

SENATE BILL No. 560

May 31, 2007, Introduced by Senators McMANUS, BISHOP, KUIPERS, KAHN, STAMAS, VAN WOERKOM, BROWN, GILBERT, GEORGE, HARDIMAN, PAPPAGEORGE, CROPSEY and JELINEK and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 3119, 3121, 3124, 5521, 5701, 5702, 5703,
5704, 5705, 5706, 5707, and 5708 (MCL 324.3119, 324.3121, 324.3124,
324.5521, 324.5701, 324.5702, 324.5703, 324.5704, 324.5705,
324.5706, 324.5707, and 324.5708), section 3119 as amended and
section 3121 as added by 2004 PA 91, section 3124 as added by 2004
PA 90, and section 5521 as amended by 1998 PA 245.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3119. (1) The storm water fund is created within the
2 state treasury.

3 (2) The state treasurer may receive money or other assets from

1 any source for deposit into the fund. The state treasurer shall
2 direct the investment of the fund. The state treasurer shall credit
3 to the fund interest and earnings from fund investments.

4 (3) Money in the fund at the close of the fiscal year shall
5 remain in the fund and shall not lapse to the general fund.

6 (4) The department shall expend money from the fund, upon
7 appropriation, only for 1 or more of the following purposes:

8 (a) Review of storm water permit applications.

9 (b) Storm water permit development, issuance, reissuance,
10 modification, and termination.

11 (c) Surface water monitoring to support the storm water
12 permitting process.

13 (d) Assessment of compliance with storm water permit
14 conditions.

15 (e) Enforcement against storm water permit violations.

16 (f) Classification of storm water control facilities.

17 (g) Not more than 10% of the money in the fund for training
18 for certification of storm water operators and educational material
19 to assist persons regulated under this part.

20 (h) Regional or statewide public education to enhance the
21 effectiveness of storm water permits.

22 **(I) FOR THE PURPOSES OF PART 57.**

23 (5) Money in the fund shall not be used to support the direct
24 costs of litigation undertaken to enforce this part.

25 (6) Upon the expenditure or appropriation of money raised in
26 section 3118 for any other purpose than those specifically listed
27 in this section, authorization to collect fees under section 3118

1 ~~shall be~~ IS suspended until ~~such time as~~ the money expended or
2 appropriated for purposes other than those listed in this section
3 is returned to the fund.

4 (7) By ~~January 1, 2006 and by~~ January 1 of each year,
5 ~~thereafter~~, the department shall prepare and submit, to the
6 governor, the legislature, the chairs of the standing committees of
7 the senate and house of representatives with primary responsibility
8 for issues related to natural resources and the environment, and
9 the chairs of the subcommittees of the senate and house
10 appropriations committees with primary responsibility for
11 appropriations to the department, a report that details the
12 departmental activities of the previous fiscal year in
13 administering the department's storm water program that were funded
14 by the fund. This report shall include, at a minimum, all of the
15 following:

16 (a) The number of full-time equated positions performing each
17 of the following functions:

18 (i) Permit issuance and development.

19 (ii) Compliance.

20 (iii) Enforcement.

21 (b) The number of new permit applications received by the
22 department in the preceding year.

23 (c) The number of renewal permits in the preceding year.

24 (d) The number of permit modifications requested in the
25 preceding year.

26 (e) The number of staff hours dedicated to each of the fee
27 categories listed in section 3118.

1 (f) The number of permits issued for fee categories listed in
2 section 3118.

3 (g) The average number of days required for review of a permit
4 from the date the permit application is determined to be
5 administratively complete.

6 (h) The number of permit applications denied.

7 (i) The number of permit applications withdrawn by the
8 applicant.

9 (j) The percentage and number of permit applications that were
10 reviewed for administrative completeness within 10 days of receipt
11 by the department.

12 (k) The percentage and number of permit applications submitted
13 to the department that were administratively complete as received.

14 (l) The percentage and number of new permit applications for
15 which a final action was taken by the department within 180 days.

16 (m) The percentage and number of permit renewals and
17 modifications processed within the required time.

18 (n) The number of permits reopened by the department.

19 (o) The number of unfilled positions dedicated to the
20 department's storm water program.

21 (p) The amount of revenue in the fund at the end of the fiscal
22 year.

