



7521 Westshire Dr., Suite 200
Lansing, MI 48917
Ph: 517.622.3530
Fax: 517.622.3420
Website: www.mpamacs.org

Thank you Mr. Chairman and good afternoon. I'm Mark Griffin with the Michigan Petroleum Association and with me today is our legal counsel, Cliff Knaggs. I will make a few opening comments about the need for SB 717 from the perspective of tank owners and Cliff will go through into more detail on the specifics.

Since the reforms to part 213 in 2012 we have seen a remarkable turnaround in the number of cleanups and closures at sites where an underground storage tank had a previous release. In 2012 there were approximately 165 closures, the most since the mid-2000's. In 2013, approximately 285 closures. In 2014, approximately 488 closures. In 2015, approximately 427 closures.

- Because of this we are whittling away at the backlog and eventually will only have to address new releases.
- However, owners and operators are facing obstacles in achieving closures when attempting to utilize alternative institutional controls ("AIC"), such as using municipal ordinances or rights of way, to control exposure at sites where a release has occurred.
- Based on surveys of our members and environmental consultants we believe that there are currently approximately 200-250 sites where closure cannot be reached because the local units of government do not want to sign the Environmental Licensing Agreement that the DEQ has proposed.
- We have also been told of undefined subjective standards, which are not directly related to exposure risk, are sometimes being used to deny use of AICs.
- There have been reports of consultants not qualified in the ASTM risk based corrective action ("RCBA") approach performing services at leaking underground storage tank sites.
- Likewise, there has been concern expressed that not all department staff are sufficiently trained in the RCBA process.
- Lastly Part 201 was recently amended to allow O/Os who missed the filing deadline to seek a determination that the late filing was "inconsequential" and allow them to proceed.

Cliff will now talk about the specifics sections in SB 717 that address these concerns.

- Section 21304c identifies public highways as property used for a public purpose which ties into recognition of public highways (right-of-ways) as an AIC in Section 21310a.
- Section 21310a, removes the word “reliably” as it relates to AICs used to restrict an exposure pathway. “Reliably restricts” is a subjective evaluation which has been used to deny the use of AICs which stops the closure process.
- Strikes the requirement that the O/O prove that it is “impractical” to use a restrictive covenant before an AIC can be employed.
- Allows for the use of local ordinances, state laws and regulations as AICs to limit or restrict exposure to regulated substances.
- Allows for the use of public highways as defined in State general highway laws as an AIC if the O/O provides specified data and information to the affected unit of government and confirms that there are no plans to vacate, relocate or abandon the highway.
- Makes clear that the use of a highway as an AIC does not affect the liability of the tank O/O, nor impose any liability on the owner of the highway for corrective action, nor affect the remedies available to the owner of the highway against the responsible tank O/O.
- Section 21323a (1) (b) is amended to be consistent with the recent Part 201 BEA provisions.
- Also makes clear that if the closure relies on an AIC and the AIC changes, the O/O is responsible for any additional corrective action necessary to limit or prohibit exposure to the environmental contamination that results from the change.
- Section 21325 (a), includes the requirement that Qualified Underground Storage Tank Consultants demonstrate experience in RBCA.
- Section 21325a, requires department employees who oversee corrective action to be trained in RBCA.