



# SENATE BILL No. 46

January 13, 1993, Introduced by Senator WARTNER and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend the title and sections 2, 5, 7, 8, 13, and 14 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, 336.17, 336.18, 336.23, and 336.24 of the Michigan Compiled Laws; to add sections 5b, 14b, 14c, 16a, 16b, 16c, and 18a; 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, 13, and 14 of  
2 Act No. 348 of the Public Acts of 1965, section 2 as amended by  
3 Act No. 218 of the Public Acts of 1987, being sections 336.12,  
4 336.15, 336.17, 336.18, 336.23, and 336.24 of the Michigan  
5 Compiled Laws, are amended and sections 5b, 14b, 14c, 16a, 16b,  
6 16c, and 18a are added to read as follows:

## 1 TITLE

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

9 Sec. 2. As used in this act:

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

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

16 (c) "Air pollution" means the presence in the outdoor atmo-  
17 sphere of air contaminants in quantities, of characteristics and  
18 under conditions and circumstances and of a duration which are or  
19 can become injurious to human health or welfare, to animal life,  
20 to plant life or to property, or which interferes with the enjoy-  
21 ment of life and property in this state and excludes all aspects  
22 of employer-employee relationships as to health and safety  
23 hazards. With respect to any mode of transportation, nothing in  
24 this act or in the rules promulgated under ~~the authority of~~  
25 this act shall be inconsistent with the federal regulations,  
26 emission limits, standards or requirements on various modes of  
27 transportation. Air pollution ~~shall~~ DOES not ~~be construed to~~

1 mean those usual and ordinary odors associated with a farm  
2 operation within a zoned agricultural area if the person engaged  
3 in the farm operation is following generally accepted agricul-  
4 tural and management practices.

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

12 (E) "COMMISSION" MEANS THE AIR POLLUTION CONTROL COMMISSION.

13 (F) ~~(d) "Air cleaning device" means any method, process or~~  
14 ~~equipment which removes, reduces or renders less noxious air con-~~  
15 ~~taminants discharged into the atmosphere.~~ "DEPARTMENT" MEANS THE  
16 DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR HIS OR HER  
17 DESIGNEE.

18 (G) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF NATU-  
19 RAL RESOURCES.

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

24 (I) ~~(f)~~ "Generally accepted agricultural and management  
25 practices" has the meaning ascribed to it in the Michigan right  
26 to farm act, Act No. 93 of the Public Acts of 1981, being  
27 sections 286.471 to 286.474 of the Michigan Compiled Laws.

1 (J) "GENERAL PERMIT" MEANS A CATEGORY OF PERMITS, THE  
2 PROVISIONS OF WHICH ARE DETERMINED IN RULES PROMULGATED UNDER  
3 THIS ACT.

4 (K) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
5 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

6 (L) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-  
7 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF  
8 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED  
9 LAWS.

10 (M) "SOURCE" MEANS A STATIONARY SOURCE WHICH SHALL BE CON-  
11 STRUED AS HAVING THE SAME MEANING AS THE TERM WHEN USED IN COM-  
12 PARABLE OR APPLICABLE CIRCUMSTANCES UNDER THE CLEAN AIR ACT. A  
13 STATIONARY SOURCE SHALL INCLUDE ALL SOURCES UNDER COMMON CONTROL  
14 WHICH ARE LOCATED WITHIN A CONTIGUOUS AREA, OR A SMALLER GROUP OF  
15 SOURCES AS REQUESTED BY THE OWNER OR OPERATOR OF THE SOURCES IF  
16 IN ACCORDANCE WITH THE CLEAN AIR ACT.

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

19 (a) ~~Establish~~ PROMULGATE RULES TO ESTABLISH standards for  
20 ambient air quality and for emissions AND AS OTHERWISE AUTHORIZED  
21 IN SECTION 7.

22 (b) Issue permits AS PROVIDED IN SECTION 5B for the con-  
23 struction and the operation of air pollution control facilities  
24 and source emissions and to require reports of the operation of  
25 the air pollution control facilities.

26 (c) Compel the attendance of witnesses at proceedings of the  
27 commission upon reasonable notice.

1 (d) Make findings of fact and determinations.

2 (e) Make, modify, or cancel orders which require, in accord-  
3 ance with ~~the provisions of~~ this act, the control of air  
4 pollution.

