

# HOUSE BILL No. 5981

June 30, 1992, Introduced by Reps. Yokich, Brown, Sikkema, Varga, Trim and Hickner and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 2, 5, 6, 7, 24, 25, and 26 of Act No. 348 of the Public Acts of 1965, entitled as amended

"Air pollution act,"

section 2 as amended by Act No. 218 of the Public Acts of 1987, being sections 336.12, 336.15, 336.16, 336.17, 336.34, 336.35, and 336.36 of the Michigan Compiled Laws; to add sections 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 5m, 6b, 7b, 8a, 9a, 9b, 16a, 16b, 16c, 16d, 16e, 16f, 16g, 16h, and 16i; to repeal certain parts of the act; and to repeal certain parts of the act on a specific date.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. The title and sections 2, 5, 6, 7, 24, 25, and  
2 26 of Act No. 348 of the Public Acts of 1965, section 2 as  
3 amended by Act No. 218 of the Public Acts of 1987, being sections

1 336.12, 336.15, 336.16, 336.17, 336.34, 336.35, and 336.36 of the  
 2 Michigan Compiled Laws, are amended and sections 5b, 5c, 5d, 5e,  
 3 5f, 5g, 5h, 5i, 5j, 5k, 5l, 5m, 6b, 7b, 8a, 9a, 9b, 16a, 16b,  
 4 16c, 16d, 16e, 16f, 16g, 16h, and 16i are added to read as  
 5 follows:

6 TITLE

7 An act to control air pollution in this state; to create an  
 8 air pollution control commission; ~~within the state health~~  
 9 ~~department;~~ to prescribe ~~its~~ THE powers and duties ~~;~~ to pre-  
 10 ~~scribe the powers and duties of~~ OF CERTAIN STATE AGENCIES AND  
 11 OFFICIALS AND certain county agencies; to provide for the estab-  
 12 lishment of fees AND THE DISPOSITION OF FEES; ~~and~~ to ~~provide~~  
 13 PRESCRIBE penalties AND PROVIDE REMEDIES; AND TO REPEAL CERTAIN  
 14 PARTS OF THIS ACT ON A SPECIFIC DATE.

15 Sec. 2. As used in this act:

16 (A) "ADVERSE ENVIRONMENTAL EFFECT" MEANS ANY SIGNIFICANT OR  
 17 WIDESPREAD ADVERSE EFFECT TO WILDLIFE, AQUATIC LIFE, OR OTHER  
 18 NATURAL RESOURCES, INCLUDING ADVERSE IMPACT ON POPULATIONS OF  
 19 ENDANGERED OR THREATENED SPECIES OR ANY OTHER SIGNIFICANT DEGRA-  
 20 DATION OF ENVIRONMENTAL QUALITY OVER BROAD AREAS THAT MAY REASON-  
 21 ABLY BE ANTICIPATED.

22 (B) "ADVERSE HUMAN HEALTH EFFECT" MEANS ANY ADVERSE EFFECT  
 23 TO HUMAN BEINGS INCLUDING, BUT NOT LIMITED TO, THE EFFECTS OF  
 24 SUBSTANCES WHICH ARE KNOWN TO BE, OR MAY REASONABLY BE ANTICI-  
 25 PATED TO BE, CARCINOGENIC, MUTAGENIC, TERATOGENIC, OR NEUROTOXIC,  
 26 WHICH CAUSE REPRODUCTIVE DYSFUNCTION, OR THAT ARE ACUTELY OR  
 27 CHRONICALLY TOXIC.

1 (C) ~~(a)~~ "Commission" means the air pollution control  
2 commission. "AIR CLEANING DEVICE" MEANS ANY METHOD, PROCESS, OR  
3 EQUIPMENT THAT REMOVES, REDUCES, OR RENDERS LESS NOXIOUS AIR CON-  
4 TAMINANTS DISCHARGED INTO THE ATMOSPHERE.

5 (D) ~~(b)~~ "Air contaminant" means a dust, fume, gas, mist,  
6 odor, RADIONUCLIDE, smoke, vapor, or any combination thereof.

7 (E) ~~(c)~~ "Air pollution" means the presence in the outdoor  
8 atmosphere of air contaminants in quantities, of characteristics  
9 and under conditions and circumstances and of a duration which  
10 are or can become injurious to human health or welfare, to animal  
11 life, to plant life, or to property, or which interferes with the  
12 enjoyment of life and property in this state and excludes all  
13 aspects of employer-employee relationships as to health and  
14 safety hazards TO THE EXTENT CONSISTENT WITH THE MICHIGAN OCCUPA-  
15 TIONAL SAFETY AND HEALTH ACT, ACT NO. 154 OF THE PUBLIC ACTS OF  
16 1974, BEING SECTIONS 408.1001 TO 408.1094 OF THE MICHIGAN  
17 COMPILED LAWS. With respect to any mode of transportation, noth-  
18 ing in this act or in the rules promulgated under the authority  
19 of this act shall be inconsistent with the federal regulations,  
20 emission limits, standards or requirements on various modes of  
21 transportation. Air pollution shall not be construed to mean  
22 those usual and ordinary odors associated with a farm operation  
23 within a zoned agricultural area if the person engaged in the  
24 farm operation is following generally accepted agricultural and  
25 management practices.

1 ~~(d) "Air cleaning device" means any method, process or~~  
2 ~~equipment which removes, reduces or renders less noxious air~~  
3 ~~contaminants discharged into the atmosphere.~~

4 (F) "ATTORNEY GENERAL" MEANS THE DEPARTMENT OF ATTORNEY  
5 GENERAL.

6 (G) "CLEAN AIR ACT" MEANS CHAPTER 360, 69 STAT. 322, 42  
7 U.S.C. 7401 TO 7431, 7470 TO 7479, 7491 TO 7492, 7501 TO 7509a,  
8 7511 TO 7515, 7521 TO 7525, 7541 TO 7545, 7547 TO 7550, 7552 TO  
9 7554, 7571 TO 7574, 7581 TO 7590, 7601 TO 7612, 7614 TO 7617,  
10 7619 TO 7622, 7624 TO 7627, 7641 TO 7642, 7651 TO 7651o, 7661 TO  
11 7661f, AND 7671 TO 7671q.

12 (H) "COMMISSION" MEANS THE AIR POLLUTION CONTROL  
13 COMMISSION.

14 (I) "DEPARTMENT" MEANS THE DIRECTOR OF THE DEPARTMENT OF  
15 NATURAL RESOURCES OR THE DESIGNEE OF THE DIRECTOR.

16 (J) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF NATU-  
17 RAL RESOURCES.

18 (K) "ENVIRONMENT" OR "NATURAL RESOURCES" MEANS ANY LAND,  
19 SURFACE WATER, GROUNDWATER, SUBSURFACE STRATA, AIR, FISH, WILD-  
20 LIFE, OR BIOTA WITHIN THE STATE.

21 (l) ~~(e)~~ "Farm operation" has the meaning ascribed to it in  
22 the Michigan right to farm act, Act No. 93 of the Public Acts of  
23 1981, being sections 286.471 to 286.474 of the Michigan Compiled  
24 Laws.

25 (M) ~~(f)~~ "Generally accepted agricultural and management  
26 practices" has the meaning ascribed to it in the Michigan right

1 to farm act, Act No. 93 of the Public Acts of 1981, being  
2 sections 286.471 to 286.474 of the Michigan Compiled Laws.

3 (N) "GENERAL PERMIT" MEANS A CATEGORY OF PERMITS, THE PROVI-  
4 SIONS OF WHICH ARE DETERMINED IN RULES PROMULGATED BY THE  
5 COMMISSION.

6 (O) "HAZARDOUS AIR CONTAMINANT" MEANS EITHER OF THE  
7 FOLLOWING:

8 (i) HAZARDOUS AIR POLLUTANTS LISTED IN SECTION 112(B) OF THE  
9 CLEAN AIR ACT.

10 (ii) AN AIR CONTAMINANT THAT IS NOT INCLUDED UNDER SUBPARA-  
11 GRAPH (i) THAT MAY PRESENT, THROUGH INHALATION OR OTHER ROUTES OF  
12 EXPOSURE, A THREAT OF AN ADVERSE HUMAN HEALTH EFFECT OR ADVERSE  
13 ENVIRONMENTAL EFFECTS WHETHER THROUGH AMBIENT CONCENTRATIONS,  
14 BIOACCUMULATION, DEPOSITION, OR OTHERWISE.

15 (iii) A "TOXIC AIR CONTAMINANT" OR "TAC" AS DEFINED BY RULES  
16 PROMULGATED UNDER THIS ACT.

17 (P) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, CITY, VIL-  
18 LAGE, OR TOWNSHIP.

19 (Q) "OWNER" OR "OPERATOR" MEANS 1 OR MORE PERSONS WHO OWN,  
20 LEASE, OPERATE, CONTROL, OR SUPERVISE A SOURCE.

21 (R) "PERMIT" MEANS A WRITTEN AUTHORIZATION ISSUED UNDER THIS  
22 ACT AND THE RULES PROMULGATED UNDER THIS ACT INCLUDING A PERMIT  
23 TO INSTALL AND A PERMIT TO OPERATE.

24 (S) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
25 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

26 (T) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE  
27 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC

1 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN  
2 COMPILED LAWS.

3 (U) "SMALL BUSINESS" MEANS A SMALL BUSINESS AS DEFINED IN  
4 THE SMALL BUSINESS AIR QUALITY ASSISTANCE ACT.

5 (V) "SOURCE" MEANS ANY PROCESS EQUIPMENT, BUILDING, FACILI-  
6 TY, STRUCTURE, CONTRIVANCE, INSTALLATION OPERATION, OR ACTIVITY  
7 THAT EMITS OR MAY EMIT AN AIR CONTAMINANT. SOURCE DOES NOT  
8 INCLUDE A SELF-PROPELLED VEHICLE DESIGNED FOR TRANSPORTING PER-  
9 SONS ON A STREET OR HIGHWAY, OR A NONROAD VEHICLE THAT IS POWERED  
10 BY A NONROAD ENGINE, AS DEFINED IN SECTION 216 OF THE CLEAN AIR  
11 ACT, THAT IS NOT A MOTOR VEHICLE OR A VEHICLE USED SOLELY FOR  
12 COMPETITION.

13 Sec. 5. (1) The commission may DO 1 OR MORE OF THE  
14 FOLLOWING:

15 (a) Establish standards for ambient air quality and for  
16 emissions FROM SOURCES THAT EMIT OR MAY EMIT AIR CONTAMINANTS.

17 (b) Issue permits ~~for the construction and the operation of~~  
18 ~~air pollution control facilities and source emissions~~ AS PRO-  
19 VIDED IN SECTION 5B TO POTENTIAL SOURCES OF AIR CONTAMINANTS and  
20 to require reports of the operation of ~~the air pollution control~~  
21 ~~facilities~~ SUCH SOURCES.

22 (c) Compel the attendance of witnesses at proceedings of the  
23 commission OR DEPARTMENT upon reasonable notice.

24 (d) Make findings of fact and determinations.

25 (e) ~~Make, modify or cancel orders which require, in accord-~~  
26 ~~ance with the provisions of this act, the control of air~~  
27 ~~pollution.~~ PROMULGATE RULES AS NECESSARY TO CONTROL AND ABATE

1 AIR POLLUTION AND TO OTHERWISE MEET THE REQUIREMENTS OF THIS ACT  
2 AND THE CLEAN AIR ACT.

3 (f) ~~Institute~~ REQUEST THE DEPARTMENT OF ATTORNEY GENERAL  
4 TO INSTITUTE in a court of competent jurisdiction proceedings to  
5 compel compliance with the provisions of any rule, ~~or any deter-~~  
6 ~~mination or~~ PERMIT, order, ~~which it may promulgate or issue~~ OR  
7 OTHER REQUIREMENT PROMULGATED, ISSUED, OR ESTABLISHED under this  
8 act.

9 (g) Do such other things as ~~it may deem~~ THE COMMISSION  
10 CONSIDERS necessary, proper, or desirable ~~in order that it may~~  
11 TO IMPLEMENT AND enforce ~~rules promulgated under~~ this act.

12 (h) Accept, or when ~~deemed~~ CONSIDERED necessary by the  
13 commission require to be submitted to it, and consider for  
14 approval plans for air cleaning devices or any part ~~thereof~~ OF  
15 AIR CLEANING DEVICES and inspect the installation for compliance  
16 with the plans.

17 (I) DELEGATE ANY OF ITS POWERS TO THE DEPARTMENT.

18 (2) THE DEPARTMENT MAY DO ANY OF THE FOLLOWING:

19 (A) ~~(i)~~ Enter and inspect any property AS PROVIDED FOR IN  
20 THIS ACT. ~~at reasonable times and places pursuant to reasonable~~  
21 ~~notice for the purpose of investigating either an actual or sus-~~  
22 ~~pected source of air pollution or ascertaining compliance or non-~~  
23 ~~compliance with any rule which it may promulgate under this act.~~  
24 ~~If in connection with such investigation or inspection, samples~~  
25 ~~of air contaminants are taken for analysis, a duplicate of the~~  
26 ~~analytical report shall be furnished promptly to the person who~~  
27 ~~is suspected of causing such air pollution.~~

1 (B) ~~(j)~~ Receive and initiate complaints of air pollution  
2 in alleged violation of ~~any rule which it may promulgate under~~  
3 ~~this act and take action with respect thereto as hereinafter pro-~~  
4 ~~vided in~~ this act, AND INSTITUTE IN A COURT OF COMPETENT JURIS-  
5 DICTION PROCEEDINGS TO COMPEL COMPLIANCE WITH ANY RULE, PERMIT,  
6 ORDER, OR OTHER REQUIREMENT PROMULGATED, ISSUED, OR ESTABLISHED  
7 UNDER THIS ACT.

8 (C) ~~(k)~~ Prepare and develop a general comprehensive plan  
9 for the control or abatement of existing air pollution and for  
10 the control or prevention of any new air pollution.

11 (D) ~~(l)~~ Encourage voluntary cooperation by all persons in  
12 controlling air pollution and air contamination.

13 (E) ~~(m)~~ Encourage the formulation and execution of plans  
14 by cooperative groups or associations of ~~cities, villages and~~  
15 ~~counties or districts, or other governmental units~~ LOCAL UNITS  
16 OF GOVERNMENT, industries, and others who severally or jointly  
17 are or may be the source of air pollution, for the control of  
18 pollution.

19 (F) ~~(n)~~ Cooperate with the appropriate agencies of the  
20 United States or other states or any interstate agencies or  
21 international agencies with respect to the control of air pollu-  
22 tion and air contamination, or for the formulation for the sub-  
23 mission to the legislature of interstate air pollution control  
24 compacts or agreements.

25 (G) ~~(o)~~ Conduct or cause to be conducted studies and  
26 research with respect to air pollution control, abatement or  
27 prevention.



1 (H) ~~(p)~~ Conduct and supervise programs of air pollution  
 2 control education including the preparation and distribution of  
 3 information relating to air pollution control.

4 (I) ~~(q)~~ Determine by means of field studies and sampling  
 5 the degree of air pollution in the state.

6 (J) ~~(r)~~ Provide advisory technical consultation services  
 7 to local ~~communities~~ UNITS OF GOVERNMENT.

8 (K) ~~(s)~~ Serve as the agency of the state for the receipt  
 9 of moneys from the federal government or other public or private  
 10 agencies and to expend ~~such moneys~~ THE MONEY after appropria-  
 11 tion ~~thereof~~ for the purpose of air pollution control studies  
 12 or research or enforcement of this act.

13 (L) DO SUCH OTHER THINGS AS CONSIDERED NECESSARY, PROPER, OR  
 14 DESIRABLE TO IMPLEMENT AND ENFORCE THIS ACT.

15 (3) THE STATE OR A CITY OR COUNTY TO WHICH AUTHORITY HAS  
 16 BEEN DELEGATED UNDER THIS ACT MAY REQUIRE THAT A SOURCE FILE AN  
 17 ANNUAL REPORT THAT STATES THE NATURE OF ITS ENTERPRISE, AND A  
 18 LIST OF MATERIALS USED IN OR INCIDENTAL TO THE SOURCE'S PROCESS,  
 19 INCLUDING A BY-PRODUCT OR WASTE PRODUCT THAT APPEARS ON THE  
 20 COMMISSION'S REGISTER OF MATERIALS. THE COMMISSION SHALL PROMUL-  
 21 GATE RULES AS NECESSARY TO IMPLEMENT THIS SECTION.

22 SEC. 5B. (1) EXCEPT TO THE EXTENT CONSISTENT WITH THIS ACT,  
 23 A PERSON SHALL NOT INSTALL, CONSTRUCT, RECONSTRUCT, RELOCATE,  
 24 ALTER, MODIFY, OR OPERATE A SOURCE WITHOUT FIRST OBTAINING A  
 25 PERMIT OR PERMITS FROM THE COMMISSION AUTHORIZING THE CONDUCT OR  
 26 ACTIVITY.

1 (2) THE COMMISSION MAY ISSUE PERMITS. THE COMMISSION MAY  
2 DELEGATE TO THE DEPARTMENT ITS AUTHORITY TO ISSUE, MODIFY, OR  
3 REISSUE PERMITS FOR WHICH THERE ARE NO KNOWN UNRESOLVED OBJEC-  
4 TIONS REGARDING AIR POLLUTION OR OTHER ENVIRONMENTAL ISSUES.

5 (3) THE COMMISSION MAY TERMINATE, MODIFY, REVOKE, DENY, OR  
6 REISSUE A PERMIT FOR CAUSE CONSISTENT WITH THE REQUIREMENTS OF  
7 THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT, AND IN ACCORD-  
8 ANCE WITH LAW.

