

HOUSE BILL No. 5757

May 15, 1990, Introduced by Reps. Sikkema, Emmons, Fitzgerald, Bandstra, Crandall, Sparks, Gilmer, Bartnik, Martin, Bennett, Trim, Krause, Dolan, Hoekman, Munsell, Strand, Camp and Wartner and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 3, 5, 6, and 11 of Act No. 307 of the Public Acts of 1982, entitled as amended "The environmental response act," section 3 as amended and section 11 as added by Act No. 388 of the Public Acts of 1984, being sections 299.603, 299.605, 299.606, and 299.611 of the Michigan Compiled Laws; and to add sections 5a, 6a, 7a, 7b, 7c, 7d, 7e, 7f, 11a, 12, 13, 13a, 13b, and 13c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 3, 5, 6, and 11 of Act
2 No. 307 of the Public Acts of 1982, section 3 as amended and
3 section 11 as added by Act No. 388 of the Public Acts of 1984,
4 being sections 299.603, 299.605, 299.606, and 299.611 of the
5 Michigan Compiled Laws, are amended and sections 5a, 6a, 7a, 7b,

1 7c, 7d, 7e, 7f, 11a, 12, 13, 13a, 13b, and 13c are added to read
2 as follows:

3 TITLE

4 An act TO PROTECT THE PUBLIC HEALTH, SAFETY, WELFARE, AND
5 THE ENVIRONMENT FROM ENVIRONMENTAL CONTAMINATION AT CERTAIN SITES
6 IN THIS STATE; to provide for the identification, risk assess-
7 ment, and priority evaluation of environmental contamination at
8 certain sites in this state; to provide for response activity; to
9 prescribe certain powers and duties of the governor and certain
10 state agencies and officials; TO CREATE AN OFFICE OF ENVIRONMEN-
11 TAL DISPUTE RESOLUTION AND PRESCRIBE ITS POWERS AND DUTIES; to
12 provide for the promulgation of rules; to create an environmental
13 response fund, a Michigan unclaimed bottle fund, ~~and~~ a
14 long-term maintenance trust fund, AND AN ENVIRONMENTAL CLEANUP
15 REVOLVING LOAN FUND, AND PROVIDE FOR THEIR USE; to create a
16 long-term maintenance trust fund board and to prescribe its
17 powers and duties; and to provide certain remedies and
18 penalties.

19 Sec. 3. As used in this act:

20 (A) "APPROVED REMEDIAL ACTION PLAN" MEANS A REMEDIAL ACTION
21 PLAN APPROVED BY THE DEPARTMENT UNDER THIS ACT AND RULES PROMUL-
22 GATED UNDER THIS ACT OR CONSIDERED APPROVED BY THE DEPARTMENT AS
23 PROVIDED IN THIS ACT.

24 (B) ~~-(a)-~~ "Attorney general" means the department of the
25 attorney general.

26 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

1 (D) ~~(b)~~ "Directors" means the directors or their designees
2 of the departments of natural resources, public health,
3 agriculture, state police, and the toxic substance control
4 commission.

5 (E) "ENFORCEMENT COSTS" MEANS COURT EXPENSES AND ACTUAL
6 ATTORNEY FEES OR OTHER EXPENSES.

7 (F) ~~(c)~~ "Environment" means any surface water, ground
8 water, drinking water supply, land surface, subsurface strata, or
9 ambient air within the state.

10 (G) ~~(d)~~ "Environmental contamination" means the release of
11 a hazardous substance, or the potential release of a discarded
12 hazardous substance, in a quantity, ~~which~~ THAT is or may become
13 injurious to the PUBLIC HEALTH, SAFETY, OR WELFARE OR TO THE
14 environment ~~, or to the public health, safety, or welfare~~ OR
15 NATURAL RESOURCES.

16 (H) ~~(e)~~ "Evaluation" means those activities including, but
17 not limited to, investigation, studies, sampling, analysis,
18 alternate response activity plans, and administrative efforts,
19 which are needed to determine the nature, extent, and impact of a
20 release AND NECESSARY RESPONSE ACTIVITIES.

21 (I) ~~(f)~~ "Fund" means the environmental response fund
22 established in section 9.

23 (J) ~~(g)~~ "Hazardous substance" means a chemical or other
24 material which is or may become injurious to the public health,
25 safety, or welfare or to the environment OR NATURAL RESOURCES.

26 (K) "INTERIM RESPONSE ACTIVITY" MEANS THE CLEANUP OR REMOVAL
27 OF RELEASED HAZARDOUS SUBSTANCES FROM THE ENVIRONMENT OR THE

1 TAKING OF OTHER ACTIONS, PRIOR TO THE SELECTION OF A REMEDIAL
2 ACTION, AS MAY BE NECESSARY TO REMOVE, MINIMIZE, OR MITIGATE AN
3 IMMINENT AND SUBSTANTIAL ENDANGERMENT TO THE PUBLIC HEALTH,
4 SAFETY, OR WELFARE, OR TO THE ENVIRONMENT OR NATURAL RESOURCES.

5 (L) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, CITY, TOWN-
6 SHIP, OR VILLAGE.

7 (M) "NATURAL RESOURCES" MEANS FISH, WILDLIFE, BIOTA, AND ANY
8 OTHER RESOURCES BELONGING TO, MANAGED BY, OR HELD IN TRUST BY THE
9 STATE.

10 (N) "OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION" MEANS THE
11 OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION CREATED IN SECTION 7E.

12 (O) ~~(h)~~ "Person" means an individual, sole proprietorship,
13 partnership, association, corporation, the state, or a political
14 subdivision of the state INCLUDING A LOCAL UNIT OF GOVERNMENT, OR
15 OTHER LEGAL ENTITY.

16 (P) ~~(i)~~ "Release" includes, but is not limited to, any
17 spilling, leaking, pumping, pouring, emitting, emptying, dis-
18 charging, injecting, escaping, leaching, dumping, or disposing of
19 a hazardous substance into the environment.

20 (Q) "REMEDIAL ACTION" INCLUDES, BUT IS NOT LIMITED TO,
21 CLEANUP, REMOVAL, CONTAINMENT, ISOLATION, TREATMENT OR MONITORING
22 OF HAZARDOUS SUBSTANCES RELEASED INTO THE ENVIRONMENT, MAINTENANCE,
23 OR THE TAKING OF OTHER ACTIONS AS MAY BE NECESSARY TO PRE-
24 VENT, MINIMIZE, OR MITIGATE INJURY TO THE PUBLIC HEALTH, SAFETY,
25 OR WELFARE OR TO THE ENVIRONMENT OR NATURAL RESOURCES, INCLUDING
26 RESTORATION OF NATURAL RESOURCES AND THE ENVIRONMENT, IF THE

1 INJURY MAY OTHERWISE RESULT FROM THE RELEASE OR THREATENED
2 RELEASE OF A HAZARDOUS SUBSTANCE.

3 (R) "REMEDIAL ACTION PLAN" MEANS A WORK PLAN FOR THE PER-
4 FORMANCE OF RESPONSE ACTIVITIES.

5 (S) "REMEDIAL INVESTIGATION" MEANS AN INVESTIGATION INTO
6 NECESSARY RESPONSE ACTIVITIES AT A SITE.

7 (T) ~~(j)~~ "Response activity" means an activity necessary to
8 protect the public health, safety, welfare and the environment,
9 OR NATURAL RESOURCES, and includes but is not limited to, evalu-
10 ation, INTERIM RESPONSE ACTIVITY, REMEDIAL ACTION, cleanup,
11 removal, containment, isolation, treatment, monitoring, mainte-
12 nance, replacement of water supplies, temporary relocation of
13 people as determined to be necessary by the ~~governor or the~~
14 ~~governor's designee~~ DEPARTMENT, and reimbursement for certain
15 expenses as provided for in section 11, INVESTIGATION AND
16 ENFORCEMENT, AND HEALTH ASSESSMENTS OR HEALTH EFFECT STUDIES CAR-
17 RIED OUT UNDER THE SUPERVISION, OR WITH THE APPROVAL, OF THE
18 DEPARTMENT OR THE DEPARTMENT OF PUBLIC HEALTH.

19 (U) "RESPONSIBLE PARTY" MEANS 1 OR MORE PERSONS IDENTIFIED
20 BY THE DEPARTMENT AS BEING RESPONSIBLE FOR PERFORMING RESPONSE
21 ACTIVITIES AT A SITE.

22 (V) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
23 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
24 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
25 LAWS.

26 (W) ~~(k)~~ "Site" means the location of an environmental
27 contamination.

1 (X) "STATE AGENCY" MEANS A DEPARTMENT, AGENCY, OR
2 INSTRUMENTALITY OF THE STATE.

3 (Y) "STATE FACILITY" MEANS A SITE OR A BUILDING, STRUCTURE,
4 INSTALLATION, EQUIPMENT, PIPE OR PIPELINE, INCLUDING A PIPE INTO
5 A SEWER OR PUBLICLY OWNED TREATMENT WORKS, WELL, PIT, POND,
6 LAGOON, IMPOUNDMENT, DITCH, LANDFILL, STORAGE CONTAINER, MOTOR
7 VEHICLE, ROLLING STOCK, OR AIRCRAFT, OF A STATE AGENCY, WHERE A
8 HAZARDOUS SUBSTANCE HAS BEEN DEPOSITED, STORED, DISPOSED OF, OR
9 PLACED. STATE FACILITY DOES NOT INCLUDE A CONSUMER PRODUCT IN
10 CONSUMER USE.

