



Emergency Management Division Informational Letter

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TO: Local and District Emergency Management Coordinators, Members of MACP, MSA, Michigan Fire Service, Public Safety Answering Point (PSAP) Contacts

SUBJECT: Public Act 142 Requires Notification and Planning Changes

On June 15, 2004, Public Act 142 of 2004 was enacted modifying reporting requirements for releases of pollutants into the water and mandates that a person required to report a release of polluting material under Part 5 of the Water Resources Protection Rules (R. 324.2001 and 324.2009) also call 9-1-1 to report the release to the Public Safety Answering Point (PSAP).

Public Act 142 can be viewed in detail at www.michiganlegislature.org and a full copy of the bill is attached to this Informational Letter. Following are brief descriptions of the law's requirements.

Individual Identifying Release

The identifier of the spill is required to notify 9-1-1 to "report the release to the primary public safety warning answering point serving the jurisdiction where the release occurred."

The threshold quantity used in the bill is taken from R. 324.2002 of the Michigan Administrative Code, which defines threshold quantity as releases of:

- Oil to the surface of the ground above 50 pounds;
- Oil to the waters of the state in any quantity that causes unnatural turbidity, color visible sheens, oil films, foams, solids, or deposits in the receiving water body;
- Salt to the surface of the ground or waters of the state above 50 pounds in solid form, unless the use is authorized by the Michigan Department of Environmental Quality (MDEQ) for de-icing purposes, or 50 gallons in liquid form, unless authorized by the MDEQ as a dust suppressant or de-icing agent permitted under Part 31 of NREPA; or
- All other polluting materials above the quantity specified in Table 1 of R. 324.2009, or any quantity that causes unnatural turbidity, color visible sheens, oil films, foams, solids, or deposits in the receiving water body.

County Emergency Management Coordinator

The bill requires that the county emergency management coordinator develop a plan in conjunction with the principal PSAPs in their jurisdiction to ensure timely notification of the release to local, state, and federal agencies.

Section 3111b. (4) states that *"the emergency management coordinator of each county shall develop and oversee the implementation of a plan to provide timely notification of the release to be reported...to appropriate local, state, and federal agencies."* The bill further stipulates that the emergency management coordinator *"...shall consult with . . . the directors of the primary public safety answering points with jurisdiction in the county . . . and . . . any emergency management coordinator for a city, village, or township located in that county."*

The bill does not specify a completion date for the required county plans, but does specify that MDEQ “evaluate the state and local reporting system established under this section.”

It is key that 9-1-1 centers recognize that the number of calls related to spills will increase due to this new law, and that notification does not necessarily mean a request for assistance in handling the spill in question. The focus of the law is on notification, so it is possible that 9-1-1 centers will receive calls on spills where notification is the sole intent and should take actions that they believe appropriate given the information provided by the caller. Although there are no specific instructions for 9-1-1 answering points after receiving a call of a release, it is suggested that 9-1-1 PSAPs adhere to their current policies as to what constitutes an emergency situation. The law makes no provision for the 9-1-1 primary public safety answering point to make specific records of these calls.

In addition, If the Department of State Police or any state agency receives notification of a release in that jurisdiction of a polluting material in excess of the reporting quantity that could enter the groundwaters of this state, and receives the notification pursuant to an agreement with or laws of another state, Canada, or the province of Ontario, the Department of State Police or state agency shall contact the 9-1-1 PSAPs serving each county that may be affected by the release.

Questions can be directed to Tony Katarsky of the Planning Section at 517-333-5024 or katarskt@michigan.gov.

Sincerely,



JOHN ORT, CAPTAIN
Deputy State Director of Homeland Security
and Emergency Management

JO:TK:dw
(320)

Attachment:

- o House Bill No. 5586



Act No.142

Public Acts of 2004

Approved by the Governor

June 15, 2004

Filed with the Secretary of State

June 15, 2004

EFFECTIVE DATE: June 15, 2004

STATE OF MICHIGAN

92ND LEGISLATURE

REGULAR SESSION OF 2004

Introduced by Rep. Acciavatti

ENROLLED HOUSE BILL No. 5586

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, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 3101 and 51107 (MCL 324.3101 and 324.51107), section 3101 as amended by 2004 PA 90 and section 51107 as added by 1995 PA 57, and by adding section 3111b.

The People of the State of Michigan enact:

Sec. 3101. As used in this part:

(a) "Aquatic nuisance species" means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.

(b) "Ballast water" means water and associated solids taken on board a vessel to control or maintain trim, draft, stability, or stresses on the vessel, without regard to the manner in which it is carried.