9 SEC. 5C. THE COMMISSION SHALL PROMULGATE RULES IN ACCORD-  
10 ANCE WITH TIMETABLES SET FORTH IN THE CLEAN AIR ACT TO ESTABLISH  
11 AN AIR POLLUTION CONTROL PERMIT PROGRAM TO BE ADMINISTERED BY THE  
12 DEPARTMENT WHICH SHALL INCLUDE EACH OF THE FOLLOWING:

13 (A) REQUIREMENTS TO ASSURE THAT ALL SOURCES THAT ARE NOT  
14 OTHERWISE EXEMPTED BY THIS ACT OR RULES PROMULGATED UNDER THIS  
15 ACT OBTAIN A PERMIT TO INSTALL PRIOR TO COMMENCING INSTALLATION,  
16 CONSTRUCTION, RECONSTRUCTION, RELOCATION, ALTERATION, OR  
17 MODIFICATION.

18 (B) REQUIREMENTS TO ASSURE THAT ALL SOURCES THAT ARE NOT  
19 OTHERWISE EXEMPTED BY THIS ACT OR THE RULES PROMULGATED UNDER  
20 THIS ACT OBTAIN A PERMIT TO OPERATE PRIOR TO COMMENCING OR CON-  
21 TINUING OPERATION EXCEPT AS OTHERWISE AUTHORIZED FOR TRIAL OPERA-  
22 TION OF THE SOURCE. ALL SOURCES THAT ARE NOT EXEMPT SHALL HAVE A  
23 PERMIT BY DECEMBER 31, 2003. THESE REQUIREMENTS SHALL ESTABLISH  
24 DEADLINES BY WHICH SOURCES OR CATEGORIES OF SOURCES MUST SUBMIT  
25 APPLICATIONS FOR PERMITS TO OPERATE, AND A PHASED SCHEDULE FOR  
26 ACTING ON THESE APPLICATIONS. THIS SCHEDULE SHALL BE CONSISTENT  
27 WITH THE REQUIREMENTS OF THE CLEAN AIR ACT.

1 (C) REQUIREMENTS FOR THE TIMELY SUBMITTAL OF APPLICATIONS  
2 FOR RENEWAL OF PERMITS.

3 (D) REQUIREMENTS TO ESTABLISH 5-YEAR TERMS FOR PERMITS TO  
4 OPERATE ISSUED UNDER THIS ACT UNLESS A SOURCE PETITIONS FOR A  
5 SHORTER PERMIT TERM PURSUANT TO CRITERIA ESTABLISHED BY THE  
6 COMMISSION.

7 (E) REQUIREMENTS FOR APPLICATIONS FOR A PERMIT, INCLUDING  
8 STANDARD APPLICATION FORMS FOR PERMITS, INCLUDING GENERAL PER-  
9 MITS, A DESCRIPTION OF THE MINIMUM INFORMATION TO BE SUBMITTED  
10 WITH AN APPLICATION, AND CRITERIA FOR DETERMINING IN A TIMELY  
11 MANNER THE COMPLETENESS OF AN APPLICATION. AN APPLICATION FOR A  
12 PERMIT SHALL INCLUDE, AMONG OTHER NECESSARY REQUIREMENTS, A COPY  
13 OF A NOTICE AND RETURN RECEIPT SENT BY REGISTERED MAIL, RETURN  
14 RECEIPT REQUESTED, TO THE CLERK OF THE TOWNSHIP OR CITY THAT HAS  
15 JURISDICTION OVER THE LOCATION IN WHICH THE SOURCE THAT IS THE  
16 SUBJECT OF THE PERMIT APPLICATION IS LOCATED. THE NOTICE SHALL  
17 INFORM THE CLERK OF THE TOWNSHIP OR CITY THAT A PERMIT APPLICA-  
18 TION IS BEING SOUGHT BY A DESIGNATED APPLICANT AT A DESIGNATED  
19 LOCATION, AND BRIEFLY DESCRIBE THE PROPOSED SOURCE OR MODIFICA-  
20 TION OF AN EXISTING SOURCE.

21 (F) REQUIREMENTS FOR ENTRY, INSPECTION, MONITORING, COMPLI-  
22 ANCE CERTIFICATION, AND REPORTING AS CONDITIONS OF A PERMIT.

23 (G) A REQUIREMENT THAT A PERSON WHO OWNS OR OPERATES A  
24 SOURCE SUBJECT TO THE REQUIREMENTS OF SECTION 5B(1) SHALL PAY A  
25 FEE.

26 (H) REQUIREMENTS TO ALLOW MINOR CHANGES IN A SOURCE THAT DO  
27 NOT REQUIRE MODIFYING A PERMIT ISSUED UNDER THIS ACT EXCEPT THAT

1 A MINOR CHANGE SHALL NOT INCLUDE ANY CHANGE TO A PROCESS OR  
2 PROCESS EQUIPMENT THAT WOULD CAUSE THE SOURCE TO EXCEED THE EMIS-  
3 SIONS ALLOWABLE UNDER THE APPLICABLE PERMIT, WHETHER EXPRESSED IN  
4 THE PERMIT AS A RATE OF EMISSIONS OR IN TERMS OF TOTAL EMISSIONS,  
5 AND SHALL BE MADE BY THE OWNER OR OPERATOR OF THE SOURCE ONLY IF  
6 THE SOURCE PROVIDES THE DIRECTOR WITH WRITTEN NOTICE IN ADVANCE  
7 OF THE PROPOSED CHANGE. THE SOURCE SHALL ALSO NOTIFY THE ADMIN-  
8 ISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY IF  
9 REQUIRED TO DO SO BY THE CLEAN AIR ACT. THE PROVISIONS SHALL BE  
10 CONSISTENT WITH THE PROTECTION OF THE PUBLIC HEALTH, SAFETY, WEL-  
11 FARE, AND THE ENVIRONMENT, AND NO LESS STRINGENT THAN THE  
12 REQUIREMENTS OF THE CLEAN AIR ACT.

13 (I) REQUIREMENTS FOR ISSUING A GENERAL PERMIT TO CERTAIN  
14 SOURCE CATEGORIES. PRIOR TO ISSUANCE OF A GENERAL PERMIT, THE  
15 COMMISSION SHALL PROMULGATE RULES DEFINING ELIGIBLE SOURCE CATE-  
16 GORIES AND RULES GOVERNING THE OPERATION OF THE SOURCE CATEGORY.  
17 IN DETERMINING WHEN A GENERAL PERMIT IS APPROPRIATE, THE COMMIS-  
18 SION SHALL CONSIDER THE POTENTIAL FOR THE SOURCE CATEGORY TO  
19 CAUSE AIR POLLUTION THAT WOULD OTHERWISE BE ABATED AS A RESULT OF  
20 A SITE-SPECIFIC PERMIT REVIEW AND OTHER PERTINENT INFORMATION  
21 CONSIDERED APPROPRIATE BY THE COMMISSION. EACH GENERAL PERMIT  
22 SHALL CONTAIN REQUIREMENTS CONSISTENT WITH THE REQUIREMENTS OF  
23 SECTION 5E. THE REQUIREMENTS SHALL BE CONSISTENT WITH THE PRO-  
24 TECTION OF THE PUBLIC HEALTH, SAFETY, OR WELFARE, AND THE ENVI-  
25 RONMENT, AND NO LESS STRINGENT THAN THE REQUIREMENTS OF THE CLEAN  
26 AIR ACT. A SOURCE COVERED BY A GENERAL PERMIT IS NOT RELIEVED  
27 FROM THE OBLIGATION TO FILE AN APPLICATION FOR A PERMIT AS

1 REQUIRED FOR A GENERAL PERMIT IN RULES. AN APPLICATION FOR A  
2 GENERAL PERMIT SHALL INCLUDE A STATEMENT SIGNED BY THE PERMIT  
3 APPLICANT THAT THE SOURCE FITS THE GENERAL PERMIT SOURCE CATEGORY  
4 AND THE SOURCE WILL OPERATE WITHIN THE PARAMETERS ESTABLISHED BY  
5 THE RULES GOVERNING THE SOURCE CATEGORY.

6 (J) REQUIREMENTS FOR EXEMPTING CERTAIN SOURCE CATEGORIES  
7 FROM THE REQUIREMENT TO OBTAIN A PERMIT. IN DETERMINING WHETHER  
8 TO EXEMPT A SOURCE CATEGORY, THE COMMISSION SHALL CONSIDER THE  
9 POTENTIAL OF THE SOURCE CATEGORY TO CAUSE AIR POLLUTION AS A  
10 RESULT OF EITHER THE TOTAL ANNUAL EMISSIONS OF AN AIR CONTAMINANT  
11 OR THE PEAK EMISSIONS OF AN AIR CONTAMINANT DURING POOR ATMO-  
12 SPHERIC DISPERSION CONDITIONS AS WELL AS OTHER PERTINENT INFORMA-  
13 TION CONSIDERED APPROPRIATE BY THE COMMISSION. THE REQUIREMENTS  
14 SHALL BE CONSISTENT WITH THE PROTECTION OF THE PUBLIC HEALTH,  
15 SAFETY, OR WELFARE, AND THE ENVIRONMENT, AND NO LESS STRINGENT  
16 THAN THE REQUIREMENTS OF THE CLEAN AIR ACT.

17 (K) THE METHOD OR METHODS FOR ASSESSING THE POTENTIAL FOR  
18 ADVERSE HUMAN HEALTH EFFECTS FROM THE EMISSION OF HAZARDOUS AIR  
19 CONTAMINANTS.

20 (L) THE METHOD OR METHODS FOR ASSESSING THE POTENTIAL FOR  
21 ADVERSE ENVIRONMENTAL EFFECTS FROM THE EMISSION OF HAZARDOUS AIR  
22 CONTAMINANTS.

23 (M) REQUIREMENTS TO ASSURE THAT HUMAN HEALTH BASED EMISSION  
24 STANDARDS FOR HAZARDOUS AIR CONTAMINANTS FOR NEW AND MODIFIED  
25 SOURCES ARE APPLIED TO EXISTING SOURCES TO THE EXTENT  
26 PRACTICABLE. APPLICATION OF THESE HUMAN HEALTH BASED EMISSION  
27 STANDARDS SHALL NOT RESULT IN EMISSIONS IN EXCESS OF THOSE

1 ALLOWED BY ANY APPLICABLE STANDARD ESTABLISHED PURSUANT TO THIS  
2 ACT OR THE CLEAN AIR ACT.

3 (N) THE METHOD OR METHODS BY WHICH THE DEPARTMENT DETERMINES  
4 WHETHER THE SITE OF A PROPOSED NEW SOURCE IS APPROPRIATE.

5 (O) REQUIREMENTS THAT EACH PERMIT CONTAINS PROVISIONS TO  
6 ASSURE THAT THE PERMIT WILL BE REVISED TO INCORPORATE APPLICABLE  
7 STANDARDS AND RULES PROMULGATED UNDER THIS ACT OR THE CLEAN AIR  
8 ACT. A REVISION SHALL OCCUR AS EXPEDITIOUSLY AS PRACTICABLE BUT  
9 NOT LATER THAN 18 MONTHS AFTER THE PROMULGATION OF THE STANDARDS  
10 OR RULES. A REVISION IS NOT REQUIRED IF THE EFFECTIVE DATE OF  
11 THE STANDARDS OR RULES IS A DATE AFTER THE EXPIRATION OF THE  
12 FIXED TERM OF THE PERMIT.

13 (P) REQUIREMENTS NECESSARY TO IMPLEMENT 42 U.S.C. 7651 TO  
14 7651(O) AND REGULATIONS UNDER THESE SECTIONS CONCERNING ACID  
15 DEPOSITION CONTROL.

16 (Q) REQUIREMENTS APPLICABLE TO SMALL BUSINESSES AND REQUIRE-  
17 MENTS THAT MAY BE NECESSARY TO IMPLEMENT THE SMALL BUSINESS STA-  
18 TIONARY SOURCE ASSISTANCE ACT.

19 (R) REQUIREMENTS FOR CONTROLLING OR PROHIBITING THE EMISSION  
20 OF HAZARDOUS AIR CONTAMINANTS.

21 (S) OTHER REQUIREMENTS NECESSARY TO IMPLEMENT THIS ACT OR  
22 THE CLEAN AIR ACT.

23 SEC. 5D. (1) THE COMMISSION SHALL PROMULGATE RULES TO PRO-  
24 VIDE AN OPPORTUNITY FOR PUBLIC PARTICIPATION IN PERMIT ACTIONS  
25 THAT, AT A MINIMUM, PROVIDE FOR ALL OF THE FOLLOWING:

26 (A) CONSISTENCY WITH THE CLEAN AIR ACT AS APPLICABLE.

1 (B) ACCESS TO INFORMATION AS PROVIDED IN SECTIONS 5J AND 5K  
2 AND OPPORTUNITY TO SUBMIT COMMENTS ON ANY PERMIT APPLICATION.

3 (C) PUBLIC NOTICE AND AN OPPORTUNITY TO BE HEARD AT A MEET-  
4 ING OF THE COMMISSION IF THERE IS A KNOWN UNRESOLVED OBJECTION TO  
5 A PROPOSED PERMIT ACTION REGARDING AIR POLLUTION OR OTHER ENVI-  
6 RONMENTAL ISSUES.

7 (2) THE PERMIT APPLICANT, THE GENERAL PUBLIC, AND, TO THE  
8 EXTENT REQUIRED BY THE CLEAN AIR ACT, THE ADMINISTRATOR OF THE  
9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND A CONTIGUOUS  
10 STATE SHALL BE ALLOWED TO PARTICIPATE IN ANY PROCEEDING PROVIDED  
11 BY RULES PROMULGATED UNDER SUBSECTION (1) OR ANY MEETINGS OF THE  
12 COMMISSION.

13 SEC. 5E. (1) THE DIRECTOR SHALL ENSURE THAT EACH PERMIT  
14 ISSUED UNDER THIS ACT CONTAINS CONDITIONS THAT SUBSTANTIVELY  
15 ADDRESS ALL OF THE FOLLOWING:

16 (A) ENFORCEABLE EMISSION LIMITATIONS AND STANDARDS FOR AIR  
17 CONTAMINANTS THAT ARE OR MAY BE EMITTED BY A SOURCE.

18 (B) OPERATION OF THE SOURCE AND RELATED AIR CONTAMINANT CON-  
19 TROL EQUIPMENT IN A MANNER THAT MINIMIZES EMISSIONS.

20 (C) INSPECTION, ENTRY, RECORD KEEPING, REPORTING, TESTING,  
21 AND SOURCE AND EMISSION MONITORING IN CONFORMANCE WITH THIS ACT,  
22 RULES PROMULGATED UNDER THIS ACT, AND THE CLEAN AIR ACT.

23 (D) TO THE EXTENT APPLICABLE, A SCHEDULE OF COMPLIANCE CON-  
24 SISTENT WITH THIS ACT, RULES PROMULGATED UNDER THIS ACT, AND THE  
25 CLEAN AIR ACT.

26 (E) A REQUIREMENT THAT THE OWNER OR OPERATOR OF A SOURCE  
27 PROMPTLY REPORT TO THE DEPARTMENT ANY DEVIATIONS FROM THE

1 REQUIREMENTS OF THE PERMIT, THIS ACT AND THE RULES PROMULGATED  
2 UNDER THIS ACT, OR THE CLEAN AIR ACT.

3 (F) A REQUIREMENT THAT THE OWNER AND OPERATOR OF THE SOURCE  
4 SUBMIT TO THE DEPARTMENT, AT LEAST EVERY 6 MONTHS, THE RESULTS OF  
5 ANY REQUIRED EMISSION MONITORING.

6 (G) A REQUIREMENT THAT THE OWNER AND OPERATOR OF THE SOURCE  
7 CERTIFY TO THE DEPARTMENT AT LEAST ANNUALLY THAT THE SOURCE IS IN  
8 COMPLIANCE WITH THE REQUIREMENTS OF THE PERMIT, THIS ACT AND THE  
9 RULES PROMULGATED UNDER THIS ACT, AND THE CLEAN AIR ACT.

10 (H) REQUIREMENTS TO MINIMIZE EMISSIONS DURING ANY CONSTRUC-  
11 TION OR OTHER PREOPERATION ACTIVITIES COVERED BY THE PERMIT.

12 (I) OTHER CONDITIONS CONSIDERED NECESSARY BY THE DIRECTOR TO  
13 ENSURE COMPLIANCE WITH APPLICABLE REQUIREMENTS OF THIS ACT AND  
14 THE RULES PROMULGATED UNDER THIS ACT, AND THE CLEAN AIR ACT.

15 (J) IF APPLICABLE, REQUIREMENTS NECESSARY TO IMPLEMENT 42  
16 U.S.C. 7651 TO 7651(O) AND REGULATIONS UNDER THESE SECTIONS CON-  
17 CERNING ACID DEPOSITION CONTROL.

18 (2) A PERMIT TO INSTALL MAY INCLUDE PROVISIONS PERTAINING TO  
19 TRIAL OPERATION. TRIAL OPERATION OF THE SOURCE MAY BE USED TO  
20 DEMONSTRATE COMPLIANCE WITH THE PERMIT TO INSTALL. IF THE SOURCE  
21 FAILS TO COMPLY WITH THE PERMIT TO INSTALL, THE COMMISSION MAY  
22 DENY THE PERMIT TO OPERATE AND ORDER THE SOURCE TO CEASE OPERA-  
23 TION OR MAY ISSUE A PERMIT TO OPERATE THAT INCLUDES AN ENFORCE-  
24 ABLE SCHEDULE OF COMPLIANCE. A DENIAL OF A PERMIT TO OPERATE AS  
25 PROVIDED IN THIS SUBSECTION IS NOT SUBJECT TO A CONTESTED CASE  
26 HEARING AS PROVIDED IN THE ADMINISTRATIVE PROCEDURES ACT OF 1969,



1 ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO  
2 24.328 OF THE MICHIGAN COMPILED LAWS.

