

HOUSE BILL NO. 5115

October 23, 2025, Introduced by Reps. Martin, Prestin and Pohutsky and referred to Committee on Natural Resources and Tourism.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 21502, 21503, 21506a, 21506b, 21510, 21510a,
21510d, 21515, 21516, 21518, 21519, 21519a, 21521, 21524, and 21548
(MCL 324.21502, 324.21503, 324.21506a, 324.21506b, 324.21510,
324.21510a, 324.21510d, 324.21515, 324.21516, 324.21518, 324.21519,
324.21519a, 324.21521, 324.21524, and 324.21548), sections 21502,
21503, 21510, 21510a, 21515, 21516, and 21521 as amended by 2016 PA
380, sections 21506a and 21510d as amended and section 21519a as
added by 2017 PA 134, and section 21506b as added and sections

21518, 21519, 21524, and 21548 as amended by 2014 PA 416; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 21502. As used in this part:

(a) "Administrator" means the administrator of the authority as provided for in section 21525.

(b) "Affiliate" means a person that directly, or indirectly through 1 or more intermediaries, controls the person specified.

(c) "Approved claim" means a claim that is approved ~~pursuant to~~**under** section 21510.

(d) "Authority" means the underground storage tank authority created in section 21523.

(e) "Board of directors" or "board" means the board of directors of the authority.

(f) "Bond proceeds account" means the account within the fund to which proceeds of bonds or notes issued under this part have been credited.

(g) "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~~**in accordance with** 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.

1 Refined petroleum or a refined petroleum product in a refinery,
 2 pipeline, terminal, or marine vessel transporting refined petroleum
 3 or a refined petroleum product to a refinery or terminal is in the
 4 bulk transfer terminal system. Notwithstanding anything to the
 5 contrary in this subdivision, refined petroleum or a refined
 6 petroleum product transferred or purchased for resale by a refiner,
 7 pipeline terminal operator, supplier, or marine terminal operator
 8 must be delivered to or otherwise remain within the bulk transfer
 9 terminal system ~~prior to~~ **before** removal across the rack in order to
 10 constitute a bulk transfer.

11 (i) "Bulk transfer terminal system" means the refined
 12 petroleum or refined petroleum product distribution system
 13 consisting of refineries, pipelines, marine vessels, and terminals
 14 and includes refined petroleum or refined petroleum product storage
 15 tanks and refined petroleum or refined petroleum product storage
 16 facilities that are part of a refinery, boat terminal transfer, or
 17 terminal owned, operated, or controlled by a refiner, marine
 18 terminal operator, or pipeline terminal operator.

19 (j) "Claim" means the submission by the owner or operator or
 20 ~~his~~ **the owner's** or ~~her~~ **operator's** representative of documentation
 21 on an application requesting payment by the authority. A claim
 22 ~~shall~~ **must** include, at a minimum, a completed and signed claim form
 23 and the name, address, and telephone number of the owner or
 24 operator.

25 (k) "Claimant" means a person to whom an approved claim is
 26 assigned or transferred.

27 (l) ~~(k)~~ **"Claim** limit" means \$1,000,000.00 ~~per release.~~
 28 ~~Two or more claims arising out of the same, interrelated,~~
 29 ~~associated, repeated, or continuous releases or a series of related~~

1 ~~releases shall be subject to 1 claims limit. Any claim that takes~~
 2 ~~place over 2 or more claim periods shall be subject to 1 claims~~
 3 ~~limit.~~ **minus the appropriate deductible amount.**

4 **(m)** ~~(l)~~ "Claim period" means a 1-year period ~~commencing on~~
 5 **beginning** October 1 ~~of~~ each year and ending ~~on~~ September 30 the
 6 following year.

7 **(n)** ~~(m)~~ "Claim period aggregate limit" means the following
 8 aggregate claims limit for all releases discovered during a claim
 9 period:

10 **(i)** For owners, operators, and affiliates of 1 to 100 refined
 11 petroleum underground storage tanks **located in this state,**
 12 \$1,000,000.00.

13 **(ii)** For owners, operators, and affiliates of more than 100
 14 refined petroleum underground storage tanks **located in this state,**
 15 \$2,000,000.00.

16 **(o)** "Closure" means department approval of a closure report
 17 for a release covered by an approved claim in accordance with
 18 section 21315. Closure includes approval of a closure report with
 19 conditions after the conditions are met.

20 **(p)** "Confirmed release" means a release of refined petroleum
 21 that is reported to the department of licensing and regulatory
 22 affairs on a form created by the department of licensing and
 23 regulatory affairs and designated on the form as a confirmed
 24 release.

25 **(q)** ~~(n)~~ "Controls" means the possession or the contingent or
 26 noncontingent right to acquire possession, direct or indirect, of
 27 the power to direct or cause the direction of the management and
 28 policies of a person, whether through the ownership of voting
 29 securities or interests, by contract, other than a commercial

1 contract for goods or nonmanagement services, by pledge of
 2 securities, or otherwise, unless the power is the result of an
 3 official position with or corporate office held by the person.

4 (r) ~~(e)~~—"Corrective action" means that term as ~~it is~~ defined
 5 in section 21302.

6 (s) ~~(p)~~—"Deductible amount" means the amount of corrective
 7 action costs or indemnification costs that are required to be paid
 8 by ~~an owner or operator~~ **a claimant** as provided in section 21510a.

9 (t) ~~(q)~~—"Department" means the department of ~~environmental~~
 10 ~~quality~~ **environment, Great Lakes, and energy**.

11 (u) ~~(r)~~—"Eligible person" means an owner or operator ~~who~~ **that**
 12 meets the eligibility requirements under this part to submit a
 13 claim.

14 ~~(s) "Excluded liquid" means that term as defined in 26 CFR~~
 15 ~~48.4081-1.~~

16 (v) **"Federally recognized tribe" means a Native American**
 17 **tribal entity that is recognized as having a government-to-**
 18 **government relationship with the United States, that has the**
 19 **responsibilities, powers, limitations, and obligations attached to**
 20 **that designation, and that is eligible for funding and services**
 21 **from the federal government.**

22 (w) ~~(t)~~—"Finance authority" means the Michigan finance
 23 authority created by Executive Reorganization Order No. 2010-2, MCL
 24 12.194.

25 (x) ~~(u)~~—"Financial responsibility requirements" means the
 26 financial responsibility for taking corrective action and for
 27 compensating third parties for bodily injury and property damage
 28 caused by a release from a refined petroleum underground storage
 29 tank system that the owner or operator of a refined petroleum

1 underground storage tank system must demonstrate under part 211 and
2 the rules promulgated under that part.

