



SENATE BILL No. 645

May 13, 1993, Introduced by Senators EHLERS, DINGELL and MC MANUS and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend sections 3, 4, 6, 8, 9, 13, and 14 of Act No. 478 of the Public Acts of 1988, entitled as amended "Leaking underground storage tank act," sections 4 and 8 as amended by Act No. 150 of the Public Acts of 1989, being sections 299.833, 299.834, 299.836, 299.838, 299.839, 299.843, and 299.844 of the Michigan Compiled Laws; to add sections 3a, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 11a, 13a, and 13b; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 4, 6, 8, 9, 13, and 14 of Act
2 No. 478 of the Public Acts of 1988, sections 4 and 8 as amended
3 by Act No. 150 of the Public Acts of 1989, being sections
4 299.833, 299.834, 299.836, 299.838, 299.839, 299.843, and 299.844
5 of the Michigan Compiled Laws, are amended and sections 3a, 6a,

1 6b, 6c, 6d, 6e, 6f, 6g, 6h, 11a, 13a, and 13b are added to read
2 as follows:

3 Sec. 3. (1) "CONSULTANT" MEANS A PERSON APPROVED AS A
4 MICHIGAN UNDERGROUND STORAGE TANK CONSULTANT PURSUANT TO SECTION
5 18B, AS DEFINED IN THE MICHIGAN UNDERGROUND STORAGE TANK FINAN-
6 CIAL ASSURANCE ACT, ACT NO. 518 OF THE PUBLIC ACTS OF 1988, BEING
7 SECTIONS 299.801 TO 299.828 OF THE MICHIGAN COMPILED LAWS.

8 (2) "CLEANUP STANDARDS" MEANS THE DEGREE OF CLEANUP REQUIRED
9 UNDER R 299.5701 TO R 299.5727 OF THE MICHIGAN ADMINISTRATIVE
10 CODE, WHICH ARE HEREBY INCORPORATED BY REFERENCE.

11 (3) "CONTAMINATION" MEANS THE PRESENCE OF A REGULATED SUB-
12 STANCE IN SOIL OR GROUNDWATER IN A CONCENTRATION THAT EXCEEDS THE
13 HIGHER OF THE FOLLOWING:

14 (A) TYPE A CLEANUP LEVELS.

15 (B) TYPE B CLEANUP LEVELS.

16 (4) ~~-(1)-~~ "Corrective action" means ~~an action to stop, min-~~
17 ~~imize, eliminate, or clean up a release or its effects, as may be~~
18 ~~necessary to protect the public health, safety, welfare, or the~~
19 ~~environment. This includes, but is not limited to, release~~
20 ~~investigation, mitigation of fire and safety hazards, tank repair~~
21 ~~or removal, soil remediation, hydrogeological investigations,~~
22 ~~free product removal, groundwater remediation and monitoring,~~
23 ~~exposure assessments, the temporary or permanent relocation of~~
24 ~~residents, and the provision of alternate water supplies. THE~~
25 INVESTIGATION, ASSESSMENT, CLEANUP, REMOVAL, CONTAINMENT, ISOLA-
26 TION, TREATMENT, OR MONITORING OF REGULATED SUBSTANCES RELEASED
27 INTO THE ENVIRONMENT, OR THE TAKING OF SUCH OTHER ACTIONS AS MAY

1 BE NECESSARY TO PREVENT, MINIMIZE, OR MITIGATE INJURY TO THE
2 PUBLIC HEALTH, SAFETY, OR WELFARE, THE ENVIRONMENT, OR NATURAL
3 RESOURCES, WHICH INJURY MAY OTHERWISE RESULT FROM A RELEASE OF A
4 REGULATED SUBSTANCE OR A POTENTIAL RELEASE OF A DISCARDED REGU-
5 LATED SUBSTANCE.

6 (5) ~~-(2)-~~ "Department" means the department of natural
7 resources, its employees, agents, or contractors.

8 (6) ~~-(3)-~~ "Director" means the director of the department or
9 his or her designee.

10 (7) ~~-(4)-~~ "Free product" means a regulated substance in a
11 liquid phase EQUAL TO OR GREATER THAN 1/8 INCH OF MEASURABLE
12 THICKNESS, that is not dissolved in water ~~—~~ AND that has been
13 released into the environment.

14 (8) ~~-(5)-~~ "Local unit of government" means a city, village,
15 township, county, fire department, or local health department as
16 defined in section 1105 of the public health code, Act No. 368 of
17 the Public Acts of 1978, being section 333.1105 of the Michigan
18 Compiled Laws.

19 SEC. 3A. (1) ACTIONS TAKEN BY A CONSULTANT PURSUANT TO THIS
20 ACT DO NOT LIMIT OR REMOVE THE LIABILITY OF AN OWNER OR OPERATOR
21 UNDER THIS ACT EXCEPT AS MODIFIED BY CONTRACT PURSUANT TO SECTION
22 11A.

23 (2) NOTWITHSTANDING ANY OTHER PROVISION IN THIS ACT, IF AN
24 OWNER OR OPERATOR IS A CONSULTANT OR EMPLOYS A CONSULTANT, THIS
25 ACT DOES NOT REQUIRE THE OWNER OR OPERATOR TO RETAIN AN OUTSIDE
26 CONSULTANT TO PERFORM THE RESPONSIBILITIES REQUIRED UNDER THIS
27 ACT. THOSE RESPONSIBILITIES MAY BE PERFORMED BY AN OWNER OR

1 OPERATOR WHO IS A CONSULTANT OR BY A CONSULTANT EMPLOYED BY THE
2 OWNER OR OPERATOR.

3 Sec. 4. (1) "Operator" means a person who is presently, or
4 was at the time of a release, in control of, or responsible for,
5 the operation of an underground storage tank system.

6 (2) "Owner" means a person who holds, or at the time of a
7 release held, a legal, equitable, or possessory interest of any
8 kind in an underground storage tank system, or in the property on
9 which an underground storage tank system is located, including,
10 but not limited to, a trust, vendor, vendee, lessor, or lessee.
11 However, owner does not include a person or a regulated financial
12 institution who, without participating in the management of an
13 underground storage tank system and who is not otherwise engaged
14 in petroleum production, refining, or marketing relating to the
15 underground storage tank system, is acting in a fiduciary capac-
16 ity or who holds indicia of ownership primarily to protect the
17 person's or the regulated financial institution's security inter-
18 est in the underground storage tank system or the property on
19 which it is located. This exclusion does not apply to a grantor,
20 beneficiary, remainderman, or other person who could directly or
21 indirectly benefit financially from the exclusion other than by
22 the receipt of payment for fees and expenses related to the
23 administration of a trust.

24 (3) "Person" means an individual, partnership, joint ven-
25 ture, trust, firm, joint stock company, corporation, including a
26 government corporation, association, local unit of government,
27 commission, the state, a political subdivision of the state, an

1 interstate body, the federal government, a political subdivision
2 of the federal government, or any other legal entity.

3 (4) "Release" means any spilling, leaking, emitting, dis-
4 charging, escaping, OR leaching ~~or disposing~~ from an under-
5 ground storage tank system into groundwater, surface water, or
6 subsurface soils.

7 (5) "Regulated substance" means either of the following:

8 (a) A substance defined in section 101(14) of title I of the
9 comprehensive environmental response, compensation, and liability
10 act of 1980, Public Law 96-510, 42 U.S.C. 9601 but not including
11 a substance regulated as a hazardous waste under subtitle C of
12 the solid waste disposal act, title II of Public Law 89-272, 42
13 U.S.C. 6921 to 6931 and 6933 to 6939b.

14 (b) Petroleum, including crude oil or any fraction of crude
15 oil that is liquid at standard conditions of temperature and
16 pressure (60 degrees Fahrenheit and 14.7 pounds per square inch
17 absolute). Petroleum includes but is not limited to mixtures of
18 petroleum with de minimis quantities of other regulated sub-
19 stances, and petroleum-based substances comprised of a complex
20 blend of hydrocarbons derived from crude oil through processes of
21 separation, conversion, upgrading, or finishing such as motor
22 fuels, jet fuels, distillate fuel oils, residual fuel oils,
23 lubricants, and petroleum solvents.

24 (6) "TYPE A CLEANUP LEVEL" MEANS COMPLIANCE WITH R 299.5707
25 OF THE MICHIGAN ADMINISTRATIVE CODE.

26 (7) "TYPE B CLEANUP LEVEL" MEANS COMPLIANCE WITH R 299.5709
27 TO R 299.5715 OF THE MICHIGAN ADMINISTRATIVE CODE.

1 (8) "TYPE C CLEANUP" MEANS A DEGREE OF CLEANUP THAT PROVIDES
2 FOR REGULATED SUBSTANCE CONCENTRATIONS THAT DO NOT POSE AN UNAC-
3 CEPTABLE RISK CONSIDERING A SITE-SPECIFIC ASSESSMENT OF RISK AS
4 PROVIDED FOR IN SECTION 8.

5 (9) ~~-(6)-~~ "Underground storage tank system" means a tank or
6 combination of tanks, including underground pipes connected to
7 the tank or tanks, which is, was, or may have been, used to con-
8 tain an accumulation of regulated substances, and the volume of
9 which, including the volume of the underground pipes connected to
10 the tank or tanks, is 10% or more beneath the surface of the
11 ground. An underground storage tank system does not include any
12 of the following:

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

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

17 (c) A septic tank.

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

20 (i) The natural gas pipeline safety act of 1968, Public Law
21 90-481, 49 U.S.C. Appx 1671 to 1677, 1679a to 1682, and 1683 to
22 1687.

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

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

- 1 (f) A storm water or wastewater collection system.
- 2 (g) A flow-through process tank.
- 3 (h) A liquid trap or associated gathering lines directly
4 related to oil or gas production and gathering operations.
- 5 (i) A storage tank situated in an underground area, such as
6 a basement, cellar, mineworking, drift, shaft, or tunnel if the
7 storage tank is situated upon or above the surface of the floor.
- 8 (j) Any pipes connected to a tank that is described in sub-
9 divisions (a) to (i).
- 10 (k) An underground storage tank system holding hazardous
11 wastes listed or identified under subtitle C of the solid waste
12 disposal act, title II of Public Law 89-272, 42 U.S.C. 6921 to
13 6931 and 6933 to 6939b or a mixture of such hazardous waste and
14 other regulated substances.
- 15 (l) A wastewater treatment tank system that is part of a
16 wastewater treatment facility regulated under section 307(b) of
17 title III or section 402 of title IV of the federal water pollu-
18 tion control act, 33 U.S.C. 1317 and 1342.
- 19 (m) Equipment or machinery that contains regulated sub-
20 stances for operational purposes such as hydraulic lift tanks and
21 electrical equipment tanks.
- 22 (n) An underground storage tank system with a capacity of
23 110 gallons or less.
- 24 (o) An underground storage tank system that contains a de
25 minimis concentration of regulated substances.
- 26 (p) An emergency spill or overflow containment underground
27 storage tank system that is expeditiously emptied after use.