23 Sec. 3121. (1) The national pollutant discharge elimination
24 system fund is created within the state treasury.

25 (2) The state treasurer may receive money or other assets from
26 any source for deposit into the fund. The state treasurer shall
27 direct the investment of the fund. The state treasurer shall credit

1 to the fund interest and earnings from fund investments.

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

4 (4) The department shall expend money from the fund, upon
5 appropriation, only to administer the national pollutant discharge
6 elimination system program under this part including, but not
7 limited to, all of the following:

8 (a) Water quality standards development and maintenance.

9 (b) Permit development and issuance.

10 (c) Maintenance of program data.

11 (d) Ambient water quality monitoring conducted to determine
12 permit conditions and evaluate the effectiveness of permit
13 requirements.

14 (e) Activities conducted to determine a discharger's permit
15 compliance status, including, but not limited to, inspections,
16 discharge monitoring, and review of submittals.

17 (f) Laboratory services.

18 (g) Enforcement.

19 (h) Program administration activities.

20 **(I) FOR THE PURPOSES OF PART 57.**

21 (5) By ~~January 1, 2006 and by~~ January 1 of each year,
22 ~~thereafter,~~ the department shall prepare and submit, to the
23 governor, the legislature, the chairs of the standing committees of
24 the senate and house of representatives with primary responsibility
25 for issues related to natural resources and the environment, and
26 the chairs of the subcommittees of the senate and house
27 appropriations committees with primary responsibility for

1 appropriations to the department, a report that details the
2 departmental activities of the previous fiscal year in
3 administering the department's national pollutant discharge
4 elimination system program that were funded by the fund. This
5 report shall include, at a minimum, all of the following as it
6 relates to the department:

7 (a) The number of full-time equated positions performing each
8 of the following functions:

9 (i) Permit issuance and development.

10 (ii) Compliance.

11 (iii) Enforcement.

12 (b) The number of permit applications received by the
13 department in the preceding year, including applications for new
14 and increased uses and reissuances.

15 (c) The number of staff hours dedicated to each of the fee
16 categories listed in section 3120.

17 (d) The number of permits issued for fee categories listed in
18 section 3120.

19 (e) The number of permit applications denied.

20 (f) The number of permit applications withdrawn by the
21 applicant.

22 (g) The percentage and number of permit applications that were
23 reviewed for administrative completeness within statutory time
24 frames.

25 (h) The percentage and number of permit applications submitted
26 to the department that were administratively complete as received.

27 (i) The percentage and number of permit applications for which

1 a final action was taken by the department within statutory time
2 frames for new and increased uses and reissuances.

3 (j) The number of permits reopened by the department.

4 (k) The number of unfilled positions dedicated to the national
5 pollutant discharge elimination system program.

6 (l) The amount of revenue in the fund at the end of the fiscal
7 year.

8 (6) As used in this section:

9 (a) "Fund" means the national pollutant discharge elimination
10 system fund created in subsection (1).

11 (b) "National pollutant discharge elimination system program"
12 means the national pollutant discharge elimination system program
13 delegated to the department under ~~section 402 of title IV of the~~
14 ~~federal water pollution control act, chapter 758, 86 Stat. 880, 33~~
15 ~~U.S.C. 33 USC 1342~~ , and implemented under this part.

16 Sec. 3124. (1) The groundwater discharge permit fund is
17 created within the state treasury. The state treasurer may receive
18 money or other assets from any source for deposit into the
19 groundwater discharge permit fund. The state treasurer shall direct
20 the investment of the groundwater discharge permit fund.

21 (2) Money in the groundwater discharge permit fund at the
22 close of the fiscal year shall remain in the groundwater discharge
23 permit fund and shall not lapse to the general fund.

24 (3) The state treasurer shall credit to the groundwater
25 discharge permit fund the interest and earnings from groundwater
26 discharge permit fund investments.

27 (4) The department shall expend money from the groundwater

1 discharge permit fund, upon appropriation, only to implement the
2 department's groundwater discharge program under this part **AND FOR**
3 **THE PURPOSES OF PART 57**. However, in any state fiscal year, the
4 department shall not expend more than \$2,000,000.00 of money from
5 the fund.

