

# SENATE BILL No. 1345

May 25, 2010, Introduced by Senator BIRKHOLZ and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 20114a, 20120a, 20120b, 20120c, and 20120d (MCL 324.20114a, 324.20120a, 324.20120b, 324.20120c, and 324.20120d), section 20114a as amended by 1996 PA 115, sections 20120a, 20120b, and 20120c as added by 1995 PA 71, and section 20120d as amended by 1996 PA 383, and by adding sections 20114b, 20114c, 20114d, 20120, and 20120e; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 20114a. ~~(1) A person who, after June 5, 1995, is~~  
 2 ~~responsible for an activity causing a release in excess of the~~  
 3 ~~concentrations that satisfy the criteria established pursuant to~~  
 4 ~~section 20120a(1)(a) through (c), as appropriate for the use of the~~  
 5 ~~property, is subject to a civil fine as provided in this part~~

1 ~~unless a fine or penalty has already been imposed for the release~~  
2 ~~under another part of this act. However, a civil fine shall not be~~  
3 ~~imposed under this section against a person who made a good faith~~  
4 ~~effort to prevent the release and to comply with the provisions of~~  
5 ~~this part.~~

6 ~~—— (2) This section does not apply to a release from an~~  
7 ~~underground storage tank system as defined in part 213.~~

8 (1) SUBJECT TO SECTION 20114 AND OTHER APPLICABLE LAW, A  
9 PERSON MAY UNDERTAKE RESPONSE ACTIVITIES WITHOUT PRIOR APPROVAL BY  
10 THE DEPARTMENT UNLESS 1 OR MORE RESPONSE ACTIVITIES ARE BEING  
11 CONDUCTED PURSUANT TO AN ADMINISTRATIVE ORDER OR AGREEMENT OR  
12 JUDICIAL DECREE THAT REQUIRES PRIOR DEPARTMENT APPROVAL. EXCEPT AS  
13 OTHERWISE PROVIDED IN THIS PART, CONDUCTING RESPONSE ACTIVITIES  
14 UNDER THIS SECTION DOES NOT RELIEVE ANY PERSON WHO IS LIABLE UNDER  
15 THIS PART FROM THE OBLIGATION TO CONDUCT FURTHER RESPONSE  
16 ACTIVITIES AS MAY BE REQUIRED BY THE DEPARTMENT UNDER THIS PART OR  
17 OTHER APPLICABLE LAW.

18 (2) UPON COMPLETION OF REMEDIAL ACTIONS THAT SATISFY THE  
19 CLEANUP CRITERIA ESTABLISHED UNDER THIS PART, A PERSON UNDERTAKING  
20 REMEDIAL ACTIONS MAY SUBMIT TO THE DEPARTMENT A NO FURTHER ACTION  
21 REPORT.

22 SEC. 20114B. (1) SUBJECT TO SECTION 20114(1)(H), A PERSON  
23 UNDERTAKING RESPONSE ACTIVITY UNDER THIS PART MAY SUBMIT TO THE  
24 DEPARTMENT A RESPONSE ACTIVITY PLAN THAT INCLUDES A REQUEST FOR  
25 DEPARTMENT APPROVAL OF 1 OR MORE ASPECTS OF RESPONSE ACTIVITY.

26 (2) A PERSON WHO SUBMITS A RESPONSE ACTIVITY PLAN UNDER THIS  
27 SECTION AND WHO IS NOT SUBJECT TO AN ADMINISTRATIVE ORDER OR

1 AGREEMENT OR JUDICIAL DECREE THAT REQUIRES PRIOR DEPARTMENT  
2 APPROVAL OF RESPONSE ACTIVITY SHALL SUBMIT A RESPONSE ACTIVITY PLAN  
3 REVIEW REQUEST FORM WITH THE RESPONSE ACTIVITY PLAN. THE DEPARTMENT  
4 SHALL SPECIFY THE REQUIRED CONTENT OF THE RESPONSE ACTIVITY REQUEST  
5 FORM AND MAKE THE FORM AVAILABLE ON THE DEPARTMENT'S WEBSITE.

6 (3) UPON RECEIPT OF A RESPONSE ACTIVITY PLAN SUBMITTED FOR  
7 APPROVAL UNDER THIS SUBSECTION, THE DEPARTMENT SHALL APPROVE,  
8 APPROVE WITH CONDITIONS, OR DENY THE RESPONSE ACTIVITY PLAN, OR  
9 SHALL NOTIFY THE SUBMITTER THAT THE PLAN DOES NOT CONTAIN  
10 SUFFICIENT INFORMATION FOR THE DEPARTMENT TO MAKE A DECISION. THE  
11 DEPARTMENT SHALL PROVIDE ITS DETERMINATION WITHIN 150 DAYS AFTER  
12 THE PLAN WAS SUBMITTED FOR APPROVAL UNLESS THE PLAN REQUIRES PUBLIC  
13 PARTICIPATION UNDER SECTION 20120D(2). IF THE PLAN REQUIRES PUBLIC  
14 PARTICIPATION UNDER SECTION 20120D(2), THE DEPARTMENT SHALL RESPOND  
15 WITHIN 180 DAYS. IF THE DEPARTMENT'S RESPONSE IS THAT THE PLAN DOES  
16 NOT INCLUDE SUFFICIENT INFORMATION, THE DEPARTMENT SHALL IDENTIFY  
17 THE INFORMATION THAT IS REQUIRED FOR THE DEPARTMENT TO MAKE A  
18 DECISION. IF A PLAN IS APPROVED WITH CONDITIONS, THE DEPARTMENT'S  
19 APPROVAL SHALL STATE WITH SPECIFICITY THE CONDITIONS OF THE  
20 APPROVAL. IF THE PLAN IS DENIED, THE DEPARTMENT'S DENIAL SHALL  
21 STATE WITH SPECIFICITY THE REASONS FOR DENIAL.

22 (4) IF THE DEPARTMENT FAILS TO PROVIDE A WRITTEN RESPONSE  
23 WITHIN THE TIME FRAMES REQUIRED BY SUBSECTION (3), THE RESPONSE  
24 ACTIVITY PLAN IS CONSIDERED APPROVED. IF THE DEPARTMENT DENIES A  
25 RESPONSE ACTIVITY PLAN UNDER SUBSECTION (3), A PERSON MAY  
26 SUBSEQUENTLY REVISE AND RESUBMIT THE RESPONSE ACTIVITY PLAN FOR  
27 APPROVAL.

1 (5) ANY TIME FRAME REQUIRED BY THIS SECTION MAY BE EXTENDED BY  
2 MUTUAL AGREEMENT OF THE DEPARTMENT AND A PERSON SUBMITTING A  
3 RESPONSE ACTIVITY PLAN. AN AGREEMENT EXTENDING A TIME FRAME SHALL  
4 BE IN WRITING.

5 (6) A PERSON REQUESTING APPROVAL OF A RESPONSE ACTIVITY PLAN  
6 MAY APPEAL THE DEPARTMENT'S DECISION IN ACCORDANCE WITH SECTION  
7 20114E, IF APPLICABLE.

8 SEC. 20114C. (1) IF REMEDIAL ACTIONS AT A FACILITY SATISFY  
9 CLEANUP CRITERIA FOR UNRESTRICTED RESIDENTIAL USE, LAND USE OR  
10 RESOURCE USE RESTRICTIONS OR MONITORING IS NOT REQUIRED.

11 (2) UPON COMPLETION OF REMEDIAL ACTIONS AT A FACILITY FOR A  
12 CATEGORY OF CLEANUP THAT DOES NOT SATISFY CLEANUP CRITERIA FOR  
13 UNRESTRICTED RESIDENTIAL USE, THE PERSON CONDUCTING THE REMEDIAL  
14 ACTIONS SHALL PREPARE AND IMPLEMENT A POSTCLOSURE PLAN FOR THAT  
15 FACILITY. A POSTCLOSURE PLAN SHALL INCLUDE BOTH OF THE FOLLOWING:

16 (A) LAND USE OR RESOURCE USE RESTRICTIONS AS PROVIDED IN  
17 SUBSECTION (3).

18 (B) PERMANENT MARKERS TO DESCRIBE RESTRICTED AREAS OF THE  
19 FACILITY AND THE NATURE OF ANY RESTRICTIONS. A PERMANENT MARKER IS  
20 NOT REQUIRED UNDER THIS SUBDIVISION IF THE ONLY APPLICABLE LAND USE  
21 OR RESOURCE USE RESTRICTIONS RELATE TO 1 OR MORE OF THE FOLLOWING:

22 (i) A FACILITY AT WHICH REMEDIAL ACTION SATISFIES THE CLEANUP  
23 CRITERIA FOR THE NONRESIDENTIAL CATEGORY UNDER SECTION  
24 20120A(1)(B).

25 (ii) USE OF GROUNDWATER.

26 (iii) PROTECTION OF THE INTEGRITY OF EXPOSURE CONTROLS THAT  
27 PREVENT CONTACT WITH SOIL, AND THOSE CONTROLS ARE COMPOSED SOLELY

1 OF ASPHALT, CONCRETE, OR LANDSCAPING MATERIALS. THIS SUBPARAGRAPH  
2 DOES NOT APPLY IF THE HAZARDOUS SUBSTANCES THAT ARE ADDRESSED BY  
3 THE BARRIER EXCEED A CLEANUP CRITERION BASED ON ACUTE TOXIC  
4 EFFECTS, REACTIVITY, CORROSIVITY, IGNITABILITY, EXPLOSIVITY, OR  
5 FLAMMABILITY, OR IF ANY HAZARDOUS SUBSTANCE ADDRESSED BY THE  
6 EXPOSURE CONTROL IS PRESENT AT A CONCENTRATION OF MORE THAN 10  
7 TIMES AN APPLICABLE SOIL DIRECT CONTACT CLEANUP CRITERION.