11 Sec. 5. The ~~governor or the governor's designee~~
12 DEPARTMENT shall coordinate all activities required under this
13 act and shall promulgate rules ~~pursuant to Act No. 306 of the~~
14 ~~Public Acts of 1969, as amended, being sections 24.201 to 24.315~~
15 ~~of the Michigan Compiled Laws,~~ necessary to carry out the
16 requirements of this act INCLUDING, BUT NOT LIMITED TO, RULES
17 THAT PROVIDE FOR RESPONSE ACTIVITIES AT SITES OF ENVIRONMENTAL
18 CONTAMINATION.

19 SEC. 5A. (1) BEFORE THE DEPARTMENT COMMENCES A REMEDIAL
20 INVESTIGATION, AND BEFORE THE ATTORNEY GENERAL FILES AN ACTION
21 UNDER THIS ACT, THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

22 (A) MAKE REQUESTS PURSUANT TO SECTION 12 AS ARE NECESSARY TO
23 IDENTIFY ALL RESPONSIBLE PARTIES FOR A SITE.

24 (B) PERFORM ADDITIONAL INVESTIGATION THE DEPARTMENT CONSID-
25 ERS NECESSARY TO IDENTIFY RESPONSIBLE PARTIES FOR A SITE.

26 (C) PROVIDE THE RESULTS OF THE INVESTIGATION AND INFORMATION
27 REQUESTS TO IDENTIFIED RESPONSIBLE PARTIES.

1 (2) BEFORE THE DEPARTMENT COMMENCES A REMEDIAL
2 INVESTIGATION, AND BEFORE THE ATTORNEY GENERAL MAY BRING AN
3 ACTION UNDER THIS ACT, THE DEPARTMENT SHALL SEND A LETTER TO EACH
4 RESPONSIBLE PARTY CONTAINING AT A MINIMUM ALL OF THE FOLLOWING
5 INFORMATION:

6 (A) THE NAME OF THE SITE.

7 (B) THE OTHER RESPONSIBLE PARTIES IDENTIFIED BY THE
8 DEPARTMENT.

9 (C) NOTIFICATION THAT THE RESPONSIBLE PARTY HAS 30 DAYS TO
10 SUBMIT A PROPOSAL FOR DEPARTMENT APPROVAL FOR CONDUCTING A REME-
11 DIAL INVESTIGATION BEFORE THE DEPARTMENT MAY COMMENCE ITS OWN
12 REMEDIAL INVESTIGATION OR LEGAL ACTION, OR BOTH.

13 (D) A CONCISE STATEMENT OF THE BASIS FOR THE DEPARTMENT'S
14 IDENTIFICATION OF THE PERSON AS A RESPONSIBLE PARTY, OR, IF AN
15 ALLOCATION OF PERCENTAGE SHARES OF RESPONSIBILITY HAS BEEN COM-
16 PLETED, A COPY OF THE ALLOCATION OF RESPONSIBILITY.

17 Sec. 6. (1) The ~~governor or the governor's designee~~
18 DEPARTMENT, pursuant to RULES PROMULGATED UNDER section 5, shall
19 DO ALL OF THE FOLLOWING:

20 (a) Annually identify and evaluate the known sites in the
21 state for the purpose of assigning priority for evaluation and
22 response ~~actions~~ ACTIVITIES.

23 (b) Develop a numerical risk assessment model for assessing
24 the relative present and potential hazards posed to the public
25 health, safety, or welfare or to the environment OR NATURAL
26 RESOURCES, by each site identified pursuant to subdivision (a).
27 The model shall provide a fair and objective site specific

1 numerical score designating the relative risk posed to the public
2 health, safety, or welfare or to the environment of each site.

3 (c) Submit the numerical risk assessment model DEVELOPED
4 UNDER SUBDIVISION (B) for public hearings. The numerical risk
5 assessment model shall be reviewed annually by the ~~governor or~~
6 ~~the governor's designee, who may make recommendations for change~~
7 DEPARTMENT. The procedure to be used for changing the numerical
8 risk assessment model developed pursuant to this section shall be
9 included in rules promulgated under this act.

10 (d) Submit to the legislature in November of each year ~~2~~
11 ~~listings. One listing shall identify~~ A LIST THAT IDENTIFIES in
12 order of relative risk all known sites requiring further evalu-
13 ation and any interim response activity BUT NOT INCLUDING SITES
14 LISTED ON THE LIST REQUIRED UNDER SUBDIVISION (G). ~~The other~~
15 ~~listing shall,~~

16 (E) SUBMIT TO THE LEGISLATURE IN NOVEMBER OF EACH YEAR A
17 LIST THAT IDENTIFIES, in order of relative risk, ~~identify~~ sites
18 where response activities are to be undertaken by the state.
19 ~~The 2 listings shall be strictly derived from the numerical risk~~
20 ~~assessment model provided for in this section.~~

21 (F) ~~(e)~~ Submit the 2 ~~listings~~ LISTS provided for under
22 ~~subdivision~~ SUBDIVISIONS (d) AND (E) for public hearings geo-
23 graphically dispersed throughout the state, which hearings shall
24 be completed at least 30 days before the governor's annual budget
25 recommendations to the legislature.

1 (G) PREPARE A LIST OF SITES OF ENVIRONMENTAL CONTAMINATION
2 IN WHICH RESPONSE ACTIVITY IS PROCEEDING PURSUANT TO AN APPROVED
3 REMEDIAL ACTION PLAN.

4 (H) TO THE EXTENT POSSIBLE, IDENTIFY SITES ON LISTS UNDER
5 THIS SECTION BY REFERENCE TO THEIR LOCATION RATHER THAN OWNERSHIP
6 OF THE PROPERTY ON WHICH THE SITE IS LOCATED.

7 (2) THE LISTS DESCRIBED IN SUBSECTION (1)(D) AND (E) SHALL
8 BE STRICTLY DERIVED FROM THE NUMERICAL RISK ASSESSMENT MODEL PRO-
9 VIDED FOR IN THIS SECTION.

10 (3) NOTWITHSTANDING SUBSECTION (1)(D), IF THE RESPONSIBLE
11 PARTIES FOR A SITE REPORT A RELEASE TO THE DEPARTMENT WITHIN
12 10 DAYS AFTER DISCOVERING THE RELEASE, AND WITHIN 60 DAYS AFTER
13 DISCOVERING THE RELEASE PERFORM NECESSARY INTERIM RESPONSE ACTIV-
14 ITIES AND SUBMIT A PROPOSED REMEDIAL ACTION PLAN TO THE DEPART-
15 MENT AND THE RESPONSIBLE PARTIES ARE OTHERWISE IN COMPLIANCE WITH
16 THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT, THE DEPARTMENT
17 SHALL NOT LIST THAT SITE ON THE LIST DESCRIBED IN SUBSECTION
18 (1)(D) BUT SHALL LIST THAT SITE ON THE LIST DESCRIBED IN SUBSEC-
19 TION (1)(G).

20 SEC. 6A. (1) A PERSON MAY REQUEST THAT A SITE BE REMOVED
21 FROM THE LIST DESCRIBED IN SECTION 6(1)(D) BY SUBMITTING A PETI-
22 TION TO THE DEPARTMENT. THE PETITION SHALL INCLUDE ALL OF THE
23 FOLLOWING INFORMATION:

24 (A) A DESCRIPTION AND HISTORY OF THE SITE.

25 (B) A DESCRIPTION OF THE NATURE AND EXTENT OF THE ENVIRON-
26 MENTAL CONTAMINATION, IF ANY, THAT EXISTED AT THE SITE PRIOR TO
27 THE INITIATION OF FINAL RESPONSE ACTIVITY.

1 (C) A DESCRIPTION OF THE RESPONSE ACTIVITY UNDERTAKEN TO
2 REMEDIATE ENVIRONMENTAL CONTAMINATION, CONSISTENT WITH THIS ACT
3 AND THE RULES PROMULGATED UNDER THIS ACT, OR THE INVESTIGATION
4 CONDUCTED TO DETERMINE THAT THE SITE SHOULD BE REMOVED FROM THE
5 LIST WITHOUT FURTHER RESPONSE ACTIVITY.

6 (D) AN ANALYSIS OF THE EFFECTIVENESS OF THE RESPONSE ACTIV-
7 ITY UNDERTAKEN TO REMEDIATE ENVIRONMENTAL CONTAMINATION, INCLUD-
8 ING A DESCRIPTION OF ANY RESIDUAL CONTAMINATION THAT MAY EXIST AT
9 THE SITE. THE ANALYSIS SHALL INCLUDE ANALYTICAL DATA THAT DOCU-
10 MENTS THE EFFECTIVENESS OF THE RESPONSE ACTIVITY.

11 (E) OTHER SITE-SPECIFIC INFORMATION REASONABLY REQUIRED BY
12 THE DEPARTMENT.

13 (2) A PERSON MAY REQUEST THAT A SITE BE REMOVED FROM THE
14 LIST DESCRIBED IN SECTION 6(1)(D) AND BE PLACED ON THE LIST
15 DESCRIBED IN SECTION 6(1)(G), BY SUBMITTING A PETITION TO THE
16 DEPARTMENT. THE PETITION SHALL INCLUDE CERTIFICATION THAT
17 RESPONSE ACTIVITIES AT THE SITE ARE PROCEEDING IN COMPLIANCE WITH
18 AN APPROVED REMEDIAL ACTION PLAN.

