

**SUBSTITUTE FOR
HOUSE BILL NO. 5301**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 20113, 21303, 21314a, 21319a, 21507, 21508,
and 21550 (MCL 324.20113, 324.21303, 324.21314a, 324.21319a,
324.21507, 324.21508, and 324.21550), section 20113 as amended by
1996 PA 383, section 21303 as amended by 1996 PA 116, sections
21314a and 21319a as added by 1995 PA 22, section 21507 as
amended by 1996 PA 181, section 21508 as amended by 1995 PA 269,
and section 21550 as amended by 1995 PA 252, and by adding
section 21308b and part 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20113. (1) Money required to implement the programs
2 described under this part and to pay for response activities
3 recommended under this part shall be appropriated from the fund

1 and any other source the legislature considers necessary to
2 implement the requirements of this part.

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

6 (3) The department shall annually submit to the governor a
7 request for appropriation from the fund. The request will
8 include ~~a~~ lump sum ~~amount~~ AMOUNTS for EACH OF the purposes of
9 subsection (4)(a) and ~~a lump sum amount for the purposes of~~
10 ~~subsection (4)(f)~~ (F). For the purposes set forth in
11 subsection (4)(b), (c), (d), ~~and~~ (e), AND (G), the request
12 shall include a list of sites where the department is proposing
13 to expend funds. The list shall include the following informa-
14 tion for each site: the common name of the site, the response
15 activities that are planned to be conducted, and the estimated
16 amount of money that is needed to conduct the response
17 activities. The legislature shall approve by law the list of
18 sites to be addressed and shall provide a lump sum appropriation
19 for these sites based on the total estimated amount needed for
20 the approved sites.

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

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

25 (b) Superfund match, which includes funding for any response
26 activity that is required to match federal dollars at a superfund
27 site as required under the comprehensive environmental response,

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

3

1 compensation, and liability act of 1980, Public Law 96-510, 94
2 Stat. 2767.

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

5 (d) Completion of response activities initiated by the state
6 using environmental protection bond funds or completion of
7 response activities at facilities initiated by a person who was
8 liable under this part prior to ~~Public Act 71 of 1995~~ JUNE 5,
9 1995, THE EFFECTIVE DATE OF 1995 PA 71, but is not liable under
10 section 20126 of this part, where such response activities have
11 ceased.

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

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

16 (G) TO FUND THE SMALL BUSINESS GRANTS CLEANUP PROGRAM UNDER
17 PART 216.

18 (5) Money in the fund shall be expended first for the pur-
19 poses described in subsection (4)(b) and (f) and health or envi-
20 ronmental problems under subsection (4)(c) that are related to
21 acute health or environmental problems. Following these expendi-
22 tures, not less than 50% of the remaining money expended under
23 this section shall be expended for response activities that
24 facilitate redevelopment of urbanized areas. All additional
25 expenditures under this section shall be expended following the
26 expenditures described in this subsection. As used in this
27 subsection, "urbanized area" means an urbanized area as

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

4

1 determined by the economics and statistics administration, United
2 States bureau of census, according to the 1990 census.

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

7 (7) Not later than December 31 of each year, the department
8 shall provide to the governor, the senate and house of represen-
9 tatives standing committees with jurisdiction over issues per-
10 taining to natural resources and the environment, and the senate
11 and house of representatives appropriations committees a list of
12 all projects financed under this part through the preceding
13 fiscal year. The list shall include the project site and loca-
14 tion, the nature of the project, the total amount of money autho-
15 rized, the total amount of money expended, and project status.

16 Sec. 21303. As used in this part:

17 (a) "Operator" means a person who is presently, or was at
18 the time of a release, in control of, or responsible for, the
19 operation of an underground storage tank system and who is liable
20 under part 201.

21 (b) "Owner" means a person who holds, or at the time of a
22 release who held, a legal, equitable, or possessory interest of
23 any kind in an underground storage tank system or in the property
24 on which an underground storage tank system is located including,
25 but not limited to, a trust, vendor, vendee, lessor, or lessee
26 and who is liable under part 201.

