

Act No. 380
Public Acts of 1996
Approved by the Governor
July 23, 1996
Filed with the Secretary of State
July 24, 1996

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996

Introduced by Senators Gougeon, DeBeaussiaert, A. Smith, Peters, O'Brien, Bouchard, V. Smith, Vaughn, Conroy, North, McManus, Cherry, Byrum, Miller, Steil, Dunaskiss, Stille, Young, Stallings, Carl, Shugars, Schuette and Bennett

ENROLLED SENATE BILL No. 919

AN ACT to amend sections 19507, 20101, 20107a, 20108, 20113, and 20120d of Act No. 451 of the Public Acts of 1994, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," section 19507 as added by Act No. 60 of the Public Acts of 1995, sections 20101 and 20107a as amended by Act No. 115 of the Public Acts of 1996, and section 20113 as amended and section 20120d as added by Act No. 71 of the Public Acts of 1995, being sections 324.19507, 324.20101, 324.20107a, 324.20108, 324.20113, and 324.20120d of the Michigan Compiled Laws; to add sections 20108a and 20108c; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Section 1. Sections 19507, 20101, 20107a, 20108, 20113, and 20120d of Act No. 451 of the Public Acts of 1994, section 19507 as added by Act No. 60 of the Public Acts of 1995, sections 20101 and 20107a as amended by Act No. 115 of the Public Acts of 1996, and section 20113 as amended and section 20120d as added by Act No. 71 of the Public Acts of 1995, being sections 324.19507, 324.20101, 324.20107a, 324.20108, 324.20113, and 324.20120d of the Michigan Compiled Laws, are amended and sections 20108a and 20108c are added to read as follows:

Sec. 19507. (1) The total proceeds of all bonds issued under former Act No. 326 of the Public Acts of 1988 or part 193 shall be deposited into the fund and allocated as follows:

(a) Except as provided in section 19508(1)(a)(ii) and as otherwise provided in this act, not more than \$425,000,000.00 shall be used to clean up sites of toxic and other environmental contamination.

(b) Not more than \$150,000,000.00 shall be used for solid waste projects including, but not limited to, reducing, recycling, and properly disposing of solid waste. Money that is available under this subdivision but not appropriated and money that is appropriated under this subdivision that reverts to the fund shall be transferred to the cleanup and redevelopment fund created in section 20108.

(c) Not more than \$60,000,000.00 shall be used to capitalize the state water pollution control revolving fund established pursuant to section 16a of the shared credit rating act, Act No. 227 of the Public Acts of 1985, being section 141.1066a of the Michigan Compiled Laws.

(d) Not more than \$25,000,000.00 shall be used to fund this state's participation in a regional Great Lakes protection fund.

(2) The state treasurer shall direct the investment of the fund. Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest

paid on the bonds or to comply with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be transferred to the cleanup and redevelopment fund created in section 20108, except for the fiscal years 1992-93 and 1993-94, when any such interest and earnings accrued in those, or prior fiscal years, shall be deposited in the state water pollution control revolving fund established pursuant to section 16a of Act No. 227 of the Public Acts of 1985.

(3) Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, all repayments of principal and interest earned under a loan program created with money under subsection (1)(b) shall be transferred to the cleanup and redevelopment fund created in section 20108.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

Sec. 20101. (1) As used in this part:

(a) "Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(b) "Agricultural property" means real property used for farming in any of its branches, including cultivating of soil; growing and harvesting of any agricultural, horticultural, or floricultural commodity; dairying; raising of livestock, bees, fish, fur-bearing animals, or poultry; turf and tree farming; and performing any practices on a farm as an incident to, or in conjunction with, these farming operations. Agricultural property does not include property used for commercial storage, processing, distribution, marketing, or shipping operations.

(c) "Attorney general" means the department of the attorney general.

(d) "Baseline environmental assessment" means an evaluation of environmental conditions which exist at a facility at the time of purchase, occupancy, or foreclosure that reasonably defines the existing conditions and circumstance at the facility so that, in the event of a subsequent release, there is a means of distinguishing the new release from existing contamination.

(e) "Board" means the brownfield redevelopment board created in section 20104a.

(f) "Department" means the director of the department of environmental quality or his or her designee to whom the director delegates a power or duty by written instrument.

