PIPECLINE SAFETY ADVISORY BOARD

Agenda

December 12, 2016
1:30 – 3:30 p.m.

Michigan Agency for Energy
Lake Michigan Hearing Room, 1st floor
7109 West Saginaw Highway
Lansing, MI 48917

1:30-1:45 PM Welcome and Introductions

Charge of the Board

Meeting Minutes: June 13 and September 19, 2016 (Attachment A)

Organizational Items
• Next Proposed Meeting – March 13, 2017
• 2017 Schedule (Attachment B)
• PSAB Response Letter (Attachment C)

Correspondence Received
• Members (Attachment D)
• Non-Members

1:45-2:15 PM Line 5 Support Installation Project Overview

2:15-2:30 PM PSAB Website Update

2:30-2:50 PM Independent Risk and Alternatives Analysis Update
• Request for Public Outreach Strategies

2:50-3:10 PM Task Force Report Recommendation Updates
• Task Force Report Related Legislation (Attachment E)
• PHSMA Delegation (Attachment F)
• Pipeline Mapping / Water Crossings
• Establishment of Pipeline Safety Best Practices and Pipeline Siting Subcommittee(s)

3:10-3:30 PM Public Participation

Adjourn
MINUTES

MICHIGAN PIPELINE SAFETY ADVISORY BOARD

Ralph A. MacMullan (RAM) Conference Center
Au Sable Room
104 Conservation Drive
Roscommon, Michigan 48653

June 13, 2016
1:00 – 3:00 p.m.

Present: Valerie Brader, Co-Chair, Michigan Agency for Energy
Tim O’Brien, Co-Chair, Department of Environmental Quality
Craig Hupp, Bodman, PLC
Carol Isaacs (Designee for Attorney General Bill Schuette), Department of Attorney General
Capt. Chris Kelenske (Designee for Col. Kriste Kibbey Etue), Michigan State Police
Homer Mandoka, Nottawaseppi Huron Band of the Potawatomi
Jennifer McKay, Tip of the Mitt
Guy Meadows, Michigan Technological University
Bill Moritz, Department of Natural Resources
Craig Pierson, Marathon Petroleum
Jeffrey Pillon, National Association of State Energy Officials
Jerome Popiel, Coast Guard
Brad Shamla, Enbridge Energy Co.
Chris Shepler, Shepler’s Mackinac Island Ferry Service
Sally Talberg, Michigan Public Service Commission

Absent: Michael Shriberg, National Wildlife Federation

Others: Heidi Grether, MAE
Catherine Hollowell, Sault Saint Marie Tribe of Chippewa Indians
Peter Manning, AG
Robert Reichel, AG
Holly Simons, DEQ

I. CALL TO ORDER
Valerie Brader, Executive Director, Michigan Agency for Energy (MAE), called the meeting to order at 1:01 p.m.

II. WELCOME AND INTRODUCTIONS
Co-Chair Brader welcomed everyone and introduced Timothy (Tim) O’Brien, Associate Director, Department of Environmental Quality (DEQ). Tim was recently appointed as the designee for DEQ Director, Keith Creagh, and will serve in that capacity as Co-Chair. Co-Chair Brader also reminded the Board that Holly Simons, elected by the Board to be Secretary, will take the minutes for today’s meeting.
III. MARCH 14, 2016 MEETING MINUTES
Having reviewed the minutes from the March 14, 2016 meeting, Co-Chair Brader asked for comments. Hearing none, she requested a motion to approve.

Guy Meadows moved, seconded by Co-Chair O’Brien, that the minutes from the March 14, 2016 meeting be approved. The vote was taken on the motion. The motion carried unanimously.

IV. CORRESPONDENCE RECEIVED
Correspondence received on behalf of the Board since its last meeting was shared with the Board in the pre-meeting packet, including:

Responses to RFP
Board Members
- Craig Pierson, Marathon Petroleum
- Brad Shamla, Enbridge
- Mike Shriberg, National Wildlife Federation

Guy Meadows recommended that the board and the review team strongly consider the advanced state of Great Lakes Fate and Transport numerical modeling compared to that available on our Nation's ocean coasts when making decisions on the RFPs.

