



HOUSE BILL No. 5672

March 12, 1996, Introduced by Reps. Wetters, Middaugh, Alley, DeHart, Bobier, Freeman, Sikkema, Bodem, Hill, Byl and Yokich and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend sections 19507, 20101, 20108, and 20113 of Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," section 19507 as added by Act No. 60 of the Public Acts of 1995, section 20101 as amended by Act No. 117 of the Public Acts of 1995, and section 20113 as amended by Act No. 71 of the Public Acts of 1995, being sections 324.19507, 324.20101, 324.20108, and 324.20113 of the Michigan Compiled Laws; to add sections 20104a, 20108a, 20108b, 20108c, and 20109a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 19507, 20101, 20108, and 20113 of Act
2 No. 451 of the Public Acts of 1994, section 19507 as added by Act
3 No. 60 of the Public Acts of 1995, section 20101 as amended by
4 Act No. 117 of the Public Acts of 1995, and section 20113 as

1 amended by Act No. 71 of the Public Acts of 1995, being sections
2 324.19507, 324.20101, 324.20108, and 324.20113 of the Michigan
3 Compiled Laws, are amended and sections 20104a, 20108a, 20108b,
4 20108c, and 20109a are added to read as follows:

5 Sec. 19507. (1) The total proceeds of all bonds issued
6 under former Act No. 326 of the Public Acts of 1988 or part 193
7 shall be deposited into the fund and allocated as follows:

8 (a) Except as provided in section 19508(1)(a)(ii), not more
9 than \$425,000,000.00 shall be used to clean up sites of toxic and
10 other environmental contamination.

11 (b) Not more than \$150,000,000.00 shall be used for solid
12 waste projects including, but not limited to, reducing, recycl-
13 ing, and properly disposing of solid waste. MONEY THAT IS APPRO-
14 PRIATED UNDER THIS SUBDIVISION THAT REVERTS TO THE FUND SHALL BE
15 TRANSFERRED TO THE CLEANUP AND REDEVELOPMENT FUND CREATED IN SEC-
16 TION 20108.

17 (c) Not more than \$60,000,000.00 shall be used to capitalize
18 the state water pollution control revolving fund established pur-
19 suant to section 16a of the shared credit rating act, Act No. 227
20 of the Public Acts of 1985, being section 141.1066a of the
21 Michigan Compiled Laws.

22 (d) Not more than \$25,000,000.00 shall be used to fund this
23 state's participation in a regional Great Lakes protection fund.

24 (2) The state treasurer shall direct the investment of the
25 fund. Except as otherwise may be required by the resolution
26 authorizing the issuance of the bonds in order to maintain the
27 exclusion from gross income of the interest paid on the bonds or

1 to comply with state or federal law, interest and earnings from
2 investment of the proceeds of any bond issue shall be ~~allocated~~
3 ~~in the same proportion as earned on the investment of the pro-~~
4 ~~ceeds of the bond issue~~ TRANSFERRED TO THE CLEANUP AND REDEVEL-
5 OPMENT FUND CREATED IN SECTION 20108, except for the fiscal years
6 1992-93 and 1993-94, when any such interest and earnings accrued
7 in those, or prior fiscal years, shall be deposited in the state
8 water pollution control revolving fund established pursuant to
9 section 16a of Act No. 227 of the Public Acts of 1985.

10 (3) Except as otherwise may be required by the resolution
11 authorizing the issuance of the bonds in order to maintain the
12 exclusion from gross income of the interest paid on the bonds or
13 to comply with state or federal law, all repayments of principal
14 and interest earned under a loan program ~~provided in this part~~
15 CREATED WITH MONEY UNDER SUBSECTION (1)(B) shall be ~~credited to~~
16 ~~the appropriate restricted subaccounts of the fund and used for~~
17 ~~the purposes authorized for the use of bond proceeds deposited in~~
18 ~~that subaccount or to pay debt service on any obligation issued~~
19 ~~which pledges the loan repayments and the proceeds of which are~~
20 ~~deposited in that subaccount~~ TRANSFERRED TO THE CLEANUP AND
21 REDEVELOPMENT FUND CREATED IN SECTION 20108.

22 (4) The unencumbered balance in the fund at the close of the
23 fiscal year shall remain in the fund and shall not revert to the
24 general fund.

25 Sec. 20101. (1) As used in this part:

26 (a) "Act of God" means an unanticipated grave natural
27 disaster or other natural phenomenon of an exceptional,

1 inevitable, and irresistible character, the effects of which
2 could not have been prevented or avoided by the exercise of due
3 care or foresight.

4 (b) "Agricultural property" means real property used for
5 farming in any of its branches, including cultivating of soil;
6 growing and harvesting of any agricultural, horticultural, or
7 floricultural commodity; dairying; raising of livestock, bees,
8 fish, fur-bearing animals, or poultry; turf and tree farming; and
9 performing any practices on a farm as an incident to, or in con-
10 junction with, these farming operations. Agricultural property
11 does not include property used for commercial storage, process-
12 ing, distribution, marketing, or shipping operations.

13 (c) "Attorney general" means the department of the attorney
14 general.

15 (d) "Baseline environmental assessment" means an evaluation
16 of environmental conditions which exist at a facility at the time
17 of purchase, occupancy, or foreclosure that reasonably defines
18 the existing conditions and circumstance at the facility so that,
19 in the event of a subsequent release, there is a means of distin-
20 guishing the new release from existing contamination.

21 (E) "BOARD" MEANS THE BROWNFIELD REDEVELOPMENT BOARD CREATED
22 IN SECTION 20104A.

23 (F) "DEPARTMENT" MEANS THE DIRECTOR OF THE DEPARTMENT OF
24 ENVIRONMENTAL QUALITY OR HIS OR HER DESIGNEE TO WHOM THE DIRECTOR
25 DELEGATES A POWER OR DUTY BY WRITTEN INSTRUMENT.

26 (G) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF
27 ENVIRONMENTAL QUALITY.

1 (H) ~~(e)~~ "Directors" means the directors or their designees
2 of the departments of ~~natural resources~~ ENVIRONMENTAL QUALITY,
3 public health, agriculture, and state police.

4 (I) ~~(f)~~ "Disposal" means the discharge, deposit, injec-
5 tion, dumping, spilling, leaking, or placing of any hazardous
6 substance into or on any land or water so that the hazardous sub-
7 stance or any constituent of the hazardous substance may enter
8 the environment or be emitted into the air or discharged into any
9 groundwater or surface water.

10 (J) ~~(g)~~ "Enforcement costs" means court expenses, reason-
11 able attorney fees of the attorney general, and other reasonable
12 expenses of an executive department that are incurred in relation
13 to enforcement under this part or rules promulgated under this
14 part, or both.

15 (K) ~~(h)~~ "Environment" or "natural resources" means land,
16 surface water, groundwater, subsurface, strata, air, fish, wild-
17 life, or biota within the state.

18 (L) ~~(i)~~ "Environmental contamination" means the release of
19 a hazardous substance, or the potential release of a discarded
20 hazardous substance, in a quantity which is or may become injuri-
21 ous to the environment or to the public health, safety, or
22 welfare.

23 (M) ~~(j)~~ "Evaluation" means those activities including, but
24 not limited to, investigation, studies, sampling, analysis,
25 development of feasibility studies, and administrative efforts
26 that are needed to determine the nature, extent, and impact of a
27 release or threat of release and necessary response activities.

1 (N) ~~(k)~~ "Exacerbation" means the occurrence of either of
2 the following caused by an activity undertaken by the person who
3 owns or operates the property, with respect to existing
4 contamination:

5 (i) Contamination that has migrated beyond the boundaries of
6 the property which is the source of the release at levels above
7 cleanup criteria specified in section 20120a(1)(a) unless a cri-
8 terion is not relevant because exposure is reliably restricted
9 pursuant to section 20120b.

10 (ii) A change in facility conditions that increases response
11 activity costs.

12 (O) ~~(l)~~ "Facility" means any area, place, or property
13 where a hazardous substance in excess of the concentrations which
14 satisfy the requirements of section 20120a(1)(a) or (17) has been
15 released, deposited, disposed of, or otherwise comes to be
16 located. Facility does not include any area, place, or property
17 at which response activities have been completed which satisfy
18 the cleanup criteria for the residential category provided for in
19 section 20120a(1)(a) and (17).

20 (P) ~~(m)~~ "Feasibility study" means a process for develop-
21 ing, evaluating, and selecting appropriate response activities.

22 (Q) ~~(n)~~ "Foreclosure" means possession of a property by a
23 lender on which it has foreclosed on a security interest or the
24 expiration of a lawful redemption period, whichever occurs
25 first.

