

# HOUSE BILL No. 5012

July 28, 1989, Introduced by Rep. Brown and referred to the Committee on Conservation, Recreation and Environment.

A bill to control and regulate the emission of air contaminants in this state; to create an air pollution control commission; to prescribe the powers and duties of the air pollution control commission and certain persons and state agencies and officials; to provide for the establishment of fees; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "Michigan air contaminant prevention act".

3       Sec. 2. As used in this act:

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

6       (b) "Air quality control permit" or "permit" means a permit  
7 issued under this act to install, construct, reconstruct,

1 relocate, alter, or modify and operate a process or process  
2 equipment, including control equipment.

3 (c) "Best available control technology" or "BACT" means an  
4 emission limitation based on the maximum degree of reduction of  
5 each air contaminant subject to regulation under this act emitted  
6 from or resulting from a process or process equipment, taking  
7 into account energy, environmental, and economic impact, and  
8 other costs.

9 (d) "Best available control technology for toxics" or  
10 "T-BACT" means an emission limitation based on the maximum degree  
11 of emission reduction of each toxic air contaminant subject to  
12 regulation under this act emitted from or resulting from any pro-  
13 cess or process equipment that the department determines is rea-  
14 sonably achievable, taking into account energy, environmental,  
15 and economic impacts, and other costs.

16 (e) "Bioaccumulation" means the process of concentrating a  
17 chemical in an organism, and is expressed as the ratio of the  
18 concentration in the organism and the concentration in the sur-  
19 rounding environmental medium such as air, water, soil, biota, or  
20 any combination of these.

21 (f) "Clean air act" means chapter 360, 69 Stat. 322, 42  
22 U.S.C. 7401 to 7428, 7450 to 7459, 7470 to 7479, 7491, 7501 to  
23 7508, 7521 to 7525, 7541 to 7546, 7548 to 7550, 7571 to 7574,  
24 7601 to 7622, 7624 to 7626, and 7641 to 7642.

25 (g) "Commission" means the air pollution control  
26 commission.

(h) "Department" means the department of natural resources.

(i) "Director" means the director of the department.

(j) "Local unit of government" means a county, city, village, or township.

(k) "Modify" means a physical change in, or change in the method of operation of, an existing process or process equipment that increases the amount of any air contaminant emitted by the process or process equipment into the outer air that is not already allowed to be emitted under the conditions of a permit or an order, or that results in the emission of any air contaminant not previously emitted.

(l) "New process or process equipment" means a process or process equipment, not including modified or existing processes or process equipment, for which an application for an air quality control permit is sought or required after the effective date of this act.

(m) "Person" means an individual, partnership, corporation, association, local unit of government, or any other public or private entity.

(n) "Process" means an action or operation, or a series of actions or operations, from which the emission of an air contaminant may originate. Examples of a process include, but are not limited to, the following:

(i) A physical change of a material.

(ii) A chemical change of a material.

(iii) The combustion of fuel, refuse, or waste material.

1 (iv) The storage of a material.

2 (v) The handling of a material.

3 (o) "Process equipment" means equipment, devices, and auxil-  
4 iary components, including control equipment and stacks, used in  
5 a process.

6 (p) "Toxic air contaminant" means an air contaminant that is  
7 emitted into the atmosphere and that may be deposited on land or  
8 water and may be injurious to human health through inhalation,  
9 ingestion, dermal absorption, bioaccumulation, or may damage the  
10 atmosphere and may produce adverse impact on human health or the  
11 environment or a combination of such factors.

12 Sec. 3. (1) For the purpose of administering and carrying  
13 out certain provisions of this act, the air pollution control  
14 commission created within the department of natural resources  
15 under former Act No. 348 of the Public Acts of 1965 shall con-  
16 tinue in existence under this act. The commission shall consist  
17 of the director of the department of public health, who shall act  
18 as chairperson of the commission; the director; the director of  
19 the department of agriculture; and 8 citizens of the state to be  
20 appointed by the governor by and with the advice and consent of  
21 the senate. Each of the state officers may designate a deputy of  
22 his or her department to serve in his or her stead as a member of  
23 the commission. Members appointed under former Act No. 348 of  
24 the Public Acts of 1965 shall serve the balance of their appoint-  
25 ments under this act.

26 (2) Of the 8 citizens appointed to the commission by the  
27 governor under subsection (1), 2 shall be representatives of

1 industrial management, 1 of whom shall be a licensed professional  
2 engineer trained and experienced in matters of air pollution mea-  
3 surement and control; 2 shall be representatives of local units  
4 of government, 1 of whom shall be a full-time air pollution con-  
5 trol officer; 1 shall be a doctor of medicine, science, philoso-  
6 phy, or public health who shall be experienced and competent in  
7 the toxicology of air contaminants; 1 shall be a member of orga-  
8 nized labor and 2 shall be representatives of the general  
9 public.

10 (3) Each appointed member shall serve for a term of 3  
11 years. Vacancies shall be filled for the unexpired terms in the  
12 same manner as original appointments. Members of the commission  
13 shall receive no compensation, but shall be entitled to actual  
14 and necessary expenses incurred in the performance of official  
15 duties under this act.

16 Sec. 4. (1) The commission shall organize and make rules  
17 governing the formal and informal procedures of the commission,  
18 and shall meet not less than twice each year and shall keep a  
19 record of the proceedings and functions. A special meeting of  
20 the commission may be called by the chairperson and shall be  
21 called upon receipt of a written request signed by 2 or more mem-  
22 bers of the commission. Six members of the commission constitute  
23 a quorum to conduct business.

24 (2) The business which the commission may perform shall be  
25 conducted at a public meeting of the commission held in compli-  
26 ance with the open meetings act, Act No. 267 of the Public Acts  
27 of 1976, being sections 15.261 to 15.275 of the Michigan Compiled

1 Laws. Public notice of the time, date and place of the meeting  
2 shall be given in the manner required by Act No. 267 of the  
3 Public Acts of 1976.

4 (3) A writing prepared, owned, used, in the possession of,  
5 or retained by the commission in the performance of an official  
6 function shall be made available to the public in compliance with  
7 the freedom of information act, Act No. 442 of the Public Acts of  
8 1976, being sections 15.231 to 15.246 of the Michigan Compiled  
9 Laws.

10 Sec. 5. (1) The commission is responsible for the prepara-  
11 tion of the state implementation plan for this state pursuant to  
12 requirements of the clean air act.

13 (2) The commission shall prepare a report at least bienni-  
14 ally on the status of the air quality in this state. The commis-  
15 sion shall provide a copy of this report to the governor, the  
16 speaker of the house of representatives, the president of the  
17 senate, and to each of the members of the committees of the  
18 senate and the house of representatives that address legislation  
19 pertaining to the protection of the environment or human health.

