined in section 101(14) of title I of the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 42 U.S.C. 9601, but not including a substance regulated as a hazardous waste under subtitle C of the solid waste disposal act, title II of Public Law 89-272, 42 U.S.C. 6921 to 6931 and 6933 to 6939b.
 - (ii) Petroleum, including crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). Petroleum includes but is not limited to mixtures of petroleum with de minimis quantities of other regulated substances, and petroleum-based substances composed of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, or finishing such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, and petroleum solvents.
 - (iii) A substance listed in section 112 of part A of title I of the clean air act, chapter 360, 84 Stat. 1685, 42 U.S.C. 7412.
- (h) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank system into groundwater, surface water, or subsurface soils.
- (i) "Underground storage tank system" means a tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of regulated substances, and the volume of which, including the volume of the underground pipes connected to the tank or tanks, is 10% or more beneath the surface of the ground. An underground storage tank system does not include any of the following:
 - (i) A farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.
 - (ii) A tank used for storing heating oil for consumptive use on the premises where the tank is located.
 - (iii) A septic tank.
 - (iv) A pipeline facility, including gathering lines regulated under either of the following:
 - (A) The natural gas pipeline safety act of 1968, Public Law 90-481, 49 U.S.C. Appx 1671 to 1677, 1679a to 1682, and 1683 to 1687.
 - (B) Sections 201 to 215 and 217 of the hazardous liquid pipeline safety act of 1979, title II of Public Law 96-129, 49 U.S.C. Appx 2001 to 2015.

- (v) A surface impoundment, pit, pond, or lagoon.
- (vi) A storm water or wastewater collection system.
- (vii) A flow-through process tank.
- (viii) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.
- (ix) A storage tank situated in an underground area, such as a basement, cellar, mineworking, drift, shaft, or tunnel if the storage tank is situated upon or above the surface of the floor.
- (x) Any pipes connected to a tank that is described in subparagraphs (i) to (xvi).
- (xi) An underground storage tank system holding hazardous wastes listed or identified under subtitle C of the solid waste disposal act, title II of Public Law 89-272, 42 U.S.C. 6921 to 6931 and 6933 to 6939b, or a mixture of such hazardous waste and other regulated substances.
- (xii) A wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 307(b) of title III or section 402 of title IV of the federal water pollution control act, 33 U.S.C. 1317 and 1342.
- (xiii) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.
- (xiv) An underground storage tank system with a capacity of 110 gallons or less.
- (xv) An underground storage tank system that contains a de minimis concentration of regulated substances.
- (xvi) An emergency spill or overflow containment underground storage tank system that is expeditiously emptied after use.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Underground Storage Tank Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws. For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

Popular Name: Act 451

Popular Name: NREPA

***** 324.21102 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) *****

324.21102 Underground storage tank system; registration or renewal of registration; notification of change; indication of materials stored; tests; forwarding copy of registration or notification of change to local unit of government; rules; exemption; notification of closure or removal.

Sec. 21102.

(1) A person that is the owner of an underground storage tank system shall register and annually renew the registration on the underground storage tank system with the department. However, the owner or operator of an underground storage tank closed prior to January 1, 1974 in compliance with the fire prevention code, 1941 PA 207, MCL 29.1 to 29.33, and the rules promulgated under that act, is exempt from the registration requirements of this section.

(2) A person that is the owner of an underground storage tank system shall register the underground storage tank system with the department prior to bringing the underground storage tank system into use. Additionally, an installation registration form containing the information required by the department shall be submitted to the department at least 45 days prior to the installation of the underground storage tank system.

(3) Except as otherwise provided in subsections (4) and (5), a person that is the owner of an underground storage tank system registered under subsection (1) or (2) shall notify the department of any change in the information required under section 21103 or of the removal of an underground storage tank system from service.

(4) A person that is the owner of an underground storage tank system, the contents of which are changed routinely, may indicate all the materials that are stored in the underground storage tank system on the registration form described in section 21103. A person providing the information described in this subsection is not required to notify the department of changes in the contents of the underground storage tank system unless the material to be stored in the system differs from the information provided on the registration form.

(5) Except as otherwise provided in section 21103(2), a person that is the owner of an underground storage tank system registered under subsection (1) or (2) is not required to notify the department of a test conducted on the tank system but shall furnish this information upon the request of the department.

(6) Upon the request of a local unit of government in which an underground storage tank system is located, the department shall forward a copy of a registration or notification of change under this section to the local unit of government where the underground storage tank system is located.

(7) The department may promulgate rules that require proof of registration under this part to be attached to the underground storage tank system or to the property where the underground storage tank system is located.