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

5

1 (c) "RBCA" means the American society for testing and
2 materials (ASTM) document entitled standard guide for risk-based
3 corrective action applied at petroleum release sites, designation
4 E 1739-95, which is hereby incorporated by reference.

5 (d) "Regulated substance" means any of the following:

6 (i) A substance defined in section 101(14) of title I of the
7 comprehensive environmental response, compensation, and liability
8 act of 1980, Public Law 96-510, 42 U.S.C. 9601, but not including
9 a substance regulated as a hazardous waste under subtitle C of
10 the solid waste disposal act, title II of Public Law 89-272, 42
11 U.S.C. 6921 to 6939e.

12 (ii) Petroleum, including crude oil or any fraction of crude
13 oil that is liquid at standard conditions of temperature and
14 pressure (60 degrees Fahrenheit and 14.7 pounds per square inch
15 absolute). Petroleum includes but is not limited to mixtures of
16 petroleum with de minimis quantities of other regulated sub-
17 stances and petroleum-based substances composed of a complex
18 blend of hydrocarbons derived from crude oil through processes of
19 separation, conversion, upgrading, or finishing such as motor
20 fuels, jet fuels, distillate fuel oils, residual fuel oils,
21 lubricants, and petroleum solvents.

22 (iii) A substance listed in section 112 of part A of title I
23 of the clean air act, chapter 360, 84 Stat. 1685,
24 42 U.S.C. 7412.

25 (e) "Release" means any spilling, leaking, emitting, dis-
26 charging, escaping, or leaching from an underground storage tank
27 system into groundwater, surface water, or subsurface soils.

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

6

1 (f) "Site" means a location where a release has occurred or
2 a threat of release exists from an underground storage tank
3 system, excluding any location where corrective action was com-
4 pleted which satisfies the cleanup criteria for unrestricted res-
5 idential use under this part.

6 (G) "SITE CHARACTERIZATION AND INITIAL ABATEMENT ACTIVITIES"
7 MEANS CONDUCTING INITIAL RESPONSE ACTIONS UNDER SECTION 21307,
8 ABATING FIRE AND EXPLOSION HAZARDS, DELINEATING THE HORIZONTAL
9 AND VERTICAL EXTENT OF CONTAMINATION IN SOIL AND GROUNDWATER, AND
10 PREPARING AN INITIAL ASSESSMENT REPORT UNDER SECTION 21308A.

11 (H) ~~(g)~~ "Threat of release" or "threatened release" means
12 any circumstance that may reasonably be anticipated to cause a
13 release.

14 (I) ~~(h)~~ "Tier I", "tier II", and "tier III" mean those
15 terms as they are used in RBCA.

16 (J) ~~(i)~~ "Underground storage tank system" means a tank or
17 combination of tanks, including underground pipes connected to
18 the tank or tanks, which is, was, or may have been used to con-
19 tain an accumulation of regulated substances, and the volume of
20 which, including the volume of the underground pipes connected to
21 the tank or tanks, is 10% or more beneath the surface of the
22 ground. An underground storage tank system does not include any
23 of the following:

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

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

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

7

- 1 (iii) A septic tank.
- 2 (iv) A pipeline facility, including gathering lines regu-
3 lated under either of the following:
- 4 (A) The natural gas pipeline safety act of 1968, Public Law
5 90-481, 49 U.S.C. Appx 1671 to 1677, 1679a to 1682, and 1683 to
6 1687.
- 7 (B) Sections 201 to 215 and 217 of the hazardous liquid
8 pipeline safety act of 1979, title II of Public Law 96-129, 49
9 U.S.C. Appx 2001 to 2015.
- 10 (v) A surface impoundment, pit, pond, or lagoon.
- 11 (vi) A storm water or wastewater collection system.
- 12 (vii) A flow-through process tank.
- 13 (viii) A liquid trap or associated gathering lines directly
14 related to oil or gas production and gathering operations.
- 15 (ix) A storage tank situated in an underground area such as
16 a basement, cellar, mineworking, drift, shaft, or tunnel if the
17 storage tank is situated upon or above the surface of the floor.
- 18 (x) Any pipes connected to a tank that is described in sub-
19 divisions (i) to (ix).
- 20 (xi) An underground storage tank system holding hazardous
21 wastes listed or identified under subtitle C of the solid waste
22 disposal act, title II of Public Law 89-272, 42 U.S.C. 6921 to
23 6939e, or a mixture of such hazardous waste and other regulated
24 substances.
- 25 (xii) A wastewater treatment tank system that is part of a
26 wastewater treatment facility regulated under section 307(b) of

