

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 791**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending the part heading to part 215 and sections 21502, 21503,
21504, 21505, 21506a, 21508, 21509, 21510, 21515, 21516, 21518,
21519, 21521, 21523, 21524, 21525, 21526, 21527, 21528, 21531,
21546, and 21548 (MCL 324.21502, 324.21503, 324.21504, 324.21505,
324.21506a, 324.21508, 324.21509, 324.21510, 324.21515, 324.21516,
324.21518, 324.21519, 324.21521, 324.21523, 324.21524, 324.21525,
324.21526, 324.21527, 324.21528, 324.21531, 324.21546, and
324.21548), sections 21502, 21503, 21506a, 21510, and 21515 as
amended by 2012 PA 113, sections 21504, 21505, 21508, 21546, and
21548 as amended by 2004 PA 390, and section 21528 as amended by
2009 PA 98, and by adding sections 21506b, 21510a, 21510b, and
21510c; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 215

~~REFINED PETROLEUM FUND UNDERGROUND STORAGE TANK~~

CORRECTIVE ACTION FUNDING

Sec. 21502. As used in this part:

(a) "Administrator" means the ~~fund~~-administrator **OF THE AUTHORITY AS** provided for in section ~~21513-21525~~.

(B) "AFFILIATE" MEANS A PERSON THAT DIRECTLY, OR INDIRECTLY THROUGH 1 OR MORE INTERMEDIARIES, CONTROLS THE PERSON SPECIFIED.

(C) ~~(b)~~"Approved claim" means a claim that is approved pursuant to section 21515.

(D) ~~(c)~~"Authority" means the ~~Michigan~~-underground storage tank ~~financial assurance~~ authority created in section 21523.

(E) ~~(d)~~"Board of directors" **OR "BOARD"** means the board of directors of the authority.

(F) ~~(e)~~"Bond proceeds account" means the account ~~or~~ **WITHIN THE** fund to which proceeds of bonds or notes issued under this part have been credited.

(G) ~~(f)~~"Bonds or notes" means the bonds, notes, commercial paper, other obligations of indebtedness, or any combination of these, issued by the **FINANCE** authority pursuant to this part.

(H) "BULK TRANSFER" MEANS A TRANSFER OF REFINED PETROLEUM OR A REFINED PETROLEUM PRODUCT FROM, OR PURCHASE FOR RESALE BY, A REFINER, PIPELINE TERMINAL OPERATOR, SUPPLIER, OR MARINE TERMINAL OPERATOR TO OR FROM ANOTHER REFINER, PIPELINE TERMINAL OPERATOR, SUPPLIER, OR MARINE TERMINAL OPERATOR THROUGH PIPELINE TENDER OR MARINE DELIVERY, INCLUDING PIPELINE MOVEMENTS OF REFINED PETROLEUM

OR A REFINED PETROLEUM PRODUCT FROM 1 OR MORE MARINE VESSEL
 MOVEMENTS OF REFINED PETROLEUM OR A REFINED PETROLEUM PRODUCT.
 REFINED PETROLEUM OR A REFINED PETROLEUM PRODUCT IN A REFINERY,
 PIPELINE, TERMINAL, OR MARINE VESSEL TRANSPORTING REFINED PETROLEUM
 OR A REFINED PETROLEUM PRODUCT TO A REFINERY OR TERMINAL IS IN THE
 BULK TRANSFER TERMINAL SYSTEM. NOTWITHSTANDING ANYTHING TO THE
 CONTRARY IN THIS SUBDIVISION, REFINED PETROLEUM OR A REFINED
 PETROLEUM PRODUCT TRANSFERRED OR PURCHASED FOR RESALE BY A REFINER,
 PIPELINE TERMINAL OPERATOR, SUPPLIER, OR MARINE TERMINAL OPERATOR
 MUST BE DELIVERED TO OR OTHERWISE REMAIN WITHIN THE BULK TRANSFER
 TERMINAL SYSTEM PRIOR TO REMOVAL ACROSS THE RACK IN ORDER TO
 CONSTITUTE A BULK TRANSFER.

(I) "BULK TRANSFER TERMINAL SYSTEM" MEANS THE REFINED
 PETROLEUM OR REFINED PETROLEUM PRODUCT DISTRIBUTION SYSTEM
 CONSISTING OF REFINERIES, PIPELINES, MARINE VESSELS, AND TERMINALS
 AND INCLUDES REFINED PETROLEUM OR REFINED PETROLEUM PRODUCT STORAGE
 TANKS AND REFINED PETROLEUM OR REFINED PETROLEUM PRODUCT STORAGE
 FACILITIES THAT ARE PART OF A REFINERY, BOAT TERMINAL TRANSFER, OR
 TERMINAL OWNED, OPERATED, OR CONTROLLED BY A REFINER, MARINE
 TERMINAL OPERATOR, OR PIPELINE TERMINAL OPERATOR.

(J) ~~(g)~~—"Claim" means the submission by the owner or operator
 or his or her representative of documentation on an application
 requesting payment ~~from the fund.~~ **BY THE AUTHORITY.** A claim shall
 include, at a minimum, a completed and signed claim form and the
 name, address, telephone number, and federal tax identification
 number of the owner or operator.

~~—(h) "Class 1 site" means a site posing the highest degree of~~

~~threat to the public and environment as determined by the department, based on the classification system developed by the department pursuant to section 21314a.~~

~~—— (i) "Class 2 site" means a site posing the second highest degree of threat to the public and environment as determined by the department, based on the classification system developed by the department pursuant to section 21314a.~~

~~—— (j) "Co pay amount" means the co pay amount provided for in section 21514.~~

(K) "CLAIM LIMIT" MEANS \$1,000,000.00 FOR ALL CLAIMS OF OWNERS OR OPERATORS AND THEIR AFFILIATES DURING A CLAIM PERIOD FOR OWNERS AND OPERATORS OF 1 TO 100 REFINED PETROLEUM UNDERGROUND STORAGE TANKS OR \$2,000,000.00 FOR ALL CLAIMS OF OWNERS OR OPERATORS AND THEIR AFFILIATES DURING A CLAIM PERIOD FOR OWNERS OR OPERATORS OF MORE THAN 100 REFINED PETROLEUM UNDERGROUND STORAGE TANKS.

(I) "CLAIM PERIOD" MEANS A 1-YEAR PERIOD COMMENCING ON OCTOBER 1 OF EACH YEAR AND ENDING ON SEPTEMBER 30 THE FOLLOWING YEAR.

(M) "CONTROLS" MEANS THE POSSESSION OR THE CONTINGENT OR NONCONTINGENT RIGHT TO ACQUIRE POSSESSION, DIRECT OR INDIRECT, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF A PERSON, WHETHER THROUGH THE OWNERSHIP OF VOTING SECURITIES OR INTERESTS, BY CONTRACT, OTHER THAN A COMMERCIAL CONTRACT FOR GOODS OR NONMANAGEMENT SERVICES, BY PLEDGE OF SECURITIES, OR OTHERWISE, UNLESS THE POWER IS THE RESULT OF AN OFFICIAL POSITION WITH OR CORPORATE OFFICE HELD BY THE PERSON.

(N) ~~(k)~~ "Corrective action" means ~~the investigation, assessment, cleanup, removal, containment, isolation, treatment, or~~

~~monitoring of regulated substances released into the environment or the taking of such other actions as may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, the environment, or natural resources.~~ THAT TERM AS IT IS DEFINED IN SECTION 21302.

(O) "DEDUCTIBLE AMOUNT" MEANS THE AMOUNT OF CORRECTIVE ACTION COSTS OR INDEMNIFICATION COSTS THAT ARE REQUIRED TO BE PAID BY AN OWNER OR OPERATOR AS PROVIDED IN SECTION 21510A BEFORE THE OWNER OR OPERATOR IS ELIGIBLE TO SUBMIT A CLAIM UNDER THIS PART.

(P) ~~(I)~~ "Department" means the department of environmental quality.

(Q) ~~(m)~~ "Eligible person" means an owner or operator who meets the eligibility requirements ~~in section 21556 or 21557 and received approval of his or her precertification application by the department.~~ UNDER THIS PART TO SUBMIT A CLAIM.

(R) "EXCLUDED LIQUID" MEANS THAT TERM AS DEFINED IN 26 CFR 48.4081-1.

(S) "FINANCE AUTHORITY" MEANS THE MICHIGAN FINANCE AUTHORITY CREATED BY EXECUTIVE REORGANIZATION ORDER NO. 2010-2, MCL 12.194.

(T) ~~(n)~~ "Financial responsibility requirements" means the financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by a release from ~~an~~ **A REFINED PETROLEUM** underground storage tank system that the owner or operator of ~~an~~ **A REFINED PETROLEUM** underground storage tank system must demonstrate under part 211 and the rules promulgated under that part.

(U) ~~(o)~~ "Fund" means the ~~Michigan underground storage tank~~

~~financial assurance fund created in section 21506.~~ **UNDERGROUND
STORAGE TANK CLEANUP FUND CREATED IN SECTION 21506B AND INCLUDES
THE BOND PROCEEDS ACCOUNT ESTABLISHED WITHIN THE FUND.**

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

(V) ~~(q)~~ "Indemnification" means indemnification of an owner or
operator for a legally enforceable judgment entered against the
owner or operator by a third party, or a legally enforceable
settlement entered between the owner or operator and a third party,
compensating that third party for bodily injury or property damage,
or both, caused by an accidental release as those terms are defined
in R 29.2163 of the Michigan administrative code.

(W) ~~(r)~~ "Location" means a ~~facility or~~ parcel of property
where **REFINED** petroleum underground storage tank systems are
registered pursuant to part 211.

**(X) "MARINE TERMINAL OPERATOR" MEANS A PERSON THAT STORES
REFINED PETROLEUM OR A REFINED PETROLEUM PRODUCT AT A BOAT TERMINAL
TRANSFER.**

(Y) ~~(s)~~ "Operator" means ~~a person who was, at the time of
discovery of a release, in control of or responsible for the
operation of a petroleum underground storage tank system~~ **THAT TERM
AS IT IS DEFINED IN SECTION 21303** or a person to whom an approved
claim has been assigned or transferred.

(Z) ~~(t)~~ "Owner" means ~~a person, other than a regulated~~

~~financial institution, who, at the time of discovery of a release, held a legal, equitable, or possessory interest of any kind in an underground storage tank system or in the property on which an underground storage tank system is located, including, but not limited to, a trust, vendor, vendee, lessor, or lessee. Owner includes a person to whom an approved claim is assigned or transferred. Owner does not include a person or a regulated financial institution who, without participating in the management of an underground storage tank system and without being otherwise engaged in petroleum production, refining, or marketing relating to the underground storage tank system, is acting in a fiduciary capacity or who holds indicia of ownership primarily to protect the person's or the regulated financial institution's security interest in the underground storage tank system or the property on which it is located. This exclusion does not apply to a grantor, beneficiary, remainderman, or other person who could directly or indirectly benefit financially from the exclusion other than by the receipt of payment for fees and expenses related to the administration of a trust.~~ **THAT TERM AS IT IS DEFINED IN SECTION 21303.**

(AA) ~~(u)~~ "Oxygenate" means an organic compound containing oxygen and having properties as a fuel that are compatible with petroleum, including, but not limited to, ethanol, methanol, or methyl tertiary butyl ether (MTBE).

