



HOUSE BILL No. 4125

February 3, 1993, Introduced by Reps. Yokich, Brown, Sikkema, Freeman and Wetters and referred to the Committee on Conservation, Environment and Great Lakes.

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

"Air pollution act,"

section 2 as amended by Act No. 218 of the Public Acts of 1987, being sections 336.12, 336.15, 336.16, 336.17, 336.34, 336.35, and 336.36 of the Michigan Compiled Laws; to add sections 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 5m, 6b, 7b, 8a, 9a, 9b, 16a, 16b, 16c, 16d, 16e, 16f, 16g, 16h, and 16i; 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, 6, 7, 24, 25, and

2 26 of Act No. 348 of the Public Acts of 1965, section 2 as

3 amended by Act No. 218 of the Public Acts of 1987, being sections

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

6

TITLE

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

15 Sec. 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (d) Make findings of fact and determinations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (I) REQUIREMENTS FOR ISSUING A GENERAL PERMIT TO CERTAIN
14 SOURCE CATEGORIES. PRIOR TO ISSUANCE OF A GENERAL PERMIT, THE
15 COMMISSION SHALL PROMULGATE RULES DEFINING ELIGIBLE SOURCE CATE-
16 GORIES AND RULES GOVERNING THE OPERATION OF THE SOURCE CATEGORY.
17 IN DETERMINING IF A GENERAL PERMIT IS APPROPRIATE, THE COMMISSION
18 SHALL CONSIDER THE POTENTIAL FOR THE SOURCE CATEGORY TO CAUSE AIR
19 POLLUTION THAT WOULD OTHERWISE BE ABATED AS A RESULT OF A
20 SITE-SPECIFIC PERMIT REVIEW AND OTHER PERTINENT INFORMATION CON-
21 SIDERED APPROPRIATE BY THE COMMISSION. EACH GENERAL PERMIT SHALL
22 CONTAIN REQUIREMENTS CONSISTENT WITH THE REQUIREMENTS OF SECTION
23 5E. THE REQUIREMENTS SHALL BE CONSISTENT WITH THE PROTECTION OF
24 THE PUBLIC HEALTH, SAFETY, OR WELFARE, AND THE ENVIRONMENT, AND
25 AT LEAST AS STRINGENT AS THE REQUIREMENTS OF THE CLEAN AIR ACT.
26 A SOURCE COVERED BY A GENERAL PERMIT IS NOT RELIEVED FROM THE
27 OBLIGATION TO FILE AN APPLICATION FOR A PERMIT AS REQUIRED FOR A

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

6 (J) REQUIREMENTS FOR EXEMPTING CERTAIN SOURCE CATEGORIES
7 FROM THE REQUIREMENT TO OBTAIN A PERMIT. IN DETERMINING WHETHER
8 TO EXEMPT A SOURCE CATEGORY, THE COMMISSION SHALL CONSIDER THE
9 POTENTIAL OF THE SOURCE CATEGORY TO CAUSE AIR POLLUTION AS A
10 RESULT OF EITHER THE TOTAL ANNUAL EMISSIONS OF AN AIR CONTAMINANT
11 OR THE PEAK EMISSIONS OF AN AIR CONTAMINANT DURING POOR ATMO-
12 SPHERIC DISPERSION CONDITIONS AS WELL AS OTHER PERTINENT INFORMA-
13 TION CONSIDERED APPROPRIATE BY THE COMMISSION. THE REQUIREMENTS
14 SHALL BE CONSISTENT WITH THE PROTECTION OF THE PUBLIC HEALTH,
15 SAFETY, OR WELFARE, AND THE ENVIRONMENT, AND AT LEAST AS STRIN-
16 GENT AS THE REQUIREMENTS OF THE CLEAN AIR ACT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 TO SUBMIT AN APPLICATION AS PROVIDED IN RULES PROMULGATED
2 PURSUANT TO SECTION 5C.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (D) THE ENVIRONMENTAL RESPONSE ACT, ACT NO. 307 OF THE
5 PUBLIC ACTS OF 1982, BEING SECTIONS 299.601 TO 299.618 OF THE
6 MICHIGAN COMPILED LAWS.