19 (3) THE DEPARTMENT SHALL MAKE A DECISION ON A PETITION SUB-
20 MITTED UNDER THIS SECTION WITHIN 45 DAYS OF ITS RECEIPT BY THE
21 DEPARTMENT. IF THE PETITION IS GRANTED, THE DEPARTMENT SHALL
22 MAKE THE REQUIRED CHANGE ON THE NEXT SET OF LISTS PREPARED UNDER
23 SECTION 6. IF THE PETITION IS DENIED, THE DEPARTMENT SHALL PRO-
24 VIDE THE REASON FOR DENIAL TO THE PETITIONER. A PETITIONER WHOSE
25 PETITION UNDER THIS SECTION IS DENIED MAY REQUEST A CONTESTED
26 CASE HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF

1 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
2 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

3 SEC. 7A. (1) WITHIN 1 YEAR AFTER THE FINAL PUBLIC HEARING
4 HELD PURSUANT TO SECTION 6(1)(F), THE RESPONSIBLE PARTIES FOR A
5 SITE OF ENVIRONMENTAL CONTAMINATION THAT IS IDENTIFIED FOR THE
6 FIRST TIME ON A LIST PREPARED PURSUANT TO SECTION 6 SHALL SUBMIT
7 A PROPOSED REMEDIAL ACTION PLAN TO THE DEPARTMENT. UPON REQUEST,
8 THE DEPARTMENT MAY GRANT AN EXTENSION IN THE TIME REQUIREMENT OF
9 THIS SUBSECTION. HOWEVER, THIS EXTENSION SHALL NOT BE FOR MORE
10 THAN 6 MONTHS.

11 (2) THE DEPARTMENT SHALL DEVELOP A SCHEDULE FOR SUBMITTAL OF
12 PROPOSED REMEDIAL ACTION PLANS FOR SITES IDENTIFIED FOR THE FIRST
13 TIME ON A LIST PREPARED PURSUANT TO SECTION 6 PRIOR TO THE EFFEC-
14 TIVE DATE OF THIS SECTION. THIS SCHEDULE SHALL BE STRUCTURED IN
15 SUCH A MANNER THAT BY JANUARY 1, 2000, RESPONSE ACTIVITY SHALL
16 HAVE BEGUN IN ACCORDANCE WITH AN APPROVED REMEDIAL ACTION PLAN AT
17 ALL SITES IN THE STATE WHERE RESPONSIBLE PARTIES HAVE BEEN
18 IDENTIFIED. THE SCHEDULE SHALL REQUIRE THAT PROPOSED REMEDIAL
19 ACTION PLANS FOR SITES RANKED HIGHER ON THE LIST PREPARED UNDER
20 SECTION 6(1)(D) SHALL BE SUBMITTED EARLIER THAN THOSE FOR SITES
21 RANKED LOWER ON THAT LIST. THE DEPARTMENT SHALL NOTIFY ALL IDEN-
22 TIFIED RESPONSIBLE PARTIES FOR A SITE OF THE REQUIRED DATE FOR
23 SUBMITTAL OF A PROPOSED REMEDIAL ACTION PLAN FOR THAT SITE AT
24 LEAST 1 YEAR BEFORE THE REQUIRED DATE OF SUBMITTAL.

25 (3) THE RESPONSIBLE PARTIES FOR A SITE MAY SUBMIT A PROPOSED
26 REMEDIAL ACTION PLAN TO THE DEPARTMENT AT ANY TIME IN ADVANCE OF
27 THE DATE PROVIDED IN THE SCHEDULE UNDER SUBSECTION (2).

1 (4) A PROPOSED REMEDIAL ACTION PLAN SUBMITTED TO THE
2 DEPARTMENT UNDER THIS ACT SHALL INCLUDE A SCHEDULE FOR COMPLETION
3 OF THE REQUIRED RESPONSE ACTIVITIES. WITHIN 6 MONTHS AFTER
4 RECEIVING A PROPOSED REMEDIAL ACTION PLAN UNDER THIS ACT, THE
5 DEPARTMENT SHALL REVIEW THE PLAN AND SHALL EITHER APPROVE THE
6 PLAN OR SUBMIT TO THE RESPONSIBLE PARTIES CHANGES IN THE PROPOSED
7 REMEDIAL ACTION PLAN THAT WOULD RESULT IN APPROVAL OF THE PLAN.
8 IF THE DEPARTMENT FAILS TO RESPOND AS PROVIDED IN THIS SUBSEC-
9 TION, THE RESPONSIBLE PARTIES' PROPOSED REMEDIAL ACTION PLAN
10 SHALL BE CONSIDERED AN APPROVED REMEDIAL ACTION PLAN. IF THE
11 DEPARTMENT SUBMITS CHANGES TO THE PROPOSED REMEDIAL ACTION PLAN,
12 WITHIN 60 DAYS AFTER THE RESPONSIBLE PARTIES RECEIVE THE
13 DEPARTMENT'S CHANGES, THE RESPONSIBLE PARTIES MAY INCORPORATE
14 THESE CHANGES INTO THEIR PROPOSED REMEDIAL ACTION PLAN, AND
15 RESUBMIT THE PROPOSED REMEDIAL ACTION PLAN TO THE DEPARTMENT.
16 UPON RECEIPT OF A PROPOSED REMEDIAL ACTION PLAN THAT INCLUDES THE
17 DEPARTMENT'S CHANGES, THE DEPARTMENT SHALL APPROVE THE REMEDIAL
18 ACTION PLAN.

19 (5) IF THE DEPARTMENT APPROVES A REMEDIAL ACTION PLAN UNDER
20 SUBSECTION (4), THE RESPONSIBLE PARTIES SHALL IMPLEMENT THE
21 APPROVED REMEDIAL ACTION PLAN.

22 (6) IF THE RESPONSIBLE PARTIES REJECT THE DEPARTMENT'S
23 CHANGES TO THE PROPOSED REMEDIAL ACTION PLAN UNDER
24 SUBSECTION (4), THE RESPONSIBLE PARTIES SHALL NOTIFY THE DEPART-
25 MENT WITHIN 60 DAYS AFTER RECEIVING THE DEPARTMENT'S CHANGES.
26 UPON RECEIPT OF THE REJECTION UNDER THIS SUBSECTION, OR BY MUTUAL
27 CONSENT OF THE RESPONSIBLE PARTIES AND THE DEPARTMENT AT ANY TIME

1 AFTER THE RESPONSIBLE PARTIES HAVE SUBMITTED A PROPOSED REMEDIAL
2 ACTION PLAN, THE DEPARTMENT SHALL NOTIFY THE OFFICE OF ENVIRON-
3 MENTAL DISPUTE RESOLUTION, AND THE DISPUTE OVER THE CONTENTS OF
4 THE REMEDIAL ACTION PLAN OR ANY PORTION OF THE REMEDIAL ACTION
5 PLAN SHALL BE SUBMITTED FOR MEDIATION PURSUANT TO SECTION 7C. IF
6 A DISPUTE IS SUBMITTED FOR MEDIATION, ANY REMAINING APPLICABLE
7 DEADLINES IN THIS SECTION ARE SUSPENDED. HOWEVER, ANY RESPONSE
8 ACTIVITY THAT IS AGREED UPON BY THE RESPONSIBLE PARTIES AND THE
9 DEPARTMENT SHALL PROCEED DURING THE PENDENCY OF MEDIATION.

10 (7) IF THE RESPONSIBLE PARTIES FAIL TO MEET A DEADLINE PRO-
11 VIDED IN THIS SECTION, THE DEPARTMENT SHALL IMPOSE AN ADMINISTRA-
12 TIVE FINE OF \$5,000.00 FOR EACH DAY THAT THE RESPONSIBLE PARTIES
13 FAIL TO COMPLY. THE DEPARTMENT SHALL DEPOSIT MONEY IT RECEIVES
14 UNDER THIS SUBSECTION INTO THE ENVIRONMENTAL CLEANUP REVOLVING
15 LOAN FUND CREATED IN SECTION 9E.

16 SEC. 7B. (1) A REMEDIAL ACTION PLAN PREPARED UNDER
17 SECTION 7A SHALL AT A MINIMUM DO ALL OF THE FOLLOWING:

18 (A) ASSURE THE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND
19 WELFARE, AND THE ENVIRONMENT AND NATURAL RESOURCES.

20 (B) ATTAIN A DEGREE OF CLEANUP AND CONTROL OF HAZARDOUS SUB-
21 STANCES THAT COMPLIES WITH THE FOLLOWING:

22 (i) FOR POLYCHLORINATED BIPHENYLS, CLEANUP AND CONTROL SHALL
23 MEET THE LEVELS AND STANDARDS ESTABLISHED BY THE UNITED STATES
24 ENVIRONMENTAL PROTECTION AGENCY FOR NEW SPILLS AS SET FORTH IN
25 THE PCB SPILL CLEANUP POLICY PROMULGATED IN SUBPART G OF 40
26 C.F.R. PART 761.

1 (ii) FOR HAZARDOUS SUBSTANCES OTHER THAN POLYCHLORINATED
2 BIPHENYLS, THE CLEANUP AND CONTROL LEVELS SHALL BE ESTABLISHED ON
3 A SITE-BY-SITE BASIS. HOWEVER, IF THE REMEDIAL ACTION INVOLVES
4 THE CLEANUP OF A HAZARDOUS SUBSTANCE THAT IS A CARCINOGEN, THE
5 ACCEPTABLE RANGE OF RISK PRESENTED BY THAT SUBSTANCE SHALL BE NOT
6 LESS THAN A RISK OF INCREASED CANCER OF 1 IN 10,000.

7 (C) TO THE MAXIMUM EXTENT POSSIBLE, USE REMEDIAL TECHNOLO-
8 GIES THAT PERMANENTLY ELIMINATE OR REDUCE THE VOLUME, TOXICITY,
9 AND MOBILITY OF HAZARDOUS SUBSTANCES.

10 (2) THE COST-EFFECTIVENESS OF ALTERNATIVE MEANS OF COMPLYING
11 WITH THIS SECTION SHALL BE CONSIDERED BY THE DEPARTMENT ONLY IN
12 SELECTING AMONG ALTERNATIVES THAT MEET ALL OF THE CRITERIA OF
13 SUBSECTION (1).

