

SENATE BILL No. 791

February 18, 2014, Introduced by Senator GREEN and referred to the Committee on Natural Resources, Environment and Great Lakes.

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 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 authority pursuant to this part.

(H) ~~(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.

~~1 (h) "Class 1 site" means a site posing the highest degree of~~
~~2 threat to the public and environment as determined by the~~
~~3 department, based on the classification system developed by the~~
~~4 department pursuant to section 21314a.~~

~~5 (i) "Class 2 site" means a site posing the second highest~~
~~6 degree of threat to the public and environment as determined by the~~
~~7 department, based on the classification system developed by the~~
~~8 department pursuant to section 21314a.~~

~~9 (j) "Co pay amount" means the co pay amount provided for in~~
~~10 section 21514.~~

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

17 (J) "CLAIM PERIOD" MEANS A 1-YEAR PERIOD COMMENCING ON OCTOBER
18 1 OF EACH YEAR AND ENDING ON SEPTEMBER 30 THE FOLLOWING YEAR.

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

27 (L) ~~(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.

(M) "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.

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

(O) ~~(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.

(P) ~~(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.

(Q) ~~(o)~~ "Fund" means the ~~Michigan underground storage tank financial assurance fund created in section 21506.~~ **UNDERGROUND STORAGE TANK CLEANUP FUND CREATED IN SECTION 21506B.**

~~(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.~~

(R) ~~(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.

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

(T) ~~(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.

(U) ~~(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~~

1 ~~financial institution who, without participating in the management~~
2 ~~of an underground storage tank system and without being otherwise~~
3 ~~engaged in petroleum production, refining, or marketing relating to~~
4 ~~the underground storage tank system, is acting in a fiduciary~~
5 ~~capacity or who holds indicia of ownership primarily to protect the~~
6 ~~person's or the regulated financial institution's security interest~~
7 ~~in the underground storage tank system or the property on which it~~
8 ~~is located. This exclusion does not apply to a grantor,~~
9 ~~beneficiary, remainderman, or other person who could directly or~~
10 ~~indirectly benefit financially from the exclusion other than by the~~
11 ~~receipt of payment for fees and expenses related to the~~
12 ~~administration of a trust.~~ **THAT TERM AS IT IS DEFINED IN SECTION**
13 **21303.**

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

18 Sec. 21503. As used in this part:

19 ~~— (a) "Payment voucher" means a form prepared by the department~~
20 ~~that specifies payment authorization by the department to the~~
21 ~~department of treasury.~~

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

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

27 ~~— (d) "Precertification application" means the application~~

1 ~~submitted by an owner or operator seeking the department's~~
2 ~~eligibility determination for reimbursement for the costs of~~
3 ~~corrective action from the temporary reimbursement program.~~

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

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

9 (C) ~~(e)~~—"Refined petroleum" means aviation gasoline, middle
10 distillates, jet fuel, kerosene, gasoline, residual oils, and any
11 oxygenates that have been blended with any of these.

12 (D) ~~(f)~~—"Refined petroleum fund" means the refined petroleum
13 fund established under section 21506a.

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

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

18 (E) "REFINED PETROLEUM UNDERGROUND STORAGE TANK" MEANS AN
19 UNDERGROUND STORAGE TANK SYSTEM USED FOR THE STORAGE OF REFINED
20 PETROLEUM.

21 (F) ~~(i)~~—"Regulated financial institution" means a state or
22 nationally chartered bank, savings and loan association or savings
23 bank, credit union, or other state or federally chartered lending
24 institution or a regulated affiliate or regulated subsidiary of any
25 of these entities.

26 (G) ~~(j)~~—"Regulatory fee" means the environmental protection
27 regulatory fee imposed under section 21508.

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

5 (I) "SCHEDULE OF COSTS" MEANS THE LIST OF ALLOWABLE
6 REIMBURSEMENT AMOUNTS THAT MAY BE PAID ON A CLAIM, AS ESTABLISHED
7 IN SECTION 21510B.

8 (J) ~~(l)~~ "Site" means a ~~location where a release has occurred or~~
9 ~~a threat of a release exists from an underground storage tank~~
10 ~~system, excluding any location where corrective action was~~
11 ~~completed which satisfies the cleanup criteria for unrestricted~~
12 ~~residential use under part 213.~~ THAT TERM AS IT IS DEFINED IN
13 SECTION 21303.

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

16 (K) ~~(n)~~ "Underground storage tank system" means ~~an existing~~
17 ~~tank or combination of tanks, including underground pipes connected~~
18 ~~to the tank or tanks, which is or was used to contain an~~
19 ~~accumulation of regulated substances, and is not currently being~~
20 ~~used for any other purpose, and the volume of which, including the~~
21 ~~volume of the underground pipes connected to the tank or tanks, is~~
22 ~~10% or more beneath the surface of the ground. An underground~~
23 ~~storage tank system includes an underground storage tank that is~~
24 ~~properly closed in place pursuant to part 211 and rules promulgated~~
25 ~~under that part. An underground storage tank system does not~~
26 ~~include any of the following.~~ THAT TERM AS IT IS DEFINED IN SECTION
27 21303.

