

Act No. 1
Public Acts of 1993
Approved by the Governor
February 08, 1993
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February 08, 1993

STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Senator Wartner

ENROLLED SENATE BILL No. 45

AN ACT to amend the title and sections 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 17, 18, 19, 24, 25, and 26 of Act No. 518 of the Public Acts of 1988, entitled as amended "An act to assist certain owners and operators of certain underground storage tank systems in meeting their financial responsibility requirements; to create certain funds to address certain problems associated with releases from certain underground storage tank systems; to promote compliance with certain regulatory programs; to provide for the use of these funds; to create a Michigan underground storage tank financial assurance policy board; to prescribe the powers and duties of certain state agencies and officials; to provide for certain regulatory fees; and to repeal certain parts of this act on a specific date," sections 4, 5, 8, 9, 10, 11, 13, 15, 17, 18, 19, 25, and 26 as amended by Act No. 152 of the Public Acts of 1989, section 7 as amended by Act No. 161 of the Public Acts of 1989, and section 12 as amended by Act No. 51 of the Public Acts of 1990, being sections 299.804, 299.805, 299.807, 299.808, 299.809, 299.810, 299.811, 299.812, 299.813, 299.815, 299.817, 299.818, 299.819, 299.824, 299.825, and 299.826 of the Michigan Compiled Laws; to add sections 9a, 15a, 22a, and 24a; to repeal certain parts of the act; and to repeal the act on a specific date.

The People of the State of Michigan enact:

Section 1. The title and sections 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 17, 18, 19, 24, 25, and 26 of Act No. 518 of the Public Acts of 1988, sections 4, 5, 8, 9, 10, 11, 13, 15, 17, 18, 19, 25, and 26 as amended by Act No. 152 of the Public Acts of 1989, section 7 as amended by Act No. 161 of the Public Acts of 1989, and section 12 as amended by Act No. 51 of the Public Acts of 1990, being sections 299.804, 299.805, 299.807, 299.808, 299.809, 299.810, 299.811, 299.812, 299.813, 299.815, 299.817, 299.818, 299.819, 299.824, 299.825, and 299.826 of the Michigan Compiled Laws, are amended and sections 9a, 15a, 22a, and 24a are added to read as follows:

TITLE

An act to assist certain owners and operators of certain underground storage tank systems in meeting their financial responsibility requirements; to create certain funds to address certain problems associated with releases from certain underground storage tank systems and their associated equipment; to promote compliance with certain regulatory programs; to provide for the use of these funds; to create a Michigan underground storage tank financial assurance policy board; to prescribe the powers and duties of certain state agencies and officials; to provide for certain regulatory fees; to repeal certain parts of the act on a specific date; and to repeal this act on a specific date.

Sec. 4. As used in this act:

- (a) "Administrator" means the fund administrator provided for in section 12.
- (b) "Approved claim" means a claim that is approved pursuant to section 15.