Sec. 21503. As used in this part:

~~(a) "Payment voucher" means a form prepared by the department that specifies payment authorization by the department to the~~

~~department of treasury.~~

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

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

~~—— (d) "Precertification application" means the application submitted by an owner or operator seeking the department's eligibility determination for reimbursement for the costs of corrective action from the temporary reimbursement program.~~

(A) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

(B) "PIPELINE TERMINAL OPERATOR" MEANS A PERSON THAT RECEIVES AND STORES REFINED PETROLEUM OR A REFINED PETROLEUM PRODUCT IN TANKS AND OTHER EQUIPMENT USED IN RECEIVING AND STORING REFINED PETROLEUM OR A REFINED PETROLEUM PRODUCT FROM INTERSTATE AND INTRASTATE PIPELINES, PENDING WHOLESALE BULK RESHIPMENT.

(C) "QUALIFYING EXPENDITURES" MEANS AN EXPENDITURE FOR A SPECIFIC ACTIVITY THAT DOES NOT EXCEED THE ALLOWABLE PAYMENT FOR THAT ACTIVITY AS DETAILED ON THE SCHEDULE OF COSTS.

(D) "RACK" MEANS A MECHANISM FOR DELIVERING REFINED PETROLEUM OR A REFINED PETROLEUM PRODUCT FROM A REFINER, A PIPELINE TERMINAL OPERATOR, OR A MARINE TERMINAL OPERATOR INTO A RAILROAD TANK CAR, A TRANSPORT TRUCK, A TANK WAGON, OR THE FUEL SUPPLY TANK OF A MARINE VESSEL.

(E) ~~(e)~~ "Refined petroleum" means aviation gasoline, middle distillates, jet fuel, kerosene, gasoline, residual oils, and any

1 oxygenates that have been blended with any of these. **REFINED**
2 **PETROLEUM INCLUDES REFINED PETROLEUM PRODUCTS AND TRANSMIX. REFINED**
3 **PETROLEUM DOES NOT INCLUDE EXCLUDED LIQUIDS.**

4 (F) ~~(f)~~—"Refined petroleum fund" means the refined petroleum
5 fund established under section 21506a.

6 ~~—(g) "Refined petroleum product cleanup initial program" means~~
7 ~~the program established in section 21553.~~

8 ~~—(h) "Refined petroleum product cleanup program" means the~~
9 ~~refined petroleum product cleanup program established by law.~~

10 (G) **"REFINED PETROLEUM UNDERGROUND STORAGE TANK" MEANS AN**
11 **UNDERGROUND STORAGE TANK SYSTEM USED FOR THE STORAGE OF REFINED**
12 **PETROLEUM.**

13 (H) **"REFINER" MEANS A PERSON THAT MEETS BOTH OF THE FOLLOWING:**

14 (i) **MANUFACTURES OR PRODUCES REFINED PETROLEUM OR A REFINED**
15 **PETROLEUM PRODUCT AT A REFINERY.**

16 (ii) **IS A TAXABLE FUEL REGISTRANT THAT IS A REFINER FOR**
17 **PURPOSES OF 26 CFR 48.4081-1.**

18 (I) **"REFINERY" MEANS A FACILITY USED BY A REFINER TO PRODUCE**
19 **REFINED PETROLEUM OR A REFINED PETROLEUM PRODUCT FROM CRUDE OIL,**
20 **UNFINISHED OILS, NATURAL GAS LIQUIDS, OR OTHER HYDROCARBONS BY ANY**
21 **PROCESS INVOLVING SUBSTANTIALLY MORE THAN THE BLENDING OF REFINED**
22 **PETROLEUM AND FROM WHICH REFINED PETROLEUM OR A REFINED PETROLEUM**
23 **PRODUCT MAY BE REMOVED BY PIPELINE OR MARINE VESSEL OR AT A RACK.**

24 (J) ~~(i)~~—"Regulated financial institution" means a state or
25 nationally chartered bank, savings and loan association or savings
26 bank, credit union, or other state or federally chartered lending
27 institution or a regulated affiliate or regulated subsidiary of any

1 of these entities.

2 (K) ~~(j)~~ "Regulatory fee" means the environmental protection
3 regulatory fee imposed under section 21508.

4 (I) ~~(k)~~ "Release" means ~~any spilling, leaking, emitting,~~
5 ~~discharging, escaping, or leaching from a petroleum underground~~
6 ~~storage tank system into groundwater, surface water, or subsurface~~
7 ~~soils.~~ THAT TERM AS IT IS DEFINED IN SECTION 21303.

8 (M) "REMOVAL" OR "REMOVED" MEANS A PHYSICAL TRANSFER OTHER
9 THAN BY EVAPORATION, LOSS, OR DESTRUCTION OF REFINED PETROLEUM OR A
10 REFINED PETROLEUM PRODUCT FROM A REFINER, PIPELINE TERMINAL
11 OPERATOR, OR MARINE TERMINAL OPERATOR.

12 (N) "SCHEDULE OF COSTS" MEANS THE LIST OF ALLOWABLE
13 REIMBURSEMENT AMOUNTS THAT MAY BE PAID ON A CLAIM, AS ESTABLISHED
14 IN SECTION 21510B.

15 (O) ~~(l)~~ "Site" means ~~a location where a release has occurred or~~
16 ~~a threat of a release exists from an underground storage tank~~
17 ~~system, excluding any location where corrective action was~~
18 ~~completed which satisfies the cleanup criteria for unrestricted~~
19 ~~residential use under part 213.~~ THAT TERM AS IT IS DEFINED IN
20 SECTION 21303.

21 ~~—— (m) "Temporary reimbursement program" means the program~~
22 ~~established in section 21554.~~

23 (P) "SUPPLIER" MEANS A SUPPLIER OR PERMISSIVE SUPPLIER
24 LICENSED UNDER THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1001 TO
25 207.1170.

26 (Q) "TANK WAGON" MEANS A STRAIGHT TRUCK HAVING 1 OR MORE
27 COMPARTMENTS OTHER THAN THE FUEL SUPPLY TANK DESIGNED OR USED TO

1 CARRY FUEL.

2 (R) "TERMINAL" MEANS A REFINED PETROLEUM OR REFINED PETROLEUM
3 PRODUCTS STORAGE AND DISTRIBUTION FACILITY THAT MEETS ALL OF THE
4 FOLLOWING REQUIREMENTS:

5 (i) IS REGISTERED AS A QUALIFIED TERMINAL BY THE INTERNAL
6 REVENUE SERVICE.

7 (ii) IS SUPPLIED BY A PIPELINE OR A MARINE VESSEL.

8 (iii) HAS A RACK FROM WHICH REFINED PETROLEUM OR REFINED
9 PETROLEUM PRODUCTS MAY BE REMOVED.

10 (S) "TRANSMIX" MEANS THE MIXED PRODUCT THAT RESULTS FROM THE
11 BUFFER OR INTERFACE OF 2 DIFFERENT PRODUCTS IN A PIPELINE SHIPMENT,
12 OR A MIXTURE OF 2 DIFFERENT PRODUCTS WITHIN A REFINERY OR TERMINAL
13 THAT RESULTS IN AN OFF-GRADE MIXTURE.

14 (T) "TRANSPORT TRUCK" MEANS A SEMITRAILER COMBINATION RIG
15 DESIGNED OR USED FOR THE PURPOSE OF TRANSPORTING REFINED PETROLEUM
16 OR A REFINED PETROLEUM PRODUCT OVER THE PUBLIC ROADS OR HIGHWAYS.

17 (U) "2-PARTY EXCHANGE" MEANS A TRANSACTION, INCLUDING A BOOK
18 TRANSFER, IN WHICH REFINED PETROLEUM OR A REFINED PETROLEUM PRODUCT
19 IS TRANSFERRED FROM 1 SUPPLIER TO ANOTHER SUPPLIER AND TO WHICH ALL
20 OF THE FOLLOWING APPLY:

21 (i) THE TRANSACTION INCLUDES A TRANSFER OF REFINED PETROLEUM OR
22 A REFINED PETROLEUM PRODUCT FROM THE PERSON THAT HOLDS THE ORIGINAL
23 INVENTORY POSITION FOR THE REFINED PETROLEUM OR REFINED PETROLEUM
24 PRODUCT IN STORAGE TANKS AS REFLECTED IN THE RECORDS OF THE
25 REFINER, PIPELINE TERMINAL OPERATOR, OR MARINE TERMINAL OPERATOR.

26 (ii) THE EXCHANGE TRANSACTION IS COMPLETED BEFORE REMOVAL
27 ACROSS THE RACK BY THE RECEIVING SUPPLIER.

(iii) THE REFINER, PIPELINE TERMINAL OPERATOR, OR MARINE
 TERMINAL OPERATOR IN ITS BOOKS AND RECORDS TREATS THE RECEIVING
 EXCHANGE PARTY AS THE SUPPLIER THAT REMOVES THE REFINED PETROLEUM
 OR REFINED PETROLEUM PRODUCT ACROSS A RACK FOR PURPOSES OF
 REPORTING THE TRANSACTION TO THE DEPARTMENT UNDER THE MOTOR FUEL
 TAX ACT, 2000 PA 403, MCL 207.1001 TO 207.1170.

(V) ~~(n) "Underground storage tank system" means an existing
 tank or combination of tanks, including underground pipes connected
 to the tank or tanks, which is or was used to contain an
 accumulation of regulated substances, and is not currently being
 used for any other purpose, and the volume of which, including the
 volume of the underground pipes connected to the tank or tanks, is
 10% or more beneath the surface of the ground. An underground
 storage tank system includes an underground storage tank that is
 properly closed in place pursuant to part 211 and rules promulgated
 under that part. An underground storage tank system does not
 include any of the following.~~ THAT TERM AS IT IS DEFINED IN SECTION
 21303.

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

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

~~—— (iii) A septic tank.~~

~~—— (iv) A pipeline facility, including gathering lines regulated
 under 49 USC 60101 to 60137.~~

~~—— (v) A surface impoundment, pit, pond, or lagoon.~~

~~—— (vi) A storm water or wastewater collection system.~~

- 1 ~~—— (vii) A flow through process tank.~~
- 2 ~~—— (viii) A liquid trap or associated gathering lines directly~~
3 ~~related to oil or gas production and gathering operations.~~
- 4 ~~—— (ix) A storage tank situated in an underground area such as a~~
5 ~~basement, cellar, mineworking, drift, shaft, or tunnel if the~~
6 ~~storage tank is situated upon or above the surface of the floor.~~
- 7 ~~—— (x) Any pipes connected to a tank described in subparagraphs~~
8 ~~(i) to (ix).~~
- 9 ~~—— (xi) An underground storage tank system holding hazardous~~
10 ~~wastes listed or identified under 42 USC 6921 to 6939f, or a~~
11 ~~mixture of such hazardous waste and other regulated substances.~~
- 12 ~~—— (xii) A wastewater treatment tank system that is part of a~~
13 ~~wastewater treatment facility regulated under 33 USC 1317(b) or 33~~
14 ~~USC 1342.~~
- 15 ~~—— (xiii) Equipment or machinery that contains regulated substances~~
16 ~~for operational purposes such as hydraulic lift tanks and~~
17 ~~electrical equipment tanks.~~
- 18 ~~—— (xiv) An underground storage tank system with a capacity of 110~~
19 ~~gallons or less.~~
- 20 ~~—— (xv) An underground storage tank system that contains a de~~
21 ~~minimis concentration of regulated substances.~~
- 22 ~~—— (xvi) An emergency spill or overflow containment underground~~
23 ~~storage tank system that is expeditiously emptied after use.~~
- 24 ~~—— (xvii) A wastewater treatment tank system.~~
- 25 ~~—— (xviii) An underground storage tank system containing~~
26 ~~radioactive material that is regulated under the atomic energy act~~
27 ~~of 1954, 42 USC 2011 to 2297h-13.~~

