A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 3101, 3103, 3111b, and 3115 (MCL 324.3101,
324.3103, 324.3111b, and 324.3115), section 3101 as amended by 2015
PA 247, section 3103 as amended by 2005 PA 33, section 3111b as
added by 2004 PA 142, and section 3115 as amended by 2004 PA 143,
and by adding sections 3111c, 3111d, 3111e, 3111f, 3115b, and 3135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 3101. As used in this part:

(a) "Aquatic nuisance species" means a nonindigenous species
that threatens the diversity or abundance of native species or the
ecological stability of infested waters, or commercial,
agricultural, aquacultural, or recreational activities dependent on
such waters.
(b) "Ballast water" means water and associated solids taken on board a vessel to control or maintain trim, draft, stability, or stresses on the vessel, without regard to the manner in which it is carried.

(c) "Ballast water treatment method" means a method of treating ballast water and sediments to remove or destroy living biological organisms through 1 or more of the following:

(i) Filtration.

(ii) The application of biocides or ultraviolet light.

(iii) Thermal methods.

(iv) Other treatment techniques approved by the department.

(d) "Department" means the department of environmental quality.

(e) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States Department of Labor, Bureau of Labor Statistics.

(f) "Emergency management coordinator" means that term as defined in section 2 of the emergency management act, 1976 PA 390, MCL 30.402.

(G) "GAS" MEANS THAT TERM AS DEFINED IN SECTION 61501.

(H) "Great Lakes" means the Great Lakes and their connecting waters, including Lake St. Clair.

(I) "Group 1 facility" means a facility whose discharge is described by R 323.2218 of the Michigan administrative code.

(J) "Group 2 facility" means a facility whose discharge is
described by R 323.2210(y), R 323.2215, or R 323.2216 of the
Michigan administrative code. Group 2 facility
does not include a Group 2a facility.

(K) "Group 2a facility" means a facility whose discharge
is described by R 323.2210(y) or R 323.2215 of the Michigan
administrative code and that meets 1 or more of
the following:

(i) The facility's discharge is from a coin-operated
laundromat.

(ii) The facility's discharge is from a car wash or vehicle
wash open to the public.

(iii) The facility's discharge is a subsurface sanitary
discharge of fewer than 10,000 gallons per day that does not meet
the terms for authorization under R 323.2211(a) of the Michigan
administrative code.

(iv) The facility's discharge is a seasonal sanitary discharge
from a public park, public or private recreational vehicle park or
campground, or recreational or vacation camp.

(l) "Group 3 facility" means a facility whose discharge is
described by R 323.2211 or R 323.2213 of the Michigan
administrative code.

(M) "Local health department" means that term as defined
in section 1105 of the public health code, 1978 PA 368, MCL
333.1105.

(N) "Local unit" means a county, city, village, or
township or an agency or instrumentality of any of these entities.

(O) "Municipality" means this state, a county, city,
village, or township, or an agency or instrumentality of any of these entities.

(P) "National response center" means the National Communications Center established under the clean water act, FEDERAL WATER POLLUTION CONTROL ACT, 33 USC 1251 to 1387, located in Washington, DC, that receives and relays notice of oil discharge or releases of hazardous substances to appropriate federal officials.

(Q) "Nonoceangoing vessel" means a vessel that is not an oceangoing vessel.

(R) "Oceangoing vessel" means a vessel that operates on the Great Lakes or the St. Lawrence waterway after operating in waters outside of the Great Lakes or the St. Lawrence waterway.

(S) "OIL" MEANS THAT TERM AS DEFINED IN SECTION 61501.

(T) "Open water disposal of contaminated dredge materials" means the placement of dredge materials contaminated with toxic substances as defined in R 323.1205 of the Michigan administrative code ADMINISTRATIVE CODE into the open waters of the waters of the state but does not include the siting or use of a confined disposal facility designated by the United States Army Corps of Engineers or beach nourishment activities utilizing uncontaminated materials.

(U) "Primary public safety answering point" means that term as defined in section 102 of the emergency telephone service enabling act, 1986 PA 32, MCL 484.1102.

(V) "PUBLIC VESSEL" MEANS A VESSEL OWNED OR BAREBOAT CHARTERED AND OPERATED BY THE UNITED STATES, OR BY A STATE OR A POLITICAL
SUBDIVISION OF A STATE, OR BY A FOREIGN NATION, EXCEPT WHEN THE
VESSEL IS ENGAGED IN COMMERCE.

(W) "RELEASE" INCLUDES, BUT IS NOT LIMITED TO, ANY SPILLING,
LEAKING, PUMPING, POURING, EMITTING, EMPTYING, DISCHARGING,
INJECTING, ESCAPING, LEACHING, DUMPING, OR DISPOSING OF OIL INTO
THE ENVIRONMENT, OR THE ABANDONMENT OF A FACILITY OR VESSEL
CONTAINING OIL FROM WHICH OIL MAY ENTER THE ENVIRONMENT.

(X) (t) "Sediments" means any matter settled out of ballast
water within a vessel.

(Y) (u) "Sewage sludge" means sewage sludge generated in the
treatment of domestic sewage, other than only septage or industrial
waste.

(Z) (v) "Sewage sludge derivative" means a product for land
application derived from sewage sludge that does not include solid
waste or other waste regulated under this act.

(AA) "SEWAGE SLUDGE DISTRIBUTOR" MEANS A PERSON WHO APPLIES,
MARKETS, OR DISTRIBUTES, EXCEPT AT RETAIL, A SEWAGE SLUDGE
DERIVATIVE.

(BB) (w) "Sewage sludge generator" means a person who
generates sewage sludge that is applied to land.

(x) "Sewage sludge distributor" means a person who applies,
markets, or distributes, except at retail, a sewage sludge
derivative.

