

**SUBSTITUTE FOR
HOUSE BILL NO. 4480**

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding sections 12815, 12817, and
12829 to part 128.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 12815. (1) The technical advisory committee is created in**
2 **the department to advise the department on all of the following:**

3 **(a) Recommended standards and guidance for the management of**
4 **onsite wastewater treatment systems.**

5 **(b) Nonproprietary technologies and recommended standards and**
6 **guidance for the use of nonproprietary technologies.**

7 **(c) Testing and design standards used for proprietary product**
8 **registration and recommended standards and guidance for use of**



1 proprietary products.

2 (d) Recommended standards and guidance for alternative onsite
3 wastewater treatment systems and the severity of a failure of a
4 system.

5 (e) Onsite wastewater treatment system evaluation elements and
6 reporting.

7 (f) Registration and educational requirements for evaluators.

8 (g) Ethical standards for evaluators that are consistent with
9 the ethical standards established by professional organizations
10 that represent decentralized wastewater management professionals
11 recognized by the department.

12 (h) Documentation required to be submitted to the department
13 for qualifying and registering evaluators under section 12823.

14 (i) Qualifications of individuals other than evaluators
15 involved in the management of onsite wastewater treatment systems.

16 (j) Continuing education requirements for individuals involved
17 in the management of onsite wastewater treatment systems.

18 (k) Recommended standards for implementing this part.

19 (l) Guidance and standards for registering practitioners that
20 construct and maintain onsite wastewater treatment systems.

21 (m) Recommended standards and guidance for owners of onsite
22 wastewater treatment systems for the maintenance of onsite
23 wastewater treatment systems.

24 (n) Guidance for a local health department when a construction
25 permit was issued by the local health department before the
26 effective date of the statewide sewage code, and the installation
27 or construction and inspection of an onsite wastewater treatment
28 system has not determined that the system is in compliance with all
29 required permits.



(2) The technical advisory committee must consist of all of the following members who have technical or scientific knowledge applicable to onsite wastewater treatment systems:

(a) Five regional local health department representatives and 1 at-large local health department representative recommended by a state organization representing local health departments. Of the 5 regional local health department representatives appointed under this subdivision, 1 representative must be from the northern lower peninsula, 1 representative must be from the southeast lower peninsula, 1 representative must be from the southwest lower peninsula, 1 representative must be from the eastern upper peninsula, and 1 representative must be from the western upper peninsula. The 6 members appointed under this subsection must be appointed as follows:

(i) Two members appointed by the governor.

(ii) Two members appointed by the speaker of the house of representatives.

(iii) Two members appointed by the senate majority leader.

(b) All of the following members appointed by the governor:

(i) One professional engineer.

(ii) One hydrogeologist with hydrogeology field experience. As used in this subparagraph, "hydrogeologist" means a professional hydrogeologist as that term is defined in section 32706c of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32706c.

(iii) One microbiologist.

(iv) One onsite system product manufacturer.

(v) One onsite wastewater system installer who has completed training developed by the National Onsite Wastewater Recycling



1 Association.

2 (vi) One onsite wastewater system service provider.

3 (vii) Three department representatives.

4 (viii) One individual with knowledge of the use of onsite
5 wastewater treatment systems representing users of onsite
6 wastewater treatment systems.

7 (ix) One representative from a state organization specializing
8 in the protection of public health and the environment through
9 improved water quality.

10 (x) One individual who has performed at least 10 evaluations
11 under preexisting onsite wastewater treatment system ordinances.

12 (xi) One soil scientist.

13 (3) The members first appointed to the technical advisory
14 committee must be appointed not later than 90 days after the
15 effective date of the amendatory act that added this part.

16 (4) Members of the technical advisory committee shall serve
17 for terms of 4 years or until a successor is appointed, except that
18 of the members first appointed, 9 shall serve for 2 years, and 9
19 shall serve for 3 years.

20 (5) If a vacancy occurs on the technical advisory committee,
21 an individual must be appointed in the same manner as the original
22 appointment to fill the vacancy for the balance of the term.

23 (6) The governor may remove a member of the technical advisory
24 committee for incompetence, dereliction of duty, malfeasance,
25 misfeasance, or nonfeasance in office, or any other good cause.