1 ~~—— (xix) An underground storage tank system that is part of an~~
2 ~~emergency generator system at nuclear power generation facilities~~
3 ~~regulated by the nuclear regulatory commission under 10 CFR part~~
4 ~~50.~~

5 ~~—— (xx) Airport hydrant fuel distribution systems.~~

6 ~~—— (xxi) Underground storage tank systems with field constructed~~
7 ~~tanks.~~

8 ~~—— (o) "Work invoice" means an original billing acceptable to the~~
9 ~~administrator and signed by the owner or operator that includes all~~
10 ~~of the following:~~

11 ~~—— (i) The name, address, and federal tax identification number of~~
12 ~~each contractor who performed work.~~

13 ~~—— (ii) The name and social security number of each employee who~~
14 ~~performed work.~~

15 ~~—— (iii) A specific itemized list of the work performed by each~~
16 ~~contractor and an itemized list of the cost of each of these items.~~

17 ~~—— (iv) A statement that the owner or operator employed a~~
18 ~~documented sealed competitive bidding process for any contract~~
19 ~~award exceeding \$5,000.00.~~

20 ~~—— (v) If the owner or operator did not accept the lowest~~
21 ~~responsive bid received, a specific reason why the lowest~~
22 ~~responsive bid was not accepted.~~

23 ~~—— (vi) Upon request of the administrator, a list of all bids~~
24 ~~received.~~

25 ~~—— (vii) Proof of payment of the co pay amount as required under~~
26 ~~section 21514.~~

27 Sec. 21504. The objectives of this part are to **FUND CORRECTIVE**

1 ~~ACTIONS TO address certain problems associated with releases from~~
 2 ~~REFINED petroleum underground storage tank systems, to promote~~
 3 ~~compliance with parts 211 and 213, and to fund environmental and~~
 4 ~~consumer protection programs necessary to protect public health,~~
 5 ~~safety, or welfare or the environment due to the sale, use, or~~
 6 ~~release of refined petroleum products.~~ **TO ASSIST OWNERS AND**
 7 **OPERATORS OF REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS IN**
 8 **MEETING THEIR FINANCIAL RESPONSIBILITY REQUIREMENTS PURSUANT TO**
 9 **PART 211, AND TO ACHIEVE COMPLIANCE WITH PART 213.**

10 Sec. 21505. The legislature finds that releases from
 11 underground storage tanks are a significant cause of contamination
 12 of the natural resources, water resources, and groundwater in this
 13 state. ~~It is hereby declared to be the~~ **THE** purpose of this part and
 14 of the authority created by this part **IS** to preserve and protect
 15 the water resources of the state and to prevent, abate, or control
 16 the pollution of water resources and groundwater, to protect and
 17 preserve the public health, safety, and welfare, **AND** to assist in
 18 the financing of ~~repair and replacement of petroleum underground~~
 19 ~~storage tanks and to improve property damaged by any petroleum~~
 20 **CORRECTIVE ACTIONS DUE TO** releases from ~~those tanks, to preserve~~
 21 ~~jobs and employment opportunities or improve the economic welfare~~
 22 ~~of the people of the state, and to fund environmental and consumer~~
 23 ~~protection programs necessary to protect public health, safety, or~~
 24 ~~welfare or the environment due to the sale, use, or release of~~
 25 ~~refined petroleum products.~~ **REFINED PETROLEUM UNDERGROUND STORAGE**
 26 **TANK SYSTEMS.**

27 Sec. 21506a. (1) The refined petroleum fund is created within

1 the state treasury.

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

7 (3) Money in the refined petroleum fund at the close of the
8 fiscal year shall remain in the refined petroleum fund and shall
9 not lapse to the general fund.

10 (4) Money from the refined petroleum fund shall be expended,
11 upon appropriation, only for 1 or more of the following purposes:

12 ~~—— (a) For gasoline inspection programs under both of the~~
13 ~~following:~~

14 ~~—— (i) The weights and measures act, 1964 PA 283, MCL 290.601 to~~
15 ~~290.634.~~

16 ~~—— (ii) The motor fuels quality act, 1984 PA 44, MCL 290.641 to~~
17 ~~290.650d.~~

18 ~~—— (b) For the refined petroleum product cleanup initial program~~
19 ~~and for the department's administrative costs associated with the~~
20 ~~temporary reimbursement program.~~

21 ~~—— (c) For implementation of the temporary reimbursement program.~~

22 ~~—— (d) For corrective actions necessary to address releases of~~
23 ~~refined petroleum products under a refined petroleum product~~
24 ~~cleanup program established by law.~~

25 ~~—— (e) For the reasonable administrative costs of the department,~~
26 ~~the department of agriculture, the department of attorney general,~~
27 ~~and the department of treasury in administering the refined~~

~~petroleum fund and in implementing the programs receiving revenue from the refined petroleum fund.~~

~~—— (5) The department shall establish an underground storage tank system cleanup advisory board consisting of owners and operators of underground storage tank systems and other persons with knowledge and expertise in corrective actions associated with releases from underground storage tank systems and the financing of those corrective actions. Not later than March 1, 2013, the underground storage tank system cleanup advisory board shall submit a report to the department and the legislature that recommends a cleanup program, funded with money from the fund, that would assist owners and operators in financing corrective actions required under part 213.~~

~~—— (6) Not later than March 1, 2013, the auditor general shall conduct a financial audit of expenditures from the refined petroleum fund during the time period beginning October 12, 2004 through the effective date of the amendatory act that added this subsection.~~

(A) CORRECTIVE ACTIONS PERFORMED BY THE DEPARTMENT PURSUANT TO SECTION 21320.

(B) THE REASONABLE COSTS OF THE DEPARTMENT IN ADMINISTERING THE REFINED PETROLEUM FUND AND IMPLEMENTING PART 213.

(C) UNTIL DECEMBER 31, 2016, FOR GASOLINE INSPECTION PROGRAMS UNDER BOTH OF THE FOLLOWING:

(i) THE WEIGHTS AND MEASURES ACT, 1964 PA 283, MCL 290.601 TO 290.635.

(ii) THE MOTOR FUELS QUALITY ACT, 1984 PA 44, MCL 290.641 TO

1 290.650D.

2 (D) OTHER PURPOSES AS DETERMINED BY THE LEGISLATURE.

3 SEC. 21506B. (1) THE UNDERGROUND STORAGE TANK CLEANUP FUND IS
4 CREATED WITHIN THE STATE TREASURY. THE STATE TREASURER SHALL
5 ESTABLISH A BOND PROCEEDS ACCOUNT WITHIN THE FUND AND MAY ESTABLISH
6 PROCEDURES FOR ACCOUNTING FOR DEPOSITS AND EXPENDITURES FROM THE
7 BOND PROCEEDS ACCOUNT.

8 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
9 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL
10 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT
11 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

12 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
13 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

14 (4) THE AUTHORITY SHALL BE THE ADMINISTRATOR OF THE FUND FOR
15 AUDITING PURPOSES.

16 (5) THE AUTHORITY AND THE FINANCE AUTHORITY SHALL EXPEND MONEY
17 FROM THE FUND, UPON APPROPRIATION, ONLY FOR THE FOLLOWING PURPOSES:

18 (A) AS A FIRST PRIORITY, TO PAY PRINCIPAL AND INTEREST DUE ON
19 BONDS OR NOTES ISSUED BY THE FINANCE AUTHORITY PURSUANT TO THIS
20 PART, PLUS ANY AMOUNT NECESSARY TO MAINTAIN A FULLY FUNDED DEBT
21 RESERVE OR OTHER RESERVE INTENDED TO SECURE THE PRINCIPAL AND
22 INTEREST ON THE BONDS OR NOTES AS MAY BE REQUIRED BY RESOLUTION,
23 INDENTURE, OR OTHER AGREEMENT OF THE FINANCE AUTHORITY.

24 (B) FOR THE REASONABLE ADMINISTRATIVE COST OF IMPLEMENTING
25 THIS PART INCURRED BY THE DEPARTMENT, THE DEPARTMENT OF TREASURY,
26 THE DEPARTMENT OF ATTORNEY GENERAL, AND THE FINANCE AUTHORITY.
27 ADMINISTRATIVE COSTS INCLUDE THE ACTUAL AND NECESSARY EXPENSES

1 INCURRED BY THE FINANCE AUTHORITY AND ITS MEMBERS IN CARRYING OUT
2 THE DUTIES IMPOSED BY THIS PART. TOTAL ADMINISTRATIVE COSTS
3 EXPENDED UNDER THIS SUBDIVISION SHALL NOT EXCEED 7% OF THE FUND'S
4 PROJECTED REVENUES IN ANY YEAR. COSTS INCURRED BY THE FINANCE
5 AUTHORITY FOR THE ISSUANCE OF BONDS OR NOTES WHICH MAY ALSO BE
6 PAYABLE FROM THE PROCEEDS OF THE BONDS OR NOTES SHALL NOT BE
7 CONSIDERED ADMINISTRATIVE COSTS.

8 (C) TO PAY APPROVED CLAIMS AS PROVIDED FOR IN THIS PART.

9 Sec. 21508. (1) An environmental protection regulatory fee is
10 imposed on all refined petroleum products sold for resale in this
11 state or consumption in this state. The regulatory fee shall be
12 charged for capacity utilization of **REFINED PETROLEUM** underground
13 storage tanks measured on a per gallon basis. The regulatory fee
14 shall be charged against all refined petroleum products sold for
15 resale in this state or consumption in this state so as to not
16 exclude any products that may be stored in ~~an~~-**A REFINED PETROLEUM**
17 underground tank at any point after the petroleum is refined. The
18 regulatory fee shall be 7/8 cent per gallon for each gallon of
19 refined petroleum sold for resale in this state or consumption in
20 this state, with the per gallon charge being a direct measure of
21 capacity utilization of ~~an~~-**A REFINED** underground storage tank
22 system. **BEGINNING JANUARY 1, 2015, THE REGULATORY FEE SHALL NOT BE**
23 **IMPOSED ON A BULK TRANSFER OF OR A 2-PARTY EXCHANGE INVOLVING**
24 **REFINED PETROLEUM OR REFINED PETROLEUM PRODUCTS.**

25 (2) The department of treasury shall precollect regulatory
26 fees from persons who refine petroleum in this state for resale in
27 this state or consumption in this state and persons who import

1 refined petroleum into this state for resale in this state or
 2 consumption in this state. The department of treasury shall collect
 3 regulatory fees that can be collected at the same time as the sales
 4 tax under section 6a of the general sales tax act, 1933 PA 167, MCL
 5 205.56a. ~~, at that time.~~ The remainder of the regulatory fees shall
 6 be collected in the manner determined by the state treasurer.

