



SENATE BILL No. 45

January 13, 1993, Introduced by Senator WARTNER and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend the title and sections 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 24, 25, and 26 of Act No. 518 of the Public Acts of 1988, entitled as amended

"Michigan underground storage tank financial assurance act," sections 4, 5, 8, 9, 10, 11, 13, 15, 16, 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, 299.816, 299.817, 299.818, 299.819, 299.824, 299.825, and 299.826 of the Michigan Compiled Laws; to add sections 9a and 15a; to repeal certain parts of the act; and to repeal the act on a specific date.

12	TITLE
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25 Sec. 4. As used in this act:

1 (1) "Administrator" means the fund administrator provided
2 for in section 12.

3 (2) ~~"Bid" means a proposal signed by a contractor listed on~~
4 ~~the approved contractor list provided for in section 21 stating~~
5 ~~the name and address of the contractor, a specific itemized list~~
6 ~~of the work proposed to be completed by the contractor, and the~~
7 ~~itemized cost of the work proposed to be completed.~~ "APPROVED
8 CLAIM" MEANS A CLAIM THAT IS APPROVED PURSUANT TO SECTION 15.

9 (3) "Board" means the Michigan underground storage tank
10 financial assurance policy board created in section 20.

11 (4) "Corrective action" means an action to stop, minimize,
12 eliminate, or clean up a release or its effects, as may be neces-
13 sary to protect the public health, safety, welfare, or the
14 environment. This includes, but is not limited to, release
15 investigation, mitigation of fire and safety hazards, tank repair
16 or removal, soil remediation, hydrogeological investigations,
17 free product removal, groundwater remediation and monitoring,
18 exposure assessments, the temporary or permanent relocation of
19 residents, and the provision of alternate water supplies.

20 (5) ~~"Corrective action plan" means a corrective action plan~~
21 ~~submitted under section 8 of the leaking underground storage tank~~
22 ~~act, Act No. 478 of the Public Acts of 1988, being section~~
23 ~~299.838 of the Michigan Compiled Laws.~~ "CLAIM" MEANS THE SUBMIS-
24 SION BY THE OWNER OR OPERATOR, OR THEIR REPRESENTATIVE, OF DOCU-
25 MENTATION REQUESTING PAYMENT FROM THE FUND. A CLAIM SHALL
26 INCLUDE, AT A MINIMUM, A COMPLETED AND SIGNED CLAIM FORM AND
27 LEGIBLE ITEMIZED WORK INVOICES.

1 (6) "Deductible" means the deductible provided for in
2 section 13.

3 (7) "Department" means the department of management and
4 budget.

5 (8) "Financial responsibility requirements" means the finan-
6 cial responsibility for taking corrective action and for compen-
7 sating third parties for bodily injury and property damage caused
8 by a release from an underground storage tank system that the
9 owner or operator of an underground storage tank system must
10 demonstrate under ~~subtitle I of title II of the solid waste dis-~~
11 ~~posal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i~~ THE UNDER-
12 GROUND STORAGE TANK REGULATORY ACT, ACT NO. 423 OF THE PUBLIC
13 ACTS OF 1984, BEING SECTIONS 299.701 TO 299.712 OF THE MICHIGAN
14 COMPILED LAWS, AND THE RULES PROMULGATED UNDER THAT ACT.

15 (9) "Fund" means the Michigan underground storage tank
16 financial assurance fund created in section 6.

17 (10) "Heating oil" means petroleum that is No. 1, No. 2,
18 No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6
19 technical grades of fuel oil; other residual fuel oils including
20 navy special fuel oil and bunker C; and other fuels when used as
21 substitutes for 1 of these fuel oils.

22 (11) "Indemnification" means indemnification of a person for
23 a judgment entered against that person in a court of law IN AN
24 ACTION TO WHICH THE FUND WAS A PARTY or for a settlement entered
25 into by that person AND THE FUND and approved by the ~~attorney~~
26 ~~general~~ ADMINISTRATOR, if the judgment or settlement arises out
27 of an injury suffered because of a release from a petroleum

1 underground storage tank system OWNED OR operated by that
2 person.

3 (12) "Location" means a facility or parcel of property where
4 petroleum underground storage tank systems are ~~situated as iden-~~
5 ~~tified by the underground storage tank notification filed-~~
6 REGISTERED pursuant to ~~the underground storage tank regulatory~~
7 ~~act,~~ Act No. 423 of the Public Acts of 1984. ~~, being~~
8 ~~sections 299.701 to 299.711 of the Michigan Compiled Laws.~~

9 ~~(13) "Occurrence" means an accident, including continuous~~
10 ~~or repeated exposure to conditions, that results in a release~~
11 ~~from an underground storage tank system.~~

12 (13) ~~(14)~~ "Operator" means a person who ~~is presently, or~~
13 was at the time of DISCOVERY OF a release, in control of, or
14 responsible for, the operation of a petroleum underground storage
15 tank system OR A PERSON TO WHOM AN APPROVED CLAIM HAS BEEN
16 ASSIGNED OR TRANSFERRED.

17 (14) ~~(15)~~ "Owner" means a person, OTHER THAN A REGULATED
18 FINANCIAL INSTITUTION, who, ~~holds, or~~ at the time of DISCOVERY
19 OF a release, held ~~, a~~ legal, equitable, or possessory interest
20 of any kind in an underground storage tank system, or in the
21 property on which an underground storage tank system is located,
22 including, but not limited to, a trust, vendor, vendee, lessor,
23 or lessee. OWNER INCLUDES A PERSON TO WHOM AN APPROVED CLAIM HAS
24 BEEN ASSIGNED OR TRANSFERRED. However, owner does not include a
25 person or a regulated financial institution who, without partici-
26 pating in the management of an underground storage tank system
27 and who is not otherwise engaged in petroleum production,

1 refining, or marketing relating to the underground storage tank
2 system, is acting in a fiduciary capacity or who holds indicia of
3 ownership primarily to protect the person's or the regulated
4 financial institution's security interest in the underground
5 storage tank system or the property on which it is located. This
6 exclusion does not apply to a grantor, beneficiary, remainderman,
7 or other person who could directly or indirectly benefit finan-
8 cially from the exclusion other than by the receipt of payment
9 for fees and expenses related to the administration of a trust.