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

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

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

15 (H) THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT
16 OF 1986, TITLE III OF PUBLIC LAW 99-499, 42 U.S.C. 11001 TO
17 11005, 11021 TO 11022, AND 11041 TO 11050.

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

20 (J) ANY LOCAL ORDINANCE PERTAINING TO THE PROTECTION OF THE
21 ENVIRONMENT.

22 (4) SUBSECTION (3) DOES NOT RELIEVE THE DEPARTMENT OF ANY
23 REQUIREMENT ESTABLISHED BY RULE THAT IS OR MAY BE MORE
24 STRINGENT.

25 (5) TO THE EXTENT REQUIRED BY THE CLEAN AIR ACT, THE COMMIS-
26 SION SHALL NOT ISSUE OR RENEW A PERMIT UNDER THIS ACT IF THE

1 ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION
2 AGENCY OBJECTS IN A TIMELY MANNER TO ITS ISSUANCE OR RENEWAL.

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

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

9 (2) THE DEPARTMENT SHALL ALLOCATE ADEQUATE PERSONNEL AND
10 FUNDING TO ADMINISTER THE PERMIT PROGRAM ESTABLISHED UNDER THIS
11 SECTION. AS SOON AS PRACTICAL BEFORE A DEADLINE PROVIDED IN THE
12 CLEAN AIR ACT OR IN RULES PROMULGATED UNDER SECTION 5C, THE
13 DEPARTMENT SHALL ASSESS AND PREDICT ITS ABILITY TO REVIEW APPLI-
14 CATIONS AND TAKE APPROPRIATE ACTION ON PERMITS IN A TIMELY
15 MANNER. IF THE DEPARTMENT CONCLUDES IT IS UNABLE TO MEET 1 OR
16 MORE DEADLINES BECAUSE OF A SHORTAGE OF PERSONNEL OR FINANCIAL
17 RESOURCES, THE DEPARTMENT SHALL REPORT TO THE LEGISLATURE REGARD-
18 ING THE EXTENT OF ITS EFFORTS TO COMPLY, INCLUDING PRODUCTIVITY
19 STATISTICS, AND MAY PETITION THE LEGISLATURE FOR AN INCREASE IN
20 THE FEE STRUCTURE IF THE DEPARTMENT DETERMINES THAT THIS IS THE
21 BEST AVAILABLE OPTION. IF THE DEPARTMENT REQUESTS ADDITIONAL
22 FUNDING, THE LEGISLATURE MAY REQUEST AN INDEPENDENT AUDIT BY THE
23 AUDITOR GENERAL TO ASSESS THE NEED FOR ADDITIONAL FUNDING FOR THE
24 DEPARTMENT.

25 SEC. 5J. (1) THE DEPARTMENT SHALL MAINTAIN A LIST OF ALL
26 APPLICATIONS FOR PERMITS AND THE STATUS OF EACH APPLICATION.
27 THIS INFORMATION SHALL BE UPDATED BY THE DEPARTMENT ON A MONTHLY

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

11 (A) THE NAME OF THE APPLICANT.

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

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

17 (D) WHETHER THE PERMIT APPLICATION IS COMPLETE.

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

20 (F) A DESCRIPTION OF THE SOURCE.

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

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

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

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

4 (C) A DESCRIPTION OF THE SOURCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (a) Controlling or prohibiting air pollution.

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (A) AMBIENT AIR MONITORING.

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

10 (C) HEALTH STUDIES RELATED TO AIRBORNE POLLUTANTS.

11 (D) AIR QUALITY EDUCATION.

12 (E) REFORESTATION.

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

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

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

1 (A) ESTABLISH AND MAINTAIN RECORDS.

2 (B) PREPARE AND SUBMIT REPORTS.

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

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

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

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

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

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

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

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

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

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

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

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

16 (C) THE COMPLIANCE STATUS OF THE SOURCE.

17 (D) WHETHER COMPLIANCE IS CONTINUOUS OR INTERMITTENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (14) AS USED IN THIS SECTION:

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

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

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

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

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

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

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

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

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

17 (A) OPEN BURNING:

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

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

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

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

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

1 (ii) CLASS II - BELOW REQUIREMENT BY 10-30%.