(8) Except as otherwise provided in this subsection, an underground storage tank system or an underground storage tank that is part of the system that has been closed or removed pursuant to rules promulgated under this part is exempt from the requirements of this section. However, the owner of an underground storage tank system or an underground storage tank that is part of the system that has been closed or removed shall notify the department of the closure or removal pursuant to rules promulgated by the department.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 2016, Act 465, Eff. Mar. 29, 2017

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

Popular Name: Act 451

Popular Name: NREPA

Admin Rule: R 29.2101 et seq. of the Michigan Administrative Code.

324.21102a Installation of underground storage tanks; prohibited conditions.

Sec. 21102a.

(1) Except as provided in subsection (2), a person shall not install an underground storage tank that meets any of the following conditions:

(a) Is within 2,000 feet of an existing type I community or type IIa noncommunity public water well.

(b) Is within 800 feet of an existing type IIb or type III noncommunity public water well.

(c) Is within 300 feet of any other type of well not described in subdivision (a) or (b).

(2) A person that wishes to install an underground storage tank that does not meet the conditions described under subsection (1) may only replace an active underground storage tank if both of the following requirements are met:

(a) A professional engineer or qualified underground storage tank consultant certifies that a combination of the construction material of the underground storage tank and the leak detection used to monitor the underground storage tank is more likely to prevent and detect a release from the replacement underground storage tank than the existing underground storage tank.

(b) The facility where the active, existing underground storage tank is located is in compliance with this part and the rules promulgated under this part.

(3) As used in this section:

(a) "Professional engineer" means that term as defined in section 2001 of the occupational code, 1980 PA 299, MCL 339.2001.

(b) "Qualified underground storage tank consultant" means an individual who meets the requirements described under section 21325.

History: Add. 2022, Act 160, Imd. Eff. July 19, 2022

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***** 324.21103 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) *****

324.21103 Registration forms; suspected or confirmed release from system; notice; supplementary information.

Sec. 21103.

- (1) The registration required by section 21102(1) and (2) shall be provided either:
 - (a) On a form provided by the department and in compliance with section 9002 of the solid waste disposal act, 42 U.S.C. 6991a.
 - (b) On a form approved by the department and in compliance with section 9002 of the solid waste disposal act.
- (2) If there is a suspected or confirmed release from an underground storage tank system, the owner or operator of the underground storage tank system shall notify the department within 24 hours and if requested by the department shall file the following supplementary information if known:
 - (a) The owner of the property where the underground storage tank system is located.
 - (b) A history of the current and previous contents of the underground storage tank system, including the generic chemical name, chemical abstract service number, or trade name, whichever is most descriptive of the contents, and including the date or dates on which the contents were changed or removed.
 - (c) A history of the monitoring procedures and leak detection tests and methods employed with respect to the underground storage tank system and the resulting findings.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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***** 324.21104 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546
(3) *****

324.21104 Underground storage tank regulatory enforcement fund; creation; receipts; investment; crediting interest and earnings; reversion to general fund prohibited; use of money; notice of balance in fund.

Sec. 21104.

- (1) The underground storage tank regulatory enforcement fund is created in the state treasury. The fund may receive money as provided in this part and as otherwise provided by law. The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.
- (2) Money in the fund shall be used by the department only to enforce this part and the rules promulgated under this part and the rules promulgated under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.33, pertaining to the delivery and dispensing operations of regulated substances.
- (3) The department of treasury shall, before November 1 of each year, notify the department of the balance in the fund at the close of the preceding fiscal year.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 2016, Act 465, Eff. Mar. 29, 2017

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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***** 324.21105 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546
(3) *****

324.21105 Collection and evaluation of information; report.

Sec. 21105.

The department shall collect and evaluate the information obtained through the registration of underground storage tanks required by section 21102. Not later than September 30, 1987, the department shall provide to the legislature a report containing a compilation of the underground storage tank registration data and an assessment of the actual and potential environmental hazard posed by the tanks.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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***** 324.21106 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) *****

324.21106 Rules.

Sec. 21106.

The department shall promulgate rules relating to underground storage tank systems that are at least as stringent as the rules promulgated by the United States environmental protection agency under subtitle I of title II of Public Law 89-272, 42 U.S.C. 6991 to 6991i. These rules shall include a requirement that the owner or operator of an underground storage tank system provide financial responsibility in the event of a release from the underground storage tank system.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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Admin Rule: R 29.2101 et seq. of the Michigan Administrative Code.

***** 324.21107 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) *****

324.21107 Maintaining pollution liability insurance; limits.

Sec. 21107.

A person who installs or removes underground storage tank systems shall maintain pollution liability insurance with limits of not less than \$1,000,000.00 per occurrence.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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***** 324.21108 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) *****

324.21108 Enforcement of part and rules.

Sec. 21108.