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

8

1 title III or section 402 of title IV of the federal water
2 pollution control act, 33 U.S.C. 1317 and 1342.

3 (xiii) Equipment or machinery that contains regulated sub-
4 stances for operational purposes such as hydraulic lift tanks and
5 electrical equipment tanks.

6 (xiv) An underground storage tank system that has a capacity
7 of 110 gallons or less.

8 (xv) An underground storage tank system that contains a de
9 minimis concentration of regulated substances.

10 (xvi) An emergency spill or overflow containment underground
11 storage tank system that is expeditiously emptied after use.

12 (K) ~~-(j)-~~ "Vadose zone" means the zone between the land sur-
13 face and the water table, or zone of saturation. Vadose zone is
14 also known as an unsaturated zone or a zone of aeration.

15 SEC. 21308B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS
16 PART, FOLLOWING COMPLETION OF SITE CHARACTERIZATION AND INITIAL
17 ABATEMENT ACTIVITIES, THE DEPARTMENT SHALL NOT REQUIRE AN ELIGI-
18 BLE PARTICIPANT UNDER PART 216 WHO HAS MET THE CRITERIA DESCRIBED
19 IN SECTION 21603(2) AND WHO OWNS OR OPERATES A CLASS 1 OR CLASS 2
20 SITE TO PERFORM FURTHER CORRECTIVE ACTIONS OR SUBMIT ANY ADDI-
21 TIONAL REPORTS UNDER THIS PART UNTIL A GRANT FOR THAT PURPOSE IS
22 APPROVED PURSUANT TO PART 216.

23 Sec. 21314a. (1) The department shall establish and imple-
24 ment a classification system for sites considering impacts on
25 public health, safety, and welfare, and the environment. THE
26 CLASSIFICATION SYSTEM SHALL INCLUDE THE FOLLOWING
27 CLASSIFICATIONS:

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

9

1 (A) "CLASS 1 SITES" MEANS THOSE SITES THAT POSE AN IMMEDIATE
2 THREAT TO HUMAN HEALTH, SAFETY, OR SENSITIVE ENVIRONMENTAL
3 RECEPTORS.

4 (B) "CLASS 2 SITES" MEANS THOSE SITES THAT POSE A SHORT-TERM
5 (0-2 YEARS) THREAT TO HUMAN HEALTH, SAFETY, OR SENSITIVE ENVIRON-
6 MENTAL RECEPTORS.

7 (C) "CLASS 3 SITES" MEANS THOSE SITES THAT POSE A LONG-TERM
8 (GREATER THAN 2 YEARS) THREAT TO HUMAN HEALTH, SAFETY, OR SENSI-
9 TIVE ENVIRONMENTAL RECEPTORS.

10 (D) "CLASS 4 SITES" MEANS THOSE SITES THAT POSE NO DEMON-
11 STRATABLE LONG-TERM THREAT TO HUMAN HEALTH, SAFETY, OR SENSITIVE
12 ENVIRONMENTAL RECEPTORS.

13 (2) Notwithstanding any other provision in this part,
14 SUBJECT TO SECTION 21308B, at sites posing an imminent risk to
15 the public health, safety, or welfare, or the environment, cor-
16 rective action shall be implemented immediately. If the depart-
17 ment determines that no imminent risk to the public health,
18 safety, or welfare, or the environment exists at a site, the
19 department may allow corrective action at these sites to be con-
20 ducted on a schedule approved by the department. This provision
21 shall not be used by the department to limit the ability of a
22 owner, operator or a consultant to submit a claim to the Michigan
23 underground storage tank financial assurance fund, or delay pay-
24 ment on a valid claim to an owner, operator or consultant.