10 (15) "OXYGENATE" MEANS AN ORGANIC COMPOUND CONTAINING OXYGEN
11 AND HAVING PROPERTIES AS A FUEL THAT ARE COMPATIBLE WITH PETROLE-
12 UM, INCLUDING, BUT NOT LIMITED TO, ETHANOL, METHANOL, OR METHYL
13 TERTIARY BUTYL ETHER (MTBE).

14 Sec. 5. (1) "PAYMENT VOUCHER" MEANS A FORM PREPARED BY THE
15 DEPARTMENT THAT SPECIFIES PAYMENT AUTHORIZATION BY THE DEPARTMENT
16 TO THE DEPARTMENT OF TREASURY.

17 (2) ~~(1)~~ "Person" means an individual, partnership, joint
18 venture, trust, firm, joint stock company, corporation, including
19 a government corporation, association, local unit of government,
20 commission, the state, a political subdivision of the state, an
21 interstate body, the federal government, a political subdivision
22 of the federal government, or any other legal entity.

23 (3) ~~(2)~~ "Petroleum" means crude oil, crude oil fractions,
24 and refined petroleum fractions including gasoline, kerosene,
25 heating oils, and diesel fuels.

1 (4) ~~-(3)-~~ "Petroleum underground storage tank system" means
2 an underground storage tank system used for the storage of
3 petroleum.

4 (5) ~~-(4)-~~ "Refined petroleum" means aviation gasoline,
5 middle distillates, jet fuel, kerosene, gasoline, ~~-and-~~ residual
6 oils, AND ANY OXYGENATES THAT HAVE BEEN BLENDED WITH ANY OF
7 THESE.

8 (6) "REGULATED FINANCIAL INSTITUTION" MEANS A STATE OR
9 NATIONALLY CHARTERED BANK, SAVINGS AND LOAN ASSOCIATION OR SAV-
10 INGS BANK, CREDIT UNION, OR OTHER STATE OR FEDERALLY CHARTERED
11 LENDING INSTITUTION, OR A REGULATED AFFILIATE OR A REGULATED SUB-
12 SIDIARY OF ANY OF THESE ENTITIES.

13 (7) ~~-(5)-~~ "Regulatory fee" means the environmental protec-
14 tion regulatory fee imposed under section 8.

15 (8) ~~-(6)-~~ "Release" means any spilling, leaking, emitting,
16 discharging, escaping, leaching, or disposing from a petroleum
17 underground storage tank system into groundwater, surface water,
18 or subsurface soils.

19 (9) ~~-(7)-~~ "Rule" means a rule promulgated pursuant to the
20 administrative procedures act of 1969, Act No. 306 of the Public
21 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
22 Compiled Laws.

23 (10) ~~-(8)-~~ "Underground storage tank system" means ~~-a-~~ AN
24 EXISTING tank or combination of tanks, including underground
25 pipes connected to the tank or tanks, which is or was used to
26 contain an accumulation of regulated substances, and is not
27 currently being used for any other purpose, and the volume of

1 which, including the volume of the underground pipes connected to
2 the tank or tanks, is 10% or more beneath the surface of the
3 ground. AN UNDERGROUND STORAGE TANK SYSTEM INCLUDES AN UNDER-
4 GROUND STORAGE TANK THAT IS PROPERLY CLOSED IN PLACE PURSUANT TO
5 THE UNDERGROUND STORAGE TANK REGULATORY ACT, ACT NO. 423 OF THE
6 PUBLIC ACTS OF 1984, BEING SECTIONS 299.701 TO 299.712 OF THE
7 MICHIGAN COMPILED LAWS, AND RULES PROMULGATED UNDER THAT ACT. An
8 underground storage tank system does not include any of the
9 following:

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

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

14 (c) A septic tank.

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

17 (i) The natural gas pipeline safety act of 1968, Public Law
18 90-481, 49 U.S.C. Appx 1671 to 1677, 1679a to 1682, and 1683 to
19 ~~1686~~ 1687.

20 (ii) Sections 201 to 215, ~~and~~ 217, AND 219, of the hazard-
21 ous liquid pipeline safety act of 1979, title II of THE PIPELINE
22 SAFETY ACT OF 1979, Public Law 96-129, 49 U.S.C. Appx 2001 to
23 ~~2014~~ 2015.

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

25 (f) A storm water or wastewater collection system.

26 (g) A flow-through process tank.

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

3 (i) A storage tank situated in an underground area, such as
4 a basement, cellar, mineworking, drift, shaft, or tunnel if the
5 storage tank is situated upon or above the surface of the floor.

6 (j) Any pipes connected to a tank that is described in sub-
7 divisions (a) to (i).

8 (k) An underground storage tank system holding hazardous
9 wastes listed or identified under subtitle ~~e~~ C of the solid
10 waste disposal act, title II of Public Law 89-272, 42 U.S.C. 6921
11 to ~~6931 and 6933 to 6939b~~ 6939E or a mixture of such hazardous
12 waste and other regulated substances.

13 (l) A wastewater treatment tank system that is part of a
14 wastewater treatment facility regulated under section 307(b) of
15 title III or section 402 of title IV of the federal water pollu-
16 tion control act, 33 U.S.C. 1317 and 1342.

17 (m) Equipment or machinery that contains regulated sub-
18 stances for operational purposes such as hydraulic lift tanks and
19 electrical equipment tanks.

20 (n) An underground storage tank system with a capacity of
21 110 gallons or less.

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

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

26 (q) A wastewater treatment tank system.

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

4 (s) An underground storage tank system that is part of an
5 emergency generator system at nuclear power generation facilities
6 regulated by the nuclear regulatory commission under
7 10 C.F.R. part 50, appendix A to part 50 of title 10 of the code
8 of federal regulations.

9 (t) Airport hydrant fuel distribution systems.

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

12 (11) ~~-(9)-~~ "Work invoice" means a ~~receipt~~ DETAILED BILLING
13 ACCEPTABLE TO THE ADMINISTRATOR AND signed by a contractor
14 ~~listed on the approved contractor list provided for in~~
15 ~~section 21~~ stating the name and address of the contractor, a
16 specific itemized list of the work performed by the contractor,
17 and an itemized list of the cost of each of these items OR A
18 RECEIPT SIGNED BY A CONTRACTOR NOT ON THE APPROVED CONTRACTOR
19 LIST PROVIDED IN SECTION 21 WHO HAS PERFORMED ACTIVITIES UP TO
20 BUT NOT INCLUDING PREPARATION OF A SITE INVESTIGATION WORK PLAN
21 AS REQUIRED BY THE LEAKING UNDERGROUND STORAGE TANK ACT, ACT
22 NO. 478 OF THE PUBLIC ACTS OF 1988, BEING SECTIONS 299.831 TO
23 299.850 OF THE MICHIGAN COMPILED LAWS.