26 (R) ~~(o)~~ "Free product" means a hazardous substance in a
27 liquid phase equal to or greater than 1/8 inch of measurable

1 thickness that is not dissolved in water and that has been
2 released into the environment.

3 (S) ~~(p)~~ "Fund" means the ~~environmental response~~ CLEANUP
4 AND REDEVELOPMENT fund established in section 20108.

5 (T) ~~(q)~~ "Hazardous substance" means 1 or more of the fol-
6 lowing, but does not include fruit, vegetable, or field crop
7 residuals or processing by-products, or aquatic plants, that are
8 applied to the land for an agricultural use or for use as an
9 animal feed, if the use is consistent with generally accepted
10 agricultural management practices developed pursuant to the
11 Michigan right to farm act, Act No. 93 of the Public Acts of
12 1981, being sections 286.471 to 286.474 of the Michigan Compiled
13 Laws:

14 (i) Any substance that the department demonstrates, on a
15 case by case basis, poses an unacceptable risk to the public
16 health, safety, or welfare, or the environment, considering the
17 fate of the material, dose-response, toxicity, or adverse impact
18 on natural resources.

19 (ii) Hazardous substance as defined in the comprehensive
20 environmental response, compensation, and liability act of 1980,
21 Public Law 96-510, 94 Stat. 2767.

22 (iii) Hazardous waste as defined in part 111.

23 (iv) Petroleum as described in part 213.

24 (U) ~~(r)~~ "Interim response activity" means the cleanup or
25 removal of a released hazardous substance or the taking of other
26 actions, prior to the implementation of a remedial action, as may
27 be necessary to prevent, minimize, or mitigate injury to the

1 public health, safety, or welfare, or to the environment.
2 Interim response activity also includes, but is not limited to,
3 measures to limit access, replacement of water supplies, and tem-
4 porary relocation of people as determined to be necessary by the
5 department. In addition, interim response activity means the
6 taking of other actions as may be necessary to prevent, minimize,
7 or mitigate a threatened release.

8 (V) ~~(s)~~ "Lender" means any of the following:

9 (i) A state or nationally chartered bank.

10 (ii) A state or federally chartered savings and loan associ-
11 ation or savings bank.

12 (iii) A state or federally chartered credit union.

13 (iv) Any other state or federally chartered lending institu-
14 tion or regulated affiliate or regulated subsidiary of any entity
15 listed in this subparagraph or subparagraphs (i) to (iii).

16 (v) An insurance company authorized to do business in this
17 state pursuant to the insurance code of 1956, Act No. 218 of the
18 Public Acts of 1956, being sections 500.100 to 500.8302 of the
19 Michigan Compiled Laws.

20 (vi) A motor vehicle finance company subject to the motor
21 vehicle finance act, Act No. 27 of the Extra Session of 1950,
22 being sections 492.101 to 492.141 of the Michigan Compiled Laws,
23 with net assets in excess of \$50,000,000.00.

24 (vii) A foreign bank.

25 (viii) A retirement fund regulated pursuant to state law or
26 a pension fund regulated pursuant to federal law with net assets
27 in excess of \$50,000,000.00.

1 (ix) A state or federal agency authorized by law to hold a
2 security interest in real property or a local unit of government
3 holding a reversionary interest in real property.

4 (x) A nonprofit tax exempt organization created to promote
5 economic development in which a majority of the organization's
6 assets are held by a local unit of government.

7 (xi) Any other person who loans money for the purchase of or
8 improvement of real property.

9 (xii) Any person who retains or receives a security interest
10 to service a debt or to secure a performance obligation.

11 (W) ~~(t)~~ "Local health department" means that term as
12 defined in section 1105 of the public health code, Act No. 368 of
13 the Public Acts of 1978, being section 333.1105 of the Michigan
14 Compiled Laws.

15 (X) ~~(u)~~ "Local unit of government" means a county, city,
16 township, or village, an agency of a local unit of government, an
17 authority or any other public body or entity created by or pursu-
18 ant to state law. Local unit of government does not include the
19 state or federal government or a state or federal agency.

20 (Y) ~~(v)~~ "Operator" means a person who is in control of or
21 responsible for the operation of a facility. Operator does not
22 include either of the following:

23 (i) A person who holds indicia of ownership primarily to
24 protect the person's security interest in the facility, unless
25 that person participates in the management of the facility as
26 described in section 20101a.

1 (ii) A person who is acting as a fiduciary in compliance
2 with section 20101b.

3 (Z) ~~(w)~~ "Owner" means a person who owns a facility. Owner
4 does not include either of the following:

5 (i) A person who holds indicia of ownership primarily to
6 protect the person's security interest in the facility, includ-
7 ing, but not limited to, a vendor's interest under a recorded
8 land contract, unless that person participates in the management
9 of the facility as described in section 20101a.

10 (ii) A person who is acting as a fiduciary in compliance
11 with section 20101b.

12 (AA) ~~(x)~~ "Permitted release" means 1 or more of the
13 following:

14 (i) A release in compliance with an applicable, legally
15 enforceable permit issued under state law.

16 (ii) A lawful and authorized discharge into a permitted
17 waste treatment facility.

18 (iii) A federally permitted release as defined in the com-
19 prehensive environmental response, compensation, and liability
20 act of 1980, Public Law 96-510, 94 Stat. 2767.

21 (BB) ~~(y)~~ "Release" includes, but is not limited to, any
22 spilling, leaking, pumping, pouring, emitting, emptying, dis-
23 charging, injecting, escaping, leaching, dumping, or disposing of
24 a hazardous substance into the environment, or the abandonment or
25 discarding of barrels, containers, and other closed receptacles
26 containing a hazardous substance. Release does not include any
27 of the following:

1 (i) A release that results in exposure to persons solely
2 within a workplace, with respect to a claim that these persons
3 may assert against their employers.

4 (ii) Emissions from the engine exhaust of a motor vehicle,
5 rolling stock, aircraft, or vessel.

6 (iii) A release of source, by-product, or special nuclear
7 material from a nuclear incident, as those terms are defined in
8 the atomic energy act of 1954, chapter 1073, 68 Stat. 919, if the
9 release is subject to requirements with respect to financial pro-
10 tection established by the nuclear regulatory commission under
11 section 170 of chapter 14 of title I of the atomic energy act of
12 1954, chapter 1073, 71 Stat. 576, 42 U.S.C. 2210, or any release
13 of source by-product or special nuclear material from any pro-
14 cessing site designated under section 102(a)(1) of title I or
15 302(a) of title III of the uranium mill tailings radiation con-
16 trol act of 1978, Public Law 95-604, 42 U.S.C. 7912 and 7942.

17 (iv) If applied according to label directions and according
18 to generally accepted agricultural and management practices, the
19 application of a fertilizer, soil conditioner, agronomically
20 applied manure, or pesticide, or fruit, vegetable, or field crop
21 residuals or processing by-products, aquatic plants, or a combi-
22 nation of these substances. As used in this subparagraph, fer-
23 tilizer and soil conditioner have the meaning given to these
24 terms in part 85, and pesticide has the meaning given to that
25 term in part 83.

26 (v) A release does not include fruits, vegetables, field
27 crop processing by-products, or aquatic plants, that are applied

1 to the land for an agricultural use or for use as an animal feed,
2 if the use is consistent with generally accepted agricultural and
3 management practices developed pursuant to the Michigan right to
4 farm act, Act No. 93 of the Public Acts of 1981, being sections
5 286.471 to 286.474 of the Michigan Compiled Laws.

6 (CC) ~~(z)~~ "Remedial action" includes, but is not limited
7 to, cleanup, removal, containment, isolation, destruction, or
8 treatment of a hazardous substance released or threatened to be
9 released into the environment, monitoring, maintenance, or the
10 taking of other actions that may be necessary to prevent, mini-
11 mize, or mitigate injury to the public health, safety, or wel-
12 fare, or to the environment.

13 (DD) ~~(aa)~~ "Remedial action plan" means a work plan for
14 performing remedial action under this part.

15 (EE) ~~(bb)~~ "Response activity" means evaluation, interim
16 response activity, remedial action, DEMOLITION, or the taking of
17 other actions necessary to protect the public health, safety, or
18 welfare, or the environment or the natural resources. Response
19 activity also includes health assessments or health effect
20 studies carried out under the supervision, or with the approval
21 of, the department of public health and enforcement actions
22 related to any response activity.

23 (FF) ~~(cc)~~ "Response activity costs" or "costs of response
24 activity" means all costs incurred in taking or conducting a
25 response activity, including enforcement costs.

