

HOUSE BILL No. 6047

May 10, 2006, Introduced by Reps. Kolb, Lipsey, Vagnozzi and Kathleen Law and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 21553, 21554, 21555, 21556, 21557, 21558, 21559, 21560, 21561, 21562, and 21563.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 21553. THE DEPARTMENT SHALL ESTABLISH A REFINED PETROLEUM
2 PRODUCT CLEANUP INITIAL PROGRAM TO CONDUCT CORRECTIVE ACTIONS
3 ASSOCIATED WITH RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANK
4 SYSTEMS.

5 SEC. 21554. THE DEPARTMENT SHALL ESTABLISH A TEMPORARY
6 REIMBURSEMENT PROGRAM TO PROMOTE PROGRESS TOWARD SITE CLOSURE OF
7 RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS BY

1 PROVIDING FINANCIAL INCENTIVES FOR ELIGIBLE PERSONS TO CONDUCT
2 CORRECTIVE ACTIONS FOR THOSE RELEASES.

3 SEC. 21555. THE DEPARTMENT SHALL ADMINISTER THE TEMPORARY
4 REIMBURSEMENT PROGRAM AND PROCESS PRECERTIFICATION APPLICATIONS AND
5 SUBSEQUENT WORK INVOICES SUBMITTED BY ELIGIBLE PERSONS IN
6 ACCORDANCE WITH THIS PART. BEGINNING ON THE EFFECTIVE DATE OF THE
7 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL
8 COMMENCE IMPLEMENTATION OF THE TEMPORARY REIMBURSEMENT PROGRAM AS
9 PROVIDED IN SECTIONS 21556 AND 21557. THE INITIATION DATE OF THE
10 FIRST ROUND PRECERTIFICATION APPLICATION PERIOD SHALL OCCUR NOT
11 LATER THAN 120 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
12 THAT ADDED THIS SECTION. THE DEPARTMENT SHALL PROVIDE NOTICE OF THE
13 INITIATION DATE TO APPLICABLE TRADE ASSOCIATIONS AND SHALL PROVIDE
14 NOTICE THROUGH AN ELECTRONIC DISTRIBUTION LIST TO INTERESTED
15 PERSONS AND THE DEPARTMENT'S WEBSITE. NOT LATER THAN 210 DAYS AFTER
16 THE INITIATION DATE OF THE FIRST ROUND, THE DEPARTMENT SHALL
17 DETERMINE WHETHER SUFFICIENT FUNDING IS AVAILABLE TO IMPLEMENT A
18 SECOND ROUND TEMPORARY REIMBURSEMENT PROGRAM PURSUANT TO SECTION
19 21557. IF THE DEPARTMENT DETERMINES THAT SUFFICIENT FUNDS ARE
20 AVAILABLE, THE DEPARTMENT SHALL PROVIDE NOTICE OF THE INITIATION
21 DATE OF THE SECOND ROUND PRECERTIFICATION APPLICATION PERIOD IN THE
22 SAME MANNER AS THE FIRST ROUND NOTIFICATION PROCESS. THE INITIATION
23 DATE OF THE SECOND ROUND PRECERTIFICATION APPLICATION PERIOD SHALL
24 OCCUR NOT LATER THAN 60 DAYS AFTER THE DEPARTMENT DETERMINES
25 FUNDING IS AVAILABLE FOR THE SECOND ROUND OF THE TEMPORARY
26 REIMBURSEMENT PROGRAM.

27 SEC. 21556. (1) TO BE CONSIDERED FOR ELIGIBILITY FOR

1 REIMBURSEMENT UNDER THE FIRST ROUND OF THE TEMPORARY REIMBURSEMENT
2 PROGRAM, A PERSON SHALL SUBMIT TO THE DEPARTMENT A COMPLETED FIRST
3 ROUND PRECERTIFICATION APPLICATION ON A FORM PROVIDED BY THE
4 DEPARTMENT. A PERSON MAY SUBMIT MORE THAN 1 FIRST ROUND
5 PRECERTIFICATION APPLICATION IF HE OR SHE POSSESSES MORE THAN 1
6 APPROVED CLAIM FOR RELEASES THAT MEET THE ELIGIBILITY REQUIREMENTS
7 IN SUBSECTION (3)(A) TO (D).

8 (2) TO BE CONSIDERED FOR APPROVAL, FIRST ROUND
9 PRECERTIFICATION APPLICATIONS SHALL BE RECEIVED BY THE DEPARTMENT
10 AT OR BEFORE 5 P.M. ON THE ONE HUNDRED EIGHTIETH DAY FOLLOWING THE
11 DEPARTMENT'S INITIATION DATE OF THE APPLICATION PERIOD.

12 (3) IN ORDER FOR A PERSON TO BE ELIGIBLE FOR REIMBURSEMENT
13 UNDER THE FIRST ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM, THE
14 COMPLETED FIRST ROUND PRECERTIFICATION APPLICATION SHALL
15 DEMONSTRATE ALL OF THE FOLLOWING:

16 (A) THAT THE PERSON WAS THE OWNER OR OPERATOR WHO SUBMITTED
17 AND HAD AN APPROVED CLAIM OR THAT THE PERSON RECEIVED A VALID
18 ASSIGNMENT OF AN APPROVED CLAIM IN ACCORDANCE WITH SECTION 21516.

