

# HOUSE BILL No. 5406

March 1, 2016, Introduced by Reps. Chang, LaVoy, Plawecki, Wittenberg, Greig, Pagan, Irwin, Townsend, Brunner, Smiley, Geiss, Driskell, Phelps, Hoadley, Yanez, Santana, Hovey-Wright, Garrett, Neeley, Lucido and Howrylak and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 5501 and 5522 (MCL 324.5501 and 324.5522), section 5501 as amended by 1998 PA 245 and section 5522 as amended by 2015 PA 60, and by adding sections 5501b and 5501d.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 5501. (1) As used in this part:

2           (a) "Air contaminant" means ~~a~~-dust, fume, gas, mist, odor,  
3 smoke, vapor, or any combination thereof.

4           (b) "Air pollution" means the presence in the outdoor  
5 atmosphere of air contaminants in quantities, of characteristics,  
6 under conditions and circumstances, and of a duration that are or  
7 can become injurious to human health or welfare, to animal life, to  
8 plant life, or to property, or that interfere with the enjoyment of  
9 life and property in this state, and excludes ~~all aspects~~ **ANY**

1 **HEALTH OR SAFETY HAZARD THAT IS AN ASPECT** of employer-employee  
2 relationships. ~~as to health and safety hazards. With respect to any~~  
3 ~~mode of transportation, nothing in this part or in the rules~~  
4 ~~promulgated under this part shall be inconsistent with the federal~~  
5 ~~regulations, emission limits, standards, or requirements on various~~  
6 ~~modes of transportation.~~ Air pollution does not mean those usual  
7 and ordinary odors associated with a farm operation if the person  
8 engaged in the farm operation is following generally accepted  
9 agricultural and management practices.

10 (c) "Air pollution control equipment" means any method,  
11 process, or equipment that removes, reduces, or renders less  
12 noxious air contaminants discharged into the atmosphere.

13 (d) "Category I facility" means a fee-subject facility that is  
14 a major stationary source as defined in ~~section 302 of title III of~~  
15 ~~the clean air act, 77 Stat. 400, 42 U.S.C. 42 USC 7602,~~ an affected  
16 source as defined pursuant to ~~section 402 of title IV of the clean~~  
17 ~~air act, chapter 360, 104 Stat. 2641, 42 U.S.C. 42 USC 7651a,~~ or a  
18 major stationary source as defined in ~~section 169a of subpart 2 of~~  
19 ~~part C of title I of the clean air act, chapter 360, 91 Stat. 742,~~  
20 ~~42 U.S.C. 42 USC 7491.~~

21 (e) "Category II facility" means a fee-subject facility that  
22 is a major source as defined in ~~section 112 of part A of title I of~~  
23 ~~the clean air act, 84 Stat. 1685, 42 U.S.C. 42 USC 7412,~~ or a  
24 facility subject to requirements of ~~section 111 of part A of title~~  
25 ~~I of the clean air act, chapter 360, 84 Stat. 1683, 42 U.S.C. 42~~  
26 **USC 7411,** except that a category II facility that also meets the  
27 definition of a category I facility is a category I facility.

1 (f) "Category III facility" means any fee-subject facility  
2 that is not a category I or category II facility.

3 (g) "Clean air act" means chapter 360, 69 Stat. ~~STAT~~ 322, 42  
4 U.S.C. ~~USC~~ 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a,  
5 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to  
6 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619  
7 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f,  
8 and 7671 to 7671q, and regulations promulgated under the clean air  
9 act.

10 (H) "COMMISSION" MEANS THE AIR POLLUTION CONTROL COMMISSION  
11 CREATED IN SECTION 5101B.

12 (I) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL  
13 QUALITY.

14 (J) ~~(h)~~ "Emission" means the emission of an air contaminant.

15 (K) ~~(i)~~ "Farm operation" has the meaning ascribed to it in  
16 **MEANS THAT TERM AS DEFINED IN SECTION 2 OF** the Michigan right to  
17 farm act, 1981 PA 93, MCL ~~286.471 to 286.474.~~ **286.472.**

18 (L) ~~(j)~~ "Fee-subject air pollutant" means particulates,  
19 expressed as PM-10 pursuant to ~~1996 MR 11,~~ R 336.1116(k) **OF THE**  
20 **MICHIGAN ADMINISTRATIVE CODE**, sulfur dioxide, volatile organic  
21 compounds, nitrogen oxides, ozone, lead, and any pollutant  
22 regulated under ~~section 111 or 112 of part A of title I of the~~  
23 ~~clean air act, chapter 360, 84 Stat. 1683 and 1685, 42 U.S.C. 42~~  
24 **USC** 7411 and ~~OR~~ 7412, or title III of the clean air act, ~~chapter~~  
25 ~~360, 77 Stat. 400, 42 U.S.C. 42 USC~~ 7601 to 7612, 7614 to 7617,  
26 7619 to 7622, and 7624 to 7627. **7628.**

27 (M) ~~(k)~~ "Fee-subject facility" means the following sources:

1 (i) Any major source as defined in 40 ~~C.F.R.~~ **CFR** 70.2.

2 (ii) Any source, including an area source, subject to a  
3 standard, limitation, or other requirement under ~~section 111 of~~  
4 ~~part A of title I of the clean air act, chapter 360, 84 Stat. 1683,~~  
5 ~~42 U.S.C. 42 USC~~ 7411, when the standard, limitation, or other  
6 requirement becomes applicable to that source.