General
Non-Board Members
- Leonard R. Page, Straits Area Concerned Citizens for Peace, Justice and the Environment
- Edward E. Timm, PhD, PE
- Clark Township
- Oil & Water Don’t Mix
- Caleb Laieski, National Advocate for the Environment
- Gary C. Peters and Debbie Stabenow, United States Senate
- Alpena County Board of Commissioners
- Response from State of Michigan to Oil & Water Don’t Mix
- University of Michigan, Water Center
- City of Sault Saint Marie

V. UPDATES ON OTHER TASK FORCE RECOMMENDATIONS
Co-Chair Brader reminded the Board if a certain topic or recommendation requires a more in-depth discussion, a presentation can be arranged for the next meeting.

Bob Reichel, Capt. Chris Kelenske, and Co-Chair Brader provided brief updates. Discussion took place.

Co-Chair Brader encouraged the Board recommend any speakers, topics or other organizations who may be willing to present to the Board at a future meeting substantive topics related to pipeline safety.
VI. **UPDATES ON RFP CONTRACTOR SELECTION PROCESS**
Bob Reichel discussed the Technical Review Team’s timeline, process, and final outcome.

Co-Chair Brader confirmed the Technical Review Team’s recommendation and opened the floor for comments and questions. Discussion took place.

VII. **TRIBAL PERSPECTIVES ON RISKS & ALTERNATIVES**
Homer Mandoka introduced special guest, Catherine Hollowell, Council Member of the Sault Saint Marie Tribe of Chippewa Indians. Catherine shared her remarks.

VIII. **PUBLIC PARTICIPATION**
- David Holtz, Sierra Club, shared verbal comments.
- Roger Gauthier, Straits Area Concerned Citizens for Peace, Justice and the Environment (SACCPJE), shared verbal comments.
- Rick Kane, For the Love of Water (FLOW), shared verbal comments.
- Jim Olson, FLOW, shared verbal comments.
- Liz Kirkwood, FLOW, shared verbal comments.
- Kate Madigan, Michigan Environmental Council, shared verbal comments.
- Deb Hansen, Concerned Citizens of Cheboygan and Emmet County (CCCEC), shared verbal comments.
- June Thaden, Northern Michigan Environmental Action Council (NMEAC), shared verbal comments.
- Charlie Weaver, Jackpine Savage Guide Service, shared verbal comments.
- Andy Buchsbaum, National Wildlife Federation, shared verbal comments.
- Barbara Stamiris, Traverse City, shared verbal comments.
- Leonard Page, SACCPJE, shared verbal comments.
- Jim Benham, Alanson small business owner, shared verbal comments.
- Margaret Pierson, Traverse City, shared verbal comments.

IX. **ADJOURN**
Co-Chair Brader called the meeting to adjourn at 3:25 p.m.
MINUTES

MICHIGAN PIPELINE SAFETY ADVISORY BOARD

Michigan Agency for Energy
Lake Michigan Hearing Room, 1st Floor
7109 West Saginaw Highway
Lansing, Michigan 48917

September 19, 2016
1:30 – 3:30 p.m.

Present: Valerie Brader, Co-Chair, Michigan Agency for Energy
Heidi Grether, Co-Chair, Department of Environmental Quality
Craig Hupp, Bodman, PLC
Carol Isaacs (Designee for Attorney General Bill Schuette), Department of
Attorney General
Capt. Chris Kelenske (Designee for Col. Kriste Kibbey Etue), Michigan State Police
Homer Mandoka, Nottawaseppi Huron Band of the Potawatomi
Jennifer McKay, Tip of the Mitt
Guy Meadows, Michigan Technological University
Bill Moritz (Designee for Keith Creagh), Department of Natural Resources
Craig Pierson, Marathon Petroleum
Jeffrey Pillon, National Association of State Energy Officials
Brad Shamla, Enbridge Energy Co.
Chris Shepler, Shepler’s Mackinac Island Ferry Service
Michael Shriberg, National Wildlife Federation
Travis Warner (Designee for Sally Talberg), Michigan Public Service Commission

Absent: Jerome Popiel, United States Coast Guard

Others: Matt Goddard, DEQ
Steve Keck, United States Coast Guard
Stephen Lloyd, Enbridge Pipelines Inc.
Alex Morese, MAE
Peter Manning, AG
Robert Reichel, AG
Holly Simons, DEQ

I. CALL TO ORDER
Heidi Grether, Director, Department of Environmental Quality (DEQ), called the meeting
to order at 1:32 p.m.