3 (y) ~~(v)~~ "Fund" means the underground storage tank cleanup fund
4 created in section 21506b and includes the bond proceeds account
5 established within the fund.

6 (z) ~~(w)~~ "Indemnification" means indemnification of ~~an owner or~~
7 ~~operator~~ **a claimant** for a legally enforceable judgment entered
8 against the ~~owner or operator~~ **claimant** by a third party, or a
9 legally enforceable settlement entered between the ~~owner or~~
10 ~~operator~~ **claimant** and a third party, compensating that third party
11 for bodily injury or property damage, or both, caused by an
12 accidental release. ~~as~~ **As used in this subdivision, "accidental**
13 **release", "bodily injury", and "property damage" mean** those terms
14 ~~are~~ **as** defined in R 29.2163 of the Michigan Administrative Code.

15 (aa) ~~(x)~~ "Location" means a parcel of property where refined
16 petroleum underground storage tank systems are registered ~~pursuant~~
17 ~~to~~ **in accordance with** part 211.

18 (bb) ~~(y)~~ "Marine terminal operator" means a person that stores
19 refined petroleum or a refined petroleum product at a boat terminal
20 transfer.

21 (cc) ~~(z)~~ "Operator" means that term as ~~it is~~ defined in
22 section 21303 or a person to whom an approved claim has been
23 assigned or transferred.

24 (dd) ~~(aa)~~ "Owner" means that term as ~~it is~~ defined in section
25 21303.

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

Sec. 21503. As used in this part:

(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.~~

(c) ~~(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.

(d) ~~(e)~~ "Refined petroleum" means ~~aviation gasoline, middle distillates, jet fuel, kerosene, gasoline, residual oils, and any oxygenates that have been blended with any of these. Refined petroleum includes refined petroleum products and transmix. Refined petroleum does not include excluded liquids.~~ **any liquid subject to the regulatory fee.**

(e) ~~(f)~~ "Refined petroleum fund" means the refined petroleum fund established under section 21506a.

(f) ~~(g)~~ "Refined petroleum underground storage tank" means an underground storage tank system used for the storage of refined petroleum.

(g) ~~(h)~~ "Refiner" means a person that meets both of the following:

(i) Manufactures or produces refined petroleum or a refined petroleum product at a refinery.

(ii) Is a taxable fuel registrant that is a refiner for purposes of 26 CFR 48.4081-1.

(h) ~~(i)~~—"Refinery" means a facility used by a refiner to produce refined petroleum or a refined petroleum product from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons by any process involving substantially more than the blending of refined petroleum and from which refined petroleum or a refined petroleum product may be removed by pipeline or marine vessel or at a rack.

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

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

(k) ~~(l)~~—"Release" means that term as ~~it is~~ defined in section 21303.

(l) ~~(m)~~—"Removal" or "removed" means a physical transfer other than by evaporation, loss, or destruction of refined petroleum or a refined petroleum product from a refiner, pipeline terminal operator, or marine terminal operator.

(m) ~~(n)~~—"Schedule of costs" means the list of allowable reimbursement amounts that may be paid on a claim, as established in section 21510b.

(n) ~~(o)~~—"Site" means that term as ~~it is~~ defined in section 21303.

1 **(o)** ~~(p)~~ "Supplier" means a supplier or permissive supplier
 2 licensed under the motor fuel tax act, 2000 PA 403, MCL 207.1001 to
 3 207.1170.

4 **(p)** ~~(q)~~ "Tank wagon" means a straight truck having 1 or more
 5 compartments other than the fuel supply tank designed or used to
 6 carry fuel.

7 **(q)** ~~(r)~~ "Terminal" means a refined petroleum or refined
 8 petroleum products storage and distribution facility that meets all
 9 of the following requirements:

10 (i) Is registered as a qualified terminal by the ~~internal~~
 11 ~~revenue service.~~ **Internal Revenue Service.**

12 (ii) Is supplied by a pipeline or a marine vessel.

13 (iii) Has a rack from which refined petroleum or refined
 14 petroleum products may be removed.

15 ~~(s) "Transmix" means the mixed product that results from the~~
 16 ~~buffer or interface of 2 different products in a pipeline shipment,~~
 17 ~~or a mixture of 2 different products within a refinery or terminal~~
 18 ~~that results in an off-grade mixture.~~

19 **(r)** ~~(t)~~ "Transport truck" means a semitrailer combination rig
 20 designed or used for the purpose of transporting refined petroleum
 21 or a refined petroleum product over the public roads or highways.

22 **(s)** ~~(u)~~ "Two-party exchange" means a transaction, including a
 23 book transfer, in which refined petroleum or a refined petroleum
 24 product is transferred from 1 supplier to another supplier and to
 25 which all of the following apply:

26 (i) The transaction includes a transfer of refined petroleum or
 27 a refined petroleum product from the person that holds the original
 28 inventory position for the refined petroleum or refined petroleum
 29 product in storage tanks as reflected in the records of the

1 refiner, pipeline terminal operator, or marine terminal operator.

2 (ii) The exchange transaction is completed before removal
3 across the rack by the receiving supplier.

4 (iii) The refiner, pipeline terminal operator, or marine
5 terminal operator in its books and records treats the receiving
6 exchange party as the supplier that removes the refined petroleum
7 or refined petroleum product across a rack for purposes of
8 reporting the transaction to the department under the motor fuel
9 tax act, 2000 PA 403, MCL 207.1001 to 207.1170.

10 (t) ~~(v)~~—"Underground storage tank system" means that term as
11 ~~it is~~ defined in section 21303.

12 (u) ~~(w)~~—"Work invoice" means a list of goods or services for
13 costs of corrective action related to a claim, including a
14 statement of the amount due.

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

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

22 (3) Money in the refined petroleum fund at the close of the
23 fiscal year remains in the refined petroleum fund and does not
24 lapse to the general fund.

25 (4) Money from the refined petroleum fund ~~shall~~ **must** be
26 expended, ~~upon~~ **on** appropriation, only for 1 or more of the
27 following purposes:

28 (a) Corrective actions performed by the department ~~pursuant to~~
29 **in accordance with** section 21320.

1 (b) The legacy release program created in section 21519a.

2 (c) The reasonable costs of the department in administering
3 the refined petroleum fund and implementing part 213.

4 (d) Not more than \$5,000,000.00 annually for petroleum product
5 inspection programs under both of the following:

6 (i) The weights and measures act, 1964 PA 283, MCL 290.601 to
7 290.635.