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

11 (4) Beginning on the effective date of the ~~2004~~**2014**
 12 amendatory act that amended this section, all regulatory fees
 13 collected pursuant to this part **DURING EACH STATE FISCAL YEAR** shall
 14 be deposited **AS FOLLOWS:**

15 (A) **THE FIRST \$20,000,000.00 THAT IS COLLECTED SHALL BE**
 16 **DEPOSITED INTO THE FUND.**

17 (B) **FOLLOWING THE DEPOSIT UNDER SUBDIVISION (A), ALL MONEY**
 18 **COLLECTED SHALL BE DEPOSITED** into the refined petroleum fund.
 19 ~~created in section 21506a.~~

20 ~~— (5) Consistent with the March 31, 1995 determination by the~~
 21 ~~state treasurer that revenue will not be sufficient to pay expected~~
 22 ~~expenditures, and consistent with the April 3, 1995 notice of the~~
 23 ~~fund administrator pursuant to subsection (6), funding is no longer~~
 24 ~~available under this part for new claims, work invoices, and~~
 25 ~~requests for indemnification received after 5 p.m. on June 29,~~
 26 ~~1995. Claims, work invoices, and requests for indemnification~~
 27 ~~received after 5 p.m. on June 29, 1995 are not eligible for funding~~

1 ~~under this part. Work invoices and requests for indemnification~~
2 ~~received prior to 5 p.m. on June 29, 1995 may be paid to the extent~~
3 ~~money is available in the fund as provided in this part.~~

4 ~~—— (6) If the state treasurer determines that fund revenues will~~
5 ~~not be sufficient to pay expected expenditures from the fund, the~~
6 ~~state treasurer shall notify the administrator, and 90 days after~~
7 ~~this notification has been given the administrator shall not accept~~
8 ~~any new work invoices or requests for indemnification. Upon~~
9 ~~receiving this notification from the state treasurer, the~~
10 ~~administrator shall notify by certified mail the owners and~~
11 ~~operators of petroleum underground storage tank systems registered~~
12 ~~under part 211 that funding under this part will no longer be~~
13 ~~available for new claims after the 90 day period has expired.~~
14 ~~However, work invoices and requests for indemnification that were~~
15 ~~submitted to the administrator prior to or during this 90 day~~
16 ~~period may be paid to the extent money is available in the fund as~~
17 ~~provided in this part.~~

18 (5) ~~(7)~~—The department of treasury may audit, enforce,
19 collect, and assess the fee imposed by this part in the same manner
20 and subject to the same requirements as revenues collected pursuant
21 to 1941 PA 122, MCL 205.1 to 205.31.

22 Sec. 21509. (1) Notwithstanding any other provision in this
23 part, regulatory fees shall be calculated and paid upon gross or
24 metered gallons with respect to all "light" petroleum products.
25 With respect only to "heavy" petroleum products (No. 4, No. 5, No.
26 6 residual oils), regulatory fees shall be calculated and paid upon
27 net or temperature-corrected gallons.

(2) Notwithstanding any other provision in this part, **UNTIL JANUARY 1, 2015**, if a person receives refined petroleum products in this state for resale in this state or consumption in this state pursuant to a product exchange agreement, the department of treasury shall collect the regulatory fees from that person. As used in this subsection, "product exchange agreement" means an agreement between buyers and sellers of refined petroleum products in which refined petroleum products in bulk quantity are made available to a person solely in consideration of that person making available a like volume of refined petroleum products to the other party at some other location.

Sec. 21510. (1) ~~Except as provided in section 21521, an~~ **AN** owner or operator is eligible to receive money from the ~~fund or bond proceeds account~~ **AUTHORITY** for corrective action or indemnification **DUE TO A RELEASE FROM A REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEM** only if all of the following requirements are satisfied and the owner or operator otherwise complies with this part:

(a) The release from which the corrective action or indemnification arose was discovered and reported on or after ~~July 18, 1989.~~ **THE EFFECTIVE DATE OF THE 2014 AMENDATORY ACT THAT AMENDED THIS SECTION.**

(b) The **REFINED** petroleum underground storage tank from which the release occurred was, at the time of discovery of the release, and is presently, in compliance with the registration and fee requirements of part 211 and the rules promulgated under that part.

(c) The owner or operator reported the release within 24 hours

1 after its discovery as required by part 211 and the rules
2 promulgated under that part.

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

4 ~~— (e) The work invoice or request for indemnification is~~
5 ~~submitted to the administrator pursuant to this part and the rules~~
6 ~~promulgated under this part on or before 5 p.m., June 29, 1995.~~

7 (E) ~~(f)~~ The claim is not for a release from an **A REFINED**
8 **PETROLEUM** underground storage tank closed prior to January 1, 1974,
9 in compliance with the fire prevention code, 1941 PA 207, MCL 29.1
10 to 29.33, and the rules promulgated under that act.

11 (F) **THE OWNER OR OPERATOR HAS MAINTAINED FINANCIAL**
12 **RESPONSIBILITY REQUIREMENTS FOR THE DEDUCTIBLE AMOUNT.**

13 (G) **THE OWNER OR OPERATOR HAS PAID THE DEDUCTIBLE AMOUNT.**

14 (H) **THE OWNER OR OPERATOR IS OTHERWISE ELIGIBLE TO RECEIVE**
15 **MONEY FROM THE AUTHORITY UNDER THIS PART.**

16 (I) **THE TOTAL AMOUNT OF EXPENDITURES, INCLUDING THE DEDUCTIBLE**
17 **AMOUNT, DOES NOT EXCEED THE CLAIM LIMIT.**

18 (2) The owner or operator may receive money from the ~~fund or~~
19 ~~bond proceeds account~~ **AUTHORITY** for corrective action or
20 indemnification due to a release that originates from an
21 aboveground piping and dispensing portion of a **REFINED** petroleum
22 underground storage tank system if all of the following
23 requirements are satisfied:

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

26 (b) The release is sudden and immediate.

27 (c) The release is of a quantity exceeding 25 gallons and is

1 released into groundwater, surface water, or soils.

2 (d) The **OWNER OR OPERATOR REPORTED THE** release ~~is reported to~~
3 ~~the department of natural resources, underground storage tank~~
4 ~~division~~ **TO THE DEPARTMENT** within 24 hours ~~of~~ **AFTER ITS** discovery.
5 ~~of the release.~~

6 (3) Either the owner or the operator may receive money from
7 the ~~fund or bond proceeds account~~ **AUTHORITY** under this part for an
8 occurrence, but not both.

9 (4) An owner or operator ~~who~~ **THAT** is a public utility with
10 more than 500,000 customers in this state is ineligible to receive
11 money from the ~~fund or bond proceeds account~~ **AUTHORITY** for
12 corrective action or indemnification associated with a release from
13 a **REFINED** petroleum underground storage tank system used to supply
14 **REFINED** petroleum for the generation of steam electricity.

15 (5) If an owner or operator has received money from the ~~fund~~
16 ~~or bond proceeds account~~ **AUTHORITY** under this part for a release at
17 a location, the owner and operator are not eligible to receive
18 money from the ~~fund or bond proceeds account~~ **AUTHORITY** for a
19 subsequent release at the same location unless the owner or
20 operator has done either or both of the following:

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

25 (b) Upgraded, replaced, removed, or properly closed in place
26 all **REFINED PETROLEUM** underground storage tank systems at the
27 location of the release so as to meet the requirements of part 211

1 and the rules promulgated under that part.

2 (6) An owner or operator who discovers a subsequent release at
3 the same location as an initial release pursuant to subsection
4 (5)(a) may receive money from the ~~fund or bond proceeds account~~
5 **AUTHORITY** to perform corrective action on the subsequent release,
6 if the owner or operator otherwise complies with the requirements
7 of this part and the rules promulgated under this part. However,
8 the subsequent release shall be considered as part of the claim for
9 the initial release for purposes of determining the total amount of
10 expenditures for corrective action and indemnification under
11 ~~section 21512.~~**SUBSECTION (1)(I).**

12 (7) An owner or operator who discovers a subsequent release at
13 the same location as an initial release following compliance with
14 subsection (5)(b) may receive money from the ~~fund or bond proceeds~~
15 ~~account~~**AUTHORITY** to perform corrective action on the subsequent
16 release, if there have been not more than 2 releases at the
17 location, ~~if the owner or operator pays the subsequent release co-~~
18 ~~pay amount pursuant to section 21514,~~ and if the owner or operator
19 otherwise complies with the requirements of this part and the rules
20 promulgated under this part. The subsequent release shall be
21 considered a separate claim for purposes of determining the total
22 amount of expenditures for corrective action and indemnification
23 under ~~section 21512.~~**SUBSECTION (1)(I).**

24 (8) **AN OWNER OR OPERATOR MAY SUBMIT TO THE AUTHORITY A REQUEST**
25 **FOR A DETERMINATION THAT THE OWNER OR OPERATOR WOULD BE ELIGIBLE**
26 **FOR FUNDING UNDER THIS PART IN THE EVENT OF A RELEASE FROM A**
27 **REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEM. UPON RECEIPT OF**

1 A REQUEST UNDER THIS SUBSECTION, THE AUTHORITY SHALL MAKE A
2 DETERMINATION AND PROVIDE NOTICE OF THAT DETERMINATION, IN WRITING,
3 TO THE OWNER OR OPERATOR. THE NOTICE MAY CONTAIN CONDITIONS FOR
4 MAINTENANCE OF THAT ELIGIBILITY.

5 SEC. 21510A. (1) PRIOR TO SUBMITTING A CLAIM UNDER THIS PART,
6 AN OWNER OR OPERATOR IS RESPONSIBLE FOR A DEDUCTIBLE AMOUNT AS
7 FOLLOWS:

8 (A) SUBJECT TO SUBDIVISION (B), \$50,000.00 PER CLAIM.

9 (B) IF THE OWNER OR OPERATOR OR ITS AFFILIATE OWNS OR OPERATES
10 FEWER THAN 8 REFINED PETROLEUM UNDERGROUND STORAGE TANKS AND PAYS
11 THE AUTHORITY AN ANNUAL FEE OF \$500.00 PER REFINED PETROLEUM
12 UNDERGROUND STORAGE TANK, \$15,000.00 PER CLAIM. FOR PURPOSES OF
13 THIS SUBDIVISION, EACH COMPARTMENT OF A MULTIPLE COMPARTMENT
14 REFINED PETROLEUM UNDERGROUND STORAGE TANK IS CONSIDERED A REFINED
15 PETROLEUM UNDERGROUND STORAGE TANK FOR PURPOSES OF CALCULATING THE
16 ANNUAL FEE.

17 (2) THE DUE DATE FOR THE ANNUAL FEE PAID PURSUANT TO
18 SUBSECTION (1) (B) SHALL BE SET BY THE AUTHORITY.

19 (3) THE DEDUCTIBLE AMOUNT APPLIES TO EACH CLAIM. HOWEVER, 2 OR
20 MORE CLAIMS ARISING OUT OF THE SAME, INTERRELATED, ASSOCIATED,
21 REPEATED, OR CONTINUOUS RELEASES OR A SERIES OF RELATED RELEASES
22 SHALL BE CONSIDERED A SINGLE CLAIM AND BE SUBJECT TO 1 CLAIM LIMIT
23 AND 1 DEDUCTIBLE AMOUNT. ANY CLAIM WHICH TAKES PLACE OVER 2 OR MORE
24 CLAIM PERIODS SHALL BE SUBJECT TO 1 CLAIM LIMIT AND 1 DEDUCTIBLE
25 AMOUNT.