- (c) "Board" means the Michigan underground storage tank financial assurance policy board created in section 20.
- (d) "Claim" means the submission by the owner or operator, or their representative, of documentation requesting payment from the fund. A claim shall include, at a minimum, a completed and signed claim form and legible itemized work invoices.
- (e) "Corrective action" means an action to stop, minimize, eliminate, or clean up a release or its effects, as may be necessary to protect the public health, safety, welfare, or the environment. This includes, but is not limited to, release investigation, mitigation of fire and safety hazards, tank repair or removal, soil remediation, hydrogeological investigations, free product removal, groundwater remediation and monitoring, exposure assessments, the temporary or permanent relocation of residents, and the provision of alternate water supplies.
- (f) "Deductible" means the deductible provided for in section 13.
- (g) "Department" means the department of management and budget.
- (h) "Financial responsibility requirements" means the financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by a release from an underground storage tank system that the owner or operator of an underground storage tank system must demonstrate under the underground storage tank regulatory act, Act No. 423 of the Public Acts of 1984, being sections 299.701 to 299.712 of the Michigan Compiled Laws, and the rules promulgated under that act.
- (i) "Fund" means the Michigan underground storage tank financial assurance fund created in section 6.
- (j) "Heating oil" means petroleum that is No. 1, No. 2, No. 4—light, No. 4—heavy, No. 5—light, No. 5—heavy, and No. 6 technical grades of fuel oil; other residual fuel oils including navy special fuel oil and bunker C; and other fuels when used as substitutes for 1 of these fuel oils.
- (k) "Indemnification" means indemnification of a person for a judgment entered against that person in a court of law or for a settlement entered into by that person and approved by the attorney general, if the judgment or settlement arises out of an injury suffered because of a release from a petroleum underground storage tank system operated by that person.
- (l) "Location" means a facility or parcel of property where petroleum underground storage tank systems are registered pursuant to Act No. 423 of the Public Acts of 1984.
- (m) "Operator" means a person who was at the time of discovery of a release, in control of, or responsible for, the operation of a petroleum underground storage tank system or a person to whom an approved claim has been assigned or transferred.
- (n) "Owner" means a person, other than a regulated financial institution, who, at the time of discovery of a release, 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. Owner includes a person to whom an approved claim is assigned or transferred. 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.
- (o) "Oxygenate" means an organic compound containing oxygen and having properties as a fuel that are compatible with petroleum, including, but not limited to, ethanol, methanol, or methyl tertiary butyl ether (MTBE).

Sec. 5. (1) "Payment voucher" means a form prepared by the department that specifies payment authorization by the department to the department of treasury.

(2) "Person" means an individual, partnership, joint venture, trust, firm, joint stock company, corporation, including a government corporation, association, local unit of government, commission, the state, a political subdivision of the state, an interstate body, the federal government, a political subdivision of the federal government, or any other legal entity.

(3) "Petroleum" means crude oil, crude oil fractions, and refined petroleum fractions including gasoline, kerosene, heating oils, and diesel fuels.

(4) "Petroleum underground storage tank system" means an underground storage tank system used for the storage of petroleum.

(5) "Refined petroleum" means aviation gasoline, middle distillates, jet fuel, kerosene, gasoline, residual oils, and any oxygenates that have been blended with any of these.

(6) "Regulated financial institution" means a state or nationally chartered bank, savings and loan association or savings bank, credit union, or other state or federally chartered lending institution, or a regulated affiliate or a regulated subsidiary of any of these entities.

(7) "Regulatory fee" means the environmental protection regulatory fee imposed under section 8.

(8) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum underground storage tank system into groundwater, surface water, or subsurface soils.

(9) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(10) "Underground storage tank system" means an existing tank or combination of tanks, including underground pipes connected to the tank or tanks, which is or was used to contain an accumulation of regulated substances, and is not currently being used for any other purpose, 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 includes an underground storage tank that is properly closed in place pursuant to the underground storage tank regulatory act, Act No. 423 of the Public Acts of 1984, being sections 299.701 to 299.712 of the Michigan Compiled Laws, and rules promulgated under that act. An underground storage tank system does not include any of the following:

(a) A farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

(b) A tank used for storing heating oil for consumptive use on the premises where the tank is located.

(c) A septic tank.

(d) A pipeline facility, including gathering lines regulated under either of the following:

(i) 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.

(ii) Sections 201 to 215, 217, and 219, of the hazardous liquid pipeline safety act of 1979, title II of the pipeline safety act of 1979, Public Law 96-129, 49 U.S.C. Appx 2001 to 2015.

(e) A surface impoundment, pit, pond, or lagoon.

(f) A storm water or wastewater collection system.

(g) A flow-through process tank.

(h) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

(i) 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.

(j) Any pipes connected to a tank that is described in subdivisions (a) to (i).

(k) 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 6939e or a mixture of such hazardous waste and other regulated substances.

(l) 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.

(m) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(n) An underground storage tank system with a capacity of 110 gallons or less.

(o) An underground storage tank system that contains a de minimis concentration of regulated substances.

(p) An emergency spill or overflow containment underground storage tank system that is expeditiously emptied after use.