25 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, IF,
26 FOLLOWING COMPLETION OF SITE CHARACTERIZATION AND INITIAL
27 ABATEMENT ACTIVITIES, A CONSULTANT RETAINED BY THE OWNER OR

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

10

1 OPERATOR DETERMINES THAT THE SITE IS A CLASS 3 SITE OR CLASS 4
2 SITE AS DEFINED IN SUBSECTION (1), THE OWNER OR OPERATOR MAY SUS-
3 PEND CORRECTIVE ACTION ACTIVITIES AT THE SITE AS LONG AS ALL OF
4 THE FOLLOWING CONDITIONS ARE MET:

5 (A) THE OWNER OR OPERATOR OR A CONSULTANT ANNUALLY MONITORS
6 THE SITE PURSUANT TO THE PROTOCOL ESTABLISHED BY THE DEPARTMENT
7 IN SUBSECTION (4).

8 (B) THE SITE REMAINS A CLASS 3 OR CLASS 4 SITE.

9 (C) THE OWNER OR OPERATOR COMPLIES WITH SECTION 20107A.

10 (4) THE DEPARTMENT SHALL DEVELOP AND PROVIDE TO PERSONS UPON
11 REQUEST A PROTOCOL FOR CONDUCTING SAMPLING AND MONITORING ACTIVI-
12 TIES AT A SITE TO DETERMINE THE SITE'S CLASSIFICATION UNDER THIS
13 SECTION.

14 Sec. 21319a. (1) ~~In~~ SUBJECT TO SECTION 21308B, IN accord-
15 ance with this section, if the department determines that there
16 may be an imminent risk to the public health, safety, or welfare,
17 or the environment, because of a release or threatened release,
18 the department may require an owner or operator to take action as
19 may be necessary to abate the danger or threat.

20 (2) The department may issue an administrative order to an
21 owner or operator requiring that person to perform corrective
22 actions relating to a facility, or to take any other action
23 required by this part. An order issued under this section shall
24 state with reasonable specificity the basis for issuance of the
25 order and specify a reasonable time for compliance.

26 (3) Within 30 days after issuance of an administrative order
27 under this section, a person to whom the order was issued shall

1 indicate in writing whether the person intends to comply with the
2 order.

3 (4) A person who, without sufficient cause, violates or
4 fails to properly comply with an administrative order issued
5 under this section is liable for either or both of the
6 following:

7 (a) A civil fine of not more than \$25,000.00 for each day
8 during which the violation occurs or the failure to comply
9 continues. A fine imposed under this subsection shall be based
10 upon the seriousness of the violation and any good faith efforts
11 by the violator to comply with the administrative order.

12 (b) For exemplary damages in an amount at least equal to the
13 amount of any costs of response activity incurred by the state as
14 a result of a failure to comply with an administrative order but
15 not more than 3 times the amount of these costs.

16 (5) A person to whom an administrative order was issued
17 under this section and who complied with the terms of the order
18 who believes that the order was arbitrary and capricious or
19 unlawful may petition the department, within 60 days after com-
20 pletion of the required action, for reimbursement for the reason-
21 able costs of the action plus interest and other necessary costs
22 incurred in seeking reimbursement under this subsection. If the
23 department refuses to grant all or part of the petition, the
24 petitioner may, within 30 days of receipt of the refusal, file an
25 action against the department in the court of claims seeking this
26 relief. A failure by the department either to grant or deny all
27 or any part of a petition within 120 days of receipt constitutes

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

12

1 a denial of that part of the petition which shall be reviewable
2 as final agency action in the court of claims. To obtain reim-
3 bursement, the petitioner shall establish by a preponderance of
4 the evidence that the petitioner is not an owner or operator or
5 that the action ordered was arbitrary and capricious or unlawful,
6 and in either instance that costs for which the petitioner seeks
7 reimbursement are reasonable in light of the action required by
8 and undertaken under the relevant order.