19 (B) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
20 HAS NOT BEEN CLOSED PURSUANT TO PART 213.

21 (C) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
22 CAUSED THE SITE TO BE CLASSIFIED AS A CLASS 1 OR CLASS 2 SITE
23 PURSUANT TO SECTION 21314A, BASED ON THE MOST RECENTLY SUBMITTED
24 DATA OR REPORTS PRIOR TO MAY 9, 2005, OR AS OTHERWISE DETERMINED BY
25 THE DEPARTMENT PRIOR TO MAY 9, 2005.

26 (D) FOR UNDERGROUND STORAGE TANK SYSTEMS THAT ARE OPERATING AT
27 THE LOCATION FROM WHICH THE RELEASE OCCURRED, THAT THE OWNER OR

1 OPERATOR, IF HE OR SHE IS THE APPLICANT, IS CURRENTLY IN COMPLIANCE
2 WITH THE REGISTRATION AND FEE REQUIREMENTS OF PART 211.

3 (4) ALL APPLICATIONS FOR THE TEMPORARY REIMBURSEMENT PROGRAM
4 SHALL BE CONSIDERED ON A FIRST-COME, FIRST-SERVED BASIS. IF THE
5 FIRST ROUND PRECERTIFICATION APPLICATION RECEIVED BY THE DEPARTMENT
6 SUCCESSFULLY DEMONSTRATES ELIGIBILITY IN ACCORDANCE WITH
7 SUBSECTIONS (2) AND (3), THE DEPARTMENT SHALL APPROVE THE FIRST
8 ROUND PRECERTIFICATION APPLICATION. NOT MORE THAN 900
9 PRECERTIFICATION APPLICATIONS SHALL BE APPROVED BY THE DEPARTMENT.

10 (5) AN ELIGIBLE PERSON SHALL HAVE 540 DAYS AFTER THE DATE OF
11 APPROVAL OF THE PRECERTIFICATION APPLICATION TO PERFORM CORRECTIVE
12 ACTIONS PURSUANT TO PART 213 AT THE SITE OF RELEASE IN ACCORDANCE
13 WITH SECTION 21558.

14 (6) ONLY CORRECTIVE ACTION COSTS INCURRED AFTER THE DATE OF
15 APPROVAL OF THE PRECERTIFICATION APPLICATION AND UP TO THE FIVE
16 HUNDRED FORTIETH DAY FOLLOWING PRECERTIFICATION APPLICATION
17 APPROVAL SHALL BE CONSIDERED FOR REIMBURSEMENT BY THE DEPARTMENT.
18 CORRECTIVE ACTION COSTS INCURRED AFTER THE FIVE HUNDRED FORTIETH
19 DAY ARE NOT ELIGIBLE FOR REIMBURSEMENT.

20 (7) AN ELIGIBLE PERSON MAY RECEIVE UP TO \$50,000.00 OR SUCH
21 ADDITIONAL AMOUNT AS MAY BE MADE AVAILABLE PURSUANT TO SECTION
22 21557(8), FOR APPROVED CORRECTIVE ACTION COSTS FOR EACH APPROVED
23 PRECERTIFICATION APPLICATION.

24 (8) AN ELIGIBLE PERSON SHALL SUBMIT ALL WORK INVOICES FOR
25 WHICH REIMBURSEMENT IS BEING SOUGHT TO THE DEPARTMENT WITHIN 600
26 DAYS FOLLOWING THE PRECERTIFICATION APPLICATION APPROVAL DATE. AN
27 ELIGIBLE PERSON SHALL NOT SUBMIT A REQUEST FOR REIMBURSEMENT THAT

1 TOTALS LESS THAN \$5,000.00 FOR THE COSTS OF CORRECTIVE ACTION,
2 EXCEPT FOR THE LAST REIMBURSEMENT REQUEST.

3 (9) ELIGIBLE PERSONS SHALL RECEIVE REIMBURSEMENT OF 80% OF THE
4 AMOUNT OF EACH APPROVED WORK INVOICE UNTIL THE MAXIMUM
5 REIMBURSEMENT AMOUNT IS REACHED. THE REMAINING 20% SHALL BE
6 CONSIDERED THE CO-PAY AMOUNT. PROOF OF PAYMENT OF THE CO-PAY AMOUNT
7 IS REQUIRED WITH EACH WORK INVOICE SUBMITTAL.

8 (10) CORRECTIVE ACTIONS FOR WHICH REIMBURSEMENT IS SOUGHT
9 SHALL CONFORM TO THE REQUIREMENTS OF PART 213 AND SECTION 21558.
10 REQUESTS FOR REIMBURSEMENT ARE SUBJECT TO SECTIONS 21559 TO 21561.