- ~~1 (i) A farm or residential tank of 1,100 gallons or less~~
~~2 capacity used for storing motor fuel for noncommercial purposes.~~
- ~~3 (ii) A tank used for storing heating oil for consumptive use on~~
~~4 the premises where the tank is located.~~
- ~~5 (iii) A septic tank.~~
- ~~6 (iv) A pipeline facility, including gathering lines regulated~~
~~7 under 49 USC 60101 to 60137.~~
- ~~8 (v) A surface impoundment, pit, pond, or lagoon.~~
- ~~9 (vi) A storm water or wastewater collection system.~~
- ~~10 (vii) A flow through process tank.~~
- ~~11 (viii) A liquid trap or associated gathering lines directly~~
~~12 related to oil or gas production and gathering operations.~~
- ~~13 (ix) A storage tank situated in an underground area such as a~~
~~14 basement, cellar, mineworking, drift, shaft, or tunnel if the~~
~~15 storage tank is situated upon or above the surface of the floor.~~
- ~~16 (x) Any pipes connected to a tank described in subparagraphs~~
~~17 (i) to (ix).~~
- ~~18 (xi) An underground storage tank system holding hazardous~~
~~19 wastes listed or identified under 42 USC 6921 to 6939f, or a~~
~~20 mixture of such hazardous waste and other regulated substances.~~
- ~~21 (xii) A wastewater treatment tank system that is part of a~~
~~22 wastewater treatment facility regulated under 33 USC 1317(b) or 33~~
~~23 USC 1342.~~
- ~~24 (xiii) Equipment or machinery that contains regulated substances~~
~~25 for operational purposes such as hydraulic lift tanks and~~
~~26 electrical equipment tanks.~~
- ~~27 (xiv) An underground storage tank system with a capacity of 110~~

1 ~~gallons or less.~~

2 ~~—— (xv) An underground storage tank system that contains a de~~
3 ~~minimis concentration of regulated substances.~~

4 ~~—— (xvi) An emergency spill or overflow containment underground~~
5 ~~storage tank system that is expeditiously emptied after use.~~

6 ~~—— (xvii) A wastewater treatment tank system.~~

7 ~~—— (xviii) An underground storage tank system containing~~
8 ~~radioactive material that is regulated under the atomic energy act~~
9 ~~of 1954, 42 USC 2011 to 2297h-13.~~

10 ~~—— (xix) An underground storage tank system that is part of an~~
11 ~~emergency generator system at nuclear power generation facilities~~
12 ~~regulated by the nuclear regulatory commission under 10 CFR part~~
13 ~~50.~~

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

15 ~~—— (xxi) Underground storage tank systems with field constructed~~
16 ~~tanks.~~

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

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

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

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

26 ~~—— (iv) A statement that the owner or operator employed a~~
27 ~~documented sealed competitive bidding process for any contract~~

1 ~~award exceeding \$5,000.00.~~

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

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

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

9 Sec. 21504. The objectives of this part are to **FUND CORRECTIVE**
 10 **ACTIONS TO** address ~~certain problems associated with releases from~~
 11 **REFINED** petroleum underground storage tank systems, ~~to promote~~
 12 ~~compliance with parts 211 and 213, and to fund environmental and~~
 13 ~~consumer protection programs necessary to protect public health,~~
 14 ~~safety, or welfare or the environment due to the sale, use, or~~
 15 ~~release of refined petroleum products.~~ **TO ASSIST OWNERS AND**
 16 **OPERATORS OF REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS IN**
 17 **MEETING THEIR FINANCIAL RESPONSIBILITY REQUIREMENTS PURSUANT TO**
 18 **PART 211, AND TO ACHIEVE COMPLIANCE WITH PART 213.**

19 Sec. 21505. The legislature finds that releases from
 20 underground storage tanks are a significant cause of contamination
 21 of the natural resources, water resources, and groundwater in this
 22 state. ~~It is hereby declared to be the~~ **THE** purpose of this part and
 23 of the authority created by this part **IS** to preserve and protect
 24 the water resources of the state and to prevent, abate, or control
 25 the pollution of water resources and groundwater, to protect and
 26 preserve the public health, safety, and welfare, **AND** to assist in
 27 the financing of ~~repair and replacement of petroleum underground~~

~~storage tanks and to improve property damaged by any petroleum~~
~~CORRECTIVE ACTIONS DUE TO releases from those tanks, to preserve~~
~~jobs and employment opportunities or improve the economic welfare~~
~~of the people of the state, and to fund environmental and consumer~~
~~protection programs necessary to protect public health, safety, or~~
~~welfare or the environment due to the sale, use, or release of~~
~~refined petroleum products.~~**REFINED PETROLEUM UNDERGROUND STORAGE**

TANK SYSTEMS.

Sec. 21506a. (1) The refined petroleum fund is created within the state treasury.

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

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

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

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

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

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

~~—— (b) For the refined petroleum product cleanup initial program~~

1 ~~and for the department's administrative costs associated with the~~
2 ~~temporary reimbursement program.~~

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

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

7 ~~—— (e) For the reasonable administrative costs of the department,~~
8 ~~the department of agriculture, the department of attorney general,~~
9 ~~and the department of treasury in administering the refined~~
10 ~~petroleum fund and in implementing the programs receiving revenue~~
11 ~~from the refined petroleum fund.~~

12 ~~—— (5) The department shall establish an underground storage tank~~
13 ~~system cleanup advisory board consisting of owners and operators of~~
14 ~~underground storage tank systems and other persons with knowledge~~
15 ~~and expertise in corrective actions associated with releases from~~
16 ~~underground storage tank systems and the financing of those~~
17 ~~corrective actions. Not later than March 1, 2013, the underground~~
18 ~~storage tank system cleanup advisory board shall submit a report to~~
19 ~~the department and the legislature that recommends a cleanup~~
20 ~~program, funded with money from the fund, that would assist owners~~
21 ~~and operators in financing corrective actions required under part~~
22 ~~213.~~

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

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

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

5 (C) OTHER PURPOSES AS DETERMINED BY THE LEGISLATURE.

6 SEC. 21506B. (1) THE UNDERGROUND STORAGE TANK CLEANUP FUND IS
7 CREATED WITHIN THE STATE TREASURY.

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 SHALL EXPEND MONEY FROM THE FUND, UPON
17 APPROPRIATION, ONLY FOR 1 OR MORE OF THE FOLLOWING PURPOSES:

18 (A) TO PAY APPROVED CLAIMS AS PROVIDED FOR IN THIS PART.

19 (B) TO PAY INTEREST AND OTHER COSTS ASSOCIATED WITH THE
20 ISSUANCE OF BONDS OR NOTES UNDER THIS PART.

21 (C) TO PAY FOR THE COSTS OF THE AUTHORITY.

