



HOUSE BILL No. 4865

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June 16, 1993, Introduced by Reps. Gnodtke, Brown, Alley, Middaugh, Freeman and Sikkema and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend the title and sections 2, 5, 7, 8, 11, 14, 14b, 14d, 19, 20, 21, and 22 of Act No. 348 of the Public Acts of 1965, entitled as amended

"Air pollution act,"

section 2 as amended and sections 14b and 14d as added by Act No. 6 of the Public Acts of 1993, being sections 336.12, 336.15, 336.17, 336.18, 336.21, 336.24, 336.24b, 336.24d, 336.29, 336.30, 336.31, and 336.32 of the Michigan Compiled Laws; to add sections 5b, 5c, 5d, 14e, 16a, 16b, 16c, 16d, 16e, 16f, and 16g; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 5, 7, 8, 11, 14, 14b,
2 14d, 19, 20, 21, and 22 of Act No. 348 of the Public Acts of
3 1965, section 2 as amended and sections 14b and 14d as added by
4 Act No. 6 of the Public Acts of 1993, being sections 336.12,

1 336.15, 336.17, 336.18, 336.21, 336.24, 336.24b, 336.24d, 336.29,
2 336.30, 336.31, and 336.32 of the Michigan Compiled Laws, are
3 amended and sections 5b, 5c, 5d, 14e, 16a, 16b, 16c, 16d, 16e,
4 16f, and 16g are added to read as follows:

5 TITLE

6 An act to control air pollution in this state; to create an
7 air pollution control commission; ~~within the state health~~
8 ~~department;~~ to prescribe its powers and duties; to prescribe the
9 powers and duties of certain county agencies; to provide for the
10 establishment of fees; ~~and~~ to provide FOR REMEDIES AND
11 PRESCRIBE penalties; AND TO REPEAL CERTAIN PARTS OF THE ACT.

12 Sec. 2. As used in this act:

13 (a) "Air contaminant" means a dust, fume, gas, mist, odor,
14 smoke, vapor or any combination thereof.

15 (b) "Air pollution" means the presence in the outdoor atmo-
16 sphere of air contaminants in quantities, of characteristics and
17 under conditions and circumstances, and of a duration that are or
18 can become injurious to human health or welfare, to animal life,
19 to plant life, or to property, or that interfere with the enjoy-
20 ment of life and property in this state and excludes all aspects
21 of employer-employee relationships as to health and safety
22 hazards. With respect to any mode of transportation, nothing in
23 this act or in the rules promulgated under this act shall be
24 inconsistent with the federal regulations, emission limits, stan-
25 dards or requirements on various modes of transportation. Air
26 pollution does not mean those usual and ordinary odors associated
27 with a farm operation if the person engaged in the farm operation

1 is following generally accepted agricultural and management
2 practices.

3 (c) "Air cleaning device" means any method, process, or
4 equipment that removes, reduces, or renders less noxious air con-
5 taminants discharged into the atmosphere.

6 (D) "CATEGORY I FACILITY" MEANS A FEE-SUBJECT FACILITY THAT
7 IS A MAJOR STATIONARY SOURCE AS DEFINED IN SECTION 302 OF TITLE
8 III OF THE CLEAN AIR ACT, 77 STAT. 400, 42 U.S.C. 7602, AN
9 AFFECTED SOURCE AS DEFINED PURSUANT TO TITLE IV OF THE CLEAN AIR
10 ACT, CHAPTER 360, 104 STAT. 2584, 42 U.S.C. 7651 TO 7651a OR A
11 MAJOR STATIONARY SOURCE AS DEFINED IN SECTION 169A OF SUBPART 2
12 OF PART C OF TITLE I OF THE CLEAN AIR ACT, CHAPTER 360, 91
13 STAT. 742, 42 U.S.C. 7491.

14 (E) "CATEGORY II FACILITY" MEANS A FEE-SUBJECT FACILITY THAT
15 IS A MAJOR SOURCE AS DEFINED IN SECTION 112 OF PART A OF TITLE I
16 OF THE CLEAN AIR ACT, 84 STAT. 1685, 42 U.S.C. 7412 OR A FACILITY
17 SUBJECT TO REQUIREMENTS OF SECTION 111 OF PART A OF TITLE I OF
18 THE CLEAN AIR ACT, CHAPTER 360, 84 STAT. 1683, 42 U.S.C. 7411,
19 EXCEPT THAT A CATEGORY II FACILITY THAT ALSO MEETS THE DEFINITION
20 OF A CATEGORY I FACILITY IS A CATEGORY I FACILITY.

21 (F) "CATEGORY III FACILITY" MEANS ANY FEE-SUBJECT FACILITY
22 THAT IS NOT A CATEGORY I OR CATEGORY II FACILITY.

23 (G) "CLEAN AIR ACT" MEANS CHAPTER 360, 69 STAT. 322, 42
24 U.S.C. 7401 TO 7431, 7470 TO 7479, 7491 TO 7492, 7501 TO 7509a,
25 7511 TO 7515, 7521 TO 7525, 7541 TO 7545, 7547 TO 7550, 7552 TO
26 7554, 7571 TO 7574, 7581 TO 7590, 7601 TO 7612, 7614 TO 7617,
27 7619 TO 7622, 7624 TO 7627, 7641 TO 7642, 7651 TO 7651o, 7661 TO

1 7661f, AND 7671 TO 7671q AND REGULATIONS PROMULGATED UNDER THE
2 CLEAN AIR ACT.

3 (h) ~~(d)~~ "Commission" means the air pollution control
4 commission.

5 (i) ~~(e)~~ "Department" means the DIRECTOR OF THE department
6 of natural resources OR HIS OR HER DESIGNEE.

7 (J) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

8 (K) ~~(f)~~ "Farm operation" has the meaning ascribed to it in
9 the Michigan right to farm act, Act No. 93 of the Public Acts of
10 1981, being sections 286.471 to 286.474 of the Michigan Compiled
11 Laws.

12 (L) "FEE-SUBJECT FACILITY" MEANS THE FOLLOWING SOURCES:

13 (i) ANY MAJOR SOURCE AS DEFINED IN 40 C.F.R. 70.2.

14 (ii) ANY SOURCE, INCLUDING AN AREA SOURCE, SUBJECT TO A
15 STANDARD, LIMITATION, OR OTHER REQUIREMENT UNDER SECTION 111 OF
16 PART A OF TITLE I OF THE CLEAN AIR ACT, CHAPTER 360,
17 84 STAT. 1683, 42 U.S.C. 7411, WHEN THE STANDARD, LIMITATION, OR
18 OTHER REQUIREMENT BECOMES APPLICABLE TO THAT SOURCE.

19 (iii) ANY SOURCE, INCLUDING AN AREA SOURCE, SUBJECT TO A
20 STANDARD, LIMITATION, OR OTHER REQUIREMENT UNDER SECTION 112 OF
21 PART A OF TITLE I OF THE CLEAN AIR ACT, 84 STAT. 1685,
22 42 U.S.C. 7412, WHEN THE STANDARD, LIMITATION, OR OTHER REQUIRE-
23 MENT BECOMES APPLICABLE TO THAT SOURCE. HOWEVER, A SOURCE IS NOT
24 A FEE-SUBJECT FACILITY SOLELY BECAUSE IT IS SUBJECT TO A REGULA-
25 TION, LIMITATION, OR REQUIREMENT UNDER SECTION 112(r) OF THE
26 CLEAN AIR ACT.

1 (iv) ANY AFFECTED SOURCE UNDER TITLE IV OF THE CLEAN AIR
2 ACT, CHAPTER 360, 104 STAT. 2584, 42 U.S.C. 7651 TO 7651o.

3 (v) ANY OTHER SOURCE IN A SOURCE CATEGORY DESIGNATED BY THE
4 ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION
5 AGENCY AS REQUIRED TO OBTAIN AN OPERATING PERMIT UNDER TITLE V,
6 WHEN ANY APPLICABLE STANDARD, LIMITATION, OR OTHER REQUIREMENT IS
7 APPLICABLE TO THAT SOURCE.

8 (M) ~~(g)~~ "Fund" means the emissions control fund created in
9 section 14d.

10 (N) ~~(h)~~ "Generally accepted agricultural and management
11 practices" has the meaning ascribed to it in Act No. 93 of the
12 Public Acts of 1981.

13 (O) "GENERAL PERMIT" MEANS AN INSTALLATION OR OPERATING
14 PERMIT, OR BOTH, FOR A CATEGORY OF SIMILAR SOURCES, PROCESSES, OR
15 PROCESS EQUIPMENT, THE PROVISIONS OF WHICH ARE DETERMINED IN
16 RULES.

17 (P) ~~(i)~~ "Major emitting facility" means a stationary
18 source that emits 100 tons or more per year of any of the
19 following:

20 (i) Particulates.

21 (ii) Sulfur dioxides.

22 (iii) Volatile organic compounds.

23 (iv) Oxides of nitrogen.

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

1 (R) "PROCESS" MEANS AN ACTION, OPERATION, OR A SERIES OF
2 ACTIONS OR OPERATIONS, AT A SOURCE THAT EMITS OR HAS THE
3 POTENTIAL TO EMIT AN AIR CONTAMINANT.

4 (S) "PROCESS EQUIPMENT" MEANS ALL EQUIPMENT, DEVICES, AND
5 AUXILIARY COMPONENTS, INCLUDING AIR CLEANING DEVICES, STACKS, AND
6 OTHER EMISSION POINTS USED IN A PROCESS.

7 (T) "REGULATED AIR POLLUTANT" MEANS PARTICULATES, SULFUR
8 DIOXIDE, VOLATILE ORGANIC COMPOUNDS, NITROGEN OXIDES, CARBON MON-
9 OXIDE, OZONE, LEAD, AND ANY POLLUTANT REGULATED UNDER
10 SECTIONS 111 OR 112 OF PART A OF TITLE I OF THE CLEAN AIR ACT,
11 CHAPTER 360, 84 STAT. 1683 AND 1685, 42 U.S.C. 7411 AND 7412, OR
12 TITLE III OF THE CLEAN AIR ACT, CHAPTER 360, 77 STAT. 400, 42
13 U.S.C. 7601 TO 7612, 7614 TO 7617, 7619 TO 7622, AND 7624 TO
14 7627.

15 (U) "RESPONSIBLE OFFICIAL" MEANS FOR THE PURPOSES OF SIGNING
16 PERMIT APPLICATIONS AND COMPLIANCE CERTIFICATIONS ANY OF THE
17 FOLLOWING:

18 (i) FOR A CORPORATION: A PRESIDENT, SECRETARY, TREASURER,
19 OR VICE-PRESIDENT IN CHARGE OF A PRINCIPAL BUSINESS FUNCTION, OR
20 ANY OTHER PERSON WHO PERFORMS SIMILAR POLICY OR DECISION-MAKING
21 FUNCTIONS FOR THE CORPORATION, OR AN AUTHORIZED REPRESENTATIVE OF
22 THAT PERSON IF THE REPRESENTATIVE IS RESPONSIBLE FOR THE OVERALL
23 OPERATION OF 1 OR MORE MANUFACTURING, PRODUCTION, OR OPERATING
24 FACILITIES APPLYING FOR OR SUBJECT TO A PERMIT UNDER THIS ACT AND
25 EITHER THE FACILITIES EMPLOY MORE THAN 250 PERSONS OR HAVE ANNUAL
26 SALES OR EXPENDITURES EXCEEDING \$25,000,000.00; OR THE DELEGATION

1 OF AUTHORITY TO THE REPRESENTATIVE IS APPROVED IN ADVANCE BY THE
2 COMMISSION.

3 (ii) FOR A PARTNERSHIP OR SOLE PROPRIETORSHIP: A GENERAL
4 PARTNER OR THE PROPRIETOR.

5 (iii) FOR A COUNTY, CITY, VILLAGE, TOWNSHIP, STATE, FEDERAL,
6 OR OTHER PUBLIC AGENCY: EITHER A PRINCIPAL EXECUTIVE OFFICER OR
7 RANKING ELECTED OFFICIAL. FOR THIS PURPOSE, A PRINCIPAL EXECU-
8 TIVE OFFICER OF A FEDERAL AGENCY INCLUDES THE CHIEF EXECUTIVE
9 OFFICER HAVING RESPONSIBILITY FOR THE OVERALL OPERATIONS OF A
10 PRINCIPAL GEOGRAPHIC UNIT OF THE AGENCY.

11 (iv) FOR SOURCES AFFECTED BY THE FEDERAL ACID RAIN PROGRAM,
12 THE DESIGNATED REPRESENTATIVE INSOFAR AS ACTIONS, STANDARDS,
13 REQUIREMENTS, OR PROHIBITIONS UNDER TITLE IV OF THE CLEAN AIR
14 ACT, CHAPTER 360, 104 STAT. 2584, 42 U.S.C. 7651 TO 7651o, ARE
15 CONCERNED.

16 (V) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
17 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
18 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
19 LAWS.

20 (W) "SCHEDULE OF COMPLIANCE" MEANS, FOR A SOURCE NOT IN COM-
21 PLIANCE WITH ALL APPLICABLE REQUIREMENTS OF THIS ACT, RULES
22 PROMULGATED UNDER THIS ACT, AND THE CLEAN AIR ACT, AT THE TIME OF
23 ISSUANCE OF AN OPERATING PERMIT, A SCHEDULE OF REMEDIAL MEASURES
24 INCLUDING AN ENFORCEABLE SEQUENCE OF ACTIONS OR OPERATIONS LEAD-
25 ING TO COMPLIANCE WITH AN APPLICABLE REQUIREMENT. SCHEDULE OF
26 COMPLIANCE MEANS, FOR A SOURCE IN COMPLIANCE WITH ALL APPLICABLE
27 REQUIREMENTS OF THIS ACT, RULES PROMULGATED UNDER THIS ACT, AND

1 THE CLEAN AIR ACT AT THE TIME OF ISSUANCE OF AN OPERATING PERMIT,
 2 A STATEMENT THAT THE SOURCE WILL CONTINUE TO COMPLY WITH THESE
 3 REQUIREMENTS. WITH RESPECT TO ANY APPLICABLE REQUIREMENT OF THIS
 4 ACT, RULES PROMULGATED UNDER THIS ACT, AND THE CLEAN AIR ACT,
 5 EFFECTIVE AFTER THE DATE OF ISSUANCE OF AN OPERATING PERMIT, THE
 6 SCHEDULE OF COMPLIANCE SHALL CONTAIN A STATEMENT THAT THE SOURCE
 7 WILL MEET THE REQUIREMENTS ON A TIMELY BASIS, UNLESS THE UNDERLY-
 8 ING APPLICABLE REQUIREMENT REQUIRES A MORE DETAILED SCHEDULE.

9 (X) "SOURCE" MEANS A STATIONARY SOURCE AND HAS THE SAME
 10 MEANING AS STATIONARY SOURCE WHEN USED IN COMPARABLE OR APPLICA-
 11 BLE CIRCUMSTANCES UNDER THE CLEAN AIR ACT. A SOURCE INCLUDES ALL
 12 THE PROCESSES AND PROCESS EQUIPMENT UNDER COMMON CONTROL THAT ARE
 13 LOCATED WITHIN A CONTIGUOUS AREA, OR A SMALLER GROUP OF PROCESSES
 14 AND PROCESS EQUIPMENT AS REQUESTED BY THE OWNER OR OPERATOR OF
 15 THE SOURCE, IF IN ACCORDANCE WITH THE CLEAN AIR ACT.

16 (Y) "TITLE V" MEANS TITLE V OF THE CLEAN AIR ACT, CHAPTER
 17 360, 104 STAT. 2635, 42 U.S.C. 7661 TO 7661f.

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

20 (a) ~~Establish~~ PROMULGATE RULES TO ESTABLISH standards for
 21 ambient air quality and for emissions.