6 (5) By March 1 annually, the department shall prepare and
7 submit, to the governor, the legislature, the chair of the standing
8 committees of the senate and house of representatives with primary
9 responsibility for issues related to natural resources and the
10 environment, and the chairs of the subcommittees of the senate and
11 house appropriations committees with primary responsibility for
12 appropriations to the department, a report that details the
13 activities during the previous fiscal year in administering the
14 department's groundwater discharge program that were funded by the
15 groundwater discharge permit fund. This report shall include, at a
16 minimum, all of the following as they relate to the department:

17 (a) The number of full-time equated positions performing
18 groundwater permitting, compliance, and enforcement activities.

19 (b) The number of applications received by the department,
20 reported as the number of applications determined to be
21 administratively incomplete and the number determined to be
22 administratively complete.

23 (c) The number of applications for groundwater permits
24 determined to be administratively complete for which a final action
25 was taken by the department. The number of final actions shall be
26 reported as the number of applications approved, the number of
27 applications denied, and the number of applications withdrawn by

1 the applicant.

2 (d) The percentage and number of applications determined to be
3 administratively complete for which a final decision was made
4 within the statutory time frame.

5 (e) The number of inspections conducted at groundwater
6 facilities.

7 (f) The number of violation letters sent.

8 (g) The number of contested case hearings and civil actions
9 initiated and completed, the number of voluntary consent orders and
10 administrative orders entered or issued, and the amount of fines
11 and penalties collected through such actions or orders.

12 (h) For each enforcement action that includes a penalty, a
13 description of what corrective actions were required by the
14 enforcement action.

15 (i) The number of groundwater complaints received,
16 investigated, resolved, and not resolved by the department.

17 (j) The amount of revenue in the groundwater discharge permit
18 fund at the end of the fiscal year.

19 Sec. 5521. (1) The emissions control fund is created within
20 the state treasury. The state treasurer may receive money from any
21 source for deposit into the fund. The state treasurer shall direct
22 the investment of the fund. The state treasurer shall credit to the
23 fund interest and earnings from fund investments.

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

26 (3) Upon the expenditure or appropriation of funds raised
27 through fees in this part for any purpose other than those

specifically listed in this part, authorization to collect fees under this part is suspended until ~~such time as the funds expended~~ or appropriated for purposes other than those listed in this part are returned to the emissions control fund.

(4) ~~Beginning October 1, 1994 and thereafter money~~ **MONEY** shall be expended from the fund, upon appropriation, only **FOR THE PURPOSES OF PART 57 AND** for the following purposes as they relate to implementing the operating permit program required by title V:

(a) Preparing generally applicable rules or guidance regarding the operating permit program or its implementation or enforcement.

(b) Reviewing and acting on any application for a permit, permit revision, or permit renewal, the development of an applicable requirement as part of the processing of a permit, or permit revision or renewal.

(c) General administrative costs of running the operating permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry.

(d) Implementing and enforcing the terms of any operating permit, not including any court costs or other costs associated with an enforcement action.

(e) Emissions and ambient monitoring.

(f) Modeling, analysis, or demonstration.

(g) Preparing inventories and tracking emissions.

~~(h) Providing direct and indirect support to facilities under the small business clean air assistance program created in part 57.~~

Sec. 5701. As used in this part:

(a) "Clean air act" means chapter 360, 69 Stat. 322, 42 U.S.C.

1 ~~USC 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511~~
 2 ~~to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554,~~
 3 ~~7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to~~
 4 ~~7622, 7624 to 7627, 7641 to 7642, 7651 to 7651e, 7661 to 7661f, and~~
 5 ~~7671 to 7671g~~ and the regulations promulgated under that act.

6 (B) "CLEAN WATER ACT" MEANS 33 USC 1251 TO 1387.

7 (C) "MICHIGAN STRATEGIC FUND" MEANS THE MICHIGAN STRATEGIC
 8 FUND CREATED IN THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270, MCL
 9 125.2001 TO 125.2094.

10 (D) ~~(b)~~ "Office" means the office of the small business clean
 11 ~~air~~ ENVIRONMENTAL ombudsman.

12 (E) ~~(c)~~ "Ombudsman" means the small business clean air
 13 ENVIRONMENTAL ombudsman.

14 (F) ~~(d)~~ "Program" means the small business clean air
 15 ENVIRONMENTAL assistance program.