11 (11) ANY ALLOCATED AMOUNT FOR REIMBURSEMENT IN THE FIRST ROUND
12 THAT IS NOT EXPENDED, BUT SUBJECT TO APPEAL PURSUANT TO SECTION
13 21561, SHALL BE HELD IN RESERVE UNTIL THE APPEAL IS EXHAUSTED AND A
14 FINAL REIMBURSEMENT DETERMINATION IS MADE.

15 SEC. 21557. (1) IF THE DEPARTMENT DETERMINES PURSUANT TO
16 SECTION 21555 THAT SUFFICIENT FUNDS ARE AVAILABLE FOR A SECOND
17 ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM, THE SECOND ROUND
18 SHALL BE IMPLEMENTED IN ACCORDANCE WITH THIS SECTION.

19 (2) TO BE CONSIDERED FOR ELIGIBILITY FOR REIMBURSEMENT UNDER
20 THE SECOND ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM, A PERSON
21 SHALL SUBMIT TO THE DEPARTMENT A COMPLETED SECOND ROUND
22 PRECERTIFICATION APPLICATION ON A FORM PROVIDED BY THE DEPARTMENT.
23 A PERSON MAY SUBMIT MORE THAN 1 SECOND ROUND PRECERTIFICATION
24 APPLICATION IF HE OR SHE POSSESSES MORE THAN 1 APPROVED CLAIM FOR
25 RELEASES THAT MEET THE ELIGIBILITY REQUIREMENTS IN THIS SECTION.

26 (3) TO BE CONSIDERED FOR APPROVAL, SECOND ROUND
27 PRECERTIFICATION APPLICATIONS SHALL BE RECEIVED BY THE DEPARTMENT

1 AT OR BEFORE 5 P.M. ON THE THIRTIETH DAY FOLLOWING THE INITIATION
2 DATE OF THE SECOND ROUND APPLICATION PERIOD.

3 (4) IN ORDER FOR A PERSON TO BE ELIGIBLE FOR REIMBURSEMENT
4 UNDER THE SECOND ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM, THE
5 COMPLETED SECOND ROUND PRECERTIFICATION APPLICATION SHALL
6 DEMONSTRATE ALL OF THE FOLLOWING:

7 (A) THAT THE PERSON WAS THE OWNER OR OPERATOR WHO SUBMITTED
8 AND HAD AN APPROVED CLAIM OR THAT THE PERSON RECEIVED A VALID
9 ASSIGNMENT OF THE APPROVED CLAIM IN ACCORDANCE WITH SECTION 21516.

10 (B) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
11 HAS NOT BEEN CLOSED PURSUANT TO PART 213.

12 (C) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
13 CAUSED THE SITE TO BE CLASSIFIED AS A CLASS 1 OR CLASS 2 SITE
14 PURSUANT TO SECTION 21314A, BASED ON THE MOST RECENTLY SUBMITTED
15 DATA OR REPORTS, OR AS OTHERWISE DETERMINED BY THE DEPARTMENT.

16 (D) FOR UNDERGROUND STORAGE TANK SYSTEMS THAT ARE OPERATING AT
17 THE LOCATION FROM WHICH THE RELEASE OCCURRED, THAT THE OWNER OR
18 OPERATOR, IF HE OR SHE IS THE APPLICANT, IS CURRENTLY IN COMPLIANCE
19 WITH THE REGISTRATION AND FEE REQUIREMENTS OF PART 211.

20 (5) AN ELIGIBLE PERSON MAY RECEIVE UP TO \$50,000.00 FOR
21 APPROVED CORRECTIVE ACTION COSTS FOR EACH APPROVED SECOND ROUND
22 PRECERTIFICATION APPLICATION OR SUCH ADDITIONAL AMOUNT AS MAY BE
23 MADE AVAILABLE PURSUANT TO SUBSECTION (8). IF THE NUMBER OF
24 PRECERTIFICATION APPLICATIONS EXCEEDS AVAILABLE TEMPORARY
25 REIMBURSEMENT PROGRAM FUNDING FOR THE SECOND ROUND, THE REMAINING
26 TEMPORARY REIMBURSEMENT PROGRAM FUNDS SHALL BE ALLOCATED AT
27 \$50,000.00 PER LOCATION ON A FIRST-COME, FIRST-SERVED BASIS EXCEPT

1 AS FOLLOWS:

2 (A) FIRST PRIORITY SHALL BE GIVEN TO PERSONS THAT RECEIVED NO
3 PRECERTIFICATION APPLICATION APPROVALS IN THE FIRST ROUND AND THAT
4 MEET THE REQUIREMENTS OF SUBSECTIONS (2) TO (4).

5 (B) IF TEMPORARY REIMBURSEMENT PROGRAM FUNDS REMAIN AFTER
6 ALLOCATING FUNDS UNDER SUBDIVISION (A), SECOND PRIORITY SHALL BE
7 GIVEN TO PERSONS THAT RECEIVED PRECERTIFICATION APPLICATION
8 APPROVAL IN THE FIRST ROUND AND THAT SUBMIT A SECOND ROUND
9 PRECERTIFICATION APPLICATION TO THE DEPARTMENT FOR A DIFFERENT
10 LOCATION THAT MEETS THE REQUIREMENTS OF SUBSECTIONS (2) TO (4).