22 (b) Issue permits for the construction and the operation of
 23 ~~air pollution control facilities and source emissions and to~~
 24 ~~require reports of the operation of the air pollution control~~
 25 ~~facilities~~ SOURCES, PROCESSES, AND PROCESS EQUIPMENT. SUBJECT
 26 TO ENFORCEABLE EMISSION LIMITATIONS AND STANDARDS AND OTHER
 27 CONDITIONS REASONABLY NECESSARY TO ASSURE COMPLIANCE WITH ALL

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

3 (C) IN ACCORDANCE WITH THIS ACT AND RULES PROMULGATED UNDER
4 THIS ACT, DENY, TERMINATE, MODIFY, OR REVOKE AND REISSUE PERMITS
5 FOR CAUSE. IF AN APPLICATION FOR A PERMIT IS DENIED BY THE COM-
6 MISSION OR IS DETERMINED BY THE DEPARTMENT TO BE INCOMPLETE, THE
7 DEPARTMENT SHALL STATE IN WRITING, WITH PARTICULARITY THE REASON
8 FOR DENIAL OR THE DETERMINATION OF INCOMPLETENESS, AND, IF APPLI-
9 CABLE, THE PROVISION OF THIS ACT OR A RULE PROMULGATED UNDER THIS
10 ACT THAT CONTROLS THE DECISION.

11 (D) DELEGATE TO THE DEPARTMENT THE AUTHORITY OF THE COMMIS-
12 SION TO ISSUE, MODIFY, OR REISSUE PERMITS FOR WHICH THERE ARE NO
13 KNOWN UNRESOLVED OBJECTIONS.

14 (E) ~~(c)~~ Compel the attendance of witnesses at proceedings
15 of the commission upon reasonable notice.

16 (F) ~~(d)~~ Make findings of fact and determinations.

17 (G) ~~(e)~~ Make, modify, or cancel orders which require, in
18 accordance with ~~the provisions of~~ this act, the control of air
19 pollution.

20 (H) SERVE IN AN ADVISORY CAPACITY TO THE COMMISSION OF NATU-
21 RAL RESOURCES.

22 (2) THE DEPARTMENT MAY DO 1 OR MORE OF THE FOLLOWING:

23 (A) ENFORCE PERMITS, AIR QUALITY FEE REQUIREMENTS, AND THE
24 REQUIREMENTS TO OBTAIN A PERMIT.

25 (B) ~~(f)~~ Institute in a court of competent jurisdiction
26 proceedings to compel compliance with ~~the provisions of any~~
27 ~~rule~~ THIS ACT, RULES PROMULGATED UNDER THIS ACT, or any

1 determination or order ~~which it may promulgate or issue~~ ISSUED
2 under this act.

3 ~~(g) Do such other things as it may deem necessary, proper~~
4 ~~or desirable in order that it may enforce rules promulgated under~~
5 ~~this act.~~

6 ~~(h) Accept, or when deemed necessary by the commission~~
7 ~~require to be submitted to it, and consider for approval plans~~
8 ~~for air cleaning devices or any part thereof and inspect the~~
9 ~~installation for compliance with the plans.~~

10 (C) ~~(i) Enter and inspect any property AS AUTHORIZED UNDER~~
11 ~~SECTION 16A. at reasonable times and places pursuant to reason-~~
12 ~~able notice for the purpose of investigating either an actual or~~
13 ~~suspected source of air pollution or ascertaining compliance or~~
14 ~~noncompliance with any rule which it may promulgate under this~~
15 ~~act. If in connection with such investigation or inspection,~~
16 ~~samples of air contaminants are taken for analysis, a duplicate~~
17 ~~of the analytical report shall be furnished promptly to the~~
18 ~~person who is suspected of causing such air pollution.~~

19 (D) ~~(j) Receive and initiate complaints of air pollution~~
20 ~~in alleged violation of any rule which it may promulgate THIS~~
21 ~~ACT, RULES PROMULGATED under this act, OR ANY DETERMINATION OR~~
22 ~~ORDER ISSUED UNDER THIS ACT and take action with respect thereto~~
23 ~~as hereinafter TO THE COMPLAINT AS provided in this act.~~

24 (E) REQUIRE REPORTS ON SOURCES AND THE QUALITY AND NATURE OF
25 EMISSIONS, INCLUDING, BUT NOT LIMITED TO, INFORMATION NECESSARY
26 TO MAINTAIN AN EMISSIONS INVENTORY.

1 (F) ~~(k)~~ Prepare and develop a general comprehensive plan
2 for the control or abatement of existing air pollution and for
3 the control or prevention of any new air pollution.

4 (G) ~~(l)~~ Encourage voluntary cooperation by all persons in
5 controlling air pollution and air contamination.

6 (H) ~~(m)~~ Encourage the formulation and execution of plans
7 by cooperative groups or associations of cities, villages and
8 counties or districts, or other governmental units, industries
9 and others who severally or jointly are or may be the source of
10 air pollution, for the control of pollution.

11 (I) ~~(n)~~ Cooperate with the appropriate agencies of the
12 United States or other states or any interstate agencies or
13 international agencies with respect to the control of air pollu-
14 tion and air contamination, or for the formulation for the sub-
15 mission to the legislature of interstate air pollution control
16 compacts or agreements.

17 (J) ~~(o)~~ Conduct or cause to be conducted studies and
18 research with respect to air pollution control, abatement or
19 prevention.

20 (K) ~~(p)~~ Conduct and supervise programs of air pollution
21 control education including the preparation and distribution of
22 information relating to air pollution control.

23 (L) ~~(q)~~ Determine by means of field studies and sampling
24 the degree of air pollution in the state.

25 (M) ~~(r)~~ Provide advisory technical consultation services
26 to local communities.

1 (N) ~~-(s)-~~ Serve as the agency of the state for the receipt
2 of ~~moneys~~ MONEY from the federal government or other public or
3 private agencies and to expend ~~such moneys after appropriation~~
4 ~~thereof~~ THAT MONEY AFTER IT IS APPROPRIATED for the purpose of
5 air pollution control studies or research or enforcement of this
6 act.

7 (O) DO SUCH OTHER THINGS AS THE DEPARTMENT CONSIDERS NECES-
8 SARY, PROPER, OR DESIRABLE TO ENFORCE THIS ACT, A RULE PROMUL-
9 GATED UNDER THIS ACT, OR ANY DETERMINATION OR ORDER ISSUED UNDER
10 THIS ACT, OR THE CLEAN AIR ACT.

11 (3) THE DEPARTMENT SHALL PROVIDE STAFF ASSISTANCE TO THE
12 COMMISSION, INCLUDING, BUT NOT LIMITED TO, INVESTIGATIVE, TECHNICAL,
13 SCIENTIFIC, AND OTHER SERVICES.

14 SEC. 5B. (1) EXCEPT AS PROVIDED IN SUBSECTION (4), A PERSON
15 SHALL NOT INSTALL, CONSTRUCT, RECONSTRUCT, RELOCATE, ALTER, OR
16 MODIFY ANY PROCESS OR PROCESS EQUIPMENT WITHOUT FIRST OBTAINING A
17 PERMIT TO INSTALL, OR A PERMIT TO OPERATE AUTHORIZED PURSUANT TO
18 RULES PROMULGATED UNDER SUBSECTION (6) IF APPLICABLE, FROM THE
19 COMMISSION AUTHORIZING THE CONDUCT OR ACTIVITY.

20 (2) THE COMMISSION SHALL PROMULGATE RULES TO ESTABLISH A
21 PERMIT TO INSTALL PROGRAM TO BE ADMINISTERED BY THE COMMISSION
22 OR, TO THE EXTENT DELEGATED BY THE COMMISSION, BY THE
23 DEPARTMENT. EXCEPT AS PROVIDED IN SUBSECTIONS (4) AND (5), THE
24 PERMIT TO INSTALL PROGRAM IS APPLICABLE TO EACH NEW OR MODIFIED
25 PROCESS OR PROCESS EQUIPMENT THAT EMITS OR MAY EMIT AN AIR
26 CONTAMINANT.

1 (3) A PERMIT TO INSTALL MAY AUTHORIZE THE TRIAL OPERATION OF
2 A PROCESS OR PROCESS EQUIPMENT TO DEMONSTRATE THAT THE PROCESS OR
3 PROCESS EQUIPMENT IS OPERATING IN COMPLIANCE WITH THE PERMIT TO
4 INSTALL.

5 (4) THE COMMISSION MAY PROMULGATE RULES TO PROVIDE FOR THE
6 ISSUANCE OF GENERAL PERMITS AND TO EXEMPT CERTAIN SOURCES, PRO-
7 CESSES, OR PROCESS EQUIPMENT OR CERTAIN MODIFICATIONS TO A
8 SOURCE, PROCESS, OR PROCESS EQUIPMENT FROM THE REQUIREMENT TO
9 OBTAIN A PERMIT TO INSTALL OR A PERMIT TO OPERATE AUTHORIZED PUR-
10 SUANT TO RULES PROMULGATED UNDER SUBSECTION (6). HOWEVER, THE
11 COMMISSION SHALL NOT EXEMPT ANY NEW SOURCE OR MODIFICATION THAT
12 WOULD MEET THE DEFINITION OF A MAJOR SOURCE OR MAJOR MODIFICA-
13 TION, RESPECTIVELY, UNDER PARTS C AND D OF TITLE I OF THE CLEAN
14 AIR ACT, CHAPTER 360, 91 STAT. 731, 42 U.S.C. 7470 TO 7479, 7491
15 TO 7492, 7501 TO 7509a, AND 7511 TO 7515.

16 (5) THE COMMISSION MAY ISSUE A PERMIT TO INSTALL, A GENERAL
17 PERMIT, OR A PERMIT TO OPERATE AUTHORIZED UNDER RULES PROMULGATED
18 UNDER SUBSECTION (6) IF APPLICABLE, THAT AUTHORIZES INSTALLATION,
19 OPERATION, OR TRIAL OPERATION, AS APPLICABLE, OF A SOURCE, PRO-
20 CESS, OR PROCESS EQUIPMENT AT NUMEROUS TEMPORARY LOCATIONS. SUCH
21 A PERMIT SHALL INCLUDE TERMS AND CONDITIONS NECESSARY TO ASSURE
22 COMPLIANCE WITH ALL APPLICABLE AMBIENT AIR STANDARDS, INCREMENT
23 AND VISIBILITY REQUIREMENTS PURSUANT TO PART C OF TITLE I OF THE
24 CLEAN AIR ACT, CHAPTER 360, 91 STAT. 731, 42 U.S.C. 7470 TO 7479
25 AND 7491 TO 7492, AT EACH LOCATION, AND SHALL REQUIRE THE OWNER
26 OR OPERATOR OF THE PROCESS, SOURCE, OR PROCESS EQUIPMENT TO
27 NOTIFY THE COMMISSION IN ADVANCE OF EACH CHANGE IN LOCATION.

1 (6) THE COMMISSION MAY PROMULGATE RULES TO ESTABLISH A
2 PROGRAM THAT AUTHORIZES ISSUANCE OF NONRENEWABLE PERMITS TO OPER-
3 ATE FOR SOURCES, PROCESSES, OR PROCESS EQUIPMENT THAT ARE NOT
4 SUBJECT TO THE REQUIREMENT TO OBTAIN A RENEWABLE OPERATING PERMIT
5 PURSUANT TO SECTION 5C.

6 (7) THE FAILURE OF THE COMMISSION TO ACT ON AN ADMINISTRA-
7 TIVELY AND TECHNICALLY COMPLETE APPLICATION FOR A PERMIT TO
8 INSTALL, A GENERAL PERMIT, OR A PERMIT TO OPERATE AUTHORIZED
9 UNDER RULES PROMULGATED UNDER SUBSECTION (6) IN ACCORDANCE WITH A
10 TIME REQUIREMENT ESTABLISHED PURSUANT TO THIS ACT, RULES PROMUL-
11 GATED PURSUANT TO THIS ACT, OR THE CLEAN AIR ACT MAY BE TREATED
12 AS A FINAL PERMIT ACTION SOLELY FOR THE PURPOSES OF OBTAINING
13 JUDICIAL REVIEW IN A COURT OF COMPETENT JURISDICTION TO REQUIRE
14 THAT ACTION BE TAKEN BY THE COMMISSION ON THE APPLICATION WITHOUT
15 ADDITIONAL DELAY.

16 (8) ANY PERSON MAY APPEAL THE ISSUANCE OR DENIAL BY THE COM-
17 MISSION OF A PERMIT TO INSTALL, A GENERAL PERMIT, OR A PERMIT TO
18 OPERATE AUTHORIZED IN RULES PROMULGATED UNDER SUBSECTION (6) FOR
19 A NEW SOURCE IN ACCORDANCE WITH SECTION 631 OF THE REVISED JUDI-
20 CATURE ACT OF 1961, ACT NO. 256 OF THE PUBLIC ACTS OF 1961, BEING
21 SECTION 600.631 OF THE MICHIGAN COMPILED LAWS. PETITIONS FOR
22 REVIEW SHALL BE FILED WITHIN 90 DAYS AFTER THE FINAL PERMIT
23 ACTION APPEALED, EXCEPT THAT A PETITION MAY BE FILED AFTER THAT
24 DEADLINE ONLY IF THE PETITION IS BASED SOLELY ON GROUNDS ARISING
25 AFTER THE DEADLINE FOR JUDICIAL REVIEW. SUCH A PETITION SHALL BE
26 FILED NO LATER THAN 90 DAYS AFTER THE NEW GROUNDS FOR REVIEW
27 ARISE.

1 SEC. 5C. (1) AFTER THE DATE, ESTABLISHED PURSUANT TO
2 SUBSECTIONS (3) AND (4)(I), IF AN APPLICATION FOR AN OPERATING
3 PERMIT IS REQUIRED TO BE SUBMITTED, A PERSON SHALL NOT OPERATE A
4 SOURCE THAT IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION EXCEPT
5 IN COMPLIANCE WITH AN OPERATING PERMIT ISSUED BY THE COMMISSION.
6 A PERMIT ISSUED UNDER THIS SECTION DOES NOT CONVEY A PROPERTY
7 RIGHT OR ANY EXCLUSIVE PRIVILEGE.

8 (2) IF A PERSON WHO OWNS OR OPERATES A SOURCE HAS SUBMITTED
9 A TIMELY AND ADMINISTRATIVELY COMPLETE APPLICATION FOR AN OPERAT-
10 ING PERMIT, INCLUDING AN APPLICATION FOR RENEWAL OF AN OPERATING
11 PERMIT, BUT FINAL ACTION HAS NOT BEEN TAKEN ON THE APPLICATION,
12 THE SOURCE'S FAILURE TO HAVE AN OPERATING PERMIT IS NOT A VIOLA-
13 TION OF SUBSECTION (1) UNLESS THE DELAY IN FINAL ACTION IS DUE TO
14 THE FAILURE OF THE PERSON OWNING OR OPERATING THE SOURCE TO
15 SUBMIT INFORMATION REQUIRED OR REQUESTED TO PROCESS THE
16 APPLICATION. A SOURCE REQUIRED TO HAVE A PERMIT UNDER THIS SEC-
17 TION IS NOT IN VIOLATION OF SUBSECTION (1) BEFORE THE DATE ON
18 WHICH THE SOURCE IS REQUIRED TO SUBMIT AN APPLICATION PURSUANT TO
19 SUBSECTIONS (3) AND (4)(I). EXCEPT AS OTHERWISE PROVIDED IN
20 SUBSECTION (5), EXPIRATION OF AN OPERATING PERMIT TERMINATES A
21 PERSON'S RIGHT TO OPERATE A SOURCE. THIS SUBSECTION DOES NOT
22 WAIVE AN APPLICABLE REQUIREMENT TO OBTAIN A PERMIT UNDER
23 SECTION 5B.