22 Sec. 21508. (1) An environmental protection regulatory fee is
23 imposed on all refined petroleum products sold for resale in this
24 state or consumption in this state. The regulatory fee shall be
25 charged for capacity utilization of **REFINED PETROLEUM** underground
26 storage tanks measured on a per gallon basis. The regulatory fee
27 shall be charged against all refined petroleum products sold for

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

9 (2) The department of treasury shall precollect regulatory
10 fees from persons who refine petroleum in this state for resale in
11 this state or consumption in this state and persons who import
12 refined petroleum into this state for resale in this state or
13 consumption in this state. The department of treasury shall collect
14 regulatory fees that can be collected at the same time as the sales
15 tax under section 6a of the general sales tax act, 1933 PA 167, MCL
16 205.56a, at that time. The remainder of the regulatory fees shall
17 be collected in the manner determined by the state treasurer.

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

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

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

1 (B) FOLLOWING THE DEPOSIT UNDER SUBDIVISION (A), ALL MONEY
2 COLLECTED SHALL BE DEPOSITED into the refined petroleum fund.

3 ~~created in section 21506a.~~

4 ~~—— (5) Consistent with the March 31, 1995 determination by the~~
5 ~~state treasurer that revenue will not be sufficient to pay expected~~
6 ~~expenditures, and consistent with the April 3, 1995 notice of the~~
7 ~~fund administrator pursuant to subsection (6), funding is no longer~~
8 ~~available under this part for new claims, work invoices, and~~
9 ~~requests for indemnification received after 5 p.m. on June 29,~~
10 ~~1995. Claims, work invoices, and requests for indemnification~~
11 ~~received after 5 p.m. on June 29, 1995 are not eligible for funding~~
12 ~~under this part. Work invoices and requests for indemnification~~
13 ~~received prior to 5 p.m. on June 29, 1995 may be paid to the extent~~
14 ~~money is available in the fund as provided in this part.~~

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

1 ~~provided in this part.~~

2 (5) ~~(7)~~—The department of treasury may audit, enforce,
3 collect, and assess the fee imposed by this part in the same manner
4 and subject to the same requirements as revenues collected pursuant
5 to 1941 PA 122, MCL 205.1 to 205.31.

6 Sec. 21509. (1) Notwithstanding any other provision in this
7 part, regulatory fees shall be calculated and paid upon gross or
8 metered gallons with respect to all "light" petroleum products.
9 With respect only to "heavy" petroleum products (No. 4, No. 5, No.
10 6 residual oils), regulatory fees shall be calculated and paid upon
11 net or temperature-corrected gallons.

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

23 Sec. 21510. (1) ~~Except as provided in section 21521, an~~ **AN**
24 owner or operator is eligible to receive money from the ~~fund or~~
25 ~~bond proceeds account~~ **AUTHORITY** for corrective action or
26 indemnification **DUE TO A RELEASE FROM A REFINED PETROLEUM**
27 **UNDERGROUND STORAGE TANK SYSTEM** only if all of the following

1 requirements are satisfied and the owner or operator otherwise
2 complies with this part:

3 (a) The release from which the corrective action or
4 indemnification arose was discovered and reported on or after July
5 ~~18, 1989.~~ **THE EFFECTIVE DATE OF THE 2014 AMENDATORY ACT THAT AMENDED**
6 **THIS SECTION.**

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

11 (c) The owner or operator reported the release within 24 hours
12 after its discovery as required by part 211 and the rules
13 promulgated under that part.

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

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

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

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

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

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

27 **(I) THE TOTAL AMOUNT OF EXPENDITURES, INCLUDING THE DEDUCTIBLE**

1 **AMOUNT, DOES NOT EXCEED THE CLAIM LIMIT.**

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

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

10 (b) The release is sudden and immediate.

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

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

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

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

26 (5) If an owner or operator has received money from the ~~fund~~
27 ~~or bond proceeds account~~ **AUTHORITY** under this part for a release at

1 a location, the owner and operator are not eligible to receive
2 money from the ~~fund or bond proceeds account~~ **AUTHORITY** for a
3 subsequent release at the same location unless the owner or
4 operator has done either or both of the following:

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

9 (b) Upgraded, replaced, removed, or properly closed in place
10 all **REFINED PETROLEUM** underground storage tank systems at the
11 location of the release so as to meet the requirements of part 211
12 and the rules promulgated under that part.

13 (6) An owner or operator who discovers a subsequent release at
14 the same location as an initial release pursuant to subsection
15 (5)(a) may receive money from the ~~fund or bond proceeds account~~
16 **AUTHORITY** to perform corrective action on the subsequent release,
17 if the owner or operator otherwise complies with the requirements
18 of this part and the rules promulgated under this part. However,
19 the subsequent release shall be considered as part of the claim for
20 the initial release for purposes of determining the total amount of
21 expenditures for corrective action and indemnification under
22 ~~section 21512~~. **SUBSECTION (1) (I) .**

23 (7) An owner or operator who discovers a subsequent release at
24 the same location as an initial release following compliance with
25 subsection (5)(b) may receive money from the ~~fund or bond proceeds~~
26 ~~account~~ **AUTHORITY** to perform corrective action on the subsequent
27 release, if there have been not more than 2 releases at the

1 location, ~~if the owner or operator pays the subsequent release co-~~
2 ~~pay amount pursuant to section 21514,~~ and if the owner or operator
3 otherwise complies with the requirements of this part and the rules
4 promulgated under this part. The subsequent release shall be
5 considered a separate claim for purposes of determining the total
6 amount of expenditures for corrective action and indemnification
7 under ~~section 21512.~~ SUBSECTION (1)(I).