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

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

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

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

6 (5) Except as provided in section 26, money in the emergency
7 response fund shall be expended by the director of the department
8 of natural resources to undertake corrective actions TO ADDRESS
9 RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS pursuant
10 to the leaking underground storage tank act, Act No. 478 of the
11 Public Acts of 1988, being sections 299.831 to 299.850 of the
12 Michigan Compiled Laws.

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

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

19 Sec. 8. (1) An environmental protection regulatory fee is
20 imposed on all refined petroleum products sold for resale in this
21 state or consumption in this state. The regulatory fee shall be
22 used pursuant to section 6(4) for the cleanup and prevention of
23 environmental contamination resulting from releases of refined
24 petroleum products from underground storage tank systems. The
25 regulatory fee shall be charged for capacity utilization of
26 underground storage tanks measured on a per gallon basis. The
27 regulatory fee shall be charged against all refined petroleum

1 products sold for resale in this state or consumption in this
2 state so as to not exclude any products that may be stored in an
3 underground tank at any point after the petroleum is refined.
4 Beginning August 1, 1989, the regulatory fee shall be 7/8 cent
5 per gallon for each gallon of refined petroleum sold for resale
6 in this state or consumption in this state, with the per gallon
7 charge being a direct measure of capacity utilization of an
8 underground storage tank system.

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

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

25 (4) All regulatory fees collected pursuant to this act shall
26 be deposited into the emergency response fund created in
27 section 7 until the emergency response fund reaches

1 \$1,000,000.00. When the emergency response fund is at
2 \$1,000,000.00, all regulatory fees shall be deposited into the
3 fund.

4 (5) Beginning ~~1 year after the effective date of the amen-~~
5 ~~datory act that added this subsection~~ JULY 18, 1990 and every
6 quarter thereafter, the administrator shall determine if fund
7 revenues will be sufficient to pay expected expenditures from the
8 fund. If expected expenditures are anticipated to exceed fund
9 revenues, the state treasurer shall notify the advisory board
10 and, with the advice of the board, shall advise the legislature
11 of the estimated increase in the regulatory fee that would be
12 necessary to pay expected expenditures or make other recommenda-
13 tions to revise this act that would improve the security of the
14 fund. If anticipated expenditures are significantly below antic-
15 ipated revenues, the state treasurer shall notify the advisory
16 board and, with the advice of the board, shall recommend to the
17 legislature a reduction of the regulatory fee.

18 (6) ~~Beginning January 1, 1991, if~~ IF the state treasurer
19 determines that fund revenues will not be sufficient to pay
20 expected expenditures from the fund, the state treasurer shall
21 notify the administrator, and 90 days after this notification has
22 been given, the administrator shall not accept any new ~~bids,~~
23 work invoices, or requests for indemnification. Upon receiving
24 this notification from the state treasurer, the administrator
25 shall notify, by certified mail, the owners and operators of
26 PETROLEUM underground storage tank systems registered under the
27 underground storage tank regulatory act, Act No. 423 of the

1 Public Acts of 1984, being sections 299.701 to ~~299.711~~ 299.712
2 of the Michigan Compiled Laws, that funding under this act will
3 no longer be available for new claims after the 90-day period has
4 expired. However, work invoices and requests for indemnification
5 that were submitted TO THE ADMINISTRATOR prior to or during this
6 90-day period may be paid to the extent money is available in the
7 fund as provided in this act.

8 (7) The department of treasury shall have all powers and
9 authority to audit, enforce, collect and assess the fee imposed
10 by this act in the same manner and subject to the same require-
11 ments as revenues collected pursuant to Act No. 122 of the Public
12 Acts of 1941, being sections 205.1 to 205.31 of the Michigan
13 Compiled Laws.

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

17 (a) The release from which the corrective action or indemni-
18 fication arose was discovered and reported on or after ~~the~~
19 ~~effective date of this 1989 amendatory act~~ JULY 18, 1989.

20 However, money in the fund shall not be expended until the fund
21 begins operating pursuant to section 12.

22 (b) The petroleum underground storage tank from which the
23 release occurred was, at the time of discovery of the release,
24 AND IS PRESENTLY, in compliance with the registration require-
25 ments of the underground storage tank regulatory act, Act No. 423
26 of the Public Acts of 1984, being sections 299.701 to ~~299.711~~

1 299.712 of the Michigan Compiled Laws, AND THE RULES PROMULGATED
2 UNDER THAT ACT.

3 (c) The owner or operator was at the time of discovery of
4 the release, AND IS PRESENTLY, in compliance with ~~all~~
5 ~~record-keeping and reporting requirements of the underground~~
6 ~~storage tank regulatory act,~~ THE 30-DAY NOTICE OF CLOSURE,
7 REMOVAL, OR CHANGE IN SERVICE REPORTING REQUIREMENTS AND THE
8 24-HOUR NOTICE OF RELEASE REPORTING AS REQUIRED BY Act No. 423 of
9 the Public Acts of 1984 ~~, the fire prevention code, Act No. 207~~
10 ~~of the Public Acts of 1941, being sections 29.1 to 29.33 of the~~
11 ~~Michigan Compiled Laws,~~ AND THE APPLICABLE REQUIREMENTS OF the
12 leaking underground storage tank act, Act No. 478 of the Public
13 Acts of 1988, being sections 299.831 to 299.850 of the Michigan
14 Compiled Laws, rules promulgated under each of these acts, or THE
15 REQUIREMENTS OF subtitle I of title II of the solid waste dis-
16 posal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i ~~or~~ AND
17 rules promulgated under that act. Records kept under these acts
18 shall be valid and verifiable.

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

24 ~~(e) The owner or operator has not defaulted on a loan sub-~~
25 ~~sidized through the interest subsidy program established in~~
26 ~~section 19.~~

1 (E) ~~-(f)-~~ The owner or operator is not the United States
2 government.

3 (F) THE CLAIM OR REQUEST FOR INDEMNIFICATION IS SUBMITTED TO
4 THE ADMINISTRATOR PURSUANT TO THIS ACT AND THE RULES PROMULGATED
5 UNDER THIS ACT ON OR BEFORE DECEMBER 22, 1998.