(CC) "STRAITS GAS OR OIL PIPELINE" MEANS AN INTRASTATE
PIPELINE OR PORTION OF AN INTERSTATE PIPELINE USED TO TRANSPORT GAS
OR OIL, OR BOTH, THROUGH THE STRAITS OF MACKINAC.

(DD) (y) "St. Lawrence waterway" means the St. Lawrence River,
the St. Lawrence Seaway, and the Gulf of St. Lawrence.

(EE) (z) "Threshold reporting quantity" means that term as defined in R 324.2002 of the Michigan administrative code.

(FF) "VESSEL" MEANS EVERY DESCRIPTION OF WATERCRAFT OR OTHER ARTIFICIAL CONTRIVANCE USED, OR CAPABLE OF BEING USED, AS A MEANS OF TRANSPORTATION ON WATER, OTHER THAN A PUBLIC VESSEL.

(GG) (aa) "Waters of the state" means groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state.

Sec. 3103. (1) The department shall protect and conserve the water resources of the state and shall have control of the pollution of surface or underground waters of the state and the Great Lakes, which are or may be affected by waste disposal of any person. The department may make or cause to be made surveys, studies, and investigations of the uses of THE waters of the state, both surface and underground, and cooperate with other governments and governmental units and agencies in making the surveys, studies, and investigations. The department shall assist in an advisory capacity a flood control district that may be authorized by the legislature. The department, in the public interest, shall appear and present evidence, reports, and other testimony during the hearings involving the creation and organization of flood control districts. The department shall advise and consult with the legislature on the obligation of the THIS state to participate in the costs of construction and maintenance as provided for in the official plans of a flood control district or intercounty drainage
district.

(2) The department shall enforce this part and may promulgate rules as it considers necessary to carry out its duties under this part. However, notwithstanding any rule-promulgation authority that is provided in this part, except for rules authorized under sections SECTIONS 3112(6), 3111D, AND 3111E, the department shall not promulgate any additional rules under this part after December 31, 2006.

(3) The department may promulgate rules and take other actions as may be necessary to comply with the federal water pollution control act, 33 USC 1251 to 1387, 1388, and to expend funds available under such THAT law for extension or improvement of the state THIS STATE'S or AN interstate program for prevention and control of water pollution. This part shall not be construed as authorizing DOES NOT AUTHORIZE the department to expend or to incur any obligation to expend any state funds for such purpose in excess of any amount that is appropriated by the legislature.

(4) Notwithstanding the limitations on rule promulgation under subsection (2), rules promulgated under this part before January 1, 2007 shall remain in effect unless rescinded.

Sec. 3111b. (1) If a person is required to report a release to the department under part 5 of the water resources protection rules, R 324.2001 to R 324.2009 of the Michigan administrative code, ADMINISTRATIVE CODE, OR SECTION 3111C, the person, via a 9-1-1 call, shall at the same time report the release to the primary public safety answering point serving the jurisdiction where the release occurred.
(2) If a person described in subsection (1) is required to subsequently submit to the department a written report on the release under part 5 of the water resources protection rules, R 324.2001 to R 324.2009 of the Michigan administrative code, or section 3111C, the person shall at the same time submit a copy of the report to the local health department serving the jurisdiction where the release occurred.

(3) If the department of state police or other state agency receives notification, pursuant to an agreement with or the laws of another state, Canada, or the province of Ontario, of the release in that other jurisdiction of a polluting material in excess of the threshold reporting quantity and if the polluting material has entered or may enter surface waters or groundwaters of this state, the department of state police or other state agency shall contact the primary public safety answering point serving each county that may be affected by the release.

(4) The emergency management coordinator of each county shall develop and oversee the implementation of a plan to provide timely notification of a release required to be reported under subsection (1) or (3) to appropriate local, state, and federal agencies. In developing and overseeing the implementation of the plan, the emergency management coordinator shall consult with both of the following:

(a) The directors of the primary public safety answering points with jurisdiction within the county.

(b) Any emergency management coordinator appointed for a city, village, or township located in that county.
(5) If rules promulgated under this part require a person to maintain a pollution incident prevention plan, the person shall update the plan to include the requirements of subsections (1) and (2) when conducting any evaluation of the plan required by rule.

(6) If a person reports to the department a release pursuant to subsection (1), the department shall do both of the following:

(a) Notify the person of the requirements imposed under subsections (1) and (2).

(b) Request that the person, even if not responsible for the release, report the release, via a 9-1-1 call, to the primary public safety answering point serving 1 of the following, as applicable:

(i) The jurisdiction where the release occurred, if known.

(ii) The jurisdiction where the release was discovered, if the jurisdiction where the release occurred is not known.

(7) The department shall notify the public and interested parties, by posting on its website within 30 days after the effective date of the amendatory act that added this section and by other appropriate means, of all of the following:

(a) The requirements of subsections (1) and (2).

(b) The relevant voice, and, if applicable, facsimile telephone numbers of the department and the national response center.

(c) The criminal PENALTIES and civil sanctions REMEDIES under section 3115 applicable to violations of subsections (1) and (2).

(8) Failure of the department to provide a person with the notification required under subsection (6) or (7) does not relieve
the person of any obligation to report a release or other legal
obligation.

(9) The department shall biennially do both of the following:
(a) Evaluate the state and local reporting system established
under this section.
(b) Submit to the standing committees of the senate and house
of representatives with primary responsibility for environmental
protection issues a written report on any changes recommended to
the reporting system.