16 (G) ~~(e)~~ "Small business" means a business that is
 17 independently owned and operated and that is not dominant in its
 18 field as defined in 13 C.F.R. 121 ~~OF OPERATION AS THAT TERM IS USED~~
 19 ~~IN 13 CFR 121.102 and , unless adjusted as authorized under this~~
 20 ~~section or section 5702, is a stationary source that meets all of~~
 21 the following requirements:

22 (i) Is owned or operated by a person that employs 100 or fewer
 23 individuals.

24 (ii) Is a small business concern as defined ~~DESCRIBED~~ in the
 25 ~~small business act, Public Law 85-536, 72 Stat. 384~~ 15 USC 632 AND
 26 13 CFR 121.201.

27 ~~— (iii) Is not a major stationary source as defined in Titles I~~

~~and III of the clean air act or is a major stationary source as defined in Titles I and III of the clean air act because of its location in a nonattainment area.~~

~~—— (iv) Emits less than 50 tons per year of any air contaminant or air pollutant regulated pursuant to part 55 or the clean air act.~~

~~—— (v) Emits less than 75 tons per year of all air contaminants or air pollutants regulated pursuant to part 55 or the clean air act.~~

Sec. 5702. ~~(1) Upon petition by a source, the department may, after notice and opportunity for public comment, include as a small business stationary source for purposes of this section any stationary source that does not meet the criteria of subparagraph (iii), (iv), or (v) of section 5701(c) but which does not emit more than 100 tons per year of all air contaminants and air pollutants regulated pursuant to part 55 or the clean air act.~~

~~—— (2) The department~~ **OF ENVIRONMENTAL QUALITY**, in consultation with the administrator of the United States environmental protection agency and the administrator of the United States small business administration and after providing notice and opportunity for public hearing, may exclude from the small business ~~stationary source~~ definition any category or subcategory of ~~sources~~ **BUSINESSES** that the state determines to have sufficient technical and financial capabilities to meet the requirements of **PART 31 AND** the clean air act and part 55 without the application of this part.

Sec. 5703. (1) The office of the small business ~~clean air~~ **ENVIRONMENTAL** ombudsman is created ~~within the department of commerce~~ **AS AN AUTONOMOUS ENTITY IN THE MICHIGAN STRATEGIC FUND.**

1 ~~The office shall exercise its powers and duties independently of~~
2 ~~any state department or entity.~~ THE OFFICE SHALL BE AN INDEPENDENT,
3 IMPARTIAL STATE OFFICE EMPOWERED TO INVESTIGATE AND REVIEW THE
4 ACTIONS OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY. THE OFFICE
5 SHALL MONITOR AND ENSURE COMPLIANCE BY THE DEPARTMENT OF
6 ENVIRONMENTAL QUALITY WITH THIS ACT, RULES PROMULGATED PURSUANT TO
7 THIS ACT, AND RELEVANT POLICIES AND RECOMMEND APPROPRIATE CHANGES
8 IN POLICY, PROCEDURE, AND LEGISLATION.

9 (2) The principal executive officer of the office is the small
10 business ~~clean air~~ ENVIRONMENTAL ombudsman, who shall be appointed
11 ~~by the governor~~ WITH THE ADVICE AND CONSENT OF THE SENATE.

12 (3) THE INDIVIDUAL APPOINTED OMBUDSMAN SHALL BE QUALIFIED BY
13 TRAINING AND EXPERIENCE TO PERFORM THE DUTIES AND EXERCISE THE
14 POWERS OF THE SMALL BUSINESS ENVIRONMENTAL OMBUDSMAN AND THE OFFICE
15 AS PROVIDED IN THIS ACT.

16 (4) THE GOVERNOR MAY REMOVE THE OMBUDSMAN FROM OFFICE FOR
17 CAUSE, INCLUDING, BUT NOT LIMITED TO, INCOMPETENCE, OFFICIAL
18 MISCONDUCT, HABITUAL OR WILLFUL NEGLECT OF DUTY, OR OTHER
19 MISFEASANCE OR MALFEASANCE IN CONNECTION WITH THE OPERATION OF THE
20 OFFICE OF THE SMALL BUSINESS ENVIRONMENTAL OMBUDSMAN. THE GOVERNOR
21 SHALL REPORT THE REASON FOR THE REMOVAL TO THE LEGISLATURE.