2 (iii) CLASS I - BELOW REQUIREMENT BY MORE THAN 30%.

3 (C) NOT UTILIZING A REQUIRED WATER WASH: ALL CLASS III.

4 (D) NOT HAVING PAINT FILTERS AS REQUIRED: ALL CLASS III.

5 (E) EMISSION TEST DATA OR REPORTING DEADLINE VIOLATIONS:

6 (i) CLASS III - LATE BY 1-30 DAYS.

7 (ii) CLASS II - LATE BY MORE THAN 30 DAYS.

8 (F) NOT FOLLOWING COLD CLEANER COVER PROCEDURES: ALL CLASS

9 III.

10 (G) NOT FOLLOWING DEGREASER COVER PROCEDURES: ALL CLASS

11 III.

12 (H) RULE 336.1604 OR 336.1623 OF THE MICHIGAN ADMINISTRATIVE

13 CODE: ALL CLASS II.

14 (I) RULE 336.1606, 336.1627, OR 336.1703 OF THE MICHIGAN

15 ADMINISTRATIVE CODE: ALL CLASS III.

16 (J) RULE 336.1607, 336.1608, 336.1609, 336.1704, 336.1705,

17 OR 336.1706 OF THE MICHIGAN ADMINISTRATIVE CODE:

18 (i) CLASS III - FAILURE TO HAVE SUBMERGED FILL PIPE OR POST

19 PROCEDURES.

20 (ii) CLASS II - ALL OTHER REQUIREMENTS OF THE RULES LISTED

21 IN THIS SUBDIVISION.

22 (K) STAGE II VAPOR RECOVERY REQUIREMENTS FOR THIS STATE AS

23 REQUIRED UNDER THIS ACT, RULES PROMULGATED UNDER THIS ACT, OR THE

24 CLEAN AIR ACT.

25 (3) SUBJECT TO THE PENALTY MODIFICATIONS AUTHORIZED UNDER

26 SUBSECTION (14), FIELD CITATIONS ISSUED PURSUANT TO THIS SECTION

27 MAY INCLUDE ADMINISTRATIVE FINES AS FOLLOWS:

1 (A) UP TO \$1,000.00 TO A PERSON ACTING IN AN INDIVIDUAL
2 CAPACITY OR WHO EMPLOYS 1 TO 25 FULL-TIME EMPLOYEES.

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

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

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

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

24 (6) A PERSON TO WHOM A FIELD CITATION IS ISSUED MAY, WITHIN
25 21 DAYS OF ISSUANCE OF THE CITATION, ELECT TO PAY THE PENALTY
26 ASSESSED BY THE CITATION OR REQUEST AN INFORMAL HEARING BEFORE
27 THE DEPARTMENT ON THE FIELD CITATION. IF A REQUEST FOR AN

1 INFORMAL HEARING IS NOT MADE WITHIN THE TIME SPECIFIED ABOVE, THE
2 FIELD CITATION SHALL BE CONSIDERED FINAL. THE INFORMAL HEARING
3 PROVIDED FOR IN THIS SECTION IS NOT GOVERNED BY THE CONTESTED
4 CASE PROCEEDINGS OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
5 ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO
6 24.328 OF THE MICHIGAN COMPILED LAWS, BUT SHALL BE HELD IN
7 ACCORDANCE WITH THE PROCEDURES SPECIFIED IN THIS SECTION.

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

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

25 (9) THE DIRECTOR SHALL APPOINT A PRESIDING OFFICER TO CON-
26 DUCT THE INFORMAL HEARING. THE PRESIDING OFFICER SHALL BE THE
27 HIGHEST RANKING AVAILABLE DISTRICT OFFICE EMPLOYEE WHO HAS NO

1 PRIOR CONNECTION WITH THE SUBJECT MATTER OF THE HEARING,
2 INCLUDING THE PERFORMANCE OF ANY INVESTIGATIVE OR ENFORCEMENT
3 FUNCTIONS. AFTER THE HEARING DATE FOR AN INFORMAL HEARING IS
4 ESTABLISHED, THE PRESIDING OFFICER, AND ANY PERSON WHO ADVISED
5 THE PRESIDING OFFICER WITH RESPECT TO THE INFORMAL HEARING, SHALL
6 NOT DISCUSS EX PARTE THE MERITS OF THE INFORMAL HEARING WITH ANY
7 OF THE FOLLOWING:

8 (A) AN INTERESTED PERSON OUTSIDE THE DEPARTMENT.