20 (3) The commission shall promulgate rules specifically list-  
21 ing those air contaminants that are toxic air contaminants and  
22 establishing methods for determining standards and emission  
23 limits for all air contaminants to ensure the protection of human  
24 health and the environment.

25 (4) The commission shall promulgate rules requiring that all  
26 processes or process equipment emitting air contaminants to which  
27 permits are issued comply with BACT and T-BACT.

1 (5) The commission may promulgate rules as necessary to  
2 regulate emissions to protect human health, safety, and welfare,  
3 and the environment.

4 Sec. 6. (1) For the purpose of developing or assisting in  
5 the development of the state implementation plan, establishing a  
6 standard or emission limit, determining whether a person is in  
7 violation of this act, a rule promulgated under this act, a  
8 permit, or the state implementation plan, or in carrying out any  
9 other provision of this act or a rule promulgated under this act,  
10 the department may require a person who owns or operates a source  
11 or who is subject to requirements of this act to do 1 or more of  
12 the following:

13 (a) Establish and maintain records.

14 (b) Make reports.

15 (c) Install, use, and maintain monitoring equipment or  
16 methods.

17 (d) Sample emissions, in accordance with methods, at loca-  
18 tions and intervals, and in a manner as prescribed by the depart-  
19 ment by rules.

20 (e) Provide other information as the department may reason-  
21 ably require.

22 (2) The department or an authorized representative of the  
23 department, upon presentation of identification, shall have a  
24 right of entry to, upon, or through the premises of any person  
25 and to, upon, or through premises in which records required to be  
26 maintained under subsection (1) are located.

1       (3) The department or an authorized representative of the  
2 department may at reasonable times have access to and make copies  
3 of records, inspect any monitoring equipment or methods required  
4 under subsection (1), and conduct tests and sample emissions that  
5 the person is required to sample under subsection (1). Upon pre-  
6 sentation of identification, the department or its authorized  
7 representative may also make unannounced inspections to accom-  
8 plish a purpose authorized under this section. The person who  
9 owns or operates a process or process equipment shall be given  
10 the opportunity to have a qualified representative on site to  
11 assure the protection of a person conducting an inspection.  
12 However, the failure of the owner or operator of a process or  
13 process equipment to have a qualified representative on site  
14 shall impede the department's right to accomplish the purpose of  
15 the unannounced inspection.

16       (4) Except as provided in subsections (5) and (6), informa-  
17 tion obtained by the department under this act shall be a public  
18 record as provided in the freedom of information act, Act No. 442  
19 of the Public Acts of 1976, as amended, being sections 15.231 to  
20 15.246 of the Michigan Compiled Laws.

21       (5) A person regulated under this act may designate a  
22 record, permit application, other information, or a portion of a  
23 record, permit application, or other information furnished to or  
24 obtained by the department or its agents, as being only for the  
25 confidential use of the department and the commission. The  
26 department shall notify the person asserting confidentiality of a  
27 request for public records under section 5 of the freedom of



1 information act, Act No. 442 of the Public Acts of 1976, being  
2 section 15.235 of the Michigan Compiled Laws, whose scope  
3 includes information designated as confidential. The person  
4 asserting confidentiality shall have 30 days after the receipt of  
5 the notice to demonstrate to the director that the information  
6 designated as confidential should not be disclosed because the  
7 information is a trade secret or secret process, or is produc-  
8 tion, commercial, or financial information the disclosure of  
9 which would jeopardize the competitive position of the person  
10 from whom the information was obtained, and make available infor-  
11 mation not otherwise publicly available. The director shall  
12 grant the request for the information unless the person regulated  
13 under this act has made a satisfactory demonstration to the  
14 director that the information should not be disclosed. If there  
15 is a dispute between the person asserting confidentiality and the  
16 person requesting information under Act No. 442 of the Public  
17 Acts of 1976, the commission shall make the decision to grant or  
18 deny the request. When the commission makes a decision to grant  
19 a request, the information requested shall not be released until  
20 3 days have elapsed after the decision is made.

21 (6) Data on the quantity or composition of air contaminants  
22 emitted into the ambient air; air emission factors, rates, and  
23 characterizations; emissions during malfunctions of processes or  
24 process equipment regulated under this act; or the efficiency of  
25 air pollution control devices is not rendered as confidential  
26 information by this section.

1 (7) The director may release any information obtained under  
2 this act, including a record, permit application, or other  
3 information considered confidential pursuant to subsection (5),  
4 to the United States environmental protection agency.

5 Sec. 7. (1) After January 1, 2000, a process or process  
6 equipment shall not operate in this state unless a permit has  
7 been issued by the department or the commission for the source.  
8 The requirement of this subsection shall not apply if an exemp-  
9 tion is granted pursuant to rules promulgated under section 12 or  
10 section 14.

11 (2) The commission or department shall issue permits prior  
12 to January 1, 2000 in accordance with rules promulgated under  
13 sections 12, 13, and 14.

14 (3) A permit shall not exceed 10 years and shall be  
15 renewable.

16 Sec. 8. (1) The department may issue permits unless the  
17 proposed action by the department regarding the permit applica-  
18 tion is contested by the applicant or the public. If the action  
19 is contested, the commission shall process the permit  
20 application.

21 (2) The commission shall promulgate rules determining the  
22 manner in which the permit applicant and the public may contest  
23 an application for a permit.

24 (3) A person required to have a permit shall have a valid  
25 permit prior to commencing construction of a process or process  
26 equipment. The department may grant a waiver to an applicant who  
27 has applied for but has not been issued a permit enabling the

1 applicant to begin preparatory site activities. The commission  
2 shall promulgate rules defining those preoperation activities  
3 that may occur prior to the issuance of a permit and the criteria  
4 for granting a waiver pursuant to this subsection.

5 (4) A permit shall contain provisions pertaining to con-  
6 struction and other preoperation activities, operation of the  
7 process or process equipment record keeping, reporting, testing,  
8 and process or process equipment monitoring.

9 Sec. 9. (1) The department or commission shall consider all  
10 of the following information prior to issuing a permit pursuant  
11 to rules promulgated under section 12:

12 (a) Information characterizing the expected composition of  
13 the air contaminant stream.

14 (b) The expected physical and chemical characteristics of  
15 the air contaminants.

16 (c) Information characterizing the air contaminant control  
17 techniques to avoid or reduce air contaminant emissions, includ-  
18 ing, but not limited to, emission control equipment, operating  
19 procedures, and source reduction.