9 Sec. 21507. (1) The ~~emergency response~~ SMALL BUSINESS
10 CLEANUP REVOLVING LOAN fund is created.

11 (2) THE STATE TREASURER MAY RECEIVE FUNDS FROM ANY SOURCE
12 FOR DEPOSIT INTO THE SMALL BUSINESS CLEANUP REVOLVING LOAN FUND.
13 The state treasurer shall direct the investment of the ~~emergency~~
14 ~~response~~ SMALL BUSINESS CLEANUP REVOLVING LOAN fund. Interest
15 and earnings of the ~~emergency response~~ SMALL BUSINESS CLEANUP
16 REVOLVING LOAN fund shall remain in the ~~emergency response~~
17 SMALL BUSINESS CLEANUP REVOLVING LOAN fund.

18 (3) Money in the ~~emergency response~~ SMALL BUSINESS CLEANUP
19 REVOLVING LOAN fund at the close of the fiscal year shall remain
20 in the ~~emergency response~~ SMALL BUSINESS CLEANUP REVOLVING LOAN
21 fund and shall not lapse to the general fund.

22 ~~(4) Money in the emergency response fund shall not exceed~~
23 ~~\$3,000,000.00.~~

24 (4) ~~(5)~~ Money in the ~~emergency response~~ SMALL BUSINESS
25 CLEANUP REVOLVING LOAN fund shall be expended by the department
26 to ~~undertake corrective actions to address releases from~~
27 ~~petroleum underground storage tank systems pursuant to part 213-~~

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

13

1 PROVIDE LOANS PURSUANT TO THE SMALL BUSINESS SITE

2 CHARACTERIZATION AND INITIAL ABATEMENT LOAN PROGRAM CREATED IN
3 PART 216.

4 ~~(6) Not more than \$3,000,000.00 shall be expended from the~~
5 ~~emergency response fund in any year.~~

6 ~~(7) If money in the emergency response fund is expended~~
7 ~~under subsection (5), the person or persons responsible for the~~
8 ~~corrective action shall be liable to the state for all such~~
9 ~~expenditures.~~

10 Sec. 21508. (1) An environmental protection regulatory fee
11 is imposed on all refined petroleum products sold for resale in
12 this state or consumption in this state. The regulatory fee
13 shall be used pursuant to section 21506(4) for the cleanup and
14 prevention of environmental contamination resulting from releases
15 of refined petroleum products from underground storage tank sys-
16 tems and to pay off bonds or notes pursuant to this part. The
17 regulatory fee shall be charged for capacity utilization of
18 underground storage tanks measured on a per gallon basis. The
19 regulatory fee shall be charged against all refined petroleum
20 products sold for resale in this state or consumption in this
21 state so as to not exclude any products that may be stored in an
22 underground tank at any point after the petroleum is refined.
23 The regulatory fee shall be 7/8 cent per gallon for each gallon
24 of refined petroleum sold for resale in this state or consumption
25 in this state, with the per gallon charge being a direct measure
26 of capacity utilization of an underground storage tank system.

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

14

1 (2) The department of treasury shall precollect regulatory
2 fees from persons who refine petroleum in this state for resale
3 in this state or consumption in this state and persons who import
4 refined petroleum into this state for resale in this state or
5 consumption in this state. The department of treasury shall col-
6 lect regulatory fees that can be collected at the same time as
7 the sales tax under section 6a of the general sales tax act, ~~Act~~
8 ~~No. 167 of the Public Acts of 1933, being section 205.56a of the~~
9 ~~Michigan Compiled Laws~~ 1933 PA 167, MCL 205.56A, at that time.
10 The remainder of the regulatory fees shall be collected in the
11 manner determined by the state treasurer. Notwithstanding any
12 other provision of this part, the department of treasury shall
13 stop collecting regulatory fees under this part when it has
14 received sufficient revenues to pay in full all obligations
15 listed in section 21506(4).