6 (2) THE OWNER OR OPERATOR MAY RECEIVE MONEY FROM THE FUND
7 FOR CORRECTIVE ACTION OR INDEMNIFICATION DUE TO A RELEASE THAT
8 ORIGINATES FROM AN ABOVEGROUND PORTION OF A PETROLEUM UNDERGROUND
9 STORAGE TANK SYSTEM, IF ALL OF THE FOLLOWING REQUIREMENTS ARE
10 SATISFIED:

11 (A) THE OWNER OR OPERATOR IS OTHERWISE IN COMPLIANCE WITH
12 THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT.

13 (B) THE RELEASE IS SUDDEN AND IMMEDIATE.

14 (C) THE RELEASE IS OF A QUANTITY EXCEEDING 25 GALLONS AND IS
15 RELEASED INTO GROUNDWATER, SURFACE WATER, OR SOILS.

16 (D) THE RELEASE IS REPORTED TO THE DEPARTMENT OF STATE
17 POLICE, FIRE MARSHAL DIVISION WITHIN 24 HOURS OF DISCOVERY OF THE
18 RELEASE.

19 (3) ~~-(2)-~~ Either the owner or the operator may receive money
20 from the fund under this act for an occurrence but not both.

21 (4) ~~-(3)-~~ An owner or operator who is a public utility with
22 more than 500,000 customers in this state is ineligible to
23 receive money from the fund for corrective action or indemnifica-
24 tion associated with a release from a petroleum underground stor-
25 age tank system used to supply petroleum for the generation of
26 steam electricity.

1 (5) ~~-(4)-~~ If an owner or operator has received money from
2 the fund under this act for ~~-an occurrence-~~ A RELEASE AT A
3 LOCATION, the owner and operator are not eligible to receive
4 money from the fund for a subsequent ~~-occurrence-~~ RELEASE AT THE
5 SAME LOCATION unless the owner or operator has ~~-upgraded or-~~ DONE
6 EITHER OR BOTH OF THE FOLLOWING:

7 (A) DISCOVERED THE SUBSEQUENT RELEASE PURSUANT TO REMEDIAL
8 ACTION BEING TAKEN ON A CONFIRMED RELEASE AND INCLUDED THIS SUB-
9 SEQUENT RELEASE AS PART OF THE CORRECTIVE ACTION FOR THE CON-
10 FIRMED RELEASE.

11 (B) UPGRADED, replaced, REMOVED, OR PROPERLY CLOSED IN PLACE
12 all underground storage tank systems at the location of the
13 ~~-occurrence-~~ RELEASE so as to meet the requirements of
14 ~~subtitle I of title II of the solid waste disposal act, Public~~
15 ~~Law 89-272, 42 U.S.C. 6991 to 6991i for a new underground storage~~
16 ~~tank system installed after January 1, 1980 and the rules promul-~~
17 ~~gated under the underground storage tank regulatory act, Act~~
18 ~~No. 423 of the Public Acts of 1984, being sections 299.701 to~~
19 ~~299.711 of the Michigan Compiled Laws~~ AND THE RULES PROMULGATED
20 UNDER THAT ACT.

21 (6) AN OWNER OR OPERATOR WHO DISCOVERS A SUBSEQUENT RELEASE
22 AT THE SAME LOCATION AS AN INITIAL RELEASE PURSUANT TO
23 SUBSECTION (5) (A) MAY RECEIVE MONEY FROM THE FUND TO PERFORM COR-
24 RECTIVE ACTION ON THE SUBSEQUENT RELEASE, IF THE OWNER OR OPERA-
25 TOR OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS ACT.
26 HOWEVER, THE SUBSEQUENT RELEASE SHALL BE CONSIDERED AS PART OF
27 THE CLAIM FOR THE INITIAL RELEASE FOR PURPOSES OF DETERMINING THE

1 TOTAL AMOUNT OF EXPENDITURES FOR CORRECTIVE ACTION AND
2 INDEMNIFICATION UNDER SECTION 10.

3 (7) AN OWNER OR OPERATOR WHO DISCOVERS A SUBSEQUENT RELEASE
4 AT THE SAME LOCATION AS AN INITIAL RELEASE PURSUANT TO
5 SUBSECTION (5)(B) MAY RECEIVE MONEY FROM THE FUND TO PERFORM COR-
6 RECTIVE ACTION ON THE SUBSEQUENT RELEASE, IF THE OWNER OR OPERA-
7 TOR OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS ACT AND THE
8 RULES PROMULGATED UNDER THIS ACT. THE SUBSEQUENT RELEASE SHALL
9 BE CONSIDERED A SEPARATE CLAIM FOR PURPOSES OF DETERMINING THE
10 TOTAL AMOUNT OF EXPENDITURES FOR CORRECTIVE ACTION AND INDEMNIFI-
11 CATION UNDER SECTION 10.

12 SEC. 9A. (1) SUBJECT TO SUBSECTION (2), A REGULATED FINAN-
13 CIAL INSTITUTION OR LAND CONTRACT VENDOR MAY RECEIVE MONEY FROM
14 THE FUND FOR CORRECTIVE ACTION OR INDEMNIFICATION IF, PRIOR TO
15 THE DISCOVERY OF A RELEASE, THE REGULATED FINANCIAL INSTITUTION
16 HAS MADE A LOAN TO AN OWNER OR OPERATOR OR MADE A LOAN TO AN
17 APPROVED CLAIMANT UNDER THE INTEREST SUBSIDY PROGRAM, OR A LAND
18 CONTRACT VENDOR HAS ENTERED INTO A LAND CONTRACT WITH THE OWNER,
19 AND SUBSEQUENTLY THE REGULATED FINANCIAL INSTITUTION OR THE LAND
20 CONTRACT VENDOR TAKES TITLE OR ASSUMES OWNERSHIP OF THE PETROLEUM
21 UNDERGROUND STORAGE TANK SYSTEM OR THE PROPERTY ON WHICH IT IS
22 LOCATED BY FORECLOSURE, ACCEPTANCE OF A DEED IN LIEU OF FORECLO-
23 SURE, OR FORFEITURE.