1 Sec. 6. (1) Upon confirmation of a release or the discovery
2 of a release in any other manner from an underground storage tank
3 system, the owner or operator ~~shall~~ OR A CONSULTANT RETAINED BY
4 THE OWNER OR OPERATOR SHALL REPORT THE RELEASE AND WHETHER FREE
5 PRODUCT HAS BEEN DISCOVERED TO THE DEPARTMENT OF STATE POLICE,
6 FIRE MARSHAL DIVISION, WITHIN 24 HOURS AFTER CONFIRMATION. UPON
7 RECEIPT OF A RELEASE REPORT UNDER THIS SUBSECTION, A MEMBER OF
8 THE STATE POLICE, FIRE MARSHAL DIVISION, MAY INVESTIGATE THE
9 RELEASE. HOWEVER, AN INVESTIGATION BY THE STATE POLICE, FIRE
10 MARSHAL DIVISION, DOES NOT RELIEVE THE OWNER OR OPERATOR OF ANY
11 RESPONSIBILITIES RELATED TO THE RELEASE PROVIDED FOR IN THIS
12 ACT.

13 (2) AFTER A RELEASE HAS BEEN REPORTED UNDER SUBSECTION (1),
14 THE OWNER OR OPERATOR SHALL RETAIN A CONSULTANT TO IMMEDIATELY
15 BEGIN AND EXPEDITIOUSLY perform all of the following initial
16 response actions: ~~within 24 hours:~~

17 (a) Identify and mitigate fire, explosion, and vapor
18 hazards.

19 (b) Take ~~immediate~~ action to prevent further release of
20 the regulated substance into the environment INCLUDING, AT A MIN-
21 IMUM, REMOVING THE REGULATED SUBSTANCE FROM THE UNDERGROUND STOR-
22 AGE TANK SYSTEM.

23 (c) ~~Report the release to the department of state police,~~
24 ~~fire marshal division within 24 hours after confirmation.~~

25 IDENTIFY AND RECOVER FREE PRODUCT. IF FREE PRODUCT IS IDENTI-
26 FIED, DO ALL OF THE FOLLOWING:

1 (i) CONDUCT FREE PRODUCT REMOVAL IN A MANNER THAT MINIMIZES
2 THE SPREAD OF CONTAMINATION INTO PREVIOUSLY UNCONTAMINATED ZONES
3 BY USING RECOVERY AND DISPOSAL TECHNIQUES APPROPRIATE TO THE CON-
4 DITIONS AT THE SITE, AND THAT PROPERLY TREATS, DISCHARGES, OR
5 DISPOSES OF RECOVERY BY-PRODUCTS AS REQUIRED BY LAW.

6 (ii) USE ABATEMENT OF FREE PRODUCT MIGRATION AS A MINIMUM
7 OBJECTIVE FOR THE DESIGN OF THE FREE PRODUCT REMOVAL SYSTEM.

8 (iii) HANDLE ANY FLAMMABLE PRODUCTS IN A SAFE AND COMPETENT
9 MANNER TO PREVENT FIRES OR EXPLOSIONS.

10 (iv) IF A DISCHARGE IS NECESSARY IN CONDUCTING FREE PRODUCT
11 REMOVAL, OBTAIN ALL NECESSARY PERMITS OR AUTHORIZATION.

12 (D) EXCAVATE AND CONTAIN, TREAT, OR DISPOSE OF SOILS ABOVE
13 THE WATER TABLE THAT ARE VISUALLY CONTAMINATED WITH A REGULATED
14 SUBSTANCE IF THE CONTAMINATION IS LIKELY TO CAUSE A FIRE HAZARD
15 OR SPREAD AND INCREASE THE COST OF CORRECTIVE ACTION.

16 (E) TAKE ANY OTHER ACTION NECESSARY TO ABATE AN IMMEDIATE
17 THREAT TO PUBLIC HEALTH, SAFETY, WELFARE, OR THE ENVIRONMENT.

18 (F) IF FREE PRODUCT IS DISCOVERED AFTER THE RELEASE WAS
19 REPORTED UNDER SUBSECTION (1), REPORT THE FREE PRODUCT DISCOVERY
20 TO THE DEPARTMENT WITHIN 24 HOURS OF ITS DISCOVERY.

21 (3) ~~-(2)-~~ Upon learning of a confirmed release, the depart-
22 ment of state police, fire marshal division, shall immediately
23 notify the department.

24 (4) WITHIN 20 DAYS AFTER A RELEASE HAS BEEN REPORTED UNDER
25 THIS SECTION, THE OWNER OR OPERATOR SHALL RETAIN A CONSULTANT TO
26 SUBMIT AN INITIAL ABATEMENT REPORT TO THE DEPARTMENT THAT
27 DESCRIBES THE CONDITIONS ON THE PROPERTY IN WHICH THE RELEASE

1 OCCURRED, THE STATUS OF FREE PRODUCT, AND ANY ACTIONS TAKEN
2 PURSUANT TO THIS SECTION. THIS REPORT SHALL INCLUDE INFORMATION
3 PERTAINING TO ALL OF THE FOLLOWING:

4 (A) GENERAL INFORMATION INCLUDING ALL OF THE FOLLOWING:

5 (i) FACILITY ADDRESS.

6 (ii) NAME OF FACILITY.

7 (iii) NAME, ADDRESS, AND PHONE NUMBER OF FACILITY COMPLIANCE
8 CONTACT PERSON.

9 (B) RELEASE INFORMATION INCLUDING ALL OF THE FOLLOWING:

10 (i) TIME AND DATE OF RELEASE DISCOVERY.

11 (ii) TIME AND DATE THE RELEASE WAS REPORTED TO STATE FIRE
12 MARSHAL.

13 (iii) A SITE MAP THAT INCLUDES ALL OF THE FOLLOWING:

14 (A) LOCATION OF EACH UNDERGROUND STORAGE TANK IN THE LEAKING
15 UNDERGROUND STORAGE TANK SYSTEM.

16 (B) LOCATION OF ANY OTHER UNDERGROUND STORAGE TANK SYSTEM ON
17 THE SITE.

18 (C) APPROXIMATE LOCATION OF FILL PORTS, DISPENSERS, AND
19 OTHER PERTINENT SYSTEM COMPONENTS.

20 (D) SOIL AND GROUNDWATER SAMPLE LOCATIONS, IF APPLICABLE.

21 (E) THE LOCATIONS OF NEARBY BUILDINGS OR OTHER STRUCTURES.

22 (iv) A DESCRIPTION OF HOW THE RELEASE WAS DISCOVERED.

23 (v) A LIST OF THE CHEMICALS OR LIQUIDS THE UNDERGROUND STOR-
24 AGE TANK SYSTEM CONTAINED WHEN THE RELEASE OCCURRED.

25 (vi) A LIST OF THE CHEMICALS OR LIQUIDS THE UNDERGROUND
26 STORAGE TANK SYSTEM CONTAINED IN THE PAST OTHER THAN THOSE LISTED
27 IN (v).

1 (vii) INDICATE FROM WHAT COMPONENT OF THE UNDERGROUND
2 STORAGE TANK SYSTEM THE RELEASE OCCURRED (I.E., PIPING, UNDER-
3 GROUND STORAGE TANK, OVERFILL).

4 (C) FURTHER CONTAMINATION PREVENTION INFORMATION INCLUDING
5 ALL OF THE FOLLOWING:

6 (i) PROVIDE INFORMATION AS TO WHETHER THE UNDERGROUND STOR-
7 AGE TANK SYSTEM WAS EMPTIED TO PREVENT FURTHER RELEASE.

8 (ii) A DESCRIPTION OF WHAT OTHER STEPS WERE TAKEN TO PREVENT
9 FURTHER MIGRATION OF THE REGULATED SUBSTANCE INTO THE SOIL OR
10 GROUNDWATER.

11 (iii) PROVIDE INFORMATION RELATIVE TO THE PRESENCE AND
12 ABATEMENT OF VAPORS OR FREE PRODUCT IN NEARBY SUBSURFACE
13 STRUCTURES.

14 (D) INFORMATION RELATIVE TO UNDERGROUND STORAGE TANK SYSTEM
15 OR SOIL REMOVAL.

16 (E) INFORMATION RELATIVE TO ANALYTICAL TESTING OF SOIL AND
17 GROUNDWATER SAMPLES, IF APPLICABLE.

18 (F) FREE PRODUCT INVESTIGATION AND REMOVAL, IF PRESENT
19 INCLUDING ALL OF THE FOLLOWING:

20 (i) A DESCRIPTION OF THE ACTIONS TAKEN TO REMOVE ANY FREE
21 PRODUCT.

22 (ii) THE NAME OF THE PERSON OR PERSONS RESPONSIBLE FOR
23 IMPLEMENTING THE FREE PRODUCT REMOVAL MEASURES.

24 (iii) THE ESTIMATED QUANTITY, TYPE, AND THICKNESS OF FREE
25 PRODUCT OBSERVED OR MEASURED IN WELLS, BOREHOLES, AND
26 EXCAVATIONS.

1 (iv) THE TYPE OF FREE PRODUCT RECOVERY SYSTEM USED.

2 (v) WHETHER ANY DISCHARGE WILL TAKE PLACE ON-SITE OR OFF
3 SITE DURING THE RECOVERY OPERATION AND WHERE THIS DISCHARGE WILL
4 BE LOCATED.

5 (vi) THE TYPE OF TREATMENT APPLIED TO, AND THE EFFLUENT
6 QUALITY EXPECTED FROM, ANY DISCHARGE.

7 (vii) THE STEPS THAT HAVE BEEN OR ARE BEING TAKEN TO OBTAIN
8 NECESSARY PERMITS FOR ANY DISCHARGE.