14 SEC. 7C. (1) WITHIN 14 DAYS AFTER RECEIVING NOTIFICATION OF
15 SUBMITTAL TO MEDIATION FROM THE DEPARTMENT UNDER SECTION 7A, THE
16 OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION SHALL RANDOMLY ASSIGN
17 A MEDIATOR TO FACILITATE RESOLUTION OF THE DISPUTE. THE MEDIATOR
18 ASSIGNED TO THE DISPUTE SHALL CONDUCT A MEDIATION CONFERENCE
19 WITHIN 30 DAYS AFTER BEING ASSIGNED TO MEDIATE THE DISPUTE AND
20 SHALL NOTIFY THE DEPARTMENT AND THE RESPONSIBLE PARTIES OF THE
21 TIME AND DATE OF THE MEDIATION CONFERENCE. THE MEDIATION CONFER-
22 ENCE SHALL BE INFORMAL. ANY INFORMATION EXCHANGED OR DIVULGED
23 DURING THE COURSE OF MEDIATION SHALL NOT BE USED IN SUBSEQUENT
24 ARBITRATION OR JUDICIAL PROCEDURES. MEDIATION MAY CONTINUE UNTIL
25 THE EXPIRATION OF 6 MONTHS AFTER THE DATE THE MEDIATOR WAS
26 ASSIGNED TO THE DISPUTE AS LONG AS BOTH THE DEPARTMENT AND THE

1 RESPONSIBLE PARTIES BELIEVE MEDIATION IS USEFUL IN FACILITATING
2 AN AGREEMENT ON THE CONTENTS OF A REMEDIAL ACTION PLAN.

3 (2) IF, AT ANY TIME DURING MEDIATION, THE MEDIATOR DETER-
4 MINES THAT IT WOULD BE USEFUL, THE MEDIATOR MAY REQUEST THE ENVI-
5 RONMENTAL CLEANUP TECHNICAL ADVISORY PANEL, ESTABLISHED IN
6 SECTION 7F, TO PROVIDE ADVICE ON THE APPROPRIATE LEVEL OF CLEANUP
7 AT A SITE.

8 (3) IF, AT ANY TIME DURING MEDIATION, THE DEPARTMENT AND THE
9 RESPONSIBLE PARTIES AGREE TO THE TERMS OF A REMEDIAL ACTION PLAN,
10 THE RESPONSIBLE PARTIES SHALL PREPARE THE PLAN, THE DEPARTMENT
11 SHALL APPROVE THE REMEDIAL ACTION PLAN, AND THE RESPONSIBLE PAR-
12 TIES SHALL IMPLEMENT THE APPROVED REMEDIAL ACTION PLAN.

13 (4) IF AT ANY TIME AFTER THE FIRST MEDIATION CONFERENCE THE
14 DEPARTMENT OR THE RESPONSIBLE PARTIES DESIRE TO END MEDIATION,
15 THEY MAY DO SO BY NOTIFYING THE OFFICE OF ENVIRONMENTAL DISPUTE
16 RESOLUTION AND THE DISPUTE SHALL BE SETTLED BY ARBITRATION PURSU-
17 ANT TO SECTION 7D. ADDITIONALLY, IF, AT ANY TIME AFTER THE FIRST
18 MEDIATION CONFERENCE, THE MEDIATOR DETERMINES THAT ADDITIONAL
19 MEDIATION EFFORTS WOULD NOT BE FRUITFUL, THE MEDIATOR MAY NOTIFY
20 THE OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION, AND THE DISPUTE
21 SHALL BE SETTLED BY ARBITRATION PURSUANT TO SECTION 7D.

22 (5) UNLESS OTHERWISE AGREED BY THE DEPARTMENT AND THE
23 RESPONSIBLE PARTIES AND EXCEPT AS PROVIDED IN SECTION 7D(8), THE
24 DEPARTMENT AND THE RESPONSIBLE PARTIES SHALL EACH PAY THEIR COSTS
25 ASSOCIATED WITH MEDIATION AND THEY SHALL SHARE EQUALLY THE COSTS
26 ASSOCIATED WITH THE OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION.

1 SEC. 7D. (1) WITHIN 14 DAYS AFTER RECEIVING NOTIFICATION OF
2 SUBMITTAL TO ARBITRATION UNDER SECTION 7C, THE OFFICE OF
3 ENVIRONMENTAL DISPUTE RESOLUTION SHALL ASSIGN AN ARBITRATION
4 PANEL TO DECIDE THE DISPUTE. UPON BEING ASSIGNED TO A DISPUTE,
5 THE ARBITRATION PANEL SHALL SCHEDULE AN ARBITRATION HEARING AND
6 NOTIFY THE DEPARTMENT AND THE RESPONSIBLE PARTIES OF THE TIME AND
7 DATE OF THE HEARING. THE HEARING SHALL BE HELD WITHIN 60 DAYS
8 AFTER THE ARBITRATION PANEL IS ASSIGNED TO THE DISPUTE. WITHIN
9 30 DAYS AFTER THE ARBITRATION PANEL IS ASSIGNED TO THE DISPUTE,
10 THE DEPARTMENT AND THE RESPONSIBLE PARTIES SHALL EACH SUBMIT TO
11 THE ARBITRATION PANEL A PROPOSED REMEDIAL ACTION PLAN.

12 THEREAFTER, EACH MEMBER OF THE ARBITRATION PANEL MAY REQUEST
13 ADDITIONAL INFORMATION OR DOCUMENTATION FROM THE DEPARTMENT OR
14 THE RESPONSIBLE PARTIES. COPIES OF ALL INFORMATION PROVIDED
15 SHALL BE PROVIDED TO ALL MEMBERS OF THE ARBITRATION PANEL AND TO
16 THE OTHER PARTIES TO THE DISPUTE.

17 (2) IF, UPON RECEIPT OF THE PROPOSED REMEDIAL ACTION PLANS
18 UNDER SUBSECTION (1), THE ARBITRATION PANEL DETERMINES THAT IT
19 WOULD BE USEFUL, THE ARBITRATION PANEL MAY REQUEST THE ENVIRON-
20 MENTAL CLEANUP TECHNICAL ADVISORY PANEL ESTABLISHED IN SECTION 7F
21 TO PROVIDE ADVICE ON THE APPROPRIATE LEVEL OF CLEANUP AT A SITE.

22 (3) WITHIN 30 DAYS FOLLOWING THE ARBITRATION HEARING, THE
23 ARBITRATION PANEL SHALL SELECT EITHER THE REMEDIAL ACTION PLAN
24 SUBMITTED BY THE RESPONSIBLE PARTIES OR THE REMEDIAL ACTION PLAN
25 SUBMITTED BY THE DEPARTMENT. UPON MAKING A DETERMINATION, THE
26 ARBITRATION PANEL SHALL NOTIFY BOTH THE RESPONSIBLE PARTIES AND
27 THE DEPARTMENT OF ITS DETERMINATION. THE REMEDIAL ACTION PLAN

1 SELECTED BY THE ARBITRATION PANEL SHALL BE CONSIDERED AN APPROVED
2 REMEDIAL ACTION PLAN.

3 (4) AT ANY TIME PRIOR TO THE DETERMINATION OF THE ARBITRA-
4 TION PANEL UNDER SUBSECTION (3), IF THE DEPARTMENT AND THE
5 RESPONSIBLE PARTIES AGREE TO A REMEDIAL ACTION PLAN, THE DEPART-
6 MENT MAY APPROVE THE REMEDIAL ACTION PLAN, AND THE RESPONSIBLE
7 PARTIES SHALL IMPLEMENT THE PLAN.

8 (5) WITHIN 21 DAYS AFTER RECEIVING THE DETERMINATION OF THE
9 ARBITRATION PANEL UNDER SUBSECTION (3), THE RESPONSIBLE PARTIES
10 SHALL BEGIN IMPLEMENTING THE REMEDIAL ACTION PLAN SELECTED BY THE
11 ARBITRATION PANEL UNLESS THE RESPONSIBLE PARTIES OR THE DEPART-
12 MENT HAS FILED A PETITION FOR REVIEW OF THE DETERMINATION OF THE
13 ARBITRATION PANEL PURSUANT TO SUBSECTION (7).

14 (6) UNLESS OTHERWISE AGREED BY THE DEPARTMENT AND THE
15 RESPONSIBLE PARTIES, AND EXCEPT AS PROVIDED IN SUBSECTION (8),
16 THE DEPARTMENT AND THE RESPONSIBLE PARTIES SHALL EACH PAY THEIR
17 COSTS ASSOCIATED WITH ARBITRATION AND THEY SHALL SHARE EQUALLY
18 THE COSTS ASSOCIATED WITH THE OFFICE OF ENVIRONMENTAL DISPUTE
19 RESOLUTION.

20 (7) EITHER THE RESPONSIBLE PARTIES OR THE DEPARTMENT MAY
21 PETITION THE CIRCUIT COURT FOR REVIEW OF THE ARBITRATION PANEL'S
22 DETERMINATION. A PETITION FOR REVIEW SHALL BE FILED WITH THE
23 CIRCUIT COURT WITHIN 21 DAYS AFTER THE PETITIONER RECEIVED THE
24 ARBITRATION PANEL'S DETERMINATION.

25 (8) IF THE CIRCUIT COURT SUBSEQUENTLY ADOPTS THE DETERMINA-
26 TION OF THE ARBITRATION PANEL, THE PARTY WHO PETITIONED FOR
27 REVIEW OF THE ARBITRATION PANEL'S DETERMINATION SHALL PAY THE

1 FULL COSTS OF MEDIATION AND ARBITRATION INCURRED BY BOTH PARTIES,
2 AND SHALL PAY THE ENFORCEMENT COSTS ASSOCIATED WITH THE CIRCUIT
3 COURT'S REVIEW.