24 (2) IF THE REGULATED FINANCIAL INSTITUTION OR LAND CONTRACT
25 VENDOR ELIGIBLE UNDER SUBSECTION (1) TO RECEIVE MONEY FROM THE
26 FUND HAS MET THE REQUIREMENTS SPECIFIED IN SECTIONS 9 AND 15 UPON
27 TAKING TITLE TO OR ASSUMING OWNERSHIP OF THE PETROLEUM

1 UNDERGROUND STORAGE TANK SYSTEM OR THE PROPERTY ON WHICH IT IS
2 LOCATED, THE REGULATED FINANCIAL INSTITUTION OR LAND CONTRACT
3 VENDOR MAY UTILIZE THE DEDUCTIBLE PROVIDED BY THE OWNER OR OPERA-
4 TOR OR MAY PAY THE DEDUCTIBLE AMOUNT SPECIFIED IN SECTION 13(1).

5 (3) UPON MEETING THE REQUIREMENTS OF THIS SECTION AND
6 SECTIONS 9 AND 15, A REGULATED FINANCIAL INSTITUTION OR LAND CON-
7 TRACT VENDOR MAY RECEIVE MONEY FROM THE FUND FOR CORRECTIVE
8 ACTION OR INDEMNIFICATION AND MAY ACCEPT A TRANSFER OR ASSIGNMENT
9 OF AN APPROVED CLAIM.

10 Sec. 10. The administrator shall approve expenditures for
11 corrective action and indemnification, on behalf of an owner or
12 operator, of not more than a total of \$1,000,000.00 of approved
13 work invoices, and approved requests for indemnification ~~per~~
14 ~~petroleum underground storage tank system per occurrence~~ CLAIM
15 provided that the owner or operator has met the requirements of
16 this act AND THE RULES PROMULGATED UNDER THIS ACT. THE APPROVED
17 EXPENDITURE SHALL BE REDUCED BY THE AMOUNT OF THE INTEREST SUB-
18 SIDY PAID TO AN OWNER OR OPERATOR WHO HAS DEFAULTED ON A LOAN
19 SUBSIDIZED THROUGH THE INTEREST SUBSIDY PROGRAM ESTABLISHED IN
20 THIS SECTION.

21 Sec. 11. Notwithstanding any other provision of this act,
22 effective ~~3 years after the date the fund begins operating as~~
23 ~~provided in section 12~~ FEBRUARY 15, 1995, an owner or operator
24 of a petroleum underground storage tank system that has not met
25 the standards provided in subtitle I of title II of the solid
26 waste disposal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i
27 and the rules promulgated under the underground storage tank

1 regulatory act, Act No. 423 of the Public Acts of 1984, being
2 sections 299.701 to ~~299.711~~ 299.712 of the Michigan Compiled
3 Laws, for a new underground storage tank system installed after
4 January 1, 1989, and who has not submitted a complete application
5 and satisfied all other requirements of the department for an
6 interest subsidy under section 19 on a loan that would bring the
7 petroleum underground storage tank system into compliance with
8 the standards provided in subtitle I of title II of the solid
9 waste disposal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i
10 and the rules promulgated under Act No. 423 of the Public Acts of
11 1984 for a new underground storage tank system installed after
12 January 1, 1989, is ineligible to receive money from the fund for
13 indemnification associated with a release from that petroleum
14 underground storage tank system.

15 Sec. 12. The department shall employ a person to serve as
16 the fund administrator. The administrator shall be responsible
17 for processing requests for payments from the fund and approving
18 those requests as provided in this act. Beginning February 15,
19 1990, the fund shall begin operating and the administrator shall
20 begin to accept work invoices ~~—, bids,~~ and requests for
21 indemnification. However, if the state treasurer determines that
22 there is sufficient money in the fund, the state treasurer may
23 establish an earlier date in which the fund may begin operating.

24 Sec. 13. (1) Prior to being eligible to receive money from
25 the fund in the event of ~~an occurrence~~ A RELEASE, the owner or
26 operator shall be responsible for the payment of the first
27 \$10,000.00 of corrective action or indemnification costs

1 associated with the ~~occurrence per underground storage tank~~
 2 ~~system per occurrence.~~ (2) RELEASE. This amount may be
 3 referred to as the deductible amount.

4 (2) UPON TRANSFER OR SALE OF ANY LEGAL, EQUITABLE, OR POS-
 5 SESSORY INTEREST IN PROPERTY, WHICH AT THE TIME OF TRANSFER IS
 6 OTHERWISE IN COMPLIANCE WITH THIS ACT AND THE RULES PROMULGATED
 7 UNDER THIS ACT, OR UPON WHICH AN APPROVED CLAIM AND THE CORRE-
 8 SPONDING CORRECTIVE ACTION IS IN PROGRESS, ANY DEDUCTIBLE AMOUNT
 9 PAID, BY WRITTEN AGREEMENT, MAY BE TRANSFERRED.

10 Sec. 15. (1) To BE ELIGIBLE TO access the fund for correc-
 11 tive action, the owner or operator shall follow the procedures
 12 outlined in this section ~~— The owner or operator shall prepare~~
 13 ~~a corrective action plan pursuant to~~ AND SHALL SUBMIT REPORTS
 14 AND WORK PLANS AS REQUIRED UNDER the leaking underground storage
 15 tank act, Act No. 478 of the Public Acts of 1988, being sections
 16 299.831 to 299.850 of the Michigan Compiled Laws, AND RULES
 17 PROMULGATED UNDER THAT ACT. ~~After preparing a corrective action~~
 18 ~~plan, the owner or operator may submit a bid to the~~
 19 ~~administrator.~~

20 (2) Upon receipt of a ~~bid under subsection (1)~~ CLAIM, the
 21 administrator shall, WITHIN 30 DAYS AFTER RESPONSES HAVE BEEN
 22 RECEIVED FROM THE DEPARTMENT OF NATURAL RESOURCES AND THE DEPART-
 23 MENT OF STATE POLICE, make all of the following determinations:
 24 (a) Whether the department of natural resources has deter-
 25 mined that work performed or proposed to be performed is consis-
 26 tent with the ~~corrective action plan~~ REQUIREMENTS OF ACT

1 NO. 478 OF THE PUBLIC ACTS OF 1988, AND RULES PROMULGATED UNDER
2 THAT ACT.

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

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

6 (3) IF THE ADMINISTRATOR FAILS TO MAKE THE DETERMINATIONS
7 REQUIRED UNDER THIS SECTION WITHIN 30 DAYS AFTER RECEIPT OF CER-
8 TIFICATION FROM THE DEPARTMENT OF NATURAL RESOURCES AND THE
9 DEPARTMENT OF STATE POLICE, THE CLAIM SHALL BE CONSIDERED TO BE
10 APPROVED.