9 (B) ANY DEPARTMENT STAFF MEMBER WHO PERFORMS AN INVESTIGA-
10 TIVE OR ENFORCEMENT FUNCTION RELEVANT TO THE SUBJECT MATTER OF
11 THE HEARING.

12 (C) THE PETITIONER OR ANY REPRESENTATIVE OF THE PETITIONER.

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

1 (11) IF THE PETITIONER FAILS TO APPEAR FOR THE INFORMAL
2 HEARING ON THE SCHEDULED DATE, UNLESS FOR GOOD CAUSE SHOWN, THE
3 PRESIDING OFFICER MAY PROCEED WITH THE INFORMAL HEARING AND A
4 DECISION MAY BE RENDERED EVEN IN THE ABSENCE OF THE PETITIONER.
5 THE DEPARTMENT'S FAILURE TO APPEAR FOR THE INFORMAL HEARING ON
6 THE SCHEDULED DATE RENDERS THE FIELD CITATION VOID.

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

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

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

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

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

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

25 (14) NOTWITHSTANDING SUBSECTION (13), THE PRESIDING OFFICER
26 SHALL NOT REDUCE THE ADMINISTRATIVE FINE AMOUNT BY MORE THAN 90%
27 OF THE ORIGINAL AMOUNT ASSESSED IN THE FIELD CITATION, OR

1 INCREASE THE AMOUNT TO EXCEED THE ORIGINAL ADMINISTRATIVE FINE
2 ASSESSED IN THE FIELD CITATION.

3 (15) IF A VIOLATION CONTINUES, PAYMENT OF A CIVIL PENALTY
4 REQUIRED BY A FIELD CITATION SHALL NOT BE A DEFENSE TO FURTHER
5 ENFORCEMENT TO CORRECT THE VIOLATION, TO ASSESS THE STATUTORY
6 MAXIMUM PENALTY, OR TO SEEK ANY OTHER REMEDY AVAILABLE UNDER THIS
7 ACT.

8 (16) PAYMENT OF AN ADMINISTRATIVE FINE ASSESSED IN A FIELD
9 CITATION IS DUE WHEN THE CITATION BECOMES FINAL OR THE PRESIDING
10 OFFICER ISSUES A FINAL DECISION, WHICHEVER IS APPLICABLE. ONCE
11 FINAL, A PERSON AGAINST WHOM AN ADMINISTRATIVE FINE IS ASSESSED
12 IN A FIELD CITATION MAY SEEK JUDICIAL REVIEW OF THE ADMINISTRA-
13 TIVE FINE ASSESSMENT PURSUANT TO SECTION 631 OF THE REVISED JUDI-
14 CATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING
15 SECTION 600.631 OF THE MICHIGAN COMPILED LAWS.

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

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

23 (A) THE PERCENTAGE OF CASES IN EACH OF THE 4 CLASSES THAT
24 ARE APPEALED.

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

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

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

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

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

26 (3) WITHIN 28 DAYS OF RECEIVING AN ADMINISTRATIVE FINE FROM
27 THE DIRECTOR, A PERSON MAY FILE A PETITION WITH THE DEPARTMENT

1 FOR REVIEW OF THIS FINE. REVIEW OF THE FINE SHALL BE CONDUCTED
2 PURSUANT TO THE CONTESTED CASE PROCEDURES OF THE ADMINISTRATIVE
3 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,
4 BEING SECTIONS 24.271 TO 24.287 OF THE MICHIGAN COMPILED LAWS.
5 IF ISSUED AS PART OF A COMPLIANCE ORDER, ONLY THE AMOUNT OF THE
6 ADMINISTRATIVE FINE AND THE ALLEGED VIOLATION ON WHICH THE FINE
7 IS BASED ARE SUBJECT TO THE CONTESTED CASE PROCEDURES OF ACT
8 NO. 306 OF THE PUBLIC ACTS OF 1969.