5 (F) ACCEPT, OR WHEN CONSIDERED NECESSARY BY THE COMMISSION  
6 REQUIRE TO BE SUBMITTED TO IT, AND CONSIDER FOR APPROVAL PLANS  
7 FOR AIR CLEANING DEVICES OR ANY PART THEREOF AND INSPECT THE  
8 INSTALLATION FOR COMPLIANCE WITH THE PLANS.

9 (G) SERVE IN AN ADVISORY CAPACITY TO THE COMMISSION OF NATU-  
10 RAL RESOURCES.

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

12 (A) ~~(f)~~ Institute in a court of competent jurisdiction  
13 proceedings to compel compliance with ~~the provisions of any~~  
14 ~~rule~~ THIS ACT, RULES PROMULGATED UNDER THIS ACT, or any determi-  
15 nation or order ~~which it may promulgate or issue~~ ISSUED under  
16 this act.

17 (B) ~~(g)~~ Do such other things as it ~~may deem~~ CONSIDERS  
18 necessary, proper, or desirable ~~in order that it may~~ TO enforce  
19 rules promulgated under this act.

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

24 (C) ~~(i)~~ Enter and inspect any property at reasonable times  
25 and places pursuant to reasonable notice for the purpose of  
26 investigating either an actual or suspected source of air  
27 pollution or ascertaining compliance or noncompliance with ~~any~~

1 ~~rule which it may promulgate~~ THE CLEAN AIR ACT, THIS ACT, RULES  
2 PROMULGATED UNDER THIS ACT, OR ANY DETERMINATION OR ORDER ISSUED  
3 under this act. If in connection with ~~such~~ AN investigation or  
4 inspection, samples of air contaminants are taken for analysis, a  
5 duplicate of the analytical report shall be furnished promptly to  
6 the person who is suspected of causing ~~such~~ THE air pollution.

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

12 (E) ~~(k)~~ Prepare and develop a general comprehensive plan  
13 for the control or abatement of existing air pollution and for  
14 the control or prevention of any new air pollution.

15 (F) ~~(l)~~ Encourage voluntary cooperation by all persons in  
16 controlling air pollution and air contamination.

17 (G) ~~(m)~~ Encourage the formulation and execution of plans  
18 by cooperative groups or associations of cities, villages and  
19 counties or districts, or other governmental units, industries  
20 and others who severally or jointly are or may be the source of  
21 air pollution, for the control of pollution.

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

1 (I) ~~(e)~~ Conduct or cause to be conducted studies and  
2 research with respect to air pollution control, abatement or  
3 prevention.

4 (J) ~~(p)~~ Conduct and supervise programs of air pollution  
5 control education including the preparation and distribution of  
6 information relating to air pollution control.

7 (K) ~~(q)~~ Determine by means of field studies and sampling  
8 the degree of air pollution in the state.

9 (L) ~~(r)~~ Provide advisory technical consultation services  
10 to local communities.

11 (M) ~~(s)~~ Serve as the agency of the state for the receipt  
12 of ~~moneys~~ MONEY from the federal government or other public or  
13 private agencies and to expend ~~such moneys after appropriation~~  
14 ~~thereof~~ THAT MONEY AFTER IT IS APPROPRIATED for the purpose of  
15 air pollution control studies or research or enforcement of this  
16 act.

17 (3) THE DEPARTMENT SHALL PROVIDE STAFF ASSISTANCE TO THE  
18 COMMISSION, INCLUDING, BUT NOT LIMITED TO, INVESTIGATIVE, TECHNICAL,  
19 SCIENTIFIC, AND OTHER SERVICES.

20 SEC. 5B. (1) THE DEPARTMENT SHALL DEVELOP A PERMIT SYSTEM  
21 THAT IS ADEQUATE, STREAMLINED, REASONABLE, AND PROVIDES FOR EXPEDITIOUS  
22 DETERMINATIONS REGARDING WHEN PERMIT APPLICATIONS ARE  
23 COMPLETE, FOR PROCESSING PERMIT APPLICATIONS; FOR PUBLIC NOTICE,  
24 INCLUDING OFFERING AN OPPORTUNITY FOR PUBLIC COMMENT IN ACCORDANCE  
25 WITH THE CLEAN AIR ACT; AND FOR EXPEDITIOUS REVIEW OF PERMIT  
26 ACTIONS, INCLUDING APPLICATIONS, RENEWALS, OR PERMIT REVISIONS.

