

HOUSE BILL No. 6202

June 14, 2006, Introduced by Reps. Palsrok and Pavlov 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," by amending sections 21502, 21503, 21506a, and 21552 (MCL 324.21502, 324.21503, 324.21506a, and 324.21552), section 21502 as amended and sections 21506a and 21552 as added by 2004 PA 390 and section 21503 as amended by 1996 PA 181, and 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. 21502. As used in this part:

2 (a) "Administrator" means the fund administrator provided for
3 in section 21513.

4 **(B) "ADVISORY BOARD" MEANS THE TEMPORARY REIMBURSEMENT PROGRAM**

1 **ADVISORY BOARD ESTABLISHED UNDER SECTION 21562.**

2 (C) ~~-(b)-~~ "Approved claim" means a claim that is approved
3 pursuant to section 21515.

4 (D) ~~-(e)-~~ "Authority" means the Michigan underground storage
5 tank financial assurance authority created in section 21523.

6 (E) ~~-(d)-~~ "Board" means the Michigan underground storage tank
7 financial assurance policy board created in section 21541.

8 (F) ~~-(e)-~~ "Board of directors" means the board of directors of
9 the authority.

10 (G) ~~-(f)-~~ "Bond proceeds account" means the account or fund to
11 which proceeds of bonds or notes issued under this part have been
12 credited.

13 (H) ~~-(g)-~~ "Bonds or notes" means the bonds, notes, commercial
14 paper, other obligations of indebtedness, or any combination of
15 these, issued by the authority pursuant to this part.

16 (I) ~~-(h)-~~ "Claim" means the submission by the owner or
17 operator or his or her representative of documentation on an
18 application requesting payment from the fund. A claim shall
19 include, at a minimum, a completed and signed claim form and the
20 name, address, telephone number, and federal tax identification
21 number of the consultant retained by the owner or operator to carry
22 out responsibilities pursuant to part 213.

23 (J) ~~-(i)-~~ "Consultant" means a person on the list of qualified
24 underground storage tank consultants prepared pursuant to section
25 21542.

26 (K) ~~-(j)-~~ "Co-pay amount" means the co-pay amount provided for
27 in section 21514.

1 (**I**) ~~(k)~~ "Corrective action" means the investigation,
2 assessment, cleanup, removal, containment, isolation, treatment, or
3 monitoring of regulated substances released into the environment or
4 the taking of such other actions as may be necessary to prevent,
5 minimize, or mitigate injury to the public health, safety, or
6 welfare, the environment, or natural resources.

7 (**M**) ~~(l)~~ "Department" means the department of environmental
8 quality.

9 (**N**) **"ELIGIBLE PERSON" MEANS AN OWNER OR OPERATOR WHO MEETS THE**
10 **ELIGIBILITY REQUIREMENTS IN SECTION 21556 OR 21557 AND RECEIVED**
11 **APPROVAL OF HIS OR HER PRECERTIFICATION APPLICATION BY THE**
12 **DEPARTMENT.**

13 (**O**) ~~(m)~~ "Financial responsibility requirements" means the
14 financial responsibility for taking corrective action and for
15 compensating third parties for bodily injury and property damage
16 caused by a release from an underground storage tank system that
17 the owner or operator of an underground storage tank system must
18 demonstrate under part 211 and the rules promulgated under that
19 part.

20 (**P**) ~~(n)~~ "Fund" means the Michigan underground storage tank
21 financial assurance fund created in section 21506.

22 (**Q**) ~~(o)~~ "Heating oil" means petroleum that is No. 1, No. 2,
23 No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6
24 technical grades of fuel oil; other residual fuel oils including
25 navy special fuel oil and bunker C; and other fuels when used as
26 substitutes for 1 of these fuel oils.

27 (**R**) ~~(p)~~ "Indemnification" means indemnification of an owner

1 or operator for a legally enforceable judgment entered against the
2 owner or operator by a third party, or a legally enforceable
3 settlement entered between the owner or operator and a third party,
4 compensating that third party for bodily injury or property damage,
5 or both, caused by an accidental release as those terms are defined
6 in R 29.2163 of the Michigan administrative code.

7 (S) ~~(q)~~ "Location" means a facility or parcel of property
8 where petroleum underground storage tank systems are registered
9 pursuant to part 211.

10 (T) ~~(r)~~ "Operator" means a person who was, at the time of
11 discovery of a release, in control of or responsible for the
12 operation of a petroleum underground storage tank system or a
13 person to whom an approved claim has been assigned or transferred.