3 (3) THE COMMISSION MAY SUSPEND, REVOKE, ANNUL, WITHDRAW,  
4 RECALL, CANCEL, OR AMEND A PERMIT ISSUED UNDER THIS ACT, PURSUANT  
5 TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE  
6 PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE  
7 MICHIGAN COMPILED LAWS.

8 SEC. 5F. AN EXPEDITED PERMIT APPLICATION REVIEW SYSTEM  
9 SHALL BE ESTABLISHED IN RULES PROMULGATED BY THE COMMISSION.  
10 THIS SYSTEM SHALL INCLUDE PUBLIC PARTICIPATION AS OTHERWISE  
11 AUTHORIZED BY THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT.  
12 A PERMIT APPLICATION SUBMITTED PURSUANT TO THE EXPEDITED SYSTEM  
13 SHALL BE PROCESSED BY THE DEPARTMENT WITHIN 90 DAYS OF RECEIPT OF  
14 A COMPLETE APPLICATION. A PERMIT APPLICATION IS ELIGIBLE FOR  
15 EXPEDITED REVIEW IF THE APPLICANT IS SEEKING MODIFICATION OR  
16 RENEWAL OF A PERMIT NOT ASSOCIATED WITH A COMPLIANCE ORDER OR  
17 WRITTEN NOTICE OF VIOLATION AND PROPOSES CHANGES THAT RESULT IN A  
18 REDUCTION IN EMISSION OF 1 OR MORE AIR CONTAMINANTS AUTHORIZED IN  
19 A PERMIT AND DOES NOT RESULT IN AN INCREASE IN EMISSIONS OF ANY  
20 OTHER AIR CONTAMINANT OR RESULT IN INCREASED OVERALL RELEASES  
21 INTO ANY MEDIUM, EITHER THROUGH THE PROPOSED CHANGES, OR THROUGH  
22 A JOINT PROPOSAL TO MODIFY AND REDUCE EMISSIONS FROM OTHER  
23 SOURCES LOCATED ON THE SITE OF THE APPLICANT.

24 SEC. 5G. (1) COMPLIANCE WITH A PERMIT TO OPERATE ISSUED IN  
25 ACCORDANCE WITH SECTIONS 5C AND 5E OF THIS ACT AND RULES PROMUL-  
26 GATED UNDER SECTIONS 5C AND 5E SHALL BE CONSIDERED COMPLIANCE  
27 WITH SECTION 502 OF THE CLEAN AIR ACT AND WITH SECTIONS 5C AND 5E

1 AND RULES PROMULGATED UNDER THOSE SECTIONS. EXCEPT AS OTHERWISE  
2 PROVIDED BY A RULE PROMULGATED BY THE COMMISSION, A PERMIT MAY  
3 ALSO PROVIDE THAT COMPLIANCE WITH THE PERMIT IS COMPLIANCE WITH  
4 OTHER APPLICABLE PROVISIONS OF THIS ACT THAT RELATE TO THE PERMIT  
5 HOLDER IN EITHER OF THE FOLLOWING CIRCUMSTANCES:

6 (A) THE PERMIT INCLUDES THE APPLICABLE REQUIREMENTS OF THOSE  
7 PROVISIONS.

8 (B) THE COMMISSION IN ACTING ON THE PERMIT APPLICATION MAKES  
9 A DETERMINATION RELATING TO THE SOURCE THAT THE OTHER SPECIFI-  
10 CALLY REFERENCED PROVISIONS ARE NOT APPLICABLE AND THE PERMIT  
11 INCLUDES THE DETERMINATION OR A CONCISE SUMMARY OF THE  
12 DETERMINATION. THIS SUBDIVISION DOES NOT ALTER OR AFFECT THE  
13 PROVISIONS OF SECTION 16D.

14 (2) SUBSECTION (1) DOES NOT ALTER OR AFFECT THE OPERATION OF  
15 RULE 336.901 OF THE MICHIGAN ADMINISTRATIVE CODE.

16 (3) EXCEPT FOR A SOURCE REQUIRED TO HAVE A PERMIT BEFORE  
17 CONSTRUCTION OR MODIFICATION UNDER THE APPLICABLE REQUIREMENTS OF  
18 THIS ACT, IF AN APPLICANT HAS SUBMITTED IN A TIMELY MANNER A COM-  
19 PLETE APPLICATION FOR A PERMIT REQUIRED BY THIS ACT, INCLUDING A  
20 RENEWAL OF A PERMIT, BUT FINAL ACTION HAS NOT BEEN TAKEN ON THE  
21 APPLICATION, THE SOURCE'S FAILURE TO HAVE A PERMIT SHALL NOT BE A  
22 VIOLATION OF THIS ACT, UNLESS THE DELAY IN FINAL ACTION WAS DUE  
23 TO THE FAILURE OF THE APPLICANT TO SUBMIT INFORMATION REQUIRED OR  
24 REQUESTED TO PROCESS THE APPLICATION IN A TIMELY MANNER. A  
25 SOURCE REQUIRED TO HAVE A PERMIT UNDER THIS ACT SHALL NOT BE IN  
26 VIOLATION OF SECTION 2 BEFORE THE DATE ON WHICH THE SOURCE IS

1 REQUIRED TO SUBMIT AN APPLICATION AS PROVIDED IN RULES  
2 PROMULGATED PURSUANT TO SECTION 3B.

3 SEC. 5H. (1) THE COMMISSION SHALL DENY A PERMIT IF ANY OF  
4 THE FOLLOWING CIRCUMSTANCES EXIST:

5 (A) INSTALLATION OR OPERATION OF THE SOURCE WILL VIOLATE  
6 THIS ACT OR RULES PROMULGATED UNDER THIS ACT, OR THE CLEAN AIR  
7 ACT, UNLESS THE SOURCE IS IN COMPLIANCE WITH A LEGALLY ENFORCE-  
8 ABLE PLAN OR SCHEDULE FOR COMPLIANCE.

9 (B) INSTALLATION, CONSTRUCTION, RECONSTRUCTION, RELOCATION,  
10 ALTERATION, OR OPERATION OF THE SOURCE PRESENTS OR MAY PRESENT AN  
11 IMMINENT AND SUBSTANTIAL ENDANGERMENT TO HUMAN HEALTH, SAFETY,  
12 WELFARE, OR THE ENVIRONMENT.

13 (C) THE PERSON APPLYING FOR THE PERMIT MAKES FALSE REPRESEN-  
14 TATIONS OR PROVIDES FALSE INFORMATION DURING THE PERMIT REVIEW  
15 PROCESS.

16 (D) THE SOURCE HAS NOT BEEN INSTALLED, CONSTRUCTED, RECON-  
17 STRUCTED, RELOCATED, ALTERED, OR OPERATED AS DESCRIBED IN THE  
18 APPLICATION FOR A PERMIT OR AS SPECIFIED IN A PERMIT TO INSTALL.

19 (E) THE PERSON OWNING OR OPERATING THE SOURCE FAILS TO PAY A  
20 FEE ASSESSED UNDER THIS ACT.

21 (F) OPERATION OF THE SOURCE WILL VIOLATE THE GREAT LAKES  
22 TOXIC SUBSTANCES CONTROL AGREEMENT OF 1986 OR OTHER INTERNATIONAL  
23 TREATIES AND AGREEMENTS OR STATE COMPACTS.

24 (G) THE COMMISSION DETERMINES THAT THE PROPOSED SITE OF A  
25 SOURCE THAT HAS NOT BEEN INSTALLED, CONSTRUCTED, OR RECONSTRUCTED  
26 IS NOT APPROPRIATE. THIS DETERMINATION SHALL BE CONSISTENT WITH

1 SECTION 3(1)(M), OTHER PROVISIONS OF THIS ACT, AND THE RULES  
2 PROMULGATED UNDER THIS ACT.

3 (H) THE OWNER OR OPERATOR OF THE SOURCE HAS ANOTHER SOURCE  
4 IN THIS STATE THAT IS IN VIOLATION OF THIS ACT OR THE RULES  
5 PROMULGATED UNDER THIS ACT, A PERMIT OR ORDER ISSUED UNDER THIS  
6 ACT, OR THE CLEAN AIR ACT, UNLESS THE SOURCE IS IN COMPLIANCE  
7 WITH A LEGALLY ENFORCEABLE PLAN OR SCHEDULE FOR COMPLIANCE.

8 (I) OTHER GOOD CAUSE AS DETERMINED BY THE COMMISSION EXISTS  
9 FOR DENIAL OF THE PERMIT.

10 (2) THE COMMISSION MAY DENY A PERMIT IF THE PERSON APPLYING  
11 FOR THE PERMIT FAILS TO DISCLOSE COMPLETELY AND IN A TIMELY  
12 MANNER ALL INFORMATION REQUIRED UNDER LAW NECESSARY TO ENABLE THE  
13 DEPARTMENT TO PROCESS THE PERMIT APPLICATION OR OTHERWISE MAKE  
14 REASONABLE JUDGMENTS REGARDING WHETHER THE PERMIT SHOULD BE  
15 ISSUED.

16 (3) A PERMIT SHALL BE DENIED IF THE SOURCE IS NOT IN COMPLI-  
17 ANCE WITH OR IS NOT OPERATING WITHIN A LEGALLY ENFORCEABLE SCHED-  
18 ULE OF COMPLIANCE REGARDING ALL OF THE FOLLOWING, AND MAY BE  
19 DENIED IF THE DEPARTMENT DETERMINES THAT THE APPLICANT IS THE  
20 OWNER OR OPERATOR OF ANOTHER SOURCE THAT IS NOT IN COMPLIANCE  
21 WITH OR IS NOT OPERATING WITHIN A LEGALLY ENFORCEABLE SCHEDULE OF  
22 COMPLIANCE REGARDING ALL OF THE FOLLOWING:

23 (A) THE THOMAS J. ANDERSON, GORDON ROCKWELL ENVIRONMENTAL  
24 PROTECTION ACT OF 1970, ACT NO. 127 OF THE PUBLIC ACTS OF 1970,  
25 BEING SECTIONS 691.1201 TO 691.1207 OF THE MICHIGAN COMPILED  
26 LAWS.

1 (B) THE SOLID WASTE MANAGEMENT ACT, ACT NO. 641 OF THE  
2 PUBLIC ACTS OF 1978, BEING SECTIONS 299.401 TO 299.437 OF THE  
3 MICHIGAN COMPILED LAWS.

4 (C) THE HAZARDOUS WASTE MANAGEMENT ACT, ACT NO. 64 OF THE  
5 PUBLIC ACTS OF 1979, BEING SECTIONS 299.501 TO 299.551 OF THE  
6 MICHIGAN COMPILED LAWS.

7 (D) THE ENVIRONMENTAL RESPONSE ACT, ACT NO. 307 OF THE  
8 PUBLIC ACTS OF 1982, BEING SECTIONS 299.601 TO 299.618 OF THE  
9 MICHIGAN COMPILED LAWS.

10 (E) ACT NO. 245 OF THE PUBLIC ACTS OF 1929, BEING  
11 SECTIONS 323.1 TO 323.12A OF THE MICHIGAN COMPILED LAWS.

12 (F) THE UNDERGROUND STORAGE TANK REGULATORY ACT, ACT NO. 423  
13 OF THE PUBLIC ACTS OF 1984, BEING SECTIONS 299.701 TO 299.712 OF  
14 THE MICHIGAN COMPILED LAWS.

15 (G) THE LEAKING UNDERGROUND STORAGE TANK ACT, ACT NO. 478 OF  
16 THE PUBLIC ACTS OF 1988, BEING SECTIONS 299.831 TO 299.850 OF THE  
17 MICHIGAN COMPILED LAWS.

18 (H) THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT  
19 OF 1986, TITLE III OF PUBLIC LAW 99-499, 42 U.S.C. 11001 TO  
20 11005, 11021 TO 11022, AND 11041 TO 11050.

21 (I) ANY OTHER STATE OR FEDERAL STATUTE OR RULES PERTAINING  
22 TO THE PROTECTION OF THE ENVIRONMENT.

23 (J) ANY LOCAL ORDINANCE PERTAINING TO THE PROTECTION OF THE  
24 ENVIRONMENT.

25 (4) SUBSECTION (3) SHALL NOT BE CONSTRUED AS RELIEVING THE  
26 DEPARTMENT OF ANY REQUIREMENT ESTABLISHED BY RULE THAT IS OR MAY  
27 BE MORE STRINGENT.

1 (5) TO THE EXTENT REQUIRED BY THE CLEAN AIR ACT, THE  
2 COMMISSION SHALL NOT ISSUE OR RENEW A PERMIT UNDER THIS ACT IF  
3 THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION  
4 AGENCY OBJECTS IN A TIMELY MANNER TO ITS ISSUANCE OR RENEWAL.

5 (6) IF AN APPLICATION FOR A PERMIT IS DENIED, THE APPLICANT  
6 SHALL BE NOTIFIED IN WRITING OF THE REASONS FOR DENIAL.

7 SEC. 5I. (1) THE COMMISSION SHALL ACT ON PERMIT APPLICA-  
8 TIONS IN A TIMELY MANNER, CONSISTENT WITH ANY APPLICABLE DEAD-  
9 LINES PROVIDED FOR THE ACTION UNDER THIS ACT AND THE RULES  
10 PROMULGATED UNDER THIS ACT, AND THE CLEAN AIR ACT.

11 (2) THE DEPARTMENT SHALL ALLOCATE ADEQUATE PERSONNEL AND  
12 FUNDING TO ADMINISTER THE PERMIT PROGRAM ESTABLISHED UNDER THIS  
13 SECTION. AS SOON AS PRACTICAL BEFORE A DEADLINE PROVIDED UNDER  
14 SECTION 3 OF THIS ACT OR THE CLEAN AIR ACT, THE DEPARTMENT SHALL  
15 ASSESS AND PREDICT ITS ABILITY TO REVIEW APPLICATIONS AND TAKE  
16 APPROPRIATE ACTION ON PERMITS IN A TIMELY MANNER. IF THE DEPART-  
17 MENT CONCLUDES IT IS UNABLE TO MEET 1 OR MORE DEADLINES BECAUSE  
18 OF A SHORTAGE OF PERSONNEL OR FINANCIAL RESOURCES, THE DEPARTMENT  
19 SHALL REPORT TO THE LEGISLATURE REGARDING THE EXTENT OF ITS  
20 EFFORTS TO COMPLY, INCLUDING PRODUCTIVITY STATISTICS, AND MAY  
21 PETITION THE LEGISLATURE FOR AN INCREASE IN THE FEE STRUCTURE IF  
22 THE DEPARTMENT DETERMINES THAT THIS IS THE BEST AVAILABLE  
23 OPTION. IF THE DEPARTMENT REQUESTS ADDITIONAL FUNDING, THE LEG-  
24 ISLATURE MAY REQUEST AN INDEPENDENT AUDIT BY THE AUDITOR GENERAL  
25 TO ASSESS THE NEED FOR ADDITIONAL FUNDING FOR THE DEPARTMENT.

26 SEC. 5J. (1) THE DEPARTMENT SHALL MAINTAIN A LIST OF ALL  
27 APPLICATIONS FOR PERMITS AND THE STATUS OF EACH APPLICATION.

1 THIS INFORMATION SHALL BE UPDATED BY THE DEPARTMENT ON A MONTHLY  
2 BASIS. THE DEPARTMENT SHALL ORGANIZE THIS LIST ON THE BASIS OF  
3 THE COUNTY IN WHICH THE SOURCE FOR WHICH THE PERMIT IS SOUGHT IS  
4 LOCATED. THE DEPARTMENT SHALL SEND A COPY OF THE LIST TO THE  
5 CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS OF EACH COUNTY.  
6 ANY OTHER PERSON MAY SUBSCRIBE TO THIS LIST ON A COUNTY-WIDE OR  
7 STATE-WIDE BASIS AND SHALL REIMBURSE THE DEPARTMENT FOR THE COSTS  
8 OF COPYING, HANDLING, AND MAILING. THE DEPARTMENT SHALL MAKE  
9 COPIES OF THE LIST AVAILABLE AT DISTRICT OFFICES SELECTED BY THE  
10 DEPARTMENT. THIS LIST SHALL INCLUDE ALL OF THE FOLLOWING  
11 INFORMATION:

12 (A) THE NAME OF THE APPLICANT.

13 (B) THE STREET ADDRESS, IF AVAILABLE, AND THE COUNTY, MUNIC-  
14 IPALITY, AND TOWNSHIP IN WHICH THE SOURCE IS LOCATED OR THE PRO-  
15 POSED SOURCE IS TO BE LOCATED.

16 (C) THE DATE THE PERMIT APPLICATION WAS FILED WITH THE  
17 DEPARTMENT.

18 (D) WHETHER THE PERMIT APPLICATION IS COMPLETE.

19 (E) THE TYPE OF APPLICATION, SUCH AS INSTALLATION, OPERA-  
20 TION, OR RENEWAL.

21 (F) A DESCRIPTION OF THE SOURCE.

22 (G) THE ANTICIPATED DATE ON WHICH ACTION WOULD BE TAKEN ON  
23 THE PERMIT OR OTHER INFORMATION PERTINENT TO THE PROGRESS OF THE  
24 APPLICATION FOR A PERMIT.