9 (viii) THE QUANTITY AND DISPOSITION OF THE RECOVERED FREE
10 PRODUCT.

11 (g) IDENTIFICATION OF ANY OTHER CONTAMINATION ON THE SITE
12 NOT RESULTING FROM THE RELEASE REPORTED UNDER SECTION 6, AND THE
13 SOURCE, IF KNOWN.

14 (5) FOLLOWING INITIATION OF INITIAL RESPONSE ACTIONS UNDER
15 THIS SECTION, THE OWNER OR OPERATOR SHALL RETAIN A CONSULTANT TO
16 DO ALL OF THE FOLLOWING:

17 (a) VISUALLY INSPECT THE AREAS OF ANY ABOVEGROUND RELEASES
18 OR EXPOSED AREAS OF BELOWGROUND RELEASES AND PREVENT FURTHER
19 MIGRATION OF THE RELEASED SUBSTANCE INTO SURROUNDING SOILS,
20 GROUNDWATER, AND SURFACE WATER.

21 (b) CONTINUE TO MONITOR AND MITIGATE ANY ADDITIONAL FIRE AND
22 SAFETY HAZARDS POSED BY VAPORS OR FREE PRODUCT THAT HAVE MIGRATED
23 FROM THE UNDERGROUND STORAGE TANK SYSTEM EXCAVATION ZONE AND
24 ENTERED INTO SUBSURFACE STRUCTURES.

25 (c) IF ADDITIONAL FREE PRODUCT IS DISCOVERED AT ANY TIME AT
26 A LOCATION NOT PREVIOUSLY IDENTIFIED UNDER SUBSECTION (1)(C),
27 REPORT THE DISCOVERY WITHIN 24 HOURS TO THE DEPARTMENT AND

1 INITIATE FREE PRODUCT RECOVERY IN COMPLIANCE WITH
2 SUBSECTION (1)(C). WITHIN 20 DAYS AFTER DISCOVERY OF FREE PROD-
3 UCT, SUBMIT A REPORT TO THE DEPARTMENT THAT INCLUDES THE INFORMA-
4 TION REQUIRED IN SUBSECTION (4)(A) TO (F).

5 (D) OBTAIN PUBLIC RECORDS AND OTHER AVAILABLE INFORMATION
6 THAT IS RELEVANT TO THE IMPLEMENTATION OF CORRECTIVE ACTION AT
7 THE SITE.

8 SEC. 6A. (1) WITHIN 60 DAYS AFTER A RELEASE HAS BEEN
9 REPORTED UNDER SECTION 6, THE OWNER OR OPERATOR SHALL RETAIN A
10 CONSULTANT TO CONDUCT AN INITIAL ASSESSMENT OF THE RELEASE. IN
11 CONDUCTING THE INITIAL ASSESSMENT, THE CONSULTANT SHALL DO ALL OF
12 THE FOLLOWING:

13 (A) ESTIMATE THE HORIZONTAL AND VERTICAL EXTENT OF ON-SITE
14 SOIL CONTAMINATION AND, IF POSSIBLE, ESTIMATE THE EXTENT OF
15 OFF-SITE CONTAMINATION.

16 (B) OBTAIN A GROUNDWATER SAMPLE IN THE PROBABLE DOWNGRAIENT
17 DIRECTION OF THE SOURCE AREA THROUGH ANY OF THE FOLLOWING
18 METHODS:

19 (i) COLLECTED FROM THE BASE OF EXCAVATIONS.

20 (ii) OBTAINED FROM THE INSTALLATION OF A GROUNDWATER MONI-
21 TORING WELL.

22 (iii) OBTAINED FROM ANY OTHER AVAILABLE METHOD WHICH ENSURES
23 THAT A REPRESENTATIVE SAMPLE IS OBTAINED.

24 (C) IDENTIFY POTENTIAL MIGRATION AND EXPOSURE PATHWAYS AND
25 RECEPTORS.

26 (D) ESTIMATE THE AMOUNT OF SOIL IN THE VADOSE ZONE THAT IS
27 CONTAMINATED.

1 (E) UPON COMPLETION OF SUBDIVISIONS (A) THROUGH (D), SHALL
2 SUBMIT A COPY OF THE FINDINGS TO THE DEPARTMENT.

3 SEC. 6B. (1) WITHIN 75 DAYS AFTER A RELEASE HAS BEEN
4 REPORTED UNDER SECTION 6, IF THE ESTIMATED VOLUME OF CONTAMINATED
5 SOIL IDENTIFIED IN THE INITIAL ASSESSMENT UNDER SECTION 6A IS
6 LESS THAN 750 CUBIC YARDS, THE INITIAL ASSESSMENT INDICATES
7 GROUNDWATER HAS NOT BEEN CONTAMINATED, AND THE OWNER OR OPERATOR
8 INTENDS TO IMPLEMENT A TYPE A OR A TYPE B CLEANUP, THE OWNER OR
9 OPERATOR SHALL RETAIN A CONSULTANT TO SUBMIT TO THE DEPARTMENT A
10 REPORT THAT DESCRIBES THE CORRECTIVE ACTION THAT WILL BE UNDER-
11 TAKEN INCLUDING A PROPOSED SCHEDULE FOR COMPLETION OF CORRECTIVE
12 ACTION.

13 (2) FOLLOWING COMPLETION OF AN INITIAL ASSESSMENT UNDER
14 SECTION 6A, IF GROUNDWATER HAS NOT BEEN CONTAMINATED AND THE
15 ESTIMATED VOLUME OF CONTAMINATED SOIL IS LESS THAN 750 CUBIC
16 YARDS, THE OWNER OR OPERATOR MAY RETAIN A CONSULTANT TO REMOVE
17 AND DISPOSE OF THAT CONTAMINATED SOIL IN A LANDFILL AS OTHERWISE
18 PROVIDED BY LAW. IF THE ESTIMATED VOLUME OF CONTAMINATED SOIL
19 IDENTIFIED IN THE INITIAL ASSESSMENT IS 750 CUBIC YARDS OR GREAT-
20 ER, THE OWNER OR OPERATOR SHALL NOT REMOVE AND DISPOSE OF THAT
21 SOIL IN A LANDFILL UNLESS A CORRECTIVE ACTION ALTERNATIVE STUDY
22 HAS BEEN PREPARED UNDER SECTION 6C AND A CONSULTANT DETERMINES
23 THAT REMOVAL AND DISPOSING OF THE SOIL IN A LANDFILL IS
24 APPROPRIATE.

25 SEC. 6C. (1) IF THE ESTIMATED VOLUME OF CONTAMINATED SOIL
26 DETERMINED IN THE INITIAL ASSESSMENT UNDER SECTION 6A IS 750
27 CUBIC YARDS OR GREATER AND GROUNDWATER IS NOT AFFECTED, THE OWNER

1 OR OPERATOR SHALL RETAIN A CONSULTANT TO PREPARE, WITHIN 150 DAYS
2 AFTER A RELEASE HAS BEEN REPORTED UNDER SECTION 6, A SOIL FEASIBILITY ANALYSIS THAT DOES ALL OF THE FOLLOWING:

4 (A) IDENTIFIES ON-SITE AND OFF-SITE CORRECTIVE ACTION ALTERNATIVES TO REMEDIATE CONTAMINATED SOILS FOR EACH CLEANUP TYPE,
5 INCLUDING ALTERNATIVES THAT PERMANENTLY AND SIGNIFICANTLY REDUCE
6 THE VOLUME, TOXICITY, AND MOBILITY OF THE REGULATED SUBSTANCES.

8 (B) DESCRIBES THE COSTS ASSOCIATED WITH EACH CORRECTIVE
9 ACTION ALTERNATIVE.

10 (C) DESCRIBES THE EFFECTIVENESS AND FEASIBILITY OF EACH CORRECTIVE ACTION ALTERNATIVE IN MEETING CLEANUP STANDARDS.

12 (D) IDENTIFIES THE TIME NECESSARY TO IMPLEMENT AND COMPLETE
13 EACH CORRECTIVE ACTION ALTERNATIVE.

14 (E) IDENTIFIES THE PREFERRED CORRECTIVE ACTION ALTERNATIVE
15 AND AN IMPLEMENTATION SCHEDULE FOR COMPLETION OF THE CORRECTIVE
16 ACTION.

17 (2) FOR SITES IN WHICH A SOIL FEASIBILITY ANALYSIS WAS PREPARED IN ACCORDANCE WITH SUBSECTION (1), WITHIN 210 DAYS AFTER A
18 RELEASE HAS BEEN REPORTED UNDER SECTION 6 THE OWNER OR OPERATOR
19 SHALL RETAIN A CONSULTANT TO PREPARE A SOIL REMEDIATION CORRECTIVE ACTION PLAN IN ACCORDANCE WITH THE FEASIBILITY ANALYSIS RECOMMENDATION OF SUBSECTION (1)(E). A CORRECTIVE ACTION PLAN PREPARED UNDER THIS SECTION SHALL INCLUDE A SCHEDULE FOR IMPLEMENTATION, DESIGNED TO IMPLEMENT THE PREFERRED CORRECTIVE ACTION
24 ALTERNATIVE IDENTIFIED IN THE FEASIBILITY ANALYSIS. THE CORRECTIVE ACTION PLAN SHALL PROPOSE CORRECTIVE ACTION MEASURES THAT
27 CONFORM WITH R 299.5701 TO R 299.5727 OF THE MICHIGAN

1 ADMINISTRATIVE CODE. IF THE PREFERRED CORRECTIVE ACTION
2 ALTERNATIVE IS A TYPE A OR A TYPE B CLEANUP, THE OWNER OR OPERA-
3 TOR SHALL RETAIN A CONSULTANT TO IMPLEMENT THE CORRECTIVE ACTION
4 PLAN PREPARED UNDER THIS SECTION IN ACCORDANCE WITH THE SCHEDULE
5 INCLUDED IN THE PLAN. IF THE PREFERRED CORRECTIVE ACTION ALTER-
6 NATIVE IS A TYPE C CLEANUP, THE OWNER OR OPERATOR SHALL RETAIN A
7 CONSULTANT TO PREPARE AND SUBMIT A TYPE C CORRECTIVE ACTION PLAN
8 TO THE DEPARTMENT PURSUANT TO SECTION 8.