24 (3) A PERSON WHO OWNS OR OPERATES A SOURCE REQUIRED TO HAVE
25 AN OPERATING PERMIT PURSUANT TO THIS SECTION SHALL SUBMIT TO THE
26 COMMISSION WITHIN 12 MONTHS AFTER THE DATE ON WHICH THE SOURCE
27 BECOMES SUBJECT TO THE REQUIREMENT TO OBTAIN A PERMIT UNDER

1 SUBSECTION (1), OR ON AN EARLIER DATE SPECIFIED BY RULE, A
2 COMPLIANCE PLAN AND AN ADMINISTRATIVELY COMPLETE APPLICATION FOR
3 AN OPERATING PERMIT SIGNED BY A RESPONSIBLE OFFICIAL, WHO SHALL
4 CERTIFY THE ACCURACY OF THE INFORMATION SUBMITTED. THE COMMIS-
5 SION SHALL APPROVE OR DISAPPROVE A TIMELY AND ADMINISTRATIVELY
6 COMPLETE APPLICATION, AND SHALL ISSUE OR DENY THE OPERATING
7 PERMIT WITHIN 18 MONTHS AFTER THE DATE OF RECEIPT OF THE COMPLI-
8 ANCE PLAN AND AN ADMINISTRATIVELY COMPLETE OPERATING APPLICATION,
9 EXCEPT THAT THE COMMISSION SHALL ESTABLISH A PHASED SCHEDULE FOR
10 ACTING ON THE TIMELY AND ADMINISTRATIVELY COMPLETE OPERATING
11 PERMIT APPLICATIONS SUBMITTED WITHIN THE FIRST FULL YEAR AFTER
12 THE OPERATING PERMIT PROGRAM BECOMES EFFECTIVE. THE SCHEDULE
13 SHALL ASSURE THAT AT LEAST 1/3 OF THE APPLICATIONS WILL BE ACTED
14 ON BY THE COMMISSION ANNUALLY OVER A PERIOD NOT TO EXCEED 3 YEARS
15 AFTER THE OPERATING PERMIT PROGRAM BECOMES EFFECTIVE.

16 (4) THE COMMISSION SHALL PROMULGATE RULES TO ESTABLISH AN
17 OPERATING PERMIT PROGRAM TO BE ADMINISTERED BY THE COMMISSION OR,
18 TO THE EXTENT DELEGATED BY THE COMMISSION, BY THE DEPARTMENT.
19 THIS PERMIT PROGRAM SHALL INCLUDE ALL OF THE FOLLOWING AND AT A
20 MINIMUM, SHALL BE CONSISTENT WITH THE REQUIREMENTS OF TITLE V:

21 (A) PROVISIONS DEFINING THE CATEGORIES OF SOURCES THAT ARE
22 SUBJECT TO THE OPERATING PERMIT REQUIREMENTS OF THIS SECTION.
23 OPERATING PERMITS ARE NOT REQUIRED FOR ANY SOURCE CATEGORY THAT
24 IS NOT REQUIRED TO OBTAIN AN OPERATING PERMIT UNDER
25 SECTION 502(A) OF THE CLEAN AIR ACT, TITLE V OF CHAPTER 360, 104
26 STAT. 2643, 42 U.S.C. 7661d.

1 (B) REQUIREMENTS FOR OPERATING PERMIT APPLICATIONS,
2 INCLUDING STANDARD APPLICATION FORMS, THE MINIMUM INFORMATION
3 THAT MUST BE SUBMITTED WITH AN ADMINISTRATIVELY COMPLETE APPLICA-
4 TION, AND CRITERIA FOR DETERMINING IN A TIMELY FASHION THE ADMIN-
5 ISTRATIVE COMPLETENESS OF AN APPLICATION.

6 (C) A REQUIREMENT THAT EACH OPERATING PERMIT APPLICATION
7 INCLUDE A COMPLIANCE PLAN DESCRIBING HOW THE SOURCE WILL COMPLY
8 WITH ALL APPLICABLE REQUIREMENTS OF THIS ACT, RULES PROMULGATED
9 UNDER THIS ACT, AND THE CLEAN AIR ACT.

10 (D) PROVISIONS FOR INSPECTION, ENTRY, MONITORING, RECORD-
11 KEEPING, AND REPORTING APPLICABLE TO EACH OPERATING PERMIT ISSUED
12 UNDER THIS SECTION.

13 (E) REQUIREMENTS AND PROVISIONS FOR EXPEDITIOUSLY DETERMIN-
14 ING WHEN APPLICATIONS ARE TECHNICALLY COMPLETE, FOR PROCESSING
15 APPLICATIONS, FOR PUBLIC NOTICE, INCLUDING OFFERING AN OPPORTU-
16 NITY FOR PUBLIC COMMENT AND A PUBLIC HEARING, AND FOR EXPEDITIOUS
17 REVIEW OF OPERATING PERMIT ACTIONS.

18 (F) PROVISIONS FOR NOTIFYING THE ADMINISTRATOR OF THE UNITED
19 STATES ENVIRONMENTAL PROTECTION AGENCY AND CONTIGUOUS STATES OF
20 EACH OPERATING PERMIT APPLICATION AND PROPOSED PERMIT, INCLUDING
21 EACH PERMIT MODIFICATION OR RENEWAL PURSUANT TO THE REQUIREMENTS
22 OF SECTION 505(a) AND (d) OF THE CLEAN AIR ACT, TITLE V OF
23 CHAPTER 360, 104 STAT. 2643, 42 U.S.C. 7661d.

24 (G) PROVISIONS FOR ISSUANCE OF OPERATING PERMITS AND IN
25 ACCORDANCE WITH THIS ACT AND RULES PROMULGATED UNDER THIS ACT FOR
26 DENIAL, TERMINATION, MODIFICATION, REVOCATION, RENEWAL, AND
27 REVISION OF OPERATING PERMITS FOR CAUSE.

1 (H) PROVISIONS TO ALLOW FOR CHANGES WITHIN A PERMITTED
2 SOURCE WITHOUT A REVISION TO THE OPERATING PERMIT, IF THE CHANGES
3 ARE NOT MODIFICATIONS UNDER ANY PROVISION OF TITLE I OF THE CLEAN
4 AIR ACT, CHAPTER 360, 77 STAT. 392, 42 STAT. 7401 TO 7431, 7470
5 TO 7479, 7491 TO 7492, 7501 TO 7509A, AND 7511 TO 7515, AND THE
6 CHANGES DO NOT EXCEED THE EMISSIONS ALLOWED UNDER THE OPERATING
7 PERMIT, IF THE OWNER OR OPERATOR OF THE SOURCE PROVIDES THE COM-
8 MISSION AND THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL
9 PROTECTION AGENCY WITH WRITTEN NOTIFICATION AT LEAST 7 DAYS IN
10 ADVANCE OF THE PROPOSED CHANGES, EXCEPT THAT THE COMMISSION MAY
11 PROVIDE A DIFFERENT TIME FRAME FOR AN EMERGENCY AS DEFINED IN
12 SECTION 16G.

13 (I) A SCHEDULE OF THE DATES WHEN SUBMITTAL OF AN APPLICATION
14 FOR AN OPERATING PERMIT IS REQUIRED FOR THE SOURCE CATEGORIES
15 SUBJECT TO THIS SECTION AND A PHASED SCHEDULE FOR TAKING FINAL
16 ACTION ON THOSE APPLICATIONS.

17 (5) EACH OPERATING PERMIT ISSUED UNDER THIS SECTION SHALL BE
18 FOR A FIXED TERM NOT TO EXCEED 5 YEARS. A PERMIT APPLICANT SHALL
19 SUBMIT A TIMELY APPLICATION FOR RENEWAL OF AN OPERATING PERMIT AT
20 LEAST 6 MONTHS PRIOR TO THE EXPIRATION OF THE TERM OF THE EXIST-
21 ING OPERATING PERMIT. IF A TIMELY AND ADMINISTRATIVELY COMPLETE
22 APPLICATION IS SUBMITTED, BUT THE COMMISSION HAS NOT APPROVED OR
23 DENIED THE RENEWAL PERMIT BEFORE THE EXPIRATION OF THE TERM OF
24 THE EXISTING PERMIT, THE EXISTING PERMIT SHALL NOT EXPIRE UNTIL
25 THE RENEWAL PERMIT IS APPROVED OR DENIED.

26 (6) EACH OPERATING PERMIT ISSUED PURSUANT TO THIS SECTION
27 SHALL INCLUDE THOSE ENFORCEABLE EMISSIONS LIMITATIONS AND

1 STANDARDS APPLICABLE TO THE SOURCE, IF ANY, AND OTHER CONDITIONS
2 NECESSARY TO ASSURE COMPLIANCE WITH THE APPLICABLE REQUIREMENTS
3 OF THIS ACT, RULES PROMULGATED UNDER THIS ACT, AND THE CLEAN AIR
4 ACT, A SCHEDULE OF COMPLIANCE, AND A REQUIREMENT THAT THE OWNER
5 OR OPERATOR OF A SOURCE SUBMIT TO THE COMMISSION, AT LEAST EVERY
6 6 MONTHS, A REPORT SUMMARIZING THE RESULTS OF ANY REQUIRED
7 MONITORING. EACH OPERATING PERMIT ISSUED PURSUANT TO THIS SEC-
8 TION SHALL ALSO INCLUDE A SEVERABILITY CLAUSE TO ENSURE THE CON-
9 TINUED VALIDITY OF THE UNCHALLENGED TERMS AND CONDITIONS OF THE
10 OPERATING PERMIT IF ANY PORTION OF A PERMIT IS CHALLENGED.

11 (7) THE COMMISSION SHALL REQUIRE REVISION OF AN OPERATING
12 PERMIT PRIOR TO THE EXPIRATION OF THE PERMIT, FOR ANY OF THE FOL-
13 LOWING REASONS OR TO DO ANY OF THE FOLLOWING:

14 (A) INCORPORATE NEW APPLICABLE EMISSION LIMITATIONS, STAN-
15 DARDS, OR RULES PROMULGATED UNDER THIS ACT OR REGULATIONS PROMUL-
16 GATED UNDER THE CLEAN AIR ACT, AFTER THE ISSUANCE OF THE PERMIT,
17 IF 3 OR MORE YEARS REMAIN IN THE TERM OF THE PERMIT. SUCH REVI-
18 SIONS SHALL OCCUR AS EXPEDITIOUSLY AS PRACTICABLE, BUT NOT LATER
19 THAN 18 MONTHS AFTER THE PROMULGATION OF THE EMISSION LIMITATION,
20 STANDARD, OR RULE, AND SHALL BE CONSISTENT WITH THE PROVISIONS
21 ESTABLISHED UNDER SUBSECTION (4)(G). REVISION IS NOT REQUIRED IF
22 THE EFFECTIVE DATE OF THE EMISSION LIMITATION, STANDARD, OR RULE
23 IS AFTER THE EXPIRATION DATE OF THE PERMIT.

24 (B) INCORPORATE NEW APPLICABLE STANDARDS AND REQUIREMENTS
25 PROMULGATED UNDER THE FEDERAL ACID RAIN PROGRAM INTO THE OPERAT-
26 ING PERMITS OF SOURCES AFFECTED BY THAT PROGRAM.

1 (C) IF THE COMMISSION DETERMINES THAT THE PERMIT CONTAINS A
2 MATERIAL MISTAKE; THAT INFORMATION REQUIRED BY THIS ACT, RULES
3 PROMULGATED UNDER THIS ACT, OR THE CLEAN AIR ACT WAS OMITTED; OR
4 THAT AN INACCURATE STATEMENT WAS MADE IN ESTABLISHING THE EMIS-
5 SIONS LIMITATIONS, STANDARDS, OR CONDITIONS OF THE PERMIT.

6 (D) IF THE COMMISSION DETERMINES THAT THE PERMIT MUST BE
7 REVISED TO ASSURE COMPLIANCE WITH THE APPLICABLE REQUIREMENTS OF
8 THIS ACT, RULES PROMULGATED UNDER THIS ACT, OR THE CLEAN AIR
9 ACT.

10 (8) AT THE REQUEST OF THE PERMIT HOLDER, A PERMIT REVISION
11 UNDER SUBSECTION (7) MAY BE TREATED AS A PERMIT RENEWAL IF IT
12 COMPLIES WITH THE APPLICABLE REQUIREMENTS OF THIS ACT, RULES
13 PROMULGATED UNDER THIS ACT, AND THE CLEAN AIR ACT FOR PERMIT
14 RENEWALS.

15 (9) A PERSON WHO OWNS OR OPERATES A SOURCE SUBJECT TO AN
16 OPERATING PERMIT ISSUED PURSUANT TO THIS SECTION SHALL PROMPTLY
17 REPORT TO THE COMMISSION ANY DEVIATIONS FROM THE EMISSIONS LIM-
18 TATIONS, STANDARDS, OR CONDITIONS OF THE PERMIT AND SHALL ANNU-
19 ALLY CERTIFY TO THE COMMISSION THAT THE SOURCE HAS BEEN AND IS IN
20 COMPLIANCE WITH ALL EMISSIONS LIMITATIONS, STANDARDS, AND CONDI-
21 TIONS OF THE PERMIT, EXCEPT FOR THOSE DEVIATIONS REPORTED TO THE
22 COMMISSION, DURING THE REPORTING PERIOD. A RESPONSIBLE OFFICIAL
23 SHALL SIGN ALL REPORTS SUBMITTED PURSUANT TO THIS SUBSECTION.

24 (10) THE COMMISSION SHALL NOT APPROVE OR OTHERWISE ISSUE ANY
25 OPERATING PERMIT, FOR A SOURCE REQUIRED TO OBTAIN AN OPERATING
26 PERMIT PURSUANT TO SECTION 502 OF TITLE V OF THE CLEAN AIR ACT,
27 CHAPTER 360, 104 STAT. 2641, 42 U.S.C. 7661A, IF THE

1 ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION
2 AGENCY OBJECTS TO ISSUANCE OF THE PERMIT, IN A TIMELY MANNER,
3 PURSUANT TO SECTION 505(b) OF TITLE V OF THE CLEAN AIR ACT, CHAP-
4 TER 360, 104 STAT. 2643, 42 U.S.C. 7661d.

5 (11) COMPLIANCE WITH AN OPERATING PERMIT ISSUED IN ACCORD-
6 ANCE WITH THIS SECTION IS COMPLIANCE WITH SUBSECTION (1). IN
7 ADDITION, COMPLIANCE WITH THE OPERATING PERMIT IS COMPLIANCE WITH
8 OTHER APPLICABLE REQUIREMENTS OF THIS ACT, RULES PROMULGATED
9 UNDER THIS ACT, AND THE CLEAN AIR ACT, IF EITHER OF THE FOLLOWING
10 REQUIREMENTS ARE MET:

11 (A) THE PERMIT SPECIFICALLY INCLUDES THE APPLICABLE
12 REQUIREMENT.

13 (B) THE PERMIT INCLUDES A DETERMINATION THAT SUCH OTHER
14 REQUIREMENTS WHICH ARE SPECIFICALLY REFERRED TO IN THE DETERMINA-
15 TION ARE NOT APPLICABLE.

16 (12) AN APPLICATION FOR AN OPERATING PERMIT MAY INCLUDE A
17 REQUEST THAT THE PERMIT INCLUDE REFERENCE TO SPECIFIC REQUIRE-
18 MENTS OF THIS ACT, RULES PROMULGATED UNDER THIS ACT, OR THE CLEAN
19 AIR ACT, WHICH THE PERSON OWNING OR OPERATING THE SOURCE BELIEVES
20 ARE NOT APPLICABLE TO THE SOURCE. THE OPERATING PERMIT SHALL
21 INCLUDE A DETERMINATION OF APPLICABILITY FOR THE REQUIREMENTS
22 INCLUDED IN THE REQUEST.