II. WELCOME AND INTRODUCTIONS
Co-Chair Grether welcomed everyone and reminded the Board that Holly Simons,
elected by the Board to be Secretary, will take the minutes for today’s meeting.

III. JUNE 13, 2016 MEETING MINUTES
Having reviewed the minutes from the June 13, 2016 meeting, Co-Chair Grether asked
for comments.
Guy Meadows moved, seconded by Valerie Brader, that the minutes from the June 13, 2016 meeting be amended to include his comments under Correspondence Received from Board Members. The vote was taken on the motion. The motion carried unanimously. The amended minutes will be brought to the next meeting for a motion to approve.

IV. ORGANIZATIONAL ITEMS

1. Next Meeting
The next regular meeting is scheduled for December 12, 2016 from 1:30 p.m. to 3:30 p.m. at the same location (Michigan Agency for Energy, Lake Michigan Hearing Room, 1st Floor, 7109 West Saginaw Highway, Lansing, Michigan 48917).

2. Proposed 2017 Meeting Dates
Co-Chair Grether highlighted the proposed meeting dates and locations for the next year. She informed the Board the proposed locations and dates do not need to be adopted at this meeting, however, to let Holly know of any scheduling conflicts.

V. CORRESPONDENCE RECEIVED
Correspondence received on behalf of the Board since its last meeting was shared with the Board in the pre-meeting packet, including:

Board Members
- Valerie Brader, MAE
- Craig Hupp, Bodman, PLC
- Heidi Grether, DEQ

Non-Board Members
- Elizabeth Kirkwood, For the Love of Water (FLOW)
- James Olson, FLOW
- Rick Kane, FLOW
- Nancy Bordine, Traverse City resident
- Margaret Pierson, Traverse City resident
- Candice Miller, United State Congresswoman
- FLOW
- Oil and Water Don’t Mix

VI. ENBRIDGE RESPONSE FRAMEWORK PRESENTATION
Brad Shamla introduced Stephen Lloyd, Senior Manager, Emergency and Security Management, Enbridge, who provided a presentation.

Co-Chair Grether opened the floor for comments and questions from the Board. Discussion took place.
VII. UNITED STATES COAST GUARD RESPONSE FRAMEWORK PRESENTATION

Co-Chair Grether introduced Steve Keck, Chief, Contingency Planning and Force Readiness, United States Coast Guard, who provided a presentation.

Co-Chair Grether opened the floor for comments and questions from the Board. Discussion took place.

VIII. PHSMA DELEGATION TO STATE

Co-Chair Brader provided the background and a quick rundown of facts. Discussion took place.

IX. INDEPENDENT RISK AND ALTERNATIVES ANALYSIS FINAL SOW REVIEW

Robert Reichel updated the Board on the current status of the scopes of work. He also reviewed the State’s response to reports submitted by Oil and Water Don’t Mix, Straits Area Concerned Citizens for Peace, Justice and the Environment, and FLOW. Discussion took place.

X. ENBRIDGE CONSENT DECREE

Robert Reichel provided a report regarding the requirements set forth under an existing consent decree with Enbridge. Discussion took place regarding a technical review committee and future agenda items.

XI. TASK FORCE RECOMMENDATION PRIORITY REVIEW

Matt Goddard sought input on the prioritization of task force recommendations for the State to address. He asked that any input be shared with him prior to the next meeting.

Matt reminded the Board if a certain topic or recommendation requires a more in-depth discussion, a presentation can be arranged for the next meeting.

XII. MISCELLANEOUS

Co-Chair Grether reminded the Board of their purpose and the intent of the Executive Order. She also encouraged the Board to recommend any speakers, topics or other organizations who may be willing to present to the Board at a future meeting substantive topics related to pipeline safety.

XIII. PUBLIC PARTICIPATION

- Kate Madigan, Michigan Environmental Council, shared verbal comments.
- Liz Kirkwood, FLOW, shared verbal comments.
- Anne Woiwode, Sierra Club, shared verbal comments.
- Roger Gauthier, Straits Area Concerned Citizens for Peace, Justice and the Environment (SACCPJE), shared verbal comments.
- Dale Giddings shared verbal comments.
- Vince Lumetta shared verbal comments.
- Michael Erickson, Medicine Tribe Water Warriors, shared verbal comments.