26 (GG) ~~(dd)~~ "Security interest" means any interest,
27 including a reversionary interest, in real property created or

1 established for the purpose of securing a loan or other
2 obligation. Security interests include, but are not limited to,
3 mortgages, deeds of trusts, liens, and title pursuant to lease
4 financing transactions. Security interests may also arise from
5 transactions such as sale and leasebacks, conditional sales,
6 installment sales, trust receipt transactions, certain assign-
7 ments, factoring agreements, accounts receivable financing
8 arrangements, consignments, or any other transaction in which
9 evidence of title is created if the transaction creates or estab-
10 lishes an interest in real property for the purpose of securing a
11 loan or other obligation.

12 (HH) ~~(ee)~~ "Site" means the location of environmental
13 contamination.

14 (II) ~~(ff)~~ "Threatened release" or "threat of release"
15 means any circumstance that may reasonably be anticipated to
16 cause a release.

17 (2) As used in this part, the phrase "a person who is
18 liable" includes a person who is described as being subject to
19 liability in section 20126. The phrase "a person who is liable"
20 does not presume that liability has been adjudicated.

21 SEC. 20104A. (1) THE BROWNFIELD REDEVELOPMENT BOARD IS CRE-
22 ATED WITHIN THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

23 (2) THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

24 (A) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
25 OR HIS OR HER DESIGNEE.

26 (B) THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT AND BUDGET
27 OR HIS OR HER DESIGNEE.

1 (C) THE CHIEF EXECUTIVE OFFICER OF THE JOBS COMMISSION OR
2 HIS OR HER DESIGNEE.

3 (3) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A
4 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE
5 BOARD.

6 (4) THE BUSINESS WHICH THE BOARD MAY PERFORM SHALL BE CON-
7 DUCTED AT A PUBLIC MEETING OF THE BOARD HELD IN COMPLIANCE WITH
8 THE OPEN MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976,
9 BEING SECTIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS.

10 (5) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF,
11 OR RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNC-
12 TION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF
13 THE PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE
14 MICHIGAN COMPILED LAWS.

15 (6) THE BOARD SHALL CARRY OUT THE DUTIES AND RESPONSIBILI-
16 TIES AS PROVIDED IN THIS PART AND AS OTHERWISE PROVIDED BY LAW.

17 Sec. 20108. (1) ~~An environmental response~~ THE CLEANUP AND
18 REDEVELOPMENT fund is ~~established in the department of the~~
19 CREATED IN THE STATE treasury. ~~The environmental response fund~~
20 ~~shall be administered by the governor or the governor's~~
21 ~~designee.~~

22 (2) The ~~fund shall~~ STATE TREASURER MAY receive ~~as revenue~~
23 ~~any~~ money OR OTHER ASSETS from any source ~~as appropriated by~~
24 ~~the legislature, and the~~ FOR DEPOSIT INTO THE FUND. THE STATE
25 TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE
26 TREASURER SHALL CREDIT TO THE FUND interest and earnings ~~of the~~
27 ~~fund shall be credited to the~~ FROM fund INVESTMENTS.

1 (3) In addition to the money received under subsection (2),
2 the fund shall receive as revenue money collected by the attorney
3 general in actions filed under this part, collected by the state
4 under this part, or collected by a person under
5 section 20135(2). MONEY COLLECTED AND PLACED INTO THE FUND UNDER
6 THIS SUBSECTION MAY BE EARMARKED BY THE DEPARTMENT FOR USE AT
7 SPECIFIC SITES.

8 (4) THE STATE TREASURER MAY ESTABLISH SUBACCOUNTS WITHIN THE
9 FUND, AND SHALL ESTABLISH A SUBACCOUNT FOR ALL MONEY IN THE
10 FORMER ENVIRONMENTAL RESPONSE FUND ON THE EFFECTIVE DATE OF THE
11 1996 AMENDMENTS TO THIS SECTION. PROCEEDS OF ALL COST RECOVERY
12 ACTIONS TAKEN AND SETTLEMENTS ENTERED INTO PURSUANT TO THIS PART,
13 EXCLUDING NATURAL RESOURCE DAMAGES, BY THE DEPARTMENT OR THE
14 ATTORNEY GENERAL, OR BOTH, SHALL BE CREDITED TO THIS SUBACCOUNT.

15 (5) ~~(4)~~ An unexpended balance within the fund at the close
16 of the fiscal year shall be carried forward to the following
17 fiscal year.

18 SEC. 20108A. (1) THE REVITALIZATION REVOLVING LOAN FUND IS
19 CREATED WITHIN THE STATE TREASURY.

20 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
21 FROM ANY SOURCE FOR DEPOSIT INTO THE REVITALIZATION REVOLVING
22 LOAN FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF
23 THE REVITALIZATION REVOLVING LOAN FUND. THE STATE TREASURER
24 SHALL CREDIT TO THE REVITALIZATION REVOLVING LOAN FUND INTEREST
25 AND EARNINGS FROM REVITALIZATION REVOLVING LOAN FUND
26 INVESTMENTS.

1 (3) AN UNEXPENDED BALANCE WITHIN THE REVITALIZATION
2 REVOLVING LOAN FUND AT THE CLOSE OF THE FISCAL YEAR SHALL BE
3 CARRIED FORWARD TO THE FOLLOWING FISCAL YEAR.

4 (4) THE DEPARTMENT SHALL ANNUALLY SUBMIT TO THE GOVERNOR A
5 REQUEST FOR A LUMP-SUM APPROPRIATION FROM THE REVITALIZATION
6 REVOLVING LOAN FUND FOR LOANS PURSUANT TO THE REVITALIZATION
7 REVOLVING LOAN PROGRAM UNDER SECTION 20108C.

8 (5) THE DEPARTMENT SHALL EXPEND MONEY FROM THE REVITALIZA-
9 TION REVOLVING LOAN FUND, UPON APPROPRIATION, ONLY FOR THE REVI-
10 TALIZATION LOAN PROGRAM CREATED IN SECTION 20108C.

11 SEC. 20108B. (1) THE DEPARTMENT SHALL CREATE A REVITALIZA-
12 TION REVOLVING LOAN PROGRAM FOR THE PURPOSE OF MAKING LOANS TO
13 CERTAIN LOCAL UNITS OF GOVERNMENT TO PROVIDE FOR ELIGIBLE ACTIVI-
14 TIES AT FACILITIES IN ORDER TO PROMOTE ECONOMIC REDEVELOPMENT.

15 (2) TO BE ELIGIBLE FOR A LOAN, APPLICATIONS MUST MEET THE
16 FOLLOWING REQUIREMENTS:

17 (A) THE APPLICANT IS A COUNTY, CITY, TOWNSHIP, OR VILLAGE,
18 OR AN AUTHORITY ESTABLISHED PURSUANT TO THE BROWNFIELD REDEVELOP-
19 MENT FINANCING ACT, PROVIDED THAT THE MUNICIPALITY WHICH CREATED
20 THE AUTHORITY PURSUANT TO THE BROWNFIELD REDEVELOPMENT FINANCING
21 ACT COMMITS TO SECURE THE LOAN WITH A PLEDGE OF THE
22 MUNICIPALITY'S FULL FAITH AND CREDIT.

23 (B) THE FACILITY IS WITHIN THE APPLICANT'S JURISDICTION.

24 (C) THE APPLICATION IS COMPLETE AND SUBMITTED ON A FORM PRO-
25 VIDED BY THE DEPARTMENT.

26 (D) THE APPLICATION IS RECEIVED BY THE DEADLINE ESTABLISHED
27 BY THE DEPARTMENT.

1 (E) THE APPLICATION IS FOR ELIGIBLE ACTIVITIES ONLY AS
2 PROVIDED FOR IN SUBSECTION (3).

3 (3) ELIGIBLE ACTIVITIES ARE LIMITED TO EVALUATION AND DEMO-
4 LITION AT THE FACILITY OR FACILITIES IN AN AREA-WIDE ZONE, AND
5 INTERIM RESPONSE ACTIVITIES REQUIRED TO FACILITATE EVALUATION AND
6 DEMOLITION CONDUCTED PRIOR TO REDEVELOPMENT OF A FACILITY OR
7 FACILITIES IN AN AREA-WIDE ZONE. ELIGIBLE ACTIVITIES INCLUDE
8 ONLY THOSE NECESSARY TO FACILITATE REDEVELOPMENT. ELIGIBLE
9 ACTIVITIES DO NOT INCLUDE ACTIVITIES NECESSARY ONLY TO DESIGN OR
10 COMPLETE A REMEDIAL ACTION THAT FULLY COMPLIES WITH THE REQUIRE-
11 MENTS OF SECTION 20120A. ALL ELIGIBLE ACTIVITIES MUST BE CONSIS-
12 TENT WITH A WORK PLAN OR REMEDIAL ACTION PLAN APPROVED IN ADVANCE
13 BY THE DEPARTMENT. ONLY ACTIVITIES CARRIED OUT AND COSTS
14 INCURRED AFTER EXECUTION OF A LOAN AGREEMENT ARE ELIGIBLE.