8 (iv) CONSTRUCTION REQUIREMENTS OR LIMITATIONS FOR STRUCTURES  
9 THAT MAY BE BUILT IN THE FUTURE.

10 (3) LAND USE OR RESOURCE USE RESTRICTIONS THAT ASSURE THE  
11 EFFECTIVENESS AND INTEGRITY OF ANY CONTAINMENT, EXPOSURE BARRIER,  
12 OR OTHER LAND USE OR RESOURCE USE RESTRICTIONS NECESSARY TO ASSURE  
13 THE EFFECTIVENESS AND INTEGRITY OF THE REMEDY SHALL BE DESCRIBED IN  
14 A RESTRICTIVE COVENANT. A RESTRICTIVE COVENANT DEVELOPED TO COMPLY  
15 WITH THIS PART SHALL BE IN A FORMAT MADE AVAILABLE ON THE  
16 DEPARTMENT'S WEBSITE, WITH MODIFICATIONS TO REFLECT THE FACTS  
17 APPLICABLE TO THE FACILITY. THE RESTRICTIVE COVENANT SHALL BE  
18 RECORDED WITH THE REGISTER OF DEEDS FOR THE COUNTY IN WHICH THE  
19 PROPERTY IS LOCATED WITHIN 21 DAYS AFTER THE COMPLETION OF THE  
20 REMEDIAL ACTIONS OR WITHIN 21 DAYS AFTER THE COMPLETION OF  
21 CONSTRUCTION OF THE CONTAINMENT OR BARRIER, AS APPROPRIATE. THE  
22 RESTRICTIVE COVENANT SHALL BE RECORDED BY THE PROPERTY OWNER OR  
23 WITH THE EXPRESS WRITTEN PERMISSION OF THE PROPERTY OWNER. THE  
24 RESTRICTIONS SHALL RUN WITH THE LAND AND BE BINDING ON THE OWNER'S  
25 SUCCESSORS, ASSIGNS, AND LESSEES. THE RESTRICTIVE COVENANT SHALL  
26 INCLUDE A SURVEY AND PROPERTY DESCRIPTION THAT DEFINE THE AREAS  
27 ADDRESSED BY THE REMEDIAL ACTIONS AND THE SCOPE OF ANY LAND USE OR

1 RESOURCE USE RESTRICTIONS. AT A MINIMUM, THE RESTRICTIVE COVENANT  
2 SHALL DO ALL OF THE FOLLOWING:

3 (A) DESCRIBE THE GENERAL USES OF THE PROPERTY THAT ARE  
4 CONSISTENT WITH THE CLEANUP CRITERIA.

5 (B) RESTRICT ACTIVITIES AT THE FACILITY THAT MAY INTERFERE  
6 WITH REMEDIAL ACTIONS, OPERATION AND MAINTENANCE, MONITORING, OR  
7 OTHER MEASURES NECESSARY TO ASSURE THE EFFECTIVENESS AND INTEGRITY  
8 OF THE REMEDIAL ACTIONS.

9 (C) RESTRICT ACTIVITIES THAT MAY RESULT IN EXPOSURES ABOVE  
10 LEVELS ATTAINED IN THE REMEDIAL ACTIONS.

11 (D) GRANT TO THE DEPARTMENT THE ABILITY TO ENFORCE THE  
12 RESTRICTIVE COVENANT BY LEGAL ACTION IN A COURT OF APPROPRIATE  
13 JURISDICTION.

14 (4) A PERSON SHALL NOT RECORD A RESTRICTIVE COVENANT  
15 INDICATING APPROVAL BY THE DEPARTMENT UNLESS THE DEPARTMENT HAS  
16 APPROVED THE RECORDING OF THE RESTRICTIVE COVENANT.

17 (5) A PERSON WHO IMPLEMENTS A POSTCLOSURE PLAN SHALL PROVIDE  
18 NOTICE OF THE LAND USE OR RESOURCE USE RESTRICTIONS TO THE  
19 DEPARTMENT AND TO THE ZONING AUTHORITY FOR THE LOCAL UNIT OF  
20 GOVERNMENT IN WHICH THE FACILITY IS LOCATED WITHIN 30 DAYS AFTER  
21 RECORDING THE LAND USE OR RESOURCE USE RESTRICTIONS WITH THE  
22 REGISTER OF DEEDS.

23 (6) THE DEPARTMENT, WITH THE APPROVAL OF THE STATE  
24 ADMINISTRATIVE BOARD, MAY PLACE RESTRICTIVE COVENANTS RELATED TO  
25 LAND USE OR RESOURCE USE RESTRICTIONS ON DEEDS OF STATE-OWNED  
26 PROPERTY.

27 (7) IMPLEMENTATION OF REMEDIAL ACTIONS DOES NOT RELIEVE A

1 PERSON WHO IS LIABLE UNDER SECTION 20126 OF THAT PERSON'S  
2 RESPONSIBILITY TO REPORT AND PROVIDE FOR RESPONSE ACTIVITY TO  
3 ADDRESS A SUBSEQUENT RELEASE OR THREAT OF RELEASE.

4 (8) IMPLEMENTATION BY ANY PERSON OF REMEDIAL ACTIONS WITHOUT  
5 DEPARTMENT APPROVAL DOES NOT RELIEVE THAT PERSON OF AN OBLIGATION  
6 TO UNDERTAKE RESPONSE ACTIVITIES OR LIMIT THE ABILITY OF THE  
7 DEPARTMENT TO TAKE ACTION TO REQUIRE RESPONSE ACTIVITIES NECESSARY  
8 TO COMPLY WITH THIS PART BY A PERSON WHO IS LIABLE UNDER SECTION  
9 20126.

10 SEC. 20114D. (1) UPON COMPLETION OF REMEDIAL ACTIONS THAT  
11 SATISFY APPLICABLE CLEANUP CRITERIA ESTABLISHED UNDER THIS PART,  
12 AND ALL OTHER REQUIREMENTS OF THIS PART THAT ARE APPLICABLE TO  
13 REMEDIAL ACTION, A PERSON MAY SUBMIT A NO FURTHER ACTION REPORT TO  
14 THE DEPARTMENT. THE NO FURTHER ACTION REPORT SHALL DOCUMENT THE  
15 BASIS FOR CONCLUDING THAT THE REMEDIAL ACTIONS HAVE BEEN COMPLETED.  
16 A NO FURTHER ACTION REPORT SHALL BE SUBMITTED WITH A FORM DEVELOPED  
17 BY THE DEPARTMENT. THE DEPARTMENT SHALL MAKE THIS FORM AVAILABLE ON  
18 ITS WEBSITE.

19 (2) A NO FURTHER ACTION REPORT SUBMITTED UNDER SUBSECTION (1)  
20 SHALL BE SUBMITTED WITH THE FOLLOWING, AS APPLICABLE:

21 (A) IF THE REMEDIAL ACTION AT THE FACILITY SATISFIES THE  
22 CLEANUP CRITERIA FOR UNRESTRICTED RESIDENTIAL USE, NEITHER A  
23 POSTCLOSURE PLAN OR A PROPOSED POSTCLOSURE AGREEMENT IS REQUIRED TO  
24 BE SUBMITTED.

25 (B) IF THE REMEDIAL ACTION REQUIRES ONLY LAND USE OR RESOURCE  
26 USE RESTRICTIONS AND FINANCIAL ASSURANCE IS NOT REQUIRED OR THE  
27 FINANCIAL ASSURANCE IS DE MINIMIS, A POSTCLOSURE PLAN IS REQUIRED

1 BUT A PROPOSED POSTCLOSURE AGREEMENT IS NOT REQUIRED TO BE  
2 SUBMITTED.

3 (C) FOR FACILITIES OTHER THAN THOSE DESCRIBED IN SUBDIVISION  
4 (A) OR (B), A POSTCLOSURE PLAN AND A PROPOSED POSTCLOSURE AGREEMENT  
5 ARE REQUIRED TO BE SUBMITTED.

6 (3) A PROPOSED POSTCLOSURE AGREEMENT THAT IS SUBMITTED AS PART  
7 OF A NO FURTHER ACTION REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

8 (A) PROVISIONS FOR MONITORING, OPERATION AND MAINTENANCE, AND  
9 OVERSIGHT NECESSARY TO ASSURE THE EFFECTIVENESS AND INTEGRITY OF  
10 THE REMEDIAL ACTION.

11 (B) FINANCIAL ASSURANCE TO PAY FOR MONITORING, OPERATION AND  
12 MAINTENANCE, OVERSIGHT, AND OTHER COSTS DETERMINED BY THE  
13 DEPARTMENT TO BE NECESSARY TO ASSURE THE EFFECTIVENESS AND  
14 INTEGRITY OF THE REMEDIAL ACTION.

15 (C) A PROVISION REQUIRING NOTICE TO THE DEPARTMENT OF THE  
16 OWNER'S INTENT TO CONVEY ANY INTEREST IN THE FACILITY 14 DAYS PRIOR  
17 TO CONSUMMATING THE CONVEYANCE. A CONVEYANCE OF TITLE, AN EASEMENT,  
18 OR OTHER INTEREST IN THE PROPERTY SHALL NOT BE CONSUMMATED BY THE  
19 PROPERTY OWNER WITHOUT ADEQUATE AND COMPLETE PROVISION FOR  
20 COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE POSTCLOSURE PLAN  
21 AND THE POSTCLOSURE AGREEMENT.