SEC. 3111C. (1) A PERSON THAT IS AN OWNER, OPERATOR, OR
MANAGER OF A STRAITS GAS OR OIL PIPELINE FROM WHICH A RELEASE
OCCURS, AND A PERSON WHO CAUSES A RELEASE, SHALL IMMEDIATELY NOTIFY
LOCAL OFFICIALS OF THE RELEASE AND SHALL IMMEDIATELY NOTIFY THE
DEPARTMENT OF THE RELEASE BY CONTACTING THE DEPARTMENT'S POLLUTION
EMERGENCY ALERT SYSTEM OR BY OTHER MEANS REQUIRED BY THE
DEPARTMENT.

(2) WITHIN 10 DAYS AFTER A RELEASE, OR A SHORTER PERIOD
REQUIRED BY THE DEPARTMENT, A PERSON REQUIRED TO REPORT A RELEASE
UNDER SUBSECTION (1) SHALL SUBMIT AN INITIAL WRITTEN REPORT TO THE
DEPARTMENT OUTLINING THE CAUSE OF THE RELEASE, DISCOVERY OF THE
RELEASE, AND EITHER THE RESPONSE MEASURES TAKEN OR A SCHEDULE FOR
COMPLETION OF MEASURES TO BE TAKEN, OR BOTH, TO PREVENT RECURRENCE
OF SIMILAR RELEASES.

(3) WITHIN 60 DAYS AFTER A RELEASE, A PERSON REQUIRED TO
REPORT A RELEASE UNDER SUBSECTION (1) SHALL MEET WITH
REPRESENTATIVES FROM THE DEPARTMENT, THE DEPARTMENT OF
ENVIRONMENTAL QUALITY, THE DEPARTMENT OF STATE POLICE, AND THE
MICHIGAN PUBLIC SERVICE COMMISSION TO DISCUSS THE NATURE OF THE
RELEASE AND THE RESPONSE MEASURES THAT HAVE BEEN TAKEN AND THE
RESPONSE MEASURES TO BE TAKEN WITH REGARD TO THE RELEASE.

(4) THIS SECTION DOES NOT DO EITHER OF THE FOLLOWING:

(A) ALTER ANY OTHER EXISTING STATUTE, RULE, OR REQUIREMENT
PERTAINING TO STRAITS GAS OR OIL PIPELINES OR POLLUTION OF THE
WATERS OF THE STATE.

(B) RELIEVE ANY PERSON FROM ANY REPORTING REQUIREMENT IMPOSED
UNDER STATE OR FEDERAL LAW OR REGULATION.

SEC. 3111D. (1) THE OWNER OR OPERATOR OF A STRAITS GAS OR OIL
PIPELINE SHALL PREPARE AND SUBMIT TO THE DEPARTMENT FOR REVIEW AND
APPROVAL A SPILL PREVENTION PLAN FOR THAT PIPELINE IN CONFORMANCE
WITH THIS SECTION AND THE RULES PROMULGATED UNDER THIS SECTION.

(2) AN INITIAL SPILL PREVENTION PLAN MUST BE SUBMITTED TO THE
DEPARTMENT NOT LATER THAN 180 DAYS AFTER THE EFFECTIVE DATE OF THE
AMENDATORY ACT THAT ADDED THIS SECTION. A SPILL PREVENTION PLAN MAY
BE CONSOLIDATED WITH A CONTINGENCY PLAN SUBMITTED UNDER SECTION
3111E. THE DEPARTMENT MAY ACCEPT PLANS PREPARED TO COMPLY WITH
OTHER STATE OR FEDERAL LAW AS SPILL PREVENTION PLANS TO THE EXTENT
THOSE PLANS COMPLY WITH THIS SECTION. THE DEPARTMENT, BY RULE, MAY
ESTABLISH ADDITIONAL STANDARDS FOR SPILL PREVENTION PLANS.

(3) AS AN INTERIM MEASURE, THE OWNER OR OPERATOR OF A STRAITS
GAS OR OIL PIPELINE SHALL, NOT LATER THAN 30 DAYS AFTER THE
EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION,
SUBMIT TO THE DEPARTMENT A COPY OF EACH EXISTING SPILL PREVENTION
PLAN OR PROCEDURE USED TO PREVENT SPILLS FROM THE PIPELINE.

(4) A SPILL PREVENTION PLAN FOR A STRAITS GAS OR OIL PIPELINE
REQUIRED UNDER THIS SECTION MUST, AT A MINIMUM, INCLUDE ALL OF THE FOLLOWING:

(A) FULL DETAILS OF THE METHOD OF RESPONSE TO SPILLS OF VARIOUS SIZES FROM ANY PIPELINE COVERED BY THE SPILL PREVENTION PLAN.

(B) DOCUMENTATION OF COMPLIANCE WITH THE OIL POLLUTION ACT OF 1990, 33 USC 2701 TO 2762, AND FINANCIAL RESPONSIBILITY REQUIREMENTS UNDER FEDERAL AND STATE LAW.

(C) A CERTIFICATION THAT SUPERVISORY AND OTHER KEY PERSONNEL IN CHARGE OF THE PIPELINE HAVE BEEN PROPERLY TRAINED.

(D) A CERTIFICATION THAT THE PIPELINE HAS AN OPERATIONS MANUAL.

(E) A CERTIFICATION OF THE IMPLEMENTATION OF ALCOHOL AND DRUG USE AWARENESS PROGRAMS FOR PERSONNEL IN CHARGE OF THE PIPELINE.

(F) A DESCRIPTION OF THE PIPELINE'S MAINTENANCE AND INSPECTION PROGRAM AND THE CURRENT MAINTENANCE AND INSPECTION RECORD OF THE PIPELINE.

(G) A DESCRIPTION OF THE SPILL PREVENTION TECHNOLOGY THAT HAS BEEN INSTALLED, INCLUDING LEAK DETECTION SYSTEMS AND ALARMS, AND AUTOMATIC SHUT-OFF VALVES, WITH A MAP OR OTHER FIGURE ACCURATELY DEPICTING THE LOCATIONS OF THE SPILL PREVENTION TECHNOLOGY.