26 (7) Not later than 120 days after the effective date of the
27 amendatory act that added this section, the governor shall call the
28 first meeting of the technical advisory committee. At the first
29 meeting, the technical advisory committee shall elect from among



1 its members a chairperson and other officers as it considers
2 necessary or appropriate. Except as otherwise provided in this
3 subsection, after the first meeting, the technical advisory
4 committee shall meet at least bimonthly, or more frequently at the
5 call of the chairperson, or if requested by the department.

6 Beginning 8 years after the effective date of the amendatory act
7 that added this section, the technical advisory committee shall
8 meet at least biannually, or more frequently at the call of the
9 chairperson, or if requested by the department.

10 (8) A majority of the members of the technical advisory
11 committee constitute a quorum for the transaction of business at a
12 meeting of the technical advisory committee. A majority of the
13 members present and serving are required for official action of the
14 technical advisory committee.

15 (9) The business that the technical advisory committee may
16 perform must be conducted at a public meeting of the technical
17 advisory committee held in compliance with the open meetings act,
18 1976 PA 267, MCL 15.261 to 15.275.

19 (10) A writing prepared, owned, used, in the possession of, or
20 retained by the technical advisory committee in the performance of
21 an official function is subject to the freedom of information act,
22 1976 PA 442, MCL 15.231 to 15.246.

23 (11) Members of the technical advisory committee shall serve
24 without compensation. However, members of the technical advisory
25 committee may be reimbursed for their actual and necessary expenses
26 incurred in the performance of their official duties as members of
27 the technical advisory committee.

28 (12) The technical advisory committee shall consider the
29 following in its advice to the department:



1 (a) Sufficient theory and applied research to document
2 efficacy of onsite wastewater treatment systems.

3 (b) Potential use, local soil conditions, and other factors
4 that may affect the operation of onsite wastewater treatment
5 systems.

6 (c) Field performance data that confirm the product or
7 technology functions when installed on-site as indicated by
8 submitted documents.

9 (d) Certification of onsite wastewater treatment systems by
10 NSF International or another recognized certifying agency.

11 (13) The technical advisory committee may consult with experts
12 in the field of management of onsite wastewater treatment systems
13 and other individuals with knowledge and expertise in the
14 management of onsite wastewater treatment systems, including, but
15 not limited to, environmental organizations, financial
16 organizations, home builders, real estate licensees, local units of
17 government, and conservation districts.

18 (14) The department shall provide administrative support to
19 the technical advisory committee. The technical advisory
20 committee's initial advice and recommendations under subsection (1)
21 must be provided to the department not later than 2 years after the
22 effective date of the amendatory act that added this section.

23 Sec. 12817. Not later than 3 years after the effective date of
24 the amendatory act that added this part, the department shall
25 promulgate rules that establish a statewide sewage code that
26 contains provisions for the management of onsite wastewater
27 treatment systems and performance-based standards for systems
28 categorized as conventional and alternative onsite wastewater
29 treatment systems. Before promulgating these rules, the department



1 shall consult with the technical advisory committee. The rules must
2 provide baseline protection for public health and the environment
3 and must include all of the following:

4 (a) Minimum standards and criteria for the siting, design,
5 construction, installation, inspection, operation, maintenance,
6 alternation, evaluation, rejuvenation, closure, minor repair, and
7 repair of onsite wastewater treatment systems.

8 (b) Wastewater effluent standards.

9 (c) Corrective actions necessary to protect public health and
10 the environment for onsite wastewater treatment systems that fail
11 to meet these standards.

12 (d) Requirements relating to the construction approval process
13 by the department and local health departments for onsite
14 wastewater treatment systems.

15 (e) Requirements for the operation, evaluation, and
16 maintenance of conventional, alternative, innovative, acceptable
17 alternative greywater, and experimental onsite wastewater treatment
18 systems that define required routine maintenance necessary to
19 ensure continued proper performance of the system to protect public
20 health and the environment.

21 (f) Requirements for the approval or rejection of
22 conventional, alternative, innovative, acceptable alternative
23 greywater, and experimental onsite wastewater treatment system
24 products, components, or devices.

25 (g) Criteria for requesting and granting variances by an
26 authorized local health department.