9 SEC. 6D. (1) IF THE INITIAL ASSESSMENT UNDER SECTION 6A
10 INDICATES THAT A REGULATED SUBSTANCE MAY HAVE CONTAMINATED
11 GROUNDWATER, WITHIN 150 DAYS AFTER THE RELEASE WAS REPORTED UNDER
12 SECTION 6 THE OWNER OR OPERATOR SHALL RETAIN A CONSULTANT TO PER-
13 FORM A PHASE I HYDROGEOLOGICAL STUDY TO VERIFY GROUNDWATER CON-
14 TAMINATION INCLUDING THE INSTALLATION OF 1 MONITORING WELL DOWN-
15 GRADIENT OF THE SOURCE OF THE RELEASE, 1 MONITORING WELL HYDRAU-
16 LICALLY UP GRADIENT OF THE SOURCE OF THE RELEASE, AND 3 MONITOR-
17 ING WELLS HYDRAULICALLY DOWNGRADIENT IN THE VICINITY OF THE
18 RELEASE. IF THE SOURCE OF THE RELEASE IS MORE THAN 100 FEET FROM
19 THE BORDER OF THE PROPERTY IN WHICH THE UNDERGROUND STORAGE TANK
20 SYSTEM IS LOCATED, THE CONSULTANT WITH THE APPROVAL OF THE OWNER
21 OR OPERATOR MAY, AS PART OF THE PHASE I HYDROGEOLOGICAL STUDY,
22 INSTALL UP TO 3 ADDITIONAL WELLS HYDRAULICALLY DOWNGRADIENT NEAR
23 THE PROPERTY LINE TO ESTABLISH WHETHER CONTAMINATION HAS MIGRATED
24 OFF OF THE PROPERTY. THE PHASE I HYDROGEOLOGICAL STUDY SHALL
25 INCLUDE ALL OF THE FOLLOWING:

26 (A) A DETERMINATION OF GROUNDWATER FLOW RATE AND DIRECTION.

1 (B) APPROPRIATE LABORATORY ANALYTICAL DATA BASED UPON THE
2 TYPE OF REGULATED SUBSTANCE INVOLVED IN THE RELEASE.

3 (C) THE VERTICAL DISTRIBUTION OF CONTAMINANTS.

4 (D) AN EXAMINATION OF POTENTIAL CONTAMINATION FROM OTHER
5 SOURCES.

6 (2) IF THE PHASE I HYDROGEOLOGICAL STUDY UNDER SUBSECTION
7 (1) CONFIRMS THAT A REGULATED SUBSTANCE HAS REACHED GROUNDWATER,
8 THE OWNER OR OPERATOR SHALL RETAIN A CONSULTANT TO PREPARE,
9 WITHIN 150 DAYS AFTER REPORTING A RELEASE UNDER SECTION 6, A WORK
10 PLAN FOR CONDUCTING A PHASE II HYDROGEOLOGICAL STUDY TO DETERMINE
11 THE VERTICAL AND HORIZONTAL EXTENT OF THE CONTAMINATION. THE
12 WORK PLAN SHALL PROPOSE A PHASE II HYDROGEOLOGICAL STUDY THAT IS
13 AS SPECIFIC AS NECESSARY TO DEFINE THE EXTENT OF THE CONTAMINA-
14 TION BUT WHICH UTILIZES IMPLEMENTATION PHASES AS APPROPRIATE TO
15 MAXIMIZE THE COST EFFECTIVENESS OF THE HYDROGEOLOGICAL STUDY AND
16 WHICH INCLUDES A SCHEDULE FOR EXPEDITIOUS COMPLETION OF THE
17 HYDROGEOLOGICAL STUDY. UPON COMPLETION OF THE WORK PLAN, THE
18 OWNER OR OPERATOR SHALL RETAIN A CONSULTANT TO CONDUCT THE PHASE
19 II HYDROGEOLOGICAL STUDY. WITHIN 90 DAYS OF DELINEATING THE HOR-
20 IZONTAL AND VERTICAL EXTENT OF THE CONTAMINANT PLUME, THE CONSUL-
21 TANT SHALL PREPARE A SOIL AND GROUNDWATER FEASIBILITY ANALYSIS
22 THAT DOES ALL OF THE FOLLOWING:

23 (A) IDENTIFIES ON-SITE AND OFF-SITE CORRECTIVE ACTION ALTER-
24 NATIVES TO REMEDIATE CONTAMINATED SOIL AND GROUNDWATER FOR EACH
25 CLEANUP TYPE, INCLUDING ALTERNATIVES THAT PERMANENTLY AND SIGNIF-
26 ICANTLY REDUCE THE VOLUME, TOXICITY, AND MOBILITY OF THE
27 REGULATED SUBSTANCES.

1 (B) DESCRIBES THE COSTS ASSOCIATED WITH EACH CORRECTIVE
2 ACTION ALTERNATIVE INCLUDING ALTERNATIVES THAT PERMANENTLY AND
3 SIGNIFICANTLY REDUCE THE VOLUME, TOXICITY, AND MOBILITY OF THE
4 REGULATED SUBSTANCES.

5 (C) DESCRIBES THE EFFECTIVENESS AND FEASIBILITY OF EACH COR-
6 RECTIVE ACTION ALTERNATIVE IN MEETING CLEANUP STANDARDS.

7 (D) IDENTIFIES THE TIME NECESSARY TO IMPLEMENT AND COMPLETE
8 EACH CORRECTIVE ACTION ALTERNATIVE.

9 (E) IDENTIFIES THE PREFERRED CORRECTIVE ACTION ALTERNATIVE
10 AND AN IMPLEMENTATION SCHEDULE FOR COMPLETION OF THE CORRECTIVE
11 ACTION.

12 (3) FOR SITES IN WHICH A SOIL AND GROUNDWATER FEASIBILITY
13 ANALYSIS WAS PREPARED IN ACCORDANCE WITH SUBSECTION (2), WITHIN
14 90 DAYS OF COMPLETION OF THE PHASE II HYDROGEOLOGICAL STUDY, THE
15 OWNER OR OPERATOR SHALL RETAIN A CONSULTANT TO PREPARE A SOIL AND
16 GROUNDWATER REMEDIATION CORRECTIVE ACTION PLAN IN ACCORDANCE WITH
17 THE FEASIBILITY ANALYSIS RECOMMENDATION OF SUBSECTION (2)(E). A
18 CORRECTIVE ACTION PLAN PREPARED UNDER THIS SECTION SHALL INCLUDE
19 A SCHEDULE FOR IMPLEMENTATION, DESIGNED TO IMPLEMENT THE PRE-
20 FERRED CORRECTIVE ACTION ALTERNATIVE IDENTIFIED IN THE FEASIBIL-
21 ITY ANALYSIS. THE CORRECTIVE ACTION PLAN SHALL PROPOSE CORREC-
22 TIVE ACTION MEASURES THAT CONFORM WITH R 299.5701 TO R 299.5727
23 OF THE MICHIGAN ADMINISTRATIVE CODE. IF THE PREFERRED CORRECTIVE
24 ACTION ALTERNATIVE IS A TYPE A OR A TYPE B CLEANUP, THE OWNER OR
25 OPERATOR SHALL RETAIN A CONSULTANT TO IMPLEMENT THE CORRECTIVE
26 ACTION PLAN PREPARED UNDER THIS SECTION IN ACCORDANCE WITH THE
27 SCHEDULE INCLUDED IN THE PLAN. IF THE PREFERRED CORRECTIVE

1 ACTION ALTERNATIVE IS A TYPE C CLEANUP, THE OWNER OR OPERATOR
2 SHALL RETAIN A CONSULTANT TO PREPARE AND SUBMIT A TYPE C CORREC-
3 TIVE ACTION PLAN TO THE DEPARTMENT PURSUANT TO SECTION 8.

4 (4) UPON COMPLETION, THE OWNER OR OPERATOR SHALL RETAIN A
5 CONSULTANT TO SUBMIT TO THE DEPARTMENT A COPY OF THE PHASE I
6 HYDROGEOLOGICAL STUDY, THE PHASE II HYDROGEOLOGICAL WORK PLAN AND
7 INVESTIGATION REPORT, THE SOIL AND GROUNDWATER REMEDIATION ALTER-
8 NATIVES STUDY, AND THE CORRECTIVE ACTION PLAN.

9 SEC. 6E. (1) AN OWNER OR OPERATOR OF A PETROLEUM UNDER-
10 GROUND STORAGE TANK SYSTEM MAY DELAY INITIATION OF CORRECTIVE
11 ACTION MEASURES AT 1 OR MORE LOWER PRIORITY SITES FOR A PERIOD OF
12 12 MONTHS AFTER THE EXTENT OF CONTAMINATION HAS BEEN DEFINED BUT
13 NOT MORE THAN 15 MONTHS AFTER THE DISCOVERY OF THE RELEASE AT THE
14 LOWER PRIORITY SITE IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

15 (A) CORRECTIVE ACTION MEASURES ARE BEING DILIGENTLY IMPL-
16 MENTED AT ALL HIGH PRIORITY SITES FOR WHICH THE OWNER OR OPERATOR
17 IS RESPONSIBLE.

18 (B) AN INITIAL ASSESSMENT OF THE SITE AS REQUIRED BY SECTION
19 6A HAS BEEN COMPLETED.

20 (C) THE OWNER OR OPERATOR OR A CONSULTANT RETAINED BY THE
21 OWNER OR OPERATOR PROVIDES NOTICE TO THE OWNERS OF ALL OFF-SITE
22 PROPERTY ONTO WHICH CONTAMINATION HAS MIGRATED. THIS NOTICE
23 SHALL INFORM THE OWNER OF THE PROPERTY OF THE EXISTENCE OF THE
24 CONTAMINATION, THAT CORRECTIVE ACTION TO REMEDIATE THE CONTAMINA-
25 TION WILL BEGIN WITHIN 12 MONTHS UNLESS GROUNDWATER SAMPLING
26 SHOWS EVIDENCE OF NATURAL ATTENUATION, AND THAT DURING THIS
27 PERIOD, PRIOR TO CONDUCTING ANY ACTIVITIES THAT REQUIRE

1 EXCAVATION OF SOIL, THE PROPERTY OWNER SHOULD CONTACT THE OWNER
2 OR OPERATOR.

3 (2) CORRECTIVE ACTION MAY BE DEFERRED UNDER THIS SECTION FOR
4 ONLY ONE 12-MONTH PERIOD UNLESS GROUNDWATER SAMPLING DURING THIS
5 12-MONTH PERIOD SHOWS EVIDENCE OF NATURAL ATTENUATION. IF
6 GROUNDWATER SAMPLING SHOWS EVIDENCE OF NATURAL ATTENUATION, COR-
7 RECTIVE ACTION MAY BE EXTENDED FOR AN ADDITIONAL 12 MONTHS.