11 (4) ~~-(3)-~~ If the administrator determines under
12 subsection (2) that the ~~-bid-~~ CLAIM is both reasonable in terms
13 of cost and consistent with the ~~-corrective action plan-~~
14 REQUIREMENTS OF SUBSECTION (2)(A) and the owner or operator is
15 eligible for funding under this act, the administrator shall
16 approve the ~~-bid-~~ CLAIM and notify the owner or operator who sub-
17 mitted the ~~-bid-~~ CLAIM of the approval. If the administrator
18 determines that the cost of the ~~-bid-~~ CLAIM is not reasonable,
19 that the work is not consistent with the ~~-corrective action plan-~~
20 REQUIREMENTS OF SUBSECTION (2)(A), or that the owner or operator
21 is not eligible for funding under this act, the administrator
22 shall deny the ~~-bid-~~ CLAIM and give notice of the denial to the
23 owner or operator who submitted the ~~-bid-~~ CLAIM.

24 (5) ~~-(4)-~~ The owner or operator may submit ADDITIONAL work
25 invoices to the administrator after approval of a ~~-bid-~~ CLAIM
26 under subsection ~~-(3)-~~ (4). Upon receipt of a work invoice, the
27 administrator shall make the following determinations:

1 (a) Whether the work invoice is reasonable in terms of cost
2 and consistent with the ~~approved bid~~ REQUIREMENTS OF
3 SUBSECTION (2)(A).

4 (b) Whether the ~~department of natural resources has deter-~~
5 ~~mined that the work performed is consistent with the corrective~~
6 ~~action plan~~ OWNER OR OPERATOR IS CURRENTLY IN COMPLIANCE WITH
7 THE REGISTRATION REQUIREMENTS OF THE UNDERGROUND STORAGE TANK
8 REGULATORY ACT, ACT NO. 423 OF THE PUBLIC ACTS OF 1984, BEING
9 SECTIONS 299.701 TO 299.712 OF THE MICHIGAN COMPILED LAWS, AND
10 THE RULES PROMULGATED UNDER THAT ACT.

11 (6) ~~(5)~~ If the administrator determines that the work
12 invoice does not meet the requirements of subsection ~~(4)~~ (5),
13 he or she shall deny the work invoice and give notice of the
14 denial to the owner or operator who submitted the work invoice.

15 (7) ~~(6)~~ The administrator shall keep records of ~~approved~~
16 ~~bids and~~ approved work invoices. If the owner or operator has
17 submitted approved work invoices totaling the deductible amount,
18 then the administrator shall forward ~~approved work invoices~~
19 PAYMENT VOUCHERS to the state treasurer, as long as the owner or
20 operator has not exceeded the allowable amount of expenditure
21 provided in section 10.

22 (8) ~~(7)~~ The administrator may approve a reimbursement for
23 a work invoice that was ~~paid~~ SUBMITTED by an owner or operator
24 for corrective action taken pursuant to Act No. 478 of the Public
25 Acts of 1988, ~~being sections 299.831 to 299.850 of the Michigan~~
26 ~~Compiled Laws,~~ if the corrective action meets the requirements
27 of Act No. 478 of the Public Acts of 1988. Additionally, the

1 receipt for the payment shall meet the requirements of this act
2 for an approved ~~bid~~ CLAIM and an approved work invoice.

3 ~~(8) The department of natural resources shall determine~~
4 ~~whether the work performed is consistent with the approved cor-~~
5 ~~rective action plan.~~

6 (9) Except as provided in subsection (10), upon receipt of
7 ~~an approved work invoice~~ A PAYMENT VOUCHER, the state treasurer
8 shall make a payment to THE OWNER OR OPERATOR IF THE OWNER OR
9 OPERATOR SUBMITS CERTIFIED CANCELED CHECKS, OR THE OWNER OR OPER-
10 ATOR AND the contractor listed on the ~~approved work invoice~~
11 PAYMENT VOUCHER and ~~bid~~ CLAIM within 30 days if sufficient
12 money exists in the fund.

13 (10) Upon direction of the administrator, the state trea-
14 surer may withhold partial payment of money on ~~approved work~~
15 ~~invoices~~ PAYMENT VOUCHERS to assure acceptable completion of the
16 proposed work.

17 ~~(11) Upon receipt of an approved work invoice, the state~~
18 ~~treasurer shall make a payment to the owner or operator within~~
19 ~~30 days if sufficient money exists in the fund.~~

20 SEC. 15A. (1) AN OWNER OR OPERATOR WITH A CLAIM APPROVED
21 PURSUANT TO SECTION 15 FOR WHICH CORRECTIVE ACTION IS IN PROGRESS
22 WHO SELLS OR TRANSFERS THE PROPERTY THAT IS THE SUBJECT OF THE
23 APPROVED CLAIM TO ANOTHER PERSON MAY ASSIGN OR TRANSFER THE
24 APPROVED CLAIM TO THAT OTHER PERSON. THE PERSON TO WHOM THE
25 ASSIGNMENT OR TRANSFER IS MADE IS ELIGIBLE TO ACCESS THE FUND AS
26 AN OWNER OR OPERATOR FOR THE RELEASE WHICH IS THE SUBJECT OF THE
27 APPROVED CLAIM. ALLOWABLE, OUTSTANDING APPROVED OR PAID WORK

1 INVOICES OF THE OWNER OR OPERATOR MAKING THE ASSIGNMENT OR
2 TRANSFER MAY BE COUNTED TOWARD THE DEDUCTIBLE OF THE PERSON TO
3 WHOM THE ASSIGNMENT OR TRANSFER IS MADE.

4 (2) AN OWNER OR OPERATOR ASSIGNING OR TRANSFERRING AN
5 APPROVED CLAIM PURSUANT TO THIS SECTION SHALL NOTIFY THE ADMINIS-
6 TRATOR OF THE PROPOSED ASSIGNMENT OR TRANSFER AT LEAST 10 DAYS
7 BEFORE THE EFFECTIVE DATE OF THE ASSIGNMENT OR TRANSFER.