(q) A wastewater treatment tank system.

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

(s) 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.

(t) Airport hydrant fuel distribution systems.

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

(11) "Work invoice" means a detailed billing acceptable to the administrator and signed by a contractor stating the name and address of the contractor, a specific itemized list of the work performed by the contractor, and an itemized list of the cost of each of these items or a receipt signed by a contractor not on the approved contractor list provided in section 21 who has performed activities up to but not including preparation of a site investigation work plan as required by the leaking underground storage tank act, Act No. 478 of the Public Acts of 1988, being sections 299.831 to 299.850 of the Michigan Compiled Laws.

Sec. 7. (1) The emergency response fund is created.

(2) The state treasurer shall direct the investment of the emergency response fund. Interest and earnings of the emergency response fund shall remain in the emergency response fund.

(3) Money in the emergency response fund at the close of the fiscal year shall remain in the emergency response fund and shall not revert to the general fund.

(4) Except as provided in section 27, money in the emergency response fund shall not exceed \$1,000,000.00.

(5) Except as provided in section 26, money in the emergency response fund shall be expended by the director of the department of natural resources to undertake corrective actions to address releases from petroleum underground storage tank systems pursuant to the leaking underground storage tank act, Act No. 478 of the Public Acts of 1988, being sections 299.831 to 299.850 of the Michigan Compiled Laws.

(6) Not more than \$1,000,000.00 shall be expended from the emergency response fund in any year.

(7) If money in the emergency response fund is expended under subsection (5), the person or persons responsible for the corrective action shall be liable to the state for all such expenditures.

Sec. 8. (1) An environmental protection regulatory fee is imposed on all refined petroleum products sold for resale in this state or consumption in this state. The regulatory fee shall be used pursuant to section 6(4) for the cleanup and prevention of environmental contamination resulting from releases of refined petroleum products from underground storage tank systems. The regulatory fee shall be charged for capacity utilization of underground storage tanks measured on a per gallon basis. The regulatory fee shall be charged against all refined petroleum products sold for resale in this state or consumption in this state so as to not exclude any products that may be stored in an underground tank at any point after the petroleum is refined. The regulatory fee shall be 7/8 cent per gallon for each gallon of refined petroleum sold for resale in this state or consumption in this state, with the per gallon charge being a direct measure of capacity utilization of an underground storage tank system.

(2) The department of treasury shall precollect regulatory fees from persons who refine petroleum in this state for resale in this state or consumption in this state and persons who import refined petroleum into this state for resale or consumption in this state. The department of treasury shall collect regulatory fees that can be collected at the same time as the sales tax under section 6a of the general sales tax act, Act No. 167 of the Public Acts of 1933, being section 205.56a of the Michigan Compiled Laws, at that time. The remainder of the regulatory fees shall be collected in the manner determined by the state treasurer.

(3) A public utility with more than 500,000 customers in this state is exempt from any fee or assessment imposed under this act if that fee or assessment is imposed on petroleum used by that public utility for the generation of steam or electricity.

(4) All regulatory fees collected pursuant to this act shall be deposited into the emergency response fund created in section 7 until the emergency response fund reaches \$1,000,000.00. When the emergency response fund is at \$1,000,000.00, all regulatory fees shall be deposited into the fund.

(5) Beginning July 18, 1990 and every quarter thereafter, the administrator shall determine if fund revenues will be sufficient to pay expected expenditures from the fund. If expected expenditures are anticipated to exceed fund revenues, the state treasurer shall notify the advisory board and, with the advice of the board, shall advise the legislature of the estimated increase in the regulatory fee that would be necessary to pay expected expenditures or make other recommendations to revise this act that would improve the security of the fund. If anticipated expenditures are significantly below anticipated revenues, the state treasurer shall notify the advisory board and, with the advice of the board, shall recommend to the legislature a reduction of the regulatory fee.