(g) "Director" means the director of the department of environmental quality.

(h) "Directors" means the directors or their designees of the departments of environmental quality, public health, agriculture, and state police.

(i) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous substance into or on any land or water so that the hazardous substance or any constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any groundwater or surface water.

(j) "Enforcement costs" means court expenses, reasonable attorney fees of the attorney general, and other reasonable expenses of an executive department that are incurred in relation to enforcement under this part or rules promulgated under this part, or both.

(k) "Environment" or "natural resources" means land, surface water, groundwater, subsurface, strata, air, fish, wildlife, or biota within the state.

(l) "Environmental contamination" means the release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity which is or may become injurious to the environment or to the public health, safety, or welfare.

(m) "Evaluation" means those activities including, but not limited to, investigation, studies, sampling, analysis, development of feasibility studies, and administrative efforts that are needed to determine the nature, extent, and impact of a release or threat of release and necessary response activities.

(n) "Exacerbation" means the occurrence of either of the following caused by an activity undertaken by the person who owns or operates the property, with respect to existing contamination:

(i) Contamination that has migrated beyond the boundaries of the property which is the source of the release at levels above cleanup criteria specified in section 20120a(1)(a) unless a criterion is not relevant because exposure is reliably restricted pursuant to section 20120b.

(ii) A change in facility conditions that increases response activity costs.

(o) "Facility" means any area, place, or property where a hazardous substance in excess of the concentrations which satisfy the requirements of section 20120a(1)(a) or (17) or the cleanup criteria for unrestricted residential use under part 213 has been released, deposited, disposed of, or otherwise comes to be located. Facility does not include any area, place, or property at which response activities have been completed which satisfy the cleanup criteria for the residential

category provided for in section 20120a(1)(a) and (17) or at which corrective action has been completed under part 213 which satisfies the cleanup criteria for unrestricted residential use.

(p) "Feasibility study" means a process for developing, evaluating, and selecting appropriate response activities.

(q) "Foreclosure" means possession of a property by a lender on which it has foreclosed on a security interest or the expiration of a lawful redemption period, whichever occurs first.

(r) "Free product" means a hazardous substance in a liquid phase equal to or greater than 1/8 inch of measurable thickness that is not dissolved in water and that has been released into the environment.

(s) "Fund" means the cleanup and redevelopment fund established in section 20108.

(t) "Hazardous substance" means 1 or more of the following, but does not include fruit, vegetable, or field crop residuals or processing by-products, or aquatic plants, that are applied to the land for an agricultural use or for use as an animal feed, if the use is consistent with generally accepted agricultural management practices developed pursuant to the Michigan right to farm act, Act No. 93 of the Public Acts of 1981, being sections 286.471 to 286.474 of the Michigan Compiled Laws:

(i) Any substance that the department demonstrates, on a case by case basis, poses an unacceptable risk to the public health, safety, or welfare, or the environment, considering the fate of the material, dose-response, toxicity, or adverse impact on natural resources.

(ii) Hazardous substance as defined in the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767.

(iii) Hazardous waste as defined in part 111.

(iv) Petroleum as described in part 213.

(u) "Interim response activity" means the cleanup or removal of a released hazardous substance or the taking of other actions, prior to the implementation of a remedial action, as may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, or to the environment. Interim response activity also includes, but is not limited to, measures to limit access, replacement of water supplies, and temporary relocation of people as determined to be necessary by the department. In addition, interim response activity means the taking of other actions as may be necessary to prevent, minimize, or mitigate a threatened release.

(v) "Lender" means any of the following:

(i) A state or nationally chartered bank.

(ii) A state or federally chartered savings and loan association or savings bank.

(iii) A state or federally chartered credit union.

(iv) Any other state or federally chartered lending institution or regulated affiliate or regulated subsidiary of any entity listed in this subparagraph or subparagraphs (i) to (iii).

(v) An insurance company authorized to do business in this state pursuant to the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws.

(vi) A motor vehicle finance company subject to the motor vehicle finance act, Act No. 27 of the Extra Session of 1950, being sections 492.101 to 492.141 of the Michigan Compiled Laws, with net assets in excess of \$50,000,000.00.

(vii) A foreign bank.

(viii) A retirement fund regulated pursuant to state law or a pension fund regulated pursuant to federal law with net assets in excess of \$50,000,000.00.