15 (4) THE DEPARTMENT SHALL PROVIDE FOR AT LEAST 1 APPLICATION
16 CYCLE PER FISCAL YEAR. PRIOR TO EACH APPLICATION CYCLE, THE
17 DEPARTMENT SHALL DEVELOP WRITTEN INSTRUCTIONS FOR PROSPECTIVE
18 APPLICANTS INCLUDING THE CRITERIA THAT WILL BE USED IN APPLICA-
19 TION REVIEW AND APPROVAL.

20 (5) FINAL APPLICATION DECISIONS SHALL BE MADE BY THE DEPART-
21 MENT WITHIN 4 MONTHS OF THE APPLICATION DEADLINE.

22 (6) A COMPLETE APPLICATION SHALL INCLUDE THE FOLLOWING:

23 (A) A DESCRIPTION OF THE PROPOSED ELIGIBLE ACTIVITIES.

24 (B) AN ITEMIZED BUDGET FOR THE PROPOSED ELIGIBLE
25 ACTIVITIES.

26 (C) A SCHEDULE FOR THE COMPLETION OF THE PROPOSED ELIGIBLE
27 ACTIVITIES.

1 (D) LOCATION OF THE FACILITY.

2 (E) CURRENT OWNERSHIP AND OWNERSHIP HISTORY OF THE
3 FACILITY.

4 (F) CURRENT USE OF THE FACILITY.

5 (G) A DETAILED HISTORY OF THE USE OF THE FACILITY.

6 (H) EXISTING AND PROPOSED FUTURE ZONING OF THE FACILITY.

7 (I) IF THE PROPERTY IS NOT OWNED BY THE APPLICANT, A DRAFT
8 OF AN ENFORCEABLE AGREEMENT BETWEEN THE PROPERTY OWNER AND THE
9 APPLICANT THAT COMMITS THE PROPERTY OWNER TO COOPERATE WITH THE
10 APPLICANT, INCLUDING A COMMITMENT TO ALLOW ACCESS TO THE PROPERTY
11 TO COMPLETE AT A MINIMUM THE PROPOSED ACTIVITIES.

12 (J) A DESCRIPTION OF THE FACILITY'S ECONOMIC REDEVELOPMENT
13 POTENTIAL. THE APPLICANT DOES NOT NEED TO DEMONSTRATE THAT A
14 SPECIFIC REDEVELOPMENT PROPOSAL HAS BEEN IDENTIFIED.

15 (K) A RESOLUTION FROM THE LOCAL GOVERNING BODY OF THE APPLI-
16 CANT COMMITTING TO REPAYMENT OF THE LOAN ACCORDING TO THE TERMS
17 OF THIS SECTION.

18 (L) OTHER INFORMATION AS SPECIFIED BY THE DEPARTMENT IN ITS
19 WRITTEN INSTRUCTIONS.

20 (7) TO RECEIVE LOAN FUNDS, APPROVED APPLICANTS MUST ENTER
21 INTO A LOAN AGREEMENT WITH THE DEPARTMENT. AT A MINIMUM, THE
22 LOAN AGREEMENT SHALL CONTAIN ALL OF THE FOLLOWING PROVISIONS:

23 (A) THE APPROVED ELIGIBLE ACTIVITIES TO BE UNDERTAKEN WITH
24 LOAN FUNDS.

25 (B) THE LOAN INTEREST RATE, TERMS, AND REPAYMENT SCHEDULE AS
26 DETERMINED BY THE DEPARTMENT PURSUANT TO SUBSECTION (11).

1 (C) A COMMITMENT THAT THE LOAN IS SECURED BY A FULL FAITH
2 AND CREDIT PLEDGE OF THE APPLICANT, OR IF THE APPLICANT IS AN
3 AUTHORITY ESTABLISHED PURSUANT TO THE BROWNFIELD REDEVELOPMENT
4 FINANCING ACT, THE COMMITMENT AND PLEDGE MUST BE FROM THE MUNICI-
5 PALITY WHICH CREATED THE AUTHORITY PURSUANT TO THAT ACT.

6 (D) AN IMPLEMENTATION SCHEDULE.

7 (E) REPORTING REQUIREMENTS, INCLUDING AT A MINIMUM THE
8 FOLLOWING:

9 (i) THE RECIPIENT MUST SUBMIT A PROGRESS STATUS REPORT TO
10 THE DEPARTMENT EVERY 6 MONTHS DURING THE IMPLEMENTATION
11 SCHEDULE.

12 (ii) THE RECIPIENT MUST PROVIDE A FINAL REPORT WITHIN 3
13 MONTHS OF COMPLETION OF THE LOAN FUNDED ACTIVITIES THAT INCLUDES
14 DOCUMENTATION OF PROJECT COSTS AND EXPENDITURES, INCLUDING
15 INVOICES AND PROOF OF PAYMENT.

16 (F) IF THE PROPERTY IS NOT OWNED BY THE RECIPIENT, AN EXE-
17 CUTED AGREEMENT THAT HAS BEEN APPROVED BY THE DEPARTMENT THAT
18 MEETS THE REQUIREMENTS OF SUBSECTION (6)(I).

19 (G) OTHER PROVISIONS AS CONSIDERED APPROPRIATE BY THE
20 DEPARTMENT.

21 (8) IF AN APPROVED APPLICANT FAILS TO SIGN A LOAN AGREEMENT
22 WITHIN 90 DAYS OF A WRITTEN LOAN OFFER BY THE DEPARTMENT, THE
23 DEPARTMENT MAY CANCEL THE LOAN OFFER. THE APPLICANT MAY NOT
24 APPEAL OR CONTEST A CANCELLATION PURSUANT TO THIS SUBSECTION.

25 (9) THE DEPARTMENT MAY TERMINATE A LOAN AGREEMENT AND
26 REQUIRE IMMEDIATE REPAYMENT OF THE LOAN IF THE RECIPIENT USES
27 LOAN FUNDS FOR ANY PURPOSE OTHER THAN FOR THE APPROVED ELIGIBLE

1 ACTIVITIES SPECIFIED IN THE LOAN AGREEMENT. THE DEPARTMENT SHALL
2 PROVIDE WRITTEN NOTICE 30 DAYS PRIOR TO THE TERMINATION.

3 (10) LOANS SHALL HAVE THE FOLLOWING TERMS:

4 (A) A LOAN INTEREST RATE OF 2%.

5 (B) LOAN RECIPIENTS SHALL REPAY LOANS IN EQUAL ANNUAL
6 INSTALLMENTS BEGINNING NOT LATER THAN 5 YEARS AFTER EXECUTION OF
7 A LOAN AGREEMENT AND CONCLUDING NOT LATER THAN 15 YEARS AFTER
8 EXECUTION OF A LOAN AGREEMENT.

9 (11) LOAN PAYMENTS AND INTEREST SHALL BE DEPOSITED BACK INTO
10 THE REVITALIZATION REVOLVING LOAN FUND CREATED IN SECTION
11 20108A.

12 (12) UPON DEFAULT OF A LOAN, AS DETERMINED BY THE DEPART-
13 MENT, OR UPON THE REQUEST OF THE LOAN RECIPIENT AS A METHOD TO
14 REPAY THE LOAN, THE DEPARTMENT OF TREASURY SHALL WITHHOLD STATE
15 PAYMENTS FROM THE LOAN RECIPIENT IN AMOUNTS CONSISTENT WITH THE
16 REPAYMENT SCHEDULE IN THE LOAN AGREEMENT UNTIL THE LOAN IS
17 REPAID. THE DEPARTMENT OF TREASURY SHALL DEPOSIT THESE WITHHELD
18 FUNDS INTO THE REVITALIZATION REVOLVING LOAN FUND CREATED IN SEC-
19 TION 20108A UNTIL THE LOAN IS REPAID.

20 SEC. 20108C. (1) THE DEPARTMENT SHALL ESTABLISH A STATE
21 SITES CLEANUP PROGRAM FOR THE PURPOSE OF EXPENDING THE
22 \$20,000,000.00 APPROPRIATED BY THE LEGISLATURE FOR STATE SITE
23 CLEANUP PURSUANT TO ACT NO. 265 OF THE PUBLIC ACTS OF 1994.