20 (d) Information characterizing the potential dispersion,  
21 diffusion, and air flow pathways of the air contaminants.

22 (e) The method of disposal of wastes resulting from opera-  
23 tion of the process or process equipment or air-cleaning  
24 devices.

25 (f) A plan for reducing air contaminant emissions during air  
26 pollution alerts, warnings, and emergencies.

1 (g) Information, in a form prescribed by the commission,  
2 that is necessary for the preparation of an environmental impact  
3 statement.

4 (h) Information characterizing the effect of air contaminant  
5 emissions on human health and the environment.

6 (2) The department or commission shall consider all of the  
7 following information prior to issuing a permit pursuant to rules  
8 promulgated under section 14.

9 (a) Information characterizing the composition of the toxic  
10 air contaminant stream.

11 (b) The physical and chemical characteristics of the toxic  
12 air contaminants.

13 (c) Information characterizing the air contaminant control  
14 techniques to avoid or reduce toxic air contaminant emissions,  
15 including, but not limited to, emission control equipment, oper-  
16 ating procedures, and source reduction.

17 (d) Information characterizing the potential dispersion,  
18 diffusion, and air flow pathways of toxic air contaminants.

19 (e) The method of disposal of wastes resulting from opera-  
20 tion of the process or process equipment or air-cleaning  
21 devices.

22 (f) A plan for reducing toxic air contaminant emissions  
23 during air pollution alerts, warnings, and emergencies.

24 (g) Information, in a form prescribed by the commission,  
25 that is necessary for the preparation of an environmental impact  
26 statement.

1 (h) Information characterizing the effect of the toxic air  
2 contaminant emissions on human health and the environment.

3 Sec. 10. (1) The department shall maintain a list of all  
4 applications for air quality control permits and a status report  
5 on each permit application that includes all of the following:

6 (a) The name of the applicant.

7 (b) The county in which the process or process equipment or  
8 the proposed process or process equipment is or will be located.

9 (c) The nature of the process or process equipment.

10 (d) The anticipated date on which the permit may be issued  
11 or denied and other information pertinent to the progress of the  
12 permit application.

13 (2) The information required under subsection (1) shall be  
14 published monthly in the Michigan Register and updated by the  
15 department at least every 30 days. The department shall organize  
16 the list prepared under subsection (1) on the basis of the county  
17 in which the process or process equipment for which a permit is  
18 sought is located and shall submit the list to the Michigan  
19 Register for publication. In addition, every 30 days the depart-  
20 ment shall send a copy of the information sent to the Michigan  
21 Register to the chair of the board of commissioners of the county  
22 in which the source for which a permit is sought is located.

23 Sec. 11. (1) A permit may be denied if the department  
24 determines that the applicant is not in substantial compliance  
25 with all of the following:

26 (a) This act and rules implementing this act.

1 (b) The clean air act.

2 (c) The solid waste management act, Act No. 641 of the  
3 Public Acts of 1978, being sections 299.401 to 299.437 of the  
4 Michigan Compiled Laws.

5 (d) The hazardous waste management act, Act No. 64 of the  
6 Public Acts of 1979, being sections 299.501 to 299.551 of the  
7 Michigan Compiled Laws.

8 (e) The environmental response act, Act No. 307 of the  
9 Public Acts of 1982, being sections 299.601 to 299.611 of the  
10 Michigan Compiled Laws.

11 (f) Act No. 245 of the Public Acts of 1929, being sections  
12 323.1 to 323.13 of the Michigan Compiled Laws.

13 (g) The underground storage tank regulatory act, Act No. 423  
14 of the Public Acts of 1984, being sections 299.701 to 299.712 of  
15 the Michigan Compiled Laws.

16 (h) The leaking underground storage tank act, Act No. 478 of  
17 the Public Acts of 1988, being sections 299.831 to 299.850 of the  
18 Michigan Compiled Laws.

19 (2) A permit shall not be issued under this act if any of  
20 the following conditions exist:

21 (a) Operation of the process or process equipment for which  
22 the permit is sought will interfere with the attainment or main-  
23 tenance of an air quality standard or emission limit for an air  
24 contaminant.

25 (b) The process or process equipment will not be in compli-  
26 ance with T-BACT or BACT as operated under a permit or has not  
27 negotiated a schedule of compliance with BACT.

1 (c) The process or process equipment for which the permit is  
2 sought will violate a provision of the Great Lakes toxic sub-  
3 stances control agreement of 1986 or other international treaties  
4 and agreements or state compacts.

5 (d) The process or process equipment for which the permit is  
6 sought will violate the provisions of the clean air act, or rules  
7 or regulations promulgated under that act.

8 (e) Sufficient information has not been submitted by the  
9 applicant to enable a reasonable judgment to be made as required  
10 by subdivisions (a) to (d).

11 (f) Adequate requested information for preparation of an  
12 environmental impact statement is not submitted.

13 (g) A satisfactory plan for reduction of emissions during  
14 air pollution alerts, warnings, and emergencies is not  
15 submitted.

16 (3) When an application is denied, the applicant shall be  
17 notified in writing of the reasons for denial. A denial shall be  
18 without prejudice to the applicant's right to a hearing or for  
19 filing a further application after revisions are made to meet  
20 objections specified as reasons for the denial.

21 (4) The department shall require the applicant to submit  
22 with his or her permit application a statement from the local  
23 zoning authority having jurisdiction over the location of the  
24 source that the source would be in compliance with all applicable  
25 local zoning requirements.

26 Sec. 12. The commission shall submit rules to the joint  
27 committee on administrative rules by January 1, 1992 requiring,

1 unless exempted by rules, that all processes or process equipment  
2 emitting air contaminants in this state comply with BACT and  
3 T-BACT. The rules shall pertain to the issuance of permits for  
4 new or modified processes or process equipment that emit air con-  
5 taminants and the renewal of permits for existing processes or  
6 process equipment that emit air contaminants. The rules shall  
7 include all of the following:

8 (a) The method by which an applicant obtains an air quality  
9 control permit.

10 (b) The format upon which an application for a permit shall  
11 be submitted to the department and the information that is  
12 required for review of the application.

13 (c) Conditions under which a process or process equipment is  
14 exempt from BACT, T-BACT, or permit requirements. In determining  
15 when a permit is not required, the commission shall consider all  
16 of the following:

17 (i) The nature of the emission and its impact on public  
18 health, safety, and welfare, and the environment.

19 (ii) Total annual emissions of air contaminants.

20 (iii) Peak emissions of air contaminants as determined for a  
21 specified time period that is reasonable for the process or pro-  
22 cess equipment proposed for exemption.