(ix) A state or federal agency authorized by law to hold a security interest in real property or a local unit of government holding a reversionary interest in real property.

(x) A nonprofit tax exempt organization created to promote economic development in which a majority of the organization's assets are held by a local unit of government.

(xi) Any other person who loans money for the purchase of or improvement of real property.

(xii) Any person who retains or receives a security interest to service a debt or to secure a performance obligation.

(w) "Local health department" means that term as defined in section 1105 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.1105 of the Michigan Compiled Laws.

(x) "Local unit of government" means a county, city, township, or village, an agency of a local unit of government, an authority or any other public body or entity created by or pursuant to state law. Local unit of government does not include the state or federal government or a state or federal agency.

(y) "Operator" means a person who is in control of or responsible for the operation of a facility. Operator does not include either of the following:

(i) A person who holds indicia of ownership primarily to protect the person's security interest in the facility, unless that person participates in the management of the facility as described in section 20101a.

(ii) A person who is acting as a fiduciary in compliance with section 20101b.

(z) "Owner" means a person who owns a facility. Owner does not include either of the following:

(i) A person who holds indicia of ownership primarily to protect the person's security interest in the facility, including, but not limited to, a vendor's interest under a recorded land contract, unless that person participates in the management of the facility as described in section 20101a.

(ii) A person who is acting as a fiduciary in compliance with section 20101b.

(aa) "Permitted release" means 1 or more of the following:

(i) A release in compliance with an applicable, legally enforceable permit issued under state law.

(ii) A lawful and authorized discharge into a permitted waste treatment facility.

(iii) A federally permitted release as defined in the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767.

(bb) "Release" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a hazardous substance into the environment, or the abandonment or discarding of barrels, containers, and other closed receptacles containing a hazardous substance. Release does not include any of the following:

(i) A release that results in exposure to persons solely within a workplace, with respect to a claim that these persons may assert against their employers.

(ii) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, or vessel.

(iii) A release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the atomic energy act of 1954, chapter 1073, 68 Stat. 919, if the release is subject to requirements with respect to financial protection established by the nuclear regulatory commission under section 170 of chapter 14 of title I of the atomic energy act of 1954, chapter 1073, 71 Stat. 576, 42 U.S.C. 2210, or any release of source by-product or special nuclear material from any processing site designated under section 102(a)(1) of title I or 302(a) of title III of the uranium mill tailings radiation control act of 1978, Public Law 95-604, 42 U.S.C. 7912 and 7942.

(iv) If applied according to label directions and according to generally accepted agricultural and management practices, the application of a fertilizer, soil conditioner, agronomically applied manure, or pesticide, or fruit, vegetable, or field crop residuals or processing by-products, aquatic plants, or a combination of these substances. As used in this subparagraph, fertilizer and soil conditioner have the meaning given to these terms in part 85, and pesticide has the meaning given to that term in part 83.

(v) A release does not include fruits, vegetables, field crop processing by-products, or aquatic plants, that are applied to the land for an agricultural use or for use as an animal feed, if the use is consistent with generally accepted agricultural and management practices developed pursuant to the Michigan right to farm act, Act No. 93 of the Public Acts of 1981, being sections 286.471 to 286.474 of the Michigan Compiled Laws.

(cc) "Remedial action" includes, but is not limited to, cleanup, removal, containment, isolation, destruction, or treatment of a hazardous substance released or threatened to be released into the environment, monitoring, maintenance, or the taking of other actions that may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, or to the environment.

(dd) "Remedial action plan" means a work plan for performing remedial action under this part.

(ee) "Response activity" means evaluation, interim response activity, remedial action, demolition, or the taking of other actions necessary to protect the public health, safety, or welfare, or the environment or the natural resources. Response activity also includes health assessments or health effect studies carried out under the supervision, or with the approval of, the department of public health and enforcement actions related to any response activity.

(ff) "Response activity costs" or "costs of response activity" means all costs incurred in taking or conducting a response activity, including enforcement costs.