XIV. ADJOURN

Co-Chair Grether called the meeting to adjourn at 3:42 p.m.
NEXT MEETING       Monday, December 12, 2016
                  1:30 - 3:30 p.m.
Michigan Agency for Energy, Lake Michigan Hearing Room, 1st Floor
7109 West Saginaw Highway, Lansing, Michigan 48917
### Proposed 2017 Meeting Dates

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location</th>
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<tbody>
<tr>
<td>June 12, 2017</td>
<td>1:00 – 3:00 PM</td>
<td>Ralph A. MacMullan (RAM)&lt;br&gt;Conference Center&lt;br&gt;Au Sable Room&lt;br&gt;104 Conservation Drive&lt;br&gt;Roscommon, MI 48653</td>
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<tr>
<td>September 18, 2017</td>
<td>1:30 – 3:30 PM</td>
<td>Michigan Agency for Energy&lt;br&gt;Lake Michigan Hearing Room, 1st floor&lt;br&gt;7109 W. Saginaw Highway&lt;br&gt;Lansing, MI 48917</td>
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<tr>
<td>December 11, 2017</td>
<td>1:30 – 3:30 PM</td>
<td>Michigan Agency for Energy&lt;br&gt;Lake Michigan Hearing Room, 1st floor&lt;br&gt;7109 W. Saginaw Highway&lt;br&gt;Lansing, MI 48917</td>
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[insert month day, year]

[Mr./Ms. insert full name]
[insert organization]
[insert address]
[insert city, state ZIP]

Dear [insert Mr./Ms. last name]:

Thank you for your correspondence of [insert month day, year of incoming letter/email], regarding [insert topic of letter/email received]. That correspondence has been distributed to all members of the Pipeline Safety Advisory Board (PSAB) for their review.

As you know, the PSAB’s primary role is to offer advice and assistance to the State of Michigan in carrying out the recommendations made by the Michigan Petroleum Pipeline Task Force report. Those recommendations included conducting a risk analysis and alternatives analysis of the Straits Pipelines, which is currently ongoing and as part of which there will be additional public comment opportunities in the coming months. We would strongly encourage you to participate in those efforts.

We appreciate very much the high level of interest you have shown in this important issue. Michigan must ensure that oil and gas development and transportation is balanced with protecting public health and safety, environment and natural resources, and your comments help us do that.

Sincerely,

C. Heidi Grether
PSAB Co-Chair

Valerie Brader
PSAB Co-Chair

[insert Enclosure(s) if applicable]

cc:
Hi Valerie, Heidi, and Matt,

I hope you all had a wonderful Thanksgiving!

As a follow-up to requests made at the last PSAB meeting and in anticipation of the upcoming December meeting, I have the following recommendations:

**June 12, 2017 meeting location:**
We should look for a location in the Straits area for the June 12, 2017 meeting. Roscommon is still 1.5-2 hours away from “ground zero.” I would recommend looking for a location in either Mackinac City or St. Ignace. This will allow for increased transparency and will improve the opportunity for those who are, or could be, most directly impacted by Line 5 to participate.

**PHMSA Delegation to the State:**
In general, the State of Michigan should only pursue delegation of the hazardous liquids program if it is provided adequate funding and support to allow for greater oversight and protections. An underfunded, understaffed program will not serve to safeguard our environment and natural resources. While general information was provided at the last meeting, I do not feel as though I have enough information to make a specific recommendation at this time. Could a written analysis of the preliminary research already conducted be provided to board members? This would allow for a more thorough analysis to make a more educated and informed decision on whether it is worthwhile to pursue.

**Priority Recommendations:**
With respect to the remaining Task Force recommendations, I think the Advisory Board should focus on recommendations 5 (Consider legislation requiring state review and approval of oil spill response plans, improved spill reporting, and more robust civil fines.) and 7 (Consider legislation or rulemaking to improve siting process for new petroleum pipelines.).