1 (2) THE COMMISSION, AND, AS REQUIRED, THE DEPARTMENT, SHALL  
2 ACT ON A PERMIT APPLICATION FOR A PERMIT TO INSTALL ACCORDING TO  
3 ALL OF THE FOLLOWING:

4 (A) THE APPLICANT SHALL BE NOTIFIED OF RECEIPT OF A PERMIT  
5 APPLICATION WITHIN 7 DAYS OF RECEIPT.

6 (B) THE DEPARTMENT SHALL REVIEW PERMIT APPLICATIONS FOR COM-  
7 PLETENESS AND THE APPLICANT SHALL BE NOTIFIED OF THE RESULTS OF  
8 THIS REVIEW WITHIN 30 DAYS OF RECEIPT.

9 (C) AN APPLICATION THAT IS COMPLETE SHALL BE REVIEWED AND  
10 EVALUATED WITH RESPECT TO APPLICABLE PROVISIONS OF THIS ACT,  
11 RULES PROMULGATED UNDER THIS ACT, AND THE CLEAN AIR ACT AND  
12 EITHER APPROVED OR DENIED WITHIN 90 DAYS AFTER THE DEPARTMENT  
13 DETERMINES THAT THE APPLICATION IS COMPLETE.

14 (3) THE COMMISSION, AND, AS REQUIRED, THE DEPARTMENT, SHALL  
15 ACT ON A PERMIT TO OPERATE APPLICATION ACCORDING TO ALL OF THE  
16 FOLLOWING:

17 (A) APPLICATIONS FOR RENEWALS OF EXISTING PERMITS TO OPERATE  
18 SHALL BE FILED 6 MONTHS PRIOR TO THE EXPIRATION OF THE EXISTING  
19 PERMIT TO OPERATE OR AS OTHERWISE REQUIRED UNDER THE CLEAN AIR  
20 ACT.

21 (B) REASONABLE APPLICATION SCHEDULE FOR AUTHORIZED FACILI-  
22 TIES SHALL BE SET BY THE DEPARTMENT IN ACCORDANCE WITH APPLICABLE  
23 REQUIREMENTS OF THE CLEAN AIR ACT.

24 (4) THE FAILURE OF THE COMMISSION TO APPROVE OR DENY A  
25 PERMIT APPLICATION IN ACCORDANCE WITH THE TIME LIMITS SET FORTH  
26 IN SUBSECTION (2)(C), AT THE OPTION OF THE APPLICANT, SHALL BE  
27 TREATED AS A DENIAL OF THE APPLICATION FOR PURPOSES OF A JUDICIAL

1 APPEAL. IN THIS EVENT, JUDICIAL REVIEW SHALL BE DE NOVO, AND IF  
2 THE REVIEWING COURT FINDS THAT THE APPLICATION PROPOSES THE  
3 INSTALLATION OR OPERATION, OR BOTH, OF A SOURCE IN ACCORDANCE  
4 WITH THE APPLICABLE REQUIREMENTS OF THE CLEAN AIR ACT, THIS ACT,  
5 AND RULES PROMULGATED UNDER THIS ACT, THE COURT HAS THE AUTHORITY  
6 TO ISSUE THE PERMIT OR PROVIDE SUCH OTHER RELIEF AS THE COURT  
7 CONSIDERS APPROPRIATE, OR BOTH. ALL OTHER APPEALS OF FINAL  
8 PERMIT ACTION SHALL BE IN ACCORDANCE WITH SECTION 13.

9 (5) THE COMMISSION SHALL PROMULGATE RULES TO ALLOW CHANGES  
10 WITHIN A PERMITTED OR AUTHORIZED FACILITY WITHOUT REQUIRING A  
11 PERMIT REVISION IF THE CHANGES ARE NOT MODIFICATIONS UNDER THE  
12 CLEAN AIR ACT AND THE CHANGES DO NOT EXCEED THE EMISSIONS ALLOW-  
13 ABLE UNDER THE PERMIT OR AUTHORIZATION WHETHER OR NOT EXPRESSED  
14 IN THE PERMIT OR AUTHORIZATION AS A RATE OF EMISSIONS OR IN TERMS  
15 OF TOTAL EMISSION IF THE OWNER OR OPERATOR PROVIDES THE COMMIS-  
16 SION WITH WRITTEN NOTIFICATION IN ADVANCE OF THE PROPOSED CHANGES  
17 7 OR MORE DAYS PRIOR TO THE PROPOSED CHANGE. A RULE PERTAINING  
18 TO EMERGENCY SITUATIONS WHICH REQUIRE A SHORTER NOTIFICATION  
19 PERIOD MAY BE PROMULGATED BY THE COMMISSION.

