



SENATE BILL No. 804

August 31, 1993, Introduced by Senators DINGELL and
HOFFMAN and referred to the Committee on Natural
Resources and Environmental Affairs.

A bill to amend sections 14b and 14d of Act No. 348 of the
Public Acts of 1965, entitled as amended
"Air pollution act,"
as added by Act No. 6 of the Public Acts of 1993, being sections
336.24b and 336.24d of the Michigan Compiled Laws; and to add
section 14e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 14b and 14d of Act No. 348 of the
2 Public Acts of 1965, as added by Act No. 6 of the Public Acts of
3 1993, being sections 336.24b and 336.24d of the Michigan Compiled
4 Laws, are amended and section 14e is added to read as follows:
5 Sec. 14b. (1) By March 15 of each year THROUGH MARCH 15,
6 1994, the owner or operator of a major emitting facility shall
7 submit information regarding the facility's emissions to the

1 department pursuant to the emission inventory system established
2 in rules promulgated under this act.

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

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

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

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

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

1 (4) ~~The~~ FOR THE STATE FISCAL YEARS ENDING SEPTEMBER 30,
2 1993 AND SEPTEMBER 30, 1994, THE department shall expend money
3 from the fund, upon appropriation, only for the following
4 purposes:

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

7 (i) Developing and implementing requirements of Public Law
8 101-549, 104 Stat. 2399, commonly referred to as the clean air
9 act amendments of 1990.

10 (ii) Emissions and ambient air monitoring.

11 (iii) Audits and inspections of source-operated monitoring
12 programs.

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

16 (v) Modeling, analyses, or demonstrations.

17 (vi) Preparing inventories and tracking emissions.

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

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

23 (ii) To process permit applications pursuant to this act
24 until such time that all permit applications received by the
25 department are being processed in a timely manner. When permit
26 applications under this act are being processed in a timely
27 manner, money in the permit review and urban airshed study

1 account that is not allocated for grants under subparagraph (i)
2 shall be used for the purposes described in subdivision (a),
3 unless the department recommends and the appropriations commit-
4 tees of the senate and house of representatives approve continued
5 use of this money or a portion of this money to process permit
6 applications.

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

11 (A) PREPARING GENERALLY APPLICABLE REGULATIONS OR GUIDANCE
12 REGARDING THE OPERATING PERMIT PROGRAM OR ITS IMPLEMENTATION OR
13 ENFORCEMENT.

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

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

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

24 (E) EMISSIONS AND AMBIENT MONITORING.

25 (F) MODELING, ANALYSIS, OR DEMONSTRATION.

26 (G) PREPARING INVENTORIES AND TRACKING EMISSIONS.

1 (H) PROVIDING DIRECT AND INDIRECT SUPPORT TO FACILITIES
2 UNDER THE SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND
3 ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM CREATED IN THE SMALL
4 BUSINESS CLEAN AIR ASSISTANCE ACT, ACT NO. 12 OF THE PUBLIC ACTS
5 OF 1993, BEING SECTIONS 336.121 TO 336.129 OF THE MICHIGAN
6 COMPILED LAWS.

7 SEC. 14E. (1) FOR THE STATE FISCAL YEAR BEGINNING
8 OCTOBER 1, 1994, AND EACH YEAR THEREAFTER, THE OWNER OR OPERATOR
9 OF EACH FEE-SUBJECT FACILITY SHALL PAY AIR QUALITY FEES AS
10 REQUIRED AND CALCULATED UNDER THIS SECTION. THE DEPARTMENT MAY
11 LEVY AND COLLECT AN ANNUAL AIR QUALITY FEE FROM THE OWNER OR
12 OPERATOR OF EACH FACILITY IN THIS STATE THAT IS A FEE-SUBJECT
13 FACILITY. THE LEGISLATURE INTENDS THAT THE FEES REQUIRED UNDER
14 THIS SECTION MEET THE MINIMUM REQUIREMENTS OF THE CLEAN AIR ACT
15 AND THAT THIS EXPRESSLY STATED FEE SYSTEM SERVE AS A LIMITATION
16 ON THE AMOUNT OF FEES IMPOSED BY THE DEPARTMENT ON THE OWNERS OR
17 OPERATORS OF FEE-SUBJECT FACILITIES IN THIS STATE.

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

20 (A) FOR CATEGORY I FACILITIES, THE ANNUAL AIR QUALITY FEE
21 SHALL BE THE SUM OF A FACILITY CHARGE AND AN EMISSIONS CHARGE AS
22 SPECIFIED IN SUBDIVISION (D). THE FACILITY CHARGE SHALL BE
23 \$2,500.00.