(H) A DESCRIPTION OF ANY RELEASES OF GAS OR OIL FROM THE PIPELINE TO THE LAND OR THE WATERS OF THE STATE IN THE PRIOR 5 YEARS AND THE MEASURES TAKEN TO PREVENT A REOCCURRENCE.

(I) PROVISIONS FOR THE INCORPORATION INTO THE PIPELINE DURING THE PERIOD COVERED BY THE PLAN OF IDENTIFIED MEASURES THAT WILL PROVIDE THE BEST ACHIEVABLE PROTECTION FOR THE PUBLIC HEALTH AND
THE ENVIRONMENT, WITH A SCHEDULE FOR IMPLEMENTATION.

(J) ANY OTHER INFORMATION REASONABLY NECESSARY TO CARRY OUT
THE PURPOSES OF THIS SECTION AS REQUIRED BY RULES PROMULGATED BY
THE DEPARTMENT.

(5) TO SUPPORT THE DEPARTMENT'S ADMINISTRATION OF THIS
SECTION, AN OWNER OR OPERATOR OF A STRAITS GAS OR OIL PIPELINE THAT
SUBMITS A SPILL PREVENTION PLAN FOR DEPARTMENTAL REVIEW AND
APPROVAL SHALL PAY AN ANNUAL FEE OF $2,500.00 FOR EACH GEOGRAPHIC
PLAN AREA OR SUB-AREA ESTABLISHED BY THE UNITED STATES COAST GUARD
AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY THAT IS
COVERED IN THE SPILL PREVENTION PLAN. BEGINNING 3 YEARS AFTER THE
EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE
STATE TREASURER SHALL ANNUALLY ADJUST THE FEE UNDER THIS SUBSECTION
FOR INFLATION BASED UPON CHANGES IN THE DETROIT CONSUMER PRICE
INDEX IN THE PRECEDING PERIOD. THE DEPARTMENT SHALL FORWARD FEES
COLLECTED UNDER THIS SUBSECTION TO THE STATE TREASURER FOR DEPOSIT
INTO THE GAS AND OIL PIPELINE FUND CREATED IN SECTION 3135.

(6) THE DEPARTMENT SHALL APPROVE A SPILL PREVENTION PLAN ONLY
IF THE PLAN PROVIDES THE BEST ACHIEVABLE PROTECTION FROM SPILL
DAMAGES CAUSED BY THE DISCHARGE OF OIL INTO THE WATERS OF THE STATE
AND IF THE DEPARTMENT DETERMINES THAT THE PLAN MEETS THE
REQUIREMENTS OF THIS SECTION AND RULES PROMULGATED BY THE
DEPARTMENT.

(7) IF THE DEPARTMENT FINDS THAT THE SPILL PREVENTION PLAN
SUBMITTED UNDER THIS SECTION DOES NOT MEET THE REQUIREMENTS OF THIS
SECTION AND ANY APPLICABLE RULES PROMULGATED BY THE DEPARTMENT, THE
DEPARTMENT SHALL NOTIFY THE OWNER OR OPERATOR OF THE STRAITS GAS OR
OIL PIPELINE OF ITS FINDINGS IN WRITING, IDENTIFYING THE PROVISIONS
OF THE PLAN THAT ARE INCOMPLETE OR INADEQUATE. THE OWNER OR
OPERATOR SHALL MODIFY THE SPILL PREVENTION PLAN AND RESUBMIT AN
APPROVABLE PLAN TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE
DEPARTMENT'S NOTIFICATION, UNLESS THE DEPARTMENT AUTHORIZES, IN
WRITING, A LONGER RESPONSE PERIOD.

(8) UPON APPROVAL OF A SPILL PREVENTION PLAN, THE DEPARTMENT
SHALL PROVIDE TO THE OWNER OR OPERATOR OF THE STRAITS GAS OR OIL
PIPELINE SUBMITTING THE PLAN A STATEMENT INDICATING THAT THE PLAN
HAS BEEN APPROVED FOR THE PIPELINES COVERED BY THE PLAN AND
CONTAINING OTHER INFORMATION THE DEPARTMENT DETERMINES SHOULD BE
INCLUDED.

(9) A SPILL PREVENTION PLAN APPROVED UNDER THIS SECTION IS
VALID FOR 5 YEARS. AN OWNER OR OPERATOR OF A STRAITS GAS OR OIL
PIPELINE SHALL NOTIFY THE DEPARTMENT IN WRITING IMMEDIATELY OF ANY
SIGNIFICANT CHANGE OF WHICH THE OWNER OR OPERATOR IS AWARE
AFFECTING THE SPILL PREVENTION PLAN, INCLUDING CHANGES IN ANY
FACTOR SET FORTH IN THIS SECTION OR IN RULES PROMULGATED BY THE
DEPARTMENT. THE DEPARTMENT MAY REQUIRE THE OWNER OR OPERATOR TO
UPDATE A SPILL PREVENTION PLAN AS A RESULT OF THE CHANGES
IDENTIFIED IN THE NOTIFICATION FROM THE OWNER OR OPERATOR, OR IF
THE DEPARTMENT INDEPENDENTLY IDENTIFIES CHANGED CIRCUMSTANCES
WARRANTING AN UPDATE. HOWEVER, THE DEPARTMENT SHALL NOT ASSESS ANY
ADDITIONAL FEES BEYOND THE ANNUAL FEE FOR UPDATING A SPILL
PREVENTION PLAN WITHIN THE 5-YEAR PERIOD.