(6) If the state treasurer determines that fund revenues will not be sufficient to pay expected expenditures from the fund, the state treasurer shall notify the administrator, and 90 days after this notification has been given, the administrator shall not accept any new work invoices, or requests for indemnification. Upon receiving this notification from the state treasurer, the administrator shall notify, by certified mail, the owners and operators of petroleum underground storage tank systems registered under the underground storage tank regulatory act, Act No. 423 of the Public Acts of 1984, being sections 299.701 to 299.712 of the Michigan Compiled Laws, that funding under this act will no longer be available for new claims after the 90-day period has expired. However, work invoices and requests for indemnification that were submitted to the administrator prior to or during this 90-day period may be paid to the extent money is available in the fund as provided in this act.

(7) The department of treasury may audit, enforce, collect and assess the fee imposed by this act in the same manner and subject to the same requirements as revenues collected pursuant to Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

Sec. 9. (1) An owner or operator may receive money from the fund for corrective action or indemnification only if all of the following requirements are satisfied:

(a) The release from which the corrective action or indemnification arose was discovered and reported on or after July 18, 1989. However, money in the fund shall not be expended until the fund begins operating pursuant to section 12.

(b) The petroleum underground storage tank from which the release occurred was, at the time of discovery of the release, and is presently, in compliance with the registration requirements of the underground storage tank regulatory act, Act No. 423 of the Public Acts of 1984, being sections 299.701 to 299.712 of the Michigan Compiled Laws, and the rules promulgated under that act.

(c) The owner or operator was at the time of discovery of the release, and is presently, in compliance with the 30-day notice of closure, removal, or change in service reporting requirements and the 24-hour notice of release reporting as required by Act No. 423 of the Public Acts of 1984 and the applicable requirements of the leaking underground storage tank act, Act No. 478 of the Public Acts of 1988, being sections 299.831 to 299.850 of the Michigan Compiled Laws, rules promulgated under each of these acts, or the requirements of subtitle I of title II of the solid waste disposal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i and rules promulgated under that act. Records kept under these acts shall be valid and verifiable.

(d) The owner or operator has provided the administrator with proof of financial responsibility for the deductible amount that will satisfy the requirements for financial responsibility instruments under subtitle I of title II of the solid waste disposal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i.

(e) The owner or operator is not the United States government.

(f) The claim or request for indemnification is submitted to the administrator pursuant to this act and the rules promulgated under this act on or before December 22, 1998.

(2) The owner or operator may receive money from the fund for corrective action or indemnification due to a release that originates from an aboveground piping and dispensing portion of a petroleum underground storage tank system, if all of the following requirements are satisfied:

(a) The owner or operator is otherwise in compliance with this act and the rules promulgated under this act.

(b) The release is sudden and immediate.

(c) The release is of a quantity exceeding 25 gallons and is released into groundwater, surface water, or soils.

(d) The release is reported to the department of state police, fire marshal division within 24 hours of discovery of the release.

(3) Either the owner or the operator may receive money from the fund under this act for an occurrence but not both.

(4) An owner or operator who is a public utility with more than 500,000 customers in this state is ineligible to receive money from the fund for corrective action or indemnification associated with a release from a petroleum underground storage tank system used to supply petroleum for the generation of steam electricity.

(5) If an owner or operator has received money from the fund under this act for a release at a location, the owner and operator are not eligible to receive money from the fund for a subsequent release at the same location unless the owner or operator has done either or both of the following:

(a) Discovered the subsequent release pursuant to remedial action being taken on a confirmed release and included this subsequent release as part of the corrective action for the confirmed release.

(b) Upgraded, replaced, removed, or properly closed in place all underground storage tank systems at the location of the release so as to meet the requirements of Act No. 423 of the Public Acts of 1984, and the rules promulgated under that act.

(6) An owner or operator who discovers a subsequent release at the same location as an initial release pursuant to subsection (5)(a) may receive money from the fund to perform corrective action on the subsequent release, if the owner or operator otherwise complies with the requirements of this act and the rules promulgated under this act. However, the subsequent release shall be considered as part of the claim for the initial release for purposes of determining the total amount of expenditures for corrective action and indemnification under section 10.