23 (13) SUBSECTION (11) DOES NOT APPLY TO A CHANGE AT A SOURCE
24 MADE PURSUANT TO SUBSECTION (4)(H).

25 (14) A PERSON WHO OWNS OR OPERATES A SOURCE SUBJECT TO THE
26 REQUIREMENT OF THIS ACT TO OBTAIN AN OPERATING PERMIT OR A PERMIT
27 TO OPERATE AUTHORIZED UNDER RULES PROMULGATED UNDER SECTION 5B(6)

1 MAY FILE A PETITION WITH THE DEPARTMENT FOR REVIEW OF THE DENIAL
2 OF HIS OR HER APPLICATION FOR SUCH A PERMIT, THE REVISION OF ANY
3 EMISSIONS LIMITATION, STANDARD, OR CONDITION, OR A PROPOSED REVO-
4 CATION OF HIS OR HER PERMIT. THIS REVIEW SHALL BE CONDUCTED PUR-
5 SUANT TO THE CONTESTED CASE AND JUDICIAL REVIEW PROCEDURES OF
6 CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT
7 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.271 TO
8 24.286 OF THE MICHIGAN COMPILED LAWS. ANY OTHER APPEAL OF A
9 FINAL ACTION BY THE COMMISSION ON A PERMIT DESCRIBED IN THIS SUB-
10 SECTION SHALL BE IN ACCORDANCE WITH SECTION 631 OF THE REVISED
11 JUDICATURE ACT OF 1961, ACT NO. 256 OF THE PUBLIC ACTS OF 1961,
12 BEING SECTION 600.631 OF THE MICHIGAN COMPILED LAWS. A PETITION
13 FOR JUDICIAL REVIEW SHALL BE FILED WITHIN 90 DAYS AFTER THE FINAL
14 PERMIT ACTION APPEALED, EXCEPT THAT SUCH A PETITION MAY BE FILED
15 AFTER THAT DEADLINE ONLY IF IT IS BASED SOLELY ON GROUNDS ARISING
16 AFTER THE DEADLINE FOR JUDICIAL REVIEW. SUCH A PETITION SHALL BE
17 FILED WITHIN 90 DAYS AFTER THE NEW GROUNDS FOR REVIEW ARISE.

18 (15) THE FAILURE OF THE COMMISSION TO ACT ON A TECHNICALLY
19 AND ADMINISTRATIVELY COMPLETE APPLICATION OR RENEWAL APPLICATION
20 FOR AN OPERATING PERMIT IN ACCORDANCE WITH A TIME REQUIREMENT
21 ESTABLISHED PURSUANT TO SUBSECTIONS (3) AND (4)(I) IS FINAL
22 PERMIT ACTION SOLELY FOR THE PURPOSES OF OBTAINING JUDICIAL
23 REVIEW IN A COURT OF COMPETENT JURISDICTION TO REQUIRE THAT
24 ACTION BE TAKEN BY THE COMMISSION WITHOUT ADDITIONAL DELAY ON THE
25 APPLICATION OR RENEWAL APPLICATION.

26 (16) THE COMMISSION MAY, AFTER NOTICE AND OPPORTUNITY FOR
27 PUBLIC HEARING, PURSUANT TO THE REQUIREMENTS OF SUBSECTION

1 (4)(E), ISSUE A GENERAL PERMIT COVERING NUMEROUS SIMILAR SOURCES,
2 PROCESSES, OR PROCESS EQUIPMENT, OR A PERMIT COVERING OPERATION
3 OF A SOURCE AT NUMEROUS TEMPORARY LOCATIONS. A GENERAL PERMIT
4 SHALL COMPLY WITH ALL REQUIREMENTS APPLICABLE TO OPERATING PER-
5 MITS PURSUANT TO THIS SECTION. A SOURCE COVERED BY A GENERAL
6 PERMIT IS NOT RELIEVED FROM THE OBLIGATION TO FILE AN APPLICATION
7 FOR A PERMIT PURSUANT TO SUBSECTIONS (3) AND (5). A PERMIT THAT
8 AUTHORIZES OPERATION OF A SOURCE AT NUMEROUS TEMPORARY LOCATIONS
9 SHALL INCLUDE TERMS AND CONDITIONS NECESSARY TO ASSURE COMPLIANCE
10 WITH ALL APPLICABLE AMBIENT AIR STANDARDS, INCREMENT AND VISIBIL-
11 ITY REQUIREMENTS PURSUANT TO PART C OF TITLE I OF THE CLEAN AIR
12 ACT, CHAPTER 360, 91 STAT. 731, 42 U.S.C. 7470 TO 7479 AND 7491
13 TO 7492, AT EACH AUTHORIZED LOCATION AND SHALL REQUIRE THE OWNER
14 OR OPERATOR OF THE SOURCE TO NOTIFY THE COMMISSION IN ADVANCE OF
15 EACH CHANGE IN LOCATION.

16 (17) THE COMMISSION SHALL PROMULGATE RULES CONSISTENT WITH
17 THE CLEAN AIR ACT TO ESTABLISH STANDARDS OF PERFORMANCE, EMISSION
18 STANDARDS, OPERATION AND MAINTENANCE REQUIREMENTS, AND REQUIRE-
19 MENTS FOR MONITORING, RECORDKEEPING, AND REPORTING WHICH APPLY
20 DURING START-UP, SHUTDOWN, AND MALFUNCTION OF A SOURCE, PROCESS,
21 OR PROCESS EQUIPMENT.

22 SEC. 5D. (1) IN ACCORDANCE WITH THIS ACT AND RULES PROMUL-
23 GATED UNDER THIS ACT, THE COMMISSION MAY DENY OR REVOKE A PERMIT
24 ISSUED UNDER THIS ACT IF ANY OF THE FOLLOWING CIRCUMSTANCES
25 EXIST:

26 (A) INSTALLATION, MODIFICATION, OR OPERATION OF THE SOURCE
27 WILL VIOLATE THIS ACT, RULES PROMULGATED UNDER THIS ACT, OR THE

1 CLEAN AIR ACT, UNLESS THE SOURCE IS IN COMPLIANCE WITH A LEGALLY
2 ENFORCEABLE COMPLIANCE PLAN OR SCHEDULE OF COMPLIANCE.

3 (B) INSTALLATION, CONSTRUCTION, RECONSTRUCTION, RELOCATION,
4 ALTERATION, OR OPERATION OF THE SOURCE PRESENTS OR MAY PRESENT AN
5 IMMINENT AND SUBSTANTIAL ENDANGERMENT TO HUMAN HEALTH, SAFETY, OR
6 WELFARE, OR THE ENVIRONMENT.

7 (C) THE PERSON APPLYING FOR THE PERMIT MAKES A FALSE REPRESENTATION OR PROVIDES FALSE INFORMATION DURING THE PERMIT REVIEW
8 PROCESS.

10 (D) THE SOURCE HAS NOT BEEN INSTALLED, CONSTRUCTED, RECON-
11 STRUCTED, RELOCATED, ALTERED, OR OPERATED IN A MANNER CONSISTENT
12 WITH THE APPLICATION FOR A PERMIT OR AS SPECIFIED IN A PERMIT.

13 (E) THE PERSON OWNING OR OPERATING THE SOURCE FAILS TO PAY
14 AN AIR QUALITY FEE ASSESSED UNDER THIS ACT.

15 (F) THE PERSON PROPOSES A MAJOR OFFSET SOURCE OR THE OWNER
16 OR OPERATOR OF A PROPOSED MAJOR OFFSET MODIFICATION THAT OWNS OR
17 OPERATES ANOTHER SOURCE IN THE STATE WHICH HAS THE POTENTIAL TO
18 EMIT 100 TONS OR MORE PER YEAR OF ANY AIR CONTAMINANT REGULATED
19 UNDER THE CLEAN AIR ACT AND THAT SOURCE IS IN VIOLATION OF THIS
20 ACT, RULES PROMULGATED UNDER THIS ACT, THE CLEAN AIR ACT, OR
21 PERMIT OR ORDER ISSUED UNDER THIS ACT, UNLESS THE SOURCE IS IN
22 COMPLIANCE WITH A LEGALLY ENFORCEABLE COMPLIANCE PLAN OR SCHEDULE
23 OF COMPLIANCE.

24 Sec. 7. (1) A rule or amendment or repeal ~~thereof shall~~
25 ~~require~~ OF A RULE REQUIRES a vote of approval in writing of not
26 less than 6 members of the commission.

1 (2) The commission shall promulgate rules ~~in accordance~~
2 ~~with and subject to Act No. 306 of the Public Acts of 1969, as~~
3 ~~amended, being sections 24.201 to 24.315 of the Compiled Laws of~~
4 ~~1948~~ for purposes of:

5 (a) Controlling or prohibiting air pollution.

6 (b) Complying with the ~~federal~~ clean air act. ~~, being 42~~
7 ~~U.S.C., section 1857 et sequence, as amended.~~

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

10 (d) Reviewing proposed locations of stationary emission
11 sources.

12 (e) Reviewing modifications of existing emission sources.

13 (f) Prohibiting locations or modifications of emission
14 sources ~~which~~ THAT impair the state's ability to meet federal
15 ambient air standards.

16 (g) Establishing suitable emission standards consistent with
17 ambient air quality standards established by the federal govern-
18 ment and factors, including, but not limited to, conditions of
19 the terrain, wind velocities and directions, land usage of the
20 region and the anticipated characteristics and quantities of
21 potential air pollution sources. This act does not prohibit the
22 commission from denying or revoking a permit to operate a
23 ~~control facility~~ SOURCE, PROCESS, OR PROCESS EQUIPMENT that
24 would adversely affect human health or other conditions important
25 to the life of the community.

26 (H) IMPLEMENTING SECTION 5B.

1 (3) UNLESS OTHERWISE PROVIDED IN THIS ACT, EACH RULE OR
2 ADMINISTRATIVE ORDER PROMULGATED OR ISSUED UNDER THIS ACT PRIOR
3 TO THE EFFECTIVE DATE OF THIS SECTION, SHALL REMAIN IN EFFECT
4 ACCORDING TO ITS TERMS UNLESS THE RULE OR ORDER IS INCONSISTENT
5 WITH THIS ACT OR IS REVISED, AMENDED, OR REPEALED.

6 Sec. 8. (1) If ~~a written complaint is filed with the com-~~
7 ~~mission and~~ the ~~commission~~ DEPARTMENT believes ~~, or if the~~
8 ~~commission believes~~ that ~~any~~ A person is violating this act,
9 ~~or any~~ A rule promulgated ~~by the commission by causing or per-~~
10 ~~mitting air pollution~~ UNDER THIS ACT, OR ANY DETERMINATION OTHER
11 THAN AN ORDER ISSUED UNDER THIS ACT, OR FAILS TO COMPLY WITH THE
12 TERMS OF A PERMIT ISSUED UNDER THIS ACT, the ~~commission~~
13 DEPARTMENT shall make a prompt investigation. If after ~~such~~
14 THIS investigation ~~it~~ THE DEPARTMENT finds that a violation of
15 ~~any rule of the commission exists, it~~ THIS ACT, A RULE PROMUL-
16 GATED UNDER THIS ACT, OR A DETERMINATION OTHER THAN AN ORDER
17 ISSUED UNDER THIS ACT, OR THAT A PERSON HAS FAILED TO COMPLY WITH
18 THE TERMS OF A PERMIT ISSUED UNDER THIS ACT, THE DEPARTMENT shall
19 ~~endeavor~~ ATTEMPT to enter into a voluntary agreement with
20 ~~such~~ THE person. ~~as provided in subsection (2).~~

21 (2) ~~In consideration of the provisions of this section or~~
22 ~~other sections of this act the commission, after due notice and~~
23 ~~opportunity for public hearing, may enter into a voluntary agree-~~
24 ~~ment or a performance contract with a person to abate pollution~~
25 ~~under conditions agreed upon by the commission and the person,~~
26 ~~which agreement may provide for the enforcement of its terms by~~
27 ~~specific performance.~~ IF THE DEPARTMENT BELIEVES THAT A PERSON

1 IS VIOLATING AN ORDER ISSUED UNDER THIS ACT, THE DEPARTMENT SHALL
2 MAKE A PROMPT INVESTIGATION. IF AFTER THIS INVESTIGATION THE
3 DEPARTMENT FINDS THAT A PERSON HAS FAILED TO COMPLY WITH THE
4 TERMS OF AN ORDER ISSUED UNDER THIS ACT, THE DEPARTMENT MAY
5 ATTEMPT TO ENTER INTO A VOLUNTARY AGREEMENT WITH THE PERSON.

6 (3) ~~If in the opinion of the commission the person violates~~
7 ~~the terms of the agreement or contract the commission can proceed~~
8 ~~to enforce the conditions of the agreement or contract by order~~
9 ~~or by the institution in a court of competent jurisdiction of an~~
10 ~~action for specific performance or such other legal or equitable~~
11 ~~relief as the commission deems appropriate.~~ IF A VOLUNTARY
12 AGREEMENT IS NOT ENTERED INTO UNDER SUBSECTION (1), THE COMMIS-
13 SION MAY ISSUE AN ORDER REQUIRING A PERSON TO COMPLY WITH THIS
14 ACT, A RULE PROMULGATED UNDER THIS ACT, A DETERMINATION MADE
15 UNDER THIS ACT, OR A PERMIT ISSUED UNDER THIS ACT. IF THE COM-
16 MISSION ISSUES AN ORDER IT SHALL BE ACCOMPANIED BY A STATEMENT OF
17 THE FACTS UPON WHICH THE ORDER IS BASED.

18 (4) ~~Whenever a person other than a party to the agreement~~
19 ~~feels himself aggrieved by an agreement entered pursuant to sub-~~
20 ~~section (2), he may file a sworn petition with the commission~~
21 ~~within 30 days of the issuance of notice of the agreement setting~~
22 ~~forth the grounds and reasons for his complaint and asking for a~~
23 ~~hearing of the matter involved. Thereupon the commission shall~~
24 ~~set a date for a hearing to be held not more than 60 days from~~
25 ~~the date the petition is filed and shall notify the petitioner~~
26 ~~thereof. At the hearing the petitioner and any other interested~~
27 ~~party may appear, present witnesses and submit evidence. A~~

1 PERSON AGGRIEVED BY AN ORDER ISSUED UNDER SUBSECTION (3) MAY
2 DEMAND A CONTESTED CASE HEARING PURSUANT TO THE ADMINISTRATIVE
3 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,
4 BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS. A
5 final order or determination of the commission upon the matter
6 following the hearing ~~shall be~~ IS conclusive, unless reviewed
7 in accordance with Act No. 306 of the Public Acts of 1969, as
8 amended, in the circuit court for the county of Ingham or for the
9 county in which the person resides.

10 Sec. 11. (1) ~~Public hearings~~ A PUBLIC HEARING with refer-
11 ence to pollution control may be held before any member of the
12 commission or their designated delegates or representatives.
13 Persons designated to conduct the hearing shall be described as
14 presiding officers and shall be disinterested and technically
15 qualified persons.