(10) THE OWNER OR OPERATOR OF A STRAITS GAS OR OIL PIPELINE
SHALL REVIEW, UPDATE, IF NECESSARY, AND RESUBMIT THE SPILL
PREVENTION PLAN TO THE DEPARTMENT AT LEAST ONCE EVERY 5 YEARS OR
WITHIN 60 DAYS AFTER RECEIPT OF A REQUEST FROM THE DEPARTMENT.

(11) APPROVAL OF A SPILL PREVENTION PLAN BY THE DEPARTMENT
DOES NOT CONSTITUTE AN ASSURANCE REGARDING THE ADEQUACY OF THE PLAN
OR CONSTITUTE A DEFENSE TO LIABILITY IMPOSED UNDER THIS PART OR
OTHER STATE LAW.

(12) THE CONTENT OF A SPILL PREVENTION PLAN PREPARED UNDER
THIS SECTION IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF
INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

SEC. 3111E. (1) THE OWNER OR OPERATOR OF A STRAITS GAS OR OIL
PIPELINE SHALL SUBMIT TO THE DEPARTMENT FOR REVIEW AND APPROVAL A
CONTINGENCY PLAN FOR THE CONTAINMENT AND CLEANUP OF GAS OR OIL
SPILLS FROM THE PIPELINE INTO THE WATERS OF THE STATE AND FOR THE
PROTECTION OF FISHERIES AND WILDLIFE, NATURAL RESOURCES, AND PUBLIC
AND PRIVATE PROPERTY FROM THESE SPILLS IN CONFORMANCE WITH THIS
SECTION AND THE RULES PROMULGATED UNDER THIS SECTION.

(2) THE OWNER OR OPERATOR OF A STRAITS GAS OR OIL PIPELINE
SHALL SUBMIT AN INITIAL CONTINGENCY PLAN TO THE DEPARTMENT NOT
LATER THAN 180 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
THAT ADDED THIS SECTION. THE CONTINGENCY PLAN MAY BE CONSOLIDATED
WITH A SPILL PREVENTION PLAN SUBMITTED UNDER SECTION 3111D. THE
DEPARTMENT MAY ACCEPT PLANS PREPARED TO COMPLY WITH OTHER STATE OR
FEDERAL LAW AS CONTINGENCY OR RESPONSE PLANS TO THE EXTENT THOSE
PLANS COMPLY WITH THIS SECTION.

(3) AS AN INTERIM MEASURE, THE OWNER OR OPERATOR OF A STRAITS
GAS OR OIL PIPELINE SHALL, NOT LATER THAN 30 DAYS AFTER THE
EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION,
1. SUBMIT TO THE DEPARTMENT A COPY OF EACH EXISTING CONTINGENCY OR SPILL RESPONSE PLAN ESTABLISHED FOR THE PIPELINE.

(4) A CONTINGENCY PLAN REQUIRED UNDER THIS SECTION MUST BE DESIGNED TO ENSURE THAT THE OWNER OR OPERATOR OF A STRAITS GAS OR OIL PIPELINE IS CAPABLE IN TERMS OF PERSONNEL, MATERIALS, AND EQUIPMENT, OF PROMPTLY AND PROPERLY, TO THE MAXIMUM EXTENT PRACTICABLE, REMOVING GAS OR OIL, OR BOTH, AND MINIMIZING ANY DAMAGE TO THE ENVIRONMENT RESULTING FROM A WORST-CASE SPILL AND AT A MINIMUM MUST INCLUDE ALL OF THE FOLLOWING:

(A) FULL DETAILS OF THE METHOD OF RESPONSE TO SPILLS OF VARIOUS SIZES FROM ANY STRAITS GAS OR OIL PIPELINE THAT IS COVERED BY THE PLAN.

(B) A CLEAR, PRECISE, AND DETAILED DESCRIPTION OF HOW THE PLAN RELATES TO, AND IS INTEGRATED INTO, RELEVANT CONTINGENCY PLANS THAT HAVE BEEN PREPARED OR APPROVED BY THIS STATE AND THE FEDERAL GOVERNMENT.

(C) PROCEDURES FOR EARLY DETECTION OF GAS OR OIL SPILLS AND TIMELY NOTIFICATION OF GAS OR OIL SPILLS TO APPROPRIATE FEDERAL, STATE, AND LOCAL AUTHORITIES UNDER APPLICABLE STATE AND FEDERAL LAW.

(D) THE NUMBER, TRAINING PREPAREDNESS, AND QUALIFICATIONS OF ALL DEDICATED, PREPOSITIONED PERSONNEL ASSIGNED TO DIRECT AND IMPLEMENT THE PLAN, INCLUDING, AS APPLICABLE, ALL OF THE FOLLOWING:

(i) THE NAME OF ANY CONTRACTED OIL SPILL RESPONSE ORGANIZATION, INCLUDING A CONTACT PERSON, A MAILING ADDRESS AND PHYSICAL ADDRESS, ELECTRONIC MAIL, AND FACSIMILE, TELEPHONE, CELL, AND ON-CALL NUMBERS.
(ii) The name of any subcontractor, including a contact person, a mailing address and physical address, electronic mail, and facsimile, telephone, cell, and on-call numbers.

(E) Provisions for periodic training and drill programs to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times.

(F) A description of the means of protecting and mitigating effects on the environment, including fish, aquatic life, and other wildlife, and ensuring that implementation of the plan does not pose unacceptable risks to the public or the environment.

(G) Provisions for the prepositioning of gas or oil spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled gas or oil.

(H) Provisions for enlisting the use of personnel to implement the plan who have been trained in accordance with federal emergency management agency protocols by national incident management system certified instructors.

(I) Provisions for the disposal of recovered spilled gas or oil in accordance with local, state, and federal laws.

(J) The amount and type of equipment available to respond to a spill, the equipment location, and the extent to which other contingency plans rely on the same equipment.