8 (ii) The motor fuels quality act, 1984 PA 44, MCL 290.641 to
9 290.650d.

10 (e) Not more than \$3,000,000.00 annually for the bureau of
11 fire services and office of the state fire marshal, storage tank
12 ~~division, section,~~ in the department of licensing and regulatory
13 affairs.

14 (f) Reimbursement by the authority to local units of
15 government and county road commissions for the costs of corrective
16 action to manage, relocate, or dispose of any media contaminated by
17 ~~regulated substances~~ **refined petroleum** left in place within a
18 public highway ~~pursuant to section 21310a~~ if all of the following
19 occur:

20 (i) The local unit of government or county road commission has
21 submitted to the authority a **public highway cleanup** claim for
22 reimbursement on a form created by the authority.

23 (ii) The **public highway cleanup** claim for reimbursement is for
24 reasonable and necessary eligible corrective action costs
25 determined by the administrator ~~pursuant to~~ **in accordance with**
26 section 21515(2) to ~~(10)~~ **(11)**.

27 (iii) The amount of reimbursement is not more than \$200,000.00
28 per claim.

29 (iv) **An institutional control addressing impacted media within**

1 the public highway in accordance with section 21310a must be in
 2 place before initiation of corrective actions and the submission of
 3 a public highway cleanup claim. The department may determine, in
 4 writing, that an institutional control is not necessary under this
 5 subparagraph.

6 (v) The public highway cleanup claim is for corrective actions
 7 completed after January 24, 2018.

8 (g) Not more than \$5,000,000.00 annually for the department to
 9 provide grants and loans in accordance with part 196 to facilitate
 10 brownfield redevelopment at part 213 properties. Money ~~shall~~ **must**
 11 not be provided under this subsection to fund the performance of
 12 response activities at a part 213 property to address contamination
 13 that is solely attributable to a release regulated under part 201.

14 (h) The permanent closure of an underground storage tank
 15 system by the department if the underground storage tank system
 16 meets the conditions that require permanent closure under R 29.2153
 17 of the Michigan Administrative Code or the department determines it
 18 is necessary to protect public health, safety, welfare, or the
 19 environment.

20 Sec. 21506b. (1) The underground storage tank cleanup fund is
 21 created within the state treasury. The state treasurer shall
 22 establish a bond proceeds account within the fund and may establish
 23 procedures for accounting for deposits and expenditures from the
 24 bond proceeds account.

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

29 (3) Money in the fund at the close of the fiscal year ~~shall~~

1 ~~remain~~**remains** in the fund and ~~shall~~**does** not lapse to the general
2 fund.

3 (4) The authority ~~shall be~~**is** the administrator of the fund
4 for auditing purposes.

5 (5) The authority and the finance authority shall expend money
6 from the fund, ~~upon~~**on** appropriation, only for the following
7 purposes:

8 (a) As a first priority, to pay principal and interest due on
9 bonds or notes issued by the finance authority ~~pursuant to~~**in**
10 **accordance with** this part, plus any amount necessary to maintain a
11 fully funded debt reserve or other reserve intended to secure the
12 principal and interest on the bonds or notes as may be required by
13 resolution, indenture, or other agreement of the finance authority.

14 (b) For the reasonable administrative cost of implementing
15 this part incurred by the department, the department of treasury,
16 the department of attorney general, and the finance authority.
17 Administrative costs include the actual and necessary expenses
18 incurred by the finance authority and its members in carrying out
19 the duties imposed by this part. Total administrative costs
20 expended under this subdivision ~~shall~~**must** not exceed ~~7%~~**12%** of the
21 fund's projected revenues in any year. Costs incurred by the
22 finance authority for the issuance of bonds or notes, which may
23 also be payable from the proceeds of the bonds or notes, ~~shall~~**are**
24 not ~~be~~ considered administrative costs.

25 (c) To pay approved claims as provided for in this part.

26 Sec. 21510. (1) An owner or operator is eligible to receive
27 money from the authority for corrective action or indemnification
28 due to a **confirmed** release from a refined petroleum underground
29 storage tank system only if all of the following requirements are

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

3 (a) The release from which the corrective action or
4 indemnification arose was discovered and reported on or after
5 December 30, 2014.

6 (b) The refined petroleum underground storage tank from which
7 the release occurred was, at the time of discovery of the release ~~and is presently,~~ in compliance with the registration and fee
8 requirements of part 211. **A refined petroleum underground storage**
9 **tank owned by a federally recognized tribe from which a release**
10 **occurred was, at the time of discovery of the release, in**
11 **compliance with federal registration and fee requirements.**

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

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

16 (e) The claim is not for a release from a refined petroleum
17 underground storage tank closed ~~prior to~~ **before** January 1, 1974, in
18 compliance with the fire prevention code, 1941 PA 207, MCL 29.1 to
19 29.33, and the rules promulgated under that act.

20 (f) The owner or operator was in compliance with the financial
21 responsibility requirements of part 211 and the rules promulgated
22 under that part at the time of the discovery of the release or
23 releases for which the claim is filed. **A refined petroleum**
24 **underground storage tank owned by a federally recognized tribe was**
25 **in compliance with federal financial responsibility requirements at**
26 **the time of the discovery of the release. The financial**
27 **responsibility requirements may be waived for previously unknown**
28 **refined petroleum underground storage tanks with written consent**
29

1 from the administrator.

2 (g) The owner or operator is otherwise eligible to receive
3 money from the authority under this part.

4 ~~(h) The total amount of expenditures, including the deductible~~
5 ~~amount, does not exceed the claims limit or the claim period~~
6 ~~aggregate limit applicable to the claim.~~ **The claim is filed within**
7 **24 months after the date the confirmed release is reported.**

8 (i) The claim is not for a release discovered after a refined
9 petroleum underground storage tank system from which the release
10 occurred was closed or considered permanently closed in compliance
11 with part 211 and the rules promulgated under that part.

12 (j) The owner or operator is otherwise in compliance with this
13 part.

14 (k) The administrator and the board may consider substantial
15 compliance when making eligibility determinations under this
16 subsection.

17 ~~(2) The owner or operator may receive money from the authority~~
18 ~~for corrective action or indemnification due to a release that~~
19 ~~originates from an aboveground piping and dispensing portion of a~~
20 ~~refined petroleum underground storage tank system if all of the~~
21 ~~following requirements are satisfied:~~

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

24 ~~(b) The release is sudden and immediate.~~

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

27 ~~(d) The owner or operator reported the release to the~~
28 ~~department within 24 hours after its discovery.~~

29 **(2)** ~~(3)~~ Either the owner or the operator may receive money

1 from the authority under this part for an occurrence, but not both.