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

21 (4) All regulatory fees collected pursuant to this part
22 shall be deposited into the ~~emergency response~~ SMALL BUSINESS
23 CLEANUP REVOLVING LOAN fund created in section 21507 until the
24 ~~emergency response~~ SMALL BUSINESS CLEANUP REVOLVING LOAN fund
25 reaches \$3,000,000.00. When the ~~emergency response~~ SMALL BUSI-
26 NESS CLEANUP REVOLVING LOAN fund is at \$3,000,000.00, all
27 regulatory fees shall be deposited into the fund.

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

15

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

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

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

16

1 (7) The department of treasury may audit, enforce, collect,
2 and assess the fee imposed by this part in the same manner and
3 subject to the same requirements as revenues collected pursuant
4 to ~~Act No. 122 of the Public Acts of 1941, being sections 205.1~~
5 ~~to 205.31 of the Michigan Compiled Laws~~ 1941 PA 122, MCL 205.1
6 TO 205.31.

7 Sec. 21550. ~~(1) Section 21507 is repealed effective~~
8 ~~December 22, 1998.~~

9 ~~(2) Upon the repeal of section 21507, any unexpended money~~
10 ~~in the emergency response fund reverts to the fund.~~

11 (1) ~~(3)~~ This part is repealed on the date on which the
12 state treasurer files with the secretary of state a notice of
13 final payment of all obligations lawfully payable from the fund
14 pursuant to section 21506(5).

15 (2) ~~(4)~~ Upon repeal of this part, any money in the fund or
16 in the possession of the authority reverts to the environmental
17 response fund created in part 201.

18 (3) ~~(5)~~ The authority's obligation to pay off any bonds or
19 notes issued pursuant to this part shall survive the repeal of
20 this part.

21 PART 216 SMALL BUSINESS ASSISTANCE FOR UNDERGROUND STORAGE TANK
22 CLEANUPS

23 SEC. 21601. AS USED IN THIS PART:

24 (A) "CONSULTANT", "CORRECTIVE ACTION", "OPERATOR", "OWNER",
25 "RELEASE", "SITE", AND "UNDERGROUND STORAGE TANK SYSTEM" HAVE THE
26 MEANINGS ASCRIBED TO THOSE TERMS IN PART 213.

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

17

1 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
2 QUALITY.

3 (C) "ELIGIBLE PARTICIPANT" MEANS A PERSON WHO MEETS ALL OF
4 THE FOLLOWING CRITERIA:

5 (i) THE PERSON OWNS OR OPERATES A BUSINESS THAT PROVIDES
6 RETAIL SALES OF REFINED PETROLEUM PRODUCTS.

7 (ii) THE PERSON OWNS OR OPERATES NOT MORE THAN 1 FACILITY.

8 (iii) ALL UNDERGROUND STORAGE TANKS OF THE FACILITY THE
9 PERSON OWNS OR OPERATES WERE INSTALLED PRIOR TO DECEMBER 22, 1988
10 AND HAVE NOT BEEN UPGRADED PURSUANT TO PART 211.

11 (iv) THE PERSON DOES NOT HAVE ACCESS TO A MECHANISM OF
12 FINANCIAL ASSURANCE THAT CAN PAY FOR CORRECTIVE ACTION.

13 ADDITIONALLY, IF THE PERSON HAS DEMONSTRATED TO THE DEPARTMENT
14 THAT HE OR SHE CAN MEET 50% OF THE FINANCIAL RESPONSIBILITY
15 REQUIREMENT UNDER THE SELF-INSURANCE TEST DESCRIBED IN R 280.95
16 OF THE MICHIGAN ADMINISTRATIVE CODE, OR IF THE PERSON CAN MEET
17 50% OF THE FINANCIAL RESPONSIBILITY REQUIREMENT UNDER THE
18 SELF-INSURANCE TEST, THAT PERSON DOES NOT QUALIFY AS AN ELIGIBLE
19 PARTICIPANT.