20 (6) IF AN APPLICATION FOR A PERMIT TO INSTALL OR A PERMIT TO  
21 OPERATE IS DENIED OR IS DETERMINED BY THE DEPARTMENT TO BE INCOM-  
22 PLETE, THE DEPARTMENT SHALL STATE IN WRITING, WITH PARTICULARITY,  
23 THE REASON FOR DENIAL OR THE DETERMINATION OF INCOMPLETENESS.  
24 EXCEPT FOR SOURCES REQUIRED TO HAVE A PERMIT BEFORE CONSTRUCTION  
25 OR MODIFICATION UNDER THE APPLICABLE REQUIREMENTS OF THIS ACT OR  
26 RULES PROMULGATED UNDER THIS ACT, IF AN APPLICANT HAS SUBMITTED A  
27 TIMELY AND SUFFICIENT APPLICATION FOR A PERMIT REQUIRED BY THIS

1 ACT, INCLUDING A RENEWAL OF A PERMIT OR A NEW PERMIT WITH  
2 REFERENCE TO AN ACTIVITY OF A CONTINUING NATURE, THE EXISTING  
3 PERMIT OR AUTHORIZATION TO OPERATE DOES NOT EXPIRE UNTIL A DECI-  
4 SION ON THE APPLICATION IS FINALLY MADE BY THE COMMISSION, AND IF  
5 THE APPLICATION IS DENIED OR THE TERMS OF THE NEW PERMIT ARE  
6 LIMITED, UNTIL THE LAST DAY FOR APPLYING FOR JUDICIAL REVIEW OF  
7 THE AGENCY ORDER, OR A LATER DATE FIXED BY ORDER OF THE REVIEWING  
8 COURT.

9 (7) EXCEPT AS OTHERWISE PROVIDED BY THE CLEAN AIR ACT, COM-  
10 PLIANCE WITH THE FEDERALLY ENFORCEABLE PROVISIONS OF A PERMIT TO  
11 INSTALL OR OPERATE, IN ACCORDANCE WITH THE CLEAN AIR ACT, THIS  
12 ACT, RULES PROMULGATED UNDER THIS ACT, OR ANY DETERMINATION OR  
13 ORDER ISSUED UNDER THIS ACT, SHALL BE CONSIDERED AS COMPLIANCE  
14 WITH ALL APPLICABLE PROVISIONS OF THE CLEAN AIR ACT. COMPLIANCE  
15 WITH STATE ENFORCEABLE PROVISIONS OF A PERMIT TO INSTALL OR OPER-  
16 ATE ISSUED UNDER THIS ACT OR RULES PROMULGATED UNDER THIS ACT  
17 SHALL BE CONSIDERED AS COMPLIANCE WITH ALL APPLICABLE PROVISIONS  
18 OF THIS ACT, AND THE ENVIRONMENTAL RESPONSE ACT, ACT NO. 307 OF  
19 THE PUBLIC ACTS OF 1982, BEING SECTIONS 299.601 TO 299.618 OF THE  
20 MICHIGAN COMPILED LAWS.

21 (8) AS USED IN THIS SECTION, "AUTHORIZED FACILITY" MEANS A  
22 SOURCE THAT IS LAWFULLY OPERATED PURSUANT TO AN EXEMPTION OR  
23 DEFERRAL FROM THE REQUIREMENT TO OBTAIN A PERMIT PURSUANT TO THE  
24 CLEAN AIR ACT OR THIS ACT OR IS OPERATING UNDER A PERMIT TO  
25 INSTALL OR PERMIT TO OPERATE.

26 Sec. 7. (1) A rule or amendment or repeal ~~thereof shall~~  
27 ~~require~~ OF A RULE PROMULGATED BY THE COMMISSION REQUIRES a vote

1 of approval in writing of not less than 6 members of the  
2 commission.

3 (2) The commission shall promulgate rules ~~in accordance~~  
4 ~~with and subject to Act No. 306 of the Public Acts of 1969, as~~  
5 ~~amended, being sections 24.201 to 24.315 of the Compiled Laws of~~  
6 ~~1948~~ for ALL OF THE FOLLOWING purposes: ~~of:~~

7 (a) Controlling or prohibiting air pollution.

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

10 (c) Controlling any mode of transportation ~~which~~ THAT is  
11 capable of causing or contributing to air pollution.