16 (2) A COPY OF EACH PERMIT, PERMIT APPLICATION, ORDER, COM-
17 PLIANCE PLAN AND SCHEDULE OF COMPLIANCE, EMISSIONS OR COMPLIANCE
18 MONITORING REPORT, SAMPLE ANALYSIS, COMPLIANCE CERTIFICATION, OR
19 OTHER REPORT OR INFORMATION REQUIRED UNDER THIS ACT, RULES
20 PROMULGATED UNDER THIS ACT, OR PERMITS OR ORDERS ISSUED UNDER
21 THIS ACT SHALL BE AVAILABLE TO THE PUBLIC TO THE EXTENT PROVIDED
22 BY THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS
23 OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED
24 LAWS. A PERSON PROVIDING INFORMATION PURSUANT TO THIS SECTION
25 MAY DESIGNATE THE INFORMATION THAT THE PERSON BELIEVES TO BE
26 ENTITLED TO PROTECTION AS IF THE INFORMATION WAS EXEMPT FROM
27 DISCLOSURE AS BEING EITHER TRADE SECRETS OR INFORMATION OF A

1 PERSONAL NATURE UNDER SECTION 13(1)(A) OR (G) OF THE FREEDOM OF
2 INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF 1976, BEING
3 SECTION 15.243 OF THE MICHIGAN COMPILED LAWS, AND SUBMIT THAT
4 SPECIFICALLY DESIGNATED INFORMATION SEPARATELY FROM OTHER INFOR-
5 MATION REQUIRED TO BE PROVIDED UNDER THIS SECTION. THIS DOES NOT
6 PREVENT THE USE OF THE INFORMATION BY THE COMMISSION IN COMPILING
7 OR PUBLISHING ANALYSES OR SUMMARIES RELATING TO AMBIENT AIR QUAL-
8 ITY IF THE ANALYSES OR SUMMARIES DO NOT IDENTIFY THE PERSON OR
9 REVEAL INFORMATION WHICH IS OTHERWISE CONFIDENTIAL UNDER THIS
10 SECTION. NOTHING IN THIS SECTION RENDERS DATA ON THE QUANTITY,
11 COMPOSITION, OR QUALITY OF EMISSIONS FROM ANY SOURCE
12 CONFIDENTIAL. DATA ON THE AMOUNT AND NATURE OF AIR CONTAMINANTS
13 EMITTED FROM A SOURCE SHALL BE AVAILABLE TO THE PUBLIC.

14 ~~-(2) If a record, permit application or other information~~
15 ~~which is furnished to or is obtained by the commission concerning~~
16 ~~one or more air contaminant sources is certified by the owner or~~
17 ~~operator, that the record, permit application or information~~
18 ~~which relates to production, sales figures or to processes are~~
19 ~~unique to the owner or operator or would tend to affect adversely~~
20 ~~the competitive position of the owner or operator, or if informa-~~
21 ~~tion relating to secret processes, production or methods of manu-~~
22 ~~facture is obtained in the course of an in plant inspection, then~~
23 ~~the record, permit application or information shall be only for~~
24 ~~the confidential use of the commission in the administration of~~
25 ~~this act, unless the owner or operator expressly agrees to its~~
26 ~~publication or availability to the general public. This shall~~
27 ~~not prevent the use of a record, permit application or~~

~~1 information by the commission in compiling or publishing analyses~~
~~2 or summaries relating to the general condition of the outdoor~~
~~3 atmosphere if the analyses or summaries do not identify an owner~~
~~4 or operator or reveal information which is otherwise confidential~~
~~5 under this section. Nothing in this section renders data on the~~
~~6 quantity or quality of emissions from any source confidential.~~
~~7 The data on amount and nature of emissions from each source shall~~
~~8 be public.~~

9 Sec. 14. (1) ~~When~~ IF the director ~~of public health~~
10 finds that ~~any~~ A person is discharging or causing to be dis-
11 charged into the atmosphere, directly or indirectly, ~~any~~ AN air
12 contaminant and the discharge constitutes an ~~immediate and seri-~~
13 ~~ous danger~~ IMMINENT AND SUBSTANTIAL ENDANGERMENT to the PUBLIC
14 health, safety, ~~and~~ OR welfare, ~~of the people~~ OR TO THE
15 ENVIRONMENT and ~~that~~ it appears to be prejudicial to the inter-
16 ests of the people of the state to delay action, the director
17 shall notify the person by written notice that he OR SHE must
18 IMMEDIATELY discontinue ~~immediately~~ the air pollution OR TAKE
19 SUCH OTHER ACTION AS MAY BE NECESSARY TO CONTAIN THE IMMINENT AND
20 SUBSTANTIAL ENDANGERMENT, OR BOTH. THE WRITTEN NOTICE SHALL
21 SPECIFY THE FACTS THAT ARE THE BASIS OF THE ALLEGATION. Within
22 ~~not more than 15~~ 7 days, the ~~commission~~ DIRECTOR shall pro-
23 vide the person the opportunity to be heard and to present any
24 proof that ~~such~~ THE discharge does not constitute ~~a danger~~ AN
25 IMMINENT AND SUBSTANTIAL ENDANGERMENT to the PUBLIC health,
26 safety, ~~and~~ OR welfare, ~~of the people~~ OR TO THE ENVIRONMENT.

1 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, UPON
2 RECEIPT OF EVIDENCE THAT A PERSON IS DISCHARGING OR CAUSING TO BE
3 DISCHARGED INTO THE ATMOSPHERE, DIRECTLY OR INDIRECTLY, AN AIR
4 CONTAMINANT AND THE DISCHARGE CONSTITUTES AN IMMINENT AND SUB-
5 STANTIAL ENDANGERMENT TO THE PUBLIC HEALTH, SAFETY, OR WELFARE,
6 OR TO THE ENVIRONMENT, AND IT APPEARS TO BE PREJUDICIAL TO THE
7 INTERESTS OF THE PEOPLE OF THE STATE TO DELAY ACTION, THE ATTOR-
8 NEY GENERAL MAY BRING SUIT ON BEHALF OF THE STATE IN THE APPRO-
9 PRIATE CIRCUIT COURT TO IMMEDIATELY DISCONTINUE THE AIR POLLUTION
10 OR TAKE SUCH OTHER ACTION AS MAY BE NECESSARY TO CONTAIN THE
11 IMMINENT AND SUBSTANTIAL ENDANGERMENT, OR BOTH.

12 (3) AN ORDER ISSUED BY THE DIRECTOR UNDER SUBSECTION (1) IS
13 EFFECTIVE UPON ISSUANCE AND SHALL REMAIN IN EFFECT FOR A PERIOD
14 OF NOT MORE THAN 7 DAYS, UNLESS THE ATTORNEY GENERAL BRINGS A
15 CIVIL ACTION TO RESTRAIN THE ALLEGED ENDANGERMENT PURSUANT TO
16 SUBSECTION (2) OR SECTION 16E BEFORE THE EXPIRATION OF THAT
17 PERIOD. IF THE ATTORNEY GENERAL BRINGS SUCH AN ACTION WITHIN THE
18 7-DAY PERIOD, THE ORDER ISSUED BY THE DIRECTOR SHALL REMAIN IN
19 EFFECT FOR AN ADDITIONAL 7 DAYS OR SUCH OTHER PERIOD AS IS AUTHO-
20 RIZED BY THE COURT IN WHICH THE ACTION IS BROUGHT.

21 (4) PRIOR TO TAKING AN ACTION UNDER SUBSECTION (1), THE
22 DIRECTOR SHALL ATTEMPT TO NOTIFY THE EMERGENCY MANAGEMENT COORDI-
23 NATOR FOR THE COUNTY IN WHICH THE SOURCE IS LOCATED WHO IS
24 APPOINTED PURSUANT TO THE EMERGENCY MANAGEMENT ACT, ACT NO. 390
25 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 30.401 TO 30.420 OF
26 THE MICHIGAN COMPILED LAWS.

1 Sec. 14b. (1) By March 15 of ~~each year~~ THE STATE FISCAL
2 YEARS ENDING SEPTEMBER 30, 1993 AND SEPTEMBER 30, 1994, the owner
3 or operator of a major emitting facility shall submit information
4 regarding the facility's emissions to the department pursuant to
5 the emission inventory system established in rules promulgated
6 under this act.

7 (2) If the owner or operator of a major emitting facility
8 has not submitted the information required under subsection (1)
9 by April 15, the department shall use the previous year's emis-
10 sion data for purposes of the emission inventory system and shall
11 assess the owner or operator a penalty. The penalty shall be 5%
12 of what the owner's or operator's bill for that major emitting
13 facility would be under section 14c, using the previous year's
14 emission data, for each month the information is late up to a
15 maximum penalty of 25% of this amount. A penalty assessed under
16 this section shall be collected at the time emission fees are
17 collected under section 14c.

18 (3) Emissions data that the department receives after
19 April 15 of each year shall be entered into the emission inven-
20 tory system when the data are quality assured.

21 Sec. 14d. (1) The emissions control fund is created within
22 the state treasury. The state treasurer may receive money from
23 any source for deposit into the fund. The state treasurer shall
24 direct the investment of the fund. The state treasurer shall
25 credit to the fund interest and earnings from fund investments.

26 (2) Money in the fund at the close of the fiscal year shall
27 remain in the fund and shall not lapse to the general fund.

1 (3) The state treasurer shall establish, within the fund, a
2 clean air act implementation account and a permit review and
3 urban airshed study account.

4 (4) ~~The~~ FOR THE STATE FISCAL YEARS ENDING SEPTEMBER 30,
5 1993 AND SEPTEMBER 30, 1994, THE department shall expend money
6 from the fund, upon appropriation, only for the following
7 purposes:

8 (a) Money in the clean air act implementation account shall
9 be used for 1 or more of the following:

10 (i) Developing and implementing requirements of Public Law
11 101-549, 104 Stat. 2399, commonly referred to as the clean air
12 act amendments of 1990.

13 (ii) Emissions and ambient air monitoring.

14 (iii) Audits and inspections of source-operated monitoring
15 programs.

16 (iv) Preparing generally applicable rules to implement
17 requirements of Public Law 101-549, 104 Stat. 2399, commonly
18 referred to as the clean air act amendments of 1990.

19 (v) Modeling, analyses, or demonstrations.

20 (vi) Preparing inventories and tracking emissions.

21 (b) Money in the permit review and urban airshed study
22 account shall be used for both of the following:

23 (i) Not more than \$545,000.00 to provide grants for local
24 air pollution programs that collect data for the urban airshed
25 model.

26 (ii) To process permit applications pursuant to this act
27 until such time that all permit applications received by the

1 department are being processed in a timely manner. When permit
2 applications under this act are being processed in a timely
3 manner, money in the permit review and urban airshed study
4 account that is not allocated for grants under subparagraph (i)
5 shall be used for the purposes described in subdivision (a),
6 unless the department recommends and the appropriations commit-
7 tees of the senate and house of representatives approve continued
8 use of this money or a portion of this money to process permit
9 applications.

10 (5) BEGINNING OCTOBER 1, 1994 AND THEREAFTER MONEY SHALL BE
11 EXPENDED FROM THE FUND, UPON APPROPRIATION, ONLY FOR THE FOLLOW-
12 ING PURPOSES AS THEY RELATE TO IMPLEMENTING THE OPERATING PERMIT
13 PROGRAM REQUIRED BY TITLE V:

14 (A) PREPARING GENERALLY APPLICABLE REGULATIONS OR GUIDANCE
15 REGARDING THE OPERATING PERMIT PROGRAM OR ITS IMPLEMENTATION OR
16 ENFORCEMENT.

17 (B) REVIEWING AND ACTING ON ANY APPLICATION FOR A PERMIT,
18 PERMIT REVISION, OR PERMIT RENEWAL, THE DEVELOPMENT OF AN APPLI-
19 CABLE REQUIREMENT AS PART OF THE PROCESSING OF A PERMIT, OR
20 PERMIT REVISION OR RENEWAL.

21 (C) GENERAL ADMINISTRATIVE COSTS OF RUNNING THE OPERATING
22 PERMIT PROGRAM, INCLUDING THE SUPPORTING AND TRACKING OF PERMIT
23 APPLICATIONS, COMPLIANCE CERTIFICATION, AND RELATED DATA ENTRY.

24 (D) IMPLEMENTING AND ENFORCING THE TERMS OF ANY OPERATING
25 PERMIT, NOT INCLUDING ANY COURT COSTS OR OTHER COSTS ASSOCIATED
26 WITH AN ENFORCEMENT ACTION.

1 (E) EMISSIONS AND AMBIENT MONITORING.

2 (F) MODELING, ANALYSIS, OR DEMONSTRATION.

3 (G) PREPARING INVENTORIES AND TRACKING EMISSIONS.

4 (H) PROVIDING DIRECT AND INDIRECT SUPPORT TO FACILITIES

5 UNDER THE SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRON-
6 MENTAL COMPLIANCE ASSISTANCE PROGRAM CREATED IN THE SMALL BUSI-
7 NESS CLEAN AIR ASSISTANCE ACT, ACT NO. 12 OF THE PUBLIC ACTS OF
8 1993, BEING SECTIONS 336.121 TO 336.129 OF THE MICHIGAN COMPILED
9 LAWS.

10 SEC. 14E. (1) FOR THE STATE FISCAL YEAR BEGINNING

11 OCTOBER 1, 1994, AND EACH YEAR THEREAFTER, THE OWNER OR OPERATOR
12 OF EACH FEE-SUBJECT FACILITY SHALL PAY AIR QUALITY FEES AS
13 REQUIRED AND CALCULATED UNDER THIS SECTION. THE DEPARTMENT MAY
14 LEVY AND COLLECT AN ANNUAL AIR QUALITY FEE FROM THE OWNER OR
15 OPERATOR OF EACH FACILITY IN THIS STATE WHICH IS A FEE-SUBJECT
16 FACILITY.

17 (2) THE ANNUAL AIR QUALITY FEE SHALL BE CALCULATED FOR EACH
18 FEE-SUBJECT FACILITY, ACCORDING TO THE FOLLOWING PROCEDURE:

19 (A) FOR CATEGORY I FACILITIES, THE ANNUAL AIR QUALITY FEE
20 SHALL BE THE SUM OF A FACILITY CHARGE AND AN EMISSIONS CHARGE AS
21 SPECIFIED IN SUBDIVISION (D). THE FACILITY CHARGE SHALL BE
22 \$2,500.00.

23 (B) FOR CATEGORY II FACILITIES, THE ANNUAL AIR QUALITY FEE
24 SHALL BE THE SUM OF A FACILITY CHARGE AND AN EMISSIONS CHARGE AS
25 SPECIFIED IN SUBDIVISION (D). THE FACILITY CHARGE SHALL BE
26 \$1,000.00.

1 (C) FOR CATEGORY III FACILITIES, THE ANNUAL AIR QUALITY FEE
2 SHALL BE \$200.00.

3 (D) THE EMISSIONS CHARGE FOR CATEGORY I AND CATEGORY II
4 FACILITIES EQUALS THE PRODUCT OF THE ACTUAL TONS OF REGULATED AIR
5 POLLUTANTS EMITTED AND THE EMISSION CHARGE RATE. A POLLUTANT
6 WHICH QUALIFIES AS A REGULATED AIR POLLUTANT UNDER MORE THAN 1
7 CLASS SHALL BE CHARGED ONLY ONCE. THE CHARGE SHALL BE CALCULATED
8 AS FOLLOWS:

9 (i) THE EMISSIONS TONNAGE SHALL BE CALCULATED FOR THE CALEN-
10 DAR YEAR 2 YEARS PRECEDING THE YEAR OF THE BILLING. THE ACTUAL
11 TONS OF REGULATED AIR POLLUTANTS EMITTED SHALL BE THE SUM OF ALL
12 REGULATED AIR POLLUTANTS EXCEPT CARBON MONOXIDE EMITTED AT THE
13 FEE-SUBJECT FACILITY EXCEPT THAT FOR THE PURPOSES OF THE EMIS-
14 SIONS CHARGE CALCULATION THE ACTUAL TONS CHARGED SHALL NOT EXCEED
15 EITHER OF THE FOLLOWING:

16 (A) 4,000 TONS.

17 (B) 1,000 TONS PER POLLUTANT IF THE SUM OF ALL REGULATED AIR
18 POLLUTANTS EXCEPT CARBON MONOXIDE EMITTED AT THE FEE-SUBJECT
19 FACILITY IS LESS THAN 4,000 TONS.

20 (ii) THE EMISSION CHARGE RATE SHALL BE \$25.00 PER TON OF
21 REGULATED AIR POLLUTANT.