4 SEC. 7E. (1) AN OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION
5 IS CREATED WITHIN THE DEPARTMENT OF CIVIL SERVICE.

6 (2) THE OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION SHALL
7 MAINTAIN A LIST OF QUALIFIED ENVIRONMENTAL MEDIATORS WHO ARE
8 CAPABLE OF ASSISTING IN THE RESOLUTION OF DISPUTES OVER THE
9 DEVELOPMENT OF REMEDIAL ACTION PLANS FOR SITES OF ENVIRONMENTAL
10 CONTAMINATION.

11 (3) THE OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION SHALL
12 MAINTAIN 3 LISTS OF QUALIFIED ENVIRONMENTAL ARBITRATORS WHO ARE
13 CAPABLE OF ARBITRATING DISPUTES OVER REMEDIAL ACTION PLANS FOR
14 SITES OF ENVIRONMENTAL CONTAMINATION. THE EXECUTIVE DIRECTOR OF
15 THE GOVERNOR'S COUNCIL ON ENVIRONMENTAL QUALITY CREATED IN EXECU-
16 TIVE ORDER 1989-3 AS AMENDED BY EXECUTIVE ORDER 1989-6 SHALL PRE-
17 PARE THESE LISTS. THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S COUN-
18 CIL ON ENVIRONMENTAL QUALITY ANNUALLY SHALL SOLICIT IN 3 MAJOR
19 NEWSPAPERS IN THIS STATE THE NAMES AND QUALIFICATIONS OF ENGI-
20 NEERS ACTIVELY ENGAGED IN THE ENVIRONMENTAL FIELD IN THE STATE,
21 INDIVIDUALS HOLDING A DOCTORATE IN EITHER PUBLIC HEALTH OR ENVI-
22 RONMENTAL SCIENCES AND ACTIVELY ENGAGED IN THE ENVIRONMENTAL
23 FIELD IN THE STATE, AND TOXICOLOGISTS HOLDING A DOCTORATE IN
24 TOXICOLOGY. THE NAMES OF THE QUALIFIED INDIVIDUALS AS DETERMINED
25 BY THE EXECUTIVE DIRECTOR OF THE COUNCIL ON ENVIRONMENTAL QUALITY
26 WHO HAVE SUBMITTED THEIR QUALIFICATIONS SHALL BE KEPT BY THE
27 EXECUTIVE DIRECTOR ON 3 LISTS, ARRANGED ALPHABETICALLY BY LAST

1 NAME, EACH LIST ADDRESSING 1 OF THE CATEGORIES OF QUALIFIED
2 INDIVIDUALS IDENTIFIED IN THIS SUBSECTION. AN EMPLOYEE OR CON-
3 SULTANT OF THE DEPARTMENT OR A STATE AGENCY, OR AN EMPLOYEE OR
4 CONSULTANT TO A RESPONSIBLE PARTY OF A PROPERTY IDENTIFIED ON 1
5 OF THE LATEST ANNUAL LISTS DESCRIBED IN SECTION 6, SHALL NOT BE A
6 MEMBER OF AN ARBITRATION PANEL FOR ANY SITE WITH RESPECT TO WHICH
7 THAT PERSON HAS HAD INVOLVEMENT.

8 (4) UPON RECEIPT FROM THE DEPARTMENT, THE RESPONSIBLE PAR-
9 TIES, OR THE MEDIATOR UNDER SECTION 7C OF NOTICE OF TERMINATION
10 OF MEDIATION, THE OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION
11 SHALL RANDOMLY SELECT 1 INDIVIDUAL FROM EACH LIST UNDER SUBSEC-
12 TION (1) TO SERVE AS AN ARBITRATION PANEL.

13 (5) THE OFFICE OF ENVIRONMENTAL DISPUTE RESOLUTION SHALL
14 PROVIDE AN ANNUAL REPORT TO THE LEGISLATURE ON BOTH OF THE
15 FOLLOWING:

16 (A) THE NUMBER OF CASES IN WHICH MEDIATORS HAVE BEEN USED
17 AND THE OUTCOME OF THOSE DISPUTES.

18 (B) THE NUMBER OF CASES IN WHICH AN ARBITRATION PANEL HAS
19 BEEN USED, THE OUTCOME OF THOSE DISPUTES AS DETERMINED BY THE
20 ARBITRATION PANEL, THE NUMBER OF CASES THAT SUBSEQUENTLY WERE
21 REVIEWED BY A COURT, AND THE OUTCOME OF THOSE COURT DECISIONS.

22 SEC. 7F. (1) THE ENVIRONMENTAL CLEANUP TECHNICAL ADVISORY
23 PANEL IS ESTABLISHED WITHIN THE OFFICE OF ENVIRONMENTAL DISPUTE
24 RESOLUTION TO ADVISE THE OFFICE OF ENVIRONMENTAL DISPUTE RESOLU-
25 TION AND THE DEPARTMENT ON APPROPRIATE LEVELS OF CLEANUP FOR
26 SITES OF ENVIRONMENTAL CONTAMINATION. THE PANEL SHALL CONSIST OF
27 5 MEMBERS APPOINTED BY THE GOVERNOR FROM THE LISTS PREPARED UNDER

1 SECTION 7E(3). NOT MORE THAN 2 MEMBERS OF THE ENVIRONMENTAL
2 CLEANUP TECHNICAL ADVISORY PANEL SHALL BE EMPLOYEES OF STATE
3 DEPARTMENTS OR AGENCIES.

4 (2) UPON REQUEST OF THE DEPARTMENT, A MEDIATOR UNDER
5 SECTION 7C, OR AN ARBITRATION PANEL UNDER SECTION 7D, THE ENVI-
6 RONMENTAL CLEANUP TECHNICAL ADVISORY PANEL SHALL PROVIDE ADVICE
7 ON THE APPROPRIATE CLEANUP LEVEL FOR A SITE OF ENVIRONMENTAL
8 CONTAMINATION.

9 (3) IN ADVISING ON AN APPROPRIATE CLEANUP LEVEL, THE ENVI-
10 RONMENTAL CLEANUP TECHNICAL ADVISORY PANEL SHALL CONSIDER ALL OF
11 THE FOLLOWING:

12 (A) ACTUAL EXPOSURE PATHWAYS EXISTING AT THE SITE.

13 (B) THE ACUTE AND CHRONIC TOXICITY LEVELS OF THE
14 CONTAMINANT.

15 (C) AN APPROPRIATE MODEL FOR EVALUATING CARCINOGENICITY, IF
16 ANY, OF A HAZARDOUS SUBSTANCE, BASED ON WHETHER THE HAZARDOUS
17 SUBSTANCE IS A THRESHOLD OR NONTHRESHOLD CARCINOGEN. THE RECOM-
18 MENDED CLEANUP AND CONTROL LEVELS FOR A HAZARDOUS SUBSTANCE SHALL
19 BE ESTABLISHED ON A CASE BY CASE BASIS IN CONSULTATION WITH THE
20 UNITED STATES AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.
21 FOR HAZARDOUS SUBSTANCES THAT ARE CARCINOGENS, THE ACCEPTABLE
22 RANGE OF RISK PRESENTED BY SUCH SUBSTANCES SHALL BE NOT LESS THAN
23 A RISK OF INCREASED CANCER OF 1 IN 10,000.

24 (D) WHETHER THE CLEANUP LEVEL IS PROTECTIVE OF PUBLIC
25 HEALTH, SAFETY, AND WELFARE AND OF THE ENVIRONMENT AND NATURAL
26 RESOURCES.

1 Sec. 11. (1) Money required to reimburse an individual who
2 has temporarily or permanently replaced OR TREATED a potable
3 water supply that was contaminated ~~or was threatened to become~~
4 ~~contaminated~~ by a hazardous substance may be disbursed by the
5 ~~governor's designee~~ DEPARTMENT if all of the following circum-
6 stances exist:

7 (a) The expenditure for the replacement of a water supply
8 was made after October 13, 1982. ~~, the effective date of this~~
9 ~~act.~~

10 (b) The site of the replaced OR TREATED water supply is a
11 location which is on ~~either of the 2 numerical risk assessment~~
12 ~~listings~~ 1 OF THE LISTS described in section 6.

13 (c) THE VOLUME OF REPLACED OR TREATED WATER SUPPLY IS
14 LIMITED TO THAT REASONABLY NECESSARY TO REPLACE THE SAME VOLUME
15 OF CONTAMINATED WATER. ANY AMOUNT ABOVE THIS VOLUME SHALL BE
16 PRO-RATED AND PAID FOR BY THE INDIVIDUAL.

17 (D) ~~(c)~~ The individual presents to the ~~governor's~~
18 ~~designee~~ DEPARTMENT documentation from the department of public
19 health or an authorized representative of a health department
20 with responsibility for the individual's water supply indicating
21 that the individual's water supply was unfit ~~or was threatened~~
22 ~~to become unfit~~ for consumption or any other domestic use and
23 that a replacement OR TREATMENT of the water supply was necessary
24 at the time that expenditures were made to temporarily or per-
25 manently replace or treat the water supply. FOR PURPOSES OF THIS
26 SECTION, AN INDIVIDUAL'S WATER SUPPLY IS UNFIT FOR CONSUMPTION IF

1 THE QUALITY OF THE WATER FALLS BELOW THE STANDARDS ESTABLISHED
2 UNDER ANY OF THE FOLLOWING:

3 (i) TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT, CHAPTER 373,
4 88 STAT. 1660, 42 U.S.C. 300f TO 300j-3, 300j-4 TO 300j-9,
5 300j-11, AND 300j-21 TO 300j-25.