8 (3) AN OWNER OR OPERATOR WHO DELAYS INITIATION OF CORRECTIVE
9 ACTION MEASURES UNDER THIS SECTION SHALL MONITOR THE GROUNDWATER
10 AT THE LOWER PRIORITY SITE QUARTERLY TO ASSURE THAT NO CONTAMINA-
11 TION IN EXCESS OF TYPE B CRITERIA HAS MIGRATED OFF SITE UNLESS
12 BOTH OF THE FOLLOWING CONDITIONS ARE MET:

13 (A) POTABLE WATER FOR ALL USERS WITHIN A 1/2 MILE RADIUS OF
14 THE FURTHEST EXTENT OF MIGRATION OF A REGULATED SUBSTANCE FROM
15 THE RELEASE IS SUPPLIED BY A TYPE I PUBLIC WATER SUPPLY.

16 (B) THE SOURCE OR SOURCES FOR THE TYPE I PUBLIC WATER SUPPLY
17 ARE NOT LOCATED WITHIN 1/2 MILE OF THE FURTHEST EXTENT OF MIGRA-
18 TION OF A REGULATED SUBSTANCE FROM THE RELEASE.

19 (4) IF MONITORING CONDUCTED PURSUANT TO SUBSECTION (3) SHOWS
20 THAT CONCENTRATIONS OF REGULATED SUBSTANCES IN GROUNDWATER EXCEED
21 1 OR MORE TYPE B CRITERIA AND THE CONDITIONS IN SUBSECTION (2) (A)
22 AND (B) ARE NOT MET, THE OWNER OR OPERATOR SHALL RETAIN A CONSUL-
23 TANT TO IMPLEMENT CORRECTIVE ACTION MEASURES AS OTHERWISE
24 REQUIRED UNDER THIS ACT.

25 (5) AS USED IN THIS SECTION:

26 (A) "EXPOSURE POINT" MEANS ANY LOCATION AT WHICH IT IS
27 LIKELY THAT EXPOSURE TO REGULATED SUBSTANCES MAY OCCUR UNDER THE

1 CURRENT USE OF THE PROPERTY. THE TERM EXPOSURE POINT INCLUDES,
2 BUT IS NOT LIMITED TO, GROUNDWATER WELLS, LOCATIONS WHERE GROUND-
3 WATER DISCHARGES TO SURFACE WATER, AND A BASEMENT OR OTHER CON-
4 FINED SPACE.

5 (B) "HIGH PRIORITY SITE" MEANS A SITE WHICH HAS FREE PRODUCT
6 OR WHICH MEETS ANY OF THE FOLLOWING CONDITIONS:

7 (i) AN EXPOSURE POINT IS PRESENT OFF SITE LESS THAN 100 FEET
8 FROM THE FURTHEST EXTENT OF MIGRATION OF A REGULATED SUBSTANCE
9 FROM THE RELEASE.

10 (ii) CONTAMINATED SOIL IS PRESENT AT A DEPTH OF 2 FEET OR
11 LESS ON PROPERTY THAT IS NOT COMMERCIAL OR INDUSTRIAL.

12 (iii) HYDRAULIC CONDUCTIVITY AT THE SITE AS DETERMINED BY A
13 PHASE II HYDROGEOLOGICAL STUDY PURSUANT TO SECTION 6D IS EQUAL TO
14 OR GREATER THAN 1×10^{-3} CENTIMETERS PER SECOND.

15 (iv) FOR SITES THAT ARE ELIGIBLE FOR FUNDING UNDER THE
16 MICHIGAN UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE ACT, ACT
17 NO. 518 OF THE PUBLIC ACTS OF 1988, BEING SECTIONS 299.801 TO
18 299.828 OF THE MICHIGAN COMPILED LAWS, A DELAY IN THE INITIATION
19 OF CORRECTIVE ACTION WILL RESULT IN SIGNIFICANTLY INCREASED COR-
20 RECTIVE ACTION COSTS.

21 (v) THE DIRECTOR DETERMINES THAT DELAYING CORRECTIVE ACTION
22 AT THAT SITE POSES A THREAT TO THE PUBLIC HEALTH, SAFETY, OR WEL-
23 FARE OR THE ENVIRONMENT.

24 (C) "LOWER PRIORITY SITE" MEANS A SITE THAT DOES NOT MEET
25 THE CONDITIONS OF A HIGH PRIORITY SITE UNDER SUBDIVISION (B).

1 (6) THE DIRECTOR'S AUTHORITY TO ISSUE A CORRECTIVE ACTION
2 ORDER IS NOT LIMITED OR ALTERED BY AN OWNER'S OR OPERATOR'S
3 DECISION TO DELAY CORRECTIVE ACTION AT A LOWER PRIORITY SITE.

4 SEC. 6F. (1) FOLLOWING COMPLETION OF CORRECTIVE ACTION MEAS-
5 SURES UNDER SECTION 6B, 6C, OR 6D IN WHICH A TYPE A OR TYPE B
6 CLEANUP WAS IMPLEMENTED, THE OWNER OR OPERATOR SHALL RETAIN A
7 CONSULTANT TO DEMONSTRATE THROUGH SAMPLING AND TESTING OF SOILS
8 AND GROUNDWATER THAT ALL SOILS AND GROUNDWATER AFFECTED BY THE
9 RELEASE HAVE BEEN REMEDIATED TO THE RESPECTIVE CLEANUP
10 STANDARDS.

11 (2) THE CONSULTANT SHALL INCLUDE RESULTS OF THE SAMPLING AND
12 TESTING UNDER THIS SECTION IN A RELEASE CLOSURE REPORT AND SHALL
13 SUBMIT THE RELEASE CLOSURE REPORT TO THE DEPARTMENT. THE RELEASE
14 CLOSURE REPORT SHALL BE SIGNED BY A CERTIFIED ENVIRONMENTAL PRO-
15 FESSIONAL AND SHALL CONTAIN ADEQUATE SOIL AND GROUNDWATER DATA TO
16 SHOW THAT CLEANUP STANDARDS HAVE BEEN MET AT ALL POINTS IN THE
17 AFFECTED MEDIA.

18 (3) WITHIN 60 DAYS OF RECEIPT OF A RELEASE CLOSURE REPORT
19 UNDER SUBSECTION (2) THAT STATES THAT CONTAMINATION HAS BEEN
20 REMEDIATED IN ACCORDANCE WITH THIS ACT, THE DIRECTOR SHALL REMOVE
21 THE SITE OR PORTION OF THE SITE THAT HAS BEEN REMEDIATED PURSUANT
22 TO THIS ACT FROM ANY LIST OF THE DEPARTMENT THAT IDENTIFIES SITES
23 OF CONTAMINATION AND SHALL NOTIFY THE OWNER OR OPERATOR THAT THIS
24 ACTION HAS BEEN TAKEN. HOWEVER, IF A SUBSEQUENT AUDIT UNDER
25 SECTION 6H DETERMINES THAT THE CONTAMINATION HAS NOT BEEN REMEDI-
26 ATED TO THE CLEANUP STANDARDS, THE DEPARTMENT MAY PLACE THE SITE

1 BACK ON ANY SUCH LIST AND REQUIRE FURTHER CORRECTIVE ACTION AS
2 OTHERWISE PROVIDED IN THIS ACT.

3 SEC. 6G. FOR ALL RELEASES DISCOVERED PRIOR TO THE EFFECTIVE
4 DATE OF THIS SECTION THAT HAVE HAD A WORK PLAN SUBMITTED TO THE
5 DEPARTMENT, ALL CORRECTIVE ACTIONS SHALL BEGIN WITHIN 60 DAYS
6 AFTER THE DEPARTMENT APPROVES THE WORK PLAN.

7 SEC. 6H. (1) THE DEPARTMENT SHALL DESIGN AND IMPLEMENT A
8 PROGRAM TO SELECTIVELY AUDIT OR OVERSEE ALL ASPECTS OF CORRECTIVE
9 ACTIONS UNDERTAKEN PURSUANT TO THIS ACT TO ASSURE COMPLIANCE WITH
10 THIS ACT.

11 (2) IF THE DEPARTMENT CONDUCTS A COMPLETE AUDIT OF THE
12 RELEASE, AND THE AUDIT CONFIRMS THAT CORRECTIVE ACTION HAS BEEN
13 CONDUCTED IN COMPLIANCE WITH THIS ACT AND THAT THE CLEANUP STAN-
14 DARDS HAVE BEEN MET, THE DEPARTMENT SHALL PROVIDE THE OWNER OR
15 OPERATOR WITH A LETTER THAT DESCRIBES THE AUDIT AND ITS RESULTS.

16 (3) IF AN AUDIT UNDER SUBSECTION (2) DOES NOT CONFIRM THAT
17 CORRECTIVE ACTION HAS BEEN CONDUCTED IN COMPLIANCE WITH THIS ACT
18 OR THAT CLEANUP STANDARDS HAVE BEEN MET, THE DIRECTOR MAY REQUIRE
19 AN OWNER OR OPERATOR TO DO ANY OF THE FOLLOWING:

20 (A) PROVIDE ADDITIONAL INFORMATION RELATED TO ANY REQUIRE-
21 MENT OF THIS ACT.

22 (B) RETAIN A CONSULTANT TO IMPLEMENT CORRECTIVE ACTIONS,
23 HYDROGEOLOGICAL STUDIES, OR REMEDIATION ALTERNATIVES STUDIES ON
24 AN ACCELERATED IMPLEMENTATION SCHEDULE.

25 (C) RETAIN A CONSULTANT TO TAKE ADDITIONAL CORRECTIVE
26 ACTIONS NECESSARY TO COMPLY WITH THIS ACT OR TO PROTECT PUBLIC
27 HEALTH, SAFETY, WELFARE, OR THE ENVIRONMENT.