14 (U) ~~(s)~~ "Owner" means a person, other than a regulated
15 financial institution, who, at the time of discovery of a release,
16 held a legal, equitable, or possessory interest of any kind in an
17 underground storage tank system or in the property on which an
18 underground storage tank system is located, including, but not
19 limited to, a trust, vendor, vendee, lessor, or lessee. Owner
20 includes a person to whom an approved claim is assigned or
21 transferred. Owner does not include a person or a regulated
22 financial institution who, without participating in the management
23 of an underground storage tank system and without being otherwise
24 engaged in petroleum production, refining, or marketing relating to
25 the underground storage tank system, is acting in a fiduciary
26 capacity or who holds indicia of ownership primarily to protect the
27 person's or the regulated financial institution's security interest

1 in the underground storage tank system or the property on which it
2 is located. This exclusion does not apply to a grantor,
3 beneficiary, remainderman, or other person who could directly or
4 indirectly benefit financially from the exclusion other than by the
5 receipt of payment for fees and expenses related to the
6 administration of a trust.

7 (V) ~~(t)~~ "Oxygenate" means an organic compound containing
8 oxygen and having properties as a fuel that are compatible with
9 petroleum, including, but not limited to, ethanol, methanol, or
10 methyl tertiary butyl ether (MTBE).

11 Sec. 21503. **AS USED IN THIS PART:**

12 (A) ~~(1)~~ "Payment voucher" means a form prepared by the
13 department that specifies payment authorization by the department
14 to the department of treasury.

15 (B) ~~(2)~~ "Petroleum" means crude oil, crude oil fractions,
16 and refined petroleum fractions including gasoline, kerosene,
17 heating oils, and diesel fuels.

18 (C) ~~(3)~~ "Petroleum underground storage tank system" means an
19 underground storage tank system used for the storage of petroleum.

20 (D) **"PRECERTIFICATION APPLICATION" MEANS THE APPLICATION**
21 **SUBMITTED BY AN OWNER OR OPERATOR SEEKING THE DEPARTMENT'S**
22 **ELIGIBILITY DETERMINATION FOR REIMBURSEMENT FOR THE COSTS OF**
23 **CORRECTIVE ACTION FROM THE TEMPORARY REIMBURSEMENT PROGRAM.**

24 (E) ~~(4)~~ "Refined petroleum" means aviation gasoline, middle
25 distillates, jet fuel, kerosene, gasoline, residual oils, and any
26 oxygenates that have been blended with any of these.

27 (F) **"REFINED PETROLEUM FUND" MEANS THE REFINED PETROLEUM FUND**

1 ESTABLISHED UNDER SECTION 21506A.

2 (G) "REFINED PETROLEUM PRODUCT CLEANUP INITIAL PROGRAM" MEANS
3 THE PROGRAM ESTABLISHED IN SECTION 21553.

4 (H) "REFINED PETROLEUM PRODUCT CLEANUP PROGRAM" MEANS THE
5 REFINED PETROLEUM PRODUCT CLEANUP INITIAL PROGRAM AND THE PROGRAM
6 TO BE ESTABLISHED AFTER THE REFINED PETROLEUM CLEANUP ADVISORY
7 COUNCIL MAKES RECOMMENDATIONS PURSUANT TO SECTION 21552(10).

8 (I) ~~(5)~~ "Regulated financial institution" means a state or
9 nationally chartered bank, savings and loan association or savings
10 bank, credit union, or other state or federally chartered lending
11 institution or a regulated affiliate or regulated subsidiary of any
12 of these entities.

13 (J) ~~(6)~~ "Regulatory fee" means the environmental protection
14 regulatory fee imposed under section 21508.

15 (K) ~~(7)~~ "Release" means any spilling, leaking, emitting,
16 discharging, escaping, or leaching from a petroleum underground
17 storage tank system into groundwater, surface water, or subsurface
18 soils.

19 (L) "SITE" MEANS A LOCATION WHERE A RELEASE HAS OCCURRED OR A
20 THREAT OF A RELEASE EXISTS FROM AN UNDERGROUND STORAGE TANK SYSTEM,
21 EXCLUDING ANY LOCATION WHERE CORRECTIVE ACTION WAS COMPLETED WHICH
22 SATISFIES THE CLEANUP CRITERIA FOR UNRESTRICTED RESIDENTIAL USE
23 UNDER PART 213.