**Water Crossing Study:**
I recommend we build upon on the coordination of mapping recommendation by initiating a pipeline water crossing study. The basic purpose is to compile an inventory of pipelines at water crossings and determine if they are currently safe. This was done in Montana as a response to a spill in the Yellowstone River. The survey was twofold - it included actual inspections by PHMSA as well as a request for information from PHMSA to the operators including river name, pipeline size, pipeline name, depth of cover surveys, MLV Alignment Sheets, Worst Case Discharge, Integrity Threat Reports/Studies, Remedial action Schedule, and other items. From all of this information, Montana 1) developed a pipeline safety map which provides not only the crossing, but specifications such as operator, diameter, commodity, service status, etc. and 2) identified "at-risk" sites. As a result of the study, many of the "at-risk" sites have been or are now being actively mitigated or remedial actions are to be completed near term.
We made a previous request to conduct a water crossing to PHMSA’s Central Region. The response was that the agency currently does not have the resources available to conduct such a study. However, in the response, PHMSA indicated they would be glad to work with the State if the state undertook the effort. The Advisory Board should undertake this effort and work with PHMSA to conduct a water crossing study to assess risks of existing pipelines running under the Michigan’s rivers, streams, and lakes.

**Prohibit Conversion of TransCanada’s Great Lakes Gas Transmission Line:**
The Advisory Board previously received correspondence from the Pipeline Safety Trust expressing concern about the potential for TransCanada to repurpose the Great Lakes Gas Transmission Line, located in the Straits of Mackinac, from natural gas to hazardous liquids. The Advisory Board should consider the impact of a potential conversion and I recommend we seek an agreement, similar to the agreement reached with Enbridge regarding heavy oil transportation in Line 5. The agreement should prohibit TransCanada from converting the Great Lakes Gas Transmission Line to transport crude oil or hazardous liquids to prevent an unreasonable risk of harm in the Straits.

If you have any questions or would like additional information, just let me know. I would be glad to elaborate on any or all of these if you are interested.

See you on the 12th!

Thanks!

Jennifer McKay  
Policy Director  
Tip of the Mitt Watershed Council  
426 Bay Street, Petoskey, MI 49770  
Ph: 231.347.1181  
Fax: 231.347.5928  
jenniferm@watershedcouncil.org
Thank you for extending the public comment period for United States v. Enbridge Energy, Limited Partnership, et al., Civil Action No. 1:16-cv-914. The State of Michigan is defined by its water resources, which shape our way of life and economy. The failure of Enbridge’s oil transmission pipeline (line 6b) on July 25, 2010 resulted in significant harm to Michigan’s natural resources and highlighted the vital importance of preparation for and response to spill-related emergencies. As a number of the State of Michigan’s concerns were addressed in a separate legal settlement, the State of Michigan respectfully submits the following limited comments regarding the proposed Consent Decree:

1. Training exercises – The establishment of a comprehensive exercise program is vital to assess the readiness of both public and private parties involved in emergency response. Engaging and testing a unified command structure, emergency response plans, mitigation equipment, and response personnel should improve system resiliency and will provide improved protection for our natural, economic, and human resources from the threats of an oil spill.

2. Location of exercises – With the July 25, 2010 oil spill near Marshall, Michigan comprising the largest (by far) of the spills motivating this Decree, it is therefore appropriate that the State of Michigan be the primary focus of these activities. As such, we request that three of the four training exercises outlined in paragraph 115 of the Consent Decree be held in Michigan, and that the State Emergency Operations Center be included in all phases of planning and execution of these exercises.

We appreciate the opportunity to comment on the proposed Decree and look forward to working with the federal government in its implementation.
December 17, 2015, Introduced by Rep. Chatfield and referred to the Committee on Natural Resources.

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 2006 PA 97, 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, 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. 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) "Great Lakes" means the Great Lakes and their connecting waters, including Lake St. Clair.

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

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

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

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

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

(n) "National response center" means the national communications center established under the clean water 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.

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

(p) "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.