24 (B) FOR CATEGORY II FACILITIES, THE ANNUAL AIR QUALITY FEE
25 SHALL BE THE SUM OF A FACILITY CHARGE AND AN EMISSIONS CHARGE AS
26 SPECIFIED IN SUBDIVISION (D). THE FACILITY CHARGE SHALL BE
27 \$1,000.00.

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

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

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

16 (A) 4,000 TONS.

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

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

22 (3) THE AUDITOR GENERAL SHALL CONDUCT A BIENNIAL AUDIT OF
23 THE FEDERALLY MANDATED OPERATING PERMIT PROGRAM REQUIRED IN TITLE
24 V. THE AUDIT SHALL INCLUDE THE AUDITOR GENERAL'S RECOMMENDATION
25 REGARDING THE SUFFICIENCY OF THE FEES REQUIRED UNDER
26 SUBSECTION (2) TO MEET THE MINIMUM REQUIREMENTS OF THE CLEAN AIR
27 ACT.

1 (4) AFTER JANUARY 1, BUT BEFORE JANUARY 15 OF EACH YEAR
2 BEGINNING IN 1995, THE DEPARTMENT SHALL NOTIFY THE OWNER OR OPER-
3 ATOR OF EACH FEE-SUBJECT FACILITY OF ITS ASSESSED ANNUAL AIR
4 QUALITY FEE. PAYMENT IS DUE WITHIN 90 CALENDAR DAYS OF THE MAIL-
5 ING DATE OF THE AIR QUALITY FEE NOTIFICATION. IF AN ASSESSED FEE
6 IS CHALLENGED AS AUTHORIZED IN SUBSECTION (6), PAYMENT IS DUE
7 WITHIN 90 CALENDAR DAYS OF THE MAILING DATE OF THE AIR QUALITY
8 FEE NOTIFICATION OR WITHIN 30 DAYS OF RECEIPT OF A REVISED FEE OR
9 STATEMENT SUPPORTING THE ORIGINAL FEE, WHICHEVER IS LATER. THE
10 DEPARTMENT SHALL DEPOSIT ALL FEES COLLECTED UNDER THIS SECTION TO
11 THE CREDIT OF THE EMISSIONS CONTROL FUND CREATED IN SECTION 14D.

12 (5) IF THE OWNER OR OPERATOR OF A FEE-SUBJECT FACILITY FAILS
13 TO SUBMIT THE AMOUNT DUE WITHIN THE TIME PERIOD SPECIFIED IN
14 SUBSECTION (4), THE DEPARTMENT SHALL ASSESS THE OWNER OR OPERATOR
15 A PENALTY OF 5% OF THE AMOUNT OF THE UNPAID FEE FOR EACH MONTH
16 THAT THE PAYMENT IS OVERDUE UP TO A MAXIMUM PENALTY OF 25% OF THE
17 TOTAL FEE OWED.

18 (6) IF THE OWNER OR OPERATOR OF A FEE-SUBJECT FACILITY
19 DESIRES TO CHALLENGE ITS ASSESSED FEE, THE OWNER OR OPERATOR
20 SHALL SUBMIT THE CHALLENGE IN WRITING TO THE DEPARTMENT WITHIN 30
21 CALENDAR DAYS OF THE MAILING DATE OF THE AIR QUALITY FEE NOTIFI-
22 CATION DESCRIBED IN SUBSECTION (4). A CHALLENGE SHALL IDENTIFY
23 THE FACILITY AND STATE THE GROUNDS UPON WHICH THE CHALLENGE IS
24 BASED. WITHIN 30 CALENDAR DAYS OF RECEIPT OF THE CHALLENGE, THE
25 DEPARTMENT SHALL DETERMINE THE VALIDITY OF THE CHALLENGE AND PRO-
26 VIDE THE OWNER NOTIFICATION OF A REVISED FEE OR A STATEMENT
27 SETTING FORTH THE REASON OR REASONS WHY THE FEE WAS NOT REVISED.

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

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

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

1 AS PROVIDED FOR UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
2 ACT NO. 306 OF THE PUBLIC ACTS OF 1969.

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

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

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

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

19 (i) LESS THAN 1 TON.

20 (ii) BETWEEN 1 AND 10 TONS.

21 (iii) BETWEEN 10 AND 50 TONS.

22 (iv) GREATER THAN 50 TONS.

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

25 (E) THE TOTAL NUMBER OF NEW SOURCE REVIEW AND OPERATING PER-
26 MITS ISSUED PER PERMIT REVIEWER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (S) THE AMOUNT OF CRIMINAL FINES AND CIVIL FINES COLLECTED
12 FROM ALL ADMINISTRATIVE AND JUDICIAL ORDERS AND JUDGMENTS.

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

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

25 Section 2. This amendatory act shall not take effect unless
26 all of the following bills of the 87th Legislature are enacted
27 into law:

- 1 (a) Senate Bill No. 46.
- 2 (b) House Bill No. 4865.