(7) An owner or operator who discovers a subsequent release at the same location as an initial release pursuant to subsection (5)(b) may receive money from the fund to perform corrective action on the subsequent release, if the owner or operator otherwise complies with the requirements of this act and the rules promulgated under this act. The subsequent release shall be considered a separate claim for purposes of determining the total amount of expenditures for corrective action and indemnification under section 10.

Sec. 9a. (1) Subject to subsection (2), a regulated financial institution or land contract vendor may receive money from the fund for corrective action or indemnification if, prior to the discovery of a release, the regulated financial institution makes a loan to an owner or operator or makes a loan to an approved claimant under the interest subsidy program, or a land contract vendor enters into a land contract with the owner, and subsequently the regulated financial institution or the land contract vendor takes title or assumes ownership of the petroleum underground storage tank system or the property on which it is located by foreclosure, acceptance of a deed in lieu of foreclosure, or forfeiture.

(2) If the regulated financial institution or land contract vendor eligible under subsection (1) to receive money from the fund meets the requirements specified in sections 9 and 15 upon taking title to or assuming ownership of the petroleum underground storage tank system or the property on which it is located, the regulated financial institution or land contract vendor may utilize the deductible provided by the owner or operator or may pay the deductible amount specified in section 13(1).

(3) Upon meeting the requirements of this section and sections 9 and 15, a regulated financial institution or land contract vendor may receive money from the fund for corrective action or indemnification and may accept a transfer or assignment of an approved claim.

Sec. 10. The administrator shall approve expenditures for corrective action and indemnification, on behalf of an owner or operator, of not more than a total of \$1,000,000.00 of approved work invoices, and approved requests for indemnification per claim if the owner or operator has met the requirements of this act and the rules promulgated under this act. The approved expenditure shall be reduced by the amount of the interest subsidy paid to an owner or operator who has defaulted on a loan subsidized through the interest subsidy program established in this section.

Sec. 11. Notwithstanding any other provision of this act, effective February 15, 1995, an owner or operator of a petroleum underground storage tank system that has not met the standards provided in subtitle I of title II of the solid waste disposal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i and the rules promulgated under the underground storage tank regulatory act, Act No. 423 of the Public Acts of 1984, being sections 299.701 to 299.712 of the Michigan Compiled Laws, for a new underground storage tank system installed after January 1, 1989, and who has not submitted a complete application and satisfied all other requirements of the department for an interest subsidy under section 19 on a loan that would bring the petroleum underground storage tank system into compliance with the standards provided in subtitle I of title II of the solid waste disposal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i and the rules promulgated under Act No. 423 of the Public Acts of 1984 for a new underground storage tank system installed after January 1, 1989, is ineligible to receive money from the fund for indemnification associated with a release from that petroleum underground storage tank system.

Sec. 12. The department shall employ a person to serve as the fund administrator. The administrator shall be responsible for processing requests for payments from the fund and approving those requests as provided in this act. Beginning February 15, 1990, the fund shall begin operating and the administrator shall begin to accept work invoices and requests for indemnification. However, if the state treasurer determines that there is sufficient money in the fund, the state treasurer may establish an earlier date in which the fund may begin operating.

Sec. 13. (1) Prior to being eligible to receive money from the fund in the event of a release, the owner or operator shall be responsible for the payment of the first \$10,000.00 of corrective action or indemnification costs associated with the release. This amount may be referred to as the deductible amount.

(2) Upon transfer or sale of any legal, equitable, or possessory interest in property, which at the time of transfer is otherwise in compliance with this act and the rules promulgated under this act, or upon which an approved claim and the corresponding corrective action is in progress, any deductible amount paid, by written agreement, may be transferred.

Sec. 15. (1) To be eligible to access the fund for corrective action, the owner or operator shall follow the procedures outlined in this section and shall submit reports and work plans as required under the leaking underground storage tank act, Act No. 478 of the Public Acts of 1988, being sections 299.831 to 299.850 of the Michigan Compiled Laws, and rules promulgated under that act.