27 (h) Criteria for allowing the continued use of an onsite
28 wastewater treatment system that was constructed before the
29 effective date of the statewide sewage code if use of an onsite



wastewater treatment system can be managed in a manner that does all of the following:

(i) Ensures an effective level of treatment of sanitary sewage determined to be necessary, based on risk.

(ii) Protects public health and the environment.

(iii) Protects the surface waters of this state.

(iv) Protects groundwater quality.

(i) Qualifications and continuing education requirements for individuals involved in the installation or management of onsite wastewater treatment systems.

(j) A requirement for septic tanks installed or altered after the effective date of the amendatory act that added this section to contain a septic tank access riser that extends to the ground surface and secondary safety device.

(k) Registration requirements and educational and ethical standards for evaluators and other individuals involved in the installation, maintenance, and evaluation of onsite wastewater treatment systems.

(l) Training requirements for evaluators that are consistent with trainings established by professional organizations that represent decentralized wastewater management professionals recognized by the department. Beginning on the effective date of the statewide sewage code and for 3 years thereafter, an evaluator that has 3 years of work experience, as determined by the department, does not have to comply with the training requirements provided under this subdivision.

(m) Requirements for evaluations in addition to those described under section 12821, including, but not limited to, all of the following:



1 (i) Standard operating procedures to determine septic tank
2 pumping requirements at the time of an evaluation, and if a septic
3 tank or tanks are pumped out within 45 days before an evaluation in
4 violation of section 12821(4).

5 (ii) Standard operating procedures for an evaluation conducted
6 when compaction may limit drainage, when a structure is not
7 occupied or in ordinary use, when the ground is frozen or snow-
8 covered, and when access to the onsite wastewater treatment system
9 is not feasible.

10 (iii) Tests and procedures for evaluators to perform to ensure
11 the validity of onsite wastewater treatment system evaluations.

12 (n) Conditions to reject or deny the installation of an onsite
13 wastewater treatment system.

14 (o) Criteria for the elements of nonconforming systems and
15 when the elements may result in failure.

16 (p) Criteria for granting variances from the requirements in
17 section 12821(11).

18 (q) A conflict of interest system for evaluators and
19 individuals who install, construct, alter, or repair onsite
20 wastewater treatment systems. This conflict of interest system must
21 not preclude evaluators from owning a business involved in the
22 installation, construction, alteration, or repair of onsite
23 wastewater treatment systems and must provide a means for an
24 evaluator to perform these services that may result from an
25 evaluation.

26 (r) Requirements for the denial, suspension, or revocation of
27 proprietary product registrations based on field reviews that
28 identify that the proprietary products do not function or perform
29 as designed.



(s) Any other requirement necessary to implement this part and part 127.

Sec. 12829. (1) The onsite wastewater treatment system administration fund is created in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund and credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year remains in the fund and does not lapse to the general fund.

(4) The department is the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, on appropriation, only for the following purposes:

(a) To administer this part.

(b) For grants to local health departments to carry out their responsibilities under this part, including, but not limited to, for the digitization of records of locations relating to onsite wastewater treatment systems and the locations of drinking water supply sources, including, but not limited to, onsite water wells or a public water supply. As used in this subdivision:

(i) "Public water supply" means that term as defined in section 2 of the safe drinking water act, 1976 PA 399, MCL 325.1002.

(ii) "Well" means that term as defined in section 12701.

(c) For grants or loans to homeowners who are below 400% of the federal poverty level for all associated costs applicable to update a failure of an onsite wastewater treatment system identified under section 12821 or to provide funds to compensate for an arranged onsite wastewater treatment evaluation. As used in



1 this subdivision, "federal poverty level" means the federal poverty
2 guidelines published annually in the Federal Register by the United
3 States Department of Health and Human Services under its authority
4 to revise the poverty line under 42 USC 9902.

5 (d) To administer a public outreach and educational campaign
6 to inform individuals on the requirements of section 12821 and the
7 importance of operation and maintenance of onsite wastewater
8 treatment systems.

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.

11 Enacting section 2. This amendatory act does not take effect
12 unless House Bill No. 4479 of the 102nd Legislature is enacted into
13 law.