(K) Identification of the individual or individuals responsible for supervising plan implementation and the owner's and operator's designated point of contact for communication with the department and other state, federal, tribal, and local officials if
A SPILL OCCURS.

(l) THE PROCEDURES TO BE USED TO NOTIFY STATE, FEDERAL, TRIBAL, AND LOCAL OFFICIALS OF A SPILL AND THE RESPONSE ACTIONS TAKEN.

(5) TO SUPPORT THE DEPARTMENT'S ADMINISTRATION OF THIS SECTION, AN OWNER OR OPERATOR OF A STRAITS GAS OR OIL PIPELINE THAT SUBMITS A CONTINGENCY PLAN FOR DEPARTMENTAL REVIEW AND APPROVAL SHALL PAY AN ANNUAL FEE OF $12,500.00 FOR EACH GEOGRAPHIC PLAN AREA OR SUB-AREA ESTABLISHED BY THE UNITED STATES COAST GUARD AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY THAT IS COVERED IN THE CONTINGENCY PLAN. BEGINNING 3 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE STATE TREASURER SHALL ADJUST THE FEE UNDER THIS SECTION FOR INFLATION BASED UPON CHANGES IN THE DETROIT CONSUMER PRICE INDEX. THE DEPARTMENT SHALL FORWARD FEES COLLECTED UNDER THIS SECTION TO THE STATE TREASURER FOR DEPOSIT INTO THE GAS AND OIL PIPELINE FUND CREATED IN SECTION 3135.

(6) THE DEPARTMENT MAY ACCEPT AS A CONTINGENCY PLAN UNDER THIS SECTION A CONTINGENCY PLAN PREPARED FOR AN AGENCY OF THE FEDERAL GOVERNMENT OR ANOTHER STATE IF IT SATISFIES THE REQUIREMENTS OF THIS SECTION AND RULES PROMULGATED BY THE DEPARTMENT. THE DEPARTMENT SHALL ENSURE THAT, TO THE GREATEST EXTENT POSSIBLE, REQUIREMENTS FOR CONTINGENCY PLANS UNDER THIS SECTION ARE CONSISTENT WITH THE REQUIREMENTS FOR CORRESPONDING CONTINGENCY PLANS UNDER FEDERAL LAW.

(7) IN REVIEWING THE CONTINGENCY PLANS REQUIRED UNDER THIS SECTION, THE DEPARTMENT SHALL, AT A MINIMUM, CONSIDER ALL OF THE
FOLLOWING FACTORS:

(A) THE ADEQUACY OF CONTAINMENT AND CLEANUP EQUIPMENT,
PERSONNEL, COMMUNICATIONS EQUIPMENT, NOTIFICATION PROCEDURES AND
CALL DOWN LISTS, RESPONSE TIME, AND LOGISTICAL ARRANGEMENTS FOR
COORDINATION AND IMPLEMENTATION OF RESPONSE EFFORTS TO REMOVE GAS
OR OIL SPILLS PROMPTLY AND PROPERLY AND TO PROTECT THE ENVIRONMENT.

(B) THE VOLUME AND TYPE OF GAS OR OIL BEING TRANSPORTED WITHIN
THE AREA COVERED BY THE PLAN.

(C) THE HISTORY AND CIRCUMSTANCES SURROUNDING PRIOR GAS OR OIL
SPILLS WITHIN THE AREA COVERED BY THE PLAN.

(D) THE SENSITIVITY OF FISHERIES, AQUATIC LIFE, AND WILDLIFE
AND OTHER NATURAL RESOURCES WITHIN THE AREA COVERED BY THE PLAN.

(E) THE EXTENT TO WHICH REASONABLE, COST-EFFECTIVE MEASURES TO
REDUCE THE LIKELIHOOD THAT A SPILL WILL OCCUR AND TO MINIMIZE THE
IMPACT OF A SPILL HAVE BEEN INCORPORATED INTO THE PLAN.

(8) THE DEPARTMENT SHALL APPROVE A CONTINGENCY PLAN SUBMITTED
UNDER THIS SECTION ONLY IF IT DETERMINES THAT THE PLAN MEETS THE
REQUIREMENTS OF THIS SECTION AND THE RULES PROMULGATED UNDER THIS
SECTION AND THAT, IF IMPLEMENTED, THE PLAN INCLUDES PERSONNEL,
MATERIALS, AND EQUIPMENT, CAPABLE OF REMOVING GAS OR OIL PROMPTLY
AND PROPERLY AND MINIMIZING ANY DAMAGE TO THE ENVIRONMENT.

(9) IF THE DEPARTMENT FINDS THAT A CONTINGENCY PLAN SUBMITTED
UNDER THIS SECTION DOES NOT MEET THE REQUIREMENTS OF THIS SECTION
AND ANY APPLICABLE RULES, THE DEPARTMENT SHALL NOTIFY THE OWNER OR
OPERATOR OF THE STRAITS GAS OR OIL PIPELINE OF ITS FINDINGS IN
WRITING, IDENTIFYING THE PROVISIONS OF THE PLAN THAT ARE INCOMPLETE
OR INADEQUATE. THE OWNER OR OPERATOR SHALL MODIFY THE PLAN AND
RESUBMIT AN APPROVABLE PLAN TO THE DEPARTMENT WITHIN 30 DAYS AFTER
THE DEPARTMENT'S NOTIFICATION, UNLESS THE DEPARTMENT AUTHORIZES IN
WRITING A LONGER RESPONSE PERIOD.