11 (6) IF THE SECOND ROUND PRECERTIFICATION APPLICATION
12 SUCCESSFULLY DEMONSTRATES ELIGIBILITY IN ACCORDANCE WITH THIS
13 SECTION, THE DEPARTMENT SHALL APPROVE THE SECOND ROUND
14 PRECERTIFICATION APPLICATION IN ACCORDANCE WITH SUBSECTION (5), TO
15 THE EXTENT THAT FUNDING IS AVAILABLE.

16 (7) THE SECOND ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM IS
17 SUBJECT TO THE REQUIREMENTS OF SECTION 21556(5) TO (10), INCLUDING
18 THE CO-PAY REQUIREMENTS.

19 (8) IF TEMPORARY REIMBURSEMENT PROGRAM FUNDS REMAIN AFTER ALL
20 ALLOCATIONS ARE MADE, THEN, UPON APPROPRIATION, THE REMAINING MONEY
21 SHALL BE ALLOCATED ON A PRORATED BASIS AMONG APPROVED FIRST ROUND
22 AND SECOND ROUND PRECERTIFICATION APPLICANTS FOR REIMBURSEMENT,
23 SUBJECT TO SECTION 21556(5) TO (10). THE DEPARTMENT SHALL NOTIFY
24 ALL APPROVED FIRST ROUND AND SECOND ROUND APPLICANTS OF THE AMOUNT
25 OF ADDITIONAL REIMBURSEMENT AVAILABLE WITHIN 14 DAYS OF THE
26 EFFECTIVE DATE OF THE APPROPRIATION.

27 (9) ANY ALLOCATED AMOUNT FOR REIMBURSEMENT THAT IS NOT

1 EXPENDED BUT SUBJECT TO APPEAL, PURSUANT TO SECTION 21561, SHALL BE
2 HELD IN RESERVE UNTIL THE APPEAL IS EXHAUSTED AND A FINAL
3 REIMBURSEMENT DETERMINATION IS MADE.

4 SEC. 21558. (1) IN ORDER TO RECEIVE MONEY UNDER THE TEMPORARY
5 REIMBURSEMENT PROGRAM, AN ELIGIBLE PERSON SHALL RETAIN A CONSULTANT
6 TO PERFORM THE CORRECTIVE ACTIONS REQUIRED UNDER PART 213.

7 (2) THE CONSULTANT SHALL COMPLY WITH ALL OF THE FOLLOWING
8 REQUIREMENTS:

9 (A) THE CONSULTANT SHALL SUBMIT THE FOLLOWING ITEMS FOR
10 COMPETITIVE BIDDING IN ACCORDANCE WITH PROCEDURES ESTABLISHED IN
11 THIS SECTION:

12 (i) WELL DRILLING, INCLUDING MONITORING WELLS.

13 (ii) LABORATORY ANALYSIS.

14 (iii) CONSTRUCTION OF TREATMENT SYSTEMS.

15 (iv) REMOVAL OF CONTAMINATED SOIL.

16 (v) OPERATION OF TREATMENT SYSTEMS.

17 (B) ALL BIDS RECEIVED BY THE CONSULTANT SHALL BE SUBMITTED ON
18 A STANDARDIZED BID FORM PREPARED BY THE DEPARTMENT.

19 (C) A CONSULTANT MAY PERFORM WORK ACTIVITIES SPECIFIED IN
20 SUBSECTION (2)(A) ONLY IF THE CONSULTANT BIDS FOR THE WORK ACTIVITY
21 AND THE CONSULTANT'S BID IS THE LOWEST RESPONSIVE BID. A CONSULTANT
22 WHO INTENDS TO SUBMIT A BID MUST SUBMIT THE BID TO THE DEPARTMENT
23 PRIOR TO RECEIVING BIDS FROM CONTRACTORS.

24 (D) UPON RECEIPT OF BIDS, THE CONSULTANT SHALL SUBMIT TO THE
25 DEPARTMENT A COPY OF ALL BID FORMS RECEIVED AND THE BID ACCEPTED.

26 (E) THE CONSULTANT SHALL NOTIFY THE DEPARTMENT IN WRITING OF
27 THE BID ACCEPTED. IF THE LOWEST RESPONSIVE BID WAS NOT ACCEPTED,

1 THE CONSULTANT SHALL PROVIDE SUFFICIENT JUSTIFICATION TO THE
2 DEPARTMENT AND RECEIVE CONCURRENCE FROM THE DEPARTMENT BEFORE
3 COMMENCING WORK. FAILURE OF THE DEPARTMENT TO PROVIDE A RESPONSE
4 WITHIN 21 DAYS SHALL BE CONSIDERED AS CONCURRENCE.