2 (3) ~~(4)~~ An owner or operator that is a public utility with
3 more than 500,000 customers in this state is ineligible to receive
4 money from the authority for corrective action or indemnification
5 associated with a release from a refined petroleum underground
6 storage tank system used to supply refined petroleum for the
7 generation of steam electricity.

8 ~~(5) If an owner or operator has received money from the~~
9 ~~authority under this part for a release at a location, the owner~~
10 ~~and operator are not eligible to receive money from the authority~~
11 ~~for a subsequent release at the same location unless the owner or~~
12 ~~operator has done either or both of the following:~~

13 ~~(a) Discovered the subsequent release pursuant to corrective~~
14 ~~action being taken on a confirmed release and included this~~
15 ~~subsequent release as part of the corrective action for the~~
16 ~~confirmed release.~~

17 ~~(b) Upgraded, replaced, removed, or properly closed in place~~
18 ~~all refined petroleum underground storage tank systems at the~~
19 ~~location of the release so as to meet the requirements of part 211~~
20 ~~and the rules promulgated under that part.~~

21 ~~(6) An owner or operator that discovers a subsequent release~~
22 ~~at the same location as an initial release pursuant to subsection~~
23 ~~(5)(a) may receive money from the authority to perform corrective~~
24 ~~action on the subsequent release, if the owner or operator~~
25 ~~otherwise complies with the requirements of this part and the rules~~
26 ~~promulgated under this part. However, the subsequent release shall~~
27 ~~be considered as part of the claim for the initial release for~~
28 ~~purposes of determining the total amount of expenditures for~~
29 ~~corrective action and indemnification under subsection (1)(h).~~

~~(7) An owner or operator that discovers a subsequent release at the same location as an initial release following compliance with subsection (5) (b) may receive money from the authority to perform corrective action on the subsequent release, if there have been not more than 2 releases at the location, and if the owner or operator otherwise complies with the requirements of this part and the rules promulgated under this part. The subsequent release shall be considered a separate claim for purposes of determining the total amount of expenditures for corrective action and indemnification under subsection (1) (h).~~

(4) An approved claim must cover corrective actions related to the release for which approval was granted. A subsequent release discovered at the location before closure of a release currently covered by the claim may receive money from the fund for corrective actions in accordance with the following:

(a) A request for additional release coverage is submitted on a form created by the authority.

(b) If approved by the authority, the additional release is considered part of the most recently approved claim and is subject to the most recently approved claim's deductible, claims limit, and claim period aggregate limits.

(5) An owner or operator may receive an additional claim for a release at a location in accordance with the following:

(a) The release covered by the most recently approved claim achieved closure.

(b) A new claim form, created by the authority, is submitted and approved.

(6) An additional claim described under subsection (5) is subject to the eligibility requirements of an initial claim under

1 this section, and is subject to the deductible, claims limit, and
2 claim period aggregate limit.

3 (7) ~~(8)~~—An owner or operator that seeks to receive money from
4 the authority for corrective action **related to a release** shall
5 submit to the administrator the cleanup fund claim submittal form
6 created by the authority ~~containing~~**that contains** the information
7 required by the administrator to determine compliance with this
8 part. The administrator shall determine whether the claim complies
9 with this part and ~~shall~~ notify the owner or operator. The
10 administrator may consult with the department of licensing and
11 regulatory affairs to make the determination required in this
12 subsection.

13 (8) The authority shall not approve a claim for any of the
14 following:

15 (a) A release that was expected or intended by an owner or
16 operator or an employee of an owner or operator.

17 (b) A release caused by, based on, resulting from, or
18 attributable to the owner's or operator's intentional, knowing,
19 willful, or deliberate noncompliance with a statute, regulation,
20 ordinance, administrative complaint, notice of violation, notice
21 letter, executive order, or instruction of any governmental agency
22 or body.

23 (c) A release arising from the ownership, maintenance, use, or
24 entrustment to others of an aircraft, automobile, rolling stock, or
25 watercraft, including loading and unloading.

26 (d) A release arising from a consequence, whether direct or
27 indirect, of war, invasion, act of a foreign enemy, act of
28 terrorists, hostilities, whether war has been declared or not,
29 civil war, rebellion, revolution, insurrection, usurpation of

1 power, strike, riot, or civil commotion.

2 (e) A claim is filed more than 2 calendar years after the date
3 the confirmed release was reported.

4 Sec. 21510a. (1) ~~An owner or operator~~ **A claimant** is
5 responsible for a deductible amount as follows:

6 (a) If the ~~owner or operator~~ **claimant**, or its affiliate, owns
7 or operates fewer than 8 refined petroleum underground storage
8 tanks **located in this state**, \$2,000.00 per claim.

9 (b) If the ~~owner or operator~~ **claimant**, or its affiliate, owns
10 or operates 8 or more refined petroleum underground storage tanks
11 **located in this state**, \$10,000.00 per claim.

12 (c) The deductible amount under subdivisions (a) and (b) is
13 retroactive to all claims filed for releases discovered and
14 reported on or after December 30, 2014.

15 (2) The deductible amount **described in subsection (1)** applies
16 to each **approved** claim. ~~However, 2 or more claims arising out of~~
17 ~~the same, interrelated, associated, repeated, or continuous~~
18 ~~releases or a series of related releases shall be considered a~~
19 ~~single claim and are subject to 1 deductible amount. Any claim that~~
20 ~~takes place over 2 or more claim periods is subject to 1 deductible~~
21 ~~amount.~~

22 (3) ~~An owner or operator~~ **A claimant** that submits a work
23 invoice under section 21515 is responsible for the deductible
24 amount described in subsection (1). The expenses toward meeting the
25 deductible amount ~~shall~~ **must** be documented and ~~shall~~ comply with
26 the following:

27 (a) Expenses for items listed in the schedule of costs ~~shall~~
28 **must** be at or below the allowable reimbursement amount listed in
29 the schedule of costs.