24 (2) THE DEPARTMENT SHALL EXPEND MONEY APPROPRIATED FOR STATE
25 SITE CLEANUP ONLY FOR RESPONSE ACTIVITIES AT FACILITIES WHERE THE
26 STATE IS LIABLE AS AN OWNER OR OPERATOR UNDER SECTION 20126 OR
27 WHERE THE STATE HAS LICENSURE OR DECOMMISSIONING OBLIGATIONS AS

1 AN OWNER OR POSSESSOR OF RADIOACTIVE MATERIALS THAT ARE REGULATED
2 BY THE NUCLEAR REGULATORY COMMISSION. MONEY EXPENDED FOR THE
3 STATE SITES CLEANUP PROGRAM SHALL NOT BE USED TO PAY FINES, PEN-
4 ALTIES, OR DAMAGES.

5 (3) SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, AND
6 ANNUALLY THEREAFTER BY OCTOBER 1 OF EACH YEAR, EACH STATE EXECU-
7 TIVE DEPARTMENT AND AGENCY SHALL PROVIDE TO THE DEPARTMENT A
8 DETAILED LIST OF ALL FACILITIES WHERE THE STATE EXECUTIVE DEPART-
9 MENT OR AGENCY IS LIABLE AS AN OWNER OR OPERATOR UNDER SECTION
10 20126. SUBSEQUENT LISTS DO NOT NEED TO INCLUDE FACILITIES IDEN-
11 TIFIED IN A PREVIOUS LIST. THIS LIST SHALL INCLUDE THE FOLLOWING
12 INFORMATION FOR EACH FACILITY:

13 (A) THE FACILITY NAME.

14 (B) LOCATION.

15 (C) USE HISTORY OF THE FACILITY.

16 (D) A DETAILED SUMMARY OF AVAILABLE INFORMATION REGARDING
17 THE SOURCE, NATURE, AND EXTENT OF THE CONTAMINATION AT THE
18 FACILITY.

19 (E) A DETAILED SUMMARY OF AVAILABLE INFORMATION ON ANY
20 PUBLIC HEALTH OR ENVIRONMENTAL IMPACTS AT THE FACILITY.

21 (F) A DETAILED SUMMARY OF AVAILABLE INFORMATION ON THE
22 RESALE AND REDEVELOPMENT POTENTIAL OF THE FACILITY.

23 (G) A DESCRIPTION OF AND ESTIMATED COST OF THE RESPONSE
24 ACTIVITIES NEEDED AT THE FACILITY, IF KNOWN.

25 (4) WITHIN 12 MONTHS AFTER THE EFFECTIVE DATE OF THIS SEC-
26 TION AND BY FEBRUARY FIRST OF EACH YEAR THEREAFTER, THE BOARD
27 SHALL DEVELOP A PRIORITIZED LIST OF THE FACILITIES IDENTIFIED

1 PURSUANT TO SUBSECTION (3). SITES POSING THE GREATEST RISK TO
2 THE PUBLIC HEALTH, SAFETY, WELFARE, OR THE ENVIRONMENT AND THOSE
3 HAVING HIGH RESALE AND REDEVELOPMENT POTENTIAL SHALL BE GIVEN THE
4 HIGHEST PRIORITY. THE LIST SHALL INCLUDE THE FOLLOWING INFORMA-
5 TION FOR EACH FACILITY:

6 (A) THE FACILITY'S PRIORITY ORDER.

7 (B) RESPONSE ACTIVITIES TO BE COMPLETED AT THE FACILITY.

8 (C) ESTIMATED COST OF THE RESPONSE ACTIVITIES.

9 (D) THE STATE EXECUTIVE DEPARTMENT OR AGENCY THAT IS LIABLE
10 AS AN OWNER OR OPERATOR UNDER SECTION 20126.

11 (5) ALL STATE EXECUTIVE DEPARTMENTS AND AGENCIES THAT ARE
12 LIABLE AS AN OWNER OR OPERATOR UNDER SECTION 20126 ARE RESPONSI-
13 BLE FOR UNDERTAKING AND PAYING FOR ALL NECESSARY RESPONSE ACTIVI-
14 TIES THAT CANNOT BE ADDRESSED WITH MONEY APPROPRIATED TO THE
15 DEPARTMENT FOR STATE SITE CLEANUP AS DESCRIBED IN SUBSECTION (1)
16 OR ANY MONEY APPROPRIATED TO THE DEPARTMENT SPECIFICALLY FOR THE
17 PURPOSE OF RESPONSE ACTIVITIES AT FACILITIES FOR WHICH THE STATE
18 IS LIABLE AS AN OWNER OR OPERATOR. THE EXISTENCE OF THESE FUNDS
19 DOES NOT AFFECT THE LIABILITY OF ANY PERSON UNDER THIS PART OR
20 ANY STATE OR FEDERAL LAW.

21 (6) THE \$20,000,000.00 APPROPRIATED PURSUANT TO ACT NO. 265
22 OF THE PUBLIC ACTS OF 1994 AND TO BE EXPENDED PURSUANT TO THIS
23 SECTION SHALL CARRY OVER TO SUCCEEDING FISCAL YEARS. THE UNEX-
24 PENDED PORTION OF THE APPROPRIATION IS CONSIDERED A WORK PROJECT
25 APPROPRIATION, AND ANY UNENCUMBERED OR UNALLOTTED FUNDS ARE CAR-
26 RIED FORWARD TO THE SUCCEEDING FISCAL YEAR. THE FOLLOWING IS IN
27 COMPLIANCE WITH SECTION 415(3) OF THE MANAGEMENT AND BUDGET ACT,

1 ACT NO. 431 OF THE PUBLIC ACTS OF 1985, BEING SECTION 18.1451 OF
2 THE MICHIGAN COMPILED LAWS.

3 (A) THE PURPOSE OF THE PROJECT TO BE CARRIED FORWARD IS TO
4 PROVIDE FOR CONTAMINATED SITE CLEANUPS.

5 (B) THE PROJECT WILL BE ACCOMPLISHED BY CONTRACTS.

6 (C) THE TOTAL ESTIMATED COST OF THE PROJECT WILL BE
7 \$20,000,000.00.

8 (D) THE TENTATIVE COMPLETION DATE IS SEPTEMBER 30, 1999.

9 (7) THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE GOV-
10 ERNOR AND THE LEGISLATURE ON THE STATUS OF THE RESPONSE ACTIVI-
11 TIES BEING CONDUCTED WITH MONEY APPROPRIATED TO THE DEPARTMENT TO
12 IMPLEMENT THIS SECTION AND THE NEED FOR ADDITIONAL FUNDS TO CON-
13 DUCT FUTURE RESPONSE ACTIVITIES.

14 SEC. 20109A. (1) A MUNICIPAL LANDFILL COST-SHARE GRANT PRO-
15 GRAM IS ESTABLISHED FOR THE PURPOSE OF MAKING GRANTS TO REIMBURSE
16 LOCAL UNITS OF GOVERNMENT FOR A PORTION OF THE RESPONSE ACTIVITY
17 COSTS AT CERTAIN MUNICIPAL SOLID WASTE LANDFILLS AS PROVIDED IN
18 THIS SECTION.

19 (2) THE MUNICIPAL LANDFILL COST-SHARE GRANT PROGRAM SHALL BE
20 ADMINISTERED BY THE BOARD. THE BOARD SHALL PROVIDE FOR AT LEAST
21 1 APPLICATION CYCLE PER FISCAL YEAR. PRIOR TO EACH APPLICATION
22 CYCLE, THE BOARD SHALL DEVELOP WRITTEN INSTRUCTIONS FOR PROSPEC-
23 TIVE APPLICANTS INCLUDING THE CRITERIA THAT WILL BE USED IN
24 APPLICATION REVIEW AND APPROVAL.

25 (3) TO BE ELIGIBLE FOR A COST-SHARE GRANT UNDER THIS SEC-
26 TION, THE FOLLOWING REQUIREMENTS SHALL BE MET:

1 (A) THE APPLICANT IS A LOCAL UNIT OF GOVERNMENT.

2 (B) THE APPLICATION IS ONLY FOR ELIGIBLE RESPONSE ACTIVITY
3 COSTS.

4 (C) THE APPLICATION IS COMPLETE AND SUBMITTED ON A FORM PRO-
5 VIDED BY THE BOARD.

6 (D) THE APPLICATION IS SUBMITTED BY THE DEADLINE ESTABLISHED
7 BY THE BOARD.