22 (5) THE OMBUDSMAN SHALL NOT BE ACTIVELY INVOLVED IN POLITICAL
23 PARTY ACTIVITIES OR PUBLICLY ENDORSE, SOLICIT FUNDS FOR, OR MAKE
24 CONTRIBUTIONS TO POLITICAL PARTIES OR CANDIDATES FOR ELECTIVE
25 OFFICE. THE OMBUDSMAN SHALL NOT ENGAGE IN ANY OTHER OCCUPATION,
26 BUSINESS, OR PROFESSION LIKELY TO DETRACT FROM THE FULL-TIME
27 PERFORMANCE OF HIS OR HER DUTIES AS OMBUDSMAN OR TO RESULT IN A

1 CONFLICT OF INTEREST OR AN APPEARANCE OF IMPROPRIETY OR PARTIALITY.

2 Sec. 5704. (1) The office of the **SMALL BUSINESS ENVIRONMENTAL**
3 ~~ombudsman is responsible for assessing and ensuring that the goals~~
4 ~~of the program are being met and in addition shall RECEIVE,~~
5 **INVESTIGATE, AND RESOLVE AIR POLLUTION AND WATER POLLUTION RELATED**
6 **COMPLAINTS AND DISPUTES FROM SMALL BUSINESSES AGAINST THE**
7 **DEPARTMENT OF ENVIRONMENTAL QUALITY. ANY INDIVIDUAL MAY SUBMIT A**
8 **COMPLAINT TO THE OFFICE. THE OFFICE HAS THE SOLE DISCRETION AND**
9 **AUTHORITY TO DETERMINE IF A COMPLAINT FALLS WITHIN THE POWERS AND**
10 **DUTIES OF THE OFFICE TO INVESTIGATE. THE OFFICE MAY INITIATE AN**
11 **INVESTIGATION WITHOUT RECEIVING A COMPLAINT. COMPLAINANTS ARE**
12 **ENTITLED TO RECEIVE THE RECOMMENDATIONS OF THE OMBUDSMAN AND THE**
13 **DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE TO THE**
14 **RECOMMENDATIONS OF THE OMBUDSMAN CONSISTENT WITH STATE AND FEDERAL**
15 **LAW.**

16 (2) **THE OFFICE MAY** coordinate or do all of the following:

17 (a) Conduct independent evaluations of all aspects of the
18 program.

19 (b) Review and provide comments and recommendations to the
20 United States environmental protection agency and ~~state and local~~
21 ~~air pollution control authorities~~ **THE DEPARTMENT OF ENVIRONMENTAL**
22 **QUALITY** regarding the development and implementation of **AIR AND**
23 **WATER POLLUTION** requirements that ~~impact~~ **AFFECT** small businesses.

24 (c) Facilitate and promote the participation of small
25 businesses in the development of rules that ~~impact~~ **AFFECT** small
26 businesses.

27 (d) Assist in providing reports to the governor and

1 legislature and the public regarding the applicability of the
2 requirements of this part, **PART 31, AND** part 55 ~~—~~and the clean air
3 act to small business.

4 (e) Aid in the dissemination of information, including, but
5 not limited to, air **AND WATER** pollution requirements and control
6 technologies, to small businesses and other interested parties.

7 (f) Participate in or sponsor meetings and conferences with
8 state and local regulatory officials, industry groups, and small
9 business representatives.

10 ~~— (g) Aid in investigating and resolving complaints and disputes~~
11 ~~from small businesses against the state or local air pollution~~
12 ~~control authorities, or both.~~

13 (G) ~~(h)~~ Periodically review the work and services provided by
14 the program with trade associations and representatives of small
15 business.

16 (H) ~~(i)~~ Refer small businesses to the appropriate specialist
17 in the program where they may obtain information and assistance on
18 affordable alternative technologies, process changes, and products
19 and operational methods to help reduce air **AND WATER** pollution and
20 accidental releases.

21 (I) ~~(j)~~ Arrange for and assist in the preparation of guideline
22 documents by the program and ensure that the language is readily
23 understandable by laypersons.

24 (J) ~~(k)~~ Work with trade associations and small businesses to
25 bring about voluntary compliance with **PART 31 AND** the clean air act
26 and part 55.

27 (K) ~~(l)~~ Work with regional and state offices of the small

business administration, the United States department of commerce and ~~state department of commerce~~ **THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION**, and other federal and state agencies that may have programs to financially assist small businesses in need of funds to comply with environmental requirements.