(gg) "Security interest" means any interest, including a reversionary interest, in real property created or established for the purpose of securing a loan or other obligation. Security interests include, but are not limited to, mortgages, deeds of trusts, liens, and title pursuant to lease financing transactions. Security interests may also arise from transactions such as sale and leasebacks, conditional sales, installment sales, trust receipt transactions, certain assignments, factoring agreements, accounts receivable financing arrangements, consignments, or any other transaction in which evidence of title is created if the transaction creates or establishes an interest in real property for the purpose of securing a loan or other obligation.

(hh) "Site" means the location of environmental contamination.

(ii) "Threatened release" or "threat of release" means any circumstance that may reasonably be anticipated to cause a release.

(2) As used in this part, the phrase "a person who is liable" includes a person who is described as being subject to liability in section 20126. The phrase "a person who is liable" does not presume that liability has been adjudicated.

Sec. 20107a. (1) A person who owns or operates property that he or she has knowledge is a facility shall do all of the following with respect to hazardous substances at the facility:

(a) Undertake measures as are necessary to prevent exacerbation of the existing contamination.

(b) Exercise due care by undertaking response activity necessary to mitigate unacceptable exposure to hazardous substances, mitigate fire and explosion hazards due to hazardous substances, and allow for the intended use of the facility in a manner that protects the public health and safety.

(c) Take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the consequences that foreseeably could result from those acts or omissions.

(2) Notwithstanding any other provision of this part, a person who violates subsection (1) is liable for response activity costs and natural resource damages attributable to any exacerbation of existing contamination and any fines or penalties imposed under this part resulting from the violation of subsection (1) but is not liable for performance of additional response activities unless the person is otherwise liable under this part for performance of additional response activities. The burden of proof in a dispute as to what constitutes exacerbation shall be borne by the party seeking relief.

(3) Compliance with this section does not satisfy a person's obligation to perform response activities as otherwise required under this part.

(4) Subsection (1) does not apply to the state or to a local unit of government that is not liable under section 20126(3)(a), (b), (c), or (e) or to a local unit of government that acquired property by purchase, gift, transfer, or condemnation prior to the effective date of this section or to a person who is exempt from liability under section 20126(4)(c).

(5) Subsection (1) does not apply to a person who is exempt from liability under section 20126(3)(c) or (d) except with regard to that person's activities at the facility.

Sec. 20108. (1) The cleanup and redevelopment fund is created in the state treasury.

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

(3) In addition to the money received under subsection (2), the fund shall receive as revenue money collected by the attorney general in actions filed under this part, collected by the state under this part, or collected by a person under section 20135(2). Money collected and placed into the fund under this subsection may be earmarked by the department for use at specific sites.

(4) The state treasurer may establish subaccounts within the fund, and shall establish a subaccount for all money in the former environmental response fund on the effective date of the 1996 amendments to this section. Proceeds of all cost recovery actions taken and settlements entered into pursuant to this part, excluding natural resource damages, by the department or the attorney general, or both, shall be credited to this subaccount.

(5) An unexpended balance within the fund at the close of the fiscal year shall be carried forward to the following fiscal year.

Sec. 20108a. (1) The revitalization revolving loan fund is created within the state treasury.

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

(3) An unexpended balance within the revitalization revolving loan fund at the close of the fiscal year shall be carried forward to the following fiscal year.

(4) The department shall annually submit to the governor a request for a lump-sum appropriation from the revitalization revolving loan fund for loans pursuant to the revitalization revolving loan program under section 20108b.

(5) The department shall expend money from the revitalization revolving loan fund, upon appropriation, only for the revitalization loan program created in section 20108b.

Sec. 20108c. (1) The state site cleanup fund is created within the state treasury.

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

(3) Money in the state site cleanup fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) Money in the state site cleanup fund shall be used for the state sites cleanup program established under this section.

(5) The department shall establish a state sites cleanup program for the purpose of expending money in the state sites cleanup fund, including the \$20,000,000.00 appropriated by the legislature for state site cleanup pursuant to Act No. 265 of the Public Acts of 1994.

(6) The department shall expend money appropriated for state site cleanup only for response activities at facilities where the state is liable as an owner or operator under section 20126 or where the state has licensure or decommissioning obligations as an owner or possessor of radioactive materials that are regulated by the nuclear regulatory commission. Money expended for the state sites cleanup program shall not be used to pay fines, penalties, or damages.