(b) Expenses for items that are not listed in the schedule of costs ~~shall~~**must** be reasonable and necessary considering conditions at the site based ~~upon~~**on** a competitive bidding process established by the authority **or as otherwise determined necessary by the authority.**

Sec. 21510d. If an owner or operator intends to rely on the fund to meet financial responsibility requirements, the owner or operator shall submit to the authority a request for a determination that the owner or operator would be eligible for funding under this part in the event of a release from a refined petroleum underground storage tank system. ~~Upon~~**On** receipt of a request under this subsection, the authority shall make a determination and provide **written** notice of that determination ~~, in writing,~~ to the owner or operator. The notice may contain conditions for maintenance of that eligibility. A determination under this section is based ~~upon~~**on** a demonstration of all of the following:

(a) The owner or operator is not ineligible for funding under section ~~21510(4) and (5).~~**21510.**

(b) The refined petroleum underground storage tank or tanks are presently in compliance with the registration and fee requirements of part 211. **A refined petroleum underground storage tank owned by a federally recognized tribe is under federal jurisdiction and is presently in compliance with federal financial responsibility requirements.**

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

(d) The owner or operator has financial responsibility for the deductible amount. In order to demonstrate that the owner or operator has financial responsibility for the deductible amount

under this section and section 21510(1)(f), the owner or operator may rely ~~upon any~~ **on a** financial assurance mechanism listed in 40 CFR 280.95 to 280.107 or either of the following:

(i) A financial test of self-insurance. To pass the financial test of self-insurance, the owner or operator must submit, on a form developed by the authority, financial information certified as accurate by the chief financial officer, or **an individual in a** comparable position, that demonstrates a tangible net worth of at least 3 times the deductible amount required under this part.

(ii) A deposit account in the amount of the deductible amount required under this part in a financial institution, as **that term is** defined in section 1202 of the banking code of 1999, 1999 PA 276, MCL 487.11202, if access to the deposit account is restricted by a deposit account control agreement or similar restriction as approved by the authority that requires the approval of the administrator for a withdrawal from the deposit account.

Sec. 21515. (1) To receive money from the authority for corrective action, ~~an owner or operator~~ **a claimant** that ~~has received~~ **receives** notice from the administrator that its claim has been approved ~~pursuant to~~ **in accordance with** section ~~21510(8)~~ **21510** shall follow the procedures outlined in this section and ~~shall~~ submit work invoices to the administrator ~~containing~~ **that contain** **the** information required by the administrator relevant to determining compliance with this part.

(2) Within ~~45-60~~ days ~~of~~ **after** receipt of work invoices submitted ~~pursuant to~~ **in accordance with** subsection (1) using forms created by the authority, the administrator shall make all of the following determinations:

(a) Whether the ~~owner or operator~~ **claimant** is eligible to

1 receive funding under this part.

2 (b) Whether the work performed or proposed to be performed is
3 consistent with part 213, and whether those activities are
4 consistent with achieving site closure.

5 (c) Whether the ~~owner or operator~~ **claimant** has paid the
6 deductible amount.

7 (d) Whether the corrective action performed is reasonable and
8 necessary considering conditions at the site of the release.

9 (e) Whether the cost of performing the corrective action work
10 is at or below the allowable reimbursement amount in the schedule
11 of costs. ~~or, if~~ **If** the corrective action work is not ~~a~~ **an item**
12 ~~listed item, whether the cost is in the schedule of costs, the~~
13 **corrective action work must be** reasonable and necessary ~~, and~~
14 ~~whether the cost was~~ **considering conditions at the site**, based upon
15 on a competitive bidding process established by the authority, **or**
16 **otherwise determined to be reasonable and necessary by the**
17 **authority.**

18 (3) The administrator may consult with the department and the
19 department of licensing and regulatory affairs to make the
20 determination required in subsection (2).

21 (4) If the administrator determines under subsection (2) that
22 the work invoice is reasonable and necessary considering conditions
23 at the site of the release and reasonable in terms of cost and the
24 ~~owner or operator~~ **claimant** is eligible for funding under this part,
25 the administrator shall approve the work invoice and notify the
26 ~~owner or operator~~ **claimant** that submitted the work invoice of the
27 approval. If the administrator determines that the work described
28 on the work invoices submitted was not reasonable and necessary or
29 the cost of the work is not reasonable, or that the ~~owner or~~

1 ~~operator-claimant~~ is not eligible for funding under this part, the
 2 administrator shall deny the work invoice or any portion of the
 3 work invoice submitted and give notice of the denial to the ~~owner~~
 4 ~~or operator-claimant~~ that submitted the work invoice.

5 (5) The owner or operator may submit work invoices to the
 6 administrator that are related to a claim only after initial
 7 approval of the claim under section ~~21510(8)~~ **21510** and if the
 8 aggregate amount of work invoices in the submission is \$5,000.00 or
 9 more, **or 120 days or more have passed since the most recent work**
 10 **invoice was submitted.** This limitation does not apply to the final
 11 work invoice submission related to the approved claim. **A work**
 12 **invoice must be submitted within 365 days after the completion of**
 13 **the services for which reimbursement is being requested and must**
 14 **not be submitted within 14 days after the most recent work invoice**
 15 **was submitted.**

16 (6) If the administrator determines that a work invoice does
 17 not meet the requirements of subsection (2) or (5), the
 18 administrator shall deny reimbursement for the work invoice and
 19 give written notice of the denial to the ~~owner or operator who~~
 20 **claimant that** submitted the work invoice.

21 (7) The administrator shall approve a reimbursement for a work
 22 invoice that was submitted by ~~an owner or operator~~ **a claimant** for
 23 corrective action taken if the work invoice meets the requirements
 24 of this part for an approved claim and an approved work invoice.

25 (8) Except as provided in subsection (9) and section 21519,
 26 the authority shall make a joint payment to the ~~owner or operator~~
 27 **claimant** and the contractor that performed the work listed in the
 28 approved work invoices within 45 days after the date of the
 29 administrator's approval under subsection (4) if sufficient money

1 exists in the fund. Once payment has been made under this section,
2 the authority is not liable for any claim on the basis of that
3 payment.

4 (9) The authority may withhold partial payment of money on
5 payment vouchers if there is reasonable cause to suspect that there
6 are violations of section 21548 or if necessary to ~~assure~~**ensure**
7 acceptable completion of the proposed work.

8 (10) The authority shall prepare and make available to ~~owners~~
9 ~~and operators~~**a claimant** standardized claim and work invoice forms.

10 (11) **The authority shall not approve reimbursement for costs**
11 **related to any of the following:**

12 (a) Costs arising from corrective actions that are not related
13 to the release for which the claim was approved.

14 (b) Punitive, exemplary, or multiplied damages, fines, taxes,
15 penalties, assessments, punitive or statutory assessments, or any
16 civil, administrative, or criminal fines, sanctions, or penalties.

17 (c) Legal or civil claims made by a claimant against another
18 owner or operator of the refined petroleum underground storage tank
19 system.

20 (d) Costs, charges, or expenses incurred by the claimant for
21 goods supplied by the claimant or services performed by the staff
22 or employees of the claimant, or its parent, subsidiary, or
23 affiliate, unless the costs, charges, or expenses are incurred with
24 the prior written approval of the authority.