22 (3) FOR THE STATE FISCAL YEAR BEGINNING OCTOBER 1, 1995 AND
23 FOR EACH STATE FISCAL YEAR THEREAFTER, THE FEE AMOUNTS IDENTIFIED
24 IN SUBSECTION (2) SHALL BE ADJUSTED BY THE PERCENTAGE INCREASE,
25 IF ANY, IN THE DETROIT CONSUMER PRICE INDEX, FOR URBAN CONSUMERS
26 FOR ALL ITEMS, FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED
27 STATES DEPARTMENT OF LABOR FOR THE IMMEDIATELY PRECEDING YEAR.

(4) AFTER JANUARY 1, BUT BEFORE JANUARY 15 OF EACH YEAR

BEGINNING IN 1995, THE DEPARTMENT SHALL NOTIFY THE OWNER OR OPER-

ATOR OF EACH FEE-SUBJECT FACILITY OF ITS ASSESSED ANNUAL AIR

QUALITY FEE. PAYMENT IS DUE WITHIN 90 CALENDAR DAYS OF THE MAIL-

ING DATE OF THE AIR QUALITY FEE NOTIFICATION. IF AN ASSESSED FEE

IS CHALLENGED AS AUTHORIZED IN SUBSECTION (6), PAYMENT IS DUE

WITHIN 90 CALENDAR DAYS OF THE MAILING DATE OF THE AIR QUALITY

FEE NOTIFICATION OR WITHIN 30 DAYS OF RECEIPT OF A REVISED FEE OR

STATEMENT SUPPORTING THE ORIGINAL FEE, WHICHEVER IS LATER. THE

DEPARTMENT SHALL DEPOSIT ALL FEES COLLECTED UNDER THIS SECTION TO

THE CREDIT OF THE EMISSIONS CONTROL FUND CREATED IN SECTION 14D.

(5) IF THE OWNER OR OPERATOR OF A FEE-SUBJECT FACILITY FAILS

TO SUBMIT THE AMOUNT DUE WITHIN THE TIME PERIOD SPECIFIED IN

SUBSECTION (4), THE DEPARTMENT SHALL ASSESS THE OWNER OR OPERATOR

A PENALTY OF 5% OF THE AMOUNT OF THE UNPAID FEE FOR EACH MONTH

THAT THE PAYMENT IS OVERDUE UP TO A MAXIMUM PENALTY OF 25% OF THE

TOTAL FEE OWED.

(6) IF THE OWNER OR OPERATOR OF A FEE-SUBJECT FACILITY

DESIRES TO CHALLENGE ITS ASSESSED FEE, THE OWNER OR OPERATOR

SHALL SUBMIT THE CHALLENGE IN WRITING TO THE DEPARTMENT WITHIN 30

CALENDAR DAYS OF THE MAILING DATE OF THE AIR QUALITY FEE NOTIFI-

CATION DESCRIBED IN SUBSECTION (4). A CHALLENGE SHALL IDENTIFY

THE FACILITY AND STATE THE GROUNDS UPON WHICH THE CHALLENGE IS

BASED. WITHIN 30 CALENDAR DAYS OF RECEIPT OF THE CHALLENGE, THE

DEPARTMENT SHALL DETERMINE THE VALIDITY OF THE CHALLENGE AND PRO-

VIDE THE OWNER NOTIFICATION OF A REVISED FEE OR A STATEMENT

SETTING FORTH THE REASON OR REASONS WHY THE FEE WAS NOT REVISED.

1 PAYMENT OF THE CHALLENGED OR REVISED FEE IS DUE WITHIN THE TIME
2 FRAME DESCRIBED IN SUBSECTION (4). IF THE OWNER OR OPERATOR OF A
3 FACILITY DESIRES TO FURTHER CHALLENGE ITS ASSESSED FEE, THE OWNER
4 OR OPERATOR OF THE FACILITY HAS AN OPPORTUNITY FOR A CONTESTED
5 CASE HEARING IN THE SAME MANNER AS PROVIDED FOR UNDER THE ADMIN-
6 ISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS
7 OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
8 LAWS.

9 (7) BY MARCH 15 OF EACH YEAR BEGINNING IN 1995, OR WITHIN 45
10 DAYS OF THE DATE OF SUCH REQUEST, WHICHEVER IS LATER, THE OWNER
11 OR OPERATOR OF EACH FEE-SUBJECT FACILITY SHALL, UPON REQUEST BY
12 THE DEPARTMENT, SUBMIT INFORMATION REGARDING THE FACILITY'S PRE-
13 VIOUS YEAR'S EMISSIONS TO THE DEPARTMENT. THE INFORMATION SHALL
14 BE SUFFICIENT FOR THE DEPARTMENT TO CALCULATE THE FACILITY'S
15 EMISSIONS FOR THAT YEAR AND MEET THE REQUIREMENTS OF SUBPART Q OF
16 40 C.F.R. PART 51.

17 (8) BY JULY 1 OF EACH YEAR BEGINNING IN 1995, THE DEPARTMENT
18 SHALL PROVIDE THE OWNER OR OPERATOR OF EACH FEE-SUBJECT FACILITY
19 REQUIRED TO PAY AN EMISSIONS FEE PURSUANT TO THIS SECTION, A COPY
20 OF THE DEPARTMENT'S CALCULATION OF THE FACILITY EMISSIONS FOR THE
21 PREVIOUS YEAR. WITHIN 60 DAYS OF THIS NOTIFICATION, THE OWNER OR
22 OPERATOR OF THE FACILITY MAY PROVIDE CORRECTIONS TO THE
23 DEPARTMENT. IF THE DEPARTMENT AND THE OWNER OR OPERATOR ARE
24 UNABLE TO REACH AGREEMENT ON THE CALCULATION OF THE FACILITY
25 EMISSIONS, THE COMMISSION SHALL MAKE A FINAL DETERMINATION OF THE
26 EMISSIONS BY DECEMBER 15 OF THAT YEAR. IF THE OWNER OR OPERATOR
27 DISAGREES WITH THE COMMISSION'S DETERMINATION, THE OWNER OR

1 OPERATOR MAY REQUEST A CONTESTED CASE HEARING IN THE SAME MANNER
2 AS PROVIDED FOR UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
3 ACT NO. 306 OF THE PUBLIC ACTS OF 1969.

4 (9) FOR EACH STATE DEPARTMENT TO WHICH FUNDS ARE APPROPRI-
5 ATED FROM THE EMISSIONS CONTROL FUND, THE DIRECTOR OF THAT STATE
6 DEPARTMENT SHALL PREPARE AND SUBMIT TO THE GOVERNOR AND THE LEG-
7 ISLATURE AN ANNUAL REPORT THAT DETAILS THE ACTIVITIES FUNDED BY
8 THE EMISSIONS CONTROL FUND FOR HIS OR HER DEPARTMENT. THIS
9 REPORT SHALL INCLUDE, AT A MINIMUM, ALL OF THE FOLLOWING AS IT
10 RELATES TO EACH PARTICULAR DEPARTMENT:

11 (A) THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS PERFORMING
12 AIR QUALITY ENFORCEMENT, COMPLIANCE, AND PERMITTING ACTIVITIES
13 AND THE NUMBER OF HOURS WORKED ON TITLE V ACTIVITIES IN RELATION
14 TO HOURS WORKED ON OTHER MATTERS.

15 (B) THE TOTAL NUMBER OF NEW SOURCE REVIEW AND OPERATING
16 PERMIT APPLICATIONS RECEIVED BY THE DEPARTMENT, INCLUDING THOSE
17 RECEIVED BUT NOT PROCESSED OR ISSUED.

18 (C) A BREAKDOWN OF THE NEW SOURCE REVIEW AND OPERATING PER-
19 MITS ISSUED BASED ON AMOUNT OF EMISSIONS AS FOLLOWS:

20 (i) LESS THAN 1 TON.

21 (ii) BETWEEN 1 AND 10 TONS.

22 (iii) BETWEEN 10 AND 50 TONS.

23 (iv) GREATER THAN 50 TONS.

24 (D) THE TOTAL NUMBER OF NEW SOURCE REVIEW AND OPERATING PER-
25 MITS ISSUED OVER THE COURSE OF THE YEAR.

26 (E) THE TOTAL NUMBER OF NEW SOURCE REVIEW AND OPERATING
27 PERMITS ISSUED PER PERMIT REVIEWER.

1 (F) THE TOTAL NUMBER OF NEW SOURCE REVIEW AND OPERATING
2 PERMITS CARRIED OVER FROM THE PREVIOUS YEAR.

3 (G) THE TOTAL NUMBER OF NEW SOURCE REVIEW AND OPERATING PER-
4 MITS AT THE START OF THE YEAR THAT ARE CARRIED OVER FROM PRECED-
5 ING YEARS PLUS THE NUMBER RECEIVED BY THE DEPARTMENT IN THE CUR-
6 RENT YEAR MINUS THE NUMBER ISSUED.

7 (H) THE TOTAL NUMBER OF NEW SOURCE REVIEW AND OPERATING PER-
8 MITS DENIED.

9 (I) THE RATIO OF THE NUMBER OF NEW SOURCE REVIEW AND OPERAT-
10 ING PERMITS REJECTED TO THE NUMBER ISSUED.

11 (J) THE NUMBER OF LETTERS OF VIOLATION SENT.

12 (K) THE AMOUNT OF PENALTIES COLLECTED FROM ALL CONSENT
13 ORDERS AND JUDGMENTS.

14 (L) FOR EACH ENFORCEMENT ACTION WHICH INCLUDES PAYMENT OF A
15 PENALTY, A DESCRIPTION OF WHAT CORRECTIVE ACTIONS WERE REQUIRED
16 BY THE ENFORCEMENT ACTION.

17 (M) THE AVERAGE AMOUNT OF TIME TO TAKE FINAL ACTION ON A NEW
18 SOURCE REVIEW OR OPERATING PERMIT FROM THE TIME THE DEPARTMENT
19 FIRST RECEIVES THE APPLICATION TO WHEN IT ISSUES THE PERMIT FOR
20 EACH CATEGORY LISTED IN SUBDIVISION (C).

21 (N) A LIST OF STATE IMPLEMENTATION PLAN DEVELOPMENT
22 ACCOMPLISHMENTS.

23 (O) THE NUMBER OF INSPECTIONS DONE ON SOURCES REQUIRED TO
24 OBTAIN A PERMIT UNDER SECTION 5C AND THE NUMBER OF INSPECTIONS OF
25 OTHER SOURCES.

26 (P) THE NUMBER OF COMPLAINTS RECEIVED BY THE DEPARTMENT FOR
27 SOURCES REQUIRED TO OBTAIN A PERMIT UNDER SECTION 5C, THE NUMBER

1 OF COMPLAINTS INVESTIGATED, AND THE NUMBER OF COMPLAINTS NOT
2 INVESTIGATED.

3 (Q) THE NUMBER OF COMPLIANCE REPORTS AND CERTIFICATIONS
4 REVIEWED FOR SOURCES REQUIRED TO OBTAIN A PERMIT UNDER SECTION
5 5C.

6 (R) THE NUMBER OF CONTESTED CASE HEARINGS, CIVIL ACTIONS,
7 AND CRIMINAL INVESTIGATIONS AND PROSECUTIONS INITIATED AND COM-
8 PLETED, AND THE NUMBER OF VOLUNTARY CONSENT ORDERS, ADMINISTRA-
9 TIVE PENALTY ORDERS, AND EMERGENCY ORDERS ENTERED OR ISSUED, FOR
10 SOURCES REQUIRED TO OBTAIN A PERMIT UNDER SECTION 5C.

11 (S) THE AMOUNT OF CRIMINAL FINES AND CIVIL PENALTIES COL-
12 LECTED FROM ALL ADMINISTRATIVE AND JUDICIAL ORDERS AND
13 JUDGMENTS.

14 (10) BY JANUARY 1, 2000, THE DEPARTMENT SHALL CONVENE A TASK
15 FORCE MADE UP OF REPRESENTATIVES OF FEE-SUBJECT FACILITIES, ENVI-
16 RONMENTAL GROUPS, THE GENERAL PUBLIC, AND ANY STATE DEPARTMENT TO
17 WHICH FUNDS ARE APPROPRIATED FROM THE EMISSIONS CONTROL FUND.
18 NOT LATER THAN JULY 1, 2000, THE TASK FORCE SHALL PROVIDE TO THE
19 LEGISLATURE A REPORT ON THE ADEQUACY OF THE FEE REVENUES AND
20 APPROPRIATENESS OF PROGRAM ACTIVITIES AND SHALL RECOMMEND CHANGES
21 TO SECTION 14E, AS APPROPRIATE, TO MATCH FEE REVENUES TO PROGRAM
22 COSTS.

23 (11) THE ATTORNEY GENERAL MAY BRING AN ACTION FOR THE COL-
24 LECTION OF THE FEES IMPOSED UNDER THIS SECTION AND ANY PENALTY
25 ASSESSED UNDER SECTION 14B.

26 SEC. 16A. (1) THE DEPARTMENT MAY, UPON THE PRESENTATION OF
27 CREDENTIALS AND OTHER DOCUMENTS AS MAY BE REQUIRED BY LAW, AND

1 UPON STATING THE AUTHORITY AND PURPOSE OF THE INVESTIGATION ENTER
2 AND INSPECT ANY PROPERTY AT REASONABLE TIMES FOR THE PURPOSE OF
3 INVESTIGATING EITHER AN ACTUAL OR SUSPECTED SOURCE OF AIR POLLU-
4 TION OR ASCERTAINING COMPLIANCE OR NONCOMPLIANCE WITH THIS ACT,
5 RULES PROMULGATED UNDER THIS ACT, THE CLEAN AIR ACT, A PERMIT
6 ISSUED UNDER THIS ACT, OR ANY DETERMINATION OR ORDER ISSUED UNDER
7 THIS ACT. IF IN CONNECTION WITH AN INVESTIGATION OR INSPECTION,
8 SAMPLES OF AIR CONTAMINANTS ARE TAKEN FOR ANALYSIS, A DUPLICATE
9 OF THE ANALYTICAL REPORT SHALL BE FURNISHED PROMPTLY TO THE
10 PERSON WHO IS SUSPECTED OF CAUSING THE AIR POLLUTION. IN IMPLE-
11 MENTING THIS SUBSECTION, THE DEPARTMENT OR ITS AUTHORIZED REPRESENTATIVE MAY DO ANY OF THE FOLLOWING:

13 (A) HAVE ACCESS TO AND COPY, AT REASONABLE TIMES, ANY
14 RECORDS THAT ARE REQUIRED TO BE MAINTAINED PURSUANT TO THIS ACT,
15 RULES PROMULGATED UNDER THIS ACT, THE CLEAN AIR ACT, A PERMIT
16 ISSUED UNDER THIS ACT, OR ANY DETERMINATION OR ORDER ISSUED UNDER
17 THIS ACT.

18 (B) INSPECT AT REASONABLE TIMES ANY FACILITY, EQUIPMENT,
19 INCLUDING MONITORING AND AIR POLLUTION CONTROL EQUIPMENT, PRACTICES,
20 OR OPERATIONS REGULATED OR REQUIRED UNDER THIS ACT, RULES
21 PROMULGATED UNDER THIS ACT, THE CLEAN AIR ACT, A PERMIT ISSUED
22 UNDER THIS ACT, OR ANY DETERMINATION OR ORDER ISSUED UNDER THIS
23 ACT.

24 (C) SAMPLE OR MONITOR AT REASONABLE TIMES SUBSTANCES OR
25 PARAMETERS FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THIS
26 ACT, RULES PROMULGATED UNDER THIS ACT, THE CLEAN AIR ACT, A
27 PERMIT ISSUED UNDER THIS ACT, OR ANY DETERMINATION OR ORDER

1 ISSUED UNDER THIS ACT. THE DEPARTMENT MAY ENTER INTO A CONTRACT
2 WITH A PERSON TO SAMPLE AND MONITOR AS AUTHORIZED UNDER THIS
3 SUBDIVISION.