25 (2) IN REGARD TO PROPOSED CONSENT ORDERS, THE DEPARTMENT  
26 SHALL MAINTAIN AND PROVIDE ACCESS TO A LIST AS PROVIDED IN  
27 SUBSECTION (1) THAT INCLUDES ALL OF THE FOLLOWING INFORMATION:

1 (A) THE NAME OF PARTIES TO THE PROPOSED CONSENT ORDER.

2 (B) THE STREET ADDRESS, IF AVAILABLE, AND THE COUNTY, MUNIC-  
3 IPALITY, AND TOWNSHIP IN WHICH THE SOURCE IS LOCATED.

4 (C) A DESCRIPTION OF THE SOURCE.

5 (D) A BRIEF DESCRIPTION OF THE ALLEGED VIOLATION THAT  
6 RESULTED IN THE PROPOSED CONSENT ORDER.

7 (E) THE ANTICIPATED DATE OF FINALIZING THE PROPOSED CONSENT  
8 ORDER.

9 (F) ANY OTHER INFORMATION CONSIDERED PERTINENT BY THE  
10 DEPARTMENT IN REGARD TO THE PROPOSED CONSENT ORDER.

11 SEC. 5K. (1) ALL INFORMATION HELD BY THE DEPARTMENT OR THE  
12 COMMISSION IN THE ADMINISTRATION OF THIS ACT SHALL BE AVAILABLE  
13 TO THE PUBLIC TO THE EXTENT PROVIDED BY THE FREEDOM OF INFORMA-  
14 TION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF 1976, BEING  
15 SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED LAWS. A  
16 PERSON REGULATED UNDER THIS ACT MAY DESIGNATE INFORMATION THAT  
17 THE PERSON BELIEVES TO BE CONFIDENTIAL AS PROVIDED IN SECTION  
18 9A.

19 (2) A PERSON MAY REQUEST FROM THE DEPARTMENT AND UPON THE  
20 REQUEST THE DEPARTMENT SHALL SUPPLY AS IT BECOMES AVAILABLE THE  
21 FOLLOWING INFORMATION ABOUT A SPECIFIED SOURCE:

22 (A) NOTICE THAT A PERMIT APPLICATION IS COMPLETE.

23 (B) NOTICE THAT PERMIT ISSUANCE IS PENDING AND THE AVAIL-  
24 ABILITY OF STAFF EVALUATIONS, AND IF APPLICABLE, THE PUBLIC COM-  
25 MENT PERIOD.

26 SEC. 5L. A PERSON MAY SEEK JUDICIAL REVIEW OF A FINAL  
27 ACTION BY THE COMMISSION ON A PERMIT AS PROVIDED FOR BY



1 APPLICABLE LAW. THE FAILURE OF THE COMMISSION TO ACT ON A  
2 TECHNICALLY AND ADMINISTRATIVELY COMPLETE APPLICATION FOR A  
3 PERMIT IN ACCORDANCE WITH A TIME PERIOD OR DEADLINE ESTABLISHED  
4 PURSUANT TO THIS ACT SHALL BE TREATED AS A FINAL PERMIT ACTION  
5 SOLELY FOR THE PURPOSES OF OBTAINING JUDICIAL REVIEW IN A COURT  
6 OF COMPETENT JURISDICTION TO REQUIRE THAT ACTION BE TAKEN BY THE  
7 DIRECTOR OR COMMISSION ON SUCH APPLICATION WITHOUT ADDITIONAL  
8 DELAY.

9 SEC. 5M. THE DIRECTOR ANNUALLY SHALL PREPARE AND SUBMIT TO  
10 THE GOVERNOR AND THE LEGISLATURE A REPORT THAT DETAILS THE OPERA-  
11 TION OF THE AIR QUALITY PERMIT SYSTEM INSTITUTED PURSUANT TO THIS  
12 ACT. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

13 (A) THE NUMBER AND TYPE OF APPLICATIONS SUBMITTED AND PER-  
14 MITS ISSUED.

15 (B) STATISTICS ON THE TIMELINESS OF THE PERMIT REVIEWS.

16 (C) STATISTICS ON THE EFFICIENCY OF THE DEPARTMENT IN ADMIN-  
17 ISTERING THE AIR POLLUTION CONTROL PERMIT SYSTEM.

18 (D) OTHER MATTERS CONSIDERED APPROPRIATE BY THE DIRECTOR OR  
19 THE COMMISSION.

20 Sec. 6. The ~~state commissioner of health~~ DIRECTOR shall  
21 act as the authorized agent for the commission in effecting the  
22 purposes of this act. All investigative, technical, scientific,  
23 and other services shall be performed by the ~~commissioner or his~~  
24 ~~authorized deputies~~ DEPARTMENT.

25 SEC. 6B. (1) A STATE DEPARTMENT OR AGENCY MAY APPLY TO THE  
26 COMMISSION FOR DELEGATION OF A DESIGNATED PORTION OF THE  
27 AUTHORITY OF THE DEPARTMENT OR THE COMMISSION PROVIDED FOR UNDER

1 THIS ACT AND RULES PROMULGATED UNDER THIS ACT UNDER TERMS AND  
2 CONDITIONS DETERMINED TO BE APPROPRIATE BY THE COMMISSION. THE  
3 COMMISSION SHALL NOT DELEGATE ANY PORTION OF THE POWERS OF THE  
4 DEPARTMENT UNLESS THE DEPARTMENT CONSENTS TO THE DELEGATION.

5 (2) A DELEGATION OF AUTHORITY TO A CITY OR COUNTY SHALL NOT  
6 DUPLICATE ANY DELEGATION TO A STATE DEPARTMENT OR AGENCY.

7 Sec. 7. (1) A rule or amendment or repeal ~~thereof shall~~  
8 ~~require~~ OF A RULE PROMULGATED UNDER THIS ACT REQUIRES a vote of  
9 approval in writing of not less than 6 members of the  
10 commission.

11 (2) ~~The commission shall promulgate rules in accordance~~  
12 ~~with and subject to Act No. 306 of the Public Acts of 1969, as~~  
13 ~~amended, being sections 24.201 to 24.315 of the Compiled Laws of~~  
14 ~~1948~~ RULES SHALL BE PROMULGATED BY THE COMMISSION UNDER THIS ACT  
15 AS REQUIRED IN THIS ACT, AND for purposes of:

16 (a) Controlling or prohibiting air pollution.

17 (b) Complying, AT A MINIMUM, with the ~~federal~~ clean air  
18 act. ~~, being 42 U.S.C., section 1857 et sequence, as amended.~~

19 (c) Controlling any mode of transportation which is capable  
20 of causing or contributing to air pollution.

21 (d) Reviewing proposed locations of ~~stationary emission~~  
22 sources.

23 (e) Reviewing modifications of existing ~~emission~~ sources.

24 (f) Prohibiting locations or modifications of ~~emission~~  
25 sources ~~which~~ THAT impair the state's ability to meet federal  
26 ambient air QUALITY standards.

1 (g) Establishing suitable emission standards consistent with  
2 ambient air quality standards established by the federal  
3 government and factors, including but not limited to, conditions  
4 of the terrain, wind velocities and directions, land usage of the  
5 region and the anticipated characteristics and quantities of  
6 potential air pollution sources. This act does not prohibit the  
7 commission from denying or revoking a permit ~~to operate a con-~~  
8 ~~trol facility~~ FOR A SOURCE that would adversely affect ~~human~~  
9 PUBLIC health, SAFETY, OR WELFARE, OR THE ENVIRONMENT or other  
10 conditions important to the life of the community.

11 (H) CONTROLLING OR PROHIBITING THE EMISSION OF HAZARDOUS AIR  
12 CONTAMINANTS. THESE RULES, AT A MINIMUM, SHALL BE AT LEAST AS  
13 STRINGENT AND COMPREHENSIVE AS ANY RULES OR STANDARDS DEVELOPED  
14 FOR HAZARDOUS AIR POLLUTANTS UNDER SECTION 112 OF THE CLEAN AIR  
15 ACT.

16 SEC. 7B. UNLESS OTHERWISE PROVIDED IN THIS ACT, EACH RULE  
17 OR ADMINISTRATIVE ORDER PROMULGATED OR ISSUED UNDER THIS ACT BY  
18 THE COMMISSION OR DEPARTMENT, PRIOR TO THE EFFECTIVE DATE OF THIS  
19 SECTION, SHALL REMAIN IN EFFECT ACCORDING TO ITS TERMS UNLESS THE  
20 RULE IS INCONSISTENT WITH THIS ACT OR IS REVISED, AMENDED, OR  
21 REPEALED BY THE COMMISSION OR DEPARTMENT.

22 SEC. 8A. (1) THE AIR POLLUTION CONTROL FUND IS CREATED  
23 WITHIN THE STATE TREASURY.

24 (2) ALL CIVIL FINES AND NATURAL RESOURCE DAMAGES SHALL BE  
25 PAID TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND. THE STATE  
26 TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE

1 TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM  
2 FUND INVESTMENTS.

3 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR  
4 REMAINS IN THE FUND AND DOES NOT LAPSE TO THE GENERAL FUND.

5 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON  
6 APPROPRIATION, ONLY FOR THE FOLLOWING:

7 (A) AMBIENT AIR MONITORING.

8 (B) INVESTIGATING THE ENVIRONMENTAL FATE OF AIRBORNE  
9 POLLUTANTS.

10 (C) HEALTH STUDIES RELATED TO AIRBORNE POLLUTANTS.

11 (D) AIR QUALITY EDUCATION.

12 (E) REFORESTATION.

13 (F) MITIGATION OF DAMAGES CAUSED BY AIR CONTAMINANTS THAT  
14 CANNOT BE COLLECTED FROM A RESPONSIBLE PARTY.

15 (G) ASSISTING SOURCES THAT ARE NOT THE SUBJECT OF ENFORCE-  
16 MENT UNDER THIS ACT IN VOLUNTARILY REDUCING THEIR AIR CONTAMINANT  
17 EMISSIONS.

18 SEC. 9A. (1) THE DEPARTMENT, OR A REPRESENTATIVE OF THE  
19 DEPARTMENT, MAY REQUIRE A PERSON WHO OWNS OR OPERATES A SOURCE;  
20 WHO MANUFACTURES EMISSION CONTROL EQUIPMENT OR PROCESS EQUIPMENT;  
21 WHO MAY HAVE INFORMATION NECESSARY TO ENFORCE THIS ACT OR A RULE,  
22 PERMIT, OR ORDER UNDER THIS ACT, OR TO DEVELOP OR ASSIST IN THE  
23 DEVELOPMENT OF A RULE, PERMIT, OR ORDER UNDER THIS ACT; OR WHO IS  
24 SUBJECT TO ANY REQUIREMENT OF THIS ACT, A RULE PROMULGATED UNDER  
25 THIS ACT, OR A PERMIT OR ORDER ISSUED UNDER THIS ACT; WHETHER ON  
26 A 1-TIME, PERIODIC, OR CONTINUOUS BASIS, TO DO ANY OF THE  
27 FOLLOWING:

1 (A) ESTABLISH AND MAINTAIN RECORDS.

2 (B) PREPARE AND SUBMIT REPORTS.

3 (C) INSTALL, USE, AND MAINTAIN MONITORING EQUIPMENT, OR USE  
4 OTHER PROCEDURES OR METHODS.

5 (D) SAMPLE EMISSIONS IN ACCORDANCE WITH PROCEDURES OR  
6 METHODS, AT LOCATIONS AND INTERVALS, AND IN A MANNER ACCEPTABLE  
7 TO THE DEPARTMENT OR AN AUTHORIZED REPRESENTATIVE OF THE  
8 DEPARTMENT.

9 (E) KEEP RECORDS ON CONTROL EQUIPMENT PARAMETERS, PRODUCTION  
10 VARIABLES, OR OTHER INDIRECT DATA IF DIRECT MONITORING OF EMIS-  
11 SIONS IS IMPRACTICAL.

12 (F) SUBMIT COMPLIANCE CERTIFICATIONS IN ACCORDANCE WITH SUB-  
13 SECTION (3).

14 (G) PROVIDE INFORMATION IDENTIFIED ABOVE OR OTHER INFORMA-  
15 TION THE DEPARTMENT, OR THE REPRESENTATIVE OF THE DEPARTMENT, MAY  
16 REASONABLY REQUIRE.

17 (2) WITH RESPECT TO A PERSON DESCRIBED IN SUBSECTION (1),  
18 THE DEPARTMENT OR A REPRESENTATIVE OF THE DEPARTMENT MAY DO ANY  
19 OF THE FOLLOWING:

20 (A) ENTER ONTO, UPON, OR THROUGH ANY PREMISES OR PROPERTY OF  
21 THE PERSON OR ON WHICH ANY RECORDS REQUIRED TO BE MAINTAINED  
22 UNDER SUBSECTION (1) ARE LOCATED.

23 (B) AT REASONABLE TIMES, HAVE ACCESS TO AND COPY ANY RECORDS  
24 OF, IDENTIFY AND INSPECT ANY SOURCE, POTENTIAL SOURCE, MONITORING  
25 EQUIPMENT OR METHODS USED BY, AND TAKE SAMPLES FROM THE PREMISES  
26 OR PROPERTY OF THE PERSON.

1 (C) PHOTOGRAPH OR VIDEOTAPE ANY SOURCE, POTENTIAL SOURCE,  
2 MONITORING EQUIPMENT, OR METHOD USED BY THE SOURCE.

3 (3) THE DEPARTMENT, OR THE REPRESENTATIVE OF THE DEPARTMENT,  
4 SHALL, IN THE CASE OF A PERSON WHO IS THE OWNER OR OPERATOR OF A  
5 MAJOR STATIONARY OR OFFSET SOURCE AS DEFINED IN THE CLEAN AIR ACT  
6 OR AS DEFINED BY RULE, AND MAY, IN THE CASE OF ANY OTHER PERSON  
7 DESCRIBED IN SUBSECTION (1), REQUIRE, FOLLOWING THE PROMULGATION  
8 OF COMPLIANCE CERTIFICATION RULES BY THE UNITED STATES ENVIRON-  
9 MENTAL PROTECTION AGENCY, ENHANCED MONITORING AND SUBMISSION OF  
10 COMPLIANCE CERTIFICATION THAT INCLUDES ALL OF THE FOLLOWING  
11 INFORMATION:

12 (A) IDENTIFICATION OF THE APPLICABLE REQUIREMENT THAT IS THE  
13 BASIS OF THE CERTIFICATION.

14 (B) THE METHOD USED FOR DETERMINING THE COMPLIANCE STATUS OF  
15 THE SOURCE.

16 (C) THE COMPLIANCE STATUS OF THE SOURCE.

17 (D) WHETHER COMPLIANCE IS CONTINUOUS OR INTERMITTENT.

18 (E) OTHER FACTS THAT THE DEPARTMENT OR A REPRESENTATIVE OF  
19 THE DEPARTMENT MAY REQUIRE.

20 (4) SUBMISSION OF A COMPLIANCE CERTIFICATION DOES NOT LIMIT  
21 THE AUTHORITY OF THE DEPARTMENT OR A REPRESENTATIVE OF THE  
22 DEPARTMENT TO INVESTIGATE, ENFORCE, OR OTHERWISE IMPLEMENT THIS  
23 ACT, A RULE PROMULGATED UNDER THIS ACT, OR A PERMIT OR ORDER  
24 ISSUED UNDER THIS ACT.

25 (5) A REPRESENTATIVE OF THE DEPARTMENT WHO ENTERS PUBLIC OR  
26 PRIVATE PROPERTY PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL  
27 PRESENT CREDENTIALS; MAKE A REASONABLE EFFORT TO CONTACT THE

1 PERSON IN CHARGE OF THE SOURCE OR THAT PERSON'S DESIGNEE;  
2 DESCRIBE THE NATURE OF THE ACTIVITIES AUTHORIZED UNDER THIS SEC-  
3 TION TO BE UNDERTAKEN; AND INFORM THE PERSON THAT HE OR SHE IS  
4 ENTITLED TO PARTICIPATE IN THE COLLECTION OF ANY SPLIT SAMPLES,  
5 AND IS ENTITLED TO A COPY OF THE RESULTS OF ANY ANALYSIS OF SAM-  
6 PLES AND A COPY OF ANY PHOTOGRAPH OR VIDEOTAPE TAKEN, AT REASON-  
7 ABLE COST. THE PERSON IN CHARGE OR HIS OR HER AGENT MAY ACCOM-  
8 PANY THE REPRESENTATIVE OF THE DEPARTMENT DURING THE ACTIVITIES  
9 AUTHORIZED UNDER THIS SECTION THAT TAKE PLACE AND MAY PARTICIPATE  
10 IN THE COLLECTION OF ANY SPLIT SAMPLES ON THE PROPERTY. THE  
11 ABSENCE OR UNAVAILABILITY OF THE PERSON IN CHARGE OR THAT  
12 PERSON'S AGENT SHALL NOT DELAY OR LIMIT THE AUTHORITY OF THE REP-  
13 RESENTATIVE OF THE DEPARTMENT TO ENTER THE PROPERTY OR PROCEED  
14 WITH THE ACTIVITIES AUTHORIZED UNDER THIS SECTION.