22 (D) A PROVISION GRANTING THE DEPARTMENT THE RIGHT TO ENTER THE  
23 PROPERTY AT REASONABLE TIMES FOR THE PURPOSE OF DETERMINING AND  
24 MONITORING COMPLIANCE WITH THE POSTCLOSURE PLAN AND POSTCLOSURE  
25 AGREEMENT, INCLUDING THE RIGHT TO TAKE SAMPLES, INSPECT THE  
26 OPERATION OF THE REMEDIAL ACTION MEASURES, AND INSPECT RECORDS.

27 (4) A POSTCLOSURE AGREEMENT MAY MODIFY THE TERMS OF A



1 POSTCLOSURE PLAN AS FOLLOWS:

2 (A) IF THE EXPOSURE TO HAZARDOUS SUBSTANCES MAY BE RELIABLY  
3 RESTRICTED BY AN INSTITUTIONAL CONTROL IN LIEU OF A RESTRICTIVE  
4 COVENANT, AND IMPOSITION OF LAND USE OR RESOURCE USE RESTRICTIONS  
5 THROUGH RESTRICTIVE COVENANTS IS IMPRACTICAL, THE POSTCLOSURE  
6 AGREEMENT MAY ALLOW FOR A REMEDIAL ACTION UNDER SECTION  
7 20120A(1)(C) OR (D) OR (2) TO RELY ON AN INSTITUTIONAL CONTROL IN  
8 LIEU OF A RESTRICTIVE COVENANT IN A POSTCLOSURE PLAN. MECHANISMS  
9 THAT MAY BE CONSIDERED UNDER THIS SUBSECTION INCLUDE, BUT ARE NOT  
10 LIMITED TO, AN ORDINANCE THAT RESTRICTS THE USE OF GROUNDWATER OR  
11 AN AQUIFER IN A MANNER AND TO A DEGREE THAT PROTECTS AGAINST  
12 UNACCEPTABLE EXPOSURES. AN ORDINANCE THAT SERVES AS AN EXPOSURE  
13 CONTROL PURSUANT TO THIS SUBSECTION SHALL BE PUBLISHED AND  
14 MAINTAINED IN THE SAME MANNER AS ZONING ORDINANCES AND SHALL  
15 INCLUDE A REQUIREMENT THAT THE LOCAL UNIT OF GOVERNMENT NOTIFY THE  
16 DEPARTMENT AT LEAST 30 DAYS PRIOR TO ADOPTING A MODIFICATION TO THE  
17 ORDINANCE, OR TO THE LAPSING OR REVOCATION OF THE ORDINANCE.

18 (B) A POSTCLOSURE AGREEMENT MAY WAIVE THE REQUIREMENT FOR  
19 PERMANENT MARKERS.

20 (5) THE PERSON SUBMITTING A NO FURTHER ACTION REPORT SHALL  
21 INCLUDE A SIGNED AFFIDAVIT ATTESTING TO THE FACT THAT THE  
22 INFORMATION UPON WHICH THE NO FURTHER ACTION REPORT IS BASED IS  
23 COMPLETE AND TRUE TO THE BEST OF THAT PERSON'S KNOWLEDGE. THE NO  
24 FURTHER ACTION REPORT SHALL ALSO INCLUDE A SIGNED AFFIDAVIT FROM AN  
25 ENVIRONMENTAL CONSULTANT WHO MEETS THE PROFESSIONAL QUALIFICATIONS  
26 DESCRIBED IN SECTION 20114E(2) AND WHO PREPARED THE NO FURTHER  
27 ACTION REPORT, ATTESTING TO THE FACT THAT THE REMEDIAL ACTIONS

1 DETAILED IN THE NO FURTHER ACTION REPORT COMPLY WITH ALL APPLICABLE  
2 REQUIREMENTS AND THAT THE INFORMATION UPON WHICH THE NO FURTHER  
3 ACTION REPORT IS BASED IS COMPLETE AND TRUE TO THE BEST OF THAT  
4 PERSON'S KNOWLEDGE.

5 (6) A PERSON SUBMITTING A NO FURTHER ACTION REPORT SHALL  
6 MAINTAIN ALL DOCUMENTS AND DATA PREPARED, ACQUIRED, OR RELIED UPON  
7 IN CONNECTION WITH THE NO FURTHER ACTION REPORT FOR NOT LESS THAN  
8 10 YEARS AFTER THE LATER OF THE DATE ON WHICH THE DEPARTMENT  
9 APPROVES THE NO FURTHER ACTION REPORT UNDER THIS SECTION, OR THE  
10 DATE ON WHICH NO FURTHER MONITORING, OPERATION, OR MAINTENANCE IS  
11 REQUIRED TO BE UNDERTAKEN AS PART OF THE REMEDIAL ACTION COVERED BY  
12 THE REPORT. ALL DOCUMENTS AND DATA REQUIRED TO BE MAINTAINED UNDER  
13 THIS SECTION SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON  
14 REQUEST.

15 (7) UPON RECEIPT OF A NO FURTHER ACTION REPORT SUBMITTED UNDER  
16 THIS SUBSECTION, THE DEPARTMENT SHALL APPROVE OR DENY THE NO  
17 FURTHER ACTION REPORT OR SHALL NOTIFY THE SUBMITTER THAT THE REPORT  
18 DOES NOT CONTAIN SUFFICIENT INFORMATION FOR THE DEPARTMENT TO MAKE  
19 A DECISION. IF THE NO FURTHER ACTION REPORT REQUIRES A POSTCLOSURE  
20 AGREEMENT, THE DEPARTMENT MAY NEGOTIATE ALTERNATIVE TERMS THAN  
21 THOSE INCLUDED WITHIN THE PROPOSED POSTCLOSURE AGREEMENT. THE  
22 DEPARTMENT SHALL PROVIDE ITS DETERMINATION WITHIN 150 DAYS AFTER  
23 THE REPORT WAS SUBMITTED FOR APPROVAL UNDER THIS SUBSECTION UNLESS  
24 THE REPORT REQUIRES PUBLIC PARTICIPATION UNDER SECTION 20120D(2).  
25 IF THE REPORT REQUIRES PUBLIC PARTICIPATION UNDER SECTION  
26 20120D(2), THE DEPARTMENT SHALL RESPOND WITHIN 180 DAYS. IF THE  
27 DEPARTMENT'S RESPONSE IS THAT THE REPORT DOES NOT INCLUDE

1 SUFFICIENT INFORMATION, THE DEPARTMENT SHALL IDENTIFY THE  
2 INFORMATION THAT IS REQUIRED FOR THE DEPARTMENT TO MAKE A DECISION.  
3 IF THE REPORT IS DENIED, THE DEPARTMENT'S DENIAL SHALL STATE WITH  
4 SPECIFICITY THE REASONS FOR DENIAL. IF THE NO FURTHER ACTION  
5 REPORT, INCLUDING ANY REQUIRED POSTCLOSURE PLAN AND POSTCLOSURE  
6 AGREEMENT, IS APPROVED, THE DEPARTMENT SHALL PROVIDE THE PERSON  
7 SUBMITTING THE NO FURTHER ACTION REPORT WITH A NO FURTHER ACTION  
8 LETTER. THE DEPARTMENT SHALL REVIEW AND PROVIDE A WRITTEN RESPONSE  
9 WITHIN THE TIME FRAMES REQUIRED BY THIS SUBSECTION FOR AT LEAST 90%  
10 OF THE NO FURTHER ACTION REPORTS SUBMITTED TO THE DEPARTMENT UNDER  
11 THIS SECTION IN EACH CALENDAR YEAR.

12 (8) IF THE DEPARTMENT FAILS TO PROVIDE A WRITTEN RESPONSE  
13 WITHIN THE TIME FRAMES REQUIRED BY SUBSECTION (7), THE NO FURTHER  
14 ACTION REPORT IS CONSIDERED APPROVED.

15 (9) A PERSON REQUESTING APPROVAL OF A NO FURTHER ACTION REPORT  
16 UNDER SUBSECTION (7) MAY APPEAL THE DEPARTMENT'S DECISION IN  
17 ACCORDANCE WITH SECTION 20114E.

18 (10) ANY TIME FRAME REQUIRED BY THIS SECTION MAY BE EXTENDED  
19 BY MUTUAL AGREEMENT OF THE DEPARTMENT AND A PERSON SUBMITTING A NO  
20 FURTHER ACTION REPORT. AN AGREEMENT EXTENDING A TIME FRAME SHALL BE  
21 IN WRITING.

22 (11) FOLLOWING APPROVAL OF A NO FURTHER ACTION REPORT UNDER  
23 THIS SECTION, THE OWNER OR OPERATOR OF THE FACILITY ADDRESSED BY  
24 THE NO FURTHER ACTION REPORT MAY SUBMIT TO THE DEPARTMENT AN  
25 AMENDED NO FURTHER ACTION REPORT. THE AMENDED NO FURTHER ACTION  
26 REPORT SHALL INCLUDE THE PROPOSED CHANGES TO THE ORIGINAL NO  
27 FURTHER ACTION REPORT AND AN ACCOMPANYING RATIONALE FOR THE

1 PROPOSED CHANGE. THE PROCESS FOR REVIEW AND APPROVAL OF AN AMENDED  
2 NO FURTHER ACTION REPORT IS THE SAME AS THE PROCESS FOR NO FURTHER  
3 ACTION REPORTS.