(c) "Ballast water treatment method" means a method of treating ballast water and sediments to remove or destroy living biological organisms through 1 or more of the following:

- (i) Filtration.
- (ii) The application of biocides or ultraviolet light.
- (iii) Thermal methods.
- (iv) Other treatment techniques approved by the department.
- (d) "Department" means the department of environmental quality.
- (e) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.
- (f) "Emergency management coordinator" means that term as defined in section 2 of the emergency management act, 1976 PA 390, MCL 30.402.
- (g) "Great Lakes" means the Great Lakes and their connecting waters, including Lake St. Clair.
- (h) "Group 1 facility" means a facility whose discharge is described by R 323.2218 of the Michigan administrative code.
- (i) "Group 2 facility" means a facility whose discharge is described by R 323.2210(y), R 323.2215, or R 323.2216 of the Michigan administrative code.
- (j) "Group 3 facility" means a facility whose discharge is described by R 323.2211 or R 323.2213 of the Michigan administrative code.
- (k) "Local health department" means that term as defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.
- (l) "Local unit" means a county, city, village, or township or an agency or instrumentality of any of these entities.
- (m) "Municipality" means this state, a county, city, village, or township, or an agency or instrumentality of any of these entities.
- (n) "National response center" means the national communications center established under the clean water act, 33 USC 1251 to 1387, located in Washington, DC, that receives and relays notice of oil discharge or releases of hazardous substances to appropriate federal officials.
- (o) "Nonocean-going vessel" means a vessel that is not an ocean-going vessel.
- (p) "Ocean-going vessel" means a vessel that operates on the Great Lakes or the St. Lawrence waterway after operating in waters outside of the Great Lakes or the St. Lawrence waterway.
- (q) "Primary public safety answering point" means that term as defined in section 102 of the emergency telephone service enabling act, 1986 PA 32, MCL 484.1102.
- (r) "Sediments" means any matter settled out of ballast water within a vessel.

(s) "Sewage sludge" means sewage sludge generated in the treatment of domestic sewage, other than only septage or industrial waste.

(t) "Sewage sludge derivative" means a product for land application derived from sewage sludge that does not include solid waste or other waste regulated under this act.

(u) "Sewage sludge generator" means a person who generates sewage sludge that is applied to land.

(v) "Sewage sludge distributor" means a person who applies, markets, or distributes, except at retail, a sewage sludge derivative.

(w) "St. Lawrence waterway" means the St. Lawrence river, the St. Lawrence seaway, and the gulf of St. Lawrence.

(x) "Threshold reporting quantity" means that term as defined in R 324.2002 of the Michigan administrative code.

(y) "Waters of the state" means groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state.

Sec. 3111b. (1) If a person is required to report a release to the department under part 5 of the water resources protection rules, R 324.2001 to R 324.2009 of the Michigan administrative code, the person, via a 9-1-1 call, shall at the same time report the release to the primary public safety answering point serving the jurisdiction where the release occurred.

(2) If a person described in subsection (1) is required to subsequently submit to the department a written report on the release under part 5 of the water resources protection rules, R 324.2001 to R 324.2009 of the Michigan administrative code, the person shall at the same time submit a copy of the report to the local health department serving the jurisdiction where the release occurred.

(3) If the department of state police or other state agency receives notification, pursuant to an agreement with or the laws of another state, Canada, or the province of Ontario, of the release in that other jurisdiction of a polluting material in excess of the threshold reporting quantity and if the polluting material has entered or may enter surface waters or groundwaters of this state, the department of state police or other state agency shall contact the primary public safety answering point serving each county that may be affected by the release.

(4) The emergency management coordinator of each county shall develop and oversee the implementation of a plan to provide timely notification of a release required to be reported under subsection (1) or (3) to appropriate local, state, and federal agencies. In developing and overseeing the implementation of the plan, the emergency management coordinator shall consult with both of the following:

(a) The directors of the primary public safety answering points with jurisdiction within the county.

(b) Any emergency management coordinator appointed for a city, village, or township located in that county.

(5) If rules promulgated under this part require a person to maintain a pollution incident prevention plan, the person shall update the plan to include the requirements of subsections (1) and (2) when conducting any evaluation of the plan required by rule.

(6) If a person reports to the department a release pursuant to subsection (1), the department shall do both of the following:

- (a) Notify the person of the requirements imposed under subsections (1) and (2).
- (b) Request that the person, even if not responsible for the release, report the release, via a 9-1-1 call, to the primary public safety answering point serving 1 of the following, as applicable:
 - (i) The jurisdiction where the release occurred, if known.
 - (ii) The jurisdiction where the release was discovered, if the jurisdiction where the release occurred is not known.
- (7) The department shall notify the public and interested parties, by posting on its website within 30 days after the effective date of the amendatory act that added this section and by other appropriate means, of all of the following:
 - (a) The requirements of subsections (1) and (2).
 - (b) The relevant voice, and, if applicable, facsimile telephone numbers of the department and the national response center.
 - (c) The criminal and civil sanctions under section 3115 applicable to violations of subsections (1) and (2).
- (8) Failure of the department to provide a person with the notification required under subsection (6) or (7) does not relieve the person of any obligation to report a release or other legal obligation.
- (9) The department shall biennially do both of the following:
 - (a) Evaluate the state and local reporting system established under this section.
 - (b) Submit to the standing committees of the senate and house of representatives with primary responsibility for environmental protection issues a written report on any changes recommended to the reporting system.

Sec. 51107. The annual specific tax and state payment described in section 51106 shall be adjusted in 2006 and every tenth year after 2006 to the nearest cent by the use of a ratio computed by the revenue division of the department of treasury. The ratio shall be computed by using the state equalized value per acre of the timber cutover lands within the state in 1990 as the denominator and using the state equalized value per acre for timber cutover lands in 2004 and every tenth year after 2004 as the numerator.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 977 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor

