

DRAFT 3
SUBSTITUTE FOR
HOUSE BILL NO. 4480

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding sections 12815, 12817, and
12829.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 12815. (1) The technical advisory committee is created in**
2 **the department to advise the department on all of the following:**

3 **(a) Recommended standards and guidance for the management of**
4 **onsite wastewater treatment systems.**

5 **(b) Nonproprietary technologies and recommended standards and**
6 **guidance for their use.**

7 **(c) Testing and design standards used for proprietary product**
8 **registration and recommended standards and guidance for use of**



1 proprietary products.

2 (d) Recommended standards and guidance for alternative onsite
3 wastewater treatment systems and the severity of a failure of a
4 system.

5 (e) Onsite wastewater treatment system evaluation elements and
6 reporting.

7 (f) Registered evaluator qualifications and ethical standards.

8 (g) Documentation required to be submitted to the department
9 for qualifying and registering evaluators under section 12823.

10 (h) Qualifications of individuals other than registered
11 evaluators involved in the management of onsite wastewater
12 treatment systems.

13 (i) Continuing education requirements for individuals involved
14 in the management of onsite wastewater treatment systems.

15 (j) Recommended standards for implementing this act, including
16 how to prioritize onsite wastewater treatment system evaluations.

17 (2) The technical advisory committee must consist of all of
18 the following members who have technical or scientific knowledge
19 applicable to onsite wastewater treatment systems:

20 (a) Five regional local health department representatives
21 recommended by a state organization representing local health
22 departments. The 5 members appointed under this subsection must be
23 appointed as follows:

24 (i) One member appointed by the governor.

25 (ii) Two members appointed by the speaker of the house of
26 representatives.

27 (iii) Two members appointed by the senate majority leader.

28 (b) All of the following members appointed by the governor:

29 (i) One professional engineer.



1 (ii) One hydrogeologist with hydrogeology field experience. As
2 used in this subparagraph, "hydrogeologist" means a professional
3 hydrogeologist as that term is defined in section 32706c of the
4 natural resources and environmental protection act, 1994 PA 451,
5 MCL 324.32706c.

6 (iii) One microbiologist.

7 (iv) One onsite system product manufacturer.

8 (v) One onsite wastewater system installer who has completed
9 training developed by the National Onsite Wastewater Recycling
10 Association.

11 (vi) One onsite wastewater system service provider.

12 (vii) Two department representatives.

13 (viii) One epidemiologist.

14 (ix) One individual with knowledge of the use of onsite
15 wastewater treatment systems representing users of onsite
16 wastewater treatment systems.

17 (x) One representative from a state organization specializing
18 in the protection of public health and the environment through
19 improved water quality.

20 (xi) One current or former county drain commissioner.

21 (xii) One individual who is qualified as a registered evaluator
22 and who has performed at least 10 evaluations under preexisting
23 onsite wastewater treatment system ordinances.

24 (3) The members first appointed to the technical advisory
25 committee shall be appointed within 90 days after the effective
26 date of the amendatory act that added this part.

27 (4) Members of the technical advisory committee shall serve
28 for terms of 4 years or until a successor is appointed.

29 (5) If a vacancy occurs on the technical advisory committee,



1 an individual shall be appointed in the same manner as the original
2 appointment to fill the vacancy for the balance of the term.

3 (6) The governor may remove a member of the technical advisory
4 committee for incompetence, dereliction of duty, malfeasance,
5 misfeasance, or nonfeasance in office, or any other good cause.

6 (7) The governor shall call the first meeting of the technical
7 advisory committee. At the first meeting, the technical advisory
8 committee shall elect from among its members a chairperson and
9 other officers as it considers necessary or appropriate. Except as
10 otherwise provided in this subsection, after the first meeting, the
11 technical advisory committee shall meet at least bimonthly, or more
12 frequently at the call of the chairperson, or if requested by the
13 department. Beginning 8 years after the effective date of the
14 amendatory act that added this section, the technical advisory
15 committee shall meet at least biannually, or more frequently at the
16 call of the chairperson, or if requested by the department.

17 (8) A majority of the members of the technical advisory
18 committee constitute a quorum for the transaction of business at a
19 meeting of the technical advisory committee. A majority of the
20 members present and serving are required for official action of the
21 technical advisory committee.

22 (9) The business that the technical advisory committee may
23 perform must be conducted at a public meeting of the technical
24 advisory committee held in compliance with the open meetings act,
25 1976 PA 267, MCL 15.261 to 15.275.

26 (10) A writing prepared, owned, used, in the possession of, or
27 retained by the technical advisory committee in the performance of
28 an official function is subject to the freedom of information act,
29 1976 PA 442, MCL 15.231 to 15.246.



1 (11) Members of the technical advisory committee shall serve
2 without compensation. However, members of the technical advisory
3 committee may be reimbursed for their actual and necessary expenses
4 incurred in the performance of their official duties as members of
5 the technical advisory committee.

6 (12) The technical advisory committee shall consider the
7 following in its advice to the department:

8 (a) Sufficient theory and applied research to document
9 efficacy of onsite wastewater treatment systems.

10 (b) Potential use, local soil conditions, and other factors
11 that may affect the operation of onsite wastewater treatment
12 systems.

13 (c) Field performance data that confirm the product or
14 technology functions when installed on-site as indicated by
15 submitted documents.

16 (d) Certification of onsite wastewater treatment systems by
17 NSF International or another recognized certifying agency.

18 (13) The technical advisory committee may consult with experts
19 in the field of management of onsite wastewater treatment systems
20 and other individuals with knowledge and expertise in the
21 management of onsite wastewater treatment systems, including, but
22 not limited to, environmental organizations, financial
23 organizations, home builders, real estate licensees, local units of
24 government, and conservation districts.

25 (14) The department shall provide administrative support to
26 the technical advisory committee.

27 Sec. 12817. Not later than 3 years after the effective date of
28 the amendatory act that added this part, the department shall
29 promulgate rules that establish a statewide code containing



1 performance-based standards for systems categorized as conventional
2 and alternative onsite wastewater treatment systems. Before
3 promulgating these rules, the department shall consult with the
4 technical advisory committee. The rules must provide baseline
5 protection for public health and the environment and must include
6 all of the following:

7 (a) Minimum standards and criteria for the siting, design,
8 installation, and evaluation of onsite wastewater treatment
9 systems.

10 (b) Wastewater effluent standards, if applicable.

11 (c) Corrective actions necessary to protect public health and
12 the environment for onsite wastewater treatment systems that fail
13 to meet these standards.

14 (d) Requirements relating to the construction approval process
15 by the department and local health departments for onsite
16 wastewater treatment systems.

17 (e) Requirements for the operation, evaluation, and
18 maintenance of conventional and alternative onsite wastewater
19 treatment systems that define required routine maintenance
20 necessary to ensure continued proper performance of the system to
21 protect public health and the environment.

22 (f) Requirements for the approval or rejection of
23 conventional, alternative, and experimental wastewater treatment
24 system products, components, or devices.

25 (g) Criteria for requesting and granting appeals by an
26 authorized local health department.

27 (h) Criteria for allowing the continued use of approved onsite
28 wastewater treatment systems in which a construction permit was
29 issued before the effective date of the statewide code if use of an



1 onsite wastewater treatment system can be managed in a manner that
2 does all of the following:

3 (i) Ensures an effective level of treatment of sanitary sewage
4 determined to be necessary, based on risk.

5 (ii) Protects public health and the environment.

6 (iii) Protects the surface waters of the state.

7 (iv) Protects groundwater quality.

8 (i) Qualifications and continuing education requirements for
9 individuals involved in the management of onsite wastewater
10 treatment systems.

11 (j) A requirement for septic tanks installed or altered after
12 the effective date of the amendatory act that added this section to
13 contain a septic tank access riser that extends to the ground
14 surface and secondary safety device.

15 (k) Ethical standards for registered evaluators.

16 (l) Requirements for evaluations in addition to those described
17 under section 12821(3), including required tests and procedures for
18 registered evaluators to perform to ensure the validity of onsite
19 wastewater treatment system evaluations.

20 (m) Conditions to reject or deny the installation of an onsite
21 wastewater treatment system.

22 (n) [Provisions for violations of sections 12807 and 12811,
23 and the statewide code. What is your intent? I am unclear what this
24 means.]

25 (o) Guidance on the elements of nonconforming systems and when
26 they may result in failure.

27 (p) Guidelines for local health departments to complete
28 initial evaluation of systems under section 12833. The guidelines
29 must prioritize systems that meet any of, but are not limited to,



1 the following:

2 (i) Onsite wastewater treatment systems that were installed
3 over 30 years ago.

4 (ii) Onsite wastewater treatment systems that are within 300
5 feet of a body of water.

6 (iii) If the onsite wastewater treatment system has not received
7 a permit from the local health department or other entity for its
8 initial construction.

9 (q) Guidelines for granting variances from the requirements in
10 section 12821(12).

11 Sec. 12829. (1) The onsite wastewater treatment system
12 administration fund is created within the state treasury.

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

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

19 (4) The department is the administrator of the fund for
20 auditing purposes.

21 (5) The department shall expend money from the fund, upon
22 appropriation, only for the following purposes:

23 (a) To administer this part.

24 (b) For grants to local health departments to carry out their
25 responsibilities under this part, including for the digitization of
26 records relating to onsite wastewater treatment systems.

27 (c) For grants or loans to homeowners who are below 400% of
28 the federal poverty line to update a failure of an onsite
29 wastewater treatment system identified under section 12821 or to



1 provide funds to compensate for an arranged onsite wastewater
2 treatment evaluation. As used in this subdivision, "federal poverty
3 line" means the federal poverty guidelines published annually in
4 the Federal Register by the United States Department of Health and
5 Human Services under its authority to revise the poverty line under
6 42 USC 9902.

7 (d) To assist local units of government in building
8 infrastructure to accommodate the increased amount of septage
9 generated by the implementation of this part.

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

12 Enacting section 2. This amendatory act does not take effect
13 unless House Bill No. 4479 of the 102nd Legislature is enacted into
14 law.