24 (M) "TEMPORARY REIMBURSEMENT PROGRAM" MEANS THE PROGRAM
25 ESTABLISHED IN SECTION 21554.

26 (N) ~~(8)~~ "Underground storage tank system" means an existing
27 tank or combination of tanks, including underground pipes connected

1 to the tank or tanks, which is or was used to contain an
2 accumulation of regulated substances, and is not currently being
3 used for any other purpose, and the volume of which, including the
4 volume of the underground pipes connected to the tank or tanks, is
5 10% or more beneath the surface of the ground. An underground
6 storage tank system includes an underground storage tank that is
7 properly closed in place pursuant to part 211 and rules promulgated
8 under that part. An underground storage tank system does not
9 include any of the following:

10 (i) ~~-(a)-~~ A farm or residential tank of 1,100 gallons or less
11 capacity used for storing motor fuel for noncommercial purposes.

12 (ii) ~~-(b)-~~ A tank used for storing heating oil for consumptive
13 use on the premises where the tank is located.

14 (iii) ~~-(c)-~~ A septic tank.

15 (iv) ~~-(d)-~~ A pipeline facility, including gathering lines
16 regulated under either of the following:

17 (A) ~~-(i)-~~ The natural gas pipeline safety act of 1968, Public
18 Law 90-481, 49 ~~U.S.C.~~ **USC** Appx 1671 to 1677, 1679a to 1682, and
19 1683 to 1687.

20 (B) ~~-(ii)-~~ Sections 201 to 215, 217, and 219 of the hazardous
21 liquid pipeline safety act of 1979, title II of the pipeline safety
22 act of 1979, Public Law 96-129, 49 ~~U.S.C.~~ **USC** Appx 2001 to 2015.

23 (v) ~~-(e)-~~ A surface impoundment, pit, pond, or lagoon.

24 (vi) ~~-(f)-~~ A storm water or wastewater collection system.

25 (vii) ~~-(g)-~~ A flow-through process tank.

26 (viii) ~~-(h)-~~ A liquid trap or associated gathering lines
27 directly related to oil or gas production and gathering operations.

1 *(ix)* ~~-(i)~~ A storage tank situated in an underground area such
2 as a basement, cellar, mineworking, drift, shaft, or tunnel if the
3 storage tank is situated upon or above the surface of the floor.

4 *(x)* ~~-(j)~~ Any pipes connected to a tank described in
5 ~~subdivisions (a) to (i)~~ **SUBPARAGRAPHS (i) TO (ix)**.

6 *(xi)* ~~-(k)~~ An underground storage tank system holding hazardous
7 wastes listed or identified under subtitle C of the solid waste
8 disposal act, title II of Public Law 89-272, 42 ~~U.S.C.~~ **USC** 6921
9 to 6939e, or a mixture of such hazardous waste and other regulated
10 substances.

11 *(xii)* ~~-(l)~~ A wastewater treatment tank system that is part of a
12 wastewater treatment facility regulated under section 307(b) of
13 title III or section 402 of title IV of the federal water pollution
14 control act, 33 ~~U.S.C.~~ **USC** 1317 and 1342.

15 *(xiii)* ~~-(m)~~ Equipment or machinery that contains regulated
16 substances for operational purposes such as hydraulic lift tanks
17 and electrical equipment tanks.

18 *(xiv)* ~~-(n)~~ An underground storage tank system with a capacity
19 of 110 gallons or less.

20 *(xv)* ~~-(o)~~ An underground storage tank system that contains a
21 de minimis concentration of regulated substances.

22 *(xvi)* ~~-(p)~~ An emergency spill or overflow containment
23 underground storage tank system that is expeditiously emptied after
24 use.

25 *(xvii)* ~~-(q)~~ A wastewater treatment tank system.

26 *(xviii)* ~~-(r)~~ An underground storage tank system containing
27 radioactive material that is regulated under the atomic energy act

1 of 1954, chapter 1073, 68 Stat. 919.

2 **(xix)** ~~-(s)-~~ An underground storage tank system that is part of
3 an emergency generator system at nuclear power generation
4 facilities regulated by the nuclear regulatory commission under 10
5 ~~C.F.R.~~ **CFR** part 50, appendix A to part 50 of title 10 of the code
6 of federal regulations.

7 **(xx)** ~~-(t)-~~ Airport hydrant fuel distribution systems.

8 **(xxi)** ~~-(u)-~~ Underground storage tank systems with field-
9 constructed tanks.