9 SEC. 16C. IF THE DEPARTMENT FINDS THAT AN ALLEGED VIOLATION
10 OF THIS ACT OR A RULE PROMULGATED UNDER THIS ACT EXISTS, OR, AN
11 ALLEGED VIOLATION OF THE TERMS OF A PERMIT OR ORDER ISSUED UNDER
12 THIS ACT EXISTS, THE DEPARTMENT MAY PROVIDE THE PERSON RESPONSIB-
13 BLE FOR THE ALLEGED VIOLATION WITH THE OPPORTUNITY TO ENTER INTO
14 AN AGREEMENT WITH THE COMMISSION TO CORRECT THE VIOLATION. THE
15 AGREEMENT SHALL BE IN THE FORM OF A CONSENT ORDER AND SHALL PRO-
16 VIDE FOR COMPLIANCE WITH THIS ACT AND RULES PROMULGATED UNDER
17 THIS ACT AND COMPLIANCE WITH ANY APPLICABLE PERMIT OR ORDER
18 ISSUED UNDER THIS ACT. IN ADDITION, EACH CONSENT ORDER SHALL
19 CONTAIN A COMPLIANCE SCHEDULE THAT PROVIDES FOR REASONABLE
20 PROGRESS TOWARD FULL COMPLIANCE BY A DESIGNATED DATE. THE
21 DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC COMMENT ON THE
22 TERMS AND CONDITIONS OF A CONSENT ORDER WHICH SHALL BE PROVIDED
23 BY THE DEPARTMENT IN ALL INSTANCES. UPON THE REQUEST OF ANY
24 PERSON WHO SEEKS INFORMATION OR FILES A WRITTEN COMPLAINT REGARD-
25 ING A PARTICULAR SOURCE THAT IS THE SUBJECT OF AN ENFORCEMENT
26 ACTION, THE DEPARTMENT SHALL NOTIFY THAT PERSON IN WRITING IF
27 SETTLEMENT NEGOTIATIONS COMMENCE AND SUBSEQUENTLY, IF THOSE

1 NEGOTIATIONS RESULT IN A PROPOSED CONSENT ORDER, A COPY OF THE
2 PROPOSED CONSENT ORDER SHALL BE PROVIDED. THE DEPARTMENT SHALL
3 NOT ENTER INTO A CONSENT ORDER THAT ALLOWS THE CONTINUATION OF AN
4 IMMINENT AND SUBSTANTIAL ENDANGERMENT TO THE PUBLIC OR IRREVERS-
5 IBLE HARM TO THE ENVIRONMENT.

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

1 DEPARTMENT AS DEFINED IN THE PUBLIC HEALTH CODE, ACT NO. 368 OF
2 THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.1101 TO 333.25211 OF
3 THE MICHIGAN COMPILED LAWS. ANY ORDER ISSUED BY THE DIRECTOR
4 UNDER THIS SECTION IS EFFECTIVE UPON ISSUANCE AND SHALL REMAIN IN
5 EFFECT FOR A PERIOD OF NOT MORE THAN 21 DAYS, UNLESS THE DIRECTOR
6 BRINGS AN ACTION PURSUANT TO THE FIRST SENTENCE OF THIS SECTION
7 BEFORE THE EXPIRATION OF THAT PERIOD. WHENEVER THE DIRECTOR
8 BRINGS SUCH AN ACTION WITHIN THE 21-DAY PERIOD, THE ORDER SHALL
9 REMAIN IN EFFECT FOR AN ADDITIONAL 14 DAYS OR FOR A LONGER PERIOD
10 AS IS AUTHORIZED BY THE COURT IN WHICH THE ACTION IS BROUGHT.

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

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

1 (3) IN ADDITION TO A CIVIL FINE OR INJUNCTIVE RELIEF, OR
2 BOTH, THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO RECOVER
3 THE FULL VALUE OF THE DAMAGE DONE TO THE AIR OR OTHER NATURAL
4 RESOURCES OF THIS STATE AND THE COSTS OF SURVEILLANCE AND
5 ENFORCEMENT BY THE STATE RESULTING FROM THE VIOLATION.