23 (iv) An analysis of the impact of the air contaminant on  
24 human health, safety, and welfare, and the environment under  
25 adverse dispersion conditions.

26 (d) When an air contaminant is exempt from a rule  
27 establishing an emission limit.



1 (e) The nature and extent of air contaminant monitoring  
2 systems required.

3 (f) The contents of a report that each permit holder shall  
4 be required to file with the department at least annually.

5 (g) The method or methods for assessing the potential cancer  
6 and noncancer human health effects from emission of air  
7 contaminants.

8 (h) The method or methods for determining predicted environ-  
9 mental impacts of air contaminant emissions.

10 (i) The manner in which BACT and T-BACT will be determined  
11 for new processes or process equipment and applied to existing  
12 processes or process equipment to the extent practicable.  
13 Application of BACT or T-BACT shall not result in emissions of  
14 any air contaminant that will exceed the emissions allowed by any  
15 applicable standard established pursuant to this act or rules  
16 promulgated under this act or the clean air act.

17 (j) Methods for determining emission limits for air contami-  
18 nants from new or modified processes or process equipment.

19 (k) An expedited permit application system for modified pro-  
20 cesses or process equipment as provided in section 13.

21 (l) A schedule for permit renewals that shall consider the  
22 nature of the chemicals emitted, the static or dynamic process or  
23 process equipment for which a permit is sought, administrative  
24 constraints, and the historical compliance record of the  
25 applicant. Prior to the promulgation of these rules, permits  
26 shall be valid for 5 years after the date on which issued.

1 (m) A method by which the commission prior to issuing a  
2 permit controlling the emission of air contaminants considers  
3 whether the emission is in the public interest. In developing  
4 this method, the commission shall consider both of the  
5 following:

6 (i) The availability of feasible and prudent alternatives to  
7 the emission that accomplish the expected benefits from the pro-  
8 cess or process equipment.

9 (ii) The impact that is expected to occur to the environment  
10 from the emission, including an increase in cancer and serious  
11 noncancerous human health effects, and the contribution of air  
12 emissions to the bioaccumulation of contaminants.

13 Sec. 13. (1) An expedited permit application review system  
14 shall be established in rules promulgated by the commission. A  
15 permit application submitted pursuant to the expedited system  
16 shall be processed by the department within 90 days of receipt of  
17 a complete application. A permit application is eligible for  
18 expedited review if 1 or more of the following circumstances  
19 exist:

20 (a) The applicant is seeking renewal of a permit and does  
21 not propose any modifications to the process or process equipment  
22 that was originally permitted.

23 (b) The applicant is seeking modification or renewal of a  
24 permit not associated with a compliance order and proposes  
25 changes that result in a net reduction in emission of particular  
26 air contaminants, either through the proposed changes, or through  
27 a joint proposal to modify and reduce emissions from other

1 processes or process equipment located on the site of the  
2 applicant.

3 (c) The department determines in rules that an expedited  
4 permit application review is appropriate.

5 (2) The commission or the department shall not issue an  
6 expedited permit unless the department or the commission finds  
7 that the process or process equipment if permitted will achieve  
8 reduction in the emission of air contaminants to the extent  
9 practicable.

10 (3) The department may promulgate rules that exempt an  
11 applicant for a permit under this section from certain require-  
12 ments of rules promulgated under sections 12 and 14.

13 Sec. 14. (1) The commission shall submit rules to the joint  
14 committee on administrative rules by January 1, 1992 requiring  
15 that all processes or process equipment, unless exempted by  
16 rules, that exist on the effective date of this act comply with  
17 T-BACT by the year 2000. The rules shall include all of the  
18 following:

19 (a) The method by which an applicant obtains an air quality  
20 control permit.

21 (b) The format upon which an application for a permit shall  
22 be submitted to the department and the information that is  
23 required for the review of the application.

24 (c) Conditions under which a process or process equipment is  
25 exempt from BACT, T-BACT, or permit requirements. In determining  
26 when a permit is not required, the commission shall consider all  
27 of the following:

- 1       (i) The nature of the emission and its impact on human  
2 health, safety, and welfare, and the environment.
- 3       (ii) Total annual emissions of toxic air contaminants.
- 4       (iii) Peak emissions of toxic air contaminants as determined  
5 for a specified time period that is reasonable for the process or  
6 process equipment proposed for exemption.
- 7       (iv) An analysis of the impact of the toxic air contaminant  
8 on human health, safety, and welfare, and the environment under  
9 adverse dispersion conditions.
- 10      (d) When a toxic air contaminant is exempt from a rule  
11 establishing an emission limit.
- 12      (e) The nature and extent of air contaminant monitoring sys-  
13 tems required.
- 14      (f) The contents of a report that each permit holder shall  
15 be required to file with the department at least annually.
- 16      (g) The method or methods for assessing the potential cancer  
17 and noncancer human health effects from emission of toxic air  
18 contaminants.
- 19      (h) The method or methods for determining predicted environ-  
20 mental impacts of toxic air contaminants emissions.
- 21      (i) The manner in which the best available control technol-  
22 ogy for toxic air contaminants will be determined and applied to  
23 existing processes or process equipment to the extent  
24 practicable. Application of T-BACT shall not result in emissions  
25 of any toxic air contaminant that will exceed the emissions  
26 allowed by any applicable standard established pursuant to this  
27 act or rules promulgated under this act or the clean air act.

1 (j) Methods for determining emission limits for toxic air  
2 contaminants from existing sources.

3 (k) An expedited permit application system for existing pro-  
4 cesses or process equipment as provided in section 13.

5 (l) The schedule used by the commission in determining the  
6 order by which existing processes or process equipment will be  
7 reviewed and issued permits which are renewable under  
8 section 12. This schedule shall be submitted to the joint com-  
9 mittee on administrative rules no later than January 1, 1993 and  
10 shall be established based on all of the following factors in  
11 order of decreasing significance:

12 (i) The elimination or reduction of emissions of toxic air  
13 contaminants that are carcinogens.

14 (ii) The elimination or reduction of toxic air contaminants  
15 that bioaccumulate.

16 (iii) The elimination or reduction of relative adverse  
17 impact on human health, safety, and welfare, and the environment  
18 of toxic air contaminant emissions due to the size and location  
19 of the process or process equipment.

20 (iv) The reduction or elimination of toxic air contaminants  
21 from processes or process equipment that existed prior to the  
22 effective date of former Act No. 348 of the Public Acts of 1965,  
23 being sections 336.11 to 336.36 of the Michigan Compiled Laws.

24 (v) The reduction or elimination of toxic air contaminants  
25 and processes or process equipment emitting toxic air contami-  
26 nants not listed in subparagraphs (i) to (iv).