5 (3) AN ELIGIBLE PERSON MAY REQUEST THAT THE CONSULTANT
6 RETAINED BY THE ELIGIBLE PERSON ADD QUALIFIED BIDDERS TO THE LIST
7 FOR REQUESTS FOR BIDS.

8 (4) UPON HIRING A CONTRACTOR, A CONSULTANT MAY INCLUDE A
9 MARKUP TO THE CONTRACTOR'S WORK INVOICES ONLY IF THE CONSULTANT
10 PAYS THE CONTRACTOR AND DOES THE BILLING.

11 (5) AFTER THE CONSULTANT EMPLOYS THE COMPETITIVE BIDDING
12 PROCESS DESCRIBED IN THIS SECTION, ONLY A CONSULTANT MAY HIRE THE
13 SELECTED CONTRACTORS FOR THE WORK THAT WAS THE SUBJECT OF THE
14 BIDDING PROCESS.

15 (6) REMOVAL OF UNDERGROUND STORAGE TANK SYSTEMS OR
16 INSTALLATION OF NEW OR UPGRADED EQUIPMENT FOR THE PURPOSE OF
17 ATTAINING COMPLIANCE WITH PART 211, OR WORK PERFORMED FOR ANY OTHER
18 REASON NOT RELATED TO THE PERFORMANCE OF PART 213 CORRECTIVE
19 ACTIONS, IS NOT ELIGIBLE FOR TEMPORARY REIMBURSEMENT PROGRAM
20 FUNDING UNDER THIS PART.

21 SEC. 21559. (1) FOR AN ELIGIBLE PERSON TO RECEIVE MONEY UNDER
22 THE TEMPORARY REIMBURSEMENT PROGRAM FOR CORRECTIVE ACTION, ALL OF
23 THE FOLLOWING CONDITIONS SHALL BE MET:

24 (A) THE ELIGIBLE PERSON, AND THE CONSULTANT RETAINED BY THE
25 ELIGIBLE PERSON, SHALL FOLLOW THE PROCEDURES OUTLINED IN THIS
26 SECTION AND SHALL SUBMIT REPORTS, WORK PLANS, FEASIBILITY ANALYSES,
27 HYDROGEOLOGICAL STUDIES, AND CORRECTIVE ACTION PLANS PREPARED UNDER

1 PART 213 TO THE DEPARTMENT, AND SHALL PROVIDE OTHER INFORMATION
2 REQUIRED BY THE DEPARTMENT RELEVANT TO DETERMINING COMPLIANCE WITH
3 THIS PART AND PART 213.

4 (B) THE ELIGIBLE PERSON SHALL SUBMIT A WORK INVOICE TO THE
5 DEPARTMENT, WITH AN ATTACHED SUMMARY REPORT OF THE WORK PERFORMED
6 UNDER THE INVOICE AND RESULTS OF THE WORK PERFORMED, INCLUDING, BUT
7 NOT LIMITED TO, LABORATORY RESULTS, SOIL BORING LOGS, CONSTRUCTION
8 LOGS, SITE INVESTIGATION RESULTS, AND OTHER INFORMATION THAT MAY BE
9 REQUESTED BY THE DEPARTMENT.

10 (C) WORK INVOICES SHALL COMPLY WITH ALL OF THE FOLLOWING:

11 (i) BE SUBMITTED ON A STANDARDIZED WORK INVOICE FORM PROVIDED
12 BY THE DEPARTMENT.

13 (ii) CONTAIN COMPLETE INFORMATION IN ACCORDANCE WITH THE FORM
14 AND THE REQUIREMENTS OF THIS SECTION AND AS REQUESTED BY THE
15 DEPARTMENT.

16 (iii) BE IN AN AMOUNT NOT LESS THAN \$5,000.00, EXCEPT FOR THE
17 LAST WORK INVOICE SUBMITTED FOR REIMBURSEMENT UNDER THE APPROVED
18 PRECERTIFICATION APPLICATION.

19 (2) UPON RECEIPT OF A WORK INVOICE PURSUANT TO SUBSECTION (1),
20 THE DEPARTMENT SHALL MAKE ALL OF THE FOLLOWING DETERMINATIONS:

21 (A) WHETHER THE WORK PERFORMED IS NECESSARY AND APPROPRIATE
22 CONSIDERING CONDITIONS AT THE SITE OF THE RELEASE.

23 (B) WHETHER THE COST OF PERFORMING THE WORK IS REASONABLE.

24 (C) WHETHER THE ELIGIBLE PERSON IS ELIGIBLE TO RECEIVE FUNDING
25 UNDER THIS PART.

26 (D) WHETHER THE CONSULTANT RETAINED BY THE ELIGIBLE PERSON HAS
27 COMPLIED WITH SECTION 21558.

1 (3) THE DEPARTMENT SHALL DENY PAYMENT OF A WORK INVOICE IF THE
2 DEPARTMENT DETERMINES THAT THE CORRECTIVE ACTION WORK PERFORMED IS
3 NOT CONSISTENT WITH THE REQUIREMENTS OF PART 213 OR DOES NOT COMPLY
4 WITH THE REQUIREMENTS OF THIS PART.