(7) Six months after the effective date of this section, and annually thereafter by October 1 of each year, each state executive department and agency shall provide to the department a detailed list of all facilities where the state executive department or agency is liable as an owner or operator under section 20126. Subsequent lists do not need to include facilities identified in a previous list. This list shall include the following information for each facility:

(a) The facility name.

(b) Location.

(c) Use history of the facility.

(d) A detailed summary of available information regarding the source, nature, and extent of the contamination at the facility.

(e) A detailed summary of available information on any public health or environmental impacts at the facility.

(f) A detailed summary of available information on the resale and redevelopment potential of the facility.

(g) A description of and estimated cost of the response activities needed at the facility, if known.

(8) Within 12 months after the effective date of this section and by February 1 of each year thereafter, the board shall develop a prioritized list of the facilities identified pursuant to subsection (3). Sites posing the greatest risk to the public health, safety, welfare, or the environment and those having high resale and redevelopment potential shall be given the highest priority. The list shall include the following information for each facility:

(a) The facility's priority order.

(b) Response activities to be completed at the facility.

(c) Estimated cost of the response activities.

(d) The state executive department or agency that is liable as an owner or operator under section 20126.

(9) All state executive departments and agencies that are liable as an owner or operator under section 20126 are responsible for undertaking and paying for all necessary response activities that cannot be addressed with money appropriated to the department for state site cleanup as described in subsection (1) or any money appropriated to the department specifically for the purpose of response activities at facilities for which the state is liable as an owner or operator. The existence of these funds does not affect the liability of any person under this part or any state or federal law.

(10) The \$20,000,000.00 appropriated pursuant to Act No. 265 of the Public Acts of 1994 and to be expended pursuant to this section shall carry over to succeeding fiscal years. The unexpended portion of the appropriation is considered a work project appropriation, and any unencumbered or unallotted funds are carried forward to the succeeding fiscal year. The following is in compliance with section 451(3) of the management and budget act, Act No. 431 of the Public Acts of 1984, being section 18.1451 of the Michigan Compiled Laws:

(a) The purpose of the project to be carried forward is to provide for contaminated site cleanups.

(b) The project will be accomplished by contracts.

(c) The total estimated cost of the project will be \$20,000,000.00.

(d) The tentative completion date is September 30, 1999.

(11) The department shall submit an annual report to the governor and the legislature on the status of the response activities being conducted with money appropriated to the department to implement this section and the need for additional funds to conduct future response activities.

Sec. 20113. (1) Money required to implement the programs described under this part and to pay for response activities recommended under this part shall be appropriated from the fund and any other source the legislature considers necessary to implement the requirements of this part.

(2) Money from the fund shall be appropriated only for response activities at sites that have been subjected to the risk assessment process described in section 20105.

(3) The department shall annually submit to the governor a request for appropriation from the fund. The request will include a lump sum amount for the purposes of subsection (4)(a) and a lump sum amount for the purposes of subsection (4)(f). For the purposes set forth in subsection (4)(b), (c), (d), and (e), the request shall include a list of sites where the department is proposing to expend funds. The list shall include the following information for each site: the common name of the site, the response activities that are planned to be conducted, and the estimated amount of money that is needed to conduct the response activities. The legislature shall approve by law the list of sites to be addressed and shall provide a lump sum appropriation for these sites based on the total estimated amount needed for the approved sites.

(4) Money from the fund may be used, upon appropriation, for the following as determined by the department:

(a) National priority list municipal landfill cost-share grants to be approved by the board pursuant to section 20109a.

(b) Superfund match, which includes funding for any response activity that is required to match federal dollars at a superfund site as required under the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767.

(c) Response activities to address actual or potential public health or environmental problems.

(d) Completion of response activities initiated by the state using environmental protection bond funds or completion of response activities at facilities initiated by a person who was liable under this part prior to Public Act 71 of 1995 but is not liable under section 20126 of this part, where such response activities have ceased.

(e) Response activities at sites that will facilitate redevelopment.

(f) Emergency response actions for sites to be determined by the department.

(5) Money in the fund shall be expended first for the purposes described in subsection (4)(b) and (f) and health or environmental problems under subsection (4)(c) that are related to acute health or environmental problems. Following these expenditures, not less than 50% of the remaining money expended under this section shall be expended for response activities that facilitate redevelopment of urbanized areas. All additional expenditures under this section shall be expended following the expenditures described in this subsection. As used in this subsection, "urbanized area" means an urbanized area as determined by the economics and statistics administration, United States bureau of census, according to the 1990 census.