8 (8) AN OWNER OR OPERATOR MAY SUBMIT TO THE AUTHORITY A REQUEST
9 FOR A DETERMINATION THAT THE OWNER OR OPERATOR WOULD BE ELIGIBLE
10 FOR FUNDING UNDER THIS PART IN THE EVENT OF A RELEASE FROM A
11 REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEM. UPON RECEIPT OF
12 A REQUEST UNDER THIS SUBSECTION, THE AUTHORITY SHALL MAKE A
13 DETERMINATION AND PROVIDE NOTICE OF THAT DETERMINATION, IN WRITING,
14 TO THE OWNER OR OPERATOR. THE NOTICE MAY CONTAIN CONDITIONS FOR
15 MAINTENANCE OF THAT ELIGIBILITY.

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

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

20 (B) IF THE OWNER OR OPERATOR OR ITS AFFILIATE OWNS OR OPERATES
21 FEWER THAN 8 REFINED PETROLEUM UNDERGROUND STORAGE TANKS AND PAYS
22 THE AUTHORITY AN ANNUAL FEE OF \$500.00 PER REFINED PETROLEUM
23 UNDERGROUND STORAGE TANK, \$15,000.00 PER CLAIM. FOR PURPOSES OF
24 THIS SUBDIVISION, EACH COMPARTMENT OF A MULTIPLE COMPARTMENT
25 REFINED PETROLEUM UNDERGROUND STORAGE TANK IS CONSIDERED A REFINED
26 PETROLEUM UNDERGROUND STORAGE TANK FOR PURPOSES OF CALCULATING THE
27 ANNUAL FEE.

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

3 (3) THE DEDUCTIBLE AMOUNT APPLIES TO EACH CLAIM. HOWEVER, 2 OR
4 MORE CLAIMS ARISING OUT OF THE SAME, INTERRELATED, ASSOCIATED,
5 REPEATED, OR CONTINUOUS RELEASES OR A SERIES OF RELATED RELEASES
6 SHALL BE CONSIDERED A SINGLE CLAIM AND BE SUBJECT TO 1 CLAIM LIMIT
7 AND 1 DEDUCTIBLE AMOUNT. ANY CLAIM WHICH TAKES PLACE OVER 2 OR MORE
8 CLAIM PERIODS SHALL BE SUBJECT TO 1 CLAIM LIMIT AND 1 DEDUCTIBLE
9 AMOUNT.

10 (4) AN OWNER OR OPERATOR THAT SUBMITS A CLAIM UNDER SECTION
11 21515 SHALL INCLUDE WORK INVOICES OR OTHER EVIDENCE THAT THE
12 DEDUCTIBLE AMOUNT DESCRIBED IN SUBSECTION (1) HAS BEEN MET. THE
13 EXPENSES TOWARD MEETING THE DEDUCTIBLE AMOUNT SHALL BE DOCUMENTED
14 AND SHALL COMPLY WITH THE FOLLOWING:

15 (A) EXPENSES FOR ITEMS LISTED IN THE SCHEDULE OF COSTS SHALL
16 BE AT OR BELOW THE ALLOWABLE REIMBURSEMENT AMOUNT LISTED IN THE
17 SCHEDULE OF COSTS.

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

22 SEC. 21510B. (1) THE AUTHORITY SHALL ESTABLISH A SCHEDULE OF
23 COSTS THAT ITEMIZES CORRECTIVE ACTIONS THAT ARE GENERALLY CONDUCTED
24 AT A SITE AND LISTS AN ALLOWABLE REIMBURSEMENT AMOUNT THAT MAY BE
25 PAID FOR EACH CORRECTIVE ACTION AS PART OF A CLAIM UNDER THIS PART.
26 IF THE AUTHORITY DETERMINES THAT COSTS FOR PARTICULAR CORRECTIVE
27 ACTIONS VARY IN DIFFERENT REGIONS OF THE STATE, THE AUTHORITY MAY

1 ESTABLISH ALLOWABLE REIMBURSEMENT AMOUNTS THAT REFLECT REGIONAL
2 DIFFERENCES.

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

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

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

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

11 (B) PUNITIVE, EXEMPLARY, OR MULTIPLIED DAMAGES, FINES, TAXES,
12 PENALTIES, ASSESSMENTS, PUNITIVE OR STATUTORY ASSESSMENTS, OR ANY
13 CIVIL, ADMINISTRATIVE, OR CRIMINAL FINES, SANCTIONS, OR PENALTIES.

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

17 (D) A RELEASE CAUSED BY, BASED UPON, RESULTING FROM, OR
18 ATTRIBUTABLE TO THE OWNER'S OR OPERATOR'S INTENTIONAL, KNOWING,
19 WILLFUL, OR DELIBERATE NONCOMPLIANCE WITH ANY STATUTE, REGULATION,
20 ORDINANCE, ADMINISTRATIVE COMPLAINT, NOTICE OF VIOLATION, NOTICE
21 LETTER, EXECUTIVE ORDER, OR INSTRUCTION OF ANY GOVERNMENTAL AGENCY
22 OR BODY.

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

26 (F) COSTS, CHARGES, OR EXPENSES INCURRED BY THE OWNER OR
27 OPERATOR FOR GOODS SUPPLIED BY THE OWNER OR OPERATOR OR SERVICES

1 PERFORMED BY THE STAFF OR EMPLOYEES OF THE OWNER OR OPERATOR, OR
2 ITS PARENT, SUBSIDIARY, OR AFFILIATE, UNLESS THE COSTS, CHARGES, OR
3 EXPENSES ARE INCURRED WITH THE PRIOR WRITTEN APPROVAL OF THE
4 AUTHORITY.

5 (G) A RELEASE ARISING FROM ANY CONSEQUENCE, WHETHER DIRECT OR
6 INDIRECT, OF WAR, INVASION, ACT OF A FOREIGN ENEMY, ACT OF
7 TERRORISTS, HOSTILITIES, WHETHER WAR HAS BEEN DECLARED OR NOT,
8 CIVIL WAR, REBELLION, REVOLUTION, INSURRECTION OR MILITARY OR
9 USURPED POWER, STRIKE, RIOT, OR CIVIL COMMOTION.