4 SEC. 20120. (1) ALL OF THE FOLLOWING SHALL BE CONSIDERED WHEN  
5 A PERSON IS SELECTING A REMEDIAL ACTION OR THE DEPARTMENT IS  
6 SELECTING OR APPROVING A REMEDIAL ACTION:

7 (A) THE EFFECTIVENESS OF ALTERNATIVES IN PROTECTING THE PUBLIC  
8 HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT.

9 (B) THE LONG-TERM UNCERTAINTIES ASSOCIATED WITH THE PROPOSED  
10 REMEDIAL ACTION.

11 (C) THE PERSISTENCE, TOXICITY, MOBILITY, AND PROPENSITY TO  
12 BIOACCUMULATE OF THE HAZARDOUS SUBSTANCES.

13 (D) THE SHORT- AND LONG-TERM POTENTIAL FOR ADVERSE HEALTH  
14 EFFECTS FROM HUMAN EXPOSURE.

15 (E) COSTS OF REMEDIAL ACTION, INCLUDING LONG-TERM MAINTENANCE  
16 COSTS. HOWEVER, THE COST OF A REMEDIAL ACTION SHALL BE A FACTOR  
17 ONLY IN CHOOSING AMONG ALTERNATIVES THAT ADEQUATELY PROTECT THE  
18 PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT, CONSISTENT  
19 WITH THE REQUIREMENTS OF SECTION 20120A.

20 (F) RELIABILITY OF THE ALTERNATIVES.

21 (G) THE POTENTIAL FOR FUTURE RESPONSE ACTIVITY COSTS IF AN  
22 ALTERNATIVE FAILS.

23 (H) THE POTENTIAL THREAT TO HUMAN HEALTH, SAFETY, AND WELFARE  
24 AND THE ENVIRONMENT ASSOCIATED WITH EXCAVATION, TRANSPORTATION, AND  
25 REDISPOSAL OR CONTAINMENT.

26 (I) THE ABILITY TO MONITOR REMEDIAL PERFORMANCE.

27 (J) FOR REMEDIAL ACTIONS THAT REQUIRE THE OPPORTUNITY FOR

1 PUBLIC COMMENT UNDER SECTION 20120D, THE PUBLIC'S PERSPECTIVE ABOUT  
2 THE EXTENT TO WHICH THE PROPOSED REMEDIAL ACTION EFFECTIVELY  
3 ADDRESSES REQUIREMENTS OF THIS PART.

4 (2) EVALUATION OF THE FACTORS IN SUBSECTION (1) SHALL CONSIDER  
5 ALL FACTORS IN BALANCE WITH ONE ANOTHER AS NECESSARY TO ACHIEVE THE  
6 OBJECTIVES OF THIS PART. NO SINGLE FACTOR IN SUBSECTION (1) SHALL  
7 BE CONSIDERED THE MOST IMPORTANT.

8 Sec. 20120a. (1) The department may establish cleanup criteria  
9 and approve of remedial actions in the categories listed in this  
10 subsection. The cleanup category proposed shall be the option of  
11 the person proposing the remedial action, subject to department  
12 approval **IF REQUIRED**, considering the appropriateness of the  
13 categorical criteria to the facility. The categories are as  
14 follows:

15 (a) Residential.

16 (b) ~~Commercial~~ **NONRESIDENTIAL. BEGINNING ON THE EFFECTIVE DATE**  
17 **OF THE 2010 AMENDATORY ACT THAT AMENDED THIS SECTION, THE**  
18 **NONRESIDENTIAL CLEANUP CRITERIA SHALL BE THE FORMER INDUSTRIAL**  
19 **CATEGORICAL CLEANUP CRITERIA DEVELOPED BY THE DEPARTMENT PURSUANT**  
20 **TO THIS SECTION UNTIL NEW NONRESIDENTIAL CLEANUP CRITERIA ARE**  
21 **DEVELOPED AND PUBLISHED BY THE DEPARTMENT PURSUANT TO SUBSECTION**  
22 **(17).**

23 ~~————(c) Recreational.~~

24 ~~————(d) Industrial.~~

25 ~~————(e) Other land use based categories established by the~~  
26 ~~department.~~

27 (C) ~~(f)~~ Limited residential.

1 (D) ~~(g) Limited commercial~~ **NONRESIDENTIAL**.

2 ~~(h) Limited recreational.~~

3 ~~(i) Limited industrial.~~

4 ~~(j) Other limited categories established by the department.~~

5 (2) The department may approve a remedial action plan based on  
6 site-specific criteria that satisfy the applicable requirements of  
7 this part. ~~and the rules promulgated under this part.~~ The  
8 department shall utilize only reasonable and relevant exposure  
9 pathways in determining the adequacy of a site specific criterion.  
10 Additionally, the department may approve a remedial action plan for  
11 a designated area-wide zone encompassing more than 1 facility, and  
12 may consolidate remedial actions for more than 1 facility.

13 (3) The department shall develop cleanup criteria pursuant to  
14 subsection (1) based on generic human health risk assessment  
15 assumptions determined by the department to appropriately  
16 characterize patterns of human exposure associated with certain  
17 land uses. The department shall utilize only reasonable and  
18 relevant exposure pathways in determining these assumptions. The  
19 department may prescribe more than 1 generic set of exposure  
20 assumptions within each category described in subsection (1). If  
21 the department prescribes more than 1 generic set of exposure  
22 assumptions within a category, each set of exposure assumptions  
23 creates a subcategory within a category described in subsection  
24 (1). The department shall specify ~~site~~ **FACILITY** characteristics  
25 that determine the applicability of criteria derived for these  
26 categories or subcategories.

27 (4) If a hazardous substance poses a carcinogenic risk to

1 humans, the cleanup criteria derived for cancer risk under this  
2 section shall be the 95% upper bound on the calculated risk of 1  
3 additional cancer above the background cancer rate per 100,000  
4 individuals using the generic set of exposure assumptions  
5 established under subsection (3) for the appropriate category or  
6 subcategory. If the hazardous substance poses a risk of an adverse  
7 health effect other than cancer, cleanup criteria shall be derived  
8 using appropriate human health risk assessment methods for that  
9 adverse health effect and the generic set of exposure assumptions  
10 established under subsection (3) for the appropriate category or  
11 subcategory. A hazard quotient of 1.0 shall be used to derive  
12 noncancer cleanup criteria. For the noncarcinogenic effects of a  
13 hazardous substance present in soils, the intake shall be assumed  
14 to be 100% of the protective level, unless compound and site-  
15 specific data are available to demonstrate that a different source  
16 contribution is appropriate. If a hazardous substance poses a risk  
17 of both cancer and 1 or more adverse health effects other than  
18 cancer, cleanup criteria shall be derived under this section for  
19 the most sensitive effect.

20 (5) If a cleanup criterion derived under subsection (4) for  
21 groundwater in an aquifer differs from either: (a) the state  
22 drinking water standard established pursuant to section 5 of the  
23 safe drinking water act, ~~Act No. 399 of the Public Acts of 1976,~~  
24 ~~being section 325.1005 of the Michigan Compiled Laws 1976 PA 399,~~  
25 **MCL 325.1005**, or (b) ~~criteria for adverse aesthetic characteristics~~  
26 ~~derived pursuant to R 299.5709 of the Michigan administrative code~~  
27 **THE NATIONAL SECONDARY DRINKING WATER REGULATIONS ESTABLISHED**

1 PURSUANT TO 42 USC 300G-1, OR (C) IF THERE IS NOT NATIONAL  
2 SECONDARY DRINKING WATER REGULATION FOR A CONTAMINANT, THE  
3 CONCENTRATION DETERMINED BY THE DEPARTMENT ACCORDING TO METHODS  
4 APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BELOW  
5 WHICH TASTE, ODOR, APPEARANCE, OR OTHER AESTHETIC CHARACTERISTICS  
6 ARE NOT ADVERSELY AFFECTED, the cleanup criterion shall be the more  
7 stringent of (a), ~~or (b)~~, OR (C) unless the department determines  
8 that compliance with this ~~rule~~-SUBSECTION is not necessary because  
9 the use of the aquifer is reliably restricted ~~pursuant to section~~  
10 ~~20120b(4) or (5)~~. UNDER PROVISIONS OF A POSTCLOSURE PLAN OR A  
11 POSTCLOSURE AGREEMENT.

12 (6) The department shall not approve of a remedial action plan  
13 in categories set forth in subsection (1)(b) to ~~(j)~~-(D), unless the  
14 person ~~proposing the plan~~ documents that the current zoning of the  
15 property is consistent with the categorical criteria being  
16 proposed, or that the governing zoning authority intends to change  
17 the zoning designation so that the proposed criteria are consistent  
18 with the new zoning designation, or the current property use is a  
19 legal nonconforming use. The department shall not grant final  
20 approval for a remedial action plan that relies on a change in  
21 zoning designation until a final determination of that zoning  
22 change has been made by the local unit of government. The  
23 department may approve of a remedial action **PLAN** that achieves  
24 categorical criteria that ~~is~~-**ARE** based on greater exposure  
25 potential than the criteria applicable to current zoning. In  
26 addition, the remedial action plan shall include documentation that  
27 the current property use is consistent with the current zoning or



1 is a legal nonconforming use. Abandoned or inactive property shall  
2 be considered on the basis of zoning classifications as described  
3 above.

4 (7) Cleanup criteria from 1 or more categories in subsection  
5 (1) may be applied at a facility, if all relevant requirements are  
6 satisfied for application of a pertinent criterion.