10 **(O)** ~~-(9)-~~ "Work invoice" means an original billing acceptable
11 to the administrator and signed by the owner or operator and a
12 consultant that includes all of the following:

13 **(i)** ~~-(a)-~~ The name, address, and federal tax identification
14 number of each contractor who performed work.

15 **(ii)** ~~-(b)-~~ The name and social security number of each employee
16 who performed work.

17 **(iii)** ~~-(c)-~~ A specific itemized list of the work performed by
18 each contractor and an itemized list of the cost of each of these
19 items.

20 **(iv)** ~~-(d)-~~ A statement that the consultant employed a
21 documented sealed competitive bidding process for any contract
22 award exceeding \$5,000.00.

23 **(v)** ~~-(e)-~~ If the consultant did not accept the lowest
24 responsive bid received, a specific reason why the lowest
25 responsive bid was not accepted.

26 **(vi)** ~~-(f)-~~ Upon request of the administrator, a list of all
27 bids received.

1 (vii) ~~(g)~~ Proof of payment of the co-pay amount as required
2 under section 21514.

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

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

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

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

15 (a) For gasoline inspection programs under both of the
16 following:

17 (i) The weights and measures act, 1964 PA 283, MCL 290.601 to
18 290.634.

19 (ii) The motor fuels quality act, 1984 PA 44, MCL 290.641 to
20 290.650d.

21 **(B) NOT MORE THAN \$15,000,000.00 OF THE MONEY TRANSFERRED TO**
22 **THE REFINED PETROLEUM FUND PURSUANT TO SECTION 21506(B), FOR THE**
23 **REFINED PETROLEUM PRODUCT CLEANUP INITIAL PROGRAM AND FOR THE**
24 **DEPARTMENT'S ADMINISTRATIVE COSTS ASSOCIATED WITH THE TEMPORARY**
25 **REIMBURSEMENT PROGRAM.**

26 **(C) NOT MORE THAN \$45,000,000.00 OF THE MONEY TRANSFERRED TO**
27 **THE REFINED PETROLEUM FUND PURSUANT TO SECTION 21506(B) FOR**

1 **IMPLEMENTATION OF THE TEMPORARY REIMBURSEMENT PROGRAM.**

2 (D) ~~-(b)-~~ For corrective actions necessary to address releases
3 of refined petroleum products under a refined petroleum product
4 cleanup program established by law following the issuance of
5 recommendations from the refined petroleum cleanup advisory council
6 created in section 21552.

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

12 Sec. 21552. (1) The refined petroleum cleanup advisory council
13 is created.

14 (2) The council shall consist of all of the following:

15 (a) Two members appointed by the senate majority leader, 1 of
16 whom shall be a representative of the petroleum industry.

17 (b) Two members appointed by the speaker of the house of
18 representatives, 1 of whom shall be a representative of the
19 petroleum industry.

20 (c) Three members appointed by the governor, 1 of whom shall
21 be a representative of the petroleum industry.

22 (3) The members first appointed to the council shall be
23 appointed not later than 60 days after the effective date of the
24 amendatory act that added this section.

25 (4) Members of the council shall serve until a successor is
26 appointed.

27 (5) If a vacancy occurs on the council, the unexpired term

1 shall be filled in the same manner as the original appointment was
2 made.

3 (6) The first meeting of the council shall be called by the
4 director. At the first meeting, the council shall elect from among
5 its members a chairperson and other officers as it considers
6 necessary or appropriate. After the first meeting, the council
7 shall meet at least quarterly, or more frequently at the call of
8 the chairperson or if requested by 2 or more members.

9 (7) Five of the members of the council constitute a quorum for
10 the transaction of business at a meeting of the council. An
11 affirmative vote of a majority of the members of the council is
12 required for official action of the council.

13 (8) Members of the council shall serve without compensation.
14 However, members of the council may be reimbursed for their actual
15 and necessary expenses incurred in the performance of their
16 official duties as members of the council.

17 (9) As soon as practical, but not later than 60 days after all
18 members of the council have been appointed under subsection (2),
19 the council shall make a recommendation to the governor and the
20 legislature on how the money transferred under section 21506(6),
21 less any amounts appropriated for the fiscal year ending September
22 30, 2004, should be expended.

23 (10) By April 1, 2005, the council shall submit to the
24 governor and the legislature a report that does all of the
25 following:

26 (a) Evaluates and makes recommendations for a refined
27 petroleum cleanup program that provides for corrective actions

1 necessary to address releases of refined petroleum products. The
2 recommended refined petroleum cleanup program shall be designed to
3 benefit owners and operators and to provide for corrective actions
4 at locations for which an owner or operator who is liable for
5 corrective actions has not been identified or is insolvent.