(I) ~~(m)~~ Work with private sector financial institutions to assist small businesses in locating sources of funds to comply with state and ~~local~~ **AIR AND WATER** pollution control requirements.

(M) ~~(n)~~ Conduct studies to evaluate the ~~impacts~~ **EFFECTS** of **PART 31 AND OF** the clean air act and part 55 on the state's economy, local economies, and small businesses.

(N) ~~(o)~~ Work with other states to establish a network for sharing information on small businesses and their efforts to comply with the **CLEAN WATER ACT, THE** clean air act, and the pertinent **WATER AND** air pollution act for their state.

(O) ~~(p)~~ Make recommendations to the department and the legislature concerning the reduction of any fee required under **PART 31 OR** the clean air act or part 55 to take into account the financial resources of small businesses.

Sec. 5705. (1) The ~~program is created in the department of commerce. The program shall develop adequate~~ **OMBUDSMAN SHALL ESTABLISH PROCEDURES FOR THE OFFICE FOR BUDGETING, EXPENDING MONEY, AND EMPLOYING PERSONNEL ACCORDING TO THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL 18.1101 TO 18.1594. SUBJECT TO ANNUAL APPROPRIATIONS, THE OMBUDSMAN SHALL EMPLOY SUFFICIENT PERSONNEL TO CARRY OUT THE DUTIES AND POWERS PRESCRIBED BY THIS PART.**

(2) **THE OFFICE OF SMALL BUSINESS ENVIRONMENTAL OMBUDSMAN MAY**

1 **DEVELOP** mechanisms for all of the following:

2 (a) Developing, collecting, and coordinating information on
3 compliance methods and technologies for small businesses.

4 ~~—(b) Encouraging lawful cooperation among small businesses and~~
5 ~~other persons to further compliance with the clean air act and part~~
6 ~~55.~~

7 **(B)** ~~(e)~~Assisting small business with information regarding
8 pollution prevention and accidental release detection and
9 prevention, including, but not limited to, providing information
10 concerning alternative technologies, process changes, and products
11 and methods of operation that help reduce **WATER AND** air pollution.

12 **(C)** ~~(d)~~Establishing a compliance assistance program that
13 assists small businesses in determining applicable requirements for
14 compliance and the procedures for obtaining permits efficiently in
15 a timely manner under **PART 31 OR** the clean air act or part 55. ~~or~~
16 ~~both.~~

17 **(3) THE OFFICE SHALL DEVELOP ADEQUATE MECHANISMS FOR ALL OF**
18 **THE FOLLOWING:**

19 **(A) ENCOURAGING LAWFUL COOPERATION AMONG SMALL BUSINESSES AND**
20 **OTHER PERSONS TO FURTHER COMPLIANCE WITH PART 31 AND THE CLEAN AIR**
21 **ACT AND PART 55.**

22 **(B) PROCEDURES FOR RECEIVING AND PROCESSING COMPLAINTS ABOUT**
23 **THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S ADMINISTRATION OF PART 31**
24 **OR 55.**

25 **(C)** ~~(e)~~Providing mechanisms and access to information so that
26 small businesses receive notification of their rights under **PART 31**
27 **AND** the clean air act and part 55 in a manner and form that assures

1 **ENSURES** reasonably adequate time for small businesses to evaluate
 2 their compliance methods or applicable proposed or final rules or
 3 standards under **PART 31 AND** the clean air act and part 55.

4 (D) ~~(f)~~—Informing small businesses of their obligations under
 5 **PART 31 AND** the clean air act and part 55, including mechanisms for
 6 referring small businesses to qualified auditors or to the state if
 7 the state elects to provide audits to determine compliance with
 8 **PART 31 OR** the clean air act and part 55. To the extent permissible
 9 by state and federal law, audits shall be separate from the formal
 10 inspection and compliance program.

11 (E) ~~(g)~~—Providing information on how to obtain consideration
 12 from the department **OF ENVIRONMENTAL QUALITY** on requests from small
 13 businesses for modifications of any work practice, technological
 14 method of compliance, or the schedule ~~of milestones~~ for reductions
 15 of **DISCHARGES OR** emissions preceding an applicable compliance date.