(Q) "OIL" MEANS OIL OF ANY KIND AND IN ANY FORM, INCLUDING PETROLEUM, FUEL OIL, SLUDGE, OIL REFUSE, AND OIL MIXED WITH WASTES OTHER THAN DREDGED SPOIL, BUT DOES NOT INCLUDE ANY SUBSTANCE THAT IS SPECIFICALLY LISTED OR DESIGNATED AS A HAZARDOUS SUBSTANCE UNDER 42 USC 9601(14)(A) TO (F), AND THAT IS SUBJECT TO THE PROVISIONS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, 42 USC 9601 TO 9675.
(R) "OIL FACILITY" MEANS A STRUCTURE, GROUP OF STRUCTURES, EQUIPMENT, OR DEVICE, OTHER THAN A VESSEL, THAT IS USED FOR 1 OR MORE OF THE FOLLOWING PURPOSES: EXPLORING FOR, DRILLING FOR, PRODUCING, STORING, HANDLING, TRANSFERRING, PROCESSING, OR TRANSPORTING OIL. OIL FACILITY INCLUDES ANY MOTOR VEHICLE, ROLLING STOCK, OR PIPELINE USED FOR 1 OR MORE OF THE PURPOSES DESCRIBED IN THIS SUBDIVISION.

(S) "OIL TRANSPORTATION PIPELINE" MEANS AN INTRASTATE PIPELINE OR PORTION OF AN INTERSTATE PIPELINE USED TO TRANSPORT OIL WITHIN THIS STATE AND INCLUDES APPURTENANCES TO THE PIPELINE, BUT DOES NOT INCLUDE A PIPELINE USED TO PRODUCE AND GATHER OIL FROM THE POINT OF PRODUCTION, OR A PIPELINE LOCATED ENTIRELY WITHIN A STORAGE, PROCESSING, REFINING, MANUFACTURING, TREATMENT, OR DISPOSAL FACILITY.

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

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

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

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

(CC) "St. Lawrence waterway" means the St. Lawrence river, the St. Lawrence seaway, and the gulf of St. Lawrence.

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

(EE) "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.

(FF) "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 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 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 section 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, and to expend funds available under such law for extension or improvement of the state or interstate program for prevention and control of water pollution. This part shall not be construed as authorizing 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, 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 and civil sanctions 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 AN OIL TRANSPORTATION PIPELINE FROM WHICH A RELEASE OCCURS, AND A PERSON WHO CAUSES SUCH A RELEASE, SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OF THE RELEASE BY CONTACTING THE DEPARTMENT'S POLLUTION EMERGENCY ALERT SYSTEM OR 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 THE RESPONSE MEASURES TAKEN, OR A SCHEDULE FOR COMPLETION OF MEASURES TO BE TAKEN, OR BOTH, TO PREVENT RECURRENCE OF SIMILAR RELEASES.

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

(A) ALTER ANY OTHER EXISTING STATUTE, RULE, OR REQUIREMENT PERTAINING TO OIL TRANSPORTATION PIPELINES OR POLLUTION OF 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 AN OIL TRANSPORTATION PIPELINE SHALL PREPARE AND SUBMIT TO THE DEPARTMENT FOR REVIEW AND APPROVAL A SPILL PREVENTION PLAN IN CONFORMANCE WITH THIS SECTION AND THE RULES PROMULGATED UNDER THIS SECTION.

(2) AN INITIAL SPILL PREVENTION PLAN SHALL 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 3111D.
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 AN OIL TRANSPORTATION 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 AN OIL TRANSPORTATION PIPELINE REQUIRED UNDER THIS SECTION SHALL, AT A MINIMUM, INCLUDE ALL OF THE FOLLOWING:

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

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

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

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

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

(F) 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.

(G) A DESCRIPTION OF ANY RELEASES OF 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.

(H) 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.

(I) 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 AT AN OIL TRANSPORTATION PIPELINE THAT SUBMITS A SPILL PREVENTION PLAN FOR DEPARTMENTAL REVIEW AND APPROVAL SHALL SUBMIT WITH THE SPILL PREVENTION PLAN A REVIEW 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 SPILL PREVENTION PLAN. BEGINNING 1 YEAR 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 YEAR. FEES COLLECTED UNDER THIS SUBSECTION SHALL BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE OIL TRANSPORTATION 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.


(9) A SPILL PREVENTION PLAN APPROVED UNDER THIS SECTION IS VALID FOR 5 YEARS. AN OWNER OR OPERATOR OF AN OIL TRANSPORTATION 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.
(10) The owner or operator of an oil transportation 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.