10 (H) COSTS ARISING OUT OF THE RECONSTRUCTION, REPAIR,
11 REPLACEMENT, UPGRADING OF A REFINED PETROLEUM UNDERGROUND STORAGE
12 TANK SYSTEM, OR ANY OTHER IMPROVEMENTS AND ANY SITE ENHANCEMENTS OR
13 ROUTINE MAINTENANCE ON, WITHIN, OR UNDER A LOCATION.

14 (I) COSTS ARISING OUT OF THE REMOVING, REPLACING, OR RECYCLING
15 OF THE CONTENTS OF A REFINED PETROLEUM UNDERGROUND STORAGE TANK
16 SYSTEM.

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

19 (K) COSTS RELATED TO THE INJURY OF AN EMPLOYEE OF THE OWNER OR
20 OPERATOR OR ITS PARENT, SUBSIDIARY, OR AFFILIATE ARISING OUT OF AND
21 IN THE COURSE OF EMPLOYMENT BY THE OWNER OR OPERATOR OR ITS PARENT,
22 SUBSIDIARY, OR AFFILIATE OR PERFORMING DUTIES RELATED TO THE
23 CONDUCT OF THE BUSINESS OF THE OWNER OR OPERATOR OR ITS PARENT,
24 SUBSIDIARY, OR AFFILIATE BY A SPOUSE, CHILD, PARENT, BROTHER, OR
25 SISTER OF THAT EMPLOYEE. THIS SUBDIVISION APPLIES WHETHER THE OWNER
26 OR OPERATOR MAY BE LIABLE AS AN EMPLOYER OR IN ANY OTHER CAPACITY
27 AND TO ANY OBLIGATION TO SHARE DAMAGES WITH OR REPAY SOMEONE ELSE

1 WHO MUST PAY DAMAGES BECAUSE OF THE INJURY.

2 (I) ANY OBLIGATION OF THE OWNER OR OPERATOR UNDER WORKER'S
3 COMPENSATION, UNEMPLOYMENT COMPENSATION, OR DISABILITY BENEFITS LAW
4 OR SIMILAR LAW.

5 (M) ANY LIABILITY OR CLAIM FOR LIABILITY OF OTHERS ASSUMED BY
6 THE OWNER OR OPERATOR UNDER ANY CONTRACT OR AGREEMENT, UNLESS THE
7 OWNER OR OPERATOR WOULD HAVE BEEN LIABLE IN THE ABSENCE OF THE
8 CONTRACT OR AGREEMENT.

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

12 Sec. 21515. (1) To receive money from the ~~fund or bond~~
13 ~~proceeds account~~ **AUTHORITY** for corrective action, the owner or
14 operator shall follow the procedures outlined in this section and
15 shall submit ~~reports, work plans, feasibility analyses,~~
16 ~~hydrogeological studies, and corrective action plans prepared under~~
17 ~~part 213 and rules promulgated under that part to the department,~~
18 and shall provide other **A CLAIM TO THE ADMINISTRATOR CONTAINING**
19 information required by the administrator relevant to determining
20 compliance with this part.

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

26 (3) Upon receipt of a completed claim pursuant to subsection
27 ~~(2),~~ **(1)**, the administrator shall make all of the following

1 determinations:

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

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

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

9 (A) ~~(d)~~ Whether the owner or operator is eligible to receive
10 funding under this part.

11 ~~—— (e) Whether the owner or operator has complied with section~~
12 ~~21517.~~

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

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

21 (C) WHETHER THE OWNER OR OPERATOR HAS PAID THE DEDUCTIBLE
22 AMOUNT.

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

25 (E) WHETHER THE COST OF PERFORMING THE CORRECTIVE ACTION WORK
26 IS AT OR BELOW THE ALLOWABLE REIMBURSEMENT AMOUNT IN THE SCHEDULE
27 OF COSTS OR, IF THE CORRECTIVE ACTION WORK IS NOT A LISTED ITEM,

1 WHETHER THE COST IS REASONABLE AND NECESSARY.

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

5 (5) If the administrator determines under subsection (3) that
6 the work invoices included with the claim are **REASONABLE AND**
7 necessary ~~and appropriate~~ considering conditions at the site of the
8 release and reasonable in terms of cost and the owner or operator
9 is eligible for funding under this part, the administrator shall
10 approve the claim and notify the owner or operator who submitted
11 the claim of the approval. If the administrator determines that the
12 work described on the work invoices submitted was not **REASONABLE**
13 **AND** necessary ~~or appropriate~~ or the cost of the work is not
14 reasonable, or that the owner or operator is not eligible for
15 funding under this part, the administrator shall deny the claim or
16 any portion of the work invoices submitted and give notice of the
17 denial to the owner or operator who submitted the claim.

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

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

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

27 (7) If the administrator determines that the work invoice does

1 not meet the requirements of subsection (6), ~~he or she~~ **THE**
 2 **ADMINISTRATOR** shall deny the work invoice and give written notice
 3 of the denial to the owner or operator who submitted the work
 4 invoice.

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

11 (9) The administrator may approve a reimbursement for a work
 12 invoice that was submitted by an owner or operator for corrective
 13 action taken if the work invoice meets the requirements of this
 14 part for an approved claim and an approved work invoice.

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

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

27 (12) The ~~department~~ **AUTHORITY** shall prepare and make available

1 to owners and operators standardized claim and work invoice forms.

2 Sec. 21516. (1) An owner or operator with a claim approved
3 pursuant to section 21515 for which corrective action is in
4 progress who sells or transfers the property that is the subject of
5 the approved claim to another person may assign or transfer the
6 approved claim to that other person. The person to whom the
7 assignment or transfer is made is eligible to receive money from
8 the ~~fund~~-**AUTHORITY** as an owner or operator for the release which is
9 the subject of the approved claim. Allowable, outstanding approved
10 or paid work invoices of the owner or operator making the
11 assignment or transfer may be counted toward the ~~co-pay~~-**DEDUCTIBLE**
12 amount of the person to whom the assignment or transfer is made.