25 (e) Costs arising from the testing, repair, reconstruction, or
26 upgrading of a refined petroleum underground storage tank system,
27 or any other improvements and site enhancements or routine
28 maintenance on, within, or under a location.

29 (f) Costs arising from removing, replacing, or recycling a

1 refined petroleum underground storage tank system, including
2 removal and disposal of tank contents, removal and replacement of
3 pavement over the underground storage tank system footprint, or
4 backfilling and compacting void space left by the removal of an
5 underground storage tank system.

6 (g) Costs incurred more than 1 calendar day before the
7 reporting of the confirmed release for which a claim is approved.

8 (h) Costs related to the injury of an employee of the claimant
9 or its affiliate arising from and in the course of employment or
10 while performing duties related to the conduct of the business of
11 the claimant or its affiliate by a spouse, child, parent, brother,
12 or sister of that employee. This subdivision applies whether the
13 claimant may be liable as an employer or in any other capacity and
14 to any obligation to share damages with or repay someone else that
15 must pay damages because of the injury.

16 (i) Any obligation of the claimant under worker's
17 compensation, unemployment compensation, or disability benefits law
18 or a similar law.

19 (j) Any liability or claim for liability of others assumed by
20 the claimant under a contract or agreement, unless the claimant
21 would have been liable in the absence of the contract or agreement.

22 (k) Costs that have been or will be submitted to or that have
23 been paid in accordance with a third-party agreement or an
24 insurance policy.

25 (l) Costs arising from corrective actions that are not
26 necessary to obtain a restricted closure based on the land use at
27 the time and location the release was discovered. A restricted
28 closure can be achieved utilizing 1 or more institutional controls,
29 including, but not limited to, restrictive covenants, an

1 environmental license agreement with the department of
2 transportation, public highway as an alternative mechanism, or an
3 ordinance or state law or rule. Reimbursement of corrective actions
4 conducted in place of an institutional control may be considered
5 eligible if any of the following conditions are met and approved in
6 writing by the administrator before the corrective actions take
7 place:

8 (i) The corrective action will eliminate the need for
9 installation and long-term operation, maintenance, and monitoring
10 of mitigation measures that would otherwise be necessary to prevent
11 unacceptable exposures.

12 (ii) The corrective action will result in closure of the
13 release in a more expeditious manner and will provide a higher
14 level of confidence that closure of the release will remain
15 protective.

16 (iii) The corrective action is necessary to achieve closure of
17 off-site impact to properties that are not owned, operated, or
18 controlled by the claimant or the claimant's affiliate that is
19 liable under part 213.

20 (m) Costs incurred after the closure date of the release for
21 which the claim was filed, except for costs for monitoring well
22 abandonment, remediation system decommissioning, or related to
23 requirements recorded in an approved restrictive covenant or
24 institutional control, performed within 1 year after the closure
25 date. The administrator may grant an exception to the costs
26 described under this subdivision.

27 (n) Litigation costs.

28 (o) Any form of interest, late payment penalties, or carrying
29 charges.

1 (p) Shipping or postage charges related to the delivery of
2 soil, liquid, or vapor samples.

3 (q) Administrative costs, such as bookkeeping or form
4 preparation, including, but not limited to, eligibility requests,
5 claims, invoices, proposals, and change orders, and purchase orders
6 between claimant and consultant or claimant and contractor.

7 (r) Environmental liability insurance premiums.

8 (s) Replacement or repair of pavement, landscaping, fences,
9 utilities, or structures; property upgrades; or raze and rebuild
10 activities, unless directly associated with eligible and necessary
11 corrective actions.

12 (t) Costs incurred due to lost income, property loss, or
13 reduced property values unless part of an indemnification request
14 approved under section 21518.

15 (u) Fines or penalties imposed by local, state, or federal
16 government agencies.

17 (v) Punitive or exemplary damages.

18 (w) Costs related to the excavation, transport, and disposal
19 of more than 1,500 tons of soil without prior written authorization
20 from the administrator.

21 (x) Laboratory rates for rapid turnaround sample analysis that
22 exceed the maximum allowable rates on the schedule of costs, unless
23 preapproved by the administrator.

24 (y) Charges for equipment not used on the date of the charge.

25 (z) Costs incurred if a non-low bidder performs required
26 competitively bid services, unless preapproved by the
27 administrator.

28 (aa) Corrective action activities, labor, laboratory testing,
29 drilling, or other work that exceeds actual costs as demonstrated

1 by submitted invoices.

2 (bb) Potentially refundable costs to the claimant, including,
3 but not limited to, permit inspection fees and cash bonds, until
4 the cost is actually incurred.

5 (cc) Consultant markup of items listed on the schedule of
6 costs, not including subcontractor invoices and schedule-of-cost
7 items included on a subcontractor invoice.

8 Sec. 21516. (1) ~~An owner or operator~~ **A claimant** with a claim
9 approved ~~pursuant to~~ **in accordance with** section 21510 for which
10 corrective action is in progress ~~who~~ **that** sells or transfers to
11 **another person** the property that is the subject of the approved
12 claim ~~to another person~~ may assign or transfer the approved claim
13 to ~~that~~ **the** other person. The person to whom the assignment or
14 transfer is made is eligible to receive money from the authority.
15 ~~as an owner or operator for the release which is the subject of the~~
16 ~~approved claim.~~ Allowable, outstanding approved or paid work
17 invoices of the ~~owner or operator making~~ **claimant that make** the
18 assignment or transfer may be counted toward the deductible amount
19 of the person to whom the assignment or transfer is made. **The**
20 **person to whom the assignment or transfer is made has a claim limit**
21 **equal to the balance of the claim limit initially assigned to the**
22 **claimant that made the assignment or transfer, and the claim period**
23 **aggregate limit includes only reimbursements made to the person to**
24 **whom the assignment or transfer is made.**

25 (2) ~~An owner or operator assigning or transferring an approved~~
26 ~~claim pursuant to this section shall notify the administrator of~~
27 ~~the proposed assignment or transfer at least 10 days before the~~
28 ~~effective date of the assignment or transfer.~~ **A claim that has**
29 **reached its claim limit or the original claim period aggregate**

1 **limit may not be transferred under this section.**

2 Sec. 21518. (1) To receive money from the authority for
3 indemnification, the ~~owner or operator~~ **claimant** shall submit to the
4 administrator a request for indemnification ~~containing that~~
5 **contains** the information required by the administrator, including a
6 **all of the following:**

7 (a) A copy of the judgment obtained by a third party from a
8 court of law against the ~~owner or operator~~ **claimant** or the
9 settlement entered into between the ~~owner or operator~~ **claimant** and
10 the third party, ~~all as applicable.~~

11 (b) **All** documentation ~~supporting that supports~~ the
12 reasonableness of and justification for the judgment or settlement.
13 ~~, and work~~

14 (c) **Work** invoices which conform to the requirements of this
15 part.

