
	REMEDATION AND REDEVELOPMENT DIVISION RESCISSION OF POLICY AND PROCEDURE	DEPARTMENT OF ENVIRONMENTAL QUALITY
Rescinded Date: August 21, 2013	Subject: Environmental Assessments and Audits <hr/> Program Name: Part 201, Environmental Remediation, and Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as Amended <hr/> Number: MERA Operational Memorandum #5 Page: 1 of 1	Category: <input type="checkbox"/> Internal/Administrative <input type="checkbox"/> External/Non-Interpretive <input checked="" type="checkbox"/> External/Interpretive

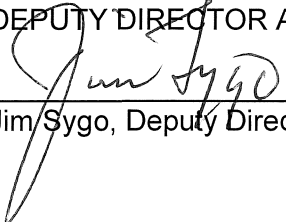
Remediation and Redevelopment Division, Michigan Environmental Response Act Operational Memorandum #5, Environmental Assessments and Audits, dated September 29, 1991, is rescinded. The information contained in this former Operational Memorandum regarding standards for performing due diligence is outdated. There are now customary practices and recognized commercial standards such as the ASTM Standard Practices for Environmental Site Assessments Phase I and II Environmental Site Assessment Process [ASTM E1527-05, ASTM E1903-11] or the federal rule for all appropriate inquiry [40 CFR Part 312] that may be used by a person conducting due diligence or all appropriate inquiry. The regulations that provide legal defenses for liability if the person did not know, or had no reason to know, the property was contaminated place the responsibility with the prospective property owner to document that due diligence or all appropriate inquiry has been appropriately conducted. It is also the responsibility of the prospective property owner or operator to ascertain whether the property is contaminated. The environmental assessment documents are not considered response activity plans or corrective action plans statutorily subject to MDEQ review and approval. The data produced with an environmental assessment can be used to determine property is a Part 201 facility [MCL 324.20101(1)(s)] or a Part 213 property [MCL 324.21303(d)]. MDEQ staff is not expected to concur with conclusions of the environmental assessment that the property is not contaminated. MDEQ staff is also not expected to judge the adequacy of the assessments to determine whether a property owner has fulfilled their obligations under state or federal law to perform an environmental assessment. The MDEQ encourages a person who has conducted their due diligence and has determined the property is a Part 201 facility or Part 213 property to consider the Baseline Environmental Assessment process to obtain the liability protections these statutes afford to new owners and operators.

DIVISION CHIEF APPROVAL:



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