8 (4) A COMPLETE APPLICATION SHALL INCLUDE THE FOLLOWING:

9 (A) THE LANDFILL NAME AND BRIEF HISTORY.

10 (B) THE RATIONALE THAT EXPLAINS WHY THE APPLICANT INCURRED
11 THE RESPONSE ACTIVITY COSTS.

12 (C) AN ANALYSIS OF THE LOCAL UNIT OF GOVERNMENT'S INSURANCE
13 COVERAGE FOR THE RESPONSE ACTIVITY COSTS AT THE LANDFILL AND ANY
14 AVAILABLE DOCUMENTATION THAT SUPPORTS THE ANALYSIS.

15 (D) A BRIEF NARRATIVE DESCRIPTION OF THE OVERALL RESPONSE
16 ACTIVITIES COMPLETED OR TO BE COMPLETED AT THE LANDFILL.

17 (E) A LIST AND NARRATIVE DESCRIPTION OF ALL ELIGIBLE COSTS
18 INCURRED BY THE APPLICANT FOR WHICH IT IS SEEKING A GRANT,
19 INCLUDING ALL OF THE FOLLOWING:

20 (i) A DEMONSTRATION THAT EACH ELIGIBLE COST IS CONSISTENT
21 WITH A WORK PLAN OR REMEDIAL ACTION PLAN THAT HAS BEEN APPROVED
22 BY THE DEPARTMENT OR THE UNITED STATES ENVIRONMENTAL PROTECTION
23 AGENCY OR HAS BEEN ORDERED BY A STATE OR FEDERAL COURT. THE
24 DEMONSTRATION SHALL RELATE EACH COST FOR WHICH REIMBURSEMENT IS
25 BEING SOUGHT TO A SPECIFIC ELEMENT OF THE APPROVED WORK PLAN OR
26 REMEDIAL ACTION PLAN. A COPY OF THE PLAN AND DOCUMENTATION OF

1 APPROVAL OR COURT ORDER OF THE PLAN SHALL BE INCLUDED WITH THE
2 APPLICATION.

3 (ii) DOCUMENTATION THAT THE COSTS HAVE BEEN INCURRED BY THE
4 APPLICANT, INCLUDING ITEMIZED INVOICES THAT CLEARLY LIST EACH
5 COST AND PROOF OF PAYMENT OF EACH INVOICE BY THE APPLICANT.

6 (iii) A RESOLUTION PASSED BY THE GOVERNING BODY FOR THE
7 LOCAL UNIT OF GOVERNMENT ATTESTING THAT IT HAS NOT RECEIVED REIM-
8 BURSEMENT FOR ANY OF THE COSTS FOR WHICH IT IS SEEKING A GRANT
9 FROM ANY OTHER SOURCES.

10 (F) A LIST OF PERSONS THE APPLICANT BELIEVES MAY BE LIABLE
11 UNDER SECTION 20126 OR THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
12 COMPENSATION, AND LIABILITY ACT OF 1980, PUBLIC LAW 96-510,
13 94 STAT. 2767 FOR A SUBSTANTIAL PORTION OF THE RESPONSE ACTIVITY
14 COSTS AT THE LANDFILL AND ANY AVAILABLE SUPPORTING
15 DOCUMENTATION.

16 (5) THE BOARD SHALL ALLOCATE THE FUNDS AVAILABLE FOR
17 COST-SHARE GRANTS UNDER THIS SECTION TO ELIGIBLE FACILITIES
18 ACCORDING TO THE FOLLOWING CRITERIA, WHICH ARE LISTED IN PRIORITY
19 ORDER:

20 (A) FACILITIES WITH ACTIVE LITIGATION IN STATE COURT WHERE
21 THE STATE IS A PLAINTIFF TO COMPEL A REMEDY.

22 (B) FACILITIES WITH ACTIVE LITIGATION IN FEDERAL COURT WHERE
23 THE STATE IS A PLAINTIFF TO COMPEL A REMEDY.

24 (C) FACILITIES POSING A RISK TO PUBLIC HEALTH.

25 (D) FACILITIES POSING A RISK TO THE ENVIRONMENT.

26 (6) ONCE A COMPLETE APPLICATION HAS BEEN SUBMITTED AND
27 APPROVED BY THE BOARD, APPLICATIONS SUBMITTED BY THE SAME

1 APPLICANT FOR THE SAME LANDFILL, IN SUBSEQUENT APPLICATION CYCLES
2 NEED ONLY INCLUDE UPDATED INFORMATION THAT WAS NOT IN THE ORIGI-
3 NAL APPLICATION, INCLUDING:

4 (A) AN UPDATED LIST OF ELIGIBLE COSTS INCURRED BY THE APPLI-
5 CANT FOR WHICH IT IS SEEKING A GRANT AND FOR WHICH THE APPLICANT
6 WAS NOT APPROVED TO RECEIVE GRANT FUNDS IN A PRECEDING GRANT
7 CYCLE.

8 (B) SUPPORTING DOCUMENTATION THAT THE COSTS HAVE BEEN
9 INCURRED AS DESCRIBED IN SUBSECTION (4)(E)(ii).

10 (C) ANY OTHER INFORMATION NEEDED TO UPDATE INFORMATION IN
11 THE ORIGINAL APPLICATION.

12 (7) A COST-SHARE GRANT UNDER THIS SECTION SHALL NOT EXCEED
13 50% OF THE TOTAL ELIGIBLE COSTS.

14 (8) A LOCAL UNIT OF GOVERNMENT MAY NOT RECEIVE MORE THAN 1
15 GRANT FOR THE SAME MUNICIPAL LANDFILL DURING EACH APPLICATION
16 CYCLE.

17 (9) A RECIPIENT OF A COST-SHARE GRANT UNDER THIS SECTION HAS
18 AN OBLIGATION TO DO ALL OF THE FOLLOWING:

19 (A) PROVIDE TIMELY NOTIFICATION TO THE DEPARTMENT IF IT
20 RECEIVES MONEY OR ANY OTHER FORM OF COMPENSATION FROM ANY OTHER
21 SOURCE TO PAY FOR OR COMPENSATE THE LOCAL UNIT OF GOVERNMENT FOR
22 ANY OF THE RESPONSE ACTIVITY COSTS FOR WHICH IT IS LIABLE.
23 SOURCES OF MONEY OR COMPENSATION INCLUDE, BUT ARE NOT LIMITED TO,
24 THE FEDERAL GOVERNMENT, OTHER LIABLE PERSONS, OR INSURANCE
25 POLICIES. THE NOTICE SHALL INCLUDE ALL OF THE FOLLOWING:

26 (i) SOURCE OF THE MONEY OR COMPENSATION.

1 (ii) AMOUNT OF MONEY OR DOLLAR VALUE OF THE COMPENSATION.

2 (iii) WHY THE LOCAL UNIT OF GOVERNMENT RECEIVED THE MONEY OR
3 COMPENSATION.

4 (iv) ANY CONDITIONS OR TERMS ASSOCIATED WITH THE MONEY OR
5 COMPENSATION.

6 (v) A DETAILED ESTIMATE OF THE TOTAL ELIGIBLE RESPONSE COSTS
7 AT THE LANDFILL FOR WHICH THE LOCAL UNIT OF GOVERNMENT IS SEEKING
8 A GRANT THAT ARE CONSISTENT WITH A WORK PLAN OR REMEDIAL ACTION
9 PLAN THAT HAS BEEN APPROVED BY THE DEPARTMENT OR THE UNITED
10 STATES ENVIRONMENTAL PROTECTION AGENCY OR HAS BEEN ORDERED BY A
11 STATE OR FEDERAL COURT AND DOCUMENTATION OF THOSE COSTS THAT HAVE
12 BEEN INCURRED.

13 (vi) DOCUMENTATION OF THE COSTS INCURRED BY THE LOCAL UNIT
14 OF GOVERNMENT TO OBTAIN THE FUNDS OR COMPENSATION.

15 (vii) THE AMOUNT OF MONEY TO BE REPAID TO THE STATE BASED ON
16 THE FORMULA IN SUBDIVISION (B).