7 ~~(8) Except as provided in subsection (4) and subsections (9)~~  
8 ~~to (13), compliance with the residential category in subsection~~  
9 ~~(1)(a) shall be based on R 299.5709 through R 299.5711(4), R~~  
10 ~~299.5711(6) through R 299.5715 and R 299.5727 of the Michigan~~  
11 ~~administrative code. R 299.5711(5), R 299.5723, and R 299.5725 of~~  
12 ~~the Michigan administrative code shall not apply for calculations~~  
13 ~~of residential criteria under subsection (1)(a).~~

14 (8) ~~(9)~~The need for soil remediation to protect an aquifer  
15 from hazardous substances in soil shall ~~be determined by R~~  
16 ~~299.5711(2) of the Michigan administrative code, considering~~  
17 **CONSIDER** the vulnerability of the aquifer or aquifers potentially  
18 affected if the soil remains at the facility. Migration of  
19 hazardous substances in soil to an aquifer is a pertinent pathway  
20 if appropriate based on consideration of site specific factors.

21 (9) ~~(10)~~The department may establish cleanup criteria for a  
22 hazardous substance using a biologically based model developed or  
23 identified as appropriate by the United States environmental  
24 protection agency if the department determines all of the  
25 following:

26 (a) That application of the model results in a criterion that  
27 more accurately reflects the risk posed.

1 (b) That data of sufficient quantity and quality are available  
2 for a specified hazardous substance to allow the scientifically  
3 valid application of the model.

4 (c) The United States environmental protection agency has  
5 determined that application of the model is appropriate for the  
6 hazardous substance in question.

7 (10) ~~(11) If the cleanup criterion for a hazardous substance~~  
8 ~~determined by R 299.5707 of the Michigan administrative code~~ **TARGET**  
9 **DETECTION LIMIT OR THE BACKGROUND CONCENTRATION FOR A HAZARDOUS**  
10 **SUBSTANCE** is greater than a cleanup criterion developed for a  
11 category pursuant to subsection (1), the criterion ~~determined~~  
12 ~~pursuant to R 299.5707 of the Michigan administrative code~~ shall be  
13 the ~~cleanup criterion~~ **TARGET DETECTION LIMIT OR BACKGROUND**  
14 **CONCENTRATION, WHICHEVER IS LARGER,** for that hazardous substance in  
15 that category.

16 (11) ~~(12) In determining the adequacy of a land-use based~~  
17 ~~response activity to address sites contaminated by polychlorinated~~  
18 ~~biphenyls, the department shall not require response activity in~~  
19 ~~addition to that which is subject to and complies with applicable~~  
20 ~~federal regulations and policies that implement the toxic~~  
21 ~~substances control act, Public Law 94 469, 15 U.S.C. USC 2601 to~~  
22 ~~2629, 2641 to 2656, 2661 to 2671, and 2681 to 2692.~~

23 (12) ~~(13) Response activity~~ **REMEDIAL ACTION** to address the  
24 release of uncontaminated mineral oil satisfies ~~R 299.5709~~ **CLEANUP**  
25 **CRITERIA UNDER THIS PART** for groundwater or ~~R 299.5711~~ for soil  
26 ~~under the Michigan administrative code~~ if all visible traces of  
27 mineral oil are removed from groundwater and soil.

1           (13) ~~(14)~~ Approval by the department of a remedial action plan  
2 based on ~~1 or more~~ **THE** categorical standard in subsection (1)(a) ~~to~~  
3 ~~(e)~~ **OR (B)** shall be granted only if the pertinent criteria are  
4 satisfied in the affected media. The department shall approve the  
5 use of probabilistic or statistical methods or other scientific  
6 methods of evaluating environmental data when determining  
7 compliance with a pertinent cleanup criterion if the methods are  
8 determined by the department to be reliable, scientifically valid,  
9 and best represent actual site conditions and exposure potential.

10           (14) ~~(15)~~ ~~If a remedial action allows for venting groundwater,~~  
11 ~~the discharge shall comply with requirements of part 31, and the~~  
12 ~~rules promulgated under that part or an alternative method~~  
13 ~~established by rule. If the discharge of venting groundwater is~~  
14 ~~provided for in a remedial action plan that is approved by the~~  
15 ~~department,~~ **IS PROVIDED FOR IN A RESPONSE ACTIVITY THAT IS IN**  
16 **COMPLIANCE WITH THIS PART,** a permit for the discharge is not  
17 required. ~~As used in this subsection, "venting groundwater" means~~  
18 ~~groundwater that is entering a surface water of the state from a~~  
19 ~~facility.~~

20           (15) ~~(16)~~ A remedial action plan **REMEDIAL ACTIONS** shall  
21 ~~provide response activity to meet the residential categorical~~  
22 **CLEANUP** criteria ~~,~~ **FOR UNRESTRICTED RESIDENTIAL USE** or **SHALL**  
23 provide for acceptable land use or resource use restrictions  
24 ~~pursuant to section 20120b.~~ **IN A POSTCLOSURE PLAN OR A POSTCLOSURE**  
25 **AGREEMENT.**

26           (16) ~~(17)~~ A remedial action plan **REMEDIAL ACTIONS** that ~~relies~~  
27 **RELY** on categorical cleanup criteria developed pursuant to

1 subsection (1) shall also consider other factors necessary to  
2 protect the public health, safety, and welfare, and the environment  
3 as specified by the department, if the department determines based  
4 on data and existing information that such considerations are  
5 relevant to a specific facility. These factors include, but are not  
6 limited to, the protection of surface water quality and  
7 consideration of ecological risks if pertinent to the facility  
8 based on the requirements of R-299.5717 of the Michigan  
9 administrative code **THIS PART.**

10 ~~—— (18) The department shall annually evaluate and revise, if~~  
11 ~~appropriate, the cleanup criteria derived under this section. The~~  
12 ~~evaluation shall incorporate knowledge gained through research and~~  
13 ~~studies in the areas of fate and transport and risk assessment. The~~  
14 ~~department shall prepare and submit to the legislature a report~~  
15 ~~detailing revisions made to cleanup criteria under this section.~~

16 (17) THE DEPARTMENT SHALL EVALUATE AND, IF APPROPRIATE, REVISE  
17 CLEANUP CRITERIA AT LEAST ONCE EVERY 4 YEARS BEGINNING 12 MONTHS  
18 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT AMENDED THIS  
19 SECTION. THE DEPARTMENT SHALL MAKE DRAFT CLEANUP CRITERIA AVAILABLE  
20 FOR PUBLIC COMMENT FOR AT LEAST 90 DAYS BEFORE ISSUING FINAL  
21 CLEANUP CRITERIA. THE DEPARTMENT SHALL TAKE INTO ACCOUNT RELEVANT  
22 COMMENTS PROVIDED BY THE PUBLIC DURING THE PUBLIC COMMENT PERIOD IN  
23 DETERMINING WHETHER ANY CHANGES SHOULD BE MADE IN THE DRAFT CLEANUP  
24 CRITERIA AND SHALL SUMMARIZE RESPONSES TO PUBLIC COMMENTS IN A  
25 DOCUMENT THAT IS MADE AVAILABLE TO THE PUBLIC AT THE TIME FINAL  
26 CLEANUP CRITERIA ARE ISSUED. THE DEPARTMENT SHALL ALSO MAKE  
27 PUBLICLY AVAILABLE, IN CONJUNCTION WITH THE DRAFT AND FINAL CLEANUP

1 CRITERIA, THE TOXICOLOGICAL AND PHYSICAL-CHEMICAL DATA USED TO  
2 DEVELOP THE DRAFT AND FINAL CLEANUP CRITERIA. THE DEPARTMENT SHALL  
3 PUBLISH FINAL CLEANUP CRITERIA ON ITS INTERNET WEBSITE AND  
4 DISTRIBUTE NOTICE OF THE AVAILABILITY OF THE CRITERIA IN A MANNER  
5 CALCULATED TO EFFECTIVELY INFORM INTERESTED PARTIES. ON THE  
6 EFFECTIVE DATE OF THE FIRST REVISION TO CLEANUP CRITERIA UNDER THIS  
7 SUBSECTION AFTER THE EFFECTIVE DATE OF THE 2010 AMENDATORY ACT THAT  
8 AMENDED THIS SECTION, R 299.5744, R 299.5746, R 299.5748, R  
9 299.5750, AND R 299.5752 OF THE MICHIGAN ADMINISTRATIVE CODE ARE  
10 RESCINDED.

11 Sec. 20120b. ~~(1) If a remedial action plan is selected or~~  
12 ~~approved by the department based on criteria for the residential~~  
13 ~~category provided for in section 20120a(1)(a), land use~~  
14 ~~restrictions or monitoring are not required once those standards~~  
15 ~~have been achieved by the remedial action.~~

16 ~~—— (2) If a remedial action plan is selected or approved by the~~  
17 ~~department based on criteria in categories provided for in section~~  
18 ~~20120a(1)(b) to (e), a notice of approved environmental remediation~~  
19 ~~shall be recorded with the register of deeds for the county in~~  
20 ~~which the facility is located within 21 days after selection or~~  
21 ~~approval by the department of the remedial action, or within 21~~  
22 ~~days after completion of construction of the remedial action as~~  
23 ~~appropriate to the circumstances. A notice shall be filed pursuant~~  
24 ~~to this section only by the property owner or by another person who~~  
25 ~~has the express written permission of the property owner. The form~~  
26 ~~and content of the notice are subject to approval by the state. Any~~  
27 ~~restrictions contained in the notice shall be binding on the~~

1 owner's successors, assigns, and lessees, and shall run with the  
2 land. A notice of environmental remediation recorded pursuant to  
3 this subsection shall state which of the categories of land use  
4 specified in section 20120a(1)(b) to (d) are consistent with the  
5 environmental conditions at the property to which the notice  
6 applies, and that a change from that land use or uses may  
7 necessitate further evaluation of potential risks to the public  
8 health, safety, or welfare, or the environment. The notice of  
9 approved environmental remediation shall include a survey and  
10 property description that define the areas addressed by the  
11 remedial action plan if land use or resource use restrictions apply  
12 to less than the entire parcel or if different restrictions apply  
13 to different areas of a parcel, and the scope of any land use or  
14 resource use limitations. Additional requirements for financial  
15 assurance, monitoring, or operation, and maintenance do not apply  
16 if a remedial action complies with criteria provided for in section  
17 20120a(1)(b) to (e), unless monitoring or operation and maintenance  
18 are required to assure the compliance with criteria that apply  
19 outside the boundary of the property that is the source of the  
20 release.