4 (2) IF THE DEPARTMENT, OR AN AUTHORIZED REPRESENTATIVE OF
5 THE DEPARTMENT, IS REFUSED ENTRY OR ACCESS TO RECORDS AND SAMPLES
6 UNDER SUBSECTION (1) FOR THE PURPOSES OF UTILIZING THIS SECTION,
7 THE ATTORNEY GENERAL, ON BEHALF OF THE STATE, MAY DO EITHER OF
8 THE FOLLOWING:

9 (A) PETITION THE COURT OF APPROPRIATE JURISDICTION FOR A
10 WARRANT AUTHORIZING ENTRY OR ACCESS TO RECORDS AND SAMPLES PURSU-
11 ANT TO THIS SECTION.

12 (B) COMMENCE A CIVIL ACTION TO COMPEL COMPLIANCE WITH A
13 REQUEST FOR ENTRY AND ACCESS TO RECORDS AND SAMPLES PURSUANT TO
14 THIS SECTION, TO AUTHORIZE ENTRY AND ACCESS TO RECORDS AND SAM-
15 PLES PROVIDED FOR IN THIS SECTION, AND TO ENJOIN INTERFERENCE
16 WITH THE UTILIZATION OF THIS SECTION.

17 (3) AS USED IN THIS SECTION, "AUTHORIZED REPRESENTATIVE"
18 MEANS A FULL- OR PART-TIME EMPLOYEE OF THE DEPARTMENT OR OTHER
19 STATE DEPARTMENT OR AGENCY TO WHICH THE DEPARTMENT DELEGATES CER-
20 TAIN DUTIES UNDER THIS SECTION, OR A LOCAL UNIT OF GOVERNMENT TO
21 WHICH AUTHORITY IS DELEGATED UNDER THIS ACT. FOR THE PURPOSE OF
22 UTILIZING THE POWERS CONFERRED IN SUBSECTION (1)(C), AUTHORIZED
23 REPRESENTATIVE ALSO INCLUDES A CONTRACTOR RETAINED BY THE STATE
24 OR A LOCAL UNIT OF GOVERNMENT TO WHICH AUTHORITY IS DELEGATED
25 UNDER THIS ACT.

26 SEC. 16B. (1) AS USED IN THIS SECTION, "EMERGENCY" MEANS A
27 SITUATION ARISING FROM SUDDEN AND REASONABLY UNFORESEEABLE EVENTS

1 BEYOND THE CONTROL OF THE SOURCE, INCLUDING ACTS OF GOD, WAR,
2 STRIKE, RIOT, CATASTROPHE, OR OTHER CONDITION AS TO WHICH NEGLIGENCE ON THE PART OF THE PERSON WAS NOT THE PROXIMATE CAUSE,
3 WHICH REQUIRES IMMEDIATE CORRECTIVE ACTION TO RESTORE NORMAL
4 OPERATION, AND THAT CAUSES THE SOURCE TO EXCEED A
5 TECHNOLOGY-BASED EMISSION LIMITATION CONTAINED IN AN OPERATING
6 PERMIT ISSUED PURSUANT TO SECTION 5C, DUE TO UNAVOIDABLE
7 INCREASES IN EMISSIONS ATTRIBUTABLE TO THE EMERGENCY. AN EMERGENCY DOES NOT INCLUDE ACTS OF NONCOMPLIANCE CAUSED BY IMPROPERLY
8 DESIGNED EQUIPMENT, LACK OF PREVENTATIVE MAINTENANCE, CARELESS OR
9 IMPROPER OPERATION, OR OPERATOR ERROR.

12 (2) AN EMERGENCY CONSTITUTES AN AFFIRMATIVE DEFENSE TO AN
13 ACTION BROUGHT FOR NONCOMPLIANCE WITH A TECHNOLOGY-BASED EMISSION
14 LIMITATION CONTAINED IN AN OPERATING PERMIT ISSUED PURSUANT TO
15 SECTION 5C IF THE AFFIRMATIVE DEFENSE OF EMERGENCY IS DEMONSTRATED THROUGH PROPERLY SIGNED, CONTEMPORANEOUS OPERATING LOGS,
16 OR OTHER RELEVANT EVIDENCE THAT ESTABLISH ALL OF THE FOLLOWING:

18 (A) AN EMERGENCY OCCURRED AND THAT THE PERMIT HOLDER CAN
19 IDENTIFY THE CAUSE OR CAUSES OF THE EMERGENCY.

20 (B) THE PERMITTED SOURCE WAS PROPERLY OPERATED AT THE TIME
21 OF THE EMERGENCY.

22 (C) DURING THE EMERGENCY THE PERMIT HOLDER TOOK ALL REASONABLE STEPS TO MINIMIZE LEVELS OF EMISSIONS THAT EXCEEDED THE
23 EMISSION STANDARDS, OR OTHER REQUIREMENTS IN THE PERMIT.

25 (D) THE PERMIT HOLDER SUBMITTED NOTICE OF THE EMERGENCY TO
26 THE DEPARTMENT WITHIN 2 WORKING DAYS OF THE TIME WHEN AN EMISSION
27 LIMITATION WAS EXCEEDED DUE TO THE EMERGENCY. THIS NOTICE MUST

1 CONTAIN A DESCRIPTION OF THE EMERGENCY, ANY STEPS TAKEN TO
2 MITIGATE EMISSIONS, AND CORRECTIVE ACTIONS TAKEN.

3 (3) IN ANY ENFORCEMENT PROCEEDING, THE PERMIT HOLDER SEEKING
4 TO ESTABLISH THE OCCURRENCE OF AN EMERGENCY HAS THE BURDEN OF
5 PROOF.

6 SEC. 16C. (1) IF THE DEPARTMENT BELIEVES THAT A VIOLATION
7 OF THIS ACT OR A RULE PROMULGATED UNDER THIS ACT EXISTS, OR A
8 VIOLATION OF THE TERMS OF A PERMIT ISSUED UNDER THIS ACT EXISTS,
9 THE DEPARTMENT SHALL PROVIDE THE PERSON RESPONSIBLE FOR THE
10 ALLEGED VIOLATION WITH THE OPPORTUNITY TO ENTER INTO AN AGREEMENT
11 WITH THE COMMISSION TO CORRECT THE ALLEGED VIOLATION. THE AGREE-
12 MENT MAY PROVIDE FOR MONETARY OR OTHER RELIEF AS AGREED UPON BY
13 THE PARTIES. THE AGREEMENT SHALL BE IN THE FORM OF A CONSENT
14 ORDER AND SHALL PROVIDE FOR COMPLIANCE WITH THIS ACT AND RULES
15 PROMULGATED UNDER THIS ACT AND COMPLIANCE WITH ANY APPLICABLE
16 PERMIT ISSUED UNDER THIS ACT. IN ADDITION, EACH CONSENT ORDER
17 SHALL CONTAIN A COMPLIANCE SCHEDULE THAT PROVIDES FOR REASONABLE
18 PROGRESS TOWARD FULL COMPLIANCE BY A DESIGNATED DATE.

19 (2) IF THE DEPARTMENT BELIEVES THAT A VIOLATION OF AN ORDER
20 ISSUED UNDER THIS ACT EXISTS, THE DEPARTMENT MAY PROVIDE THE
21 PERSON RESPONSIBLE FOR THE ALLEGED VIOLATION WITH THE OPPORTUNITY
22 TO ENTER INTO AN AGREEMENT WITH THE COMMISSION TO CORRECT THE
23 ALLEGED VIOLATION. THE AGREEMENT MAY PROVIDE FOR MONETARY OR
24 OTHER RELIEF AS AGREED UPON BY THE PARTIES. THE AGREEMENT SHALL
25 BE IN THE FORM OF A CONSENT ORDER AND SHALL PROVIDE FOR COMPLI-
26 ANCE WITH THIS ACT AND RULES PROMULGATED UNDER THIS ACT AND
27 COMPLIANCE WITH ANY APPLICABLE PERMIT OR ORDER ISSUED UNDER THIS

1 ACT. IN ADDITION, EACH CONSENT ORDER SHALL CONTAIN A COMPLIANCE
2 SCHEDULE THAT PROVIDES FOR REASONABLE PROGRESS TOWARD FULL COM-
3 PLIANCE BY A DESIGNATED DATE.

4 (3) THE DEPARTMENT SHALL PROVIDE PUBLIC NOTICE AND AN OPPOR-
5 TUNITY FOR PUBLIC COMMENT ON THE TERMS AND CONDITIONS OF A CON-
6 SENT ORDER. UPON THE REQUEST OF ANY PERSON THE DEPARTMENT SHALL
7 PROVIDE A COPY OF THE PROPOSED CONSENT ORDER.

8 SEC. 16D. (1) THE DIRECTOR MAY ASSESS AN ADMINISTRATIVE
9 FINE OF UP TO \$10,000.00 FOR EACH INSTANCE OF VIOLATION AND, IF
10 THE VIOLATION CONTINUES, FOR EACH DAY OF CONTINUED NONCOMPLIANCE,
11 IF THE DIRECTOR, ON THE BASIS OF AVAILABLE INFORMATION, FINDS
12 THAT THE PERSON HAS VIOLATED OR IS IN VIOLATION OF THIS ACT OR A
13 RULE PROMULGATED UNDER THIS ACT, HAS FAILED TO OBTAIN A PERMIT
14 ISSUED UNDER THIS ACT, VIOLATES AN ORDER UNDER THIS ACT, OR HAS
15 FAILED TO COMPLY WITH THE TERMS OF A PERMIT ISSUED UNDER THIS
16 ACT. IF A SINGLE EVENT CONSTITUTES AN INSTANCE OF VIOLATION OF
17 ANY COMBINATION OF THIS ACT, A RULE PROMULGATED UNDER THIS ACT,
18 OR A PERMIT OR ORDER ISSUED OR ENTERED UNDER THIS ACT, THE AMOUNT
19 OF THE ADMINISTRATIVE FINE FOR THAT SINGLE EVENT SHALL NOT EXCEED
20 \$10,000.00 FOR THAT VIOLATION. THE ASSESSMENT OF AN ADMINISTRA-
21 TIVE FINE MAY BE EITHER A PART OF A COMPLIANCE ORDER OR A SEPA-
22 RATE ORDER ISSUED BY THE DIRECTOR.

23 (2) THE DIRECTOR'S AUTHORITY UNDER THIS SECTION IS LIMITED
24 TO MATTERS WHERE THE TOTAL ADMINISTRATIVE FINE SOUGHT DOES NOT
25 EXCEED \$100,000.00 AND THE FIRST ALLEGED DATE OF VIOLATION
26 OCCURRED WITHIN 12 MONTHS PRIOR TO INITIATION OF THE
27 ADMINISTRATIVE ACTION. EXCEPT AS MAY OTHERWISE BE PROVIDED BY

1 APPLICABLE LAW, THE DEPARTMENT SHALL NOT CONDITION THE ISSUANCE
2 OF A PERMIT ON THE PAYMENT OF AN ADMINISTRATIVE FINE ASSESSED
3 PURSUANT TO THIS SECTION.

4 (3) WITHIN 28 DAYS OF BEING ASSESSED AN ADMINISTRATIVE FINE
5 FROM THE DIRECTOR, A PERSON MAY FILE A PETITION WITH THE DEPART-
6 MENT FOR REVIEW OF THIS FINE. REVIEW OF THE FINE SHALL BE CON-
7 DUCTED PURSUANT TO THE CONTESTED CASE PROCEDURES OF THE ADMINIS-
8 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
9 1969, BEING SECTIONS 24.271 TO 24.286 OF THE MICHIGAN COMPILED
10 LAWS. IF ISSUED AS PART OF A CONSENT ORDER ISSUED PURSUANT TO
11 SECTION 16C, ONLY THE AMOUNT OF THE ADMINISTRATIVE FINE AND THE
12 ALLEGED VIOLATION ON WHICH THE FINE IS BASED ARE SUBJECT TO THE
13 CONTESTED CASE PROCEDURES OF ACT NO. 306 OF THE PUBLIC ACTS OF
14 1969.

15 SEC. 16E. (1) THE ATTORNEY GENERAL MAY COMMENCE A CIVIL
16 ACTION AGAINST A PERSON FOR APPROPRIATE RELIEF, INCLUDING INJUNC-
17 TIVE RELIEF, AND A CIVIL FINE AS PROVIDED IN SUBSECTION (2) FOR
18 ANY OF THE FOLLOWING:

19 (A) VIOLATING THIS ACT OR RULES PROMULGATED UNDER THIS ACT.

20 (B) FAILURE TO OBTAIN A PERMIT UNDER THIS ACT.

21 (C) FAILURE TO COMPLY WITH THE TERMS OF A PERMIT OR AN ORDER
22 ISSUED UNDER THIS ACT.

23 (D) FAILURE TO PAY AN AIR QUALITY FEE OR COMPLY WITH A
24 FILING REQUIREMENT UNDER THIS ACT.

25 (E) FAILURE TO COMPLY WITH THE INSPECTION, ENTRY, AND MONI-
26 TORING REQUIREMENTS OF THIS ACT.

1 (F) A VIOLATION DESCRIBED IN SECTION 14(2).

2 (2) IN ADDITION TO ANY OTHER RELIEF AUTHORIZED UNDER THIS
3 SECTION, THE COURT MAY IMPOSE A CIVIL FINE OF NOT MORE THAN
4 \$10,000.00 FOR EACH INSTANCE OF VIOLATION AND, IF THE VIOLATION
5 CONTINUES, FOR EACH DAY OF CONTINUED VIOLATION.

6 (3) IN ADDITION TO OTHER RELIEF AUTHORIZED UNDER THIS SEC-
7 TION, THE ATTORNEY GENERAL MAY, AT THE REQUEST OF THE DEPARTMENT,
8 FILE AN ACTION IN A COURT OF COMPETENT JURISDICTION TO RECOVER
9 THE FULL VALUE OF THE INJURIES DONE TO THE NATURAL RESOURCES OF
10 THE STATE.

11 (4) IN ISSUING A FINAL ORDER IN AN ACTION BROUGHT PURSUANT
12 TO THIS SECTION, THE COURT MAY AWARD COSTS OF LITIGATION, INCLUD-
13 ING, BUT NOT LIMITED TO, REASONABLE ATTORNEY AND EXPERT WITNESS
14 FEES, TO THE PREVAILING OR SUBSTANTIALLY PREVAILING PARTY IF THE
15 COURT DETERMINES THAT SUCH AN AWARD IS APPROPRIATE.

16 (5) A CIVIL ACTION BROUGHT UNDER THIS SECTION MAY BE BROUGHT
17 IN THE COUNTY IN WHICH THE DEFENDANT IS LOCATED, RESIDES, OR IS
18 DOING BUSINESS, OR IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM,
19 OR IN THE COUNTY IN WHICH THE REGISTERED OFFICE OF A DEFENDANT
20 CORPORATION IS LOCATED, OR IN THE COUNTY WHERE THE VIOLATION
21 OCCURRED.

22 (6) GENERAL DEFENSES AND AFFIRMATIVE DEFENSES, THAT MAY OTH-
23 ERWISE APPLY UNDER STATE LAW MAY APPLY IN AN ACTION BROUGHT UNDER
24 THIS SECTION AS DETERMINED TO BE APPROPRIATE BY COURTS HAVING
25 JURISDICTION.