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

17 Sec. 21518. (1) To receive money from the ~~fund~~-**AUTHORITY** for
18 indemnification, the owner or operator shall submit to the
19 administrator a request for indemnification containing the
20 information required by the administrator, including a copy of the
21 judgment obtained by a third party from a court of law against the
22 owner or operator or the settlement entered into between the owner
23 or operator and the third party, all documentation supporting the
24 reasonableness of and justification for the judgment or settlement,
25 and work invoices which conform to the requirements of ~~section~~
26 ~~21503(9)(a) to (e)~~. **THIS PART**. If the administrator determines that
27 the owner or operator is eligible for funding under this part, is

1 eligible for the amount requested, has paid the ~~co-pay~~ **DEDUCTIBLE**
 2 amount, and has not exceeded the allowable amount of expenditure
 3 provided in section ~~21512,~~ **21510(1)(I)**, and that the work invoices
 4 are ~~reasonable in terms of cost,~~ **PAYABLE UNDER THIS PART**, the
 5 administrator shall forward a copy of the request for
 6 indemnification along with all supporting documentation to the
 7 attorney general. The attorney general shall approve the request
 8 for indemnification if there is a legally enforceable judgment
 9 against, or settlement with, the owner or operator that was caused
 10 by an accidental release and that is reasonable and consistent with
 11 the purposes of this part. The attorney general may raise as a
 12 defense to the request any rights or defenses that were or are
 13 available to the owner or operator and, in the case of a judgment,
 14 that were not heard and ruled upon by the court. If a request for
 15 indemnification is approved by the attorney general, the
 16 ~~administrator~~ **AUTHORITY** shall ~~forward the approved request for~~ **PAY**
 17 **THE** indemnification ~~to the department of treasury.~~ **AMOUNT.**

18 (2) The administrator shall keep records of all approved
 19 requests for indemnification.

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

24 Sec. 21519. (1) The ~~state treasurer~~ **AUTHORITY** shall ~~pay~~
 25 ~~payment vouchers~~ **MAKE PAYMENTS ON CLAIMS** in the order in which they
 26 are received. ~~If~~ **HOWEVER, IF** there is insufficient money ~~in the~~
 27 ~~fund~~ **AVAILABLE** to make a payment, ~~then a payment shall not be made.~~

1 ~~However, payment vouchers~~ **PAYMENTS ON ALL APPROVED CLAIMS, THE**
 2 **AUTHORITY SHALL GIVE NOTICE TO EACH OWNER THAT IS ELIGIBLE TO**
 3 **SUBMIT A CLAIM UNDER THIS PART ADVISING THE OWNERS OF THE FINANCIAL**
 4 **SITUATION AND THE AUTHORITY SHALL PRIORITIZE PAYMENTS BASED UPON**
 5 **THE RISKS AT THE SITE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR**
 6 **THE ENVIRONMENT. PAYMENTS ON CLAIMS** that are not funded ~~may~~ **SHALL**
 7 be paid if revenues ~~of the fund~~ **SUBSEQUENTLY** become available.

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

11 Sec. 21521. (1) If the administrator denies a claim or work
 12 invoice, or a request for indemnification, the owner or operator
 13 who submitted the claim, work invoice, or request for
 14 indemnification may, within 14 days following the denial, request
 15 review by the department. ~~Upon receipt of a request for review~~
 16 ~~under this subsection, the department shall forward the request to~~
 17 ~~the board for a preliminary review.~~ **BOARD. HOWEVER, IF THE**
 18 **ADMINISTRATOR BELIEVES THE DISPUTE MAY BE ABLE TO BE RESOLVED**
 19 **WITHOUT THE BOARD'S REVIEW, THE ADMINISTRATOR MAY CONTACT THE OWNER**
 20 **OR OPERATOR REGARDING THE ISSUES IN DISPUTE AND MAY NEGOTIATE A**
 21 **RESOLUTION OF THE DISPUTE PRIOR TO THE BOARDS'S REVIEW.** The board
 22 shall conduct a review of the denial ~~and shall submit a~~
 23 ~~recommendation to the department as to~~ **DETERMINE** whether the claim,
 24 work invoice, or request for indemnification ~~substantially complies~~
 25 ~~with~~ **IS PAYABLE UNDER** this part. ~~Following review by the board, the~~
 26 ~~department shall approve the claim, work invoice, or request for~~
 27 ~~indemnification if the department determines that the claim, work~~

~~invoice, or request for indemnification substantially complies with the requirements of this part. In making its determination, the department shall give substantial consideration to the recommendations of the board. However, the department shall not approve a claim, work invoice, or request for indemnification for a release that was discovered prior to July 18, 1989.~~

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

(2) ~~(3)~~ A person who is denied approval by the department **BOARD** after review under subsection (1) may appeal the decision directly to the circuit court. ~~for the county of Ingham.~~

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

Sec. 21524. (1) The authority shall be governed by a board of directors consisting of the director of the department ~~of management and budget~~, ~~the director of the department of state police~~, and ~~3-6~~ residents of the state appointed by the governor

1 with the advice and consent of the senate ~~—~~AS FOLLOWS:

2 (A) AN INDIVIDUAL REPRESENTING PETROLEUM REFINERS.

3 (B) AN INDIVIDUAL REPRESENTING INDEPENDENT PETROLEUM
4 MARKETERS.

5 (C) AN INDIVIDUAL FROM A STATEWIDE MOTOR FUEL RETAIL
6 ASSOCIATION.

7 (D) AN INDIVIDUAL FROM A STATEWIDE BUSINESS ASSOCIATION THAT
8 INCLUDES OWNERS OR OPERATORS OF REFINED PETROLEUM UNDERGROUND
9 STORAGE TANKS.

10 (E) AN INDIVIDUAL FROM A STATEWIDE ENVIRONMENTAL ORGANIZATION.

11 (F) A MEMBER OF THE GENERAL PUBLIC.