(2) Upon receipt of a claim, the administrator, within 30 days after responses have been received from the department of natural resources and the department of state police, shall make all of the following determinations:

(a) Whether the department of natural resources has determined that work performed or proposed to be performed is consistent with the requirements of Act No. 478 of the Public Acts of 1988, and rules promulgated under that act.

(b) Whether the cost of performing the work is reasonable.

(c) Whether the owner or operator is eligible to receive funding under this act.

(3) If the administrator fails to make the determinations required under this section within 30 days after receipt of certification from the department of natural resources and the department of state police, the claim is considered to be approved.

(4) If the administrator determines under subsection (2) that the claim is both reasonable in terms of cost and consistent with the requirements of subsection (2)(a) and the owner or operator is eligible for funding under this act, the administrator shall approve the claim and notify the owner or operator who submitted the claim of the approval. If the administrator determines that the cost of the claim is not reasonable, that the work is not consistent with the requirements of subsection (2)(a), or that the owner or operator is not eligible for funding under this act, the administrator shall deny the claim and give notice of the denial to the owner or operator who submitted the claim.

(5) The owner or operator may submit additional work invoices to the administrator after approval of a claim under subsection (4). Upon receipt of a work invoice, the administrator shall make the following determinations:

(a) Whether the work invoice is reasonable in terms of cost and consistent with the requirements of subsection (2)(a).

(b) Whether the owner or operator is currently in compliance with the registration requirements of the underground storage tank regulatory act, Act No. 423 of the Public Acts of 1984, being sections 299.701 to 299.712 of the Michigan Compiled Laws, and the rules promulgated under that act.

(6) If the administrator determines that the work invoice does not meet the requirements of subsection (5), he or she shall deny the work invoice and give notice of the denial to the owner or operator who submitted the work invoice.

(7) The administrator shall keep records of approved work invoices. If the owner or operator has submitted approved work invoices totaling the deductible amount, then the administrator shall forward payment vouchers to the state treasurer, as long as the owner or operator has not exceeded the allowable amount of expenditure provided in section 10.

(8) The administrator may approve a reimbursement for a work invoice that was submitted by an owner or operator for corrective action taken pursuant to Act No. 478 of the Public Acts of 1988, if the corrective action meets the requirements of Act No. 478 of the Public Acts of 1988. Additionally, the receipt for the payment shall meet the requirements of this act for an approved claim and an approved work invoice.

(9) Except as provided in subsection (10), upon receipt of a payment voucher, the state treasurer shall make a payment to the owner or operator if the owner or operator submits certified canceled checks, or the owner or operator and the contractor listed on the payment voucher and claim within 30 days if sufficient money exists in the fund.

(10) Upon direction of the administrator, the state treasurer may withhold partial payment of money on payment vouchers to assure acceptable completion of the proposed work.

Sec. 15a. (1) An owner or operator with a claim approved pursuant to section 15 for which corrective action is in progress who sells or transfers the property that is the subject of the approved claim to another person may assign or transfer the approved claim to that other person. The person to whom the assignment or transfer is made is eligible to access the fund as an owner or operator for the release which is the subject of the approved claim. Allowable, outstanding approved or paid work invoices of the owner or operator making the assignment or transfer may be counted toward the deductible of the person to whom the assignment or transfer is made.

(2) An owner or operator assigning or transferring an approved claim pursuant to this section shall notify the administrator of the proposed assignment or transfer at least 10 days before the effective date of the assignment or transfer.

Sec. 17. (1) The state treasurer shall pay payment vouchers in the order in which they are received. If there is insufficient money in the fund to make a payment, then a payment shall not be made. However, payment vouchers that are not funded may be paid if revenues of the fund become available.

(2) The fund and the state are not liable for work invoices or requests for indemnification if money in the fund is insufficient to meet these claims.