26 (4) AN OWNER OR OPERATOR THAT SUBMITS A CLAIM UNDER SECTION
27 21515 SHALL INCLUDE WORK INVOICES OR OTHER EVIDENCE THAT THE

1 DEDUCTIBLE AMOUNT DESCRIBED IN SUBSECTION (1) HAS BEEN MET. THE
2 EXPENSES TOWARD MEETING THE DEDUCTIBLE AMOUNT SHALL BE DOCUMENTED
3 AND SHALL COMPLY WITH THE FOLLOWING:

4 (A) EXPENSES FOR ITEMS LISTED IN THE SCHEDULE OF COSTS SHALL
5 BE AT OR BELOW THE ALLOWABLE REIMBURSEMENT AMOUNT LISTED IN THE
6 SCHEDULE OF COSTS.

7 (B) EXPENSES FOR ITEMS THAT ARE NOT LISTED IN THE SCHEDULE OF
8 COSTS SHALL BE REASONABLE AND NECESSARY CONSIDERING CONDITIONS AT
9 THE SITE BASED UPON A COMPETITIVE BIDDING PROCESS ESTABLISHED BY
10 THE AUTHORITY.

11 SEC. 21510B. (1) THE AUTHORITY SHALL ESTABLISH A SCHEDULE OF
12 COSTS THAT ITEMIZES CORRECTIVE ACTIONS THAT ARE GENERALLY CONDUCTED
13 AT A SITE AND LISTS AN ALLOWABLE REIMBURSEMENT AMOUNT THAT MAY BE
14 PAID FOR EACH CORRECTIVE ACTION AS PART OF A CLAIM UNDER THIS PART.
15 IF THE AUTHORITY DETERMINES THAT COSTS FOR PARTICULAR CORRECTIVE
16 ACTIONS VARY IN DIFFERENT REGIONS OF THE STATE, THE AUTHORITY MAY
17 ESTABLISH ALLOWABLE REIMBURSEMENT AMOUNTS THAT REFLECT REGIONAL
18 DIFFERENCES.

19 (2) THE AUTHORITY SHALL ANNUALLY REVIEW AND UPDATE THE
20 SCHEDULE OF COSTS AS NECESSARY OR APPROPRIATE.

21 (3) THE DEPARTMENT SHALL POST THE SCHEDULE OF COSTS AND ANY
22 UPDATES TO THE SCHEDULE OF COSTS ON THE DEPARTMENT'S WEBSITE.

23 SEC. 21510C. A CLAIM SHALL NOT BE APPROVED BY THE AUTHORITY
24 FOR ANY OF THE FOLLOWING:

25 (A) A RELEASE THAT WAS EXPECTED OR INTENDED BY AN OWNER OR
26 OPERATOR, OR AN EMPLOYEE OF AN OWNER OR OPERATOR.

27 (B) PUNITIVE, EXEMPLARY, OR MULTIPLIED DAMAGES, FINES, TAXES,

1 PENALTIES, ASSESSMENTS, PUNITIVE OR STATUTORY ASSESSMENTS, OR ANY
2 CIVIL, ADMINISTRATIVE, OR CRIMINAL FINES, SANCTIONS, OR PENALTIES.

3 (C) A CLAIM MADE BY AN OWNER OR OPERATOR AGAINST ANY OTHER
4 PERSON THAT IS ALSO AN OWNER OR OPERATOR OF THE REFINED PETROLEUM
5 UNDERGROUND STORAGE TANK SYSTEM.

6 (D) A RELEASE CAUSED BY, BASED UPON, RESULTING FROM, OR
7 ATTRIBUTABLE TO THE OWNER'S OR OPERATOR'S INTENTIONAL, KNOWING,
8 WILLFUL, OR DELIBERATE NONCOMPLIANCE WITH ANY STATUTE, REGULATION,
9 ORDINANCE, ADMINISTRATIVE COMPLAINT, NOTICE OF VIOLATION, NOTICE
10 LETTER, EXECUTIVE ORDER, OR INSTRUCTION OF ANY GOVERNMENTAL AGENCY
11 OR BODY.

12 (E) A RELEASE ARISING FROM THE OWNERSHIP, MAINTENANCE, USE, OR
13 ENTRUSTMENT TO OTHERS OF ANY AIRCRAFT, AUTO, ROLLING STOCK, OR
14 WATERCRAFT, INCLUDING LOADING AND UNLOADING.

15 (F) COSTS, CHARGES, OR EXPENSES INCURRED BY THE OWNER OR
16 OPERATOR FOR GOODS SUPPLIED BY THE OWNER OR OPERATOR OR SERVICES
17 PERFORMED BY THE STAFF OR EMPLOYEES OF THE OWNER OR OPERATOR, OR
18 ITS PARENT, SUBSIDIARY, OR AFFILIATE, UNLESS THE COSTS, CHARGES, OR
19 EXPENSES ARE INCURRED WITH THE PRIOR WRITTEN APPROVAL OF THE
20 AUTHORITY.

21 (G) A RELEASE ARISING FROM ANY CONSEQUENCE, WHETHER DIRECT OR
22 INDIRECT, OF WAR, INVASION, ACT OF A FOREIGN ENEMY, ACT OF
23 TERRORISTS, HOSTILITIES, WHETHER WAR HAS BEEN DECLARED OR NOT,
24 CIVIL WAR, REBELLION, REVOLUTION, INSURRECTION OR MILITARY OR
25 USURPED POWER, STRIKE, RIOT, OR CIVIL COMMOTION.

26 (H) COSTS ARISING OUT OF THE RECONSTRUCTION, REPAIR,
27 REPLACEMENT, UPGRADING OF A REFINED PETROLEUM UNDERGROUND STORAGE

1 TANK SYSTEM, OR ANY OTHER IMPROVEMENTS AND ANY SITE ENHANCEMENTS OR
2 ROUTINE MAINTENANCE ON, WITHIN, OR UNDER A LOCATION.

3 (I) COSTS ARISING OUT OF THE REMOVING, REPLACING, OR RECYCLING
4 OF THE CONTENTS OF A REFINED PETROLEUM UNDERGROUND STORAGE TANK
5 SYSTEM.

6 (J) COSTS, CHARGES, OR EXPENSES INCURRED TO INVESTIGATE OR
7 VERIFY THAT A CONFIRMED RELEASE HAS TAKEN PLACE.

8 (K) COSTS RELATED TO THE INJURY OF AN EMPLOYEE OF THE OWNER OR
9 OPERATOR OR ITS PARENT, SUBSIDIARY, OR AFFILIATE ARISING OUT OF AND
10 IN THE COURSE OF EMPLOYMENT BY THE OWNER OR OPERATOR OR ITS PARENT,
11 SUBSIDIARY, OR AFFILIATE OR PERFORMING DUTIES RELATED TO THE
12 CONDUCT OF THE BUSINESS OF THE OWNER OR OPERATOR OR ITS PARENT,
13 SUBSIDIARY, OR AFFILIATE BY A SPOUSE, CHILD, PARENT, BROTHER, OR
14 SISTER OF THAT EMPLOYEE. THIS SUBDIVISION APPLIES WHETHER THE OWNER
15 OR OPERATOR MAY BE LIABLE AS AN EMPLOYER OR IN ANY OTHER CAPACITY
16 AND TO ANY OBLIGATION TO SHARE DAMAGES WITH OR REPAY SOMEONE ELSE
17 WHO MUST PAY DAMAGES BECAUSE OF THE INJURY.

18 (L) ANY OBLIGATION OF THE OWNER OR OPERATOR UNDER WORKER'S
19 COMPENSATION, UNEMPLOYMENT COMPENSATION, OR DISABILITY BENEFITS LAW
20 OR SIMILAR LAW.

21 (M) ANY LIABILITY OR CLAIM FOR LIABILITY OF OTHERS ASSUMED BY
22 THE OWNER OR OPERATOR UNDER ANY CONTRACT OR AGREEMENT, UNLESS THE
23 OWNER OR OPERATOR WOULD HAVE BEEN LIABLE IN THE ABSENCE OF THE
24 CONTRACT OR AGREEMENT.

25 (N) A RELEASE ON, WITHIN, UNDER, OR EMANATING FROM A LOCATION
26 IF THE RELEASE COMMENCED SUBSEQUENT TO THE TIME SUCH LOCATION WAS
27 SOLD, GIVEN AWAY, OR ABANDONED.

1 Sec. 21515. (1) To receive money from the ~~fund or bond~~
 2 ~~proceeds account~~ **AUTHORITY** for corrective action, the owner or
 3 operator shall follow the procedures outlined in this section and
 4 shall submit ~~reports, work plans, feasibility analyses,~~
 5 ~~hydrogeological studies, and corrective action plans prepared under~~
 6 ~~part 213 and rules promulgated under that part to the department,~~
 7 ~~and shall provide other~~ **A CLAIM TO THE ADMINISTRATOR CONTAINING**
 8 information required by the administrator relevant to determining
 9 compliance with this part.

10 (2) ~~To receive money from the fund for corrective action, an~~
 11 ~~owner or operator shall submit a claim to the administrator. An~~
 12 owner or operator shall not submit a claim **UNDER SUBSECTION (1)**
 13 until work invoices in excess of \$5,000.00 ~~of the costs of~~
 14 ~~corrective action~~ **THE DEDUCTIBLE AMOUNT** have been incurred.

15 (3) Upon receipt of a completed claim pursuant to subsection
 16 ~~(2), (1),~~ the administrator shall make all of the following
 17 determinations:

18 ~~—— (a) Whether the department has objected to payment on the~~
 19 ~~claim because the work performed or proposed to be performed is not~~
 20 ~~consistent with the requirements of part 213 and rules promulgated~~
 21 ~~under that part.~~

22 ~~—— (b) Whether the work performed is necessary and appropriate~~
 23 ~~considering conditions at the site of the release.~~

24 ~~—— (c) Whether the cost of performing the work is reasonable.~~

25 **(A)** ~~(d)~~ Whether the owner or operator is eligible to receive
 26 funding under this part.

27 ~~—— (e) Whether the owner or operator has complied with section~~

1 21517-

2 ~~—— (4) If the administrator fails to make the determinations~~
3 ~~required under this section within 30 days after receipt of~~
4 ~~certification from the department that the owner or operator has~~
5 ~~met the requirements of section 21510(1)(b) and (c), the claim is~~
6 ~~considered to be approved.~~

7 (B) WHETHER THE WORK PERFORMED OR PROPOSED TO BE PERFORMED IS
8 CONSISTENT WITH THE REQUIREMENTS OF PART 213, AND WHETHER THOSE
9 ACTIVITIES ARE CONSISTENT WITH ACHIEVING SITE CLOSURE.

10 (C) WHETHER THE OWNER OR OPERATOR HAS PAID THE DEDUCTIBLE
11 AMOUNT.

12 (D) WHETHER THE CORRECTIVE ACTION PERFORMED IS REASONABLE AND
13 NECESSARY CONSIDERING CONDITIONS AT THE SITE OF THE RELEASE.

14 (E) WHETHER THE COST OF PERFORMING THE CORRECTIVE ACTION WORK
15 IS AT OR BELOW THE ALLOWABLE REIMBURSEMENT AMOUNT IN THE SCHEDULE
16 OF COSTS OR, IF THE CORRECTIVE ACTION WORK IS NOT A LISTED ITEM,
17 WHETHER THE COST IS REASONABLE AND NECESSARY.

18 (4) THE ADMINISTRATOR MAY CONSULT WITH THE DEPARTMENT AND THE
19 DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS TO MAKE THE
20 DETERMINATION REQUIRED IN SUBSECTION (3).