12 (d) Reviewing proposed locations of stationary emission  
13 sources.

14 (e) Reviewing modifications of existing emission sources.

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

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

1 (H) PROVIDING FOR AN EXEMPTION OR DEFERMENT FROM PERMIT  
2 REQUIREMENTS UNDER THIS ACT OR RULES PROMULGATED UNDER THIS ACT  
3 IF THE SOURCE IS EXEMPTED OR IS AUTHORIZED TO BE EXEMPTED OR  
4 DEFERRED PURSUANT TO THE CLEAN AIR ACT.

5 (I) ESTABLISHING MONITORING AND REPORTING REQUIREMENTS FOR  
6 SOURCES SUBJECT TO THE PERMIT PROGRAM THAT ARE IN ACCORDANCE WITH  
7 THE REQUIREMENTS OF THE CLEAN AIR ACT. IN PROMULGATING THESE  
8 RULES, THE COMMISSION SHALL GIVE PREFERENCE TO THE MOST COST  
9 EFFECTIVE METHODS AND PROCEDURES FOR MONITORING AND REPORTING.

10 (J) REQUIREMENTS TO ESTABLISH 5-YEAR TERMS FOR PERMITS TO  
11 OPERATE ISSUED UNDER THIS ACT UNLESS A SOURCE PETITIONS FOR A  
12 SHORTER PERMIT TERM PURSUANT TO CRITERIA ESTABLISHED BY RULE, OR  
13 AS OTHERWISE REQUIRED BY THE CLEAN AIR ACT.

14 (K) PROVIDING FOR THE ISSUANCE OF A GENERAL PERMIT COVERING  
15 SOURCE CATEGORIES HAVING NUMEROUS SIMILAR SOURCES. GENERAL PER-  
16 MITS SHALL BE DESIGNED TO MINIMIZE REPETITIVE REVIEWS OF SIMILAR  
17 SOURCES AND PROVIDE CONVENIENT AND PROMPT ISSUANCE TO PERMIT  
18 APPLICATIONS. THE RULES AUTHORIZING A GENERAL PERMIT SHALL CON-  
19 TAIN ALL THE APPLICABLE REQUIREMENTS FOR THE SOURCE CATEGORY, AND  
20 SHALL PROVIDE THAT A GENERAL PERMIT BE AVAILABLE TO AN APPROVED  
21 SOURCE IN LIEU OF THE OPERATING PERMIT. A PERSON WHO IS ELIGIBLE  
22 FOR A GENERAL PERMIT SHALL FILE A PERMIT APPLICATION AS REQUIRED  
23 BY RULES.

24 Sec. 8. (1) If a PERSON FILES A written complaint ~~is~~  
25 ~~filed~~ with the ~~commission~~ DEPARTMENT and the ~~commission~~  
26 DEPARTMENT believes, or if the ~~commission~~ DEPARTMENT believes,  
27 that any person is violating this act, ~~or any rule~~ RULES

1 promulgated ~~by the commission by causing or permitting~~ UNDER  
2 THIS ACT, OR ANY DETERMINATION OR ORDER ISSUED UNDER THIS ACT  
3 THAT CAUSES OR PERMITS air pollution, the ~~commission~~ DEPARTMENT  
4 shall make a prompt investigation. If after ~~such~~ THIS investi-  
5 gation ~~it~~ THE DEPARTMENT finds that a violation of ~~any rule of~~  
6 ~~the commission~~ THIS ACT, RULES PROMULGATED UNDER THIS ACT, OR  
7 ANY DETERMINATION OR ORDER ISSUED UNDER THIS ACT exists, ~~it~~ THE  
8 DEPARTMENT shall ~~endeavor~~ ATTEMPT to enter into a voluntary  
9 agreement with ~~such~~ THE person as provided in subsection (2).

10 (2) In consideration of ~~the provisions of~~ this section or  
11 other sections of this act, the ~~commission~~ DEPARTMENT, after  
12 due notice and opportunity for public hearing, may enter into a  
13 voluntary agreement or a performance contract with a person to  
14 abate pollution under conditions agreed upon by the ~~commission~~  
15 DEPARTMENT and the person, which agreement may provide for the  
16 enforcement of its terms by specific performance.

17 (3) If in the opinion of the ~~commission~~ DEPARTMENT the  
18 person violates the terms of the agreement or contract, the  
19 ~~commission~~ DEPARTMENT can proceed to enforce the conditions of  
20 the agreement or contract by order or by the institution in a  
21 court of competent jurisdiction of an action for specific per-  
22 formance or such other legal or equitable relief as the  
23 ~~commission deems~~ DEPARTMENT CONSIDERS appropriate.