16 (2) If the administrator determines that the ~~owner or operator~~
17 **claimant** is eligible for funding under this part, is eligible for
18 the amount requested, has paid the deductible amount, and has not
19 exceeded the allowable amount of expenditure provided in section
20 ~~21510(1)(i), 21502,~~ and that the work invoices are payable under
21 this part, the administrator shall forward a copy of the request
22 for 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~~ **claimant** that
26 was caused by an accidental release and that is reasonable and
27 consistent with the purposes of this part. The attorney general may
28 raise as a defense to the request any rights or defenses that were
29 or are available to the ~~owner or operator~~ **claimant** and, in the case

of a judgment, that were not heard and ruled ~~upon-on~~ by the court.
 If a request for indemnification is approved by the attorney
 general, the authority shall pay the indemnification amount.

(3) ~~(2)~~—The administrator shall keep records of all approved
 requests for indemnification.

(4) ~~(3)~~—The authority shall make a payment to ~~an owner or~~
~~operator~~ **a claimant** for an approved indemnification request within
 30 days if sufficient money is available to make the payment.

Sec. 21519. (1) The authority shall make payments on ~~claims~~
work invoices in the order in which they are received. However, if
 there is insufficient money available to make payments on all
 approved claims, the authority shall give notice to each ~~owner~~
claimant that is eligible to submit a ~~claim~~ **work invoice** under this
 part advising the ~~owners~~ **claimant** of the financial situation and
 the authority shall prioritize payments based ~~upon-on~~ the risks at
 the site to the public health, safety, or welfare or the
 environment. Payments on claims that are not funded ~~shall~~ **must** be
 paid if revenues subsequently become available.

(2) The authority and ~~the~~ **this** state are not liable for **the**
reimbursement of work invoices or requests for indemnification if
 revenues of the authority are insufficient to meet these claims.

Sec. 21519a. (1) The department shall establish and the
 authority shall administer a legacy release program as provided in
 this section to reimburse eligible persons for costs of corrective
 actions for certain historic releases from refined petroleum
 underground storage tank systems. An eligible person may be
 reimbursed for corrective action costs incurred if the eligible
 person demonstrates all of the following:

(a) The release from which the corrective action or

indemnification arose was discovered and reported ~~prior to~~ **before** December 30, 2014.

(b) The release ~~upon~~ **on** which the request for reimbursement is based has not been closed ~~pursuant to~~ **in accordance with** part 213 ~~prior to~~ **before** December 30, 2014.

~~(c) Any refined petroleum underground storage tank systems that are operating at the location from which the release occurred are currently in compliance with the registration requirements of part 211.~~

(c) ~~(d)~~ The request for reimbursement does not include reimbursement for money that was reimbursed from any other source, including insurance policies.

(d) ~~(e)~~ A claim submitted to the legacy release program ~~shall~~ **must** not be approved by the authority for any of the prohibitions listed under section ~~21510e~~. **21510(8)**.

(e) ~~(f)~~ The request for reimbursement is for corrective action performed on or after December 30, 2014.

(2) An eligible person that seeks to be reimbursed under the legacy release program established under this section shall submit to the authority a request for reimbursement on a form provided by the authority ~~containing~~ **and provide** the documentation required by the authority.

(3) The authority shall approve a request for reimbursement under this section only as follows:

(a) The amount approved for reimbursement ~~shall be~~ **is** 50% of the aggregate indemnification and corrective action costs incurred, but not more than 50% of the reasonable and necessary eligible costs as determined by the administrator ~~pursuant to~~ **in accordance with** section 21515(2) to ~~(10)~~. **(11)**.

(b) The total amount approved for reimbursement ~~shall~~**does** not exceed a total of \$50,000.00 for all releases from refined petroleum underground storage tank systems at a single location.

(c) An owner or operator may request a review of a denied claim or work invoice ~~per~~**in accordance with** section 21521.

(4) To be considered for reimbursement, work invoices must be submitted to the administrator within 180 days after the effective date of the 2025 amendatory act that amended this subsection.

(5) ~~(4)~~As used in this section, "eligible person" means the owner or operator of a refined petroleum underground storage tank system at the time of the reporting of the release.

Sec. 21521. (1) If the administrator denies a claim, work invoice, request for indemnification, or request for an eligibility determination, ~~under section 21510(8),~~ the owner or operator, ~~who~~**or claimant, that** submitted the claim, work invoice, request for indemnification, or request for an eligibility determination ~~under section 21510(8)~~ may, within 14 **business** days following the denial, request review by the board. However, if the administrator believes the dispute may be able to be resolved without the board's review, the administrator may contact the owner or operator, **or claimant,** regarding the issues in dispute and may negotiate a resolution of the dispute ~~prior to~~**before** the board's review. The board shall conduct a review of the denial to determine whether the claim, work invoice, or request for indemnification is payable under this part.

(2) A person ~~who~~**that** is denied approval by the board after review under subsection (1) may appeal the decision directly to the circuit court.

Sec. 21524. (1) The authority shall be governed by a board of directors consisting of the director of the department and 6

1 residents of ~~the~~**this** state, appointed by the governor with the
2 advice and consent of the senate, as follows:

3 (a) An individual representing petroleum refiners.

4 (b) An individual representing independent petroleum
5 marketers.

6 (c) An individual from a statewide motor fuel retail
7 association.

8 (d) An individual ~~from a statewide business association that~~
9 ~~includes owners or operators of refined petroleum underground~~
10 ~~storage tanks.~~**representing qualified underground storage tank**
11 **consultants with considerable experience in the remediation of**
12 **leaking underground storage tank systems.**

13 (e) An individual from a statewide environmental organization.

14 (f) A member of the general public.

15 (2) The 6 appointed members of the board **of directors** shall
16 serve terms of 3 years. However, in making the initial
17 appointments, the governor shall designate 2 appointed members to
18 serve for 3 years, 2 appointed members to serve for 2 years, and 2
19 appointed members to serve for 1 year.

20 (3) ~~Upon~~**On** appointment to the board of directors under
21 subsection (1), and ~~upon~~**on** the taking and filing of the
22 constitutional oath of office, a member of the board of directors
23 shall enter office and exercise the duties of the office to which
24 ~~he or she~~**the member** is appointed.