20 (D) "SITE CHARACTERIZATION AND INITIAL ABATEMENT ACTIVITIES"
21 MEANS CONDUCTING INITIAL RESPONSE ACTIONS UNDER SECTION 21307,
22 ABATING FIRE AND EXPLOSION HAZARDS, DELINEATING THE HORIZONTAL
23 AND VERTICAL EXTENT OF CONTAMINATION IN SOIL AND GROUNDWATER, AND
24 PREPARING AN INITIAL ASSESSMENT REPORT UNDER SECTION 21308A.

25 SEC. 21602. (1) IN ORDER TO ADDRESS SITES OF ENVIRONMENTAL
26 CONTAMINATION CAUSED BY RELEASES FROM UNDERGROUND STORAGE TANK
27 SYSTEMS OWNED OR OPERATED BY SMALL BUSINESSES THAT LACKED THE

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

18

1 RESOURCES OR CAPABILITIES OF RECEIVING ASSISTANCE UNDER PART 215,
2 THE DEPARTMENT SHALL ESTABLISH A SMALL BUSINESS SITE CHARACTER-
3 IZATION AND INITIAL ABATEMENT LOAN PROGRAM. THIS PROGRAM SHALL
4 GRANT ZERO-INTEREST LOANS TO ELIGIBLE PARTICIPANTS TO CONDUCT
5 SITE CHARACTERIZATION AND INITIAL ABATEMENT ACTIVITIES AND TO
6 CONDUCT MONITORING AT CLASS 3 AND CLASS 4 SITES PURSUANT TO
7 SECTION 21314A.

8 (2) A PERSON MAY SUBMIT AN APPLICATION FOR A LOAN ON A FORM
9 PROVIDED BY THE DEPARTMENT IF THE PERSON MEETS ALL OF THE FOLLOW-
10 ING CRITERIA:

11 (A) THE PERSON IS AN ELIGIBLE PARTICIPANT.

12 (B) THE PERSON HAS REPORTED THE RELEASE TO THE DEPARTMENT
13 AND HAS REMOVED THE UNDERGROUND STORAGE TANK SYSTEM OR AGREES TO
14 REMOVE THE UNDERGROUND STORAGE TANK SYSTEM AT HIS OR HER OWN
15 EXPENSE.

16 (C) THE PERSON AGREES TO GRANT THE STATE A LIEN ON THE PROP-
17 ERTY IN WHICH THE PRELIMINARY ASSESSMENT AND RESPONSE ACTIONS
18 WILL TAKE PLACE. LIENS SHALL BE IN A FORM PRESCRIBED BY THE
19 DEPARTMENT.

20 (D) THE PERSON SUBMITS A NONREFUNDABLE APPLICATION FEE OF
21 \$75.00.

22 (3) THE MAXIMUM LOAN AMOUNT AN ELIGIBLE PARTICIPANT MAY
23 RECEIVE IS THE BID AMOUNT DETERMINED BY THE DEPARTMENT UNDER SUB-
24 SECTION (4).

25 (4) THE DEPARTMENT SHALL SOLICIT BIDS FOR THE PERFORMANCE OF
26 SITE CHARACTERIZATION AND INITIAL ABATEMENT ACTIVITIES AND FOR
27 THE MONITORING OF SITES PURSUANT TO SECTION 21314A. THE

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

19

1 DEPARTMENT MAY SOLICIT BIDS FOR INDIVIDUAL ACTIVITIES, FOR
2 INDIVIDUAL SITES, FOR GROUPS OF ACTIVITIES OR SITES. ONLY QUALI-
3 FIED CONSULTANTS MAY SUBMIT BIDS IN RESPONSE TO DEPARTMENT
4 SOLICITATIONS. AN OWNER OR OPERATOR IS NOT OBLIGATED TO HAVE THE
5 WORK PERFORMED BY THE QUALIFIED CONSULTANT WHO SUBMITS THE LOWEST
6 RESPONSIVE BID, BUT THE DEPARTMENT SHALL NOT ISSUE A LOAN FOR AN
7 AMOUNT IN EXCESS OF THE LOWEST RESPONSIVE BID PRICE.