21 ——— (3) If a remedial action plan is selected or approved by the  
22 department based on criteria provided for in section 20120a(1)(f)  
23 to (j) or (2), provisions concerning subdivisions (a) through (e)  
24 shall be stipulated in a legally enforceable agreement with the  
25 department. If the department concurs with an analysis provided in  
26 a remedial action plan that 1 or more of the requirements specified  
27 in subdivisions (b) to (e) is not necessary to protect the public

1 ~~health, safety, or welfare, or the environment and to assure the~~  
2 ~~effectiveness and integrity of the remedial action, that element~~  
3 ~~may be omitted from the agreement. If provisions for any of the~~  
4 ~~following, determined by the department to be applicable for a~~  
5 ~~facility, lapse or are not complied with as provided in the~~  
6 ~~agreement or remedial action plan, the department's approval of the~~  
7 ~~remedial action plan is void from the time of the lapse or~~  
8 ~~violation, unless the lapse or violation is corrected to the~~  
9 ~~satisfaction of the department.~~

10 ~~—— (a) Land use or resource use restrictions.~~

11 ~~—— (b) Monitoring.~~

12 ~~—— (c) Operation and maintenance.~~

13 ~~—— (d) Permanent markers to describe restricted areas of the site~~  
14 ~~and the nature of any restrictions.~~

15 ~~—— (e) Financial assurance, in a mechanism acceptable to the~~  
16 ~~department to pay for monitoring, operation and maintenance,~~  
17 ~~oversight, and other costs determined by the department to be~~  
18 ~~necessary to assure the effectiveness and integrity of the remedial~~  
19 ~~action.~~

20 ~~—— (4) If a remedial action plan relies in whole or in part on~~  
21 ~~cleanup criteria approved pursuant to section 20120a(1)(f) to (j)~~  
22 ~~or (2), land use or resource use restrictions to assure the~~  
23 ~~effectiveness and integrity of any containment, exposure barrier,~~  
24 ~~or other land use or resource use restrictions necessary to assure~~  
25 ~~the effectiveness and integrity of the remedy shall be described in~~  
26 ~~a restrictive covenant. The restrictive covenant shall be recorded~~  
27 ~~with the register of deeds for the county in which the property is~~

~~1 located within 21 days of the department's selection or approval of  
2 the remedial action plan, or within 21 days of the completion of  
3 construction of the containment or barrier, as appropriate to the  
4 circumstances. The restrictive covenant shall be filed by the  
5 property owner or with the express written permission of the  
6 property owner. The restrictions shall run with the land and be  
7 binding on the owner's successors, assigns, and lessees. Such  
8 restrictions shall apply until the department determines that  
9 hazardous substances that are controlled by the barrier or  
10 contained no longer present an unacceptable risk to the public  
11 health, safety, or welfare, or the environment as defined by the  
12 cleanup criteria and exposure control requirements set forth in the  
13 remedial action plan. The restrictive covenant shall include a  
14 survey and property description that define the areas addressed by  
15 the remedial action plan and the scope of any land use or resource  
16 use limitations. The form and content of the restrictive covenant  
17 are subject to approval by the department and shall include  
18 provisions to accomplish all of the following:~~

~~19 — (a) Restrict activities at the facility that may interfere  
20 with a remedial action, operation and maintenance, monitoring, or  
21 other measures necessary to assure the effectiveness and integrity  
22 of the remedial action.~~

~~23 — (b) Restrict activities that may result in exposures above  
24 levels established in the remedial action plan.~~

~~25 — (c) Require notice to the department of the owner's intent to  
26 convey any interest in the facility 14 days prior to consummating  
27 the conveyance. A conveyance of title, an easement, or other~~



1 ~~interest in the property shall not be consummated by the property~~  
2 ~~owner without adequate and complete provision for compliance with~~  
3 ~~the terms and conditions of the agreement described in subsection~~  
4 ~~(3) and the prevention of releases and exposures described in~~  
5 ~~subdivision (b).~~

6 ~~—— (d) Grant to the department the right to enter the property at~~  
7 ~~reasonable times for the purpose of determining and monitoring~~  
8 ~~compliance with the remedial action plan, including the right to~~  
9 ~~take samples, inspect the operation of the remedial action~~  
10 ~~measures, and inspect records.~~

11 ~~—— (e) Allow the state to enforce the restriction set forth in~~  
12 ~~the covenant by legal action in a court of appropriate~~  
13 ~~jurisdiction.~~

14 ~~—— (f) Describe generally the uses of the property that are~~  
15 ~~consistent with the categorical criteria and limitations approved~~  
16 ~~as part of a remedial action plan.~~

17 ~~—— (5) If the department determines that exposure to hazardous~~  
18 ~~substances may be reliably restricted by an institutional control~~  
19 ~~in lieu of a restrictive covenant, and that imposition of land use~~  
20 ~~or resource use restrictions through restrictive covenants is~~  
21 ~~impractical, the department may approve of a remedial action plan~~  
22 ~~under section 20120a(1) (f) to (j) or (2) that relies on such~~  
23 ~~institutional control. Mechanisms that may be considered under this~~  
24 ~~subsection include, but are not limited to, an ordinance that~~  
25 ~~prohibits the use of groundwater or an aquifer in a manner and to a~~  
26 ~~degree that protects against unacceptable exposures as defined by~~  
27 ~~the cleanup criteria approved as part of the remedial action plan.~~

1 ~~An ordinance that serves as an exposure control pursuant to this~~  
2 ~~subsection shall be published and maintained in the same manner as~~  
3 ~~zoning ordinances and shall include a requirement that the local~~  
4 ~~unit of government notify the department at least 30 days prior to~~  
5 ~~adopting a modification to the ordinance, or to the lapsing or~~  
6 ~~revocation of the ordinance.~~

7 ~~—— (6) Selection or approval by the department of a remedial~~  
8 ~~action does not relieve a person who is liable under section 20126~~  
9 ~~of that person's responsibility to report and provide for response~~  
10 ~~activity to address a subsequent release or threat of release at~~  
11 ~~the facility.~~

12 ~~—— (7) A remedial action shall not be considered approved by the~~  
13 ~~department unless a remedial action plan is submitted to the~~  
14 ~~department and the department approves the plan. Implementation by~~  
15 ~~any person of response activity without department approval does~~  
16 ~~not relieve that person of an obligation to undertake response~~  
17 ~~activity or limit the ability of the department to take action to~~  
18 ~~require response activity necessary to comply with this act by a~~  
19 ~~person who is liable under section 20126.~~

20 ~~—— (8) A person shall not file a notice of approved environmental~~  
21 ~~remediation indicating approval or a determination of the~~  
22 ~~department unless the department has approved of the filing of the~~  
23 ~~notice.~~

24 ~~—— (9) A person who implements a remedial action plan approved by~~  
25 ~~the department pursuant to subsections (2) to (5) shall provide~~  
26 ~~notice of the land use restrictions that are part of the remedial~~  
27 ~~action plan to the zoning authority for the local unit of~~

1 ~~government in which the facility is located within 30 days of~~  
2 ~~approval of the plan.~~

3 ~~—— (10) The state, with the approval of the state administrative~~  
4 ~~board, may place restrictive covenants related to land or resource~~  
5 ~~use on deeds of state owned property.~~

6 (1) THE DEPARTMENT SHALL APPROVE SITE-SPECIFIC CRITERIA IN A  
7 RESPONSE ACTIVITY UNDER SECTION 20120A IF SUCH CRITERIA, IN  
8 COMPARISON TO GENERIC CRITERIA, BETTER REFLECT BEST AVAILABLE  
9 INFORMATION CONCERNING THE TOXICITY OR EXPOSURE RISK POSED BY THE  
10 HAZARDOUS SUBSTANCE AND, FOR NONNUMERIC CRITERIA, PROVIDE  
11 PROTECTION EQUIVALENT TO, OR BETTER THAN, THE RISK AND HAZARD  
12 LEVELS SET FORTH IN SECTION 20120A(4).

13 (2) SITE-SPECIFIC CRITERIA MAY, AS APPROPRIATE:

14 (A) USE THE ALGORITHMS FOR CALCULATING GENERIC CRITERIA  
15 ESTABLISHED BY RULE OR PROPOSE AND USE DIFFERENT ALGORITHMS.

16 (B) ALTER ANY DEFAULT VALUE THAT IS ESTABLISHED BY RULE AND IS  
17 NOT EXPRESSLY DETERMINED BY THIS PART.

18 (C) TAKE INTO CONSIDERATION THE DEPTH BELOW THE GROUND SURFACE  
19 OF CONTAMINATION, WHICH MAY REDUCE THE POTENTIAL FOR EXPOSURE AND  
20 SERVE AS AN EXPOSURE BARRIER.