24 (4) Whenever a person other than a party to the agreement  
25 feels ~~himself~~ aggrieved by an agreement entered pursuant to  
26 subsection (2), he OR SHE may file a sworn petition with the  
27 commission within 30 days of the issuance of notice of the

1 agreement setting forth the grounds and reasons for his OR HER  
2 complaint and asking for a hearing of the matter involved.  
3 ~~Thereupon the~~ THE commission shall set a date for a hearing to  
4 be held not more than 60 days from the date the petition is filed  
5 and shall notify the petitioner ~~thereof~~ OF THE DATE OF THE  
6 HEARING. At the hearing the petitioner and any other interested  
7 party may appear, present witnesses and submit evidence. A final  
8 order or determination of the commission upon the matter follow-  
9 ing the hearing shall be conclusive, unless reviewed in accord-  
10 ance with THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306  
11 of the Public Acts of 1969, as amended, BEING SECTIONS 24.201 TO  
12 24.328 OF THE MICHIGAN COMPILED LAWS, in the circuit court for  
13 the county of Ingham or for the county in which the person  
14 resides.

15       Sec. 13. Application for relief from any rules or order of  
16 the commission shall be made by petition to the circuit court for  
17 the county of Ingham, or to the county in which the petitioner  
18 resides. ~~which~~ THE petition shall be verified as in a civil  
19 action. Each petition shall contain a plain and concise state-  
20 ment of the material facts on which the petitioner relies and  
21 shall set forth the rule or order or part ~~thereof~~ OF THE RULE  
22 OR ORDER which he OR SHE shall claim to be unreasonable or preju-  
23 dicial to him OR HER and shall specify the grounds ~~therefor~~  
24 UPON WHICH THE PETITION RELIES. The petition may be accompanied  
25 by affidavits or other written proof and shall demand the relief  
26 to which the petitioner alleges he OR SHE is entitled, in the  
27 alternative or otherwise. The petition may be made by any 1 or

1 more persons, jointly or severally, who ~~shall be~~ ARE aggrieved  
2 by any rule or order whether or not the petitioner is or was a  
3 party to the proceeding in which the rule was adopted by the  
4 commission.

5       Sec. 14. When the director of public health finds that any  
6 person is discharging or causing to be discharged into the atmo-  
7 sphere directly or indirectly any air contaminant and the dis-  
8 charge constitutes an immediate and serious danger to the health,  
9 safety and welfare of the people and that it appears to be preju-  
10 dicial to the interests of the people of the state to delay  
11 action, the director shall notify the person by written notice  
12 that he must discontinue immediately the air pollution. Within  
13 not more than 15 days, the commission shall provide the person  
14 the opportunity to be heard and to present any proof that such  
15 discharge does not constitute a danger to the health, safety, and  
16 welfare of the people.

17       SEC. 14B. (1) WHEN A SOURCE THAT IS REQUIRED TO OBTAIN A  
18 PERMIT TO OPERATE UNDER TITLE V OF THE CLEAN AIR ACT IS REQUIRED  
19 TO SUBMIT AN APPLICATION PURSUANT TO THE SCHEDULE DEVELOPED UNDER  
20 SECTION 5B(3), THAT SOURCE SHALL PAY FEES TO THE DEPARTMENT.  
21 FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE SUFFICIENT TO  
22 COVER ALL REASONABLE DIRECT AND INDIRECT COSTS REQUIRED TO ADMIN-  
23 ISTER THE OPERATING PERMIT PROGRAM UNDER THIS ACT AND SHALL ONLY  
24 BE ASSESSED FOR THE FOLLOWING:

25       (A) REVIEWING AND ACTING UPON ANY APPLICATION FOR A PERMIT.

1 (B) IMPLEMENTING AND ENFORCING THE TERMS AND CONDITIONS OF A  
2 PERMIT. HOWEVER, COST SHALL NOT INCLUDE COURT COSTS OR OTHER  
3 COSTS ASSOCIATED WITH AN ENFORCEMENT ACTION.

4 (C) EMISSIONS AND AMBIENT MONITORING.

5 (D) PREPARING GENERALLY APPLICABLE RULES, OR GUIDANCE, OR  
6 BOTH.

7 (E) MODELING, ANALYSES, AND DEMONSTRATIONS.