8 Sec. 16. ~~-(1) To access the fund for indemnification, the~~
9 ~~owner or operator shall submit to the administrator a request for~~
10 ~~indemnification containing the information required by the~~
11 ~~administrator. If the owner or operator is eligible for funding~~
12 ~~under this act, the administrator shall forward a copy of the~~
13 ~~request for indemnification to the attorney general. The attor-~~
14 ~~ney general shall approve the request for indemnification if~~
15 ~~there is a legally enforceable judgment against the owner or~~
16 ~~operator caused by a release or if a settlement with a third~~
17 ~~party due to a release is reasonable. If a request for indemni-~~
18 ~~fication is approved by the attorney general, the~~

19 (1) AN OWNER OR OPERATOR MAY RECEIVE MONEY FROM THE FUND FOR
20 INDEMNIFICATION IF THE OWNER OR OPERATOR SUBMITS A REQUEST FOR
21 INDEMNIFICATION TO THE ADMINISTRATOR CONTAINING THE INFORMATION
22 REQUIRED BY THE ADMINISTRATOR AND THE OWNER OR OPERATOR MEETS ALL
23 OF THE FOLLOWING REQUIREMENTS:

24 (A) THE OWNER OR OPERATOR HAS MET ALL OTHER REQUIREMENTS OF
25 THIS ACT.

26 (B) THE OWNER OR OPERATOR HAS NOT COLLUDED WITH ANOTHER
27 PERSON TO OBTAIN A PAYMENT FROM THE FUND.

1 (C) EITHER OF THE FOLLOWING OCCURS:

2 (i) A SETTLEMENT IS ENTERED INTO BETWEEN THE OWNER OR OPERA-
3 TOR, THE THIRD PARTY, AND THE ADMINISTRATOR ON BEHALF OF THE
4 FUND.

5 (ii) A THIRD PARTY HAS FILED A CIVIL ACTION IN CIRCUIT COURT
6 AGAINST THE OWNER OR OPERATOR AND THE OWNER OR OPERATOR JOINS THE
7 ADMINISTRATOR ON BEHALF OF THE FUND AS A THIRD-PARTY DEFENDANT IN
8 THE ACTION.

9 (2) THE ADMINISTRATOR MAY AGREE TO A SETTLEMENT UNDER SUB-
10 SECTION (1)(C)(i), IF, UPON ADVICE OF THE ATTORNEY GENERAL, THE
11 SETTLEMENT IS CONSIDERED APPROPRIATE AND REASONABLE.

12 (3) TO JOIN THE ADMINISTRATOR ON BEHALF OF THE FUND AS A
13 THIRD-PARTY DEFENDANT UNDER SUBSECTION (1)(C)(ii), AN OWNER OR
14 OPERATOR SHALL SERVE A SUMMONS AND COMPLAINT ON THE ADMINISTRATOR
15 IN COMPLIANCE WITH THE MICHIGAN RULES OF COURT. THE FAILURE TO
16 SERVE A SUMMONS AND COMPLAINT UPON THE ADMINISTRATOR CONSTITUTES
17 A BAR TO RECOVERY FROM THE FUND. UPON RECEIPT OF THE NOTICE OF
18 SUMMONS AND COMPLAINT, THE ADMINISTRATOR SHALL REQUEST THE ATTOR-
19 NEY GENERAL TO APPOINT LEGAL COUNSEL. THE ATTORNEY GENERAL SHALL
20 MAKE EVERY REASONABLE EFFORT TO DEFEND THE FUND AND MAY ASSERT
21 ANY DEFENSE TO A CLAIM THAT WOULD HAVE BEEN AVAILABLE TO THE
22 OWNER OR OPERATOR. THE ATTORNEY GENERAL MAY ASSIGN MEMBERS OF
23 HIS OR HER STAFF, OR MAY SUPPLEMENT THAT STAFF BY CONTRACTING
24 WITH PRIVATE ATTORNEYS, AS ARE NECESSARY, TO ADEQUATELY DEFEND
25 THE INTEREST OF THE FUND. ALL COSTS RELATIVE TO SUCH LEGAL COUN-
26 SEL SHALL BE CHARGED TO AND BE PAYABLE FROM THE FUND. THE OWNER
27 OR OPERATOR SHALL COOPERATE WITH THE SELECTED LEGAL COUNSEL IN

1 ORDER TO REMAIN ELIGIBLE TO ACCESS THE FUND FOR INDEMNIFICATION.
2 AT ANY TIME PRIOR TO A JUDICIAL DETERMINATION, THE OWNER OR OPER-
3 ATOR AND THE ADMINISTRATOR ON BEHALF OF THE FUND MAY SETTLE A
4 CIVIL ACTION WITH A THIRD PARTY IF, UPON ADVICE OF THE ATTORNEY
5 GENERAL, THE SETTLEMENT IS CONSIDERED APPROPRIATE AND
6 REASONABLE.

7 (4) THE administrator shall review whether the owner or
8 operator has met the deductible requirements ~~as~~ provided in
9 this act, has not exceeded the allowable amount of expenditure
10 provided in section 10, and is eligible under section 11. If,
11 upon review, the owner or operator is eligible to receive funding
12 for the indemnification under this act for the amount requested,
13 the administrator shall forward ~~the approved request for~~
14 ~~indemnification~~ A PAYMENT VOUCHER to the department of
15 treasury.

16 (5) ~~(2)~~ The administrator shall keep records of all
17 ~~approved~~ requests for indemnifications AND PAYMENT VOUCHERS.

18 (6) ~~(3)~~ The state treasurer shall make a payment to an
19 owner or operator for ~~an approved indemnification request~~ A
20 PAYMENT VOUCHER within 30 days if sufficient money exists in the
21 fund.

22 (7) IF A PAYMENT IS MADE PURSUANT TO THIS SECTION WITH MONEY
23 FROM THE FUND TO AN OWNER OR OPERATOR FOR INDEMNIFICATION, THE
24 ADMINISTRATOR SHALL BE SUBROGATED TO THE RIGHTS OF THE OWNER OR
25 OPERATOR TO WHOM OR ON WHOSE BEHALF THE PAYMENT IS MADE.

26 Sec. 17. (1) The state treasurer shall pay ~~approved work~~
27 ~~invoices and approved requests for indemnification~~ ON PAYMENT

1 VOUCHERS in the order in which they are received. If there is
2 insufficient money in the fund to make a payment, then a payment
3 shall not be made. However, ~~approved work invoices and approved~~
4 ~~requests for indemnification~~ PAYMENT VOUCHERS that are not
5 funded may be paid if revenues of the fund become available.