1       (2) This section and rules promulgated under this section  
2 shall be applicable and shall regulate processes or process  
3 equipment of toxic air contaminants that exist on the effective  
4 date of this act until January 1, 2000.

5       Sec. 15. Following the promulgation of the rules required  
6 under section 14, a permit that is issued under section 14 shall  
7 be modified or renewed under rules promulgated under section 12.

8       Sec. 16. (1) The provisions of this section, including  
9 subsection (2), shall apply to any fugitive dust source at all  
10 mining operations, standard industrial classification major  
11 groups 10 through 14; manufacturing operations, standard indus-  
12 trial classification major groups 20 through 39; railroad trans-  
13 portation, standard industrial classification major group 40;  
14 motor freight transportation and warehousing, standard industrial  
15 classification major group 42; electric services, standard indus-  
16 trial classification group 491; sanitary services, standard  
17 industrial classification group 495; and steam supply, standard  
18 industrial classification group 496, which are located in areas  
19 listed in table 36 of R 336.1371 of the Michigan administrative  
20 code.

21       (2) Except as provided in subsection (8), a person responsi-  
22 ble for any fugitive dust source regulated under this section  
23 shall not cause or allow the emission of fugitive dust from any  
24 road, lot, or storage pile, including any material handling  
25 activity at a storage pile, that has an opacity greater than 5%  
26 as determined by reference test method 9d. Except as otherwise  
27 provided in subsection (8) or this section, a person shall not

1 cause or allow the emission of fugitive dust from any other  
2 fugitive dust source that has an opacity greater than 20% as  
3 determined by test method 9d. The provisions of this subsection  
4 shall not apply to storage pile material handling activities when  
5 wind speeds are in excess of 25 miles per hour (40.2 kilometers  
6 per hour).

7 (3) In addition to the requirements of subsection (2), and  
8 except as provided in subdivisions (e), (f), and (g), a person  
9 shall control fugitive dust emissions in a manner that results in  
10 compliance with all of the following provisions:

11 (a) Potential fugitive dust sources shall be maintained and  
12 operated so as to comply with all of the following applicable  
13 provisions:

14 (i) All storage piles of materials, where the total uncon-  
15 trolled emissions of fugitive dust from all such piles at a  
16 facility is in excess of 50 tons per year and where such piles  
17 are located within a facility with potential particulate emis-  
18 sions from all sources including fugitive dust sources and all  
19 other sources exceeding 100 tons per year, shall be protected by  
20 a cover or enclosure or sprayed with water or a surfactant solu-  
21 tion, or treated by an equivalent method, in accordance with the  
22 operating program required by subsection (4).

23 (ii) All conveyor loading operations to storage piles speci-  
24 fied in subparagraph (i) shall utilize spray systems, telescopic  
25 chutes, stone ladders, or other equivalent methods in accordance  
26 with the operating program required by subsection (4). Batch  
27 loading operations to storage piles specified in subparagraph (i)

1 shall utilize spray systems, limited drop heights, enclosures, or  
2 other equivalent methods in accordance with the operating program  
3 required by subsection (4). Unloading operations from storage  
4 piles specified in subparagraph (i) shall utilize rake reclaim-  
5 ers, bucket wheel reclaimers, under-pile conveying, pneumatic  
6 conveying with baghouse, water sprays, gravity-feed plow reclaim-  
7 er, front-end loaders with limited drop heights, or other equiva-  
8 lent methods in accordance with the operating program required by  
9 subsection (4).

10 (iii) all traffic pattern access areas surrounding storage  
11 piles specified in subparagraph (i) and all traffic pattern roads  
12 and parking facilities shall be paved or treated with water,  
13 oils, or chemical dust suppressants. All paved areas, including  
14 traffic pattern access areas surrounding storage piles specified  
15 in subparagraph (i), shall be cleaned in accordance with the  
16 operating program required by subsection (4). All areas treated  
17 with water, oils, or chemical dust suppressants shall have the  
18 treatment applied in accordance with the operating program  
19 required by subsection (4).

20 (iv) all unloading and transporting operations of materials  
21 collected by pollution control equipment shall be enclosed or  
22 shall utilize spraying, pelletizing, screw conveying, or other  
23 equivalent methods.

24 (v) Crushers, grinding mills, screening operations, bucket  
25 elevators, conveyor transfer points, conveyor bagging operations,  
26 storage bins, and fine product truck and railcar loading  
27 operations shall be sprayed with water or a surfactant solution,



1 utilize choke-feeding, or be treated by an equivalent method in  
2 accordance with an operating program required under  
3 subsection (4). This subparagraph shall not apply to high-lines  
4 at steel mills.

5 (b) If particulate collection equipment is operated pursuant  
6 to this section, emissions from such equipment shall not exceed  
7 0.03 grains per dry standard cubic foot (0.07 grams per cubic  
8 meter).

9 (c) A person shall not cause or allow the operation of a  
10 vehicle for the transporting of bulk materials with a silt con-  
11 tent of more than 1% without employing 1 or more of the following  
12 control methods:

13 (i) The use of completely enclosed trucks, tarps, or other  
14 covers for bulk materials with a silt content of 20% or more by  
15 weight.

16 (ii) The use of tarps, chemical dust suppressants, or water  
17 in sufficient quantity to maintain the surface in a wet condition  
18 for bulk materials with a silt content of more than 5% but less  
19 than 20%.

20 (iii) Loading trucks so that no part of the load making con-  
21 tact with any sideboard, side panel, or rear part of the load  
22 comes within 6 inches of the top part of the enclosure for bulk  
23 materials with a silt content of more than 1% but not more than  
24 5%.

25 (d) All vehicles for transporting bulk materials off-site  
26 shall be maintained in such a way as to prevent leakage or  
27 spillage and shall comply with the requirements of section 720 of

1 the Michigan vehicle code, Act No. 300 of the Public Acts of  
2 1949, being section 257.720 of the Michigan Compiled Laws, and  
3 with R 28.1457 of the Michigan administrative code.

4 (e) The provisions of subdivisions (c) and (d) shall not  
5 apply to vehicles with less than a 2-ton capacity that are used  
6 to transport sand, gravel, stones, peat, or topsoil.

7 (f) The provisions of subdivision (c)(i) and (ii) do not  
8 apply to fly ash which has been thoroughly wetted and has the  
9 property of forming a stable crust upon drying.

10 (g) The provisions of subdivision (c) shall not apply to the  
11 transportation of iron or steel slag if the vehicles do not leave  
12 the facility and the slag has a temperature of 200 degrees fahr-  
13 enheit or greater.