Sec. 18. (1) If the administrator denies a claim or work invoice, or request for indemnification, the owner or operator who submitted the claim, work invoice, or request for indemnification may, within 14 days following the denial, request review by the board. Upon review by the board, the administrator shall approve the claim, work invoice, or request for indemnification if the board determines upon review that the claim, work invoice, or request for indemnification substantially complies with all of the following:

(a) The proper registration of tanks, the 30-day notice of closure removal, or change in service reporting, and the 24-hour notice of release reporting as required by the underground storage tank regulatory act, Act No. 423 of the Public Acts of 1984, being sections 299.701 to 299.712 of the Michigan Compiled Laws, and the rules promulgated under that act.

(b) The requirements of the leaking underground storage tank act, Act No. 478 of the Public Acts of 1988, being sections 299.831 to 299.850 of the Michigan Compiled Laws, rules promulgated under that act, or subtitle I of title II of the solid waste disposal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i, or rules promulgated under that act.

(2) If the board approves a claim based upon substantial compliance pursuant to subsection (1), the board may refuse to pay for costs incurred during the time the owner or operator was not in strict compliance with subsection (1)(a) or (b).

(3) A person who is denied approval by the board after review under subsection (1) may, within 30 days of the board's written denial, request a contested case hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. A person shall exhaust his or her administrative remedies under this act and Act No. 306 of the Public Acts of 1969 before seeking judicial review of the decision of the administrator or board.

Sec. 19. (1) The department of treasury in cooperation with the board shall establish an interest subsidy program through rules. This program shall provide for interest subsidies, upon application, to the owner or operator of a petroleum underground storage tank system who meets the applicable requirements of section 9(1). Money in the fund shall not be used for loans but shall be used to provide interest subsidies to lenders on loans for the replacement of a petroleum underground storage tank system.

(2) Interest subsidies shall be made under this section, upon application, for the replacement of existing petroleum underground storage tank systems with petroleum underground storage tank systems that meet the requirements of subtitle I of title II of the solid waste disposal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i for new underground storage tank systems installed after January 1, 1989 and the rules promulgated under the underground storage tank regulatory act, Act No. 423 of the Public Acts of 1984, being sections 299.701 to 299.712 of the Michigan Compiled Laws.

(3) Applications for the interest subsidy program under this section shall be submitted prior to December 22, 1998.

Sec. 22a. Within 1 year after the effective date of this section, the department shall promulgate rules to implement this act. The rules shall address, at a minimum, a procedure for the fund administrator to make the determinations required under section 15(2) and the procedures to be followed under section 18(1) and (3).

Sec. 24. Not later than June 22, 1998, the department shall conduct a study to determine the availability and cost of environmental impairment insurance for owners and operators of petroleum underground storage tank systems and shall report to the legislature on the results of this study.

Sec. 24a. (1) Beginning 180 days after the effective date of this section, a person who makes or submits or causes to be made or submitted any statement, report, claim, bid, work invoice, or other request for payment under this act knowing the statement, report, claim, bid, work invoice, or other request for payment is false, misleading, or fraudulent is guilty of a felony punishable by not more than 5 years in prison or a fine of not more than \$50,000.00, or both.

(2) Subsection (1) does not preclude prosecutions under other laws of the state including, but not limited to, sections 157a, 218, 248, 249, 280, and 422 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.157a, 750.218, 750.248, 750.249, 750.280, and 750.422 of the Michigan Compiled Laws.

Sec. 25. (1) Section 7 is repealed effective December 22, 1998.

(2) Upon the repeal of section 7, any unexpended money in the emergency response fund reverts to the fund.

(3) This act is repealed effective January 1, 2000.

Sec. 26. Notwithstanding any provision of this act, prior to December 22, 1998, the state treasurer shall reserve enough money in the fund to pay interest subsidies pursuant to section 19, and for work invoices and requests for indemnification that were denied by the administrator, if subsequent to the denial the owner or operator requested review by the board, requested a contested case hearing, or filed a lawsuit related to the denial, and the case is still pending. This money shall be used to pay interest subsidies, and for work invoices and requests for indemnification in cases where an owner or operator is successful in persuading the board, the department, or a court that the administrator's denial was in error.

Section 2. Sections 14 and 27 of Act No. 518 of the Public Acts of 1988, being sections 299.814 and 299.827 of the Michigan Compiled Laws, are repealed.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.