16 Sec. 5706. (1) ~~Upon request, the ombudsman shall be given~~
 17 ~~access to all information, records, and documents in the possession~~
 18 ~~of the commission and the department that the ombudsman considers~~
 19 ~~necessary to fulfill the responsibilities of the office~~ **ALL**
 20 **DEPARTMENTS, AGENCIES, BOARDS, COMMITTEES, COMMISSIONS, OR OFFICERS**
 21 **OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE, SO FAR AS**
 22 **IS COMPATIBLE WITH THEIR DUTIES, SHALL GIVE THE OFFICE OF THE SMALL**
 23 **BUSINESS ENVIRONMENTAL OMBUDSMAN ANY ASSISTANCE REQUESTED BY THE**
 24 **OFFICE OF THE SMALL BUSINESS ENVIRONMENTAL OMBUDSMAN IN THE**
 25 **PERFORMANCE OF THE OFFICE'S DUTIES. ALL DEPARTMENTS, AGENCIES,**
 26 **BOARDS, COMMITTEES, COMMISSIONS, OR OFFICERS OF THIS STATE OR ANY**
 27 **POLITICAL SUBDIVISION OF THIS STATE SHALL PROVIDE THE OFFICE OF THE**

1 SMALL BUSINESS ENVIRONMENTAL OMBUDSMAN FREE ACCESS TO AGENCY
2 PERSONNEL AND ANY BOOK, RECORD, OR DOCUMENT IN THEIR CUSTODY,
3 RELATING TO INVESTIGATION OF A COMPLAINT BY THE OFFICE, other than
4 information described in section 13 of the freedom of information
5 act, ~~Act No. 442 of the Public Acts of 1976, being section 15.243~~
6 ~~of the Michigan Compiled Laws 1976 PA 442, MCL 15.243. The~~
7 ~~commission and the department shall also assist the ombudsman in~~
8 ~~fulfilling his or her responsibilities under this part.~~

9 (2) THE OFFICE MAY SUBPOENA ANY PERSON TO APPEAR, TO GIVE
10 SWORN TESTIMONY, OR TO PRODUCE DOCUMENTARY OR OTHER EVIDENCE THAT
11 IS REASONABLY RELEVANT TO THE MATTERS UNDER INVESTIGATION BY THE
12 OFFICE.

13 (3) A PERSON SHALL NOT INTERFERE WITH, PREVENT, OR PROHIBIT
14 THE OMBUDSMAN FROM CARRYING OUT HIS OR HER POWERS OR DUTIES UNDER
15 THIS PART.

16 (4) THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL NOT
17 DISCRIMINATE AGAINST A PERSON BECAUSE A COMPLAINT AGAINST THE
18 DEPARTMENT HAS BEEN OR MAY BE FILED WITH THE OFFICE BY OR ON BEHALF
19 OF THE PERSON.

20 (5) THE OFFICE MAY BRING AN ACTION IN THE CIRCUIT COURT FOR
21 INGHAM COUNTY TO ENFORCE THIS PART AS IT RELATES TO THE OFFICE.

22 Sec. 5707. Information obtained by the office or the program
23 from small businesses that utilize their services shall be held in
24 confidence by those employed by the office or the program to the
25 extent authorized under the freedom of information act, ~~Act No. 442~~
26 ~~of the Public Acts of 1976, being sections 15.231 to 15.246 of the~~
27 ~~Michigan Compiled Laws 1976 PA 442, MCL 15.231 TO 15.246,~~

1 including, but not limited to, those provisions pertaining to
 2 exemptions from disclosure for trade secrets and commercial and
 3 financial information.

4 Sec. 5708. (1) The small business ~~clean air~~ **ENVIRONMENTAL**
 5 compliance advisory panel is created within the program.

6 (2) The advisory panel shall be broadly representative of the
 7 regulated small business community and shall include women members
 8 and members who are minorities. The advisory panel shall consist of
 9 the following members:

10 (a) Two members appointed by the governor to represent the
 11 general public and who are not owners or representatives of owners
 12 of small ~~business stationary sources~~ **BUSINESSES REGULATED UNDER**
 13 **PART 31 OR 55.**

14 (b) One member appointed by the ~~republican~~ **MAJORITY** leader of
 15 the senate who is an owner or a representative of owners of small
 16 ~~business stationary sources~~ **BUSINESSES REGULATED UNDER PART 31 OR**
 17 **55.**

18 (c) One member appointed by the ~~democratic~~ **MINORITY** leader of
 19 the senate who is an owner or a representative of owners of small
 20 ~~business stationary sources~~ **BUSINESSES REGULATED UNDER PART 31 OR**
 21 **55.**