1 Sec. 8. (1) ~~At any point after reviewing the information~~
2 ~~submitted in compliance with section 7, the director may require~~
3 ~~the owner and operator to submit additional information or to~~
4 ~~develop and~~ IF THE SOIL FEASIBILITY ANALYSIS OR THE SOIL AND
5 GROUNDWATER FEASIBILITY ANALYSIS PREPARED UNDER SECTION 6C OR 6D
6 IDENTIFY THE PREFERRED CORRECTIVE ACTION ALTERNATIVE TO BE A
7 TYPE C CLEANUP, THE OWNER OR OPERATOR SHALL RETAIN A CONSULTANT
8 TO submit a RISK ASSESSMENT AND A TYPE C corrective action plan
9 for responding to contaminated soils, groundwater, and surface
10 water TO THE DEPARTMENT WITHIN 60 DAYS OF COMPLETION OF THE FEA-
11 SIBILITY ANALYSIS. ~~If a plan is required, the owner or operator~~
12 ~~shall submit the plan according to a schedule established by the~~
13 ~~director. Alternatively, the owner or operator may, after ful-~~
14 ~~filling the requirements of section 7, choose to submit a correc-~~
15 ~~tive action plan for responding to contaminated soil, groundwa-~~
16 ~~ter, or surface water. In either case, the owner or operator is~~
17 ~~responsible for submitting a plan that provides~~ THE TYPE C COR-
18 RECTIVE ACTION PLAN SHALL PROVIDE for adequate protection of
19 ~~human~~ PUBLIC health, SAFETY, WELFARE, and the environment. ~~as~~
20 ~~determined by the director, and shall modify his or her plan as~~
21 ~~necessary to meet this standard.~~

22 (2) ~~The director shall approve the corrective action plan~~
23 ~~only after ensuring that implementation of the plan will ade-~~
24 ~~quately protect human health, safety, and the environment.~~ THE
25 RISK ASSESSMENT REQUIRED TO BE SUBMITTED UNDER SUBSECTION (1) MAY
26 BE SUBMITTED IN A "SHORT FORM" FORMAT SPECIFIED BY THE
27 DEPARTMENT. THE DEPARTMENT MAY LIMIT THE APPLICABILITY OF THE

1 SHORT FORM RISK ASSESSMENT TO CORRECTIVE ACTION PLANS THAT
2 ADDRESS A RELEASE OF AN UNUSED AND UNCONTAMINATED PETROLEUM FUEL
3 OR LUBRICANT. THE RISK ASSESSMENT SHORT FORM SPECIFIED BY THE
4 DEPARTMENT SHALL ADDRESS ALL OF THE FOLLOWING, AS APPROPRIATE TO
5 THE SITE:

6 (A) POTENTIAL EXPOSURE OF HUMAN AND NATURAL RESOURCE
7 TARGETS.

8 (B) ENVIRONMENTAL MEDIA AFFECTED BY CONTAMINATION.

9 (C) ALL OF THE FOLLOWING WITH RESPECT TO THE PHYSICAL SET-
10 TING OF THE SITE:

11 (i) GEOLOGY.

12 (ii) HYDROLOGY.

13 (iii) SOILS.

14 (iv) HYDROGEOLOGY.

15 (v) OTHER ASPECTS OF THE PHYSICAL SETTING OF THE SITE WHICH
16 MAY HAVE A BEARING ON THE APPROPRIATENESS OF THE PROPOSED CORREC-
17 TIVE ACTION.

18 (D) POTENTIAL PATHWAYS OF REGULATED SUBSTANCE MIGRATION.

19 (E) ALL OF THE FOLLOWING WITH REGARD TO REGULATED SUBSTANCES
20 RELEASED AT THE SITE:

21 (i) AMOUNT.

22 (ii) CONCENTRATION.

23 (iii) FORM.

24 (F) THE EXTENT TO WHICH REGULATED SUBSTANCES HAVE MIGRATED
25 OR ARE EXPECTED TO MIGRATE FROM THE AREA OF THE RELEASE.

26 (G) THE UNCERTAINTIES OF THE RISK ASSESSMENT. THE
27 DISCUSSION OF THE UNCERTAINTIES OF THE RISK ASSESSMENT NEED NOT

1 INCLUDE UNCERTAINTIES ASSOCIATED WITH THE HAZARD IDENTIFICATION
2 OR DOSE-RESPONSE ASSESSMENT FOR EACH REGULATED SUBSTANCE. THE
3 DISCUSSION OF THE UNCERTAINTIES SHALL ADDRESS THE EXPOSURE ESTI-
4 MATES AND OVERALL RISK CHARACTERIZATION.

5 (H) OTHER FACTORS APPROPRIATE TO THE SITE. DEPARTMENT
6 REQUESTS FOR INFORMATION PURSUANT TO THIS SUBDIVISION SHALL BE
7 LIMITED TO FACTORS NOT ADEQUATELY ADDRESSED BY INFORMATION
8 REQUIRED BY THE PROVISIONS OF OTHER SUBDIVISIONS OF THIS SUBSEC-
9 TION AND SHALL BE ACCOMPANIED BY AN EXPLANATION OF THE NEED FOR
10 SUCH INFORMATION.

11 (3) THE RISK ASSESSMENT PORTION OF A CORRECTIVE ACTION PLAN
12 FOR SITES THAT DO NOT MEET THE CRITERIA FOR A SHORT FORM RISK
13 ASSESSMENT AS SPECIFIED IN SUBSECTION (2) SHALL ADDRESS ALL OF
14 THE FACTORS IDENTIFIED IN SUBSECTION (2)(A) THROUGH (H). THE
15 RISK ASSESSMENT SHALL BE PRESENTED IN A MANNER THAT FACILITATES
16 EFFICIENT REVIEW BY THE DEPARTMENT.

17 (4) IN ADDITION TO THE RISK ASSESSMENT SPECIFIED IN
18 SUBSECTION (2) OR (3), THE TYPE C CORRECTIVE ACTION PLAN SHALL
19 INCLUDE ALL OF THE FOLLOWING:

20 (A) A DEMONSTRATION THAT THE PROPOSED CORRECTIVE ACTION IS
21 APPROPRIATE FOR THE SITE, CONSIDERING THE REASONABLY FORESEEABLE
22 USES OF THE SITE AND NATURAL RESOURCES IN QUESTION.

23 (B) INFORMATION ABOUT THE COST OF WHAT IS BELIEVED BY THE
24 CERTIFIED ENVIRONMENTAL PROFESSIONAL TO BE THE LOWEST COST, TECH-
25 NICALLY FEASIBLE CORRECTIVE ACTION ALTERNATIVE THAT WOULD COMPLY
26 WITH TYPE B CLEANUP LEVELS.

1 (C) IDENTIFICATION OF ANY LIMITATIONS ON THE ABILITY TO
2 MONITOR REMEDIAL PERFORMANCE, INCLUDING THE LIMITATIONS OF
3 ANALYTICAL METHODS.

4 (D) OTHER FACTORS APPROPRIATE TO THE SITE. DEPARTMENT
5 REQUESTS FOR INFORMATION PURSUANT TO THIS SUBDIVISION SHALL BE
6 LIMITED TO FACTORS NOT ADEQUATELY ADDRESSED BY INFORMATION
7 REQUIRED BY THE PROVISIONS OF OTHER SUBDIVISIONS OF THIS SUBSEC-
8 TION AND SHALL BE ACCOMPANIED BY AN EXPLANATION OF THE NEED FOR
9 SUCH INFORMATION.

10 (5) ANY CORRECTIVE ACTION PLAN SUBMITTED UNDER THIS SECTION
11 TO ADDRESS SURFACE WATER OR SEDIMENTS SHALL INCLUDE CLEANUP CRI-
12 TERIA ESTABLISHED BY THE DEPARTMENT ON THE BASIS OF SOUND SCIEN-
13 TIFIC PRINCIPLES AND CONSIDERING THE NEED TO ELIMINATE OR MITI-
14 GATE THE FOLLOWING USE IMPAIRMENTS, AS APPROPRIATE TO THE SITE:

15 (A) RESTRICTIONS ON FISH OR WILDLIFE CONSUMPTION.

16 (B) DEGRADED FISH OR WILDLIFE POPULATIONS.

17 (C) FISH TUMORS OR OTHER DEFORMITIES.

18 (D) BIRD OR ANIMAL DEFORMITIES OR REPRODUCTIVE PROBLEMS.

19 (E) DEGRADATION OF BENTHOS.

20 (F) RESTRICTIONS ON DREDGING ACTIVITIES.

21 (G) EUTROPHICATION OR UNDESIRABLE ALGAE.

22 (H) RESTRICTIONS ON DRINKING WATER CONSUMPTION OR TASTE OR
23 ODOR PROBLEMS.

24 (I) BEACH CLOSINGS.

25 (J) DEGRADATION OF AESTHETICS.

26 (K) DEGRADATION OF PHYTOPLANKTON OR ZOOPLANKTON
27 POPULATIONS.

1 (1) LOSS OF FISH OR WILDLIFE HABITAT.

2 (6) IF THE DIRECTOR DETERMINES THAT THE RISK ASSESSMENT SUB-
3 MITTED PURSUANT TO SUBSECTION (2) OR (3) IS COMPLETE, ACCURATELY
4 REFLECTS AVAILABLE INFORMATION ABOUT THE SITE, AND SATISFIES THE
5 REQUIREMENTS OF SUBSECTION (4), THE DIRECTOR MAY APPROVE OF THE
6 TYPE C CORRECTIVE ACTION PLAN IF A CONSULTANT RETAINED BY THE
7 OWNER OR OPERATOR DEMONSTRATES THAT ALL OF THE FOLLOWING CONDI-
8 TIONS ARE MET:

9 (A) THE CORRECTIVE ACTION PLAN PROVIDES FOR MONITORING OF
10 THE SITE SUFFICIENT TO ASSURE THE INTEGRITY AND EFFECTIVENESS OF
11 THE REMEDY.