17 (B) IF THE RECIPIENT RECEIVES MONEY OR COMPENSATION FROM ANY
18 OTHER SOURCE AS DESCRIBED IN SUBDIVISION (A), THE RECIPIENT SHALL
19 REPAY THE DEPARTMENT AN AMOUNT OF MONEY NOT TO EXCEED THE GRANT
20 AMOUNT BASED ON THE FOLLOWING FORMULA:

21 (A MINUS B) MULTIPLIED BY (C DIVIDED BY D)

22 WITH A, B, C, AND D DEFINED AS FOLLOWS:

23 A = THE TOTAL AMOUNT OF MONEY RECEIVED FROM THE OTHER SOURCE
24 OR DOLLAR VALUE OF THE COMPENSATION.

25 B = ALL REASONABLE COSTS INCURRED BY THE RECIPIENT TO OBTAIN
26 THE MONEY OR COMPENSATION.

1 C = THE TOTAL AMOUNT OF GRANT FUNDS RECEIVED.

2 D = THE TOTAL AMOUNT OF RESPONSE ACTIVITY COSTS THAT THE
3 APPLICANT HAS OR WILL INCUR THAT MEET ALL OF THE FOLLOWING
4 REQUIREMENTS:

5 (i) THE COSTS ARE FOR RESPONSE ACTIVITIES, EXCLUDING FEES
6 FOR THE SERVICES OF A LICENSED ATTORNEY.

7 (ii) THE COSTS ARE REQUIRED TO IMPLEMENT A WORK PLAN OR
8 REMEDIAL ACTION PLAN FOR THE LANDFILL THAT HAS BEEN APPROVED BY
9 THE DEPARTMENT OR THE UNITED STATES ENVIRONMENTAL PROTECTION
10 AGENCY OR ORDERED BY A STATE OR FEDERAL COURT. THE WORK PLAN OR
11 REMEDIAL ACTION PLAN CAN BE A PLAN UPDATE THAT WAS APPROVED OR
12 ORDERED SUBSEQUENT TO THE PLAN THAT WAS INCLUDED IN THE LOCAL
13 UNIT OF GOVERNMENT'S GRANT APPLICATION.

14 (iii) THE COSTS WERE OR WILL BE INCURRED BY THE LOCAL UNIT
15 OF GOVERNMENT AFTER THE DATE OF ENACTMENT OF THE AMENDATORY ACT
16 THAT ADDED THIS SECTION.

17 (iv) THE DEPARTMENT HAS DETERMINED THAT THE COSTS TO BE
18 BORNE BY A LOCAL UNIT OF GOVERNMENT ARE REASONABLE TAKING INTO
19 CONSIDERATION THE RATIONALE PROVIDED IN THE APPLICATION, THE
20 EXISTENCE OF OTHER PERSONS LIABLE UNDER SECTION 20126 OR THE COM-
21 PREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY
22 ACT OF 1980, PUBLIC LAW 96-510, 94 STAT. 2767, AND THE NEED FOR
23 THE LOCAL UNIT OF GOVERNMENT TO PROCEED WITH THE RESPONSE
24 ACTIVITY.

25 (v) THE COSTS ARE FOR RESPONSE ACTIVITIES THAT ARE OR WILL
26 BE ALL OR PART OF A COST-EFFECTIVE REMEDY CONSISTENT WITH THIS
27 PART.

1 (vi) THE COSTS WERE OR WILL BE INCURRED FOR WORK THAT WAS
2 COMPETITIVELY BID AND PERFORMED BY THE LOWEST-PRICED RESPONSIVE
3 BIDDER.

4 (vii) THE COSTS, ONCE INCURRED, CAN BE DOCUMENTED WITH
5 INVOICES AND PROOF OF PAYMENT BY THE LOCAL UNIT OF GOVERNMENT.

6 (C) ALL DOCUMENTATION OF COSTS AND THE CALCULATIONS AND
7 ASSUMPTIONS USED BY THE RECIPIENT TO DETERMINE THE AMOUNT OF
8 MONEY TO BE REPAID MUST BE SUBMITTED TO THE BOARD AND ARE SUBJECT
9 TO REVIEW AND APPROVAL BY THE BOARD. THE MONEY MUST BE REPAID TO
10 THE DEPARTMENT WITHIN 60 DAYS OF BOARD APPROVAL OF THE DOCUMEN-
11 TATION, CALCULATIONS, AND ASSUMPTIONS.

12 (D) FUNDS REPAID TO THE DEPARTMENT UNDER THIS SECTION SHALL
13 BE PLACED INTO THE FUND.

14 (10) TO RECEIVE A COST-SHARE GRANT UNDER THIS SECTION,
15 APPROVED APPLICANTS SHALL ENTER INTO AN AGREEMENT WITH THE
16 BOARD. THE AGREEMENT SHALL CONTAIN AT A MINIMUM:

17 (A) A LIST OF BOARD-APPROVED ELIGIBLE COSTS FOR WHICH THE
18 RECIPIENT WILL BE REIMBURSED UP TO 50%.

19 (B) THE AGREEMENT PERIOD.

20 (C) A RESOLUTION PASSED BY THE GOVERNING BODY FOR THE LOCAL
21 UNIT OF GOVERNMENT COMMITTING TO MAKE REASONABLE EFFORTS TO
22 PURSUE ANY INSURANCE COVERAGE FOR THE ELIGIBLE COSTS.

23 (D) GRANT REPAYMENT PROVISIONS UNDER SUBSECTION (9).

24 (11) UPON EXECUTION OF A GRANT AGREEMENT, GRANT FUNDS SHALL
25 BE DISBURSED BY THE DEPARTMENT WITHIN 45 DAYS.

26 (12) IF A LOCAL UNIT OF GOVERNMENT FAILS TO SIGN A GRANT
27 AGREEMENT WITHIN 90 DAYS OF A WRITTEN GRANT OFFER BY THE BOARD,

1 THE BOARD MAY CANCEL THE GRANT OFFER. THE LOCAL UNIT OF
2 GOVERNMENT MAY NOT APPEAL OR CONTEST CANCELLATION OF A GRANT PUR-
3 SUANT TO THIS SUBSECTION.

4 (13) THE EXISTENCE OF THIS GRANT PROGRAM DOES NOT IN ANY WAY
5 AFFECT THE LIABILITY OF ANY PERSON UNDER THIS PART OR ANY OTHER
6 STATE OR FEDERAL LAW. THE STATE, THE BOARD, AND THE FUND ARE NOT
7 LIABLE OR IN ANY WAY OBLIGATED TO MAKE GRANTS FOR ELIGIBLE COSTS,
8 IF FUNDS ARE NOT APPROPRIATED BY THE LEGISLATURE FOR THIS PURPOSE
9 OR IF THE FUNDS ARE INSUFFICIENT. THE AVAILABILITY OF THIS PRO-
10 GRAM SHALL NOT BE USED BY ANY LIABLE PERSON AS A BASIS TO DELAY
11 NECESSARY RESPONSE ACTIVITIES.

12 (14) FUNDS GRANTED TO LOCAL UNITS OF GOVERNMENT UNDER THIS
13 SECTION SHALL BE CONSIDERED RESPONSE ACTIVITY COSTS INCURRED BY
14 THE STATE. THE STATE MAY PURSUE RECOVERY OR A CLAIM FOR CONTRI-
15 BUTION OF THE GRANT FUNDS FROM PERSONS OTHER THAN THE GRANT
16 RECIPIENT WHO ARE LIABLE UNDER SECTION 20126. IN ADDITION, A
17 LOCAL UNIT OF GOVERNMENT MAY PURSUE RECOVERY OR A CLAIM FOR CON-
18 TRIBUTION FROM PERSONS LIABLE UNDER SECTION 20126 FOR THE COSTS
19 IT HAS INCURRED BUT FOR WHICH IT HAS NOT RECEIVED GRANT FUNDS.
20 THIS SUBSECTION DOES NOT IN ANY WAY AFFECT A LOCAL UNIT OF
21 GOVERNMENT'S ELIGIBILITY TO MAKE A CLAIM FOR INSURANCE FOR ANY
22 RESPONSE ACTIVITY COSTS, INCLUDING THE COSTS FOR WHICH IT
23 RECEIVED A GRANT.

24 (15) AS USED IN THIS SECTION:

25 (A) "MUNICIPAL SOLID WASTE LANDFILL" MEANS A LANDFILL THAT
26 AS OF THE EFFECTIVE DATE OF THIS SECTION IS ON THE NATIONAL

1 PRIORITY LIST OR IS PROPOSED BY THE GOVERNOR FOR INCLUSION ON THE
2 NATIONAL PRIORITY LIST.

3 (B) "NATIONAL PRIORITY LIST" HAS THE MEANING ATTRIBUTED TO
4 THIS TERM IN SECTION 105(a)(8)(b) OF THE COMPREHENSIVE ENVIRON-
5 MENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, PUBLIC
6 LAW 96-510, 94 STAT. 2767.