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

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

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

1 THE PLAINTIFF, THE DAYS OF VIOLATION ARE PRESUMED TO INCLUDE THE
2 DATE OF NOTICE AND EACH DAY THEREAFTER UNTIL THE VIOLATOR ESTAB-
3 LISHES THAT CONTINUOUS COMPLIANCE HAS BEEN ACHIEVED, EXCEPT TO
4 THE EXTENT THE VIOLATOR CAN PROVE BY A PREPONDERANCE OF THE EVI-
5 DENCE THAT THERE WERE INTERVENING DAYS DURING WHICH A VIOLATION
6 DID NOT OCCUR OR THAT THE VIOLATION WAS NOT CONTINUING IN
7 NATURE.

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

14 SEC. 16F. (1) A PERSON WHO KNOWINGLY VIOLATES THIS ACT OR A
15 RULE PROMULGATED UNDER THIS ACT, FAILS TO OBTAIN A PERMIT UNDER
16 THIS ACT, OR FAILS TO COMPLY WITH THE TERMS OF A PERMIT OR ORDER
17 ISSUED UNDER THIS ACT IS GUILTY OF A FELONY PUNISHABLE BY IMPRIS-
18 ONMENT FOR NOT MORE THAN 5 YEARS, OR A FINE OF NOT LESS THAN
19 \$2,500.00 OR MORE THAN \$25,000.00, OR BOTH.

20 (2) A PERSON WHO KNOWINGLY MAKES A FALSE MATERIAL STATEMENT,
21 REPRESENTATION, OR CERTIFICATION IN, OR OMITTS MATERIAL INFORMA-
22 TION FROM, OR KNOWINGLY ALTERS, CONCEALS, OR FAILS TO FILE OR
23 MAINTAIN ANY NOTICE, APPLICATION, RECORD, REPORT, PLAN, OR OTHER
24 DOCUMENT ISSUED OR REQUIRED PURSUANT TO THIS ACT; KNOWINGLY FAILS
25 TO NOTIFY OR REPORT AS REQUIRED UNDER THIS ACT, OR FALSIFIES,
26 TAMPERS WITH, RENDERS INACCURATE, OR FAILS TO INSTALL ANY
27 MONITORING DEVICE OR RECORD REQUIRED TO BE MAINTAINED UNDER THIS

1 ACT OR A PERMIT OR ORDER ISSUED UNDER THIS ACT, OR A RULE
2 PROMULGATED UNDER THIS ACT; OR KNOWINGLY FAILS TO PAY ANY FEE
3 OWED UNDER THIS ACT, IS GUILTY OF A FELONY PUNISHABLE BY IMPRIS-
4 ONMENT FOR NOT MORE THAN 2 YEARS, OR 1 YEAR IF FOR FAILURE TO PAY
5 A FEE, OR A FINE NOT LESS THAN \$2,500.00 OR MORE THAN \$25,000.00
6 FOR EACH VIOLATION.

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

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

1 WHICH A PERMIT HAS BEEN ISSUED UNDER THE PERMITTING PROVISIONS OF
2 THIS ACT, A RELEASE OF SUCH AN AIR CONTAMINANT THAT IS IN ACCORD-
3 ANCE WITH THAT STANDARD OR PERMIT IS NOT A VIOLATION OF THIS SUB-
4 SECTION OR SUBSECTION (3). AN ORGANIZATION THAT COMMITS SUCH A
5 VIOLATION IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000,000.00 FOR
6 EACH VIOLATION. AN ORGANIZATION THAT COMMITS A SUBSEQUENT VIOLA-
7 TION IS SUBJECT TO A FINE OF NOT MORE THAN \$2,000,000.00.