12 (B) IF THE CORRECTIVE ACTION RELIES ON LAND USE RESTRICTIONS
13 IN ORDER TO PROHIBIT EXPOSURES WHICH COULD RESULT IN UNACCEPTABLE
14 RISK, AND THOSE LAND USE RESTRICTIONS ARE NOT PART OF AN ENFORCE-
15 ABLE LOCAL ORDINANCE WHICH IS ACCEPTABLE TO THE DIRECTOR AS A
16 MEANS OF CONTROLLING EXPOSURE TO REGULATED SUBSTANCES, SUCH
17 RESTRICTIONS SHALL BE DESCRIBED IN A RESTRICTIVE COVENANT THAT IS
18 EXECUTED BY THE PROPERTY OWNER AND RECORDED WITH THE REGISTER OF
19 DEEDS FOR THE COUNTY IN WHICH THE SITE IS LOCATED. SUCH RESTRIC-
20 TIONS SHALL RUN WITH THE LAND AND BE BINDING ON THE OWNER'S SUC-
21 CESSORS AND ASSIGNS. THE RESTRICTIVE COVENANT SHALL BE SUBJECT
22 TO APPROVAL BY THE STATE AND SHALL ACCOMPLISH ALL OF THE
23 FOLLOWING:

24 (i) PROHIBIT ACTIVITIES ON THE SITE THAT MAY INTERFERE WITH
25 A CORRECTIVE ACTION, OPERATION AND MAINTENANCE, LONG-TERM MONI-
26 TORING, OR OTHER MEASURES NECESSARY TO ASSURE THE INTEGRITY OF
27 THE CORRECTIVE ACTION.

1 (ii) PROHIBIT ACTIVITIES THAT MAY RESULT IN HUMAN EXPOSURES
2 ABOVE THOSE SPECIFIED IN R 299.5709 TO R 299.5715 OF THE MICHIGAN
3 ADMINISTRATIVE CODE OR THAT WOULD RESULT IN THE RELEASE OF A REG-
4 ULATED SUBSTANCE WHICH WAS CONTAINED AS PART OF THE CORRECTIVE
5 ACTION.

6 (iii) REQUIRE NOTICE TO THE DEPARTMENT OF THE OWNER'S INTENT
7 TO CONVEY ANY INTEREST IN THE SITE. A CONVEYANCE OF TITLE, AN
8 EASEMENT, OR OTHER INTEREST IN THE PROPERTY SHALL NOT BE CONSUM-
9 MATED BY THE PROPERTY OWNER WITHOUT ADEQUATE AND COMPLETE PROVI-
10 SION FOR THE CONTINUED OPERATION AND MAINTENANCE OF THE REMEDY
11 AND THE PREVENTION OF RELEASES AND EXPOSURES AS DESCRIBED IN THE
12 PROVISIONS OF SUBPARAGRAPH (ii).

13 (iv) GRANT TO THE DEPARTMENT AND ITS DESIGNATED REPRESENTA-
14 TIVES THE RIGHT TO ENTER THE PROPERTY AT REASONABLE TIMES FOR THE
15 PURPOSE OF MONITORING COMPLIANCE WITH THE CORRECTIVE ACTION PLAN,
16 INCLUDING THE RIGHT TO TAKE SAMPLES, INSPECT THE OPERATION OF
17 CORRECTIVE ACTION MEASURES, AND INSPECT RECORDS.

18 (v) ALLOW THE STATE TO ENFORCE THE RESTRICTIONS SET FORTH IN
19 THE COVENANT BY LEGAL ACTION IN A COURT OF APPROPRIATE
20 JURISDICTION.

21 (c) IF THE DIRECTOR DETERMINES THAT IT IS NECESSARY TO
22 ASSURE THE CONTINUED ADEQUACY OF A CORRECTIVE ACTION THAT
23 INCLUDES CONTAINMENT MEASURES, THE OWNER OR OPERATOR SHALL,
24 THROUGH A FINANCIAL MECHANISM ACCEPTABLE TO THE DIRECTOR, PROVIDE
25 FUNDING TO PAY FOR MONITORING, OPERATION AND MAINTENANCE, OVER-
26 SIGHT, AND OTHER COSTS NECESSARY TO ASSURE THE EFFECTIVENESS AND
27 INTEGRITY OF THE CONTAINMENT MEASURES.

1 (7) ~~-(3)-~~ The director shall approve or disapprove ~~the~~ A
2 corrective action plan SUBMITTED UNDER THIS SECTION within ~~45-~~
3 60 days after it has been received. If the director disapproves
4 the corrective action plan, he or she shall provide the owner or
5 operator with AN EXPLANATION WHY A TYPE C CORRECTIVE ACTION IS
6 NOT APPROPRIATE OR a list of deficiencies, and ~~recommendations-~~
7 MODIFICATIONS that if incorporated would result in the plan's
8 approval, along with a schedule for resubmittal. The owner or
9 operator shall submit an amended corrective action plan according
10 to the schedule specified by the director.

11 (8) ~~-(4)-~~ Upon approval of the TYPE C corrective action plan
12 or as directed by the director, the owner or operator shall
13 implement the plan, including modifications to the plan required
14 by the director. The owner or operator shall monitor, evaluate,
15 and report the results of implementing the plan in accordance
16 with a schedule ~~established~~ APPROVED by the director.

17 (9) ~~-(5)-~~ The owner or operator may, in the interest of min-
18 imizing environmental contamination and promoting more effective
19 cleanup, begin cleanup of soil and groundwater before the correc-
20 tive action plan UNDER THIS SECTION is approved, provided that
21 they do all of the following:

22 (a) Notify the director of their intention to begin cleanup
23 AT LEAST 48 HOURS BEFORE BEGINNING THE CLEANUP.

24 (b) Comply with any conditions imposed by the director,
25 including halting cleanup or mitigating adverse consequences from
26 cleanup activities.

1 (c) Incorporate these self-initiated cleanup measures in the
2 corrective action plan that is submitted to the director for
3 approval.

4 (D) ASSURE THAT THE INITIAL CLEANUP IS NOT INCONSISTENT WITH
5 THE ANTICIPATED CORRECTIVE ACTION.

6 (10) ~~-(6)-~~ After the director approves a TYPE C corrective
7 action plan under this section, and the owner or operator has
8 completed in full all corrective actions required in the plan,
9 and is in compliance with this act, the director shall execute a
10 document stating that the corrective actions have been
11 completed. If an owner or operator delivers to the director a
12 written statement asserting that all corrective actions have been
13 completed and includes with this statement documentation suffi-
14 cient to show full compliance with the approved TYPE C corrective
15 action plan and this act, the director shall respond within 60
16 days of receipt of that statement by either executing a document
17 stating that the corrective actions have been completed or by
18 executing a document indicating what corrective actions remain to
19 be completed. Failure to respond shall be considered as if it
20 were a response that corrective action remains to be completed,
21 and the owner or operator may request a hearing before the com-
22 mission of natural resources in the same manner as provided in
23 section 10.

24 (11) ~~-(7)-~~ The director may issue corrective action orders
25 pursuant to section 10 to the owner or operator as necessary to
26 carry out the purposes of this act.

1 Sec. 9. (1) For each confirmed release ~~that requires a~~ IN
2 WHICH A TYPE C corrective action plan under section 8 ~~, the~~
3 ~~director shall provide notice to the public by means designed to~~
4 ~~reach those members of the public directly affected by the~~
5 ~~release and the planned corrective action~~ IS PROPOSED TO BE
6 IMPLEMENTED, THE DEPARTMENT SHALL NOTIFY EACH LOCAL UNIT OF GOV-
7 ERNMENT IN WHICH THE UNDERGROUND STORAGE TANK SYSTEM IS LOCATED
8 OF THE PROPOSED TYPE C CORRECTIVE ACTION.

9 (2) The director shall ensure that site release information
10 and ~~the~~ A corrective action plan PREPARED UNDER SECTION 8 are
11 made available to the public for inspection upon request.

12 ~~(2) The director shall give public notice that complies~~
13 ~~with subsection (1) if implementation of an approved corrective~~
14 ~~action plan does not achieve the established cleanup levels in~~
15 ~~the plan and termination of that plan is under consideration by~~
16 ~~the director.~~

17 SEC. 11A. (1) EXCEPT AS PROVIDED IN SUBSECTION (3), IF A
18 REPORT REQUIRED TO BE SUBMITTED UNDER SECTIONS 6(4) AND (5)(C),
19 6A(E), 6B(1), AND 6C(2) IS NOT SUBMITTED DURING THE TIME REQUIRED
20 BY THIS ACT, THE DIRECTOR SHALL IMPOSE A PENALTY ACCORDING TO THE
21 FOLLOWING SCHEDULE:

22 (A) \$100.00 PER DAY FOR THE FIRST 7 DAYS THAT THE REPORT IS
23 LATE.

24 (B) \$500.00 PER DAY FOR DAYS 8 THROUGH 14 THAT THE REPORT IS
25 LATE.

26 (C) \$1,000.00 PER DAY FOR EACH DAY BEYOND DAY 14 THAT THE
27 REPORT IS LATE.

1 (2) FOR PURPOSES OF THIS SECTION, IN COMPUTING A PERIOD OF
2 TIME, THE DAY OF THE ACT, EVENT, OR DEFAULT AFTER WHICH THE DES-
3 IGNATED PERIOD OF TIME BEGINS TO RUN IS NOT INCLUDED. THE LAST
4 DAY OF THE PERIOD IS INCLUDED, UNLESS IT IS A SATURDAY, SUNDAY,
5 OR LEGAL HOLIDAY, OR HOLIDAY, IN WHICH EVENT THE PERIOD RUNS
6 UNTIL THE END OF THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY,
7 LEGAL HOLIDAY, OR HOLIDAY.

8 (3) THE DIRECTOR MAY, UPON REQUEST, GRANT AN EXTENSION TO A
9 REPORTING DEADLINE PROVIDED IN THIS ACT FOR GOOD CAUSE.

10 (4) THE OWNER OR OPERATOR MAY BY CONTRACT TRANSFER THE
11 RESPONSIBILITY FOR PAYING FINES UNDER THIS SECTION TO A CONSUL-
12 TANT RETAINED BY THE OWNER OR OPERATOR.

13 (5) THE DEPARTMENT SHALL FORWARD ALL MONEY COLLECTED PURSU-
14 ANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE
15 EMERGENCY RESPONSE FUND CREATED IN SECTION 7 OF THE MICHIGAN
16 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE ACT, ACT NO. 518 OF
17 THE PUBLIC ACTS OF 1988, BEING SECTION 299.807 OF THE MICHIGAN
18 COMPILED LAWS.