8 (5) THE TERM OF A LOAN ISSUED UNDER THIS SECTION SHALL BE 10
9 YEARS, SUBJECT TO REPAYMENT IN MONTHLY INSTALLMENTS IN ACCORDANCE
10 WITH TERMS AND CONDITIONS AS PRESCRIBED BY THE DEPARTMENT.

11 (6) APPLICATION FEES RECEIVED UNDER THIS SECTION SHALL BE
12 FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE SMALL BUSI-
13 NESS CLEANUP REVOLVING LOAN FUND CREATED IN SECTION 21507.

14 SEC. 21603. (1) THE DEPARTMENT SHALL ESTABLISH A SMALL
15 BUSINESS GRANTS CLEANUP PROGRAM.

16 (2) A PERSON MAY SUBMIT AN APPLICATION FOR A GRANT ON A FORM
17 PROVIDED BY THE DEPARTMENT IF THE PERSON MEETS THE FOLLOWING
18 CRITERIA:

19 (A) THE PERSON IS AN ELIGIBLE PARTICIPANT.

20 (B) THE PERSON HAS EXPENDED AT LEAST \$50,000.00 AT THE SITE
21 FOR REMOVAL OF THE UNDERGROUND STORAGE TANK SYSTEM AND FOR PER-
22 FORMANCE OF CORRECTIVE ACTION ACTIVITIES.

23 (C) THE PERSON AGREES TO PAY A COPAY AMOUNT OF 10% OF THE
24 TOTAL GRANT AMOUNT UNDER TERMS AND CONDITIONS PRESCRIBED BY THE
25 DEPARTMENT.

26 (D) THE PERSON SUBMITS A NONREFUNDABLE APPLICATION FEE OF
27 \$75.00.

HB5301, As Passed House, December 10, 1997

House Bill No. 5301

20

1 (3) A GRANT ISSUED UNDER THIS SECTION SHALL ONLY BE USED TO
2 BRING THE SITE TO THE LEVEL OF A CLASS 3 SITE.

3 (4) THE DEPARTMENT SHALL ISSUE GRANTS UNDER THIS SECTION
4 BASED UPON THE CLASSIFICATION OF THE SITE AND THE SITE'S IMPACT
5 ON PUBLIC HEALTH, SAFETY, WELFARE, AND THE ENVIRONMENT.

6 (5) THE MAXIMUM AMOUNT OF A GRANT THAT AN ELIGIBLE PARTICI-
7 PANT MAY RECEIVE UNDER THIS SECTION IS THE BID AMOUNT DETERMINED
8 BY THE DEPARTMENT UNDER SUBSECTION (6).

9 (6) PURSUANT TO PROCEDURES DESCRIBED IN THE MANAGEMENT AND
10 BUDGET ACT, 1984 PA 431, MCL 18.1101 TO 18.1594, THE DEPARTMENT
11 SHALL SOLICIT BIDS FOR THE PERFORMANCE OF CORRECTIVE ACTIONS AT A
12 SITE SUFFICIENT TO BRING A SITE TO THE LEVEL OF A CLASS 3 SITE AS
13 DEFINED IN SECTION 21314A. ONLY QUALIFIED CONSULTANTS MAY SUBMIT
14 BIDS IN RESPONSE TO DEPARTMENT SOLICITATIONS. UPON RECEIPT OF
15 BIDS, THE DEPARTMENT SHALL CONTRACT WITH THE LOWEST RESPONSIVE
16 BIDDER AND SHALL OVERSEE THAT CORRECTIVE ACTION IS UNDERTAKEN IN
17 COMPLIANCE WITH THAT CONTRACT.

18 Enacting section 1. This amendatory act does not take
19 effect unless House Bill No. 5302 of the 89th Legislature is
20 enacted into law.