8 (F) PREPARING INVENTORIES AND TRACKING EMISSIONS.

9 (G) THE SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVI-  
10 RONMENTAL COMPLIANCE ASSISTANCE PROGRAM.

11 (2) THE AIR QUALITY OPERATING PERMIT FUND IS CREATED WITHIN  
12 THE STATE TREASURY. THE STATE TREASURER MAY RECEIVE MONEY FROM  
13 THE FEES REQUIRED UNDER SUBSECTION (1) FOR DEPOSIT INTO THE  
14 FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE  
15 FUND. THE STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND  
16 EARNINGS FROM FUND INVESTMENTS. MONEY IN THE FUND AT THE CLOSE  
17 OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE  
18 TO THE GENERAL FUND. THE DEPARTMENT SHALL EXPEND MONEY IN THE  
19 FUND SOLELY TO SUPPORT THE REASONABLE COST OF THE DEVELOPMENT AND  
20 IMPLEMENTATION OF THE AIR POLLUTION CONTROL PROGRAM. PERMIT FEES  
21 PAID TO A LOCAL UNIT OF GOVERNMENT AUTHORIZED UNDER THIS ACT TO  
22 CONDUCT A PERMIT PROGRAM OR TO THE FEDERAL GOVERNMENT SHALL BE IN  
23 LIEU OF FEES PAID TO THE DEPARTMENT.

24 (3) THE DEPARTMENT SHALL EXPEND MONEY UPON APPROPRIATION  
25 FROM THE AIR QUALITY OPERATING PERMIT FUND ONLY FOR THE PURPOSES  
26 PROVIDED IN SUBSECTION (1).

1           SEC. 14C. THE AUDITOR GENERAL SHALL PROVIDE THE LEGISLATURE  
2 WITH A REPORT INDICATING WHETHER OR NOT THE FEES AVAILABLE FOR  
3 DEPOSIT IN THE AIR QUALITY OPERATING PERMIT FUND WILL RESULT IN  
4 THE COLLECTION AND RETENTION OF FEES IN AN AMOUNT SUFFICIENT TO  
5 SATISFY THE CONDITIONS SPECIFIED IN SECTION 14B(1). THIS DEMON-  
6 STRATION SHALL INCLUDE AN INITIAL ACCOUNTING AND PERIODIC UPDATES  
7 OF HOW FEE REVENUES ARE USED TO COVER THE COSTS OF MEETING THE  
8 REQUIREMENTS OF THE OPERATING PERMIT PROGRAM.

9           SEC. 16A. THE ATTORNEY GENERAL MAY, AT THE REQUEST OF THE  
10 DEPARTMENT, FILE AN ACTION IN A COURT OF COMPETENT JURISDICTION  
11 TO ENJOIN ANY VIOLATION OF ANY PERMIT CONDITIONS, FINAL ORDERS OR  
12 ORDER OF DETERMINATION, ANY FEE OR FILING REQUIREMENT, INSPECTION  
13 ENTRY OR MONITORING REQUIREMENTS, OR ANY RULE PROMULGATED UNDER  
14 THIS ACT. IN ADDITION, THE ACTION MAY SEEK TO RECOVER A CIVIL  
15 PENALTY OF NOT MORE THAN \$10,000.00 PER DAY FOR EACH VIOLATION.  
16 IN ADDITION, THE ATTORNEY GENERAL MAY, AT THE REQUEST OF THE  
17 DEPARTMENT, SEEK TO RECOVER THE FULL VALUE OF THE INJURIES DONE  
18 TO THE NATURAL RESOURCES OF THE STATE, AND THE COSTS OF ENFORCE-  
19 MENT BY THE STATE RESULTING FROM THE ALLEGED VIOLATION.

20           SEC. 16B. (1) A PERSON WHO KNOWINGLY VIOLATES ANY REQUIRE-  
21 MENT OR PROHIBITION OF AN APPLICABLE REQUIREMENT OF THIS ACT OR A  
22 RULE PROMULGATED UNDER THIS ACT, WHO FAILS TO OBTAIN OR COMPLY  
23 WITH A PERMIT, OR COMPLY WITH A FINAL ORDER OR ORDER OF DETERMI-  
24 NATION MADE UNDER THIS ACT IS GUILTY OF A MISDEMEANOR PUNISHABLE  
25 BY A FINE OF NOT MORE THAN \$10,000.00 PER DAY FOR EACH  
26 VIOLATION.