6 (b) Makes recommendations on an appropriate limitation on
7 administrative costs under section 21506a(4)(c).

8 (c) Makes recommendations to update obsolete provisions of
9 this part.

10 (11) Effective 180 days after the council submits its report
11 under subsection (10), the council is dissolved.

12 (12) This section is repealed ~~August 1~~ **DECEMBER 31**, 2006.

13 **SEC. 21553. THE DEPARTMENT SHALL ESTABLISH A REFINED PETROLEUM**
14 **PRODUCT CLEANUP INITIAL PROGRAM TO CONDUCT CORRECTIVE ACTIONS**
15 **ASSOCIATED WITH RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANK**
16 **SYSTEMS.**

17 **SEC. 21554. THE DEPARTMENT SHALL ESTABLISH A TEMPORARY**
18 **REIMBURSEMENT PROGRAM TO PROMOTE PROGRESS TOWARD CLOSURE OF**
19 **RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS BY**
20 **PROVIDING FINANCIAL INCENTIVES FOR ELIGIBLE PERSONS TO CONDUCT**
21 **CORRECTIVE ACTIONS FOR THOSE RELEASES.**

22 **SEC. 21555. THE DEPARTMENT SHALL ADMINISTER THE TEMPORARY**
23 **REIMBURSEMENT PROGRAM AND BE RESPONSIBLE FOR PROCESSING**
24 **PRECERTIFICATION APPLICATIONS AND SUBSEQUENT WORK INVOICES**
25 **SUBMITTED BY ELIGIBLE PERSONS IN ACCORDANCE WITH THIS PART.**
26 **BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED**
27 **THIS SECTION, THE DEPARTMENT SHALL COMMENCE IMPLEMENTATION OF THE**

1 TEMPORARY REIMBURSEMENT PROGRAM AS PROVIDED IN SECTIONS 21556 AND
2 21557. THE INITIATION DATE OF THE FIRST ROUND PRECERTIFICATION
3 APPLICATION PERIOD SHALL OCCUR NO LATER THAN 120 DAYS AFTER THE
4 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION. THE
5 DEPARTMENT SHALL PROVIDE NOTICE OF THE INITIATION DATE TO
6 APPLICABLE TRADE ASSOCIATIONS AND SHALL PROVIDE NOTICE THROUGH AN
7 ELECTRONIC DISTRIBUTION LIST AND THE DEPARTMENT'S WEBSITE. NOT
8 LATER THAN 210 DAYS AFTER THE INITIATION DATE OF THE FIRST ROUND,
9 THE DEPARTMENT SHALL DETERMINE WHETHER SUFFICIENT FUNDING IS
10 AVAILABLE TO IMPLEMENT A SECOND ROUND TEMPORARY REIMBURSEMENT
11 PROGRAM PURSUANT TO SECTION 21557. IF THE DEPARTMENT DETERMINES
12 THAT SUFFICIENT FUNDS ARE AVAILABLE, THE DEPARTMENT SHALL PROVIDE
13 NOTICE OF THE INITIATION DATE OF THE SECOND ROUND PRECERTIFICATION
14 APPLICATION PERIOD IN THE SAME MANNER AS THE FIRST ROUND
15 NOTIFICATION PROCESS. THE INITIATION DATE OF THE SECOND ROUND
16 PRECERTIFICATION APPLICATION PERIOD SHALL OCCUR NOT LATER THAN 60
17 DAYS AFTER THE DEPARTMENT DETERMINES FUNDING IS AVAILABLE FOR THE
18 SECOND ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM.

19 SEC. 21556. (1) TO BE CONSIDERED FOR ELIGIBILITY FOR
20 REIMBURSEMENT UNDER THE FIRST ROUND OF THE TEMPORARY REIMBURSEMENT
21 PROGRAM, A PERSON SHALL SUBMIT TO THE DEPARTMENT A COMPLETED FIRST
22 ROUND PRECERTIFICATION APPLICATION ON A FORM PROVIDED BY THE
23 DEPARTMENT. A PERSON MAY SUBMIT MORE THAN 1 FIRST ROUND
24 PRECERTIFICATION APPLICATION IF HE OR SHE POSSESSES MORE THAN 1
25 APPROVED CLAIM FOR RELEASES THAT MEET THE ELIGIBILITY REQUIREMENTS
26 IN SUBSECTION (3)(A) TO (D).