- (1) The department shall enforce this part and the rules promulgated under this part.
- (2) The department may delegate the authority to enforce this part and the rules promulgated under this part to a local unit of government that has sufficient employees who are certified by the department under subsection (3) as underground storage tank system inspectors. A local unit of government may apply for delegation under this section by submitting a resolution of the governing body of the local unit of government and an application containing the information required by the department. The department may revoke a delegation under this section for a violation of this part, the rules promulgated under this part, or a contract entered between the department and the local unit of government.
- (3) The department may certify individuals who are qualified to enforce this part and the rules promulgated under this part as underground storage tank system inspectors. The department may revoke an individual's certification under this section for violating this part or rules promulgated under this part.
- (4) If the department elects to delegate enforcement authority under subsection (2), the department shall promulgate rules that do both of the following:
 - (a) Establish criteria for delegation under subsection (2).
 - (b) Establish qualifications for certification of individuals as underground storage tank system inspectors under subsection (3).
- (5) The department may contract with a local unit of government for the purpose of enforcing this part and the rules promulgated under this part.
- (6) The department or a certified underground storage tank system inspector within his or her jurisdiction, at the discretion of the department or inspector and without a complaint and without restraint or liability for trespass, may, at an hour reasonable under the circumstances involved, enter into and upon real property including a building or premises where regulated substances may be stored for the purpose of inspecting and examining the property, buildings, or premises, and their occupancies and contents to determine compliance with this part and the rules promulgated under this part.
- (7) The department shall enhance its audit and inspection program to monitor the installation and operation of new underground storage tank systems or components to ensure that equipment meets minimum quality standards, that the installation is done properly, and that the monitoring systems are properly utilized.
- (8) The department shall conduct a study regarding the causes of underground storage tank leaks and prepare a report making recommendations regarding upgrading underground storage tank system standards, establishing timetables for the replacement of equipment, and instituting any other practices or procedures which will minimize releases of regulated substances into the environment. The report shall be submitted by July 1, 1995 to the members of the legislature who are members of committees dealing with natural resource issues.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

Popular Name: Act 451

Popular Name: NREPA

***** 324.21109 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) *****

324.21109 Additional safeguards; resolution; enactment or enforcement of certain ordinances prohibited.

Sec. 21109.

(1) The department may, upon resolution of the governing body of a local unit of government in whose jurisdiction an underground storage tank system is being installed, require additional safeguards, other than those specified in rules, when the public health, safety, or welfare, or the environment is endangered.

(2) A local unit of government shall not enact or enforce a provision of an ordinance that is inconsistent with this part or rules promulgated under this part.

(3) A local unit of government shall not enact or enforce a provision of an ordinance that requires a permit, license, approval, inspection, or the payment of a fee or tax for the installation, use, closure, or removal of an underground storage tank system.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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Popular Name: NREPA

***** 324.21110 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546
(3) *****

324.21110 Prohibited conduct.

Sec. 21110.

(1) A person shall not knowingly deliver a regulated substance into an underground storage tank system that is not registered under this part.

(2) A person shall not repair or test an underground storage tank system that is not registered under this part.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

Popular Name: Act 451

Popular Name: NREPA

***** 324.21111 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546
(3) *****

324.21111 Deferments.

Sec. 21111.

The following are deferred from regulation under this part until such time as the department determines that they should be regulated:

(a) Wastewater treatment tank systems.

(b) An underground storage tank system containing radioactive material that is regulated under the atomic energy act of 1954, chapter 1073, 68 Stat. 919.

(c) An underground storage tank system that is part of an emergency generator system at nuclear power generation facilities regulated by the nuclear regulatory commission under 10 C.F.R. part 50, appendix A to part 50 of title 10 of the code of federal regulations.

(d) Airport hydrant fuel distribution systems.

(e) Underground storage tank systems with field-constructed tanks.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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***** 324.21112 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) *****

324.21112 Violation; misdemeanor; penalty; civil fine.

Sec. 21112.

(1) A person who violates this part or a rule promulgated under this part or who knowingly submits false information when registering an underground storage tank system under this part is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$500.00, or both.

(2) A person who violates this part or a rule promulgated under this part or who knowingly submits false information when registering an underground storage tank system under this part is subject to a civil fine of not more than \$5,000.00 for each underground storage tank system for each day of violation. A civil fine imposed under this subsection shall be based upon the seriousness of the violation and any good faith efforts by the violator to comply with this part and the rules promulgated under this part.

(3) A civil fine collected under subsection (2) shall be deposited into the fund.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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***** 324.21113 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) *****

324.21113 Repeal of part.

Sec. 21113.

This part is repealed upon the expiration of 12 months after part 215 becomes invalid pursuant to section 21546(3).

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

Popular Name: Act 451

Popular Name: NREPA