19 Sec. 13. (1) The attorney general may, on behalf of the
20 director, commence a civil action seeking any of the following:

21 (a) A temporary or permanent injunction.

22 (b) Recovery of all costs incurred by the state for taking
23 corrective action.

24 (c) Damages for the full injury done to the natural
25 resources of this state along with enforcement and litigation
26 costs incurred by the state.

1 (d) A civil fine of not more than \$10,000.00 for each
2 underground storage tank system for each day of noncompliance
3 with a requirement of this act, or a rule promulgated pursuant to
4 section 15 of this act. A fine imposed under this subdivision
5 shall be based upon the seriousness of the violation and any good
6 faith efforts by the violator to comply with the act or rule.

7 (e) A civil fine of not more than \$25,000.00 for each day of
8 noncompliance with a corrective action order issued pursuant to
9 this act. A fine imposed under this subdivision shall be based
10 upon the seriousness of the violation and any good faith efforts
11 by the violator to comply with the corrective action order.

12 (f) Recovery of funds provided to the state from the United
13 States environmental protection agency's leaking underground
14 storage tank trust fund.

15 (G) RECOVERY OF PENALTIES IMPOSED UNDER SECTION 11A.

16 (2) A civil action brought under subsection (1) may be
17 brought in the circuit court for the county of Ingham, in the
18 county where the release occurred, or in the county where the
19 defendant resides.

20 (3) The state may, when appropriate, return to the United
21 States environmental protection agency any federal funds recov-
22 ered under this act. The state may also retain any federal funds
23 recovered under this act in a separate account for use in imple-
24 menting this act with such use subject to approval of the United
25 States environmental protection agency.

26 SEC. 13A. (1) A PERSON SHALL NOT DO ANY OF THE FOLLOWING:

1 (A) CONTAMINATE AN OTHERWISE CLEAN SITE WITH CONTAMINATED
2 SOILS OR LIQUIDS.

3 (B) INTENTIONALLY DAMAGE AN UNDERGROUND STORAGE TANK SYSTEM,
4 WHICH RESULTS IN CONTAMINATION AT A SITE.

5 (C) PLACE AN UNDERGROUND STORAGE TANK AT A CONTAMINATED SITE
6 WHERE NO UNDERGROUND TANK PREVIOUSLY EXISTED FOR PURPOSES OF DIS-
7 GUIISING THE SOURCE OF CONTAMINATION.

8 (D) CONDUCT SAMPLING, TESTING, MONITORING, OR EXCAVATION
9 THAT IS NOT JUSTIFIED BY THE SITE CONDITION OR THAT IS NOT REA-
10 SONABLY NECESSARY FOR COST EFFECTIVE CORRECTIVE ACTION.

11 (E) COMMIT ANY OTHER ACT OR OMISSION INTENDED TO FALSELY
12 GAIN COMPLIANCE, RESOLUTION, OR CLOSURE OF A SITE UNDER THIS ACT
13 WHERE SUCH COMPLIANCE, RESOLUTION, OR CLOSURE WOULD NOT OTHERWISE
14 RESULT.

15 (2) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL
16 FINE OF \$50,000.00 FOR EACH VIOLATION.

17 SEC. 13B. (1) A PERSON WHO MAKES OR SUBMITS OR CAUSES TO BE
18 MADE OR SUBMITTED ANY REPORT, CONFIRMATION, CERTIFICATION, PRO-
19 POSAL, WORK PLAN, OR OTHER INFORMATION UNDER THIS ACT, KNOWING
20 SUCH REPORT, CONFIRMATION, CERTIFICATION, PROPOSAL, WORK PLAN, OR
21 OTHER INFORMATION TO BE MISLEADING, FALSE, FICTITIOUS, OR FRAUDU-
22 LENT, OR COMMITS A FRAUDULENT PRACTICE SHALL BE FINED \$50,000.00
23 FOR EACH SUCH SUBMISSION OR FRAUDULENT PRACTICE. FOR PURPOSES OF
24 THIS SECTION, A SUBMISSION INCLUDES TRANSMITTAL BY ANY MEANS AND
25 EACH SUCH TRANSMITTAL SHALL CONSTITUTE A SEPARATE SUBMISSION. AS
26 USED IN THIS SUBSECTION, "FRAUDULENT PRACTICES" INCLUDES, BUT IS
27 NOT LIMITED TO, ALL OF THE FOLLOWING:

1 (A) REPRESENTING THAT SERVICES WERE DONE OR WORK PROVIDED
2 THAT WERE NOT IN FACT PROVIDED OR THAT WERE NOT DIRECTLY PROVIDED
3 BY THE DESIGNATED PERSON.

4 (B) MISREPRESENTING OR FALSIFYING THE SOURCE OF DATA REGARD-
5 ING SITE CONDITIONS.

6 (C) MISREPRESENTING OR FALSIFYING ANY TEST RESULTS, ANA-
7 LYSES, INVESTIGATIONS, OR CORRECTIVE ACTIONS TAKEN UNDER THIS
8 ACT.

9 (D) REPORTING A CONFIRMED RELEASE WHEN THERE IS NO RELEASE.

10 (E) MISREPRESENTING OR FALSIFYING THE DATE UPON WHICH A
11 RELEASE OCCURRED.

12 (F) REGISTERING A NONEXISTENT TANK WITH THE STATE FIRE
13 MARSHAL.

14 (G) CONFIRMING A RELEASE WITHOUT ALSO GIVING NOTICE TO THE
15 OWNER OR OPERATOR.

16 (H) SUBMITTING A FALSE LABORATORY REPORT.

17 (I) FALSELY CHARACTERIZING THE CONTENTS OF AN UNDERGROUND
18 STORAGE TANK SYSTEM OR REPORTING REGULATED SUBSTANCES OR PARAME-
19 TERS OTHER THAN THE SUBSTANCE THAT WAS IN THE UNDERGROUND STORAGE
20 TANK SYSTEM.

21 (J) MISREPRESENTING OR CONCEALING THE IDENTITY OF PRINCIPALS
22 OR PERSONS SEEKING CERTIFICATION OR PARTICIPATION UNDER THIS
23 ACT.

24 (K) FAILING TO REPORT SUBSEQUENT SUSPECTED OR CONFIRMED
25 RELEASES FROM SITES THAT HAVE PREVIOUSLY REPORTED A RELEASE.

26 (L) FALSIFYING THE DATE ON WHICH AN UNDERGROUND STORAGE TANK
27 SYSTEM OR ANY OF ITS COMPONENTS WERE REMOVED FROM THE SITE.

1 (M) COMMITTING ANY OTHER ACT OR OMISSION INTENDED TO FALSELY
2 GAIN COMPLIANCE, RESOLUTION, OR CLOSURE OF A SITE UNDER THIS ACT
3 WHERE SUCH COMPLIANCE, RESOLUTION, OR CLOSURE WOULD NOT OTHERWISE
4 RESULT.

5 (2) THE ATTORNEY GENERAL MAY CONDUCT AN INVESTIGATION OF AN
6 ALLEGED VIOLATION OF SUBSECTION (1).

7 (3) IF THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE
8 THAT A PERSON HAS INFORMATION OR IS IN POSSESSION, CUSTODY, OR
9 CONTROL OF ANY DOCUMENT OR OTHER TANGIBLE OBJECT RELEVANT TO AN
10 INVESTIGATION FOR VIOLATION OF THIS ACT, THE ATTORNEY GENERAL MAY
11 SERVE UPON THE PERSON, BEFORE BRINGING ANY ACTION, A WRITTEN
12 DEMAND TO APPEAR AND BE EXAMINED UNDER OATH, AND TO PRODUCE THE
13 DOCUMENT OR OBJECT FOR INSPECTION AND COPYING.

14 (4) IF A PERSON OBJECTS TO OR OTHERWISE FAILS TO COMPLY WITH
15 THE WRITTEN DEMAND SERVED UPON HIM OR HER UNDER SUBSECTION (3),
16 THE ATTORNEY GENERAL MAY FILE AN ACTION IN INGHAM COUNTY CIRCUIT
17 COURT TO ENFORCE THE DEMAND.

18 (5) ANY PERSON WHO FAILS TO COMPLY WITH A WRITTEN DEMAND
19 ISSUED PURSUANT TO SUBSECTION (3), OR WITH AN INSPECTION OR OTHER
20 ACTION SPECIFIED IN SECTION 14, IS LIABLE FOR A CIVIL FINE OF NOT
21 MORE THAN \$25,000.00 FOR EACH DAY OF CONTINUED NONCOMPLIANCE.

22 Sec. 14. (1) Upon request of the director for the purpose
23 of developing or assisting in the development of a rule, conduct-
24 ing an investigation, taking corrective action, or enforcing this
25 act, the owner or operator shall furnish the director with all
26 information about all of the following:

1 (a) The underground storage tank system and its associated
2 equipment.

3 (b) The past or present contents of the underground storage
4 tank system.

5 (c) Any releases and investigations of releases.

6 (2) The department ~~shall have the right to~~ MAY enter at
7 all reasonable times in or upon any private or public property
8 for any of the following purposes:

9 (a) Inspecting an underground storage tank system.

10 (b) Obtaining samples of any substance from an underground
11 storage tank system.

12 (c) Requiring and supervising the conduct of monitoring or
13 testing of an underground storage tank system, its associated
14 equipment, or contents.

15 (d) Conducting monitoring or testing of an underground stor-
16 age tank system in cases where there is no identified responsible
17 party.

18 (e) Conducting monitoring or testing, or taking samples of
19 soils, air, surface water, or groundwater.

20 (f) Taking corrective action.

21 (G) INSPECTING AND COPYING ANY RECORDS RELATED TO AN UNDER-
22 GROUND STORAGE TANK SYSTEM.

23 (3) All inspections and investigations undertaken by the
24 department under this section shall be commenced and completed
25 with reasonable promptness.

26 (4) The attorney general, on behalf of the director, may do
27 either of the following:

1 (a) Petition a court of appropriate jurisdiction for a
2 warrant to authorize access to any private or public property to
3 carry out the provisions of this act.

4 (b) Commence a civil action pursuant to section 13 for an
5 order authorizing the department to enter any private or public
6 property as necessary to carry out this act.

7 Section 2. Section 7 of Act No. 478 of the Public Acts of
8 1988, being section 299.837 of the Michigan Compiled Laws, is
9 repealed.