1 (2) A PERSON WHO KNOWINGLY MAKES A FALSE MATERIAL STATEMENT,  
2 REPRESENTATION OR CERTIFICATION IN, OR OMITTS MATERIAL INFORMATION  
3 FROM, OR KNOWINGLY ALTERS, CONCEALS, OR FAILS TO FILE ANY NOTICE,  
4 APPLICATION, RECORD, REPORT, PLAN, OR OTHER DOCUMENT REQUIRED TO  
5 BE SUBMITTED PURSUANT TO THIS ACT, OR WHO KNOWINGLY FAILS TO  
6 NOTIFY OR REPORT INFORMATION REQUIRED TO BE SUBMITTED UNDER THIS  
7 ACT, OR WHO KNOWINGLY FALSIFIES, TAMPERS WITH, RENDERS INACCU-  
8 RATE, OR KNOWINGLY FAILS TO INSTALL ANY MONITORING DEVICE OR  
9 METHOD REQUIRED UNDER THIS ACT, IS GUILTY OF A MISDEMEANOR PUN-  
10 ISHABLE BY A FINE OF NOT MORE THAN \$10,000.00 FOR EACH  
11 VIOLATION.

12 (3) IN ADDITION TO ANY FINE IMPOSED UNDER THIS SECTION, THE  
13 COURT IN ITS DISCRETION MAY IMPOSE PROBATION UPON ANY PERSON WHO  
14 HAS BEEN CONVICTED PURSUANT TO THIS SECTION.

15 SEC. 16C. (1) THE FINES IMPOSED UNDER SECTION 16A OR 16B  
16 SHALL BE ASSESSED FOR EACH INSTANCE OF VIOLATION AND, IF THE VIO-  
17 LATION IS CONTINUOUS, SHALL BE ASSESSABLE UP TO THE MAXIMUM  
18 AMOUNT FOR EACH DAY OF VIOLATION. HOWEVER, THE PERSON IS NOT  
19 SUBJECT TO THE PENALTIES OF SECTION 16A OR 16B IF THE DISCHARGE  
20 OF THE EMISSIONS IS IN CONFORMANCE WITH AND OBEDIENT TO A RULE,  
21 VOLUNTARY AGREEMENT, OR ORDER OF THE COMMISSION OR DEPARTMENT.

22 (2) IN DETERMINING THE AMOUNT OF ANY PENALTY TO BE ASSESSED  
23 UNDER SECTION 16A OR 16B, THE DEPARTMENT OR THE COURT, AS APPRO-  
24 PRIATE, SHALL TAKE INTO CONSIDERATION, IN ADDITION TO SUCH OTHER  
25 FACTORS AS JUSTICE MAY REQUIRE, ALL OF THE FOLLOWING:

26 (A) THE SIZE OF THE BUSINESS.

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

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

4 (D) THE DURATION OF THE VIOLATION AS ESTABLISHED BY ANY  
5 CREDIBLE EVIDENCE, INCLUDING EVIDENCE OTHER THAN THE APPLICABLE  
6 TEST METHOD.

7 (E) PAYMENT BY THE VIOLATOR OF PENALTIES PREVIOUSLY ASSESSED  
8 FOR THE SAME VIOLATION.

9 (F) THE ECONOMIC BENEFIT OF NONCOMPLIANCE.

10 (G) THE SERIOUSNESS OF THE VIOLATION.

11 SEC. 18A. EXCEPT AS PROVIDED IN THIS SECTION, NOTHING IN  
12 THIS ACT OR THE RULES PROMULGATED UNDER THIS ACT SHALL BE CON-  
13 STRUED TO PROVIDE FOR REQUIREMENTS MORE STRINGENT THAN THOSE OF  
14 THE CLEAN AIR ACT. HOWEVER, IF THE DEPARTMENT CAN DEMONSTRATE TO  
15 A REASONABLE SCIENTIFIC CERTAINTY THAT UNIQUE CIRCUMSTANCES EXIST  
16 IN THE STATE WHICH NECESSITATE MORE STRINGENT REQUIREMENTS, THEN  
17 REASONABLE COST EFFECTIVE MEASURES MAY BE REQUIRED BY THE DEPART-  
18 MENT PURSUANT TO RULES.

19 Section 2. Sections 6, 14a, 16, and 17 of Act No. 348 of  
20 the Public Acts of 1965, being sections 336.16, 336.24a, 336.26,  
21 and 336.27 of the Michigan Compiled Laws, are repealed.