14 (4) All fugitive dust sources subject to the provisions of  
15 this section shall be operated in compliance with both the provi-  
16 sions of an operating program that shall be prepared by the owner  
17 or operator of the source and submitted to the commission and  
18 with applicable provisions of this section. Such operating pro-  
19 gram shall be designed to significantly reduce the fugitive dust  
20 emissions to the lowest level that a particular source is capable  
21 of achieving by the application of control technology that is  
22 reasonably available, considering technological and economic  
23 feasibility. The operating program shall be implemented upon the  
24 approval of the commission.

25 (5) The operating program required by subsection (4) is  
26 subject to review and approval or disapproval by the commission  
27 and shall be considered approved if not acted on by the

1 commission within 90 days of submittal. All programs approved by  
2 the commission shall become a part of a legally enforceable order  
3 or as part of an approved permit to install or operate. At a  
4 minimum, the operating program shall include all of the  
5 following:

6 (a) The name and address of the facility.

7 (b) The name and address of the owner or operator responsi-  
8 ble for implementation of the operating program.

9 (c) A map or diagram of the facility showing all of the  
10 following:

11 (i) Approximate locations of storage piles.

12 (ii) Conveyor loading operations.

13 (iii) All traffic patterns within the facility.

14 (d) The location of unloading and transporting operations  
15 with pollution control equipment.

16 (e) A detailed description of the best management practices  
17 utilized to achieve compliance with this section, including an  
18 engineering specification of particulate collection equipment,  
19 application systems for water, oil, chemicals, and dust suppres-  
20 sants utilized, and equivalent methods utilized.

21 (f) A test procedure, including recordkeeping, for testing  
22 all waste or recycled oils used for fugitive dust control for  
23 toxic contaminants.

24 (g) The frequency of application, application rates, and  
25 dilution rates if applicable, of dust suppressants by location of  
26 materials.

1 (h) The frequency of cleaning paved traffic pattern roads  
2 and parking facilities.

3 (i) Other information as may be necessary to facilitate the  
4 commission's review of the operating program.

5 (6) Except for fugitive dust sources operating programs  
6 approved by the commission pursuant to R 336.1373 of the Michigan  
7 administrative code between April 23, 1985 and May 12, 1987, the  
8 owner or operator of a source shall submit the operating program  
9 required by subsection (4) to the commission within 90 days after  
10 the effective date of the amendatory act that added this  
11 section.

12 (7) The operating program required by subsection (4) shall  
13 be amended by the owner or operator so that the operating program  
14 is current and reflects any significant change in the fugitive  
15 dust source or fugitive dust emissions. An amendment to an oper-  
16 ating program shall be consistent with the requirements of this  
17 section and shall be submitted to the commission for its review  
18 and approval or disapproval.

19 (8) Upon request by the owner or operator of a fugitive dust  
20 source, the commission may establish alternate provisions to  
21 those specified in this section, if all of the following condi-  
22 tions are met:

23 (a) The fugitive dust emitting process, operation, or activ-  
24 ity is subject to either of the following:

25 (i) The opacity limits of subsection (2).

26 (ii) The spray requirements of subsection (3)(a)(i) to (v).

1 (b) An alternate provision shall not be established by the  
2 commission unless the commission is reasonably convinced of all  
3 of the following:

4 (i) That a fugitive dust emitting process, operation, or  
5 activity subject to the alternate provisions is in compliance or  
6 on a legally enforceable schedule of compliance with the other  
7 rules of the commission.

8 (ii) That compliance with the provisions of this section is  
9 not technically or economically reasonable.

10 (iii) That reasonable measures to reduce fugitive emissions  
11 as required by this section have been implemented in accordance  
12 with or will be implemented in accordance with a schedule  
13 approved by the commission.

14 (9) Any alternate provisions approved by the commission pur-  
15 suant to subsection (8) shall be submitted to the United States  
16 environmental protection agency as an amendment to the state  
17 implementation plan.

18 Sec. 17. As used in section 16:

19 (a) "Control equipment or pollution control equipment" has  
20 the meaning ascribed to control equipment in R 336.1103 of the  
21 Michigan administrative code.

22 (b) "Fine product" means materials which will pass through a  
23 20-mesh screen or those particles with aerodynamic diameters of  
24 830 microns or less.

25 (c) "Fugitive dust" has the meaning ascribed to it in  
26 R 336.1106 of the Michigan administrative code.

1 (d) "Fugitive dust source" means any fugitive dust emitting  
2 process, operation, or activity regulated under section 15.

3 (e) "Opacity" has the meaning ascribed to it in R 336.1115  
4 of the Michigan administrative code.

5 (f) "Particulate" means any air contaminant existing as a  
6 finely divided liquid or solid, other than uncombined water, as  
7 measured by a reference test specified in subsection (5) of  
8 R 336.2004 of the Michigan administrative code or by an equiva-  
9 lent or alternative method.

10 (g) "Potential particulate emissions" means those emissions  
11 of particulate matter expected to occur without control equip-  
12 ment, unless such control equipment is, aside from air pollution  
13 control requirements, vital to the production of the normal prod-  
14 uct of the source or to its normal operation. Annual potential  
15 particulate emissions shall be based on the maximum annual-rated  
16 capacity of the source, unless the source is subject to enforce-  
17 able permit conditions or enforceable orders which limit the  
18 operating rate or the hours of operation or both. Enforceable  
19 agreements or permit conditions on the type or amount of materi-  
20 als combusted or processed shall be used in determining the  
21 potential particulate emission rate of a source.

22 (h) "Process" or "process equipment" has the meaning  
23 ascribed to it in R 336.1116 of the Michigan administrative  
24 code.

25 (i) "Silt content" means that portion, by weight, of a par-  
26 ticulate material which will pass through a number 200 (75

1 micron) wire sieve as determined by the American society of  
2 testing material, test C-136-76.

3 (j) "Test method 9D" means the method by which visible emis-  
4 sions of fugitive dust shall be determined according to test  
5 method 9 as set forth in appendix A-reference methods in 40 CFR,  
6 part 60, with the following modifications:

7 (i) The data reduction provisions of section 2.5 of method 9  
8 shall be based on an average of 12 consecutive readings recorded  
9 at 15-second intervals.