15 (6) IF THE DEPARTMENT, OR THE REPRESENTATIVE OF THE DEPART-  
16 MENT, OBTAINS ANY SAMPLES, BEFORE LEAVING THE PROPERTY HE OR SHE  
17 SHALL GIVE TO THE PERSON IN CHARGE OF THE PROPERTY FROM WHICH THE  
18 SAMPLES WERE OBTAINED A RECEIPT DESCRIBING THE SAMPLE. A COPY OF  
19 THE RESULTS OF ANY ANALYSIS OF THE SAMPLES SHALL UPON REQUEST BE  
20 FURNISHED PROMPTLY TO THE PERSON IN CHARGE. A COPY OF ANY PHOTO-  
21 GRAPH OR VIDEOTAPE TAKEN PURSUANT TO THIS SECTION SHALL UPON  
22 REQUEST BE FURNISHED PROMPTLY TO THE PERSON IN CHARGE.

23 (7) ALL INSPECTIONS AND INVESTIGATIONS UNDERTAKEN BY A REP-  
24 RESENTATIVE OF THE DEPARTMENT UNDER THIS SECTION SHALL BE COM-  
25 PLETED WITH REASONABLE PROMPTNESS.

26 (8) A PERSON REGULATED UNDER THIS ACT MAY DESIGNATE A  
27 RECORD, PERMIT APPLICATION, OTHER INFORMATION, OR A PORTION OF A

1 RECORD, PERMIT APPLICATION, OR OTHER INFORMATION FURNISHED TO OR  
2 OBTAINED BY THE DEPARTMENT OR ITS AGENTS, AS BEING ONLY FOR THE  
3 CONFIDENTIAL USE OF THE DEPARTMENT AND THE COMMISSION. THE  
4 DEPARTMENT SHALL NOTIFY THE PERSON ASSERTING CONFIDENTIALITY OF A  
5 REQUEST FOR PUBLIC RECORDS UNDER SECTION 5 OF THE FREEDOM OF  
6 INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF 1976, BEING  
7 SECTION 15.235 OF THE MICHIGAN COMPILED LAWS, WHOSE SCOPE  
8 INCLUDES INFORMATION DESIGNATED AS CONFIDENTIAL. THE PERSON  
9 ASSERTING CONFIDENTIALITY SHALL HAVE 30 DAYS AFTER THE RECEIPT OF  
10 THE NOTICE TO DEMONSTRATE TO THE DIRECTOR THAT THE INFORMATION  
11 DESIGNATED AS CONFIDENTIAL SHOULD NOT BE DISCLOSED BECAUSE THE  
12 INFORMATION IS A TRADE SECRET OR SECRET PROCESS, OR IS PRODUC-  
13 TION, COMMERCIAL, OR FINANCIAL INFORMATION THE DISCLOSURE OF  
14 WHICH WOULD JEOPARDIZE THE COMPETITIVE POSITION OF THE PERSON  
15 FROM WHOM THE INFORMATION WAS OBTAINED, AND MAKE AVAILABLE INFOR-  
16 MATION NOT OTHERWISE PUBLICLY AVAILABLE. THE DIRECTOR SHALL  
17 GRANT THE REQUEST FOR THE INFORMATION UNLESS THE PERSON REGULATED  
18 UNDER THIS ACT HAS MADE A SATISFACTORY DEMONSTRATION TO THE  
19 DIRECTOR THAT THE INFORMATION SHOULD NOT BE DISCLOSED. IF THERE  
20 IS A DISPUTE BETWEEN THE PERSON ASSERTING CONFIDENTIALITY AND THE  
21 PERSON REQUESTING INFORMATION UNDER ACT NO. 442 OF THE PUBLIC  
22 ACTS OF 1976, THE DIRECTOR SHALL MAKE THE DECISION TO GRANT OR  
23 DENY THE REQUEST. WHEN THE DIRECTOR MAKES A DECISION TO GRANT A  
24 REQUEST, THE INFORMATION REQUESTED SHALL NOT BE RELEASED UNTIL 3  
25 DAYS HAVE ELAPSED AFTER THE DECISION IS MADE.

26 (9) DATA ON THE QUANTITY, QUALITY, OR COMPOSITION OF AIR  
27 CONTAMINANTS EMITTED INTO THE AMBIENT AIR; AIR EMISSION FACTORS,



1 RATES, AND CHARACTERIZATIONS; EMISSIONS DURING MALFUNCTIONS OF  
2 PROCESSES OR PROCESS EQUIPMENT REGULATED UNDER THIS ACT; AND THE  
3 EFFICIENCY OF AIR POLLUTION CONTROL DEVICES ARE NOT RENDERED AS  
4 CONFIDENTIAL INFORMATION BY THIS SECTION. THE DIRECTOR MAY  
5 RELEASE ANY INFORMATION OBTAINED UNDER THIS ACT OR RULES PROMUL-  
6 GATED UNDER THIS ACT, INCLUDING A RECORD, PERMIT APPLICATION, OR  
7 OTHER INFORMATION CONSIDERED CONFIDENTIAL TO THE UNITED STATES  
8 ENVIRONMENTAL PROTECTION AGENCY. THIS SECTION DOES NOT PREVENT  
9 THE USE OF INFORMATION DESCRIBED IN SUBSECTION (1) BY THE DEPART-  
10 MENT IN COMPILING OR PUBLISHING ANALYSES OR SUMMARIES RELATING TO  
11 AMBIENT AIR QUALITY IF THE ANALYSES OR SUMMARIES DO NOT IDENTIFY  
12 THE PERSON OR REVEAL INFORMATION THAT IS OTHERWISE CONFIDENTIAL.

13 (10) IF THE DEPARTMENT, OR A REPRESENTATIVE OF THE DEPART-  
14 MENT, IS REFUSED ENTRY OR INFORMATION UNDER SUBSECTION (1), (2),  
15 OR (3), FOR THE PURPOSES OF ENFORCING THE INFORMATION GATHERING  
16 AND ENTRY AUTHORITY PROVIDED IN THIS SECTION, THE ATTORNEY GENER-  
17 AL, ON BEHALF OF THE STATE, MAY DO EITHER OF THE FOLLOWING:

18 (A) PETITION THE COURT OF APPROPRIATE JURISDICTION FOR A  
19 WARRANT AUTHORIZING ACCESS TO PROPERTY OR INFORMATION PURSUANT TO  
20 THIS SECTION.

21 (B) COMMENCE A CIVIL ACTION TO COMPEL COMPLIANCE WITH A  
22 REQUEST FOR INFORMATION OR ENTRY PURSUANT TO THIS SECTION, TO  
23 AUTHORIZE INFORMATION GATHERING AND ENTRY PROVIDED FOR IN THIS  
24 SECTION, AND TO ENJOIN INTERFERENCE WITH THE APPLICATION OF THIS  
25 SECTION.

26 (11) TO ENFORCE THIS ACT, A RULE PROMULGATED UNDER THIS ACT,  
27 OR A PERMIT OR ORDER ISSUED UNDER THIS ACT, THE ATTORNEY GENERAL

1 MAY, BY ADMINISTRATIVE SUBPOENA, REQUIRE THE ATTENDANCE AND  
2 TESTIMONY OF WITNESSES AND PRODUCTION OF PAPERS, REPORTS, DOCU-  
3 MENTS, ANSWERS TO QUESTIONS, AND OTHER INFORMATION THE ATTORNEY  
4 GENERAL CONSIDERS NECESSARY. WITNESSES SHALL BE PAID THE SAME  
5 FEES AND MILEAGE THAT ARE PAID WITNESSES IN THE COURTS OF THE  
6 STATE. IF A PERSON FAILS OR REFUSES TO OBEY THE ADMINISTRATIVE  
7 SUBPOENA, THE CIRCUIT COURT FOR THE COUNTY OF INGHAM OR THE  
8 COUNTY IN WHICH THE PERSON RESIDES HAS JURISDICTION TO ORDER THAT  
9 PERSON TO COMPLY WITH THE SUBPOENA. FAILURE TO OBEY THE ORDER OF  
10 THE COURT IS PUNISHABLE BY THE COURT AS CONTEMPT.

11 (12) IF THE DEPARTMENT BECOMES AWARE OF A VIOLATION OF THIS  
12 ACT, A RULE PROMULGATED UNDER THIS ACT, OR A PERMIT OR ORDER  
13 ISSUED UNDER THIS ACT, THE DEPARTMENT SHALL ISSUE A VIOLATION  
14 LETTER TO THE OFFENDER DOCUMENTING THE NATURE OF THE VIOLATION.  
15 A VIOLATION LETTER SHALL BE ISSUED REGARDLESS OF WHETHER THE  
16 DEPARTMENT TAKES ANY OTHER ENFORCEMENT ACTION REGARDING THE  
17 VIOLATION.

18 (13) THE DEPARTMENT MAY ENTER INTO A CONTRACT WITH A PERSON  
19 TO UNDERTAKE 1 OR MORE OF THE POWERS UNDER THIS SECTION OR MAY  
20 DELEGATE CERTAIN DUTIES UNDER THIS SECTION TO ANOTHER STATE  
21 DEPARTMENT OR AGENCY. HOWEVER, A CONTRACTOR IS NOT AUTHORIZED TO  
22 ISSUE FIELD CITATIONS OR ADMINISTRATIVE ORDERS OR TO OTHERWISE  
23 BRING CIVIL OR CRIMINAL ENFORCEMENT ACTIONS UNDER THIS ACT.

24 (14) AS USED IN THIS SECTION:

25 (A) "INFORMATION" INCLUDES, BUT IS NOT LIMITED TO, DOCU-  
26 MENTS, MATERIALS, RECORDS, PHOTOGRAPHS, VIDEOTAPES, OR  
27 MAGNETICALLY OR ELECTRONICALLY STORED INFORMATION.

1 (B) "REPRESENTATIVE OF THE DEPARTMENT" MEANS A FULL- OR  
2 PART-TIME EMPLOYEE OF THE DEPARTMENT OR OTHER STATE DEPARTMENT OR  
3 AGENCY TO WHICH THE DEPARTMENT DELEGATES CERTAIN DUTIES UNDER  
4 THIS SECTION, A PERSON WHO ENTERS INTO A CONTRACT WITH THE  
5 DEPARTMENT TO PERFORM DESIGNATED FUNCTIONS, OR A CITY OR COUNTY  
6 TO WHICH AUTHORITY HAS BEEN DELEGATED UNDER THIS ACT.

7 SEC. 9B. TO IMPLEMENT THE CLEAN AIR ACT, THIS ACT, AND  
8 RULES PROMULGATED UNDER THIS ACT THAT PERTAIN TO STAGE II VAPOR  
9 RECOVERY, THE DEPARTMENT MAY PROHIBIT THE USE OF ANY GASOLINE  
10 DISPENSING PUMP OR OTHER PUMPING DEVICE THAT IS OPERATED IN VIO-  
11 LATION OF THE CLEAN AIR ACT, THIS ACT, OR RULES PROMULGATED UNDER  
12 THIS ACT. IF UPON INSPECTION THE DEPARTMENT FINDS A PUMP THAT IS  
13 NOT IN COMPLIANCE, THE DEPARTMENT SHALL SEAL THE PUMP SO AS TO  
14 RENDER IT INOPERABLE. A WARNING TAG SHALL BE PLACED ON THE PUMP  
15 STATING THAT THE PUMP IS NOT TO BE USED EXCEPT AS AUTHORIZED  
16 UNDER THIS SECTION. IN ADDITION TO SEALING AND TAGGING THE PUMP,  
17 THE DEPARTMENT SHALL NOTIFY THE PERSON IN WRITING THAT THE SEALED  
18 PUMP CANNOT BE OPERATED UNTIL IT IS BROUGHT INTO COMPLIANCE WITH  
19 ALL APPLICABLE STAGE II VAPOR RECOVERY REQUIREMENTS UNDER THE  
20 CLEAN AIR ACT, THIS ACT, AND RULES PROMULGATED UNDER THIS ACT.  
21 PRIOR TO USAGE OF A SEALED PUMP, THE PERSON SHALL NOTIFY THE  
22 DEPARTMENT OF THE DATE ON WHICH THE PUMP WILL BE BROUGHT INTO  
23 COMPLIANCE. AFTER THE DATE ON WHICH THE PERSON BRINGS THE PUMP  
24 INTO COMPLIANCE, THE PUMP MAY BE OPERATED.

25 SEC. 16A. (1) THE DEPARTMENT MAY IMPLEMENT, AFTER CONSULTA-  
26 TION WITH THE DEPARTMENT OF ATTORNEY GENERAL, A FIELD CITATION  
27 PROGRAM APPLICABLE TO MINOR VIOLATIONS. MINOR VIOLATIONS ARE

1 DIVIDED INTO CLASS I, II, III, AND IV VIOLATIONS AND CONSIST ONLY  
2 OF VIOLATIONS LISTED IN SUBSECTION (2). A CLASS IV VIOLATION  
3 SHALL RESULT IN A CITATION BUT NOT A MONETARY FINE. A SUBSEQUENT  
4 VIOLATION OF THE SAME SUBDIVISION (A) TO (K) OF SUBSECTION (2)  
5 FOR WHICH A CITATION WAS PREVIOUSLY ISSUED FOR A VIOLATION OF  
6 THAT SAME SUBDIVISION IS PUNISHABLE BY A CITATION AND FINE AS  
7 PROVIDED IN THIS SECTION. THE PENALTY AMOUNT FOR CLASS I, II,  
8 AND III MINOR VIOLATIONS SHALL BE ASSESSED AS FOLLOWS:

9 (A) CLASS I MINOR VIOLATIONS - ASSESS FULL APPLICABLE AMOUNT  
10 AUTHORIZED UNDER SUBSECTION (3).

11 (B) CLASS II MINOR VIOLATIONS - ASSESS 50% OF THE AMOUNT  
12 AUTHORIZED UNDER SUBSECTION (3).

13 (C) CLASS III MINOR VIOLATIONS - ASSESS 10% OF THE AMOUNT  
14 AUTHORIZED UNDER SUBSECTION (3).

15 (2) MINOR VIOLATIONS CONSIST OF THE FOLLOWING VIOLATIONS AND  
16 ARE CLASSIFIED IN THE FOLLOWING MANNER:

17 (A) OPEN BURNING:

18 (i) CLASS III - BURNING PAPER OR UNTREATED WOOD ONLY IN A  
19 SMALL FIRE AND NO COMPLAINTS RECEIVED.

20 (ii) CLASS II - BURNING ANYTHING BUT TIRES IN A SMALL FIRE  
21 AND UP TO 3 COMPLAINTS RECEIVED.

22 (iii) CLASS I - BURNING ANYTHING IN A LARGE FIRE, OR BURNING  
23 TIRES, OR MORE THAN 3 COMPLAINTS RECEIVED.

24 (B) NOT MEETING A TEMPERATURE REQUIREMENT ON AN  
25 AFTERBURNER:

26 (i) CLASS III - BELOW REQUIREMENT BY 10% OR LESS.

- 1       (ii) CLASS II - BELOW REQUIREMENT BY 10-30%.
- 2       (iii) CLASS I - BELOW REQUIREMENT BY MORE THAN 30%.
- 3       (C) NOT UTILIZING A REQUIRED WATER WASH: ALL CLASS III
- 4       (D) NOT HAVING PAINT FILTERS AS REQUIRED: ALL CLASS III
- 5       (E) EMISSION TEST DATA OR REPORTING DEADLINE VIOLATIONS:
- 6       (i) CLASS III - LATE BY 1-30 DAYS.
- 7       (ii) CLASS II - LATE BY MORE THAN 30 DAYS.
- 8       (F) NOT FOLLOWING COLD CLEANER COVER PROCEDURES: ALL CLASS
- 9 III
- 10       (G) NOT FOLLOWING DEGREASER COVER PROCEDURES: ALL CLASS III
- 11       (H) RULE 336.1604 OR 336.1623 OF THE MICHIGAN ADMINISTRATIVE
- 12 CODE: ALL CLASS II
- 13       (I) RULE 336.1606, 336.1627, OR 336.1703 OF THE MICHIGAN
- 14 ADMINISTRATIVE CODE: ALL CLASS III
- 15       (J) RULE 336.1607, 336.1608, 336.1609, 336.1704, 336.1705,
- 16 OR 336.1706 OF THE MICHIGAN ADMINISTRATIVE CODE:
- 17       (i) CLASS III - FAILURE TO HAVE SUBMERGED FILL PIPE OR POST
- 18 PROCEDURES.
- 19       (ii) CLASS II - ALL OTHER REQUIREMENTS OF THE RULES LISTED
- 20 IN THIS SUBDIVISION.
- 21       (K) STAGE II VAPOR RECOVERY REQUIREMENTS FOR THIS STATE AS
- 22 REQUIRED UNDER THIS ACT OR THE CLEAN AIR ACT.
- 23       (3) SUBJECT TO THE PENALTY MODIFICATIONS AUTHORIZED UNDER
- 24 SUBSECTION (14), FIELD CITATIONS ISSUED PURSUANT TO THIS SECTION
- 25 MAY INCLUDE ADMINISTRATIVE FINES AS FOLLOWS:
- 26       (A) UP TO \$1,000.00 TO A PERSON ACTING IN AN INDIVIDUAL
- 27 CAPACITY OR WHO EMPLOYS 1 TO 25 FULL-TIME EMPLOYEES.

1 (B). UP TO \$2,000.00 TO A PERSON WHO EMPLOYS 26 TO 100  
2 FULL-TIME EMPLOYEES.

3 (C) UP TO \$5,000.00 TO A PERSON WHO EMPLOYS OVER 100  
4 FULL-TIME EMPLOYEES.