27 (2) THE COMPLETED FIRST ROUND PRECERTIFICATION APPLICATION

1 SHALL BE SUBMITTED WITHIN 180 DAYS OF THE DEPARTMENT'S INITIATION
2 DATE OF THE APPLICATION PERIOD. FIRST ROUND PRECERTIFICATION
3 APPLICATIONS RECEIVED BY THE DEPARTMENT AFTER 5 P.M. ON THE ONE
4 HUNDRED EIGHTIETH DAY FOLLOWING THE DEPARTMENT'S INITIATION DATE OF
5 THE APPLICATION PERIOD WILL NOT BE CONSIDERED FOR APPROVAL.

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

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

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

15 (C) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
16 CAUSED THE SITE TO BE CLASSIFIED AS A CLASS 1 OR CLASS 2 SITE
17 PURSUANT TO THE DEPARTMENT'S AUTHORITY AS SET FORTH IN SECTION
18 21314A, BASED ON THE MOST RECENTLY SUBMITTED DATA OR REPORTS PRIOR
19 TO MAY 9, 2005, OR AS OTHERWISE DETERMINED BY THE DEPARTMENT PRIOR
20 TO MAY 9, 2005.

21 (D) REGARDING UNDERGROUND STORAGE TANK SYSTEMS THAT ARE
22 OPERATING AT THE LOCATION FROM WHICH THE RELEASE OCCURRED, THAT THE
23 OWNER OR OPERATOR, IF HE OR SHE IS THE APPLICANT, IS CURRENTLY IN
24 COMPLIANCE WITH THE REGISTRATION AND FEE REQUIREMENTS OF PART 211.

25 (4) ALL APPLICATIONS FOR THE TEMPORARY REIMBURSEMENT PROGRAM
26 SHALL BE CONSIDERED ON A FIRST-COME, FIRST-SERVED BASIS. IF THE
27 FIRST ROUND PRECERTIFICATION APPLICATION RECEIVED BY THE DEPARTMENT

1 SUCCESSFULLY DEMONSTRATES ELIGIBILITY IN ACCORDANCE WITH
2 SUBSECTIONS (2) AND (3), THE DEPARTMENT SHALL APPROVE THE FIRST
3 ROUND PRECERTIFICATION APPLICATION. NOT MORE THAN 900
4 PRECERTIFICATION APPLICATIONS SHALL BE APPROVED BY THE DEPARTMENT.

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

9 (6) ONLY CORRECTIVE ACTION COSTS INCURRED AFTER THE DATE OF
10 APPROVAL OF THE PRECERTIFICATION APPLICATION AND UP TO THE FIVE
11 HUNDRED FORTIETH DAY FOLLOWING PRECERTIFICATION APPLICATION
12 APPROVAL SHALL BE CONSIDERED FOR REIMBURSEMENT BY THE DEPARTMENT.
13 CORRECTIVE ACTION COSTS INCURRED AFTER THE FIVE HUNDRED FORTIETH
14 DAY ARE NOT ELIGIBLE FOR REIMBURSEMENT.

15 (7) AN ELIGIBLE PERSON MAY RECEIVE UP TO \$50,000.00 OR SUCH
16 ADDITIONAL AMOUNT AS MAY BE MADE AVAILABLE PURSUANT TO SECTION
17 21557(8), FOR APPROVED CORRECTIVE ACTION COSTS FOR EACH APPROVED
18 PRECERTIFICATION APPLICATION.

19 (8) AN ELIGIBLE PERSON SHALL SUBMIT ALL WORK INVOICES FOR
20 WHICH REIMBURSEMENT IS BEING SOUGHT TO THE DEPARTMENT WITHIN 600
21 DAYS FOLLOWING THE PRECERTIFICATION APPLICATION APPROVAL DATE. AN
22 ELIGIBLE PERSON SHALL NOT SUBMIT A REQUEST FOR REIMBURSEMENT THAT
23 TOTALS LESS THAN \$5,000.00 FOR THE COSTS OF CORRECTIVE ACTION,
24 EXCEPT FOR THE LAST REIMBURSEMENT REQUEST.