(10) A CONTINGENCY PLAN APPROVED UNDER THIS SECTION IS VALID
FOR 5 YEARS. UPON APPROVAL OF A CONTINGENCY PLAN, THE DEPARTMENT
SHALL PROVIDE TO THE OWNER OR OPERATOR OF THE STRAITS GAS OR OIL
PIPELINE SUBMITTING THE PLAN A STATEMENT INDICATING THAT THE PLAN
HAS BEEN APPROVED, THE STRAITS GAS OR OIL PIPELINES COVERED BY THE
PLAN, AND OTHER INFORMATION THE DEPARTMENT DETERMINES SHOULD BE
INCLUDED.

(11) AN OWNER OR OPERATOR OF A STRAITS GAS OR OIL PIPELINE
SHALL NOTIFY THE DEPARTMENT IN WRITING IMMEDIATELY OF ANY
SIGNIFICANT CHANGE OF WHICH IT IS AWARE AFFECTING ITS CONTINGENCY
PLAN, INCLUDING CHANGES IN ANY FACTOR SET FORTH IN THIS SECTION OR
IN RULES PROMULGATED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE
THE OWNER OR OPERATOR TO UPDATE A CONTINGENCY PLAN AS A RESULT OF
THE CHANGES IDENTIFIED IN THE NOTIFICATION FROM THE OWNER OR
OPERATOR, OR IF THE DEPARTMENT INDEPENDENTLY IDENTIFIES CHANGED
CIRCUMSTANCES WARRANTING AN UPDATE. HOWEVER, THE DEPARTMENT SHALL
NOT ASSESS ANY ADDITIONAL FEES BEYOND THE ANNUAL FEE FOR UPDATING A
CONTINGENCY PLAN WITHIN THE 5-YEAR PERIOD.

(12) THE OWNER OR OPERATOR OF A STRAITS GAS OR OIL PIPELINE
SHALL REVIEW, UPDATE, IF NECESSARY, AND RESUBMIT THE CONTINGENCY
PLAN TO THE DEPARTMENT AT LEAST ONCE EVERY 5 YEARS OR WITHIN 60
DAYS AFTER RECEIPT OF A REQUEST FROM THE DEPARTMENT.

(13) APPROVAL OF A CONTINGENCY PLAN BY THE DEPARTMENT DOES NOT
CONSTITUTE AN ASSURANCE REGARDING THE ADEQUACY OF THE PLAN OR
CONSTITUTE A DEFENSE TO LIABILITY IMPOSED UNDER THIS PART OR OTHER
STATE LAW.

(14) THE CONTENT OF A CONTINGENCY PLAN PREPARED UNDER THIS
SECTION IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION
ACT, 1976 PA 442, MCL 15.231 TO 15.246.

SEC. 3111F. THE OWNER OR OPERATOR OF A STRAITS GAS OR OIL
PIPELINE SHALL ANNUALLY MEET WITH LOCAL EMERGENCY RESPONDERS TO
REVIEW THE SPILL PREVENTION PLAN FOR THE PIPELINE AND THE
CONTINGENCY PLAN FOR THE PIPELINE.

Sec. 3115. (1) The department may request the attorney general
to commence a civil action for appropriate relief, including a
permanent or temporary injunction, for a violation of this part or
a provision of a permit or order issued or rule promulgated under
this part. An action under this subsection may be brought in the
circuit court for the county of Ingham or for the county in which
the defendant is located, resides, or is doing business. If
requested by the defendant within 21 days after service of process,
the court shall grant a change of venue to the circuit court for
the county of Ingham or for the county in which the alleged
violation occurred, is occurring, or, in the event of a threat of
violation, will occur. The court has jurisdiction to restrain the
violation and to require compliance. In addition to any other
relief granted under this subsection, the court, except as
otherwise provided in this subsection, shall impose a civil fine of
not less than $2,500.00 and the court may award reasonable attorney
fees and costs to the prevailing party. However, EXCEPT AS PROVIDED
IN SECTION 3115B, all of the following apply:
(a) The maximum fine imposed by the court shall be **COURT SHALL IMPOSE A CIVIL FINE OF** not more than $25,000.00 per day of violation.

(b) For a failure to report a release to the department or to the primary public safety answering point under section 3111b(1), the court shall impose a civil fine of not more than $2,500.00.

(c) For a failure to report a release to the local health department under section 3111b(2), the court shall impose a civil fine of not more than $500.00.

(2) A person who at the time of the violation knew or should have known that he or she discharged a substance contrary to this part, or contrary to a permit or order issued or rule promulgated under this part, or who intentionally makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, or who intentionally renders inaccurate a monitoring device or record required to be maintained by the department, is guilty of a felony and shall be fined not less than $2,500.00 or more than $25,000.00 for each violation. The court may impose an additional fine of not more than $25,000.00 for each day during which the unlawful discharge occurred. If the conviction is for a violation committed after a first conviction of the person under this subsection, the court shall impose a fine of not less than $25,000.00 per day and not more than $50,000.00 per day of violation. Upon conviction, in addition to a fine, the court in its discretion may sentence the defendant to imprisonment for not more than 2 years or impose
probation upon a person for a violation of this part. With the
exception of the issuance of criminal complaints, issuance of
warrants, and the holding of an arraignment, the circuit court for
the county in which the violation occurred has exclusive
jurisdiction. However, the person shall not be subject to the
penalties of this subsection if the discharge of the effluent is in
conformance with and obedient to a rule, order, or permit of the
department. In addition to a fine, the attorney general may file a civil suit in a court
of competent jurisdiction to recover the full value of the injuries
done to the natural resources of the state and the costs of
surveillance and enforcement by the state resulting from the
violation.

(3) Upon a finding by the court that the actions of a civil
defendant pose or posed a substantial endangerment to the public
health, safety, or welfare, the court shall impose, in addition to
the sanctions set forth in subsection (1), a CIVIL fine of not less
than $500,000.00 and not more than $5,000,000.00.