5 (4) THE DIRECTOR, OR OFFICERS OR EMPLOYEES OF THE DEPARTMENT  
6 AUTHORIZED BY THE DIRECTOR, MAY ISSUE TO AND SERVE UPON A PERSON  
7 WHO COMMITS A MINOR OFFENSE A FIELD CITATION. EACH FIELD  
8 CITATION SHALL INCLUDE NOTICE OF THE OPTIONS THAT A PERSON WHO  
9 RECEIVES THE FIELD CITATION HAS, INCLUDING NOTICE OF, HIS OR HER  
10 INFORMAL HEARING RIGHTS. THE FIELD CITATION SHALL BE SERVED  
11 EITHER AT THE TIME OF THE INSPECTION DURING WHICH THE MINOR  
12 OFFENSE IS DISCOVERED OR WITHIN 10 DAYS OF THE INSPECTION. IF  
13 SERVED BY MAIL, THE FIELD CITATION SHALL BE SENT BY CERTIFIED  
14 MAIL, WITH A RETURN RECEIPT. A FIELD CITATION THAT IS NOT SERVED  
15 AT THE TIME OF THE INSPECTION OR WITHIN 10 DAYS OF THE INSPECTION  
16 AS REQUIRED UNDER THIS SECTION IS VOID.

17 (5) A PERSON WHO IS AUTHORIZED TO ISSUE A FIELD CITATION  
18 SHALL SIGN EACH FIELD CITATION IMMEDIATELY BEFORE THE FOLLOWING  
19 STATEMENT WHICH SHALL BE INCLUDED ON EACH FIELD CITATION: "THE  
20 STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWL-  
21 EDGE, AND BELIEF".

22 (6) A PERSON TO WHOM A FIELD CITATION IS ISSUED MAY, WITHIN  
23 21 DAYS OF ISSUANCE OF THE CITATION, ELECT TO PAY THE PENALTY  
24 ASSESSED BY THE CITATION OR REQUEST AN INFORMAL HEARING BEFORE  
25 THE DEPARTMENT ON THE FIELD CITATION. IF A REQUEST FOR AN INFOR-  
26 MAL HEARING IS NOT MADE WITHIN THE TIME SPECIFIED ABOVE, THE  
27 FIELD CITATION SHALL BE CONSIDERED FINAL. THE INFORMAL HEARING

1 PROVIDED FOR IN THIS SECTION IS NOT GOVERNED BY THE CONTESTED  
2 CASE PROCEEDINGS OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
3 ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO  
4 24.328 OF THE MICHIGAN COMPILED LAWS, BUT SHALL BE HELD IN  
5 ACCORDANCE WITH THE PROCEDURES SPECIFIED IN THIS SECTION.

6 (7) A REQUEST FOR AN INFORMAL HEARING NEED NOT BE IN ANY  
7 PARTICULAR FORM, BUT SHALL BE SIGNED AND SHALL INCLUDE THE NAME,  
8 ADDRESS, AND TELEPHONE NUMBER OF THE PETITIONER AND A SHORT  
9 STATEMENT OF THE BASIS FOR THE REQUEST. THIS REQUEST SHALL BE  
10 SENT BY CERTIFIED MAIL, WITH A RETURN RECEIPT, TO THE DIRECTOR AT  
11 AN ADDRESS SPECIFIED ON THE FIELD CITATION.

12 (8) THE DIRECTOR OR AN AUTHORIZED REPRESENTATIVE SHALL GRANT  
13 A REQUEST FOR AN INFORMAL HEARING BY CERTIFIED MAIL, WITH A  
14 RETURN RECEIPT, WITHIN 21 DAYS OF RECEIVING THE REQUEST. FAILURE  
15 ON THE PART OF THE DIRECTOR OR AN AUTHORIZED REPRESENTATIVE TO  
16 RESPOND WITHIN 21 DAYS SHALL RENDER THE FIELD CITATION VOID. THE  
17 WRITTEN RESPONSE OF THE DIRECTOR OR AUTHORIZED REPRESENTATIVE  
18 SHALL INCLUDE A STATEMENT OF THE DATE, TIME, PLACE, AND NATURE OF  
19 THE INFORMAL HEARING, AND A SHORT, PLAIN STATEMENT OF THE ISSUES  
20 INVOLVED IN THE HEARING. AN INFORMAL HEARING SHALL BE CONDUCTED  
21 AT THE DISTRICT OFFICE OF THE DEPARTMENT THAT HAS JURISDICTION  
22 OVER THE LOCATION OF THE SOURCE.

23 (9) THE DIRECTOR SHALL APPOINT A PRESIDING OFFICER TO CON-  
24 DUCT THE INFORMAL HEARING. THE PRESIDING OFFICER SHALL BE THE  
25 HIGHEST RANKING AVAILABLE DISTRICT OFFICE EMPLOYEE WHO HAS NO  
26 PRIOR CONNECTION WITH THE SUBJECT MATTER OF THE HEARING,  
27 INCLUDING THE PERFORMANCE OF ANY INVESTIGATIVE OR ENFORCEMENT

1 FUNCTIONS. AT NO TIME AFTER THE HEARING DATE HAS BEEN  
2 ESTABLISHED FOR AN INFORMAL HEARING SHALL THE PRESIDING OFFICER,  
3 OR ANY PERSON WHO SHALL ADVISE THE PRESIDING OFFICER WITH RESPECT  
4 TO THE INFORMAL HEARING, DISCUSS EX PARTE THE MERITS OF THE  
5 INFORMAL HEARING WITH ANY INTERESTED PERSON OUTSIDE THE DEPART-  
6 MENT, WITH ANY DEPARTMENT STAFF MEMBER WHO PERFORMS AN INVESTIGA-  
7 TIVE OR ENFORCEMENT FUNCTION RELEVANT TO THE SUBJECT MATTER OF  
8 THE HEARING, OR WITH THE PETITIONER OR ANY REPRESENTATIVE OF THE  
9 PETITIONER.

10 (10) THE PRESIDING OFFICER SHALL CONDUCT A FAIR AND IMPAR-  
11 TIAL HEARING, ASSURE THAT RELEVANT FACTS ARE FULLY ELICITED, CON-  
12 sider ALL RELEVANT ISSUES AND CLAIMS, AND AVOID DELAY. INFORMAL  
13 HEARINGS CONDUCTED PURSUANT TO THIS SECTION SHALL PROVIDE AN  
14 OPPORTUNITY FOR BOTH PARTIES TO ADDRESS RELEVANT ISSUES, PRESENT  
15 VIEWS, AND SUBMIT WRITTEN INFORMATION AND ARGUMENT SUPPORTING  
16 THEIR RESPECTIVE POSITIONS ON THE FACTS, LAW, AND RELIEF; AND AN  
17 OPPORTUNITY FOR BOTH PARTIES TO ENGAGE IN TECHNICAL AND LEGAL  
18 DISCUSSIONS AND INTERCHANGES, INCLUDING RESPONSES TO QUESTIONS.  
19 HOWEVER, A PARTY IS NOT ENTITLED TO AN OPPORTUNITY TO ENGAGE IN  
20 FORMAL DIRECT EXAMINATION OR CROSS-EXAMINATION OF ANY PARTY OR  
21 WITNESSES. EITHER PARTY MAY REQUEST FOR REVIEW AND COPYING ANY  
22 INFORMATION, RECORDS, OR DOCUMENTS RELEVANT TO THE INFORMAL  
23 HEARING.

24 (11) IF THE PETITIONER FAILS TO APPEAR FOR THE INFORMAL  
25 HEARING ON THE SCHEDULED DATE, UNLESS FOR GOOD CAUSE SHOWN, THE  
26 PRESIDING OFFICER MAY PROCEED WITH THE INFORMAL HEARING AND A  
27 DECISION MAY BE RENDERED EVEN IN THE ABSENCE OF THE PETITIONER.



1 THE DEPARTMENT'S FAILURE TO APPEAR FOR THE INFORMAL HEARING ON  
2 THE SCHEDULED DATE SHALL RENDER THE FIELD CITATION VOID.

3 (12) WITHIN 14 DAYS AFTER THE CONCLUSION OF AN INFORMAL  
4 HEARING, THE PRESIDING OFFICER SHALL ISSUE A DECISION, IN WRIT-  
5 ING, DISMISSING THE FIELD CITATION, DENYING THE RELIEF REQUESTED  
6 BY THE PETITIONER, IN WHOLE OR IN PART, AFFIRMING THE ADMINISTRA-  
7 TIVE FINE ASSESSMENT IN THE FIELD CITATION, OR MODIFYING THE  
8 AMOUNT OF THE ADMINISTRATIVE FINE TO BE PAID BY THE PETITIONER  
9 PURSUANT TO THE FIELD CITATION. THE DECISION OF THE PRESIDING  
10 OFFICER IS FINAL.

11 (13) THE PRESIDING OFFICER MAY MODIFY THE AMOUNT OF THE  
12 ADMINISTRATIVE FINE ASSESSED IN THE FIELD CITATION AS FOLLOWS:

13 (A) REDUCE THE AMOUNT BY UP TO 25% FOR GOOD FAITH EFFORTS TO  
14 COMPLY.

15 (B) REDUCE THE AMOUNT BY UP TO 90% BASED ON OTHER RELEVANT  
16 CONSIDERATIONS AS DETERMINED BY THE PRESIDING OFFICER.

17 (C) REDUCE OR INCREASE THE AMOUNT BY UP TO 25% BASED ON THE  
18 DURATION OF THE VIOLATION.

19 (D) INCREASE THE AMOUNT BY UP TO 25% BASED ON THE ECONOMIC  
20 BENEFIT DERIVED BY THE PERSON FROM NONCOMPLIANCE.

21 (14) NOTWITHSTANDING SUBSECTION (13), THE PRESIDING OFFICER  
22 SHALL NOT REDUCE THE ADMINISTRATIVE FINE AMOUNT BY MORE THAN 90%  
23 OF THE ORIGINAL AMOUNT ASSESSED IN THE FIELD CITATION, OR  
24 INCREASE THE AMOUNT TO EXCEED THE ORIGINAL ADMINISTRATIVE FINE  
25 ASSESSED IN THE FIELD CITATION.

26 (15) IF A VIOLATION CONTINUES, PAYMENT OF A CIVIL PENALTY  
27 REQUIRED BY A FIELD CITATION SHALL NOT BE A DEFENSE TO FURTHER

1 ENFORCEMENT TO CORRECT THE VIOLATION, TO ASSESS THE STATUTORY  
2 MAXIMUM PENALTY, OR TO SEEK ANY OTHER REMEDY AVAILABLE UNDER THIS  
3 ACT.

4 (16) AN ADMINISTRATIVE FINE ASSESSED IN A FIELD CITATION  
5 SHALL BECOME DUE FOR PAYMENT WHEN THE CITATION BECOMES FINAL OR  
6 THE PRESIDING OFFICER ISSUES A FINAL DECISION, WHICHEVER IS  
7 APPLICABLE. ONCE FINAL, A PERSON AGAINST WHOM AN ADMINISTRATIVE  
8 FINE IS ASSESSED IN A FIELD CITATION MAY SEEK JUDICIAL REVIEW OF  
9 THE ADMINISTRATIVE FINE ASSESSMENT PURSUANT TO SECTION 631 OF THE  
10 REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF  
11 1961, BEING SECTION 600.631 OF THE MICHIGAN COMPILED LAWS.

12 (17) THE COMMISSION MAY PROMULGATE RULES TO IMPLEMENT THIS  
13 SECTION.

14 (18) THE DEPARTMENT SHALL REPORT TO THE LEGISLATURE 4 YEARS  
15 AFTER THE EFFECTIVE DATE OF THIS SECTION REGARDING THE IMPLEMEN-  
16 TATION OF THIS SECTION AND THE EFFECTIVENESS OF THE FIELD  
17 CITATION PROGRAM. THE REPORT SHALL INCLUDE, BUT IS NOT LIMITED  
18 TO, ALL OF THE FOLLOWING:

19 (A) THE PERCENTAGE OF CASES IN EACH OF THE 4 CLASSES THAT  
20 ARE APPEALED.

21 (B) HOW MANY ASSESSED ADMINISTRATIVE FINES WERE ULTIMATELY  
22 REDUCED, INCREASED, OR REMAINED THE SAME.

23 (C) THE INFORMATION REQUIRED IN SUBDIVISIONS (A) AND (B) ON  
24 A STATEWIDE BASIS AND FOR EACH DISTRICT IN THE STATE IN WHICH  
25 FIELD CITATIONS WERE ISSUED BY THE DEPARTMENT.

26 (19) THIS SECTION IS REPEALED EFFECTIVE 5 YEARS AFTER THE  
27 EFFECTIVE DATE OF THIS SECTION.

1        SEC. 16B. (1) THE DIRECTOR MAY ASSESS AN ADMINISTRATIVE  
2 FINE OF UP TO \$25,000.00 FOR EACH INSTANCE OF VIOLATION AND, IF  
3 THE VIOLATION CONTINUES, FOR EACH DAY OF CONTINUED NONCOMPLIANCE,  
4 IF THE DIRECTOR, ON THE BASIS OF AVAILABLE INFORMATION, FINDS  
5 THAT THE PERSON HAS VIOLATED OR IS IN VIOLATION OF THIS ACT OR A  
6 RULE PROMULGATED UNDER THIS ACT, HAS FAILED TO OBTAIN A PERMIT  
7 ISSUED UNDER THIS ACT, VIOLATES AN ORDER UNDER THIS ACT, OR HAS  
8 FAILED TO COMPLY WITH THE TERMS OF A PERMIT ISSUED UNDER THIS  
9 ACT. THE ASSESSMENT OF AN ADMINISTRATIVE FINE MAY BE EITHER A  
10 PART OF A COMPLIANCE ORDER OR A SEPARATE ORDER ISSUED BY THE  
11 DIRECTOR.

12        (2) THE DIRECTOR'S AUTHORITY UNDER THIS SECTION IS LIMITED  
13 TO MATTERS WHERE THE TOTAL ADMINISTRATIVE FINE SOUGHT DOES NOT  
14 EXCEED \$200,000.00 AND THE FIRST ALLEGED DATE OF VIOLATION  
15 OCCURRED WITHIN 12 MONTHS PRIOR TO INITIATION OF THE ADMINISTRA-  
16 TIVE ACTION. HOWEVER, THE DIRECTOR AND THE ATTORNEY GENERAL  
17 JOINTLY MAY DETERMINE THAT A MATTER INVOLVING A LARGER FINE OR  
18 LONGER PERIOD OF VIOLATION IS APPROPRIATE FOR ADMINISTRATIVE  
19 ACTION UNDER THIS SECTION. SUCH A DETERMINATION BY THE DIRECTOR  
20 AND THE ATTORNEY GENERAL IS NOT SUBJECT TO JUDICIAL REVIEW.

21        (3) WITHIN 28 DAYS OF RECEIVING AN ADMINISTRATIVE FINE FROM  
22 THE DIRECTOR, A PERSON MAY FILE A PETITION WITH THE DEPARTMENT  
23 FOR REVIEW OF THIS FINE. REVIEW OF THE FINE SHALL BE CONDUCTED  
24 PURSUANT TO THE CONTESTED CASE PROCEDURES OF THE ADMINISTRATIVE  
25 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,  
26 BEING SECTIONS 24.271 TO 24.286 OF THE MICHIGAN COMPILED LAWS.  
27 IF ISSUED AS PART OF A COMPLIANCE ORDER, ONLY THE AMOUNT OF THE

1 ADMINISTRATIVE FINE AND THE ALLEGED VIOLATION ON WHICH THE FINE  
2 IS BASED ARE SUBJECT TO THE CONTESTED CASE PROCEDURES OF ACT  
3 NO. 306 OF THE PUBLIC ACTS OF 1969.

4 SEC. 16C. IF THE DEPARTMENT FINDS THAT AN ALLEGED VIOLATION  
5 OF THIS ACT OR A RULE PROMULGATED UNDER THIS ACT EXISTS, OR, AN  
6 ALLEGED VIOLATION OF THE TERMS OF A PERMIT OR ORDER ISSUED UNDER  
7 THIS ACT EXISTS, THE DEPARTMENT MAY PROVIDE THE PERSON RESPONSIB-  
8 BLE FOR THE ALLEGED VIOLATION WITH THE OPPORTUNITY TO ENTER INTO  
9 AN AGREEMENT WITH THE COMMISSION TO CORRECT THE VIOLATION. THE  
10 AGREEMENT SHALL BE IN THE FORM OF A CONSENT ORDER AND SHALL PRO-  
11 VIDE FOR COMPLIANCE WITH THIS ACT AND RULES PROMULGATED UNDER  
12 THIS ACT AND COMPLIANCE WITH ANY APPLICABLE PERMIT OR ORDER  
13 ISSUED UNDER THIS ACT. IN ADDITION, EACH CONSENT ORDER SHALL  
14 CONTAIN A COMPLIANCE SCHEDULE THAT PROVIDES FOR REASONABLE  
15 PROGRESS TOWARD FULL COMPLIANCE BY A DESIGNATED DATE. THE  
16 DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC COMMENT ON THE  
17 TERMS AND CONDITIONS OF A CONSENT ORDER WHICH SHALL BE PROVIDED  
18 BY THE DEPARTMENT IN ALL INSTANCES. UPON THE REQUEST OF ANY  
19 PERSON WHO SEEKS INFORMATION OR FILES A WRITTEN COMPLAINT REGARD-  
20 ING A PARTICULAR SOURCE THAT IS THE SUBJECT OF AN ENFORCEMENT  
21 ACTION, THE DEPARTMENT SHALL NOTIFY THAT PERSON IN WRITING IF  
22 SETTLEMENT NEGOTIATIONS COMMENCE AND SUBSEQUENTLY, IF THOSE NEGO-  
23 TIATIONS RESULT IN A PROPOSED CONSENT ORDER, A COPY OF THE PRO-  
24 POSED CONSENT ORDER SHALL BE PROVIDED. THE DEPARTMENT SHALL NOT  
25 ENTER INTO A CONSENT ORDER THAT ALLOWS THE CONTINUATION OF AN  
26 IMMINENT AND SUBSTANTIAL ENDANGERMENT TO THE PUBLIC OR  
27 IRREVERSIBLE HARM TO THE ENVIRONMENT.