21 (5) If the administrator determines under subsection (3) that
22 the work invoices included with the claim are **REASONABLE AND**
23 ~~necessary and appropriate~~ considering conditions at the site of the
24 release and reasonable in terms of cost and the owner or operator
25 is eligible for funding under this part, the administrator shall
26 approve the claim and notify the owner or operator who submitted
27 the claim of the approval. If the administrator determines that the

1 work described on the work invoices submitted was not **REASONABLE**
2 **AND** necessary ~~or appropriate~~ or the cost of the work is not
3 reasonable, or that the owner or operator is not eligible for
4 funding under this part, the administrator shall deny the claim or
5 any portion of the work invoices submitted and give notice of the
6 denial to the owner or operator who submitted the claim.

7 (6) The owner or operator may submit additional work invoices
8 to the administrator after approval of a claim under subsection
9 (5). Within 45 days after receipt of a work invoice, the
10 administrator shall make the following determinations:

11 (a) Whether the work invoice complies with subsection (3).

12 (b) Whether the owner or operator is currently in compliance
13 with the registration and fee requirements of part 211 and the
14 rules promulgated under that part for the **REFINED PETROLEUM**
15 underground storage tank system from which the release occurred.

16 (7) If the administrator determines that the work invoice does
17 not meet the requirements of subsection (6), ~~he or she~~ **THE**
18 **ADMINISTRATOR** shall deny the work invoice and give written notice
19 of the denial to the owner or operator who submitted the work
20 invoice.

21 (8) The administrator shall keep records of approved work
22 invoices. If the owner or operator has not exceeded the allowable
23 amount of expenditure provided in section ~~21512, 21510(1)(I)~~, the
24 administrator shall ~~forward payment vouchers to the state treasurer~~
25 **PAY THE CLAIM** within 45 days of making the determinations under
26 subsection (6).

27 (9) The administrator may approve a reimbursement for a work

1 invoice that was submitted by an owner or operator for corrective
 2 action taken if the work invoice meets the requirements of this
 3 part for an approved claim and an approved work invoice.

4 (10) Except as provided in subsection (11) ~~or as otherwise~~
 5 ~~provided in this subsection, upon receipt of a payment voucher, the~~
 6 ~~state treasurer or~~ **AND SECTION 21519**, the authority shall make a
 7 payment ~~jointly~~ to the owner or operator within 30 days if
 8 sufficient money exists in the fund. ~~or a bond proceeds account.~~
 9 Once payment has been made under this section, the ~~fund~~ **AUTHORITY**
 10 is not liable for any claim on the basis of that payment.

11 (11) ~~Upon direction of the administrator, the state treasurer~~
 12 ~~or the~~ **THE** authority may withhold partial payment of money on
 13 payment vouchers if there is reasonable cause to ~~believe~~ **SUSPECT**
 14 that there are ~~suspected~~ violations of section 21548 or if
 15 necessary to assure acceptable completion of the proposed work.

16 (12) The ~~department~~ **AUTHORITY** shall prepare and make available
 17 to owners and operators standardized claim and work invoice forms.

18 Sec. 21516. (1) An owner or operator with a claim approved
 19 pursuant to section 21515 for which corrective action is in
 20 progress who sells or transfers the property that is the subject of
 21 the approved claim to another person may assign or transfer the
 22 approved claim to that other person. The person to whom the
 23 assignment or transfer is made is eligible to receive money from
 24 the ~~fund~~ **AUTHORITY** as an owner or operator for the release which is
 25 the subject of the approved claim. Allowable, outstanding approved
 26 or paid work invoices of the owner or operator making the
 27 assignment or transfer may be counted toward the ~~co-pay~~ **DEDUCTIBLE**

1 amount of the person to whom the assignment or transfer is made.

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

6 Sec. 21518. (1) To receive money from the ~~fund~~**AUTHORITY** for
7 indemnification, the owner or operator shall submit to the
8 administrator a request for indemnification containing the
9 information required by the administrator, including a copy of the
10 judgment obtained by a third party from a court of law against the
11 owner or operator or the settlement entered into between the owner
12 or operator and the third party, all documentation supporting the
13 reasonableness of and justification for the judgment or settlement,
14 and work invoices which conform to the requirements of ~~section~~
15 ~~21503(9)(a) to (e).~~**THIS PART.** If the administrator determines that
16 the owner or operator is eligible for funding under this part, is
17 eligible for the amount requested, has paid the ~~co-pay~~**DEDUCTIBLE**
18 amount, and has not exceeded the allowable amount of expenditure
19 provided in section ~~21512,~~**21510(1)(I)**, and that the work invoices
20 are ~~reasonable in terms of cost,~~**PAYABLE UNDER THIS PART,** the
21 administrator shall forward a copy of the request for
22 indemnification along with all supporting documentation to the
23 attorney general. The attorney general shall approve the request
24 for indemnification if there is a legally enforceable judgment
25 against, or settlement with, the owner or operator that was caused
26 by an accidental release and that is reasonable and consistent with
27 the purposes of this part. The attorney general may raise as a

1 defense to the request any rights or defenses that were or are
 2 available to the owner or operator and, in the case of a judgment,
 3 that were not heard and ruled upon by the court. If a request for
 4 indemnification is approved by the attorney general, the
 5 ~~administrator~~ **AUTHORITY** shall ~~forward the approved request for~~ **PAY**
 6 **THE** indemnification ~~to the department of treasury.~~ **AMOUNT.**

7 (2) The administrator shall keep records of all approved
 8 requests for indemnification.

9 (3) The ~~state treasurer~~ **AUTHORITY** shall make a payment to an
 10 owner or operator for an approved indemnification request within 30
 11 days if sufficient money ~~exists in the fund.~~ **IS AVAILABLE TO MAKE**
 12 **THE PAYMENT.**

13 Sec. 21519. (1) The ~~state treasurer~~ **AUTHORITY** shall ~~pay~~
 14 ~~payment vouchers~~ **MAKE PAYMENTS ON CLAIMS** in the order in which they
 15 are received. ~~If~~ **HOWEVER, IF** there is insufficient money ~~in the~~
 16 ~~fund~~ **AVAILABLE** to make a payment, ~~then a payment shall not be made.~~
 17 ~~However, payment vouchers~~ **PAYMENTS ON ALL APPROVED CLAIMS, THE**
 18 **AUTHORITY SHALL GIVE NOTICE TO EACH OWNER THAT IS ELIGIBLE TO**
 19 **SUBMIT A CLAIM UNDER THIS PART ADVISING THE OWNERS OF THE FINANCIAL**
 20 **SITUATION AND THE AUTHORITY SHALL PRIORITIZE PAYMENTS BASED UPON**
 21 **THE RISKS AT THE SITE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR**
 22 **THE ENVIRONMENT. PAYMENTS ON CLAIMS** that are not funded ~~may~~ **SHALL**
 23 be paid if revenues ~~of the fund~~ **SUBSEQUENTLY** become available.

24 (2) The ~~fund~~ **AUTHORITY** and the state are not liable for work
 25 invoices or requests for indemnification if ~~money in the fund is~~
 26 **REVENUES OF THE AUTHORITY ARE** insufficient to meet these claims.

27 Sec. 21521. (1) If the administrator denies a claim or work

1 invoice, or a request for indemnification, the owner or operator
2 who submitted the claim, work invoice, or request for
3 indemnification may, within 14 days following the denial, request
4 review by the department. ~~Upon receipt of a request for review~~
5 ~~under this subsection, the department shall forward the request to~~
6 ~~the board for a preliminary review. BOARD. HOWEVER, IF THE~~
7 **ADMINISTRATOR BELIEVES THE DISPUTE MAY BE ABLE TO BE RESOLVED**
8 **WITHOUT THE BOARD'S REVIEW, THE ADMINISTRATOR MAY CONTACT THE OWNER**
9 **OR OPERATOR REGARDING THE ISSUES IN DISPUTE AND MAY NEGOTIATE A**
10 **RESOLUTION OF THE DISPUTE PRIOR TO THE BOARD'S REVIEW.** The board
11 shall conduct a review of the denial and ~~shall submit a~~
12 ~~recommendation to the department as to~~ **DETERMINE** whether the claim,
13 work invoice, or request for indemnification ~~substantially complies~~
14 ~~with~~ **IS PAYABLE UNDER** this part. ~~Following review by the board, the~~
15 ~~department shall approve the claim, work invoice, or request for~~
16 ~~indemnification if the department determines that the claim, work~~
17 ~~invoice, or request for indemnification substantially complies with~~
18 ~~the requirements of this part. In making its determination, the~~
19 ~~department shall give substantial consideration to the~~
20 ~~recommendations of the board. However, the department shall not~~
21 ~~approve a claim, work invoice, or request for indemnification for a~~
22 ~~release that was discovered prior to July 18, 1989.~~

23 ~~—— (2) If the department approves a claim based upon substantial~~
24 ~~compliance pursuant to subsection (1), the department may refuse to~~
25 ~~pay for costs incurred during the time the owner or operator was~~
26 ~~not in strict compliance with this part.~~

27 (2) ~~(3)~~ A person who is denied approval by the department

1 **BOARD** after review under subsection (1) may appeal the decision
2 directly to the circuit court. ~~for the county of Ingham.~~

3 Sec. 21523. The ~~Michigan~~ underground storage tank ~~financial~~
4 ~~assurance~~ authority is created as a body corporate within the
5 department ~~of management and budget~~ and shall exercise its
6 prescribed statutory power, financial duties, and financial
7 functions independently of the director of the department ~~of~~
8 ~~management and budget~~ or any other department. Funds of the
9 authority shall be handled in the same manner and subject to the
10 same provisions of law applicable to state funds or in a manner
11 specified in a resolution of the authority authorizing the issuance
12 of bonds or notes.

13 Sec. 21524. (1) The authority shall be governed by a board of
14 directors consisting of the director of the department ~~of~~
15 ~~management and budget, the director of the department of state~~
16 ~~police,~~ and 3-6 residents of the state appointed by the governor
17 with the advice and consent of the senate **—AS FOLLOWS:**

18 (A) **AN INDIVIDUAL REPRESENTING PETROLEUM REFINERS.**

19 (B) **AN INDIVIDUAL REPRESENTING INDEPENDENT PETROLEUM**
20 **MARKETERS.**

21 (C) **AN INDIVIDUAL FROM A STATEWIDE MOTOR FUEL RETAIL**
22 **ASSOCIATION.**

23 (D) **AN INDIVIDUAL FROM A STATEWIDE BUSINESS ASSOCIATION THAT**
24 **INCLUDES OWNERS OR OPERATORS OF REFINED PETROLEUM UNDERGROUND**
25 **STORAGE TANKS.**

26 (E) **AN INDIVIDUAL FROM A STATEWIDE ENVIRONMENTAL ORGANIZATION.**

27 (F) **A MEMBER OF THE GENERAL PUBLIC.**

1 (2) The ~~3-6~~ appointed members **OF THE BOARD** shall serve terms
 2 of 3 years. However, in making the initial appointments, the
 3 governor shall designate ~~1-2~~ appointed member **MEMBERS** to serve for
 4 3 years, ~~1-2~~ appointed member **MEMBERS** to serve for 2 years, and ~~1-2~~
 5 appointed member **MEMBERS** to serve for 1 year.

6 (3) ~~(2)~~ Upon appointment to the board of directors under
 7 subsection (1), and upon the taking and filing of the
 8 constitutional oath of office, a member of the board of directors
 9 shall enter office and exercise the duties of the office to which
 10 he or she is appointed.