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

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

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

25 (8) A DEFENDANT MAY ESTABLISH AN AFFIRMATIVE DEFENSE TO A
26 PROSECUTION UNDER THIS SECTION BY SHOWING BY A PREPONDERANCE OF
27 THE EVIDENCE THAT THE CONDUCT CHARGED WAS FREELY CONSENTED TO BY

1 THE PERSON ENDANGERED AND THAT THE DANGER AND CONDUCT CHARGED
2 WERE REASONABLY FORESEEABLE HAZARDS OF ANY OF THE FOLLOWING:

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

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

8 (9) ALL GENERAL DEFENSES, AFFIRMATIVE DEFENSES, AND BARS TO
9 PROSECUTION THAT MAY OTHERWISE APPLY WITH RESPECT TO STATE CRIMI-
10 NAL OFFENSES MAY APPLY UNDER SUBSECTION (4) AND SHALL BE DETER-
11 MINED BY THE COURTS OF THIS STATE HAVING JURISDICTION ACCORDING
12 TO THE PRINCIPLES OF COMMON LAW AS THEY MAY BE INTERPRETED IN THE
13 LIGHT OF REASON AND EXPERIENCE. CONCEPTS OF JUSTIFICATION AND
14 EXCUSE APPLICABLE UNDER THIS SECTION MAY BE DEVELOPED BY THE
15 COURTS IN THE LIGHT OF REASON AND EXPERIENCE.

16 (10) AS USED IN THIS SECTION:

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

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

24 SEC. 16G. THE DEPARTMENT MAY PAY AN AWARD OF UP TO
25 \$10,000.00 TO AN INDIVIDUAL WHO PROVIDES INFORMATION RESULTING IN
26 THE ASSESSMENT OF A CIVIL FINE BY A COURT IN AN ACTION BROUGHT BY
27 THE ATTORNEY GENERAL PURSUANT TO SECTION 16E, OR LEADING TO THE

1 ARREST AND CONVICTION OF A PERSON UNDER SECTION 16F. AN OFFICER
2 OR EMPLOYEE OF THE UNITED STATES, STATE OF MICHIGAN, A REPRESENTATIVE OF THE DEPARTMENT AS DEFINED IN SECTION 9A(14), OR ANY
3 OTHER STATE OR LOCAL GOVERNMENT WHO FURNISHES INFORMATION
4 DESCRIBED IN THIS SECTION IN THE PERFORMANCE OF AN OFFICIAL DUTY
5 IS INELIGIBLE FOR PAYMENT UNDER THIS SECTION. IN ADDITION, AN
6 EMPLOYEE OF THE DEPARTMENT, A DESIGNEE OF THE DEPARTMENT, OR A
7 PERSON EMPLOYED BY THE DEPARTMENT OF ATTORNEY GENERAL IS INELIGIBLE TO RECEIVE AN AWARD UNDER THIS SECTION REGARDLESS OF WHETHER
8 THE REPORTED INFORMATION CAME TO HIS OR HER ATTENTION WHILE FUNCTIONING IN AN OFFICIAL CAPACITY OR AS A PRIVATE CITIZEN. AN
9 AWARD SHALL NOT BE MADE UNDER THIS SECTION UNTIL RULES ARE
10 PROMULGATED BY THE COMMISSION PRESCRIBING THE CRITERIA FOR MAKING
11 AWARDS.

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

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

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

1 AGAINST THE COMMISSION, DEPARTMENT, OR THE CITY OR COUNTY TO
2 WHICH AUTHORITY HAS BEEN DELEGATED UNDER THIS ACT ONLY UNDER THIS
3 SUBDIVISION.

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

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

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

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

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

6 (i) THE DEPARTMENT AND COMMISSION.

7 (ii) THE ATTORNEY GENERAL.

8 (iii) THE PROPOSED DEFENDANT OR DEFENDANTS.

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

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

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

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

1 (7) IN ANY ACTION UNDER THIS SECTION, THE ATTORNEY GENERAL,
2 IF NOT A PARTY, MAY INTERVENE ON BEHALF OF THE STATE, AS A MATTER
3 OF RIGHT AT ANY TIME IN THE PROCEEDING. A JUDGMENT IN AN ACTION
4 UNDER THIS SECTION TO WHICH THE STATE IS NOT A PARTY DOES NOT,
5 HOWEVER, HAVE ANY BINDING EFFECT UPON THE STATE.