5 (4) WITHIN 45 DAYS AFTER RECEIPT OF A WORK INVOICE, THE
6 DEPARTMENT SHALL DETERMINE WHETHER THE WORK INVOICE COMPLIES WITH
7 SUBSECTIONS (1) TO (3). THE DEPARTMENT SHALL NOTIFY THE ELIGIBLE
8 PERSON IN WRITING OF SUCH A DETERMINATION.

9 (5) THE DEPARTMENT SHALL KEEP RECORDS OF APPROVED
10 PRECERTIFICATION APPLICATIONS AND WORK INVOICES. IF THE ELIGIBLE
11 PERSON HAS NOT EXCEEDED THE ALLOWABLE AMOUNT OF EXPENDITURE
12 PROVIDED IN SECTIONS 21556 AND 21557, THE DEPARTMENT SHALL FORWARD
13 AN APPROVED PAYMENT VOUCHER TO THE STATE TREASURER WITHIN 45 DAYS
14 AFTER APPROVAL OF THE WORK INVOICE.

15 (6) EXCEPT AS PROVIDED IN SUBSECTION (7) OR AS OTHERWISE
16 PROVIDED IN THIS SUBSECTION, UPON RECEIPT OF AN APPROVED PAYMENT
17 VOUCHER, THE STATE TREASURER SHALL MAKE A PAYMENT JOINTLY TO THE
18 ELIGIBLE PERSON AND THE CONSULTANT WITHIN 30 DAYS. HOWEVER, THE
19 ELIGIBLE PERSON MAY SUBMIT TO THE DEPARTMENT A SIGNED AFFIDAVIT
20 STATING THAT THE CONSULTANT LISTED ON A WORK INVOICE HAS BEEN PAID
21 IN FULL. THE AFFIDAVIT SHALL LIST THE WORK INVOICE NUMBER AND
22 PRECERTIFICATION APPLICATION TO WHICH THE AFFIDAVIT APPLIES, A
23 STATEMENT THAT THE ELIGIBLE PERSON HAS MAILED A COPY OF THE
24 AFFIDAVIT BY FIRST-CLASS MAIL TO THE CONSULTANT LISTED ON THE WORK
25 INVOICE, AND THE DATE THAT THE AFFIDAVIT WAS MAILED TO THE
26 CONSULTANT. THE DEPARTMENT IS NOT REQUIRED TO VERIFY AFFIDAVITS
27 SUBMITTED UNDER THIS SUBSECTION. IF, WITHIN 14 DAYS AFTER THE

1 AFFIDAVIT WAS MAILED TO THE CONSULTANT UNDER THIS SUBSECTION, THE
2 DEPARTMENT HAS NOT RECEIVED AN OBJECTION IN WRITING FROM THE
3 CONSULTANT LISTED ON THE WORK INVOICE, THE STATE TREASURER SHALL
4 MAKE THE PAYMENT DIRECTLY TO THE ELIGIBLE PERSON. IF A CHECK HAS
5 ALREADY BEEN ISSUED TO THE ELIGIBLE PERSON AND THE CONSULTANT, THE
6 ELIGIBLE PERSON SHALL RETURN THE ORIGINAL CHECK TO THE DEPARTMENT
7 ALONG WITH THE AFFIDAVIT. IF, WITHIN 14 DAYS AFTER THE AFFIDAVIT
8 WAS MAILED TO THE CONSULTANT, THE DEPARTMENT HAS NOT RECEIVED AN
9 OBJECTION FROM THE CONSULTANT LISTED ON THE CHECK, THE STATE
10 TREASURER SHALL REISSUE A CHECK TO THE ELIGIBLE PERSON. IF A
11 CONSULTANT OBJECTS TO AN AFFIDAVIT RECEIVED UNDER THIS SUBSECTION
12 AND NOTIFIES THE DEPARTMENT IN WRITING WITHIN 14 DAYS AFTER THE
13 AFFIDAVIT WAS MAILED TO THE CONSULTANT, THE DEPARTMENT SHALL NOTIFY
14 THE STATE TREASURER, AND THE STATE TREASURER SHALL ISSUE OR REISSUE
15 THE CHECK TO THE ELIGIBLE PERSON AND THE CONSULTANT. THE GROUNDS
16 FOR AN OBJECTION BY A CONSULTANT UNDER THIS SUBSECTION SHALL BE
17 THAT THE CONSULTANT HAS NOT BEEN PAID IN FULL AND THE OBJECTION
18 SHALL BE MADE BY AFFIDAVIT. THE STATE TREASURER SHALL ISSUE CHECKS
19 UNDER THIS SUBSECTION WITHIN 60 DAYS AFTER AN AFFIDAVIT HAS BEEN
20 RECEIVED BY THE DEPARTMENT. ONCE PAYMENT HAS BEEN MADE UNDER THIS
21 SECTION, THE REFINED PETROLEUM FUND IS NOT LIABLE FOR ANY CLAIM ON
22 THE BASIS OF THAT PAYMENT.