21 (D) BE BASED ON INFORMATION RELATED TO THE SPECIFIC FACILITY  
22 OR INFORMATION OF GENERAL APPLICABILITY, INCLUDING PEER-REVIEWED  
23 SCIENTIFIC LITERATURE.

24 (E) USE PROBABILISTIC METHODS OF CALCULATION.

25 (F) USE NONLINEAR-THRESHOLD-BASED CALCULATIONS WHERE  
26 SCIENTIFICALLY JUSTIFIED.

27 (3) A SITE-SPECIFIC REMEDIAL ACTION MAY INCLUDE PRESUMPTIVE

1 **REMEDIES, EXPOSURE CONTROLS, USE RESTRICTIONS, REMOVAL ACTIONS, OR**  
2 **OTHER RESPONSE ACTIVITIES THAT PROVIDE PROTECTION EQUIVALENT TO**  
3 **MEETING THE RISK AND HAZARD LEVELS UNDER SECTION 20120A(4) .**

4       Sec. 20120c. (1) An owner or operator shall not remove soil,  
5 or allow soil to be removed, from a facility to an off-site  
6 location unless that person determines that the soil can be  
7 lawfully relocated without posing a threat to the public health,  
8 safety, or welfare, or the environment. The determination shall  
9 consider whether the soil is subject to regulation pursuant to part  
10 111.

11       (2) For the purposes of subsection (1), soil poses a threat to  
12 the public health, safety, or welfare, or the environment if  
13 concentrations of hazardous substances in the soil exceed the  
14 cleanup criterion determined pursuant to section 20120a(1) or (2)  
15 that apply to the location to which the soil will be moved or  
16 relocated, except that if the soil is to be removed from the  
17 facility for disposal or treatment, the soil shall satisfy the  
18 appropriate regulatory criteria for disposal or treatment. Any land  
19 use **OR RESOURCE USE** restrictions that would be required for the  
20 application of a criterion pursuant to section 20120a(1) or (2)  
21 shall be in place at the location to which the soil will be moved.  
22 Soil may be relocated only to another location that is similarly  
23 contaminated, considering the general nature, concentration, and  
24 mobility of hazardous substances present at the location to which  
25 contaminated soil will be moved. Contaminated soil shall not be  
26 moved to a location that is not a facility unless it is taken there  
27 for treatment or disposal in conformance with applicable laws and

1 regulations.

2 (3) An owner or operator shall not relocate soil, or allow  
3 soil to be relocated, within a ~~site of environmental contamination~~  
4 **FACILITY** where a remedial action plan has been approved unless that  
5 person assures that the same degree of control required for  
6 application of the criteria of section 20120a(1) or (2) is provided  
7 for the contaminated soil.

8 (4) The prohibition in subsection (3) against relocation of  
9 contaminated soil within a ~~site of environmental contamination~~  
10 **FACILITY** does not apply to soils that are temporarily relocated for  
11 the purpose of implementing response activity or utility  
12 construction if the response activity or utility construction is  
13 completed in a timely fashion and the short-term hazards are  
14 appropriately controlled.

15 (5) If soil is being moved off-site from, moved to, or  
16 relocated on-site at a facility where a remedial action plan has  
17 been approved by the department based on a categorical cleanup  
18 criterion in section ~~20120a(1)(f) to (j)~~ **20120A(1)(C) OR (D)** or  
19 (2), the soil shall not be moved without prior department approval.

20 (6) If soil is being relocated in a manner not addressed by  
21 subsection (5), the owner or operator of the facility from which  
22 soil is being moved must provide notice to the department within 14  
23 days after the soil is moved. The notice shall include all of the  
24 following:

25 (a) The location from which soil will be removed.

26 (b) The location to which the soil will be taken.

27 (c) The volume of soil to be moved.

1 (d) A summary of information or data on which the owner or  
2 operator is basing the determination required in subsection (2)  
3 that the soil does not present a threat to the public health,  
4 safety, or welfare, or the environment.

5 (e) If land use **OR RESOURCE USE** restrictions **IN A POSTCLOSURE**  
6 **PLAN OR A POSTCLOSURE AGREEMENT** would apply pursuant to section  
7 ~~20120a(1)~~ to the soil when it is relocated, the notice shall  
8 include documentation that those restrictions are in place.

9 (7) The determination required by subsections (1) and (3)  
10 shall be based on knowledge of the person undertaking or approving  
11 of the removal or relocation of soil, or on characterization of the  
12 soil for the purpose of compliance with this section.

13 (8) This section does not apply to soil that is designated as  
14 an inert material pursuant to section 11507(3). ~~of the natural~~  
15 ~~resources and environmental protection act, Act No. 451 of the~~  
16 ~~Public Acts of 1994, being section 324.11507 of the Michigan~~  
17 ~~Compiled Laws.~~

18 Sec. 20120d. (1) At a facility where state funds will be spent  
19 to develop or implement a remedial action plan or where the  
20 department determines there is a significant public interest,  
21 within 30 days after the completion of a remedial investigation for  
22 the facility, the department shall provide the county and the  
23 township, city, or village in which the facility is located a  
24 notice of the completion of the remedial investigation, a summary  
25 of the remedial investigation, and notice of an opportunity for ~~the~~  
26 ~~people in~~ **RESIDENTS OF** the local unit of government to meet with  
27 the department regarding the remedial investigation and any

1 proposed feasibility study for the facility. Upon a request for a  
2 public meeting by the governing body of the local unit of  
3 government or by 25 citizens of the local unit of government, the  
4 department shall, within 30 days of the request, meet with persons  
5 in the local unit of government. The person or persons requesting  
6 the public meeting shall publicize and provide accommodations for  
7 the meeting. The meeting shall be held in the local unit of  
8 government in which the facility is located. The department shall  
9 provide copies of the notices and summary required in this  
10 subsection to the governing body of the local unit of government,  
11 to the known persons who are liable under section 20126, and to the  
12 main public library of the local unit of government in which the  
13 facility is located. The department shall send representatives to  
14 the meeting who are familiar with the facility and who are involved  
15 with determining the appropriate remedial actions to be taken at  
16 the facility. Persons who are liable under section 20126 for the  
17 facility may send representatives to the meeting.

18 ~~—— (2) The department shall maintain, and periodically publish, a~~  
19 ~~list of remedial action plans submitted for approval that comply~~  
20 ~~with the requirements of R 299.5515 of the Michigan administrative~~  
21 ~~code.~~

22 (2) ~~(3)~~ Before approval of a proposed remedial action plan **OR**  
23 **A NO FURTHER ACTION REPORT**, which is to be implemented with money  
24 from the fund, or is based on categorical criteria provided for in  
25 section ~~20120a(1)(f) to (j)~~ **20120A(1)(C) OR (D)** or (2), or if  
26 section 20118(5) or (6) applies, or the department determines that  
27 there is significant public interest, the department shall do all

1 of the following:

2 (a) Publish a notice and brief summary of the proposed  
3 remedial action plan.

4 (b) Provide for public review and comment pertinent to  
5 documents relating to the proposed remedial action plan, including,  
6 if applicable, the feasibility study that outlines alternative  
7 remedial action measures considered.

8 (c) Provide an opportunity for a public meeting at or near the  
9 facility when any of the following occur:

10 (i) The department determines that there is a significant  
11 public interest or that for any other reason a public meeting is  
12 appropriate.

13 (ii) A city, township, or village in which the facility is  
14 located, by a majority vote of its governing body, requests a  
15 public meeting.

16 (iii) A local health department with jurisdiction in the area in  
17 which the facility is located requests a public meeting.

18 (d) Provide a document that summarizes the major issues raised  
19 by the public and how they are to be addressed by the final  
20 approved remedial action plan.

21 (3) ~~(4)~~—For purposes of this section, publication shall  
22 include, at a minimum, publication in a local newspaper or  
23 newspaper of general circulation in this state. In addition, the  
24 administrative record shall be made available by the department for  
25 inspection by members of the public at or near the facility and in  
26 Lansing.

27 (4) ~~(5)~~—The department shall prepare a summary document that



1 explains the reasons for the selection or approval of a remedial  
2 action plan **UNDER SUBSECTION (2)**. In addition, the department shall  
3 compile an administrative record of the decision process that  
4 results in the selection of a remedial action plan. The  
5 administrative record shall contain all of the following:

6 (a) Remedial investigation data regarding the facility.

7 (b) If applicable, a feasibility study and potential remedial  
8 actions.

9 (c) If applicable, a summary document that explains the  
10 reasons why a remedial investigation or feasibility study was not  
11 conducted.

12 (d) Applicable comments and information received from the  
13 public, if any.

14 (e) If applicable, a document that summarizes the significant  
15 concerns raised by the members of the public and how they are to be  
16 addressed.

17 (f) Other information appropriate to the facility.

18 (5) ~~(6)~~—If comments or information are submitted for inclusion  
19 in the administrative record that are not included in the  
20 administrative record, a brief explanation of why the information  
21 was not considered relevant shall be sent to the party by the  
22 department and included in the record.

23 **SEC. 20120E. (1) A PERSON MAY DEMONSTRATE COMPLIANCE WITH**  
24 **REQUIREMENTS UNDER THIS PART FOR A RESPONSE ACTIVITY PROVIDING FOR**  
25 **VENTING GROUNDWATER BY MEETING ANY OF THE FOLLOWING, SINGLY OR IN**  
26 **COMBINATION:**

27 (A) **GENERIC GROUNDWATER-SURFACE WATER INTERFACE CRITERIA,**

1 WHICH ARE THE WATER QUALITY STANDARDS FOR SURFACE WATERS DEVELOPED  
2 BY THE DEPARTMENT PURSUANT TO PART 31. THE USE OF SURFACE WATER  
3 QUALITY STANDARDS SHALL BE ALLOWABLE IN ANY OF THE CLEANUP  
4 CATEGORIES PROVIDED FOR IN SECTION 20120A(1).