6 (ii) The safe drinking water act, Act No. 399 of the Public
7 Acts of 1976, being sections 325.1001 to 325.1023 of the Michigan
8 Compiled Laws.

9 (iii) Part 127 of the public health code, Act No. 368 of the
10 Public Acts of 1978, being sections 333.12701 to 333.12771 of the
11 Michigan Compiled Laws.

12 (E) ~~(d)~~ The individual presents to the ~~governor's~~
13 ~~designee~~ DEPARTMENT receipts for expenses reasonably incurred in
14 replacing OR TREATING a water supply, or in the event that the
15 individual is unable to produce the receipts after making all
16 reasonable efforts, submits a statement containing all of the
17 following:

18 (i) The nature and cost of the water replacement OR
19 TREATMENT that was undertaken.

20 (ii) Either the name and address of any person who worked
21 for the individual to accomplish the replacement OR TREATMENT of
22 the water supply or an explanation of why this information is not
23 produced.

24 (iii) A statement from the department of public health or
25 authorized representative of the individual's local health
26 department indicating the condition of the individual's water
27 following the replacement OR TREATMENT of the water supply.

1 (F) ~~(e)~~ The individual is not the person whose action or
 2 negligence caused a condition that resulted in the contamination
 3 or threat of contamination of the water supply that was temporar-
 4 ily or permanently replaced or treated.

5 (G) ~~(f)~~ The individual presents to the ~~governor's~~
 6 ~~designee~~ DEPARTMENT documentation from the department of public
 7 health or from the local health department ~~which~~ THAT is
 8 responsible for the individual's water supply indicating that the
 9 ~~replacement~~ REPLACED OR TREATED water supply is acceptable for
 10 use and was constructed in accordance with applicable state and
 11 local statutes, rules, and policies.

12 (2) If an individual who seeks reimbursement pursuant to
 13 this section is unable to produce receipts as required by subsec-
 14 tion ~~(1)(d)~~ (1)(E), a reimbursement to that individual under
 15 this section shall not exceed the cost of the least expensive
 16 comparable replacement or treatment of a water supply in the
 17 individual's area or, in the event there are no comparable local
 18 situations, then the amount to be reimbursed shall be based on
 19 the reasonable customary charge for a substantially similar
 20 replacement OR TREATMENT.

21 (3) ~~This section shall not apply after December 31, 1989.~~
 22 A PERSON WHOSE POTABLE WATER SUPPLY IS NOT CONTAMINATED MAY
 23 OBTAIN REIMBURSEMENT FOR REPLACEMENT OF HIS OR HER POTABLE WATER
 24 SUPPLY IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

25 (A) THE WATER SUPPLY IS LOCATED IN THE FLOW PATH OF CONTAMI-
 26 NANTS IDENTIFIED AS EMANATING FROM A SITE THAT IS ON 1 OF THE
 27 LISTS DESCRIBED IN SECTION 6.

1 (B) THE DEPARTMENT OR THE DEPARTMENT OF PUBLIC HEALTH OR AN
2 AUTHORIZED REPRESENTATIVE OF A HEALTH DEPARTMENT WITH RESPONSI-
3 BILITY FOR THE WATER SUPPLY DETERMINES THAT THERE IS A REASONABLE
4 LIKELIHOOD THAT THE WATER SUPPLY WILL BECOME CONTAMINATED WITHIN
5 6 MONTHS.

6 (C) ALL OF THE REQUIREMENTS OF SUBSECTION (1)(C) TO (G) ARE
7 MET.

8 SEC. 11A. (1) EACH STATE AGENCY IS SUBJECT TO, AND SHALL
9 COMPLY WITH, THIS ACT IN THE SAME MANNER AND TO THE SAME EXTENT,
10 BOTH PROCEDURALLY AND SUBSTANTIVELY, AS A NONGOVERNMENTAL
11 ENTITY.

12 (2) EACH STATE AGENCY SHALL PROVIDE INFORMATION TO THE
13 DEPARTMENT ON ENVIRONMENTAL CONTAMINATION FROM EACH FACILITY
14 OWNED OR OPERATED BY THAT STATE AGENCY, INCLUDING A DESCRIPTION
15 OF THE MONITORING DATA OBTAINED.

16 (3) THE DEPARTMENT SHALL ESTABLISH A STATE AGENCY HAZARDOUS
17 WASTE COMPLIANCE DOCKET WHICH SHALL CONTAIN ALL OF THE
18 FOLLOWING:

19 (A) ALL INFORMATION SUBMITTED UNDER THE HAZARDOUS WASTE MAN-
20 AGEMENT ACT, ACT NO. 64 OF THE PUBLIC ACTS OF 1979, BEING
21 SECTIONS 299.501 TO 299.551 OF THE MICHIGAN COMPILED LAWS, AND
22 SUBSECTION (2), REGARDING A STATE FACILITY, AND NOTICE OF EACH
23 ACTION TAKEN UNDER THIS ACT WITH RESPECT TO THE FACILITY.

24 (B) INFORMATION SUBMITTED BY THE STATE AGENCY UNDER THIS
25 ACT.

26 (4) THE DOCKET SHALL BE AVAILABLE FOR PUBLIC INSPECTION AT
27 REASONABLE TIMES. SIX MONTHS AFTER ESTABLISHMENT OF THE DOCKET

1 AND EVERY 6 MONTHS THEREAFTER, THE DEPARTMENT SHALL PUBLISH IN
2 THE MICHIGAN REGISTER A LIST OF THE STATE FACILITIES THAT HAVE
3 BEEN INCLUDED IN THE DOCKET DURING THE IMMEDIATELY PRECEDING
4 6-MONTH PERIOD. THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO PRO-
5 VIDE INFORMATION TO THE PUBLIC WITH RESPECT TO STATE FACILITIES
6 THAT ARE INCLUDED IN THE DOCKET UNDER THIS SECTION.

7 (5) NOT LATER THAN 18 MONTHS AFTER THE EFFECTIVE DATE OF
8 THIS SECTION, THE DEPARTMENT SHALL TAKE STEPS TO ASSURE THAT A
9 PRELIMINARY ASSESSMENT IS CONDUCTED FOR EACH STATE FACILITY ON
10 THE DOCKET. FOLLOWING THIS PRELIMINARY ASSESSMENT, THE DEPART-
11 MENT SHALL, AS APPROPRIATE, DO 1 OR MORE OF THE FOLLOWING:

12 (A) EVALUATE THE STATE FACILITIES IN ACCORDANCE WITH THE
13 CRITERIA ESTABLISHED UNDER SECTION 6.

14 (B) INCLUDE THE STATE FACILITIES ON THE APPROPRIATE LIST IF
15 THE FACILITY MEETS THE CRITERIA. EVALUATION AND LISTING UNDER
16 THIS SUBSECTION SHALL BE COMPLETED NOT LATER THAN 30 MONTHS AFTER
17 THE EFFECTIVE DATE OF THIS SECTION.

18 (6) NOT LATER THAN 6 MONTHS AFTER THE INCLUSION OF A STATE
19 FACILITY ON A LIST PURSUANT TO SUBSECTION (5), THE STATE AGENCY
20 THAT OWNS OR OPERATES THE FACILITY SHALL, IN CONSULTATION WITH
21 THE DEPARTMENT, COMMENCE A REMEDIAL INVESTIGATION FOR THE
22 FACILITY. FOR A STATE FACILITY THAT IS LISTED ON A LIST UNDER
23 SECTION 6 BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE STATE
24 AGENCY THAT OWNS OR OPERATES THE FACILITY SHALL, IN CONSULTATION
25 WITH THE DEPARTMENT, COMMENCE AN INVESTIGATION FOR THE FACILITY
26 WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION. THE

1 DEPARTMENT SHALL PUBLISH A TIMETABLE AND DEADLINES FOR
2 EXPEDITIOUS COMPLETION OF THE REMEDIAL INVESTIGATION.

3 (7) THE DEPARTMENT SHALL REVIEW THE RESULTS OF EACH REMEDIAL
4 INVESTIGATION CONDUCTED UNDER SUBSECTION (6). WITHIN 180 DAYS
5 AFTER THIS REVIEW IS COMPLETED, THE HEAD OF THE STATE AGENCY
6 SHALL ENTER INTO AN INTERAGENCY AGREEMENT WITH THE DEPARTMENT FOR
7 THE EXPEDITIOUS COMPLETION BY THE STATE AGENCY OF ALL NECESSARY
8 REMEDIAL ACTION AT THE STATE FACILITY. SUBSTANTIAL CONTINUOUS
9 PHYSICAL ON-SITE REMEDIAL ACTION SHALL BE COMMENCED AT EACH STATE
10 FACILITY NOT LATER THAN 15 MONTHS AFTER COMPLETION OF THE REME-
11 DIAL INVESTIGATION. ALL INTERAGENCY AGREEMENTS, INCLUDING REVIEW
12 OF ALTERNATIVE REMEDIAL ACTION PLANS AND SELECTION OF REMEDIAL
13 ACTION, SHALL COMPLY WITH THIS ACT.

14 (8) REMEDIAL ACTIONS AT STATE FACILITIES SUBJECT TO INTER-
15 AGENCY AGREEMENTS UNDER THIS SECTION SHALL BE COMPLETED AS EXPE-
16 DITIOUSLY AS PRACTICABLE. THE GOVERNOR SHALL INCLUDE IN HIS OR
17 HER ANNUAL BUDGET SUBMISSIONS TO THE LEGISLATURE A REVIEW OF
18 ALTERNATIVE AGENCY FUNDING THAT COULD BE USED TO PROVIDE FOR THE
19 COSTS OF REMEDIAL ACTION WITHIN EACH AGENCY OWNING OR OPERATING A
20 STATE FACILITY. THE BUDGET SUBMISSION SHALL ALSO INCLUDE A
21 STATEMENT OF THE HAZARD POSED BY THE STATE FACILITY TO HUMAN
22 HEALTH, WELFARE, AND THE ENVIRONMENT AND IDENTIFY THE SPECIFIC
23 CONSEQUENCES OF FAILURE TO BEGIN AND COMPLETE REMEDIAL ACTION.