25 (9) ELIGIBLE PERSONS SHALL RECEIVE REIMBURSEMENT OF 80% OF THE
26 AMOUNT OF EACH APPROVED WORK INVOICE UNTIL THE MAXIMUM
27 REIMBURSEMENT AMOUNT IS REACHED. THE REMAINING 20% SHALL BE

1 CONSIDERED THE CO-PAY AMOUNT. PROOF OF PAYMENT OF THE CO-PAY AMOUNT
2 IS REQUIRED WITH EACH WORK INVOICE SUBMITTAL.

3 (10) CORRECTIVE ACTIONS FOR WHICH REIMBURSEMENT IS SOUGHT MUST
4 CONFORM TO THE REQUIREMENTS OF PART 213 AND SECTION 21558. REQUESTS
5 FOR REIMBURSEMENT ARE SUBJECT TO SECTIONS 21559 TO 21561.

6 (11) ANY ALLOCATED AMOUNT FOR REIMBURSEMENT IN THE FIRST ROUND
7 THAT IS NOT EXPENDED, BUT SUBJECT TO APPEAL PURSUANT TO SECTION
8 21561, SHALL BE HELD IN RESERVE UNTIL THE APPEAL IS EXHAUSTED AND A
9 FINAL REIMBURSEMENT DETERMINATION IS MADE.

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

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

21 (3) THE COMPLETED SECOND ROUND PRECERTIFICATION APPLICATION
22 SHALL BE SUBMITTED WITHIN 30 DAYS OF THE INITIATION DATE OF THE
23 SECOND ROUND APPLICATION PERIOD. SECOND ROUND PRECERTIFICATION
24 APPLICATIONS RECEIVED BY THE DEPARTMENT AFTER 5 P.M. ON THE
25 THIRTIETH DAY FOLLOWING THE INITIATION DATE OF THE SECOND ROUND
26 APPLICATION PERIOD WILL NOT BE CONSIDERED FOR APPROVAL.

27 (4) IN ORDER FOR A PERSON TO BE ELIGIBLE FOR REIMBURSEMENT

1 UNDER THE SECOND ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM, THE
2 COMPLETED SECOND ROUND PRECERTIFICATION APPLICATION SHALL
3 DEMONSTRATE ALL OF THE FOLLOWING:

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

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

9 (C) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
10 CAUSED THE SITE TO BE CLASSIFIED AS A CLASS 1 OR CLASS 2 SITE
11 PURSUANT TO THE DEPARTMENT'S AUTHORITY AS SET FORTH IN SECTION
12 21314A, BASED ON THE MOST RECENTLY SUBMITTED DATA OR REPORTS, OR AS
13 OTHERWISE DETERMINED BY THE DEPARTMENT.

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

18 (5) AN ELIGIBLE PERSON MAY RECEIVE UP TO \$50,000.00 FOR
19 APPROVED CORRECTIVE ACTION COSTS FOR EACH APPROVED SECOND ROUND
20 PRECERTIFICATION APPLICATION OR SUCH ADDITIONAL AMOUNT AS MAY BE
21 MADE AVAILABLE PURSUANT TO SECTION 21557(8). IF THE NUMBER OF
22 PRECERTIFICATION APPLICATIONS EXCEEDS AVAILABLE TEMPORARY
23 REIMBURSEMENT PROGRAM FUNDING FOR THE SECOND ROUND, THE REMAINING
24 TEMPORARY REIMBURSEMENT PROGRAM FUNDS SHALL BE ALLOCATED AT
25 \$50,000.00 PER LOCATION ON A FIRST-COME, FIRST-SERVED BASIS EXCEPT
26 AS FOLLOWS:

27 (A) FIRST PRIORITY SHALL BE GIVEN TO PERSONS THAT RECEIVED NO

1 PRECERTIFICATION APPLICATION APPROVALS IN THE FIRST ROUND AND THAT
2 MEET THE REQUIREMENTS OF SECTION 21557(2) TO (4).

3 (B) IF TEMPORARY REIMBURSEMENT PROGRAM FUNDS REMAIN AFTER
4 ALLOCATING FUNDS UNDER SUBDIVISION (A), SECOND PRIORITY SHALL BE
5 GIVEN TO PERSONS THAT RECEIVED PRECERTIFICATION APPLICATION
6 APPROVAL IN THE FIRST ROUND AND THAT SUBMIT A SECOND ROUND
7 PRECERTIFICATION APPLICATION TO THE DEPARTMENT FOR A DIFFERENT
8 LOCATION THAT MEETS THE REQUIREMENTS OF SUBSECTIONS (3) AND (4).