(4) Upon a finding by the court that the actions of a criminal
defendant pose or posed a substantial endangerment to the public
health, safety, or welfare, the court shall impose, in addition to
the penalties set forth in subsection (2), a fine of not less than
$1,000,000.00 and, in addition to a fine, a sentence of 5 years'
imprisonment.

(5) To find a defendant civilly or criminally liable for
substantial endangerment under subsection (3) or (4), the court
shall determine that the defendant knowingly or recklessly acted in
such a manner as to cause a danger of death or serious bodily injury and that either of the following occurred:

(a) The defendant had an actual awareness, belief, or understanding that his or her conduct would cause a substantial danger of death or serious bodily injury.

(b) The defendant acted in gross disregard of the standard of care that any reasonable person should observe in similar circumstances.

(6) Knowledge possessed by a person other than the defendant under subsection (5) may be attributable to the defendant if the defendant took affirmative steps to shield himself or herself from the relevant information.

(7) A civil fine or other award ordered paid pursuant to this section shall MUST do both of the following:

(a) Be payable to the state of Michigan and credited to the general fund.

(b) Constitute a lien on any property, of any nature or kind, owned by the defendant.

(8) A lien under subsection (7)(b) shall take TAKES effect and have HAS priority over all other liens and encumbrances except those filed or recorded prior to the date of judgment only if notice of the lien is filed or recorded as required by state or federal law.

(9) A lien filed or recorded pursuant to subsection (8) shall MUST be terminated according to the procedures required by state or federal law within 14 days after the fine or other award ordered to be paid is paid.
(10) In addition to any other method of collection, any fine or other award ordered paid may be recovered by right of setoff to any debt owed to the defendant by the state of Michigan, including the right to a refund of income taxes paid.

SEC. 3115B. (1) THIS SECTION APPLIES TO ANY RELEASE OF GAS OR OIL, OR BOTH, FROM A STRAITS GAS OR OIL PIPELINE OR A VESSEL INTO THE WATERS OF THE STATE AND TO THE FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS PART INVOLVING STRAITS GAS OR OIL PIPELINES.

(2) THE LIABILITY AND REMEDIES PROVIDED IN THIS SECTION ARE IN ADDITION TO AND DO NOT LIMIT THE CIVIL AND CRIMINAL LIABILITY ESTABLISHED BY OTHER APPLICABLE FEDERAL AND STATE LAW, INCLUDING, BUT NOT LIMITED TO, LIABILITY FOR RESPONSE ACTIVITY OR REIMBURSEMENT OF RESPONSE ACTIVITY COSTS UNDER PART 201, AND LIABILITY FOR DAMAGES TO NATURAL RESOURCES AND OTHER PUBLIC AND PRIVATE PROPERTY.

(3) THE OWNER, OPERATOR, OR MANAGER OF A STRAITS GAS OR OIL PIPELINE OR A VESSEL FROM WHICH GAS OR OIL, OR BOTH, ARE RELEASED INTO THE ENVIRONMENT WHERE IT IS OR MAY BE DISCHARGED INTO THE WATERS OF THE STATE, AND ANY OTHER PERSON RESPONSIBLE FOR AN ACTIVITY THAT CAUSES SUCH A RELEASE IS LIABLE TO THE STATE FOR CIVIL FINES AS FOLLOWS:

(A) EACH PERSON LIABLE FOR A RELEASE IS JOINTLY AND SEVERALLY LIABLE FOR A CIVIL FINE OF NOT MORE THAN $37,500.00 FOR EACH DAY THAT A RELEASE OCCURS.

(B) IF THE RELEASE WAS THE RESULT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, EACH PERSON LIABLE FOR THE RELEASE IS JOINTLY AND SEVERALLY LIABLE FOR A CIVIL FINE OF NOT LESS THAN $150,000.00.
(4) In determining the amount of a civil fine under subsection (3), the court shall consider the seriousness of the violation or violations; the economic benefit to the violator, if any, resulting from the violation; the degree of culpability involved; any other penalty for the same incident; any history of prior violations; the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the release; the economic impact of the fine on the violator; and any other matters as justice requires.

(5) The owner or operator of a Straits Gas or Oil pipeline that fails to submit, or resubmit, a spill prevention plan required under section 3111d is liable for a civil fine of $1,000.00 for each day of violation.

(6) The owner or operator of a Straits Gas or Oil pipeline that fails to submit, or resubmit, a contingency plan required under section 3111e is liable for a civil fine of $1,000.00 for each day of violation.

(7) Beginning 3 years after the effective date of the amendatory act that added this section, the State Treasurer shall adjust for inflation based upon changes in the Detroit Consumer Price Index the civil fine amounts specified in subsections (3), (5), and (6).

(8) The fees and fines payable under this section are those amounts as adjusted by the State Treasurer for the year in which the fees are payable or the liability for civil fines arose.

(9) Civil fines collected under this section must be forwarded to the State Treasurer for deposit into the Gas and Oil Pipeline
Fund created in section 3135.

Sec. 3135. (1) The gas and oil pipeline fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the gas and oil pipeline fund. The state treasurer shall direct the investment of the gas and oil pipeline fund. The state treasurer shall credit to the gas and oil pipeline fund interest and earnings from gas and oil pipeline fund investments.

(3) Money in the gas and oil pipeline fund at the close of the fiscal year remains in the gas and oil pipeline fund and does not lapse to the general fund.

(4) The department is the administrator of the gas and oil pipeline fund for auditing purposes.

(5) Money from the gas and oil pipeline fund shall be used, upon appropriation, only for the following purposes:

(A) For activities of the department and department of attorney general in investigating and bringing enforcement actions for violations of sections 3111c, 3111d, 3111e, and 3115b.

(B) For activities of state agencies to prevent or mitigate releases of gas and oil into the environment.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.