12 (2) The ~~3—6~~ appointed members **OF THE BOARD** shall serve terms
13 of 3 years. However, in making the initial appointments, the
14 governor shall designate ~~1—2~~ appointed member **MEMBERS** to serve for
15 3 years, ~~1—2~~ appointed member **MEMBERS** to serve for 2 years, and ~~1—2~~
16 appointed member **MEMBERS** to serve for 1 year.

17 (3) ~~(2)~~ Upon appointment to the board of directors under
18 subsection (1), and upon the taking and filing of the
19 constitutional oath of office, a member of the board of directors
20 shall enter office and exercise the duties of the office to which
21 he or she is appointed.

22 (4) ~~(3)~~ A vacancy on the board of directors shall be filled in
23 the same manner as the original appointment. A vacancy shall be
24 filled for the balance of the unexpired term. A member of the board
25 of directors shall hold office until a successor is appointed and
26 qualified.

27 (5) ~~(4)~~ Members of the board of directors and officers and

1 employees of the authority are subject to ~~Act No. 317 of the Public~~
 2 ~~Acts of 1968, being sections 15.321 to 15.330 of the Michigan~~
 3 ~~Compiled Laws, and Act No. 318 of the Public Acts of 1968, being~~
 4 ~~sections 15.301 to 15.310 of the Michigan Compiled Laws, 1968 PA~~
 5 **317, MCL 15.321 TO 15.330, AND 1968 PA 318, MCL 15.301 TO 15.310,**
 6 as applicable. A member of the board of directors or an officer,
 7 employee, or agent of the authority shall discharge the duties of
 8 his or her position in a nonpartisan manner, with good faith, and
 9 with the degree of diligence, care, and skill that an ordinarily
 10 prudent person would exercise under similar circumstances in a like
 11 position. In discharging his or her duties, a member of the board
 12 of directors or an officer, employee, or agent of the authority,
 13 when acting in good faith, may rely upon any of the following:

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

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

17 (c) Financial statements of the authority represented to the
 18 member of the board of directors, officer, employee, or agent to be
 19 correct by the officer of authority having charge of its books or
 20 account, or stated in a written report by the auditor general or a
 21 certified public accountant or the firm of the ~~accountants~~
 22 **ACCOUNTANT** to fairly reflect the financial condition of the
 23 authority.

24 **(6)** ~~(5)~~—The board of directors shall organize and make its own
 25 policies and procedures. The board of directors shall conduct all
 26 business at public meetings held in compliance with the open
 27 meetings act, ~~Act No. 267 of the Public Acts of 1976, being~~

~~sections 15.261 to 15.275 of the Michigan Compiled Laws. 1976 PA 267, MCL 15.261 TO 15.275.~~ Public notice of the time, date, and place of each meeting shall be given in the manner required by ~~Act No. 267 of the Public Acts of 1976. Three~~ **1976 PA 267, MCL 15.261 TO 15.275. FOUR** members of the board of directors constitute a quorum for the transaction of business. An action of the board of directors shall be by a majority of the votes cast. ~~A state officer who is a member of the board of directors~~ **THE DIRECTOR OF THE DEPARTMENT** may designate a representative from his or her department to serve ~~instead of that state officer~~ as a voting member of the board of directors for 1 or more meetings.

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

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

~~(2) The budgeting, procurement, and related functions of the~~

1 ~~authority shall be performed under the direction and supervision of~~
2 ~~the director of the department of management and budget.~~

3 (2) ~~(3)~~—The authority may contract with the department of
4 ~~management and budget~~ for the purpose of maintaining and improving
5 the rights and interests of the authority.

6 (3) ~~(4)~~—The authority shall annually file with the legislature
7 a written report on its activities of the last year. This report
8 shall be submitted not later than 270 days following the end of the
9 fiscal year. This report shall specify the amount and source of
10 revenues received, the status of investments made, and money
11 expended with proceeds of bonds or notes sold under this part.

12 (4) ~~(5)~~—The accounts of the authority are subject to annual
13 audits by the state auditor general or a certified public
14 accountant appointed by the auditor general. Records shall be
15 maintained according to generally accepted accounting principles.

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

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

23 (b) Sue and be sued in its own name and plead and be
24 impleaded.

25 (c) Borrow money and issue negotiable revenue bonds and notes
26 pursuant to this part.

27 (d) Enter into contracts and other instruments necessary,

1 incidental, or convenient to the performance of its duties and the
2 exercise of its powers.

3 (e) With the prior consent of the director of the department,
4 ~~of management and budget,~~ solicit and accept gifts, grants, loans,
5 and other aid from any person or the federal, state, or local
6 government or any agency of the federal, state, or local
7 government, or participate in any other way in a federal, state, or
8 local government program.

9 (f) Procure insurance against loss in connection with the
10 property, assets, or activities of the authority.

11 (g) Invest money of the authority, at the board of directors'
12 discretion, in instruments, obligations, securities, or property
13 determined proper by the board of directors, and name and use
14 depositories for its money.

15 (h) Contract for goods and services and engage personnel as
16 necessary and engage the services of private consultants, managers,
17 legal counsel, and auditors for rendering professional financial
18 assistance and advice, payable out of any money of the authority.

19 (i) Indemnify and procure insurance indemnifying members of
20 the board of directors from personal loss or accountability from
21 liability asserted by a person on bonds or notes of the authority,
22 or from any personal liability or accountability by reason of the
23 issuance of the bonds or notes, or by reason of any other action
24 taken or the failure to act by the authority.

25 (j) Do all other things necessary or convenient to achieve the
26 objectives and purposes of the authority, this part, rules
27 promulgated under this part, or other laws that relate to the

1 purposes and responsibilities of the authority.

2 Sec. 21527. (1) **THE AUTHORITY SHALL ASSESS THE POTENTIAL**
3 **DEMAND FOR PAYMENT OF CLAIMS UNDER THIS PART AND IF THE AUTHORITY**
4 **DETERMINES THAT IT IS PRUDENT TO DO SO, SHALL ISSUE BONDS OR NOTES.**

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

21 (3) ~~(2)~~All expenses incurred in implementing this part are
22 payable solely from revenues or funds provided or to be provided
23 under this part. This part does not authorize the authority to
24 incur any indebtedness or liability on behalf of or payable by the
25 state.