10 (ii) For roadways and parking lots, opacity observations  
11 shall be made from a position such that the observer's line of  
12 vision is approximately perpendicular to the plume direction and  
13 approximately 4 feet directly above the surface of the road or  
14 parking area from which the emissions are being generated. The  
15 observer shall not look continuously at the plume, but instead  
16 shall observe the plume momentarily at 15-second intervals at the  
17 point of maximum plume density. Consecutive readings must be  
18 suspended for any 15-second period if a vehicle is in the  
19 observer's line of sight. If this occurs, a "V" shall be used in  
20 lieu of a numerical value, and a footnote shall be made to indi-  
21 cate that "V" signifies that the observer's view was obstructed  
22 by a vehicle. Readings shall continue at the next 15-second  
23 period, and they shall be considered consecutive to the reading  
24 immediately preceding the 15-second period denoted by a "V".  
25 Consecutive readings also shall be suspended for any 15-second  
26 period if a vehicle passes through the area traveling in the  
27 opposite direction and creates a plume that is intermixed with

1 the plume being read. If this occurs, an "I" shall be used in  
2 lieu of a numerical value, and a footnote shall be made to indi-  
3 cate that "I" signifies that the readings were terminated due to  
4 interference from intermixed plumes. Readings shall continue  
5 when, in the judgment of the observer, the plume created by the  
6 vehicle traveling in the opposite direction no longer interferes  
7 with the plume originally being read; and they shall be consid-  
8 ered consecutive to the reading immediately preceding the  
9 15-second period denoted by an "I". Intermixing of plumes from  
10 vehicles traveling in the same direction represents the road con-  
11 ditions, and reading shall continue in the prescribed manner. A  
12 reading encompassing an unusual condition (such as a broken bag  
13 of cement on the pavement) cannot be used to represent the entire  
14 surface condition involved. In such cases, another set of read-  
15 ings, encompassing the average surface condition, must be  
16 conducted. For all other fugitive dust sources except roadways  
17 and parking lots, opacity observations shall be made from a posi-  
18 tion that provides the observer a clear view of the source and  
19 the fugitive dust with the sun behind the observer. A position  
20 at least 15 feet from the source is recommended. To the extent  
21 possible, the line of sight should be approximately perpendicular  
22 to the flow of fugitive dust and to the longer axis of the  
23 emissions. Opacity observations shall be made for the point of  
24 highest opacity within the fugitive dust. Since the highest  
25 opacity usually occurs immediately above or downwind of the  
26 source, the observer should normally concentrate on the area or  
27 areas of the plume close to the source.



1       Sec. 18. Notwithstanding any other provision of this act,  
2 the director, upon receipt of evidence that a process or process  
3 equipment or combination of processes or process equipment,  
4 including mobile sources, is presenting an imminent and substan-  
5 tial endangerment to human health, may bring suit on behalf of  
6 the state to immediately restrain a person causing or contribut-  
7 ing to the alleged contamination to stop the emission of air con-  
8 taminants causing or contributing to the pollution or to take  
9 other action as may be necessary. If it is not practicable to  
10 assure prompt protection of human health solely by commencement  
11 of this civil action, the director may issue orders as may be  
12 necessary to protect the health of persons who are, or may be,  
13 affected by the process or process equipment. An order under  
14 this section shall be effective for a period of not more than 24  
15 hours unless the department brings an action under this section  
16 before the expiration of this period. Whenever the director  
17 files an action within this period, the order shall be effective  
18 for a period of 48 hours or a longer period if authorized by the  
19 court pending litigation or during or after litigation.

20       Sec. 19. (1) Except as otherwise provided in subsections  
21 (3) and (4), a person may commence a civil action on his or her  
22 own behalf against any of the following:

23       (a) Against a person who is alleged to be in violation of an  
24 emission standard or limitation under this act or a rule promul-  
25 gated under this act.

1 (b) The department or the commission alleging a failure of  
2 the department or the commission to perform a nondiscretionary  
3 act or duty under this act.

4 (c) A person who is alleged to be in violation of a condi-  
5 tion of a permit.

6 (d) A person who is alleged to be in violation of an order  
7 of compliance issued under this act.

8 (2) The circuit court shall have jurisdiction to enforce an  
9 emission standard, limitation, or an order, or to order the  
10 department or the commission to perform a nondiscretionary act or  
11 duty required under this act.

12 (3) An action shall not be commenced under  
13 subsection (1)(a), (c), or (d) unless both of the following con-  
14 ditions are met:

15 (a) The plaintiff has given at least 60 days' notice in  
16 writing of the alleged violation to the commission and to any  
17 alleged violator of the standard, limitation, permit, or order.

18 (b) The state has not commenced and is not diligently prose-  
19 cuting an action under this act to require compliance.

20 (4) An action shall not be commenced under subsection (1)(b)  
21 unless the plaintiff has given at least 60 days' notice to the  
22 department and the commission unless the alleged failure to per-  
23 form a nondiscretionary act or duty under this act is resulting  
24 in a violation of an emission standard or compliance order issued  
25 under section 18 or section 20, in which case the suit may be  
26 filed immediately after submitting written notice.

1 (5) Nothing in this section shall prevent a person from  
2 intervening in an action that has been filed by the state to  
3 enforce this act or the rules promulgated under this act.

4 (6) In an action brought under this section respecting a  
5 violation by a process or process equipment of an emission stan-  
6 dard or limitation or an order respecting a standard or limita-  
7 tion may only be brought in the judicial district in which the  
8 source is located.

9 (7) In an action brought under this section, the department,  
10 if not a party, may intervene as a matter of right.

11 (8) The court, in issuing any final order in any action  
12 brought pursuant to subsection (1), may award costs of litiga-  
13 tion, including reasonable attorney and expert witness fees, to  
14 any party, if the court determines that the award is  
15 appropriate. The court may, if a temporary restraining order or  
16 preliminary injunction is sought, require the filing of a bond or  
17 equivalent security.

18 (9) Nothing in this section shall restrict any right which  
19 any person, or class of persons, may have under any statute or  
20 common law to seek enforcement of an emission standard or limita-  
21 tion or to seek any other relief, including relief against the  
22 department or the commission.

23 (10) For purposes of this section, the term "emission stan-  
24 dard or limitation under this act" means 1 or more of the  
25 following:

26 (a) A schedule or timetable of compliance, emission  
27 limitation, standard of performance, or emission standard.

1 (b) A control or prohibition respecting a motor vehicle fuel  
2 or fuel additive that is in effect under this act or under this  
3 state's implementation plan.

4 (c) A condition or requirement of a permit.

5 Sec. 20. (1) If the department finds that a person is in  
6 violation of this act, rules promulgated under this act, an emis-  
7 sion limit or permit condition, or the state implementation plan,  
8 the department shall notify the person with reasonable specific-  
9 ity as to the nature of the violation. The person to whom the  
10 notice of violation is issued shall have an opportunity to confer  
11 with the department regarding the alleged violation within  
12 15 days of receipt of the notice. If the violation extends more  
13 than 30 days after the notice of violation is received, the  
14 department may issue an order under subsection (2) or bring a  
15 civil action under subsection (4).