23 (7) THE TEMPORARY REIMBURSEMENT PROGRAM IS SUBJECT TO SECTION
24 21548.

25 (8) UPON DIRECTION OF THE DEPARTMENT, THE STATE TREASURER MAY
26 WITHHOLD PARTIAL PAYMENT OF MONEY ON PAYMENT VOUCHERS IF THERE IS
27 REASONABLE CAUSE TO BELIEVE THAT THERE ARE VIOLATIONS OF SECTION

1 21548 OR IF NECESSARY TO ASSURE ACCEPTABLE COMPLETION OF THE
2 CORRECTIVE ACTIONS.

3 SEC. 21560. (1) AN ELIGIBLE PERSON WITH A PRECERTIFICATION
4 APPLICATION APPROVED PURSUANT TO SECTION 21556 OR 21557 FOR WHICH
5 CORRECTIVE ACTION IS IN PROGRESS THAT SELLS, OR HAS SOLD, OR
6 TRANSFERS THE PROPERTY THAT IS THE SUBJECT OF THE APPROVED
7 PRECERTIFICATION APPLICATION TO ANOTHER PERSON MAY ASSIGN OR
8 TRANSFER THE APPROVED PRECERTIFICATION APPLICATION TO THAT OTHER
9 PERSON. THE PERSON TO WHOM THE ASSIGNMENT OR TRANSFER IS MADE IS
10 ELIGIBLE TO RECEIVE MONEY FROM THE REFINED PETROLEUM FUND TEMPORARY
11 REIMBURSEMENT PROGRAM AS AN ELIGIBLE PERSON FOR THE RELEASE WHICH
12 IS THE SUBJECT OF THE APPROVED PRECERTIFICATION APPLICATION.
13 PREVIOUS REIMBURSEMENTS AND CO-PAYMENTS OF THE ELIGIBLE PERSON
14 MAKING THE ASSIGNMENT OR TRANSFER SHALL BE COUNTED TOWARD THE
15 REIMBURSEMENT AND CO-PAY AMOUNT OF THE PERSON TO WHOM THE
16 ASSIGNMENT OR TRANSFER IS MADE.

17 (2) AN ELIGIBLE PERSON ASSIGNING OR TRANSFERRING AN APPROVED
18 PRECERTIFICATION APPLICATION PURSUANT TO THIS SECTION SHALL NOTIFY
19 THE DEPARTMENT OF THE PROPOSED ASSIGNMENT OR TRANSFER AT LEAST 10
20 DAYS PRIOR TO THE ASSIGNEE'S OR TRANSFEREE'S SUBMITTAL OF WORK
21 INVOICES FOR REIMBURSEMENT.

22 SEC. 21561. (1) IF THE DEPARTMENT DENIES A WORK INVOICE
23 SUBMITTED UNDER THE TEMPORARY REIMBURSEMENT PROGRAM, THE ELIGIBLE
24 PERSON WHO SUBMITTED THE WORK INVOICE MAY, WITHIN 14 DAYS FOLLOWING
25 THE DENIAL, REQUEST REVIEW BY THE DEPARTMENT. UPON RECEIPT OF A
26 REQUEST FOR REVIEW UNDER THIS SUBSECTION, THE DEPARTMENT SHALL
27 FORWARD THE REQUEST TO THE ADVISORY BOARD FOR A PRELIMINARY REVIEW.

1 THE ADVISORY BOARD SHALL CONDUCT A REVIEW OF THE DENIAL AND SHALL
2 SUBMIT A RECOMMENDATION TO THE DEPARTMENT AS TO WHETHER THE WORK
3 INVOICE COMPLIES WITH THIS PART. NO LATER THAN 21 DAYS FOLLOWING
4 REVIEW BY THE ADVISORY BOARD, THE DEPARTMENT SHALL APPROVE THE WORK
5 INVOICE IF THE DEPARTMENT DETERMINES THAT THE WORK INVOICE
6 SUBSTANTIALLY COMPLIES WITH THE REQUIREMENTS OF THIS PART. IN
7 MAKING ITS DETERMINATION, THE DEPARTMENT SHALL GIVE SUBSTANTIAL
8 CONSIDERATION TO THE RECOMMENDATIONS OF THE ADVISORY BOARD.

9 (2) AN ELIGIBLE PERSON WHO IS DENIED APPROVAL BY THE
10 DEPARTMENT AFTER REVIEW UNDER SUBSECTION (1) MAY APPEAL THE
11 DECISION DIRECTLY TO THE CIRCUIT COURT FOR THE COUNTY OF INGHAM.

12 SEC. 21562. (1) THE TEMPORARY REIMBURSEMENT PROGRAM ADVISORY
13 BOARD IS CREATED. THE ADVISORY BOARD SHALL CONDUCT REVIEWS OF
14 DENIED WORK INVOICES UPON THE REQUEST OF ELIGIBLE PERSONS AND
15 PROVIDE RECOMMENDATIONS TO THE DEPARTMENT UPON COMPLETION OF SUCH
16 REVIEWS. THE ADVISORY BOARD SHALL ALSO ADVISE THE DEPARTMENT ON ALL
17 MATTERS RELATED TO THE IMPLEMENTATION OF THE TEMPORARY
18 REIMBURSEMENT PROGRAM.