22 (d) One member appointed by the ~~republican leader~~ **SPEAKER** of
 23 the house of representatives who is an owner or a representative of
 24 owners of small ~~business stationary sources~~ **BUSINESSES REGULATED**
 25 **UNDER PART 31 OR 55.**

26 (e) One member appointed by the ~~democratic~~ **MINORITY** leader of
 27 the house of representatives who is an owner or a representative of

1 owners of small ~~business stationary sources~~ **BUSINESSES REGULATED**
2 **UNDER PART 31 OR 55.**

3 (f) One member appointed by the department.

4 (3) Members of the advisory panel shall serve for terms of 4
5 years, or until a successor is appointed, whichever is later.

6 However, of the members first appointed, the members appointed by
7 the governor shall serve for 3 years, the members appointed by the
8 senate **LEADERS** shall serve for 1 year, and the members appointed by
9 the house of representatives **LEADERS** and the member appointed by
10 the department shall serve for 2 years.

11 (4) If a vacancy occurs on the advisory panel, the governor,
12 the department, or the appropriate legislative leader who made the
13 appointment shall make an appointment for the unexpired term in the
14 same manner as the original appointment.

15 (5) ~~The first meeting of the advisory panel shall be called~~
16 ~~within 90 days of the appointment of all advisory panel members. At~~
17 ~~the first meeting the~~ **THE** advisory panel shall elect from among its
18 members a chairperson and other officers as it considers necessary
19 or appropriate.

20 (6) A majority of the members of the advisory panel
21 constitutes a quorum for the transaction of business at a meeting
22 of the advisory panel. A majority of the members present and
23 serving are required for official action of the advisory panel.

24 (7) Members of the advisory panel shall serve without
25 compensation. However, members of the advisory panel may be
26 reimbursed for their actual and necessary expenses incurred in the
27 performance of their official duties as members of the advisory

1 panel.

2 (8) The advisory panel shall do all of the following:

3 (a) Consult with the ombudsman and the head of the program to
4 plan the work of the panel, including the frequency of meetings,
5 agenda items, and reports to be issued by the panel.

6 (b) Determine whether the program should utilize private
7 contractors hired by the program or utilize expertise within the
8 program, or both, to meet the requirements of this part that
9 pertain to providing technical assistance to small businesses.

10 (c) Prepare advisory reports concerning all of the following:

11 (i) The effectiveness of the office and program.

12 (ii) The difficulties encountered and degree and severity of
13 enforcement of ~~part~~ **PARTS 31 AND** 55.

14 (iii) The costs of operating the office and the program.

15 (iv) The average costs of different categories of small
16 businesses in complying with the **WATER AND** air quality enforcement
17 ~~program~~ **PROGRAMS** of this state.

18 (d) Periodically report to the administrator of the United
19 States environmental protection agency regarding compliance by the
20 program with the broad intent of all of the following ~~acts~~ **LAWS** as
21 may be applicable:

22 (i) ~~Chapter 35 of title 44 of the United States Code, 44 U.S.C.~~
23 **44 USC** 3501 to 3520, relating to paperwork reduction.

24 (ii) ~~Sections 601 to 612 of title 5 of the United States Code,~~
25 ~~5 U.S.C.~~ **5 USC** 601 to 612, relating to regulatory flexibility.

26 (iii) ~~Section 504 of title 5 of the United States Code, 5 U.S.C.~~
27 **5 USC** 504, and ~~section 2412 of title 28 of the United States Code,~~

1 ~~28 U.S.C.~~ **28 USC** 2412, relating to equal access to justice.

2 (e) Review information prepared by the program for small
3 businesses to ~~assure~~ **ENSURE** that the information is understandable
4 to laypersons.

5 (f) Utilize the program to act as staff to develop and
6 disseminate the work product of the advisory panel.

7 (9) The advisory panel shall provide copies of advisory
8 reports prepared by the advisory panel to the United States
9 environmental protection agency, the department **OF ENVIRONMENTAL**
10 **QUALITY**, the legislature, and the ~~department of commerce~~ **OFFICE OF**
11 **THE SMALL BUSINESS ENVIRONMENTAL OMBUDSMAN**. In addition, the
12 reports shall be made available to any person upon request.