Sec. 3111E. (1) The owner or operator of an oil transportation pipeline shall submit to the department for review and approval a contingency plan for the containment and cleanup of 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 such spills in conformance with this section and the rules promulgated under this section.

(2) The owner or operator of an oil transportation 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. The department, by rule, may establish additional standards for contingency plans.
(3) As an interim measure, the owner or operator of an oil transportation pipeline shall, not later than 30 days after the effective date of the amending act that added this section, 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 shall be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, removing oil and minimizing any damage to the environment resulting from a worst-case spill and at a minimum shall include all of the following:

(A) Full details of the method of response to spills of various sizes from any oil facility 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 oil spills and timely notification of 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.

(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 important features of the surrounding
ENVIRONMENT, INCLUDING, BUT NOT LIMITED TO, WATER CROSSINGS, FISH
AND WILDLIFE HABITAT, OTHER ENVIRONMENTALLY SENSITIVE AREAS, PUBLIC
FACILITIES, AND WATER SUPPLY INTAKES.

(G) A DESCRIPTION OF THE MEANS OF PROTECTING AND MITIGATING
EFFECTS ON THE ENVIRONMENT, INCLUDING FISH, AQUATIC LIFE, AND OTHER
WILDLIFE, AND ENSURE THAT IMPLEMENTATION OF THE PLAN DOES NOT POSE
UNACCEPTABLE RISKS TO THE PUBLIC OR THE ENVIRONMENT.

(H) PROVISIONS FOR ARRANGEMENTS FOR THE PREPOSITIONING OF 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 OIL.

(I) PROVISIONS FOR ARRANGEMENTS FOR ENLISTING THE USE OF
QUALIFIED AND TRAINED CLEANUP PERSONNEL TO IMPLEMENT THE PLAN.

(J) PROVISIONS FOR THE DISPOSAL OF RECOVERED SPILLED OIL IN
ACCORDANCE WITH LOCAL, STATE, AND FEDERAL LAWS.

(K) 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.

(L) 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.

(M) 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 AN OIL TRANSPORTATION PIPELINE THAT SUBMITS A CONTINGENCY PLAN FOR DEPARTMENTAL REVIEW AND APPROVAL SHALL SUBMIT WITH THE CONTINGENCY PLAN A REVIEW 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 1 YEAR 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. FEES COLLECTED UNDER THIS SECTION SHALL BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE OIL TRANSPORTATION 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 OIL
SPILLS PROMPTLY AND PROPERLY AND TO PROTECT THE ENVIRONMENT.

(B) THE VOLUME AND TYPE OF OIL BEING TRANSPORTED WITHIN THE

AREA COVERED BY THE PLAN.

(C) THE HISTORY AND CIRCUMSTANCES SURROUNDING PRIOR 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 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 OIL TRANSPORTATION 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 OIL TRANSPORTATION PIPELINE SUBMITTING THE PLAN A STATEMENT INDICATING THAT THE PLAN HAS BEEN APPROVED, THE OIL TRANSPORTATION PIPELINES COVERED BY THE PLAN, AND OTHER INFORMATION THE DEPARTMENT DETERMINES SHOULD BE INCLUDED.

(11) AN OWNER OR OPERATOR OF AN OIL TRANSPORTATION 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.

(12) THE OWNER OR OPERATOR OF AN OIL TRANSPORTATION 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 NOR CONSTITUTE A DEFENSE TO LIABILITY IMPOSED UNDER THIS PART OR OTHER STATE LAW.

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 CIVIL fine imposed by the court shall be 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 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 effect and have 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 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 OIL FROM AN OIL FACILITY OR VESSEL INTO THE WATERS OF THE STATE AND TO THE FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS PART INVOLVING OIL TRANSPORTATION 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 AN OIL FACILITY OR VESSEL FROM WHICH OIL IS 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 UP TO $37,500.00 FOR EACH DAY THAT A
RELEASE OCCURS OR UP TO $2,100.00 FOR EACH BARREL OF OIL RELEASED.

(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
AND NOT MORE THAN $5,300.00 PER BARREL OF OIL RELEASED.

(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 MAY REQUIRE.

(5) THE OWNER OR OPERATOR OF AN OIL TRANSPORTATION 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 AN OIL TRANSPORTATION 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.