7 (C) "ELIGIBLE COSTS" OR "ELIGIBLE RESPONSE ACTIVITY COSTS"
8 MEANS RESPONSE ACTIVITY COSTS, EXCLUDING ALL FEES FOR THE SERV-
9 ICES OF A LICENSED ATTORNEY, THAT MEET ALL OF THE FOLLOWING
10 CRITERIA:

11 (i) THE COSTS HAVE BEEN INCURRED BY A LOCAL UNIT OF GOVERN-
12 MENT AFTER THE DATE OF ENACTMENT OF THE AMENDATORY ACT THAT ADDED
13 THIS SECTION AND PRIOR TO THE WORK BEING CONDUCTED.

14 (ii) THE DEPARTMENT HAS DETERMINED THAT THE COSTS TO BE
15 BORNE BY A LOCAL UNIT OF GOVERNMENT ARE REASONABLE TAKING INTO
16 CONSIDERATION THE RATIONALE PROVIDED IN THE APPLICATION, THE
17 EXISTENCE OF OTHER PERSONS LIABLE UNDER SECTION 20126 OR THE COM-
18 PREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY
19 ACT OF 1980, PUBLIC LAW 96-510, 94 STAT. 2767, AND THE NEED FOR
20 THE LOCAL UNIT OF GOVERNMENT TO PROCEED WITH THE RESPONSE
21 ACTIVITY.

22 (iii) THE COSTS ARE CONSISTENT WITH A WORK PLAN OR REMEDIAL
23 ACTION PLAN THAT WAS APPROVED BY THE DEPARTMENT OR THE UNITED
24 STATES ENVIRONMENTAL PROTECTION AGENCY OR WAS ORDERED BY A STATE
25 OR FEDERAL COURT PRIOR TO THE WORK BEING CONDUCTED.

1 (iv) THE COSTS WERE INCURRED FOR RESPONSE ACTIVITIES THAT
2 ARE PART OF A COST-EFFECTIVE REMEDY CONSISTENT WITH THE
3 REQUIREMENTS OF THIS PART.

4 (v) THE COSTS WERE INCURRED FOR WORK THAT WAS COMPETITIVELY
5 BID AND PERFORMED BY THE LOWEST-PRICED RESPONSIVE BIDDER.

6 (16) THIS SECTION SHALL NOT TAKE EFFECT UNTIL THE EARLIER OF
7 THE 2 FOLLOWING DATES:

8 (A) THE EFFECTIVE DATE OF REAUTHORIZATION OF THE COMPREHEN-
9 SIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF
10 1980, PUBLIC LAW 96-510, 94 STAT. 2767.

11 (B) TWELVE MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION.

12 (17) FOLLOWING REAUTHORIZATION OF THE COMPREHENSIVE ENVIRON-
13 MENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, PUBLIC
14 LAW 96-510, 94 STAT. 2767, IF A FEDERAL COST-SHARE PROGRAM IS
15 ESTABLISHED THAT IS SIMILAR TO THE PROGRAM IN THIS SECTION, A
16 GRANT UNDER THIS SECTION SHALL NOT BE MADE FOR ANY RESPONSE
17 ACTIVITY COST UNTIL THE UNITED STATES ENVIRONMENTAL PROTECTION
18 AGENCY MAKES A FINAL DETERMINATION THAT THE RESPONSE ACTIVITY
19 COST WILL NOT BE PAID FOR UNDER THE FEDERAL PROGRAM.

20 Sec. 20113. (1) Money required to IMPLEMENT THE PROGRAMS
21 DESCRIBED UNDER THIS PART AND TO pay for response activities rec-
22 ommended under this part ~~and to reimburse state departments and~~
23 ~~agencies for expenditures for those purposes~~ shall be appropri-
24 ated from the fund and any other source the legislature considers
25 necessary to implement the requirements of this part.

26 (2) Money from the fund shall be appropriated only for
27 response activities at ~~facilities~~ SITES that have been

1 subjected to the risk assessment process described in section
2 20105.

3 ~~(3) The fund may be used for match, operation, and mainte-~~
4 ~~nance purposes as required under the comprehensive environmental~~
5 ~~response, compensation, and liability act of 1980, Public Law~~
6 ~~96-510, 94 Stat. 2767, and under subtitle I of the solid waste~~
7 ~~disposal act, title II of Public Law 89-272, 42 U.S.C. 6991 to~~
8 ~~6991i.~~ THE DEPARTMENT SHALL ANNUALLY SUBMIT TO THE GOVERNOR A
9 REQUEST FOR APPROPRIATION FROM THE FUND.

10 (4) ~~The governor shall recommend an annual appropriation~~
11 ~~for the fund in his or her annual budget recommendations to the~~
12 ~~legislature.~~ MONEY FROM THE FUND MAY BE USED FOR THE FOLLOWING
13 AS DETERMINED BY THE DEPARTMENT:

14 (A) NATIONAL PRIORITY LIST MUNICIPAL LANDFILL COST-SHARE
15 GRANTS TO BE APPROVED BY THE BOARD PURSUANT TO SECTION 20109A.

16 (B) SUPERFUND MATCH, WHICH INCLUDES FUNDING FOR ANY RESPONSE
17 ACTIVITY THAT IS REQUIRED TO MATCH FEDERAL DOLLARS AT A SUPERFUND
18 SITE AS REQUIRED UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
19 COMPENSATION, AND LIABILITY ACT OF 1980, PUBLIC LAW 96-510, 94
20 STAT. 2767.

21 (C) RESPONSE ACTIVITIES TO ADDRESS ACTUAL OR POTENTIAL
22 PUBLIC HEALTH OR ENVIRONMENTAL PROBLEMS.

23 (D) COMPLETION OF RESPONSE ACTIVITIES INITIATED BY THE STATE
24 USING ENVIRONMENTAL PROTECTION BOND FUNDS OR COMPLETION OF
25 RESPONSE ACTIVITIES AT FACILITIES INITIATED BY A PERSON WHO WAS
26 LIABLE UNDER THIS PART PRIOR TO PUBLIC ACT 71 OF 1995 BUT IS NOT

1 LIABLE UNDER SECTION 20126 OF THIS PART, WHERE SUCH RESPONSE
2 ACTIVITIES HAVE CEASED.

3 (E) RESPONSE ACTIVITIES AT SITES THAT WILL FACILITATE
4 REDEVELOPMENT.

5 (F) EMERGENCY RESPONSE ACTIONS FOR SITES TO BE DETERMINED BY
6 THE DEPARTMENT.

7 (5) THE TOTAL AMOUNT OF FUNDS EXPENDED BY THE DEPARTMENT AT
8 SITES WHERE THE SOURCE OF THE CONTAMINATION IS PREDOMINANTLY FROM
9 THE RELEASE OF A REGULATED SUBSTANCE FROM AN UNDERGROUND STORAGE
10 TANK SYSTEM AS THOSE TERMS ARE DEFINED IN SECTION 21302 SHALL NOT
11 EXCEED THE LESSER OF 24% OF THE TOTAL FUNDS APPROPRIATED FROM THE
12 FUND IN A FISCAL YEAR OR \$20,000,000.00 IN A FISCAL YEAR.

13 (6) THE TOTAL AMOUNT OF FUNDS EXPENDED BY THE DEPARTMENT FOR
14 NATIONAL PRIORITY LIST MUNICIPAL LANDFILL COST-SHARE GRANTS SHALL
15 NOT EXCEED THE LESSER OF 12% OF THE FUNDS APPROPRIATED FROM THE
16 FUND IN A FISCAL YEAR OR \$10,000,000.00 IN A FISCAL YEAR.

17 (7) NOT LATER THAN DECEMBER 31 OF EACH YEAR, THE DEPARTMENT
18 SHALL PROVIDE TO THE GOVERNOR, THE SENATE AND HOUSE OF REPRESENTATIVES
19 STANDING COMMITTEES WITH JURISDICTION OVER ISSUES PERTAINING TO
20 NATIONAL RESOURCES AND THE ENVIRONMENT, AND THE SENATE AND HOUSE OF
21 REPRESENTATIVES APPROPRIATIONS COMMITTEES A LIST OF
22 ALL PROJECTS FINANCED UNDER THIS PART THROUGH THE PRECEDING
23 FISCAL YEAR. THE LIST SHALL INCLUDE THE PROJECT SITE AND LOCATION,
24 THE NATURE OF THE PROJECT, THE TOTAL AMOUNT OF MONEY AUTHORIZED,
25 AND PROJECT STATUS.

1 Section 2. Sections 20109, 20110, and 20111 of Act No. 451
2 of the Public Acts of 1994, being section 324.20109, 324.20110,
3 and 324.20111 of the Michigan Compiled Laws, are repealed.