19 (2) THE ADVISORY BOARD SHALL CONSIST OF THE FOLLOWING:

20 (A) THE MEMBERS WHO WERE APPOINTED TO THE REFINED PETROLEUM
21 CLEANUP ADVISORY COUNCIL PURSUANT TO SECTION 21552.

22 (B) TWO REPRESENTATIVES OF THE DEPARTMENT APPOINTED BY THE
23 DIRECTOR.

24 (3) AN INDIVIDUAL APPOINTED TO THE ADVISORY BOARD SHALL SERVE
25 FOR A TERM OF 3 YEARS, COMMENCING ON THE INITIATION DATE OF THE
26 TEMPORARY REIMBURSEMENT PROGRAM.

27 (4) A VACANCY ON THE ADVISORY BOARD SHALL BE FILLED IN THE

1 SAME MANNER AS THE ORIGINAL APPOINTMENT WAS MADE.

2 (5) THE FIRST MEETING OF THE ADVISORY BOARD SHALL BE CALLED BY
3 THE DEPARTMENT. AT ITS FIRST MEETING, THE ADVISORY BOARD SHALL
4 ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT
5 CONSIDERS NECESSARY. AFTER THE FIRST MEETING, A MEETING OF THE
6 ADVISORY BOARD SHALL BE CALLED BY THE CHAIRPERSON ON HIS OR HER OWN
7 INITIATIVE OR BY THE CHAIRPERSON ON PETITION OF 3 OR MORE MEMBERS.
8 UPON RECEIPT OF A PETITION OF 3 OR MORE MEMBERS, A MEETING SHALL BE
9 CALLED FOR A DATE NO LATER THAN 21 DAYS AFTER THE DATE OF RECEIPT
10 OF THE PETITION.

11 (6) THE BUSINESS THAT THE ADVISORY BOARD MAY PERFORM SHALL BE
12 CONDUCTED AT A PUBLIC MEETING OF THE ADVISORY BOARD HELD IN
13 COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO
14 15.275.

15 (7) A MAJORITY OF THE MEMBERS OF THE ADVISORY BOARD CONSTITUTE
16 A QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE
17 ADVISORY BOARD. ACTION BY THE ADVISORY BOARD SHALL BE BY A MAJORITY
18 OF THE VOTES CAST.

19 (8) THE DEPARTMENT MAY SUBMIT TO THE ADVISORY BOARD, FOR ITS
20 REVIEW AND EVALUATION, THE COMPETITIVE BIDDING PROCESS EMPLOYED BY
21 A CONSULTANT PURSUANT TO SECTION 21558. IN CONDUCTING THIS REVIEW
22 AND EVALUATION, THE ADVISORY BOARD MAY CONVENE A PEER REVIEW PANEL.
23 FOLLOWING COMPLETION OF ITS REVIEW AND EVALUATION, THE ADVISORY
24 BOARD SHALL FORWARD A COPY OF ITS FINDINGS TO THE DEPARTMENT AND
25 THE CONSULTANT. IF THE ADVISORY BOARD FINDS THE PRACTICES EMPLOYED
26 BY A CONSULTANT TO BE INAPPROPRIATE, THE ADVISORY BOARD MAY
27 RECOMMEND THAT THE DEPARTMENT REVOKE THE CONSULTANT'S

1 CERTIFICATION.

2 (9) A MEMBER OF THE ADVISORY BOARD SHALL ABSTAIN FROM VOTING
3 ON ANY MATTER IN WHICH THAT MEMBER HAS A CONFLICT OF INTEREST.

4 SEC. 21563. (1) THE TEMPORARY REIMBURSEMENT PROGRAM SHALL
5 CEASE UPON PAYMENT OF ALL APPROVED WORK INVOICES AND RESOLUTION OF
6 WORK INVOICE APPEALS.

7 (2) ANY TEMPORARY REIMBURSEMENT PROGRAM FUNDS REMAINING AFTER
8 APPROVED WORK INVOICES ARE PAID, LESS ANY DOLLAR AMOUNTS HELD IN
9 RESERVE PENDING RESOLUTION OF WORK INVOICE APPEALS, SHALL BE
10 AVAILABLE FOR FUTURE APPROPRIATIONS PURSUANT TO SECTION 21506A(4).

11 (3) ANY TEMPORARY REIMBURSEMENT PROGRAM FUNDS REMAINING AFTER
12 RESOLUTION OF ALL WORK INVOICE APPEALS SHALL BE AVAILABLE FOR
13 FUTURE APPROPRIATIONS PURSUANT TO SECTION 21506A(4).

14 Enacting section 1. This amendatory act does not take effect
15 unless Senate Bill No. 1260 or House Bill No.____ (request no.
16 05305'05) of the 93rd Legislature is enacted into law.