(8) THE FEES AND FINES PAYABLE UNDER THIS SECTION SHALL BE 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 SHALL BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE OIL TRANSPORTATION FUND CREATED IN SECTION 3135.

SEC. 3135. (1) THE OIL TRANSPORTATION FUND IS CREATED WITHIN THE STATE TREASURY.

(2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE OIL TRANSPORTATION FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE OIL TRANSPORTATION FUND. THE STATE TREASURER SHALL CREDIT TO THE OIL TRANSPORTATION FUND INTEREST AND EARNINGS FROM OIL TRANSPORTATION FUND INVESTMENTS.

(3) MONEY IN THE OIL TRANSPORTATION FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE OIL TRANSPORTATION FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

(4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE OIL TRANSPORTATION FUND FOR AUDITING PURPOSES.

(5) MONEY FROM THE OIL TRANSPORTATION FUND SHALL BE USED, UPON APPROPRIATION, ONLY FOR THE FOLLOWING PURPOSES:

(A) DEPARTMENT AND DEPARTMENT OF ATTORNEY GENERAL ACTIVITIES
IN INVESTIGATING AND BRINGING ENFORCEMENT ACTIONS FOR VIOLATIONS OF
SECTIONS 3111C, 3111D, 3111E, AND 3115B.

(B) ACTIVITIES OF STATE AGENCIES TO PREVENT OR MITIGATE
RELEASES OF OIL INTO THE ENVIRONMENT.

Enacting section 1. This amendatory act takes effect 90 days
after the date it is enacted into law.
Outline for Presentation to PHMSA Board re Oil Pipeline Inspections
Brader, September 19, 2016

1. **Report on whether Michigan should seek primacy in inspections of pipelines from PHMSA.** (Delegation)
   a. MI has 1,288 miles of crude pipelines and 12,000 miles of refined product pipelines

2. **We have this for natural gas pipelines, so began a look there.**
   a. This year, feds both increased requirements for personnel (by approximately 50%) and cut funding (they used to cover 80% of the cost of the program; now will be 60% -- so going from program costs of approx.. $1.6M to $2.3M with elements discussed below.
      i. PHMSA recently imposed new requirements on states participating in the pipeline safety program, increasing both the number of total inspection days to be completed by the state as well as the number of inspections to be conducted by each inspector. (total of 967 inspection days for approx.. 50K miles of pipe)
      ii. MPSC currently has only eight natural gas safety engineers. This represents an approximately 50% increase in program staffing compared to current levels for the MPSC gas safety program.
          1. is consistent with the results of the minimum inspection day analysis for other Midwest states with gas pipeline infrastructures of similar size.
   b. **Michigan is already having difficulty attracting and retaining staff at existing pay levels, which are below that of private companies and the federal government.**
      i. Since 2007 (a decade back from budget year), there has been a turnover rate of 100% of gas safety engineers.
      ii. A recent posting for gas safety engineers resulted in only six applications after an entire month, and two of the six applicants had already accepted positions elsewhere when contacted.
   c. While MPSC will be proposing budget increases to both meet the new minimum requirements and promote some individuals, as well as look long-term at payment, these points to the challenge
3. So what it would take to meet minimum standards for new program?
   a. Timewise: 4-5 years, Dollars wise, three quarters of a million dollars of new spending annually.
   b. Time:
      i. At least a 3 year wait on applications states are making to PHMSA for delegation for petroleum inspection
      ii. Then new legislation would have to be enacted for fees to support the program.
      iii. Then we have to hire and implement.
   c. Cost
      i. Going on the basis of nat. gas costs vs. miles of pipe, so very rough justice, would say $750K/yr
         1. $2.3M/50,000 miles of nat gas pipe is approximately $46/mile annually
         2. So given that we have a lot fewer miles of petroleum pipe, you get to approximately $625K/yr to meet federal minimums using MPSC likely budget request
         3. Assuming costs go up 4 years from now, and we want to go beyond the bare minimum, going to say should be able to support $750K/yr
      ii. Possible funding sources include general fund and user fees -- either of which would require strong stakeholder support over many years.

4. This would require enthusiastic, broad, and sustained stakeholder support.

5. Should report recommend taking this on? Ask for feedback.