11 (4) ~~(3)~~ A vacancy on the board of directors shall be filled in
 12 the same manner as the original appointment. A vacancy shall be
 13 filled for the balance of the unexpired term. A member of the board
 14 of directors shall hold office until a successor is appointed and
 15 qualified.

16 (5) ~~(4)~~ Members of the board of directors and officers and
 17 employees of the authority are subject to ~~Act No. 317 of the Public~~
 18 ~~Acts of 1968, being sections 15.321 to 15.330 of the Michigan~~
 19 ~~Compiled Laws, and Act No. 318 of the Public Acts of 1968, being~~
 20 ~~sections 15.301 to 15.310 of the Michigan Compiled Laws, 1968 PA~~
 21 **317, MCL 15.321 TO 15.330, AND 1968 PA 318, MCL 15.301 TO 15.310,**
 22 as applicable. A member of the board of directors or an officer,
 23 employee, or agent of the authority shall discharge the duties of
 24 his or her position in a nonpartisan manner, with good faith, and
 25 with the degree of diligence, care, and skill that an ordinarily
 26 prudent person would exercise under similar circumstances in a like
 27 position. In discharging his or her duties, a member of the board

1 of directors or an officer, employee, or agent of the authority,
 2 when acting in good faith, may rely upon any of the following:

3 (a) The opinion of counsel for the authority.

4 (b) The report of an independent appraiser selected with
 5 reasonable care by the board of directors.

6 (c) Financial statements of the authority represented to the
 7 member of the board of directors, officer, employee, or agent to be
 8 correct by the officer of authority having charge of its books or
 9 account, or stated in a written report by the auditor general or a
 10 certified public accountant or the firm of the ~~accountants~~
 11 **ACCOUNTANT** to fairly reflect the financial condition of the
 12 authority.

13 (6) ~~(5)~~ The board of directors shall organize and make its own
 14 policies and procedures. The board of directors shall conduct all
 15 business at public meetings held in compliance with the open
 16 meetings act, ~~Act No. 267 of the Public Acts of 1976, being~~
 17 ~~sections 15.261 to 15.275 of the Michigan Compiled Laws. 1976 PA~~
 18 **267, MCL 15.261 TO 15.275**. Public notice of the time, date, and
 19 place of each meeting shall be given in the manner required by ~~Act~~
 20 ~~No. 267 of the Public Acts of 1976. Three 1976 PA 267, MCL 15.261~~
 21 **TO 15.275. FOUR** members of the board of directors constitute a
 22 quorum for the transaction of business. An action of the board of
 23 directors shall be by a majority of the votes cast. ~~A state officer~~
 24 ~~who is a member of the board of directors~~ **THE DIRECTOR OF THE**
 25 **DEPARTMENT** may designate a representative from his or her
 26 department to serve ~~instead of that state officer as a voting~~
 27 member of the board of directors for 1 or more meetings.

1 (7) ~~(6)~~ The board of directors shall elect a chairperson from
 2 among its members and may elect any other officers the board of
 3 directors considers appropriate.

4 Sec. 21525. (1) The ~~governor~~ **BOARD** shall ~~designate the~~
 5 ~~executive director~~ **APPOINT AN ADMINISTRATOR** of the authority **AND**
 6 **MAY DELEGATE TO THE ADMINISTRATOR RESPONSIBILITIES FOR ACTING ON**
 7 **BEHALF OF THE AUTHORITY.** The authority may employ on a permanent or
 8 temporary basis legal and technical experts, and other officers,
 9 agents, or employees, to be paid from the funds of the authority.
 10 The authority shall determine the qualifications, duties, and
 11 compensation of those it employs, but an employee shall not be paid
 12 a higher salary than the director of the department. ~~of management~~
 13 ~~and budget.~~ The authority may delegate to 1 or more members,
 14 officers, agents, or employees any of the powers or duties of the
 15 authority as the authority considers proper.

16 ~~—— (2) The budgeting, procurement, and related functions of the~~
 17 ~~authority shall be performed under the direction and supervision of~~
 18 ~~the director of the department of management and budget.~~

19 (2) ~~(3)~~ The authority may contract with the department ~~of~~
 20 ~~management and budget~~ for the purpose of maintaining and improving
 21 the rights and interests of the authority.

22 (3) ~~(4)~~ The authority shall annually file with the legislature
 23 a written report on its activities of the last year. This report
 24 shall be submitted not later than 270 days following the end of the
 25 fiscal year. This report shall specify the amount and source of
 26 revenues received, the status of investments made, and money
 27 expended with proceeds of bonds or notes ~~sold~~ **ISSUED BY THE FINANCE**

1 **AUTHORITY** under this part.

2 (4) ~~(5)~~—The accounts of the authority are subject to annual
3 audits by the state auditor general or a certified public
4 accountant appointed by the auditor general. Records shall be
5 maintained according to generally accepted accounting principles.

6 Sec. 21526. Except as otherwise provided in this part, the
7 board of directors may do all things necessary or convenient to
8 implement this part and the purposes, objectives, and powers
9 delegated to the board of directors by other laws or executive
10 orders, including, but not limited to, all of the following:

11 (a) Adopt an official seal and bylaws for the regulation of
12 its affairs and alter the seal or bylaws.

13 (b) Sue and be sued in its own name and plead and be
14 impleaded.

15 ~~—— (c) Borrow money and issue negotiable revenue bonds and notes~~
16 ~~pursuant to this part.~~

17 (C) ~~(d)~~—Enter into contracts and other instruments necessary,
18 incidental, or convenient to the performance of its duties and the
19 exercise of its powers.

20 (D) ~~(e)~~—With the prior consent of the director of the
21 department, ~~of management and budget,~~ solicit and accept gifts,
22 grants, loans, and other aid from any person or the federal, state,
23 or local government or any agency of the federal, state, or local
24 government, or participate in any other way in a federal, state, or
25 local government program.

26 (E) ~~(f)~~—Procure insurance against loss in connection with the
27 property, assets, or activities of the authority.

1 (F) ~~(g)~~—Invest money of the authority, at the board of
2 directors' discretion, in instruments, obligations, securities, or
3 property determined proper by the board of directors, and name and
4 use depositories for its money.

5 (G) ~~(h)~~—Contract for goods and services and engage personnel
6 as necessary and engage the services of private consultants,
7 managers, legal counsel, and auditors for rendering professional
8 financial assistance and advice, payable out of any money of the
9 authority.

10 (H) ~~(i)~~—Indemnify and procure insurance indemnifying members
11 of the board of directors from personal loss or accountability from
12 liability asserted by a person on bonds or notes of the authority,
13 or from any personal liability or accountability by reason of the
14 issuance of the bonds or notes, or by reason of any other action
15 taken or the failure to act by the authority.

16 (I) ~~(j)~~—Do all other things necessary or convenient to achieve
17 the objectives and purposes of the authority, this part, rules
18 promulgated under this part, or other laws that relate to the
19 purposes and responsibilities of the authority.

20 Sec. 21527. (1) **THE AUTHORITY SHALL ASSESS THE POTENTIAL**
21 **DEMAND FOR PAYMENT OF CLAIMS UNDER THIS PART AND SHALL PROVIDE THE**
22 **RESULTS OF THE ASSESSMENT TO THE FINANCE AUTHORITY. UPON REVIEW OF**
23 **THE RESULTS OF THE ASSESSMENT, IF THE FINANCE AUTHORITY DETERMINES**
24 **THAT IT IS PRUDENT TO DO SO, THE FINANCE AUTHORITY MAY ISSUE BONDS**
25 **OR NOTES.**

26 (2) ~~(1)~~—The **FINANCE** authority may authorize and issue its
27 bonds or notes payable solely from the revenues or funds available

1 to the fund under section 21508. Bonds or notes of the **FINANCE**
 2 authority are not a debt or liability of the state, ~~and~~ do not
 3 create or constitute any indebtedness, liability, or obligation of
 4 the state, ~~or be or~~ **AND DO NOT** constitute a pledge of the faith and
 5 credit of the state. All **FINANCE** authority bonds and notes are
 6 payable solely from revenues or funds pledged or available for
 7 their payment as authorized in this part. Each bond and note shall
 8 contain on its face a statement to the effect that the authority is
 9 obligated to pay the principal of and the interest on the bond or
 10 note only from revenues or from funds of the **FINANCE** authority
 11 pledged for such payment and that the state is not obligated to pay
 12 that principal or interest and that neither the faith and credit
 13 nor the taxing power of the state is pledged to the payment of the
 14 principal of or the interest on the bond or note.

15 (3) ~~(2)~~ All expenses incurred in implementing this part are
 16 payable solely from revenues or funds provided or to be provided
 17 under this part. This part does not authorize the **FINANCE** authority
 18 to incur any indebtedness or liability on behalf of or payable by
 19 the state.

20 Sec. 21528. (1) The **FINANCE** authority may issue from time to
 21 time bonds or notes in principal amounts the **FINANCE** authority
 22 considers necessary to provide funds for any purpose, including,
 23 but not limited to, all of the following:

24 (a) The ~~purposes described in section 21506(4)(a) and~~
 25 ~~(e)~~ **PAYMENT OF APPROVED CLAIMS UNDER THIS PART.**

26 (b) The payment, funding, or refunding of the principal of,
 27 interest on, or redemption premiums on bonds or notes issued by the

1 **FINANCE** authority whether the bonds or notes or interest to be
2 funded or refunded have or have not become due.

3 (c) The establishment or increase of reserves to secure or to
4 pay **FINANCE** authority bonds or notes or interest on those bonds or
5 notes.

6 (d) The payment of interest on the bonds or notes for a period
7 determined by the **FINANCE** authority.

8 (e) The payment of all other costs or expenses of the **FINANCE**
9 authority incident to and necessary or convenient to implement its
10 purposes and powers.

11 (2) The bonds or notes of the **FINANCE** authority are not a
12 general obligation of the **FINANCE** authority but are payable solely
13 from the revenues or funds, or both, pledged to the payment of the
14 principal of and interest on the bonds or notes as provided in the
15 resolution authorizing the bond or note.

16 (3) The bonds or notes of the **FINANCE** authority:

17 (a) Shall be authorized by resolution of the **FINANCE**
18 authority.

19 (b) Shall bear the date or dates of issuance.

20 (c) May be issued as either tax-exempt bonds or notes or
21 taxable bonds or notes for federal income tax purposes.

22 (d) Shall be serial bonds, term bonds, or term and serial
23 bonds.

24 (e) Shall mature at such time or times not exceeding 20 years
25 from the date of issuance.

26 (f) May provide for sinking fund payments.

27 (g) May provide for redemption at the option of the **FINANCE**

1 authority for any reason or reasons.

2 (h) May provide for redemption at the option of the bondholder
3 for any reason or reasons.

4 (i) Shall bear interest at a fixed or variable rate or rates
5 of interest per annum or at no interest.

6 (j) Shall be registered bonds, coupon bonds, or both.

7 (k) May contain a conversion feature.

8 (l) May be transferable.

9 (m) Shall be in the form, denomination or denominations, and
10 with such other provisions and terms as is determined necessary or
11 beneficial by the **FINANCE** authority.

12 (4) If a member of the board of directors or any officer of
13 the **FINANCE** authority whose signature or facsimile of his or her
14 signature appears on the note, bond, or coupon ceases to be a
15 member or officer before the delivery of that bond or note, the
16 signature continues to be valid and sufficient for all purposes, as
17 if the member or officer had remained in office until the delivery.