(6) The total amount of funds expended by the department for national priority list municipal landfill cost-share grants shall not exceed the lesser of 12% of the funds appropriated from the fund in a fiscal year or \$6,000,000.00 in a fiscal year.

(7) Not later than December 31 of each year, the department shall provide to the governor, the senate and house of representatives standing committees with jurisdiction over issues pertaining to natural resources and the environment, and the senate and house of representatives appropriations committees a list of all projects financed under this part through the preceding fiscal year. The list shall include the project site and location, the nature of the project, the total amount of money authorized, the total amount of money expended, and project status.

Sec. 20120d. (1) At a facility where state funds will be spent to develop or implement a remedial action plan or where the department determines there is a significant public interest, within 30 days after the completion of a remedial investigation for the facility, the department shall provide the county and the township, city, or village in which the facility is located a notice of the completion of the remedial investigation, a summary of the remedial investigation, and notice of an opportunity for the people in the local unit of government to meet with the department regarding the remedial investigation and any proposed feasibility study for the facility. Upon a request for a public meeting by the governing body of the local unit of government or by 25 citizens of the local unit of government, the department shall, within 30 days of the request, meet with persons in the local unit of government. The person or persons requesting the public meeting shall publicize and provide accommodations for the meeting. The meeting shall be held in the local unit of government in which the facility is located. The department shall provide copies of the notices and summary required in this subsection to the governing body of the local unit of government, to the known persons who are liable under section 20126, and to the main public library of the local unit of government in which the facility is located. The department shall send representatives to the meeting who are familiar with the facility and who are involved with determining the appropriate remedial actions to be taken at the facility. Persons who are liable under section 20126 for the facility may send representatives to the meeting.

(2) The department shall maintain, and periodically publish, a list of remedial action plans submitted for approval that comply with the requirements of R 299.5515 of the Michigan administrative code.

(3) Before approval of a proposed remedial action plan which is to be implemented with money from the fund, or is based on categorical criteria provided for in section 20120a(1)(f) to (j) or (2), or if section 20118(5) or (6) applies, or the department determines that there is significant public interest, the department shall do all of the following:

(a) Publish a notice and brief summary of the proposed remedial action plan.

(b) Provide for public review and comment pertinent to documents relating to the proposed remedial action plan, including, if applicable, the feasibility study that outlines alternative remedial action measures considered.

(c) Provide an opportunity for a public meeting at or near the facility when any of the following occur:

(i) The department determines that there is a significant public interest or that for any other reason a public meeting is appropriate.

(ii) A city, township, or village in which the facility is located, by a majority vote of its governing body, requests a public meeting.

(iii) A local health department with jurisdiction in the area in which the facility is located requests a public meeting.

(d) Provide a document that summarizes the major issues raised by the public and how they are to be addressed by the final approved remedial action plan.

(4) For purposes of this section, publication shall include, at a minimum, publication in a local newspaper or newspaper of general circulation in this state. In addition, the administrative record shall be made available by the department for inspection by members of the public at or near the facility and in Lansing.

(5) The department shall prepare a summary document that explains the reasons for the selection or approval of a remedial action plan. In addition, the department shall compile an administrative record of the decision process that results in the selection of a remedial action plan. The administrative record shall contain all of the following:

(a) Remedial investigation data regarding the facility.

(b) If applicable, a feasibility study and potential remedial actions.

(c) If applicable, a summary document that explains the reasons why a remedial investigation or feasibility study was not conducted.

(d) Applicable comments and information received from the public, if any.

(e) If applicable, a document that summarizes the significant concerns raised by the members of the public and how they are to be addressed.

(f) Other information appropriate to the facility.

(6) If comments or information are submitted for inclusion in the administrative record that are not included in the administrative record, a brief explanation of why the information was not considered relevant shall be sent to the party by the department and included in the record.

Section 2. Sections 20109, 20110, and 20111 of Act No. 451 of the Public Acts of 1994, being sections 324.20109, 324.20110, and 324.20111 of the Michigan Compiled Laws, are repealed.

Section 3. Enacting section 3 of Act No. 315 of the Public Acts of 1996 is repealed.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.