26 Sec. 21528. (1) The authority may issue from time to time
27 bonds or notes in principal amounts the authority considers

1 necessary to provide funds for any purpose, including, but not
2 limited to, all of the following:

3 (a) The ~~purposes described in section 21506(4)(a) and~~

4 ~~(e).~~ **PAYMENT OF APPROVED CLAIMS UNDER THIS PART.**

5 (b) The payment, funding, or refunding of the principal of,
6 interest on, or redemption premiums on bonds or notes issued by the
7 authority whether the bonds or notes or interest to be funded or
8 refunded have or have not become due.

9 (c) The establishment or increase of reserves to secure or to
10 pay authority bonds or notes or interest on those bonds or notes.

11 (d) The payment of interest on the bonds or notes for a period
12 determined by the authority.

13 (e) The payment of all other costs or expenses of the
14 authority incident to and necessary or convenient to implement its
15 purposes and powers.

16 (2) The bonds or notes of the authority are not a general
17 obligation of the authority but are payable solely from the
18 revenues or funds, or both, pledged to the payment of the principal
19 of and interest on the bonds or notes as provided in the resolution
20 authorizing the bond or note.

21 (3) The bonds or notes of the authority:

22 (a) Shall be authorized by resolution of the authority.

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

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

26 (d) Shall be serial bonds, term bonds, or term and serial
27 bonds.

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

3 (f) May provide for sinking fund payments.

4 (g) May provide for redemption at the option of the authority
5 for any reason or reasons.

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

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

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

11 (k) May contain a conversion feature.

12 (l) May be transferable.

13 (m) Shall be in the form, denomination or denominations, and
14 with such other provisions and terms as is determined necessary or
15 beneficial by the authority.

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

22 (5) Bonds or notes of the authority may be sold at a public or
23 private sale at the time or times, at the price or prices, and at a
24 discount as the authority determines. An authority bond or note is
25 not subject to the revised municipal finance act, 2001 PA 34, MCL
26 141.2101 to 141.2821. The bond or note of the authority is not
27 required to be filed under ~~the uniform securities act, 1964 PA 265,~~

1 ~~MCL 451.501 to 451.818, or the uniform securities act (2002), 2008~~
2 PA 551, MCL 451.2101 to 451.2703.

3 Sec. 21531. Within limitations that are contained in the
4 issuance or authorization resolution of the authority, the
5 authority may authorize a member of the board of directors, ~~the~~
6 ~~executive director,~~ or any other officer of the authority to do 1
7 or more of the following:

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

9 (b) Refund bonds or notes by the delivery of new bonds or
10 notes whether or not the bonds or notes to be refunded are mature
11 or subject to redemption.

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

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

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

21 (f) Direct the investment of any and all funds of the
22 authority.

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

1 interest rate exposure.

2 (h) Execute any power, duty, function, or responsibility of
3 the authority.

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

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

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

22 Sec. 21548. (1) A person who makes or submits or causes to be
23 made or submitted either directly or indirectly any statement,
24 report, affidavit, application, claim, bid, work invoice, or other
25 request for payment or indemnification under this part knowing that
26 the statement, report, application, claim, bid, work invoice, or
27 other request for payment or indemnification is false or misleading

1 is guilty of a felony punishable by imprisonment for not more than
2 5 years or a fine of not more than \$50,000.00, or both. In addition
3 to any penalty imposed under this subsection, a person convicted
4 under this subsection shall pay restitution to the ~~fund~~**AUTHORITY**
5 for the amount received in violation of this subsection.

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

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

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

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

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

3 (d) Returning any load of contaminated soil to its original
4 site for reasons other than remediation of the soil.

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

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

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

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

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

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

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

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

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

2 (n) Submitting bills or work invoices, or both, for sampling,
3 testing, monitoring, or excavation that are not justified by the
4 site condition.

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

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

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

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

17 (s) Falsifying a signature on a claim application or a work
18 invoice.

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

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

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

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

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

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

27 (8) A person who fails to comply with a subpoena issued

1 pursuant to subsection (5) or a requirement to appear and be
2 examined pursuant to subsection (7) is subject to a civil fine of
3 not more than \$25,000.00 for each day of continued noncompliance.

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

14 (10) Subsection (1) does not preclude prosecutions under other
15 laws of the state including, but not limited to, section 157a, 218,
16 248, 249, 280, or 422 of the Michigan penal code, 1931 PA 328, MCL
17 750.157a, 750.218, 750.248, 750.249, 750.280, and 750.422.

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

20 (a) Fifty percent shall be deposited in the general fund and
21 shall be used by the department to fund fraud investigations under
22 this part.

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

26 (c) Twenty-five percent shall be paid to a local police
27 department or sheriff's office, or a city or county health

1 department, if investigation by that office or department led to
2 the bringing of the action. If more than 1 office or department is
3 eligible for payment under this subsection, division of payment
4 shall be on an equal basis. If there is not a local office or
5 department that is entitled to payment under this subdivision, the
6 money shall be forwarded to the state treasurer for deposit into
7 the refined petroleum fund.

8 Enacting section 1. Sections 21506, 21511, 21512, 21513,
9 21514, 21517, 21520, 21522, 21545, 21547, 21549, 21550, 21551,
10 21553, 21554, 21555, 21556, 21557, 21558, 21559, 21560, 21561, and
11 21563 of the natural resources and environmental protection act,
12 1994 PA 451, MCL 324.21506, 324.21511, 324.21512, 324.21513,
13 324.21514, 324.21517, 324.21520, 324.21522, 324.21545, 324.21547,
14 324.21549, 324.21550, 324.21551, 324.21553, 324.21554, 324.21555,
15 324.21556, 324.21557, 324.21558, 324.21559, 324.21560, 324.21561,
16 and 324.21563, are repealed.