18 (5) Bonds or notes of the **FINANCE** authority may be sold at a
19 public or private sale at the time or times, at the price or
20 prices, and at a discount as the **FINANCE** authority determines. ~~An-A~~
21 **FINANCE** authority bond or note is not subject to the revised
22 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The
23 bond or note of the **FINANCE** authority is not required to be filed
24 under the uniform securities act, 1964 PA 265, MCL 451.501 to
25 451.818, or the uniform securities act (2002), 2008 PA 551, MCL
26 451.2101 to 451.2703.

27 Sec. 21531. Within limitations that are contained in the

1 issuance or authorization resolution of the **FINANCE** authority, the
2 **FINANCE** authority may authorize a member of the board of directors,
3 the executive director, or any other officer of the **FINANCE**
4 authority to do 1 or more of the following:

5 (a) Sell and deliver and receive payment for bonds or notes.

6 (b) Refund bonds or notes by the delivery of new bonds or
7 notes whether or not the bonds or notes to be refunded are mature
8 or subject to redemption.

9 (c) Deliver bonds or notes, partly to refund bonds or notes
10 and partly for any other authorized purpose.

11 (d) Buy issued bonds or notes and resell those bonds or notes.

12 (e) Approve interest rates or methods for fixing interest
13 rates, prices, discounts, maturities, principal amounts,
14 denominations, dates of issuance, interest payment dates,
15 redemption rights at the option of the authority or the holder, the
16 place of delivery and payment, and other matters and procedures
17 necessary to complete the transactions authorized.

18 (f) Direct the investment of any and all funds of the **FINANCE**
19 authority.

20 (g) Approve the terms of an insurance contract, an agreement
21 for a line of credit, a letter of credit, a commitment to purchase
22 notes or bonds, an agreement to remarket bonds or notes, or any
23 other transaction to provide security to assure timely payment of a
24 bond or note or an agreement to manage payment, revenue, or
25 interest rate exposure.

26 (h) Execute any power, duty, function, or responsibility of
27 the **FINANCE** authority.

1 Sec. 21546. (1) This part does not create any liability on
2 behalf of the state. This part shall not be construed as making the
3 state the guarantor of the fund.

4 (2) This part does not relieve any person who may be eligible
5 ~~to receive money from the fund or the former emergency response~~
6 ~~fund~~ **TO SUBMIT A CLAIM TO THE AUTHORITY** from any liability that he
7 or she may incur as the owner or operator of ~~an~~ **A REFINED PETROLEUM**
8 underground storage tank system. The state is not assuming the
9 liability of an owner or operator eligible for funding under this
10 part; it is only providing assistance to such owners or operators
11 in meeting the financial responsibility requirements.

12 (3) If all bonds or notes of the **FINANCE** authority payable
13 from the fund have been fully paid or provided for and if any
14 provision of this part is found to be unconstitutional by a court
15 of competent jurisdiction and the allowable time for filing an
16 appeal has expired or the appellant has exhausted all of his or her
17 avenues of appeal, this whole part shall be considered
18 unconstitutional and invalid.

19 Sec. 21548. (1) A person who makes or submits or causes to be
20 made or submitted either directly or indirectly any statement,
21 report, affidavit, application, claim, bid, work invoice, or other
22 request for payment or indemnification under this part knowing that
23 the statement, report, application, claim, bid, work invoice, or
24 other request for payment or indemnification is false or misleading
25 is guilty of a felony punishable by imprisonment for not more than
26 5 years or a fine of not more than \$50,000.00, or both. In addition
27 to any penalty imposed under this subsection, a person convicted

1 under this subsection shall pay restitution to the ~~fund~~-**AUTHORITY**
2 for the amount received in violation of this subsection.

3 (2) A person who makes or submits or causes to be made or
4 submitted either directly or indirectly any statement, report,
5 application, claim, bid, work invoice, or other request for payment
6 or indemnification under this part knowing that the statement,
7 report, affidavit, application, claim, bid, work invoice, or other
8 request for payment or indemnification is false, misleading, or
9 fraudulent, or who commits a fraudulent practice, is subject to a
10 civil fine of not more than \$50,000.00 or twice the amount
11 submitted, whichever is greater. In addition to any civil fine
12 imposed under this subsection, a person found responsible under
13 this subsection shall pay restitution to the ~~fund~~-**AUTHORITY** for the
14 amount received in violation of this subsection. The legislature
15 intends that this subsection be given retroactive application.

16 (3) As used in subsection (2), "fraudulent" or "fraudulent
17 practice" includes, but is not limited to, the following:

18 (a) Submitting a work invoice for the excavation, hauling,
19 disposal, or provision of soil, sand, or backfill for an amount
20 greater than the legal capacity of the carrying vehicle or greater
21 than was actually carried, excavated, disposed, or provided.

22 (b) Submitting paperwork for services ~~done~~ or work provided
23 that was not in fact provided or that was not directly provided by
24 the individual indicated on the paperwork.

25 (c) Contaminating an otherwise clean resource or site with
26 contaminated soil or product from a contaminated resource or site.

27 (d) Returning any load of contaminated soil to its original

1 site for reasons other than remediation of the soil.

2 (e) Causing damage intentionally or as the result of gross
3 negligence to ~~an~~-**A REFINED PETROLEUM** underground storage tank
4 system, which damage results in a release at a site.

5 (f) Placing ~~an~~-**A REFINED PETROLEUM** underground storage tank
6 system at a contaminated site where no **REFINED PETROLEUM**
7 underground storage tank system previously existed for purposes of
8 disguising the source of contamination or to obtain funding under
9 this part.

10 (g) Submitting a work invoice for the excavation of soil from
11 a site that was removed for reasons other than removal of the
12 **REFINED PETROLEUM** underground storage tank system or remediation.

13 (h) Any intentional act or act of gross negligence that causes
14 or allows contamination to spread at a site.

15 (i) Registration of a nonexistent **REFINED PETROLEUM**
16 underground storage tank system with the department.

17 (j) Loaning to an owner or operator the ~~ee-pay~~-**DEDUCTIBLE**
18 amount ~~required under section 21514~~ and then submitting or causing
19 to be submitted inflated claims or invoices designed to recoup the
20 ~~ee-pay~~-**DEDUCTIBLE** amount.

21 (k) Confirming a release without simultaneously providing
22 notice to the owner or operator.

23 (l) Inflating bills or work invoices, or both, by adding
24 charges for work that was not performed.

25 (m) Submitting a false or misleading laboratory report.

26 (n) Submitting bills or work invoices, or both, for sampling,
27 testing, monitoring, or excavation that are not justified by the

1 site condition.

2 (o) Falsely characterizing the contents of ~~an~~**A REFINED**
3 **PETROLEUM** underground storage tank system for purposes of obtaining
4 funding under this part.

5 (p) Submitting or causing to be submitted bills or work
6 invoices by or from a person who did not directly provide the
7 service.

8 (q) Characterizing legal services as consulting services for
9 purposes of obtaining funding under this part.

10 (r) Misrepresenting or concealing the identity, credentials,
11 affiliation, or qualifications of principals or persons seeking,
12 either directly or indirectly, funding or approval for
13 participation under this part.

14 (s) Falsifying a signature on a claim application or a work
15 invoice.

16 (t) Failing to accurately disclose the actual amount and
17 carrier of unencumbered insurance coverage available for new
18 environmental impairment or professional liability claims.

19 (u) Any other act or omission of a false, fraudulent, or
20 misleading nature undertaken in order to obtain funding under this
21 part.

22 (4) The attorney general or county prosecutor may conduct an
23 investigation of an alleged violation of this section and bring an
24 action for a violation of this section.

25 (5) If the attorney general or county prosecutor has
26 reasonable cause to believe that a person has information or is in
27 possession, custody, or control of any document or records, however

1 stored or embodied, or tangible object which is relevant to an
2 investigation of a violation or attempted violation of this part or
3 a crime or attempted crime against the fund, the attorney general
4 or county prosecutor may, before bringing any action, make an ex
5 parte request to a magistrate for issuance of a subpoena requiring
6 that person to appear and be examined under oath or to produce the
7 document, records, or object for inspection and copying, or both.
8 Service may be accomplished by any means described in the Michigan
9 court rules. Requests made by the attorney general may be brought
10 in Ingham county.

11 (6) If a person objects to or otherwise fails to comply with a
12 subpoena served under subsection (5), an action may be brought in
13 district court to enforce the demand. Actions filed by the attorney
14 general may be brought in Ingham county.

15 (7) The attorney general or county prosecutor may apply to the
16 district court for an order granting immunity to any person who
17 refuses to provide or objects to providing information, documents,
18 records, or objects sought pursuant to this section. If the judge
19 is satisfied that it is in the interest of justice that immunity be
20 granted, he or she shall enter an order granting immunity to the
21 person and requiring the person to appear and be examined under
22 oath or to produce the document, records, or object for inspection
23 and copying, or both.

24 (8) A person who fails to comply with a subpoena issued
25 pursuant to subsection (5) or a requirement to appear and be
26 examined pursuant to subsection (7) is subject to a civil fine of
27 not more than \$25,000.00 for each day of continued noncompliance.

1 (9) In addition to any civil fines or criminal penalties
2 imposed under this part or the criminal laws of this state, the
3 person found responsible shall repay any money obtained directly or
4 indirectly under this part. Money owed pursuant to this section
5 constitutes a claim and lien by the ~~fund~~**AUTHORITY** upon any real or
6 personal property owned either directly or indirectly by the
7 person. This lien shall attach regardless of whether the person is
8 insolvent and may not be extinguished or avoided by bankruptcy. The
9 lien imposed by this section has the force and effect of a first in
10 time and right judgment lien.

11 (10) Subsection (1) does not preclude prosecutions under other
12 laws of the state including, but not limited to, section 157a, 218,
13 248, 249, 280, or 422 of the Michigan penal code, 1931 PA 328, MCL
14 750.157a, 750.218, 750.248, 750.249, 750.280, and 750.422.

15 (11) All civil fines collected pursuant to this section shall
16 be apportioned in the following manner:

17 (a) Fifty percent shall be deposited in the general fund and
18 shall be used by the department to fund fraud investigations under
19 this part.

20 (b) Twenty-five percent shall be paid to the office of the
21 county prosecutor or attorney general, whichever office brought the
22 action.

23 (c) Twenty-five percent shall be paid to a local police
24 department or sheriff's office, or a city or county health
25 department, if investigation by that office or department led to
26 the bringing of the action. If more than 1 office or department is
27 eligible for payment under this subsection, division of payment

1 shall be on an equal basis. If there is not a local office or
2 department that is entitled to payment under this subdivision, the
3 money shall be forwarded to the state treasurer for deposit into
4 the refined petroleum fund.

5 Enacting section 1. Sections 21506, 21511, 21512, 21513,
6 21514, 21517, 21520, 21522, 21545, 21547, 21549, 21550, 21551,
7 21553, 21554, 21555, 21556, 21557, 21558, 21559, 21560, 21561, and
8 21563 of the natural resources and environmental protection act,
9 1994 PA 451, MCL 324.21506, 324.21511, 324.21512, 324.21513,
10 324.21514, 324.21517, 324.21520, 324.21522, 324.21545, 324.21547,
11 324.21549, 324.21550, 324.21551, 324.21553, 324.21554, 324.21555,
12 324.21556, 324.21557, 324.21558, 324.21559, 324.21560, 324.21561,
13 and 324.21563, are repealed.