24 (9) EACH INTERAGENCY AGREEMENT UNDER THIS SECTION SHALL
25 INCLUDE, BUT NEED NOT BE LIMITED TO, ALL OF THE FOLLOWING:

26 (A) A REVIEW OF ALTERNATIVE REMEDIAL ACTIONS AND SELECTION
27 OF A REMEDIAL ACTION BY THE HEAD OF THE STATE AGENCY AND THE

1 DEPARTMENT OR, IF THE HEAD OF THE STATE AGENCY AND THE DEPARTMENT
2 ARE UNABLE TO REACH AGREEMENT ON SELECTION OF A REMEDIAL ACTION,
3 A REVIEW OF ALTERNATIVE REMEDIAL ACTIONS AND SELECTION OF A REME-
4 DIAL ACTION BY THE DEPARTMENT.

5 (B) A SCHEDULE FOR THE COMPLETION OF REMEDIAL ACTION.

6 (C) ARRANGEMENTS FOR LONG-TERM OPERATION AND MAINTENANCE OF
7 THE FACILITY.

8 (10) EACH STATE AGENCY RESPONSIBLE FOR COMPLIANCE WITH THIS
9 SECTION SHALL PROVIDE AN ANNUAL REPORT TO THE LEGISLATURE CON-
10 CERNING ITS PROGRESS IN IMPLEMENTING THE REQUIREMENTS OF THIS
11 SECTION. THESE REPORTS SHALL INCLUDE, BUT NEED NOT BE LIMITED
12 TO, ALL OF THE FOLLOWING:

13 (A) A REPORT ON THE PROGRESS IN REACHING INTERAGENCY AGREE-
14 MENTS UNDER THIS SECTION.

15 (B) THE SPECIFIC COST ESTIMATES AND BUDGETARY PROPOSALS
16 INVOLVED IN EACH INTERAGENCY AGREEMENT.

17 (C) A BRIEF SUMMARY OF THE PUBLIC COMMENTS REGARDING EACH
18 PROPOSED INTERAGENCY AGREEMENT.

19 (D) A DESCRIPTION OF THE INSTANCES IN WHICH AN AGREEMENT WAS
20 NOT REACHED.

21 (E) A REPORT ON PROGRESS IN CONDUCTING REMEDIAL INVESTIGA-
22 TIONS UNDER SUBSECTION (7).

23 (F) A REPORT ON PROGRESS IN CONDUCTING REMEDIAL ACTIONS.

24 (G) A REPORT ON PROGRESS IN CONDUCTING REMEDIAL ACTIONS AT
25 FACILITIES THAT ARE NOT LISTED ON A LIST UNDER SECTION 6. IN
26 INSTANCES IN WHICH AN AGREEMENT WAS NOT REACHED WITHIN THE
27 REQUIRED TIME PERIOD, THE STATE AGENCY FILING THE REPORT UNDER

1 THIS SUBSECTION SHALL INCLUDE IN THE REPORT AN EXPLANATION OF THE
2 REASONS WHY AN AGREEMENT WAS NOT REACHED. THE ANNUAL REPORT
3 REQUIRED BY THIS SUBSECTION SHALL ALSO CONTAIN A DETAILED
4 DESCRIPTION OF THE STATUS OF EACH STATE FACILITY SUBJECT TO THIS
5 SECTION, INCLUDING A DESCRIPTION OF THE HAZARD PRESENTED BY THE
6 FACILITY, PLANS AND SCHEDULES FOR INITIATING AND COMPLETING
7 RESPONSE ACTION, ENFORCEMENT STATUS, IF APPROPRIATE, AND AN
8 EXPLANATION OF ANY POSTPONEMENTS OR FAILURE TO COMPLETE RESPONSE
9 ACTION.

10 (11) IF THE DEPARTMENT, IN CONSULTATION WITH THE HEAD OF THE
11 RELEVANT STATE AGENCY, DETERMINES THAT REMEDIAL INVESTIGATIONS OR
12 REMEDIAL ACTION WILL BE DONE PROPERLY AT THE STATE FACILITY BY
13 ANOTHER RESPONSIBLE PARTY WITHIN THE DEADLINES PROVIDED IN THIS
14 SECTION, THE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH THAT
15 PARTY. FOLLOWING APPROVAL BY THE ATTORNEY GENERAL OF THE AGREE-
16 MENT RELATING TO REMEDIAL ACTION, THE AGREEMENT SHALL BE ENTERED
17 IN THE APPROPRIATE CIRCUIT AS A CONSENT JUDGMENT.

18 (12) AS USED IN THIS SECTION, "DOCKET" MEANS THE STATE
19 AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET ESTABLISHED IN
20 SUBSECTION (3).

21 SEC. 12. (1) FOR THE PURPOSES OF DETERMINING THE NEED FOR
22 RESPONSE ACTIVITY, OR SELECTING OR TAKING A RESPONSE ACTIVITY,
23 THE DEPARTMENT MAY REQUIRE A PERSON WHO HAS OR MAY HAVE INFORMA-
24 TION RELEVANT TO ANY OF THE FOLLOWING TO FURNISH, UPON A MINIMUM
25 OF 30 DAYS' NOTICE, RELATED INFORMATION OR DOCUMENTS, OR BOTH:

1 (A) THE IDENTIFICATION, NATURE, AND QUANTITY OF MATERIALS
2 THAT HAVE BEEN OR ARE GENERATED, TREATED, STORED, HANDLED, OR
3 DISPOSED OF AT A SITE OR TRANSPORTED TO A SITE.

4 (B) THE NATURE OR EXTENT OF A RELEASE OR THREATENED RELEASE
5 OF A HAZARDOUS SUBSTANCE AT OR FROM A SITE.

6 (2) UPON REASONABLE NOTICE, A PERSON DESCRIBED IN
7 SUBSECTION (1) SHALL DO THE FOLLOWING:

8 (A) GRANT THE DEPARTMENT OR ITS AUTHORIZED REPRESENTATIVES
9 ACCESS AT ALL REASONABLE TIMES TO ANY PLACE, PROPERTY, OR LOCA-
10 TION TO INSPECT AND COPY THE RELATED INFORMATION OR DOCUMENTS, OR
11 BOTH.

12 (B) COPY AND FURNISH TO THE DEPARTMENT OR ITS AUTHORIZED
13 REPRESENTATIVES THE RELATED INFORMATION OR DOCUMENTS, OR BOTH.

14 (3) THE DEPARTMENT OR THE ATTORNEY GENERAL ACTING ON BEHALF
15 OF THE DEPARTMENT, FOR REASONABLE CAUSE SHOWN, MAY PETITION THE
16 CIRCUIT COURT FOR A WARRANT AUTHORIZING ACCESS TO PROPERTY FOR
17 ANY OF THE FOLLOWING PURPOSES:

18 (A) IDENTIFYING, INSPECTING, TESTING, TAKING PHOTOGRAPHS OR
19 VIDEOTAPES, OR SAMPLING OF ANY OF THE FOLLOWING:

20 (i) SOILS.

21 (ii) AIR.

22 (iii) SURFACE WATER.

23 (iv) GROUNDWATER.

24 (v) SUSPECTED HAZARDOUS SUBSTANCES.

25 (vi) CONTAINERS OR LABELS OF SUSPECTED HAZARDOUS
26 SUBSTANCES.

1 (B) INVESTIGATING THE EXISTENCE, ORIGIN, NATURE, OR EXTENT
2 OF A RELEASE.

3 (C) DETERMINING THE NEED FOR OR SELECTING ANY RESPONSE
4 ACTIVITY.

5 (D) TAKING OR MONITORING IMPLEMENTATION OF ANY RESPONSE
6 ACTIVITY.

7 (4) THE ATTORNEY GENERAL, ON BEHALF OF THE DEPARTMENT, MAY
8 COMMENCE A CIVIL ACTION TO COMPEL COMPLIANCE WITH A REQUEST FOR
9 INFORMATION OR DOCUMENTS PURSUANT TO THIS SECTION, TO AUTHORIZE
10 INFORMATION GATHERING PROVIDED FOR IN THIS SECTION, AND TO ENJOIN
11 INTERFERENCE WITH THE EXERCISE OF THE AUTHORITY PROVIDED IN THIS
12 SECTION.

13 (5) IN A CIVIL ACTION BROUGHT PURSUANT TO SUBSECTION (4), IF
14 THE DEPARTMENT DEMONSTRATES THAT IT HAS REASONABLE CAUSE TO
15 BELIEVE THERE MAY BE A RELEASE, THE COURT SHALL TAKE 1 OR MORE OF
16 THE FOLLOWING ACTIONS:

17 (A) IN THE CASE OF INTERFERENCE OR NONCOMPLIANCE WITH INFOR-
18 MATION OR DOCUMENT REQUESTS PURSUANT TO SUBSECTION (1), THE COURT
19 SHALL ENJOIN INTERFERENCE WITH AND DIRECT COMPLIANCE WITH THE
20 REQUESTS UNLESS THE DEFENDANT ESTABLISHES THAT, UNDER THE CIRCUM-
21 STANCES OF THE CASE, THE REQUEST FOR INFORMATION OR DOCUMENTS IS
22 ARBITRARY AND CAPRICIOUS, AN ABUSE OF DISCRETION, OR OTHERWISE
23 NOT IN COMPLIANCE WITH LAW.