5 (B) MIXING ZONE-BASED GROUNDWATER-SURFACE WATER INTERFACE  
6 CRITERIA ESTABLISHED UNDER THIS PART. THE USE OF MIXING ZONE-BASED  
7 CRITERIA SHALL BE ALLOWABLE IN ANY OF THE CATEGORIES PROVIDED FOR  
8 IN SECTION 20120A(1) AND (2).

9 (C) SITE-SPECIFIC CRITERIA ESTABLISHED UNDER SECTION  
10 20120A(2). THE USE OF MIXING ZONES ESTABLISHED UNDER THIS PART MAY  
11 BE APPLIED TO, OR INCLUDED AS, SITE-SPECIFIC CRITERIA.

12 (2) A PERSON MAY RELY ON MONITORING POINTS OTHER THAN  
13 GROUNDWATER-SURFACE WATER INTERFACE MONITORING WELLS. SUBJECT TO  
14 SUBSECTION (5), ALTERNATIVE MONITORING POINTS ARE ACCEPTABLE ONLY  
15 IF APPROVED BY THE DEPARTMENT IN A RESPONSE ACTIVITY PLAN UNDER  
16 THIS PART, IN ACCORDANCE WITH THE REQUIREMENTS AND PROCEDURES  
17 ESTABLISHED UNDER THIS PART. A PROPOSAL FOR ALTERNATIVE MONITORING  
18 POINTS IN A RESPONSE ACTIVITY PLAN SHALL INCLUDE ALL OF THE  
19 FOLLOWING:

20 (A) A DEMONSTRATION THAT THE LOCATIONS WHERE VENTING  
21 GROUNDWATER ENTERS SURFACE WATER HAVE BEEN SUFFICIENTLY IDENTIFIED  
22 TO ALLOW MONITORING FOR THE EVALUATION OF COMPLIANCE WITH CRITERIA.  
23 THE DEMONSTRATION SHALL INCLUDE ALL OF THE FOLLOWING:

24 (i) IDENTIFICATION OF THE LOCATION OF PROPOSED MONITORING  
25 POINTS WITHIN AREAS OF VENTING GROUNDWATER, INCLUDING, IF RELEVANT,  
26 MONITORING OF WATER FROM THE GROUNDWATER-SURFACE WATER TRANSITION  
27 ZONE IN LAKES OR STREAMS, AND THE RATIONALE FOR THOSE LOCATIONS.

1           (ii) DOCUMENTATION OF THE BOUNDARIES OF THE AREAS WHERE THE  
2 GROUNDWATER PLUME VENTS TO SURFACE WATER, INCLUDING THE SIZE,  
3 SHAPE, AND LOCATION. THIS DOCUMENTATION SHALL INCLUDE INFORMATION  
4 ABOUT THE SUBSTRATE CHARACTER AND GEOLOGY IN THE AREAS WHERE  
5 GROUNDWATER VENTS TO SURFACE WATER.

6           (iii) DOCUMENTATION THAT THE VENTING AREA IDENTIFIED AND  
7 PROPOSED MONITORING POINTS INCLUDE POINTS THAT ARE REPRESENTATIVE  
8 OF THE HIGHEST CONCENTRATIONS OF HAZARDOUS SUBSTANCES PRESENT IN  
9 THE GROUNDWATER AT THE GROUNDWATER-SURFACE WATER INTERFACE,  
10 CONSIDERING SPATIAL AND TEMPORAL VARIABILITY.

11           (iv) IF COMPLIANCE WITH A MIXING ZONE-BASED GROUNDWATER-SURFACE  
12 WATER INTERFACE CRITERION IS TO BE DETERMINED WITH DATA FROM THE  
13 ALTERNATIVE MONITORING POINTS, DOCUMENTATION THAT IT IS POSSIBLE TO  
14 ACCURATELY ESTIMATE THE VOLUME OF VENTING GROUNDWATER.

15           (B) A DEMONSTRATION THAT THE ALTERNATIVE MONITORING POINTS  
16 WILL ALLOW FOR VENTING GROUNDWATER TO BE SAMPLED AT A POINT BEFORE  
17 MIXING WITH SURFACE WATER. THIS REQUIREMENT DOES NOT PRECLUDE  
18 LOCATION OF MONITORING POINTS IN A FLOODPLAIN.

19           (C) A DEMONSTRATION THAT THE PROPOSED ALTERNATIVE MONITORING  
20 POINTS ALLOW FOR RELIABLE, REPRESENTATIVE MONITORING OF GROUNDWATER  
21 QUALITY. THIS DEMONSTRATION SHALL TAKE INTO ACCOUNT ALL OF THE  
22 FOLLOWING:

23           (i) TEMPORAL AND SPATIAL VARIABILITY OF HAZARDOUS SUBSTANCE  
24 CONCENTRATIONS IN GROUNDWATER THROUGHOUT THE PLUME FROM THE SOURCE  
25 OR SOURCES TO THE POINTS OF VENTING TO SURFACE WATER.

26           (ii) SEASONAL OR PERIODIC CHANGES IN GROUNDWATER FLOW.

27           (iii) OTHER NATURAL OR HUMAN-MADE FEATURES THAT AFFECT

1 GROUNDWATER FLOW.

2 (D) IDENTIFICATION OF THE POTENTIAL FATE AND TRANSPORT  
3 MECHANISMS FOR GROUNDWATER CONTAMINANTS, INCLUDING ANY CHEMICAL,  
4 PHYSICAL, OR BIOLOGICAL PROCESSES THAT RESULT IN THE REDUCTION OF  
5 HAZARDOUS SUBSTANCE CONCENTRATIONS BETWEEN THE MONITORING WELLS AND  
6 THE PROPOSED ALTERNATIVE MONITORING POINTS.

7 (E) IDENTIFICATION OF SENTINEL MONITORING POINTS THAT WILL BE  
8 USED IN CONJUNCTION WITH THE ALTERNATIVE MONITORING POINTS TO  
9 ASSURE THAT ANY POTENTIAL EXCEEDANCE OF AN APPLICABLE WATER QUALITY  
10 STANDARD CAN BE IDENTIFIED WITH SUFFICIENT NOTICE TO ALLOW  
11 ADDITIONAL RESPONSE ACTIVITY TO BE IMPLEMENTED THAT WILL PREVENT  
12 THE EXCEEDANCE. SENTINEL MONITORING POINTS SHALL INCLUDE, AT A  
13 MINIMUM, MONITORING POINTS UPLAND OF THE SURFACE WATER BODY.

14 (3) FOR THE PURPOSE OF THIS SECTION, SURFACE WATER DOES NOT  
15 INCLUDE GROUNDWATER OR ENCLOSED SEWERS OR UTILITY LINES OR THE FILL  
16 AROUND SUCH SEWERS OR UTILITY LINES.

17 (4) IF THE DEPARTMENT DENIES A PROPOSAL FOR ALTERNATIVE  
18 MONITORING POINTS UNDER THIS SECTION, THE DEPARTMENT SHALL STATE  
19 THE REASONS FOR DENIAL, INCLUDING THE SCIENTIFIC AND TECHNICAL  
20 BASES FOR THE DENIAL.

21 (5) A PERSON IMPLEMENTING A RESPONSE ACTIVITY PROVIDING FOR  
22 VENTING GROUNDWATER THAT COMPLIES WITH GENERIC GROUNDWATER-SURFACE  
23 WATER INTERFACE CRITERIA MAY PROCEED UNDER SECTION 20114A.

24 (6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, A  
25 RESPONSE ACTIVITY PLAN OR NO FURTHER ACTION REPORT THAT INCLUDES  
26 MIXING ZONE BASED GROUNDWATER-SURFACE WATER INTERFACE CRITERIA IS  
27 SUBJECT TO A 30-DAY COMMENT PERIOD.

1           (7) A PERSON MAY APPEAL A DECISION OF THE DEPARTMENT IN A  
2 RESPONSE ACTIVITY REPORT CONTAINING A PROPOSAL FOR VENTING  
3 GROUNDWATER RELATED TO A SCIENTIFIC OR TECHNICAL DISPUTE, INCLUDING  
4 THE USE OF A MIXING ZONE, AS PROVIDED FOR IN SECTION 20114E.

5           Enacting section 1. Sections 20105, 20109a, and 20129a of the  
6 natural resources and environmental protection act, 1994 PA 451,  
7 MCL 324.20105, 324.20109a, and 324.20129a, are repealed.

8           Enacting section 2. The following rules are rescinded:

9           (a) R 299.5209 to R 299.5219 of the Michigan administrative  
10 code.

11           (b) R 299.5601 to R 299.5607 of the Michigan administrative  
12 code.

13           (c) R 299.5801 to R 299.5823 of the Michigan administrative  
14 code.

15           Enacting section 3. This amendatory act does not take effect  
16 unless all of the following bills of the 95th Legislature are  
17 enacted into law:

18           (a) Senate Bill No. 437 or House Bill No. 4903.

19           (b) Senate Bill No. 1346.

20

21           (c) Senate Bill No. 1349.

22

23           (d) Senate Bill No. 1347.

24

25           (e) Senate Bill No. 1348.

26