16 (2) If the department finds that a person is in violation of  
17 this act, rules promulgated under this act, an emission limit,  
18 permit condition, or the state implementation plan, the depart-  
19 ment may issue an order requiring the person to comply with this  
20 act, rules promulgated under this act, an emission limit, permit  
21 condition or the state implementation plan. The order shall warn  
22 the alleged violator that if he or she does not comply with the  
23 compliance order, a civil action may be filed under  
24 subsection (4).

25 (3) A compliance order under subsection (2) shall not take  
26 effect until the person to whom it is issued has an opportunity  
27 to confer with the department within 15 days of the issuance of

1 the order concerning the alleged violation. An order issued  
2 under subsection (2) shall state with reasonable specificity the  
3 nature of the violation, specify a time for compliance that the  
4 department determines is reasonable, taking into account the  
5 seriousness of the violation, and any good faith efforts to  
6 comply with applicable requirements. An order issued under this  
7 subsection or section 18 may assess noncompliance fines estab-  
8 lished pursuant to rules promulgated by the department. A person  
9 who disputes the amount of a noncompliance fine may appeal in the  
10 same manner as provided for contested cases under the administra-  
11 tive procedures act of 1969, Act No. 306 of the Public Acts of  
12 1969, being sections 24.201 to 24.328 of the Michigan Compiled  
13 Laws.

14 (4) The department may commence a civil action against any  
15 person for a temporary or permanent injunction to assess a civil  
16 fine of not more than \$25,000.00 per day of violation or to  
17 recover the full value of injuries done to the natural resources  
18 of the state and the costs of surveillance and enforcement  
19 resulting from a violation, if a person violates an order under  
20 subsection (2); violates this state's implementation plan after  
21 receiving at least 30 days' notice from the department; or vio-  
22 lates this act or any rule promulgated under this act, or an  
23 emission limit or permit condition.

24 (5) In determining the amount of a civil penalty to be  
25 assessed under subsection (4), the court shall take into consid-  
26 eration, in addition to other factors, whether there was a good  
27 faith effort to comply, past compliance records, the size of the

1 business, the economic impact of the penalty on the business, and  
2 the seriousness of the violation.

3 (6) In an action filed under subsection (4), the court shall  
4 have jurisdiction to restrain the violation, to require compli-  
5 ance, and to assess a civil penalty. The court may also award  
6 costs of litigation, including reasonable attorney fees, to the  
7 party or parties against whom an action was brought in any case  
8 where the court finds that the action was unreasonable.

9 (7) A person who knowingly does any of the following is  
10 guilty of a misdemeanor punishable by imprisonment for not more  
11 than 1 year or a fine of not more than \$25,000.00 per day of vio-  
12 lation, or both:

13 (a) Violates the state implementation plan after having at  
14 least 30 days' notice from the department of the violation.

15 (b) Violates or fails to comply with an order under  
16 subsection (1).

17 (c) Violates or fails to comply with this act or a rule  
18 promulgated under this act, an emission limit, or permit  
19 condition.

20 (d) Knowingly makes a false statement, representation, or  
21 certification in an application, record, report, plan, or other  
22 document filed or required to be maintained under this act or who  
23 falsifies, tampers with, or knowingly renders inaccurate a moni-  
24 toring device or method required to be maintained under this  
25 act.

26 (8) If a person violates subsection (7) after 1 or more  
27 prior convictions under subsection (7), he or she is guilty of a

1 felony punishable by imprisonment for not more than 2 years or a  
2 fine of not more than \$50,000.00 per day of violation, or both.

3 (9) As used in subsections (7), (8), and (9), "person"  
4 includes a responsible corporate officer.

5 Sec. 21. (1) The department shall require an owner or oper-  
6 ator of a process or process equipment to pay a permit fee for  
7 any permit issued under this act. This fee shall be based on the  
8 reasonable costs associated with reviewing and acting upon an  
9 application for a permit and the reasonable costs of implementing  
10 and enforcing the terms and conditions of any such permit. A  
11 permit fee collected shall be expended only for the support of  
12 activities conducted pursuant to this act. The department shall  
13 promulgate additional rules necessary or required to implement  
14 this section and applicable federal law or regulation.

15 (2) A local unit of government to whom a delegation is made  
16 under subsection (4) may require an owner or operator of a pro-  
17 cess or process equipment located within its jurisdiction to pay  
18 a permit fee for a permit issued pursuant to a local ordinance,  
19 rule, or regulation. Local permit fees shall cover the reason-  
20 able costs associated with reviewing and acting upon any applica-  
21 tion for a permit and the reasonable costs of implementing and  
22 enforcing the terms and conditions of the permit.

23 (3) Permit fees collected under this section that cover the  
24 costs associated with permit activities borne by a local unit of  
25 government shall be returned to a local unit of government,  
26 except to the extent the local unit of government assesses  
27 comparable permit fees for its air pollution operations. This

1 section shall not be construed to allow both the department and  
2 the local unit of government to assess permit fees to cover the  
3 costs associated with comparable permit activities.

4 (4) The commission or the department may delegate its  
5 authority to implement and enforce this act or a rule promulgated  
6 under this act to specific local units of government if the com-  
7 mission and the department find both of the following:

8 (a) That compliance with the local air pollution control  
9 ordinance or rule would effectuate substantial compliance with  
10 this act, rules promulgated under this act, and applicable fed-  
11 eral law and regulation.

12 (b) A local unit of government has an established program of  
13 surveillance, investigation, or other activity for the purpose of  
14 providing greater protection of air in its area or for attainment  
15 and maintenance of national ambient air quality standards equal  
16 to or greater than a minimum applicable requirement of this act,  
17 the clean air act and other applicable federal law and  
18 regulation. If the department determines a specific local unit  
19 of government is not effectively administering a delegation of  
20 authority consistent with and in conformance with this act or a  
21 rule promulgated under this act, then the commission or the  
22 department may revoke the delegation. Notwithstanding such a  
23 delegation, the department shall retain the authority to bring  
24 any appropriate action to enforce this act or a rule promulgated  
25 under this act.

26 Sec. 22. Rules promulgated under former Act No. 348 of the  
27 Public Acts of 1965 shall continue in effect until amended or



1 rescinded in the manner provided in section 31 of the  
2 administrative procedures act of 1969, Act No. 306 of the Public  
3 Acts of 1969, being section 24.231 of the Michigan Compiled  
4 Laws.

5       Sec. 23. Act No. 348 of the Public Acts of 1965, being sec-  
6 tions 336.11 to 336.36 of the Michigan Compiled Laws, is  
7 repealed.