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

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

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

25 (9) ANY ALLOCATED AMOUNT FOR REIMBURSEMENT THAT IS NOT
26 EXPENDED BUT SUBJECT TO APPEAL, PURSUANT TO SECTION 21561, SHALL BE
27 HELD IN RESERVE UNTIL THE APPEAL IS EXHAUSTED AND A FINAL

1 REIMBURSEMENT DETERMINATION IS MADE.

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

5 (2) THE CONSULTANT SHALL COMPLY WITH ALL OF THE FOLLOWING
6 REQUIREMENTS:

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

10 (i) WELL DRILLING, INCLUDING MONITORING WELLS.

11 (ii) LABORATORY ANALYSIS.

12 (iii) CONSTRUCTION OF TREATMENT SYSTEMS.

13 (iv) REMOVAL OF CONTAMINATED SOIL.

14 (v) OPERATION OF TREATMENT SYSTEMS.

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

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

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

24 (E) THE CONSULTANT SHALL NOTIFY THE DEPARTMENT IN WRITING OF
25 THE BID ACCEPTED. IF THE LOWEST RESPONSIVE BID WAS NOT ACCEPTED,
26 THE CONSULTANT SHALL PROVIDE SUFFICIENT JUSTIFICATION TO THE
27 DEPARTMENT AND RECEIVE CONCURRENCE FROM THE DEPARTMENT BEFORE

1 COMMENCING WORK. FAILURE OF THE DEPARTMENT TO PROVIDE A RESPONSE
2 WITHIN 21 DAYS SHALL BE CONSIDERED AS CONCURRENCE.

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

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

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

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

19 SEC. 21559. (1) TO RECEIVE MONEY UNDER THE TEMPORARY
20 REIMBURSEMENT PROGRAM FOR CORRECTIVE ACTION, ALL OF THE FOLLOWING
21 CONDITIONS SHALL BE MET:

22 (A) THE ELIGIBLE PERSON, AND THE CONSULTANT RETAINED BY THE
23 ELIGIBLE PERSON, SHALL FOLLOW THE PROCEDURES OUTLINED IN THIS
24 SECTION AND SHALL SUBMIT REPORTS, WORK PLANS, FEASIBILITY ANALYSES,
25 HYDROGEOLOGICAL STUDIES, AND CORRECTIVE ACTION PLANS PREPARED UNDER
26 PART 213 TO THE DEPARTMENT AND SHALL PROVIDE OTHER INFORMATION
27 REQUIRED BY THE DEPARTMENT RELEVANT TO DETERMINING COMPLIANCE WITH

1 THIS PART AND PART 213.

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

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

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

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

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

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

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

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

22 (C) WHETHER THE ELIGIBLE PERSON IS ELIGIBLE TO RECEIVE FUNDING
23 UNDER THIS PART.

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

26 (3) THE DEPARTMENT SHALL DENY PAYMENT OF A WORK INVOICE IF THE
27 DEPARTMENT DETERMINES THAT THE CORRECTIVE ACTION WORK PERFORMED IS

1 NOT CONSISTENT WITH THE REQUIREMENTS OF PART 213 OR DOES NOT COMPLY
2 WITH THE REQUIREMENTS OF THIS PART.

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

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

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

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

21 (7) UPON DIRECTION OF THE DEPARTMENT, THE STATE TREASURER MAY
22 WITHHOLD PARTIAL PAYMENT OF MONEY ON PAYMENT VOUCHERS IF THERE IS
23 REASONABLE CAUSE TO BELIEVE THAT THERE ARE SUSPECTED VIOLATIONS OF
24 SECTION 21548 OR IF NECESSARY TO ASSURE ACCEPTABLE COMPLETION OF
25 THE CORRECTIVE ACTIONS.

26 (8) THE TEMPORARY REIMBURSEMENT PROGRAM IS SUBJECT TO THE
27 TERMS OF SECTION 21548.

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

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

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

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

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

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

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

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

20 (B) TWO REPRESENTATIVES OF THE DEPARTMENT APPOINTED BY THE
21 DIRECTOR.

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

25 (4) A VACANCY ON THE ADVISORY BOARD SHALL BE FILLED IN THE
26 SAME MANNER AS THE ORIGINAL APPOINTMENT WAS MADE.

27 (5) THE FIRST MEETING OF THE ADVISORY BOARD SHALL BE CALLED BY

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

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

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

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

27 (9) A MEMBER OF THE ADVISORY BOARD SHALL ABSTAIN FROM VOTING

1 ON ANY MATTER IN WHICH THAT MEMBER HAS A CONFLICT OF INTEREST.

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

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

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