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

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

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

1 SEC. 16I. (1) IN DETERMINING THE AMOUNT OF ANY FINE OR
2 PENALTY TO BE ASSESSED UNDER SECTION 16B, 16E, 16F, OR 16H, THE
3 DIRECTOR OR THE COURT, AS APPROPRIATE, SHALL TAKE INTO CONSIDERA-
4 TION, IN ADDITION TO SUCH OTHER FACTORS AS JUSTICE MAY REQUIRE,
5 ALL OF THE FOLLOWING:

6 (A) THE SIZE OF THE BUSINESS.

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

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

10 (D) THE DURATION OF THE VIOLATION AS ESTABLISHED BY ANY
11 CREDIBLE EVIDENCE, INCLUDING EVIDENCE OTHER THAN THE APPLICABLE
12 TEST METHOD.

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

15 (F) THE ECONOMIC BENEFIT OF NONCOMPLIANCE.

16 (G) THE SERIOUSNESS OF THE VIOLATION.

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

21 Sec. 24. It is the purpose of this act to provide addi-
22 tional and cumulative remedies to prevent and abate air
23 pollution. ~~Nothing in this act contained shall~~ THIS ACT DOES
24 NOT abridge or alter ANY OTHER rights of action or remedies ~~now~~
25 ~~or hereafter existing, nor shall any provision of~~ THAT ARE IN
26 EXISTENCE OR THAT EXIST ON OR AFTER THE EFFECTIVE DATE OF this
27 act or anything done ~~by virtue of this act be construed as~~

~~1 estopping individuals, counties, cities, townships or villages or~~
~~2 other governmental units~~ PURSUANT TO THIS ACT DOES NOT PREVENT
~~3 ANY PERSON~~ from the exercise of ~~their~~ HIS OR HER respective
~~4 rights to suppress nuisances or to prevent or abate air~~
~~5 pollution.~~

6 Sec. 25. This act ~~shall not be construed as repealing any~~
~~7 of the~~ DOES NOT REPEAL ANY laws relating to air pollution
~~8 which~~ THAT are not ~~by this act~~ expressly repealed BY THIS
~~9 ACT, but~~ AND it shall be held and construed to be as ancillary
~~10 to and supplementing the laws now in force, excepting as they~~
~~11 may be~~ ANY OTHER APPLICABLE LAW, EXCEPT A LAW THAT IS in direct
~~12 conflict with this act. The final order or determination of the~~
~~13 commission shall not be used in evidence of presumptive air pol-~~
~~14 lution in any suit filed by any person other than this~~
~~15 commission.~~

16 Sec. 26. (1) ~~Nothing in this act or in any rule or regula-~~
~~17 tion which shall be~~ THIS ACT AND THE RULES promulgated ~~pursuant~~
~~18 to~~ UNDER this act ~~shall be deemed to~~ DO NOT invalidate any
~~19 existing ordinances or regulations having~~ ORDINANCE OR REGULA-
~~20 TION THAT HAS~~ requirements equal to or greater than the minimum
~~21 applicable requirements of this act. or prevent any political~~
~~22 subdivision from adopting similar provisions if their require-~~
~~23 ments are equal to or greater than the minimum applicable~~
~~24 requirements of this act.~~

25 ~~(2) When a political subdivision or enforcing official~~
~~26 thereof fails to enforce properly the provisions of the political~~
~~27 subdivision's ordinances, laws or regulations which do afford~~

1 ~~equal protection to the public as that provided in this act, the~~
2 ~~air pollution control commission, after consultation with the~~
3 ~~local official or governing body of the political subdivision may~~
4 ~~take such appropriate action as may be necessary for enforcement~~
5 ~~of the applicable provisions of this act.~~

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

12 Section 2. Sections 8, 9, 10, 11, 13, 14, 14a, 16, 17, 18,
13 19, 20, 21, 22, and 23 of Act No. 348 of the Public Acts of 1965,
14 being sections 336.18, 336.19, 336.20, 336.21, 336.23, 336.24,
15 336.24a, 336.26, 336.27, 336.28, 336.29, 336.30, 336.31, 336.32,
16 and 336.33 of the Michigan Compiled Laws, are repealed.