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

(5) Members of the board of directors and officers and employees of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330, and 1968 PA 318, MCL 15.301 to 15.310, as applicable. A member of the board of directors or an officer, employee, or agent of the authority shall discharge the duties of ~~his or her~~ **the** position in a nonpartisan manner, with good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging ~~his or her~~ duties, a member of the board of directors or an officer, employee, or agent of the authority, when acting in good faith, may rely ~~upon~~ **on** any of the following:

(a) The opinion of counsel for the authority.

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

(c) Financial statements of the authority represented to the member of the board of directors, officer, employee, or agent to be correct by the officer of authority having charge of its books or account, or stated in a written report by the auditor general or a certified public accountant or the firm of the accountant to fairly reflect the financial condition of the authority.

(6) The board of directors shall organize and make its own policies and procedures. The board of directors shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting ~~shall~~ **must** be given in the manner required by **the open meetings act**, 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~~ **must** be by a majority of the votes cast. The

1 director of the department may designate a representative from ~~his~~
 2 ~~or her~~ ~~the~~ department to serve as a voting member of the board of
 3 directors for 1 or more meetings.

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

7 Sec. 21548. (1) A person ~~who~~ ~~that~~ makes or submits or causes
 8 to be made or submitted either directly or indirectly ~~any~~ ~~a~~
 9 statement, report, affidavit, application, claim, bid, work
 10 invoice, or other request for payment or indemnification under this
 11 part ~~knowing~~ ~~that~~ **knows** that the statement, report, application,
 12 claim, bid, work invoice, or other request for payment or
 13 indemnification is false or misleading, is guilty of a felony
 14 punishable by imprisonment for not more than 5 years or a fine of
 15 not more than \$50,000.00, or both. In addition to ~~any~~ ~~a~~ penalty
 16 imposed under this subsection, a person convicted under this
 17 subsection shall pay restitution to the authority for the amount
 18 received in violation of this subsection.

19 (2) A person ~~who~~ ~~that~~ makes or submits or causes to be made or
 20 submitted either directly or indirectly ~~any~~ ~~a~~ statement, report,
 21 application, claim, bid, work invoice, or other request for payment
 22 or indemnification under this part ~~knowing~~ ~~that~~ **knows** that the
 23 statement, report, affidavit, application, claim, bid, work
 24 invoice, or other request for payment or indemnification is false,
 25 misleading, or fraudulent, or ~~who~~ ~~that~~ commits a fraudulent
 26 practice, is subject to a civil fine of not more than \$50,000.00 or
 27 twice the amount submitted, whichever is greater. In addition to
 28 ~~any~~ ~~a~~ civil fine imposed under this subsection, a person found
 29 responsible under this subsection shall pay restitution to the

1 authority for the amount received in violation of this subsection.
2 The legislature intends that this subsection be given retroactive
3 application.

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

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

10 (b) Submitting paperwork for services or work provided that
11 was not in fact provided or that was not directly provided by the
12 individual indicated on the paperwork.

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

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

17 (e) Causing damage intentionally or as the result of gross
18 negligence to a refined petroleum underground storage tank system,
19 which damage results in a release at a site.

20 (f) Placing a refined petroleum underground storage tank
21 system at a contaminated site where no refined petroleum
22 underground storage tank system previously existed for purposes of
23 disguising the source of contamination or to obtain funding under
24 this part.

25 (g) Submitting a work invoice for the excavation of soil from
26 a site that was removed for reasons other than removal of the
27 refined petroleum underground storage tank system or remediation.

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

1 (i) Registration of a nonexistent refined petroleum
2 underground storage tank system with the department.

3 (j) Loaning to ~~an owner or operator~~ **a claimant** the deductible
4 amount and then submitting or causing to be submitted inflated
5 claims or invoices designed to recoup the deductible amount.

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

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

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

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

14 (o) Falsely characterizing the contents of a refined petroleum
15 underground storage tank system for purposes of obtaining funding
16 under this part.

17 (p) Submitting or causing to be submitted bills or work
18 invoices by or from a person ~~who~~ **that** did not directly provide the
19 service.

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

22 (r) Misrepresenting or concealing the identity, credentials,
23 affiliation, or qualifications of principals or persons seeking,
24 either directly or indirectly, funding or approval for
25 participation under this part.

26 (s) Falsifying a signature on a claim application or a work
27 invoice.

28 (t) Failing to accurately disclose the actual amount and
29 carrier of unencumbered insurance coverage available for new

1 environmental impairment or professional liability claims.

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

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

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

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

25 (7) The attorney general or county prosecutor may apply to the
26 district court for an order granting immunity to any person ~~who~~
27 **that** refuses to provide or objects to providing information,
28 documents, records, or objects sought ~~pursuant to~~**under** this
29 section. If the judge is satisfied that it is in the interest of

1 justice that immunity be granted, ~~he or she~~ **the judge** shall enter
 2 an order granting immunity to the person and requiring the person
 3 to appear and be examined under oath or to produce the document,
 4 records, or object for inspection and copying, or both.

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

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

20 (10) Subsection (1) does not preclude prosecutions under other
 21 laws of ~~the~~ **this** state including, but not limited to, section 157a,
 22 218, 248, 249, 280, or 422 of the Michigan penal code, 1931 PA 328,
 23 MCL 750.157a, 750.218, 750.248, 750.249, 750.280, and 750.422.

24 (11) All civil fines collected ~~pursuant to~~ **under** this section
 25 ~~shall~~ **must** be apportioned in the following manner:

26 (a) Fifty percent ~~shall~~ **must** be deposited in the general fund
 27 and ~~shall be~~ used by the department to fund fraud investigations
 28 under this part.

29 (b) Twenty-five percent ~~shall~~ **must** be paid to the office of

1 the county prosecutor or attorney general, whichever office brought
2 the action.

3 (c) Twenty-five percent ~~shall~~**must** be paid to a local police
4 department or sheriff's office, or a city or county health
5 department, if investigation by that office or department led to
6 the bringing of the action. If more than 1 office or department is
7 eligible for payment under this subsection, division of payment
8 ~~shall~~**must** be on an equal basis. If there is not a local office or
9 department that is entitled to payment under this subdivision, the
10 money ~~shall~~**must** be forwarded to the state treasurer for deposit
11 into the refined petroleum fund.

12 Enacting section 1. Section 21510c of the natural resources
13 and environmental protection act, 1994 PA 451, MCL 324.21510c, is
14 repealed.