1        SEC. 16D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT,  
2 THE DIRECTOR, UPON RECEIPT OF EVIDENCE THAT A SOURCE OR COMBINA-  
3 TION OF SOURCES IS PRESENTING AN IMMINENT AND SUBSTANTIAL ENDAN-  
4 GERMENT TO PUBLIC HEALTH, SAFETY, OR WELFARE, OR THE ENVIRONMENT,  
5 MAY BRING SUIT ON BEHALF OF THE STATE IN THE APPROPRIATE CIRCUIT  
6 COURT TO IMMEDIATELY RESTRAIN ANY PERSON CAUSING OR CONTRIBUTING  
7 TO THE ALLEGED ENDANGERMENT TO STOP THE EMISSION OF AIR CONTAMI-  
8 NANTS CAUSING OR CONTRIBUTING TO THE ENDANGERMENT OR TO TAKE  
9 OTHER ACTION AS MAY BE NECESSARY. IF IT IS NOT PRACTICABLE TO  
10 ASSURE PROMPT PROTECTION OF PUBLIC HEALTH, SAFETY, OR WELFARE, OR  
11 THE ENVIRONMENT BY COMMENCEMENT OF THIS CIVIL ACTION, THE DIREC-  
12 TOR MAY ISSUE ORDERS AS MAY BE NECESSARY TO PROTECT THE PUBLIC  
13 HEALTH, SAFETY, OR WELFARE, OR THE ENVIRONMENT. PRIOR TO TAKING  
14 AN ACTION UNDER THIS SECTION, THE DIRECTOR SHALL ATTEMPT TO CON-  
15 FIRM THE ACCURACY OF THE INFORMATION ON WHICH THE ACTION PROPOSED  
16 TO BE TAKEN IS BASED AND SHALL NOTIFY THE EMERGENCY MANAGEMENT  
17 COORDINATOR FOR THE COUNTY IN WHICH THE SOURCE IS LOCATED WHO IS  
18 APPOINTED PURSUANT TO THE EMERGENCY MANAGEMENT ACT, ACT NO. 390  
19 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 30.401 TO 30.420 OF  
20 THE MICHIGAN COMPILED LAWS. THE EMERGENCY MANAGEMENT COORDINATOR  
21 SHALL AS SOON AS POSSIBLE NOTIFY THE FIRE DEPARTMENT AND THE  
22 COUNTY SHERIFF THAT HAVE JURISDICTION AND THE LOCAL HEALTH  
23 DEPARTMENT AS DEFINED IN THE PUBLIC HEALTH CODE, ACT NO. 368 OF  
24 THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.1101 TO 333.25211 OF  
25 THE MICHIGAN COMPILED LAWS. ANY ORDER ISSUED BY THE DIRECTOR  
26 UNDER THIS SECTION SHALL BE EFFECTIVE UPON ISSUANCE AND SHALL  
27 REMAIN IN EFFECT FOR A PERIOD OF NOT MORE THAN 21 DAYS, UNLESS

1 THE DIRECTOR BRINGS AN ACTION PURSUANT TO THE FIRST SENTENCE OF  
2 THIS SECTION BEFORE THE EXPIRATION OF THAT PERIOD. WHENEVER THE  
3 DIRECTOR BRINGS SUCH AN ACTION WITHIN THE 21-DAY PERIOD, THE  
4 ORDER SHALL REMAIN IN EFFECT FOR AN ADDITIONAL 14 DAYS OR FOR A  
5 LONGER PERIOD AS IS AUTHORIZED BY THE COURT IN WHICH THE ACTION  
6 IS BROUGHT.

7 SEC. 16E. (1) IF THE DIRECTOR FINDS THAT A PERSON IS IN  
8 VIOLATION OF THIS ACT OR A RULE PROMULGATED UNDER THIS ACT, FAILS  
9 TO OBTAIN A PERMIT UNDER THIS ACT, OR FAILS TO COMPLY WITH THE  
10 TERMS OF A PERMIT ISSUED UNDER THIS ACT, THE DIRECTOR MAY ISSUE  
11 AN ORDER REQUIRING THE PERSON TO COMPLY WITH THE ACT, RULE,  
12 PERMIT, OR OTHER REQUIREMENT OF THE ACT.

13 (2) IN ADDITION TO ANY OTHER RELIEF AUTHORIZED BY LAW, AND  
14 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE ATTORNEY  
15 GENERAL MAY COMMENCE A CIVIL ACTION AGAINST A PERSON FOR APPRO-  
16 PRIATE RELIEF, INCLUDING INJUNCTIVE RELIEF, FOR A VIOLATION OF  
17 THIS ACT, A RULE PROMULGATED UNDER THIS ACT, FOR FAILING TO  
18 OBTAIN A PERMIT UNDER THIS ACT, OR FOR FAILING TO COMPLY WITH THE  
19 TERMS OF A PERMIT OR ORDER ISSUED UNDER THIS ACT. IN ADDITION TO  
20 ANY OTHER RELIEF GRANTED UNDER THIS SUBSECTION, THE COURT MAY  
21 IMPOSE A CIVIL FINE OF NOT MORE THAN \$25,000.00 FOR EACH INSTANCE  
22 OF VIOLATION AND, IF THE VIOLATION CONTINUES, FOR EACH DAY OF  
23 CONTINUED NONCOMPLIANCE.

24 (3) IN ADDITION TO A CIVIL FINE OR INJUNCTIVE RELIEF, OR  
25 BOTH, THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO RECOVER  
26 THE FULL VALUE OF THE DAMAGE DONE TO THE AIR OR OTHER NATURAL

1 RESOURCES OF THIS STATE AND THE COSTS OF SURVEILLANCE AND  
2 ENFORCEMENT BY THE STATE RESULTING FROM THE VIOLATION.

3 (4) IN ISSUING A FINAL ORDER IN AN ACTION BROUGHT PURSUANT  
4 TO THIS SECTION, THE COURT MAY AWARD COSTS OF LITIGATION, INCLUD-  
5 ING REASONABLE ATTORNEY AND EXPERT WITNESS FEES, TO THE PREVAIL-  
6 ING OR SUBSTANTIALLY PREVAILING PARTY IF THE COURT DETERMINES  
7 THAT SUCH AN AWARD IS APPROPRIATE.

8 (5) A CIVIL ACTION BROUGHT UNDER THIS SECTION MAY BE BROUGHT  
9 IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM, IN THE COUNTY IN  
10 WHICH THE DEFENDANT IS LOCATED, RESIDES, OR IS DOING BUSINESS, IN  
11 THE COUNTY IN WHICH THE REGISTERED OFFICE OF A DEFENDANT CORPORA-  
12 TION IS LOCATED, OR IN THE COUNTY WHERE THE VIOLATION OCCURRED OR  
13 WHERE A PERSON HAS BEEN OR IS ADVERSELY AFFECTED BY DEFENDANT'S  
14 CONDUCT.

15 (6) ANY CIVIL ADMINISTRATIVE FINE OR CRIMINAL PENALTY  
16 ASSESSED UNDER THIS ACT MAY BE ASSESSED FOR EACH VIOLATION AND  
17 FOR EACH DAY OF CONTINUED NONCOMPLIANCE OR VIOLATION. FOR PUR-  
18 POSES OF DETERMINING THE NUMBER OF DAYS OF VIOLATION FOR WHICH A  
19 CIVIL OR ADMINISTRATIVE FINE OR ASSESSMENT PENALTY MAY BE  
20 ASSESSED UNDER THIS ACT, THE DEPARTMENT SHALL PROVIDE THE SOURCE  
21 WITH NOTICE OF THE INITIAL VIOLATION AND THE PLAINTIFF SHALL MAKE  
22 A PRIMA FACIE SHOWING THAT THE CONDUCT OR EVENTS GIVING RISE TO  
23 THE VIOLATION ARE LIKELY TO HAVE CONTINUED OR RECURRED PAST THE  
24 DATE OF NOTICE. AFTER A PRIMA FACIE SHOWING IS ESTABLISHED BY  
25 THE PLAINTIFF, THE DAYS OF VIOLATION ARE PRESUMED TO INCLUDE THE  
26 DATE OF NOTICE AND EACH DAY THEREAFTER UNTIL THE VIOLATOR  
27 ESTABLISHES THAT CONTINUOUS COMPLIANCE HAS BEEN ACHIEVED, EXCEPT

1 TO THE EXTENT THE VIOLATOR CAN PROVE BY A PREPONDERANCE OF THE  
2 EVIDENCE THAT THERE WERE INTERVENING DAYS DURING WHICH A VIOLA-  
3 TION DID NOT OCCUR OR THAT THE VIOLATION WAS NOT CONTINUING IN  
4 NATURE.

5 (7) A VIOLATION OF THIS ACT, A RULE PROMULGATED UNDER THIS  
6 ACT, OR A PERMIT OR ORDER ISSUED UNDER THIS ACT IS PRIMA FACIE  
7 EVIDENCE OF THE EXISTENCE OF A PUBLIC NUISANCE AND IN ADDITION TO  
8 THE REMEDIES PROVIDED FOR IN THIS ACT MAY BE ABATED ACCORDING TO  
9 LAW IN AN ACTION BROUGHT BY THE DEPARTMENT OF ATTORNEY GENERAL IN  
10 A COURT OF COMPETENT JURISDICTION.

11 SEC. 16F. (1) A PERSON WHO KNOWINGLY VIOLATES THIS ACT OR A  
12 RULE PROMULGATED UNDER THIS ACT, FAILS TO OBTAIN A PERMIT UNDER  
13 THIS ACT, OR FAILS TO COMPLY WITH THE TERMS OF A PERMIT OR ORDER  
14 ISSUED UNDER THIS ACT IS GUILTY OF A FELONY PUNISHABLE BY IMPRIS-  
15 ONMENT FOR NOT MORE THAN 5 YEARS, OR A FINE OF NOT LESS THAN  
16 \$2,500.00 OR MORE THAN \$25,000.00, OR BOTH.

17 (2) A PERSON WHO KNOWINGLY MAKES A FALSE MATERIAL STATEMENT,  
18 REPRESENTATION, OR CERTIFICATION IN, OR OMITS MATERIAL INFORMA-  
19 TION FROM, OR KNOWINGLY ALTERS, CONCEALS, OR FAILS TO FILE OR  
20 MAINTAIN ANY NOTICE, APPLICATION, RECORD, REPORT, PLAN, OR OTHER  
21 DOCUMENT ISSUED OR REQUIRED PURSUANT TO THIS ACT; KNOWINGLY FAILS  
22 TO NOTIFY OR REPORT AS REQUIRED UNDER THIS ACT, OR FALSIFIES,  
23 TAMPERS WITH, RENDERS INACCURATE, OR FAILS TO INSTALL ANY MONI-  
24 TORING DEVICE OR RECORD REQUIRED TO BE MAINTAINED UNDER THIS ACT  
25 OR A PERMIT OR ORDER ISSUED UNDER THIS ACT, OR A RULE PROMULGATED  
26 UNDER THIS ACT; OR KNOWINGLY FAILS TO PAY ANY FEE OWED UNDER THIS  
27 ACT, IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT



1 MORE THAN 2 YEARS, OR 1 YEAR IF FOR FAILURE TO PAY A FEE, OR A  
2 FINE NOT LESS THAN \$2,500.00 OR MORE THAN \$25,000.00 FOR EACH  
3 VIOLATION.

4 (3) A PERSON WHO NEGLIGENTLY RELEASES INTO THE AMBIENT AIR  
5 ANY HAZARDOUS AIR CONTAMINANT, OR AN EXTREMELY HAZARDOUS SUB-  
6 STANCE AS DEFINED IN 42 U.S.C. 11002(A)(2), CONTRARY TO APPLICA-  
7 BLE FEDERAL, STATE, OR LOCAL REQUIREMENTS OR CONTRARY TO A PERMIT  
8 ISSUED UNDER THIS ACT, AND WHO AT THE TIME NEGLIGENTLY PLACES  
9 ANOTHER PERSON IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY  
10 INJURY IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE  
11 PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR A FINE OF  
12 NOT LESS THAN \$1,000.00 OR MORE THAN \$10,000.00, OR BOTH.

13 (4) A PERSON OTHER THAN AN ORGANIZATION THAT KNOWINGLY  
14 RELEASES OR CAUSES THE RELEASE OF A HAZARDOUS AIR CONTAMINANT, OR  
15 AN EXTREMELY HAZARDOUS SUBSTANCE AS DEFINED IN 42  
16 U.S.C. 11002(A)(2), CONTRARY TO APPLICABLE FEDERAL, STATE, OR  
17 LOCAL REQUIREMENTS, OR CONTRARY TO A PERMIT ISSUED UNDER THIS  
18 ACT, AND WHO KNOWS OR SHOULD HAVE KNOWN AT THE TIME THAT THE  
19 RELEASE PLACES ANOTHER PERSON IN IMMINENT DANGER OF DEATH OR  
20 SERIOUS BODILY INJURY, IS GUILTY OF A FELONY PUNISHABLE BY  
21 IMPRISONMENT FOR NOT MORE THAN 15 YEARS, OR A FINE OF NOT LESS  
22 THAN \$2,500.00 OR MORE THAN \$25,000.00, OR BOTH, FOR EACH  
23 VIOLATION. FOR ANY AIR CONTAMINANT FOR WHICH THE COMMISSION HAS  
24 ESTABLISHED AN EMISSION STANDARD BY RULE OR FOR ANY SOURCE FOR  
25 WHICH A PERMIT HAS BEEN ISSUED UNDER THE PERMITTING PROVISIONS OF  
26 THIS ACT, A RELEASE OF SUCH AN AIR CONTAMINANT THAT IS IN  
27 ACCORDANCE WITH THAT STANDARD OR PERMIT IS NOT A VIOLATION OF

1 THIS SUBSECTION OR SUBSECTION (3). AN ORGANIZATION THAT COMMITS  
2 SUCH A VIOLATION IS SUBJECT TO A FINE OF NOT MORE THAN  
3 \$1,000,000.00 FOR EACH VIOLATION. AN ORGANIZATION THAT COMMITS A  
4 SUBSEQUENT VIOLATION IS SUBJECT TO A FINE OF NOT MORE THAN  
5 \$2,000,000.00.

6 (5) IN DETERMINING WHETHER A DEFENDANT WHO IS AN INDIVIDUAL  
7 KNEW THAT THE VIOLATION PLACED ANOTHER PERSON IN IMMINENT DANGER  
8 OF DEATH OR SERIOUS BODILY INJURY AS REQUIRED UNDER  
9 SUBSECTIONS (3) AND (4), THE DEFENDANT IS RESPONSIBLE ONLY FOR  
10 ACTUAL AWARENESS OR ACTUAL BELIEF POSSESSED; AND KNOWLEDGE POS-  
11 SESSED BY A PERSON OTHER THAN THE DEFENDANT, BUT NOT BY THE  
12 DEFENDANT, MAY NOT BE ATTRIBUTED TO THE DEFENDANT. HOWEVER, IN  
13 PROVING A DEFENDANT'S POSSESSION OF ACTUAL KNOWLEDGE, CIRCUMSTAN-  
14 TIAL EVIDENCE MAY BE USED, INCLUDING EVIDENCE THAT THE DEFENDANT  
15 TOOK AFFIRMATIVE STEPS TO BE SHIELDED FROM RELEVANT INFORMATION.

16 (6) A FINE ASSESSED UNDER THIS SECTION MAY BE ASSESSED FOR  
17 EACH DAY OF VIOLATION.

18 (7) IF A CONVICTION UNDER SUBSECTION (1), (2), (3), OR (4)  
19 IS FOR A VIOLATION COMMITTED AFTER A FIRST CONVICTION OF THE  
20 PERSON UNDER THE SAME SUBSECTION, THE MAXIMUM PENALTY AUTHORIZED  
21 UNDER THE APPLICABLE SUBSECTION SHALL BE DOUBLE WITH RESPECT TO  
22 BOTH FINE AND IMPRISONMENT.

23 (8) A DEFENDANT MAY ESTABLISH AN AFFIRMATIVE DEFENSE TO A  
24 PROSECUTION UNDER THIS SECTION BY SHOWING BY A PREPONDERANCE OF  
25 THE EVIDENCE THAT THE CONDUCT CHARGED WAS FREELY CONSENTED TO BY  
26 THE PERSON ENDANGERED AND THAT THE DANGER AND CONDUCT CHARGED  
27 WERE REASONABLY FORESEEABLE HAZARDS OF ANY OF THE FOLLOWING:

(A) AN OCCUPATION, A BUSINESS, OR A PROFESSION.

(B) MEDICAL TREATMENT OR MEDICAL OR SCIENTIFIC EXPERIMENTATION CONDUCTED BY PROFESSIONALLY APPROVED METHODS IF THE PERSON HAD BEEN MADE AWARE OF THE RISKS INVOLVED PRIOR TO GIVING CONSENT.