26 (7) FINES IMPOSED UNDER THIS SECTION SHALL BE ASSESSED FOR
27 EACH INSTANCE OF VIOLATION AND, IF THE VIOLATION IS CONTINUOUS,

1 SHALL BE ASSESSABLE UP TO THE MAXIMUM AMOUNT FOR EACH DAY OF
2 VIOLATION.

3 SEC. 16F. (1) A PERSON WHO KNOWINGLY VIOLATES ANY REQUIRE-
4 MENT OR PROHIBITION OF AN APPLICABLE REQUIREMENT OF THIS ACT, A
5 RULE PROMULGATED UNDER THIS ACT, WHO FAILS TO OBTAIN OR COMPLY
6 WITH A PERMIT, OR COMPLY WITH A FINAL ORDER OR ORDER OF DETERMI-
7 NATION MADE UNDER THIS ACT IS GUILTY OF A MISDEMEANOR PUNISHABLE
8 BY A FINE OF NOT MORE THAN \$10,000.00 PER DAY, FOR EACH
9 VIOLATION.

10 (2) A PERSON WHO KNOWINGLY MAKES A FALSE MATERIAL STATEMENT,
11 REPRESENTATION OR CERTIFICATION IN, OR OMITS MATERIAL INFORMATION
12 FROM, OR KNOWINGLY ALTERS, CONCEALS, OR FAILS TO FILE ANY NOTICE,
13 APPLICATION, RECORD, REPORT, PLAN, OR OTHER DOCUMENT REQUIRED TO
14 BE SUBMITTED PURSUANT TO THIS ACT OR A RULE PROMULGATED UNDER
15 THIS ACT, OR WHO KNOWINGLY FAILS TO NOTIFY OR REPORT INFORMATION
16 REQUIRED TO BE SUBMITTED UNDER THIS ACT OR A RULE PROMULGATED
17 UNDER THIS ACT, OR WHO KNOWINGLY FALSIFIES, TAMPERS WITH, RENDERS
18 INACCURATE, OR KNOWINGLY FAILS TO INSTALL ANY MONITORING DEVICE
19 OR METHOD REQUIRED UNDER THIS ACT OR A RULE PROMULGATED UNDER
20 THIS ACT, IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT
21 MORE THAN \$10,000.00 PER DAY, FOR EACH VIOLATION.

22 (3) A PERSON WHO KNOWINGLY FAILS TO PAY ANY AIR QUALITY FEE
23 OWED UNDER THIS ACT IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A
24 FINE OF NOT MORE THAN \$10,000.00.

25 (4) A PERSON WHO KNOWINGLY RELEASES INTO THE AMBIENT AIR ANY
26 HAZARDOUS AIR POLLUTANT AS PROVIDED IN SECTION 112 OF PART A OF
27 TITLE I OF THE CLEAN AIR ACT, 84 STAT. 1685, 42 U.S.C. 7412, OR

1 AN EXTREMELY HAZARDOUS SUBSTANCE LISTED PURSUANT TO
2 SECTION 302(2) OF THE EMERGENCY PLANNING AND COMMUNITY
3 RIGHT-TO-KNOW ACT OF 1986, TITLE III OF THE SUPERFUND AMENDMENTS
4 AND REAUTHORIZATION ACT OF 1986, PUBLIC LAW 99-499, 42
5 U.S.C. 11002, CONTRARY TO APPLICABLE FEDERAL, STATE, OR LOCAL
6 REQUIREMENTS, OR CONTRARY TO A PERMIT ISSUED UNDER THIS ACT, AND
7 BECAUSE OF THE QUANTITIES OR CONCENTRATIONS OF THE SUBSTANCE
8 RELEASED KNOWS OR SHOULD HAVE KNOWN AT THE TIME THAT THE RELEASE
9 PLACES ANOTHER PERSON IN IMMINENT DANGER OF DEATH OR SERIOUS
10 BODILY INJURY IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT
11 FOR NOT MORE THAN 2 YEARS, OR A FINE OF NOT MORE THAN \$10,000.00,
12 OR BOTH.

13 (5) A PERSON WHO KNOWINGLY RELEASES OR CAUSES THE RELEASE
14 INTO THE AMBIENT AIR ANY HAZARDOUS AIR POLLUTANT AS PROVIDED IN
15 SECTION 112 OF PART A OF TITLE I OF THE CLEAN AIR ACT, 84
16 STAT. 1685, 42 U.S.C. 7412, OR AN EXTREMELY HAZARDOUS SUBSTANCE
17 LISTED PURSUANT TO SECTION 302(2) OF THE EMERGENCY PLANNING AND
18 COMMUNITY RIGHT-TO-KNOW ACT OF 1986, TITLE III OF THE SUPERFUND
19 AMENDMENTS AND REAUTHORIZATION ACT OF 1986, PUBLIC LAW 99-499, 42
20 U.S.C. 11002, CONTRARY TO APPLICABLE FEDERAL, STATE, OR LOCAL
21 REQUIREMENTS, OR CONTRARY TO A PERMIT ISSUED UNDER THIS ACT, AND
22 WHO KNOWS OR SHOULD HAVE KNOWN AT THE TIME THAT THE RELEASE
23 PLACES ANOTHER PERSON IN IMMINENT DANGER OF DEATH OR SERIOUS
24 BODILY INJURY, AND THE RELEASE RESULTS IN DEATH OR SERIOUS BODILY
25 INJURY TO ANY PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRIS-
26 ONMENT FOR NOT MORE THAN 6 YEARS, OR A FINE OF NOT MORE THAN
27 \$25,000.00, OR BOTH.

1 (6) A PERSON WHO KNOWINGLY RELEASES INTO THE AMBIENT AIR ANY
2 HAZARDOUS AIR POLLUTANT AS PROVIDED IN SECTION 112 OF PART A OF
3 TITLE I OF THE CLEAN AIR ACT, 84 STAT. 1685, 42 U.S.C. 7412, OR
4 AN EXTREMELY HAZARDOUS SUBSTANCE LISTED PURSUANT TO
5 SECTION 302(2) OF THE EMERGENCY PLANNING AND COMMUNITY
6 RIGHT-TO-KNOW ACT OF 1986, TITLE III OF THE SUPERFUND AMENDMENTS
7 AND REAUTHORIZATION ACT OF 1986, PUBLIC LAW 99-499, 42
8 U.S.C. 11002, CONTRARY TO APPLICABLE FEDERAL, STATE, OR LOCAL
9 REQUIREMENTS, OR CONTRARY TO A PERMIT ISSUED UNDER THIS ACT, AND
10 WHO INTENDED AT THAT TIME TO PLACE ANOTHER PERSON IN IMMINENT
11 DANGER OF DEATH OR SERIOUS BODILY INJURY, AND WHOSE ACTIONS DO
12 RESULT IN DEATH OR CAUSE SERIOUS BODILY INJURY TO ANY PERSON IS
13 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
14 15 YEARS OR A FINE OF NOT MORE THAN \$250,000.00, OR BOTH.

15 (7) IN DETERMINING WHETHER A DEFENDANT WHO IS AN INDIVIDUAL
16 KNEW THAT THE VIOLATION PLACED ANOTHER PERSON IN IMMINENT DANGER
17 OF DEATH OR SERIOUS BODILY INJURY AS REQUIRED UNDER
18 SUBSECTIONS (4), (5), AND (6), THE DEFENDANT IS RESPONSIBLE ONLY
19 FOR ACTUAL AWARENESS OR ACTUAL BELIEF POSSESSED; AND KNOWLEDGE
20 POSSESSED BY A PERSON OTHER THAN THE DEFENDANT, BUT NOT BY THE
21 DEFENDANT, MAY NOT BE ATTRIBUTED TO THE DEFENDANT. HOWEVER, IN
22 PROVING A DEFENDANT'S POSSESSION OF ACTUAL KNOWLEDGE, CIRCUMSTAN-
23 TIAL EVIDENCE MAY BE USED, INCLUDING EVIDENCE THAT THE DEFENDANT
24 TOOK AFFIRMATIVE STEPS TO BE SHIELDED FROM RELEVANT INFORMATION.

25 (8) A FINE ASSESSED UNDER THIS SECTION MAY BE ASSESSED FOR
26 EACH DAY OF VIOLATION.

1 (9) A DEFENDANT MAY ESTABLISH AN AFFIRMATIVE DEFENSE TO A
2 PROSECUTION UNDER THIS SECTION BY SHOWING BY A PREPONDERANCE OF
3 THE EVIDENCE THAT THE CONDUCT CHARGED WAS FREELY CONSENTED TO BY
4 THE PERSON ENDANGERED AND THAT THE DANGER AND CONDUCT CHARGED
5 WERE REASONABLY FORESEEABLE HAZARDS OF ANY OF THE FOLLOWING:

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

7 (B) MEDICAL TREATMENT OR MEDICAL OR SCIENTIFIC EXPERIMENTA-
8 TION CONDUCTED BY PROFESSIONALLY APPROVED METHODS IF THE PERSON
9 HAD BEEN MADE AWARE OF THE RISKS INVOLVED PRIOR TO GIVING
10 CONSENT.

11 (10) ALL GENERAL DEFENSES, AFFIRMATIVE DEFENSES, AND BARS TO
12 PROSECUTION THAT MAY OTHERWISE APPLY WITH RESPECT TO STATE CRIMI-
13 NAL OFFENSES MAY APPLY UNDER THIS SECTION AND SHALL BE DETERMINED
14 BY THE COURTS OF THIS STATE HAVING JURISDICTION ACCORDING TO THE
15 PRINCIPLES OF COMMON LAW AS THEY MAY BE INTERPRETED IN THE LIGHT
16 OF REASON AND EXPERIENCE. CONCEPTS OF JUSTIFICATION AND EXCUSE
17 APPLICABLE UNDER THIS SECTION MAY BE DEVELOPED BY THE COURTS IN
18 THE LIGHT OF REASON AND EXPERIENCE.

19 (11) FINES SHALL NOT BE IMPOSED PURSUANT TO THIS SECTION FOR
20 A VIOLATION THAT WAS CAUSED BY AN ACT OF GOD, WAR, STRIKE, RIOT,
21 CATASTROPHE, OR OTHER CONDITION TO WHICH NEGLIGENCE OR WILLFUL
22 MISCONDUCT ON THE PART OF THE PERSON WAS NOT THE PROXIMATE
23 CAUSE.

24 (12) FINES IMPOSED UNDER THIS SECTION SHALL BE ASSESSED FOR
25 EACH INSTANCE OF VIOLATION AND, IF THE VIOLATION IS CONTINUOUS,
26 SHALL BE ASSESSABLE UP TO THE MAXIMUM AMOUNT FOR EACH DAY OF
27 VIOLATION.

1 (13) AS USED IN THIS SECTION, "SERIOUS BODILY INJURY" MEANS
2 BODILY INJURY THAT INVOLVES A SUBSTANTIAL RISK OF DEATH, UNCON-
3 SCIOUSNESS, EXTREME PHYSICAL PAIN, PROTRACTED AND OBVIOUS DISFIG-
4 UREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF A
5 BODILY MEMBER, ORGAN, OR MENTAL FACULTY.

6 SEC. 16G. (1) A CIVIL OR CRIMINAL FINE ASSESSED, SOUGHT, OR
7 AGREED UPON UNDER THIS ACT SHALL BE APPROPRIATE TO THE
8 VIOLATION.

9 (2) IN DETERMINING THE AMOUNT OF ANY FINE LEVIED UNDER THIS
10 ACT, ALL OF THE FOLLOWING FACTORS SHALL BE CONSIDERED:

11 (A) THE SIZE OF THE BUSINESS.

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

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

15 (D) THE DURATION OF THE VIOLATION AS ESTABLISHED BY ANY
16 CREDIBLE EVIDENCE, INCLUDING EVIDENCE OTHER THAN THE APPLICABLE
17 TEST METHOD.

18 (E) PAYMENT BY THE VIOLATOR OF PENALTIES PREVIOUSLY ASSESSED
19 FOR THE SAME VIOLATION.

20 (F) THE ECONOMIC BENEFIT OF NONCOMPLIANCE.

21 (G) THE SERIOUSNESS OF THE VIOLATION.

22 (H) SUCH OTHER FACTORS AS JUSTICE MAY REQUIRE.

23 Sec. 19. Notwithstanding any other provision of this act,
24 the commission may suspend the enforcement of the whole or any
25 part of any rule ~~or regulation in the case of~~ AS IT APPLIES TO
26 any person who shows that the enforcement ~~thereof~~ OF THE RULE
27 would be inequitable or unreasonable as to ~~him~~ THAT PERSON, or

1 the commission may suspend the enforcement ~~thereof~~ OF THE RULE
2 for any reason ~~deemed~~ CONSIDERED by it to be sufficient to show
3 that the enforcement ~~thereof~~ OF THE RULE would be an unreason-
4 able hardship upon the person; and upon any suspension of the
5 whole or any part of the rule ~~or regulation~~ the commission
6 shall grant to the person a variance ~~therefrom~~ FROM THAT RULE.
7 THE COMMISSION SHALL NOT SUSPEND ENFORCEMENT OR GRANT A VARIANCE
8 UNDER THIS SECTION WHICH WOULD VIOLATE THE CLEAN AIR ACT.

9 Sec. 20. In determining under what conditions and to what
10 extent a variance from a rule or regulation WHICH WOULD NOT VIO-
11 LATE THE CLEAN AIR ACT may be granted, the commission shall give
12 due recognition to the progress which the person requesting the
13 variance has made in eliminating or preventing air pollution.
14 The commission shall consider the reasonableness of granting a
15 variance conditioned upon the person effecting a partial control
16 of the particular air pollution or a progressive control of the
17 air pollution over a period of time which it considers reasonable
18 under all the circumstances; or the commission may prescribe
19 other and different reasonable requirements with which the person
20 receiving the variance shall comply.

21 Sec. 21. The commission shall grant a variance from any
22 rule ~~or regulation~~ to, and suspend the enforcement ~~thereof as~~
23 OF THE RULE AS IT APPLIES to, any person who shows in the case of
24 the person and of the ~~activity which~~ SOURCE, PROCESS, OR PRO-
25 CESS EQUIPMENT THAT the person ~~then~~ operates that ~~a~~ HIS OR
26 HER compliance ~~by him~~ with the rule or regulation, and that the
27 acquisition, installation, operation and maintenance of

1 ~~facilities and~~ A SOURCE OR PROCESS, OR PROCESS equipment
2 required or necessary to accomplish the compliance, would consti-
3 tute an undue hardship on the person and would be out of propor-
4 tion to the benefits to be obtained ~~thereby~~ BY COMPLIANCE. A
5 variance shall not be granted under ~~the provisions of~~ this sec-
6 tion ~~where~~ IF the person applying ~~therefor~~ FOR THE VARIANCE
7 is causing air pollution which is injurious to the public health
8 OR IF THE GRANTING OF THE VARIANCE WOULD VIOLATE THE CLEAN AIR
9 ACT. Any variance granted shall not be construed as to relieve
10 the person who shall receive it from any liability imposed by
11 other law for the commission or maintenance of a nuisance.

12 Sec. 22. Any variance granted pursuant to ~~the provisions~~
13 ~~of this act~~ SECTIONS 19, 20, AND 21 shall be granted for ~~such~~
14 A period of time, THAT DOES not ~~exceeding~~ EXCEED 1 year, as is
15 specified by the commission at the time of granting it, but any
16 variance may be continued from year to year. Any variance
17 granted by the commission may be granted on the condition that
18 the person receiving it shall ~~make reports~~ REPORT to the com-
19 mission periodically, as the commission ~~shall specify~~
20 SPECIFIES, as to the progress which the person has made toward
21 reaching a compliance with the rule ~~or regulation~~ of the
22 commission.

23 Section 2. Sections 6, 9, 10, 13, 14a, 16, and 17 of Act
24 No. 348 of the Public Acts of 1965, being sections 336.16,
25 336.19, 336.20, 336.23, 336.24a, 336.26, and 336.27 of the
26 Michigan Compiled Laws, are repealed.