24 (B) ASSESS A CIVIL FINE NOT TO EXCEED \$1,000.00 FOR EACH DAY
25 OF NONCOMPLIANCE AGAINST ANY PERSON WHO UNREASONABLY FAILS TO
26 COMPLY WITH THE PROVISIONS OF SUBSECTION (1) OR (2).

1 (6) INFORMATION OR DOCUMENTS OBTAINED BY THE DEPARTMENT OR
2 ITS REPRESENTATIVES UNDER SUBSECTION (1) OR (2) SHALL BE
3 AVAILABLE TO THE PUBLIC TO THE EXTENT PROVIDED BY THE FREEDOM OF
4 INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF 1976, BEING
5 SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED LAWS. A
6 PERSON WHO PROVIDES DOCUMENTS, RECORDS, OR INFORMATION PURSUANT
7 TO SUBSECTION (1) OR (2) MAY DESIGNATE THE DOCUMENTS, RECORDS, OR
8 INFORMATION THAT THE PERSON BELIEVES TO BE ENTITLED TO PROTECTION
9 AS IF THEY WERE EXEMPT FROM DISCLOSURE AS BEING EITHER TRADE
10 SECRETS OR INFORMATION OF A PERSONAL NATURE UNDER
11 SECTION 13(1)(A) OR (G) OF THE FREEDOM OF INFORMATION ACT, ACT
12 NO. 442 OF THE PUBLIC ACTS OF 1976, BEING SECTION 15.243 OF THE
13 MICHIGAN COMPILED LAWS, AND SUBMIT THOSE SPECIFICALLY DESIGNATED
14 DOCUMENTS, RECORDS, AND INFORMATION SEPARATELY FROM OTHER DOCU-
15 MENTS, RECORDS, OR INFORMATION REQUIRED TO BE PROVIDED UNDER THIS
16 SECTION.

17 (7) NOTWITHSTANDING SUBSECTION (6), THE FOLLOWING INFORMA-
18 TION OR DOCUMENTS OBTAINED BY THE DEPARTMENT OR THE DIRECTORS AS
19 REQUIRED BY THIS SECTION SHALL BE AVAILABLE TO THE PUBLIC:

20 (A) THE TRADE NAME, COMMON NAME, OR GENERIC CLASS OR CATE-
21 GORY OF A HAZARDOUS SUBSTANCE.

22 (B) THE PHYSICAL PROPERTIES OF A HAZARDOUS SUBSTANCE,
23 INCLUDING ITS BOILING POINT, MELTING POINT, FLASH POINT, SPECIFIC
24 GRAVITY, VAPOR SENSITIVITY, SOLUBILITY IN WATER, AND VAPOR PRES-
25 SURE AT 20 DEGREES CELSIUS.

26 (C) THE HAZARDS TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR
27 THE ENVIRONMENT OR NATURAL RESOURCES POSED BY A HAZARDOUS

1 SUBSTANCE, INCLUDING PHYSICAL HAZARDS, SUCH AS EXPLOSION, AND
2 POTENTIAL ACUTE AND CHRONIC HEALTH HAZARDS.

3 (D) THE POTENTIAL ROUTES OF HUMAN EXPOSURE TO THE HAZARDOUS
4 SUBSTANCE AT THE SITE BEING INVESTIGATED, ENTERED, OR INSPECTED
5 UNDER THIS SECTION.

6 (E) THE LOCATION OF DISPOSAL OF ANY WASTE STREAM RELEASED
7 FROM THE SITE.

8 (F) MONITORING DATA OR ANALYSIS OF MONITORING DATA PERTAIN-
9 ING TO DISPOSAL ACTIVITIES RELATED TO THE SITE.

10 (G) HYDROGEOLOGIC DATA.

11 (H) GROUNDWATER MONITORING DATA.

12 SEC. 13. (1) IN ADDITION TO ANY OTHER PENALTY OR REMEDY
13 PROVIDED IN THIS ACT, THE ATTORNEY GENERAL MAY, ON BEHALF OF THE
14 STATE, COMMENCE A CIVIL ACTION SEEKING ANY OF THE FOLLOWING FOR A
15 VIOLATION OF THIS ACT, A RULE PROMULGATED UNDER THIS ACT, OR FOR
16 NONCOMPLIANCE WITH AN APPROVED REMEDIAL ACTION PLAN:

17 (A) TEMPORARY OR PERMANENT INJUNCTIVE RELIEF NECESSARY TO
18 PROTECT THE PUBLIC HEALTH, SAFETY, OR WELFARE, OR THE ENVIRONMENT
19 OR THE NATURAL RESOURCES FROM A RELEASE OR THREATENED RELEASE.

20 (B) ALL COSTS OF RESPONSE ACTIVITY INCURRED BY THE STATE
21 RESULTING FROM THE ENVIRONMENTAL CONTAMINATION.

22 (C) DAMAGES FOR THE FULL VALUE OF INJURY TO, DESTRUCTION OF,
23 OR LOSS OF NATURAL RESOURCES RESULTING FROM THE ENVIRONMENTAL
24 CONTAMINATION, INCLUDING THE REASONABLE COSTS OF ASSESSING THE
25 INJURY, DESTRUCTION, OR LOSS RESULTING FROM THE ENVIRONMENTAL
26 CONTAMINATION.

1 (D) A CIVIL FINE OF NOT MORE THAN \$10,000.00 FOR EACH DAY OF
2 NONCOMPLIANCE WITH THIS ACT OR A RULE PROMULGATED UNDER THIS
3 ACT. A FINE IMPOSED UNDER THIS SUBDIVISION SHALL BE BASED UPON
4 THE SERIOUSNESS OF THE VIOLATION AND ANY GOOD FAITH EFFORTS OF
5 THE RESPONSIBLE PARTY TO COMPLY WITH THE ACT OR RULE.

6 (E) ENFORCEMENT OF INFORMATION GATHERING AND ENTRY AUTHORITY
7 UNDER THIS ACT.

8 (F) ANY OTHER RELIEF NECESSARY FOR THE ENFORCEMENT OF THIS
9 ACT.

10 (2) AN ACTION BROUGHT UNDER THIS ACT MAY BE BROUGHT IN THE
11 CIRCUIT COURT FOR THE COUNTY OF INGHAM, IN THE COUNTY IN WHICH
12 THE DEFENDANT RESIDES, HAS A PLACE OF BUSINESS, OR IN WHICH THE
13 REGISTERED OFFICE OF A DEFENDANT CORPORATION IS LOCATED, OR IN
14 THE COUNTY WHERE THE RELEASE OCCURRED.

15 (3) NOTWITHSTANDING SUBSECTION (1), THE ATTORNEY GENERAL
16 SHALL NOT FILE A LAWSUIT UNDER THIS SECTION AGAINST A RESPONSIBLE
17 PARTY FOR A SITE RELATING TO THAT SITE IF THE RESPONSIBLE PARTIES
18 FOR THE SITE HAVE SUBMITTED A PROPOSED REMEDIAL ACTION PLAN PUR-
19 SUANT TO THIS ACT AND THE RESPONSIBLE PARTY IS OTHERWISE IN COM-
20 PLIANCE WITH THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT.

21 SEC. 13A. THE LIABILITY UNDER THIS ACT OF ANY RESPONSIBLE
22 PARTY FOR EACH RELEASE OR INCIDENT INVOLVING A RELEASE SHALL NOT
23 EXCEED THE TOTAL OF ALL THE COSTS OF RESPONSE ACTIVITIES, FINES,
24 AND EXEMPLARY DAMAGES, PLUS DAMAGES FOR THE FULL VALUE OF INJURY
25 TO, DESTRUCTION OF, OR LOSS OF NATURAL RESOURCES RESULTING FROM
26 THE ENVIRONMENTAL CONTAMINATION, INCLUDING THE REASONABLE COSTS
27 OF ASSESSING THE INJURY, DESTRUCTION, OR LOSS RESULTING FROM THE

1 ENVIRONMENTAL CONTAMINATION. THE DEPARTMENT SHALL PROMULGATE
2 RULES THAT ESTABLISH CRITERIA FOR DETERMINING THE AMOUNT OF DAM-
3 AGES FOR INJURY, DESTRUCTION, OR LOSS OF NATURAL RESOURCES.

4 SEC. 13B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT,
5 IF THE DEPARTMENT DETERMINES THAT THERE MAY BE AN IMMINENT AND
6 SUBSTANTIAL ENDANGERMENT TO THE PUBLIC HEALTH OR WELFARE OR THE
7 ENVIRONMENT BECAUSE OF AN ACTUAL RELEASE OF A HAZARDOUS SUBSTANCE
8 FROM A SITE, THE ATTORNEY GENERAL MAY SEEK SUCH RELIEF AS MAY BE
9 NECESSARY TO ABATE SUCH DANGER, AND THE CIRCUIT COURT IN THE
10 COUNTY IN WHICH THE SITE IS LOCATED SHALL HAVE JURISDICTION TO
11 GRANT SUCH RELIEF AS THE PUBLIC INTEREST AND THE EQUITIES OF THE
12 CASE MAY REQUIRE.

13 SEC. 13C. ALL MONEY RECOVERED IN A CIVIL ACTION UNDER THIS
14 ACT SHALL BE DEPOSITED IN THE ENVIRONMENTAL CLEANUP REVOLVING
15 LOAN FUND CREATED IN SECTION 9E.

16 Section 2. This amendatory act shall not take effect unless
17 Senate Bill No. _____ or House Bill No. 5759 (request
18 no. 05187'90) of the 85th Legislature is enacted into law.