(9) ALL GENERAL DEFENSES, AFFIRMATIVE DEFENSES, AND BARS TO PROSECUTION THAT MAY OTHERWISE APPLY WITH RESPECT TO STATE CRIMINAL OFFENSES MAY APPLY UNDER SUBSECTION (4) AND SHALL BE DETERMINED BY THE COURTS OF THIS STATE HAVING JURISDICTION ACCORDING TO THE PRINCIPLES OF COMMON LAW AS THEY MAY BE INTERPRETED IN THE LIGHT OF REASON AND EXPERIENCE. CONCEPTS OF JUSTIFICATION AND EXCUSE APPLICABLE UNDER THIS SECTION MAY BE DEVELOPED BY THE COURTS IN THE LIGHT OF REASON AND EXPERIENCE.

(10) AS USED IN THIS SECTION:

(A) "ORGANIZATION" MEANS A PERSON OTHER THAN AN INDIVIDUAL OR A GOVERNMENTAL ENTITY.

(B) "SERIOUS BODILY INJURY" MEANS BODILY INJURY THAT INVOLVES A SUBSTANTIAL RISK OF DEATH, UNCONSCIOUSNESS, EXTREME PHYSICAL PAIN, PROTRACTED AND OBVIOUS DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF A BODILY MEMBER, ORGAN, OR MENTAL FACULTY.

SEC. 16G. THE DEPARTMENT MAY PAY AN AWARD OF UP TO \$10,000.00 TO AN INDIVIDUAL WHO PROVIDES INFORMATION RESULTING IN THE ASSESSMENT OF A CIVIL FINE BY A COURT IN AN ACTION BROUGHT BY THE ATTORNEY GENERAL PURSUANT TO SECTION 16E, OR LEADING TO THE ARREST AND CONVICTION OF A PERSON UNDER SECTION 16F. AN OFFICER OR EMPLOYEE OF THE UNITED STATES, STATE OF MICHIGAN, A

1 REPRESENTATIVE OF THE DEPARTMENT AS DEFINED IN SECTION 9A(13), OR  
2 ANY OTHER STATE OR LOCAL GOVERNMENT WHO FURNISHES INFORMATION  
3 DESCRIBED IN THIS SECTION IN THE PERFORMANCE OF AN OFFICIAL DUTY  
4 IS INELIGIBLE FOR PAYMENT UNDER THIS SECTION. IN ADDITION, AN  
5 EMPLOYEE OF THE DEPARTMENT, A DESIGNEE OF THE DEPARTMENT, OR A  
6 PERSON EMPLOYED BY THE DEPARTMENT OF ATTORNEY GENERAL IS INELIGI-  
7 BLE TO RECEIVE AN AWARD UNDER THIS SECTION REGARDLESS OF WHETHER  
8 THE REPORTED INFORMATION CAME TO HIS OR HER ATTENTION WHILE FUNC-  
9 TIONING IN AN OFFICIAL CAPACITY OR AS A PRIVATE CITIZEN. AN  
10 AWARD SHALL NOT BE MADE UNDER THIS SECTION UNTIL RULES ARE  
11 PROMULGATED BY THE COMMISSION/DIRECTOR PRESCRIBING THE CRITERIA  
12 FOR MAKING AWARDS.

13 SEC. 16H. (1) EXCEPT AS PROVIDED IN SUBSECTION (3) OR (4),  
14 ANY PERSON, INCLUDING A LOCAL UNIT OF GOVERNMENT ON BEHALF OF ITS  
15 CITIZENS, MAY COMMENCE A CIVIL ACTION AGAINST:

16 (A) ANY PERSON WHO IS ALLEGED TO HAVE VIOLATED, IF THERE IS  
17 EVIDENCE THAT THE ALLEGED VIOLATION HAS BEEN REPEATED, THIS ACT,  
18 A RULE PROMULGATED UNDER THIS ACT, OR AN ORDER ISSUED UNDER THIS  
19 ACT.

20 (B) THE COMMISSION OR DEPARTMENT OR A CITY OR COUNTY TO  
21 WHICH AUTHORITY HAS BEEN DELEGATED UNDER THIS ACT, IF IT IS  
22 ALLEGED THAT THE COMMISSION, DEPARTMENT, OR A CITY OR COUNTY TO  
23 WHICH AUTHORITY HAS BEEN DELEGATED, FAILED TO PERFORM ANY ACT OR  
24 DUTY IN ADMINISTERING THIS ACT WHICH IS NOT DISCRETIONARY.  
25 ACTIONS REGARDING THE ADMINISTRATION OF THIS ACT SHALL BE BROUGHT  
26 AGAINST THE COMMISSION, DEPARTMENT, OR THE CITY OR COUNTY TO

1 WHICH AUTHORITY HAS BEEN DELEGATED UNDER THIS ACT ONLY UNDER THIS  
2 SUBDIVISION.

3 (C) ANY PERSON WHO PROPOSES TO CONSTRUCT OR CONSTRUCTS A  
4 SOURCE WITHOUT A PERMIT REQUIRED BY THIS ACT OR IS ALLEGED TO BE  
5 IN VIOLATION OF ANY CONDITION OF A PERMIT, OR WHO GAVE INACCURATE  
6 OR MISLEADING INFORMATION TO THE DEPARTMENT AND WHO OPERATES  
7 UNDER A PERMIT THAT WAS ISSUED IN VIOLATION OF THIS ACT, RULES  
8 PROMULGATED UNDER THIS ACT, OR THE CLEAN AIR ACT IN WHOLE OR IN  
9 PART BECAUSE OF THE INACCURATE OR MISLEADING INFORMATION.

10 (D) A PERSON WHO OPERATES UNDER A PERMIT THAT IS ISSUED IN  
11 VIOLATION OF THIS ACT, RULES PROMULGATED UNDER THIS ACT, OR THE  
12 CLEAN AIR ACT WHO DID NOT MISLEAD OR PROVIDE INACCURATE INFORMA-  
13 TION TO THE DEPARTMENT, BUT ONLY FOR INJUNCTIVE RELIEF.

14 (2) THE CIRCUIT COURT HAS JURISDICTION IN ACTIONS BROUGHT  
15 UNDER SUBSECTION (1)(A) OR (C) TO ENFORCE SUCH AN EMISSION STAN-  
16 DARD OR LIMITATION OR TO OTHERWISE COMPEL COMPLIANCE WITH THIS  
17 ACT BY ORDERING SUCH ACTION AS MAY BE NECESSARY TO CORRECT THE  
18 VIOLATION, TO GRANT ANY APPROPRIATE INJUNCTIVE RELIEF, AND TO  
19 IMPOSE A CIVIL FINE OF NOT MORE THAN \$25,000.00 FOR EACH INSTANCE  
20 OF VIOLATION AND, IF THE VIOLATION CONTINUES, FOR EACH DAY OF  
21 CONTINUED NONCOMPLIANCE. THE CIRCUIT COURT HAS JURISDICTION IN  
22 ACTIONS BROUGHT UNDER SUBSECTION (1)(B) ONLY TO ORDER THE COMMIS-  
23 SION, DEPARTMENT, OR CITY OR COUNTY TO WHICH AUTHORITY HAS BEEN  
24 DELEGATED UNDER THIS ACT, TO PERFORM THE NONDISCRETIONARY ACT OR  
25 DUTY CONCERNED.

26 (3) AN ACTION SHALL NOT BE FILED UNDER SUBSECTION (1)(A),  
27 (C), OR (D) UNLESS ALL OF THE FOLLOWING CONDITIONS EXIST:

1 (A) THE PLAINTIFF HAS GIVEN AT LEAST 60 DAYS' NOTICE IN  
2 WRITING OF THE PLAINTIFF'S INTENT TO SUE, THE BASIS FOR THE SUIT,  
3 AND THE RELIEF TO BE REQUESTED TO EACH OF THE FOLLOWING:

4 (i) THE DEPARTMENT AND COMMISSION.

5 (ii) THE ATTORNEY GENERAL.

6 (iii) THE PROPOSED DEFENDANT OR DEFENDANTS.

7 (B) THE STATE HAS NOT COMMENCED AND IS NOT DILIGENTLY PROSE-  
8 CUTING AN ACTION UNDER THIS ACT OR UNDER OTHER APPROPRIATE LEGAL  
9 AUTHORITY TO OBTAIN INJUNCTIVE RELIEF CONCERNING THE SOURCE OR TO  
10 REQUIRE COMPLIANCE WITH THIS ACT OR A RULE, PERMIT, OR ORDER  
11 UNDER THIS ACT. IF SUCH AN ACTION HAS BEEN FILED IN A COURT OF  
12 THIS STATE, ANY PERSON MAY INTERVENE AS A MATTER OF RIGHT.

13 (4) AN ACTION SHALL NOT BE FILED UNDER SUBSECTION (1)(B)  
14 UNTIL THE PLAINTIFF HAS GIVEN IN WRITING AT LEAST 60 DAYS' NOTICE  
15 TO THE DIRECTOR OF THE PLAINTIFF'S INTENT TO SUE EITHER THE COM-  
16 MISSION, DEPARTMENT, OR THE CITY OR COUNTY TO WHICH AUTHORITY HAS  
17 BEEN DELEGATED UNDER THIS ACT, THE BASIS FOR THE SUIT, AND THE  
18 RELIEF TO BE REQUESTED.

19 (5) IN ISSUING A FINAL ORDER IN AN ACTION BROUGHT PURSUANT  
20 TO THIS SECTION, THE COURT MAY AWARD COSTS OF LITIGATION, INCLUD-  
21 ING REASONABLE ATTORNEY AND EXPERT WITNESS FEES, TO THE PREVAIL-  
22 ING OR SUBSTANTIALLY PREVAILING PARTY IF THE COURT DETERMINES  
23 THAT AN AWARD IS APPROPRIATE.

24 (6) THIS SECTION DOES NOT AFFECT OR OTHERWISE IMPAIR THE  
25 RIGHTS OF ANY PERSON UNDER FEDERAL, STATE, OR COMMON LAW.

26 (7) IN ANY ACTION UNDER THIS SECTION, THE ATTORNEY GENERAL,  
27 IF NOT A PARTY, MAY INTERVENE ON BEHALF OF THE STATE, AS A MATTER

1 OF RIGHT AT ANY TIME IN THE PROCEEDING. A JUDGMENT IN AN ACTION  
2 UNDER THIS SECTION TO WHICH THE STATE IS NOT A PARTY DOES NOT,  
3 HOWEVER, HAVE ANY BINDING EFFECT UPON THE STATE.

4 (8) WHENEVER ANY ACTION IS BROUGHT UNDER THIS SECTION, THE  
5 PLAINTIFF SHALL SERVE A COPY OF THE COMPLAINT ON THE ATTORNEY  
6 GENERAL AND ON THE DIRECTOR OF THE DEPARTMENT. A CONSENT JUDG-  
7 MENT SHALL NOT BE ENTERED IN AN ACTION BROUGHT UNDER THIS SECTION  
8 IN WHICH THE STATE IS NOT A PARTY PRIOR TO 30 DAYS FOLLOWING THE  
9 RECEIPT OF A COPY OF THE PROPOSED CONSENT JUDGMENT BY THE ATTOR-  
10 NEY GENERAL AND THE DIRECTOR, DURING WHICH TIME THE STATE MAY  
11 SUBMIT ITS COMMENTS ON THE PROPOSED CONSENT JUDGMENT TO THE COURT  
12 AND PARTIES OR MAY INTERVENE AS A MATTER OF RIGHT.

13 (9) CIVIL FINES ASSESSED PURSUANT TO AN ACTION FILED UNDER  
14 THIS SECTION SHALL BE DEPOSITED IN THE AIR POLLUTION FUND CREATED  
15 IN SECTION 8A.

16 (10) A CIVIL ACTION BROUGHT UNDER SUBSECTION (1)(A), (C), OR  
17 (D) MAY BE BROUGHT IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM,  
18 IN THE COUNTY IN WHICH THE DEFENDANT IS LOCATED, RESIDES, OR IS  
19 DOING BUSINESS, IN THE COUNTY IN WHICH THE REGISTERED OFFICE OF A  
20 DEFENDANT CORPORATION IS LOCATED, OR IN THE COUNTY WHERE THE VIO-  
21 LATION OCCURRED OR WHERE A PERSON HAS BEEN OR IS ADVERSELY  
22 AFFECTED BY DEFENDANT'S CONDUCT. A CIVIL ACTION BROUGHT UNDER  
23 SUBSECTION (1)(B) SHALL BE BROUGHT IN THE CIRCUIT COURT FOR THE  
24 COUNTY OF INGHAM.

25 SEC. 16I. (1) IN DETERMINING THE AMOUNT OF ANY FINE OR PEN-  
26 ALTY TO BE ASSESSED UNDER SECTION 16B, 16E, 16F, OR 16H, THE  
27 DIRECTOR OR THE COURT, AS APPROPRIATE, SHALL TAKE INTO

1 CONSIDERATION, IN ADDITION TO SUCH OTHER FACTORS AS JUSTICE MAY  
2 REQUIRE, ALL OF THE FOLLOWING:

3 (A) THE SIZE OF THE BUSINESS.

4 (B) THE ECONOMIC IMPACT OF THE PENALTY ON THE BUSINESS.

5 (C) THE VIOLATOR'S FULL COMPLIANCE HISTORY AND GOOD FAITH  
6 EFFORTS TO COMPLY.

7 (D) THE DURATION OF THE VIOLATION AS ESTABLISHED BY ANY  
8 CREDIBLE EVIDENCE, INCLUDING EVIDENCE OTHER THAN THE APPLICABLE  
9 TEST METHOD.

10 (E) PAYMENT BY THE VIOLATOR OF FINES OR PENALTIES PREVIOUSLY  
11 ASSESSED FOR THE SAME VIOLATION.

12 (F) THE ECONOMIC BENEFIT OF NONCOMPLIANCE.

13 (G) THE SERIOUSNESS OF THE VIOLATION.

14 (2) THE COURT SHALL NOT ASSESS FINES OR PENALTIES FOR NON-  
15 COMPLIANCE WITH ADMINISTRATIVE SUBPOENAS ISSUED UNDER SECTION 9A,  
16 IF THE VIOLATOR HAD SUFFICIENT CAUSE TO VIOLATE OR FAIL OR REFUSE  
17 TO COMPLY WITH THE SUBPOENA OR OTHER ACTION.

18 Sec. 24. It is the purpose of this act to provide addi-  
19 tional and cumulative remedies to prevent and abate air  
20 pollution. ~~Nothing in this act contained shall~~ THIS ACT DOES  
21 NOT abridge or alter ANY OTHER rights of action or remedies ~~now~~  
22 ~~or hereafter existing, nor shall any provision of~~ THAT ARE IN  
23 EXISTENCE OR THAT EXIST ON OR AFTER THE EFFECTIVE DATE OF this  
24 act or anything done ~~by virtue of this act be construed as~~  
25 ~~estopping individuals, counties, cities, townships or villages or~~  
26 ~~other governmental units~~ PURSUANT TO THIS ACT DOES NOT PREVENT  
27 ANY PERSON from the exercise of ~~their~~ HIS OR HER respective



1 rights to suppress nuisances or to prevent or abate air  
2 pollution.

3       Sec. 25. This act ~~shall not be construed as repealing any~~  
4 ~~of the~~ DOES NOT REPEAL ANY laws relating to air pollution  
5 ~~which~~ THAT are not ~~by this act~~ expressly repealed BY THIS  
6 ACT, ~~but~~ AND it shall be held and construed to be as ancillary  
7 to and supplementing ~~the laws now in force, excepting as they~~  
8 ~~may be~~ ANY OTHER APPLICABLE LAW, EXCEPT A LAW THAT IS in direct  
9 conflict with this act. ~~The final order or determination of the~~  
10 ~~commission shall not be used in evidence of presumptive air pol-~~  
11 ~~lution in any suit filed by any person other than this~~  
12 ~~commission.~~

13       Sec. 26. (1) ~~Nothing in this act or in any rule or regula-~~  
14 ~~tion which shall be~~ THIS ACT AND THE RULES promulgated ~~pursuant~~  
15 ~~to~~ UNDER this act ~~shall be deemed to~~ DO NOT invalidate any  
16 ~~existing ordinances or regulations having~~ ORDINANCE OR REGULA-  
17 TION THAT HAS requirements equal to or greater than the minimum  
18 applicable requirements of this act. ~~or prevent any political~~  
19 ~~subdivision from adopting similar provisions if their require-~~  
20 ~~ments are equal to or greater than the minimum applicable~~  
21 ~~requirements of this act.~~

22       ~~(2) When a political subdivision or enforcing official~~  
23 ~~thereof fails to enforce properly the provisions of the political~~  
24 ~~subdivision's ordinances, laws or regulations which do afford~~  
25 ~~equal protection to the public as that provided in this act, the~~  
26 ~~air pollution control commission, after consultation with the~~  
27 ~~local official or governing body of the political subdivision may~~

1 ~~take such appropriate action as may be necessary for enforcement~~  
2 ~~of the applicable provisions of this act.~~

3       (2) ~~(3) The air pollution control commission~~ DEPARTMENT  
4 shall counsel and advise local units of government on the admin-  
5 istration of this act ~~. In their respective fields, they~~ AND  
6 UPON THE REQUEST OF AN OFFICIAL OF A LOCAL UNIT OF GOVERNMENT,  
7 shall ATTEMPT TO cooperate in the enforcement of this act. ~~with~~  
8 ~~local officials upon request.~~

9       Section 2. Sections 8, 9, 10, 11, 13, 14, 14a, 16, 17, 18,  
10 19, 20, 21, 22, and 23 of Act No. 348 of the Public Acts of 1965,  
11 being sections 336.18, 336.19, 336.20, 336.21, 336.23, 336.24,  
12 336.24a, 336.26, 336.27, 336.28, 336.29, 336.30, 336.31, 336.32,  
13 and 336.33 of the Michigan Compiled Laws, are repealed.