6 (2) In no case shall the fund or the state be considered
7 liable for ~~approved bids, approved work invoices~~ or
8 ~~approved~~ requests for indemnification if money in the fund is
9 insufficient to meet these claims.

10 Sec. 18. (1) If the administrator denies a ~~bid~~ CLAIM or
11 work invoice, or request for indemnification, the owner or opera-
12 tor who submitted the claim, WORK INVOICE, OR REQUEST FOR
13 INDEMNIFICATION may, within 14 days following the denial, request
14 review by the board. ~~Upon review, if the board determines that~~
15 ~~the bid, work invoice, or request for indemnification should be~~
16 ~~approved, the administrator shall approve it.~~ UPON REVIEW BY THE
17 BOARD, THE ADMINISTRATOR SHALL APPROVE THE CLAIM, WORK INVOICE,
18 OR REQUEST FOR INDEMNIFICATION IF THE BOARD DETERMINES UPON
19 REVIEW THAT THE CLAIM, WORK INVOICE, OR REQUEST FOR INDEMNIFICA-
20 TION SUBSTANTIALLY COMPLIES WITH ALL OF THE FOLLOWING:

21 (A) THE PROPER REGISTRATION OF TANKS, THE 30-DAY NOTICE OF
22 CLOSURE REMOVAL, OR CHANGE IN SERVICE REPORTING, AND THE 24-HOUR
23 NOTICE OF RELEASE REPORTING AS REQUIRED BY THE UNDERGROUND STOR-
24 AGE TANK REGULATORY ACT, ACT NO. 423 OF THE PUBLIC ACTS OF 1984,
25 BEING SECTIONS 299.701 TO 299.712 OF THE MICHIGAN COMPILED LAWS,
26 AND THE RULES PROMULGATED UNDER THAT ACT.

1 (B) THE REQUIREMENTS OF THE LEAKING UNDERGROUND STORAGE TANK
2 ACT, ACT NO. 478 OF THE PUBLIC ACTS OF 1988, BEING
3 SECTIONS 299.831 TO 299.850 OF THE MICHIGAN COMPILED LAWS, RULES
4 PROMULGATED UNDER THAT ACT, OR SUBTITLE I OF TITLE II OF THE
5 SOLID WASTE DISPOSAL ACT, PUBLIC LAW 89-272, 42 U.S.C. 6991 TO
6 6991i, OR RULES PROMULGATED UNDER THAT ACT.

7 (2) IF THE BOARD APPROVES A CLAIM BASED UPON SUBSTANTIAL
8 COMPLIANCE PURSUANT TO SUBSECTION (1), THE BOARD MAY REFUSE TO
9 PAY FOR COSTS INCURRED DURING THE TIME THE OWNER OR OPERATOR WAS
10 NOT IN STRICT COMPLIANCE WITH SUBSECTION (1)(A) OR (B).

11 (3) ~~-(2)-~~ A person who is denied approval by the board after
12 review under subsection (1) may, WITHIN 30 DAYS OF THE BOARD'S
13 WRITTEN DENIAL, request a contested case hearing pursuant to the
14 administrative procedures act of 1969, Act No. 306 of the Public
15 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
16 Compiled Laws. A PERSON SHALL EXHAUST HIS OR HER ADMINISTRATIVE
17 REMEDIES UNDER THIS ACT AND ACT NO. 306 OF THE PUBLIC ACTS OF
18 1969 BEFORE SEEKING JUDICIAL REVIEW OF THE DECISION OF THE ADMIN-
19 ISTRATOR OR BOARD.

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

1 for the replacement of a petroleum underground storage tank
2 system.

3 (2) Interest subsidies shall be made under this section,
4 upon application, for the replacement of existing petroleum
5 underground storage tank systems with petroleum underground stor-
6 age tank systems that meet the requirements of subtitle I of
7 title II of the solid waste disposal act, Public Law 89-272, 42
8 U.S.C. 6991 to 6991i for new underground storage tank systems
9 installed after January 1, 1989 and the rules promulgated under
10 the underground storage tank regulatory act, Act No. 423 of the
11 Public Acts of 1984, being sections 299.701 to ~~299.711~~ 299.712
12 of the Michigan Compiled Laws.

13 ~~(3) The interest subsidy provided in this section shall be~~
14 ~~valid for the entire loan period.~~

15 (3) ~~(4)~~ Applications for the interest subsidy program
16 under this section shall be submitted ~~within 2 years after the~~
17 ~~effective date of this 1989 amendatory act~~ PRIOR TO DECEMBER 22,
18 1998.

19 Sec. 24. ~~During the year preceding the repeal of section 6~~
20 NOT LATER THAN JUNE 22, 1998, the department shall conduct a
21 study to determine the availability and cost of environmental
22 impairment insurance for owners and operators of PETROLEUM under-
23 ground storage tank systems and shall report to the legislature
24 on the results of this study.

25 Sec. 25. (1) ~~Sections 6 and 8 to 24 of this act, being~~
26 ~~sections 299.806 and 299.808 to 299.824 of the Michigan Compiled~~
27 ~~Laws, are repealed upon the expiration of 5 years and 6 months~~

1 ~~after the effective date of this 1989 amendatory act~~ SECTION 7
2 IS REPEALED EFFECTIVE DECEMBER 22, 1998.

3 (2) UPON THE REPEAL OF SECTION 7, ANY UNEXPENDED MONEY IN
4 THE EMERGENCY RESPONSE FUND SHALL REVERT TO THE FUND.

5 (3) THIS ACT IS REPEALED EFFECTIVE FEBRUARY 15, 2003.

6 Sec. 26. Notwithstanding any provision of this act, prior
7 to ~~the repeal of section 6~~ DECEMBER 22, 1998, the state trea-
8 surer shall reserve enough money in the fund to pay for interest
9 subsidies pursuant to section 19, and for ~~bids,~~ work invoices
10 ~~—~~ and requests for indemnification that were denied by the
11 administrator, if subsequent to the denial the owner or operator
12 requested review by the board, requested a contested case hear-
13 ing, or filed a lawsuit related to the denial, and the case is
14 still pending. ~~After this money that is reserved reverts to the~~
15 ~~emergency response fund, it~~ THIS MONEY shall be used to pay for
16 interest subsidies, and for ~~bids,~~ work invoices ~~—~~ and
17 requests for indemnification in cases where an owner or operator
18 is successful in persuading the board, the department, or a court
19 that the administrator's denial was in error.

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