7 (iii) Any source, including an area source, subject to a  
8 standard, limitation, or other requirement under ~~section 112 of~~  
9 ~~part A of title I of the clean air act, 84 Stat. 1685, 42 U.S.C. 42~~  
10 **USC** 7412, when the standard, limitation, or other requirement  
11 becomes applicable to that source. However, a source is not a fee-  
12 subject facility solely because it is subject to a regulation,  
13 limitation, or requirement under ~~section 112(r) of part A of title~~  
14 ~~I of the clean air act, chapter 360, 84 Stat. 1685, 42 U.S.C.~~  
15 ~~7412.~~ **42 USC 7412(R)** .

16 (iv) Any affected source under title IV.

17 (v) Any other source in a source category designated by the  
18 administrator of the United States ~~environmental protection agency~~  
19 **ENVIRONMENTAL PROTECTION AGENCY** as required to obtain an operating  
20 permit under title V, when the standard, limitation, or other  
21 requirement becomes applicable to that source.

22 (N) ~~(I)~~ "Fund" means the emissions control fund created in  
23 section 5521.

24 (O) ~~(m)~~ "General permit" means a permit to install, permit to  
25 operate authorized pursuant to rules promulgated under section  
26 5505(6), or an operating permit under section 5506, for a category  
27 of similar sources, processes, or process equipment. General

1 provisions for issuance of general permits shall be provided for by  
2 rule.

3 (P) ~~(n)~~—"Generally accepted agricultural and management  
4 practices" ~~has the meaning ascribed to it in~~ **MEANS THAT TERM AS**  
5 **DEFINED IN SECTION 2 OF** the Michigan right to farm act, 1981 PA 93,  
6 MCL ~~286.471 to 286.474.~~ **286.472.**

7 (Q) ~~(e)~~—"Major emitting facility" means a stationary source  
8 that emits 100 tons or more per year of any of the following:

9 (i) Particulates.

10 (ii) Sulfur dioxides.

11 (iii) Volatile organic compounds.

12 (iv) Oxides of nitrogen.

13 (R) ~~(p)~~—"Process" means an action, operation, or a series of  
14 actions or operations at a source that emits or has the potential  
15 to emit an air contaminant.

16 (S) ~~(q)~~—"Process equipment" means all equipment, devices, and  
17 auxiliary components, including air pollution control equipment,  
18 stacks, and other emission points, used in a process.

19 (T) ~~(r)~~—"Responsible official" means, for the purposes of  
20 signing and certifying as to the truth, accuracy, and completeness  
21 of permit applications, monitoring reports, and compliance  
22 certifications, any of the following:

23 (i) For a corporation: a president, secretary, treasurer, or  
24 vice-president in charge of a principal business function, or any  
25 other person who performs similar policy or decision making  
26 functions for the corporation, or an authorized representative of  
27 that person if the representative is responsible for the overall

1 operation of 1 or more manufacturing, production, or operating  
2 facilities applying for or subject to a permit under this part and  
3 either the facilities employ more than 250 persons or have annual  
4 sales or expenditures exceeding \$25,000,000.00, or if the  
5 delegation of authority to the representative is approved in  
6 advance by the department.

7 (ii) For a partnership or sole proprietorship: a general  
8 partner or the proprietor.

9 (iii) For a county or municipality or a state, federal, or  
10 other public agency: a principal executive officer or ranking  
11 elected official. For this purpose, a principal executive officer  
12 of a federal agency includes the chief executive officer having  
13 responsibility for the overall operations of a principal geographic  
14 unit of the agency.

15 (iv) For sources affected by the acid rain program under title  
16 IV: the designated representative insofar as actions, standards,  
17 requirements, or prohibitions under that title are concerned.

18 (U) ~~(s)~~—"Schedule of compliance" means, for a source not in  
19 compliance with all applicable requirements of this part, rules  
20 promulgated under this part, and the clean air act at the time of  
21 issuance of an operating permit, a schedule of remedial measures  
22 including an enforceable sequence of actions or operations leading  
23 to compliance with an applicable requirement and a schedule for  
24 submission of certified progress reports at least every 6 months.  
25 Schedule of compliance means, for a source in compliance with all  
26 applicable requirements of this part, rules promulgated under this  
27 part, and the clean air act at the time of issuance of an operating

1 permit, a statement that the source will continue to comply with  
2 these requirements. With respect to any applicable requirement of  
3 this part, rules promulgated under this part, and the clean air act  
4 effective after the date of issuance of an operating permit, the  
5 schedule of compliance shall contain a statement that the source  
6 will meet the requirements on a timely basis, unless the underlying  
7 applicable requirement requires a more detailed schedule.

8 (V) ~~(t)~~ "Source" means a stationary source as defined in  
9 ~~section 302(z) of title III of the clean air act, 77 Stat. 400, 42~~  
10 ~~U.S.C. 7602, 42 USC 7602~~, and has the same meaning as stationary  
11 source when used in comparable or applicable circumstances under  
12 the clean air act. A source includes all the processes and process  
13 equipment under common control that are located within a contiguous  
14 area, or a smaller group of processes and process equipment as  
15 requested by the owner or operator of the source, if in accordance  
16 with the clean air act.

17 (W) ~~(u)~~ "Title IV" means title IV of the clean air act,  
18 pertaining to acid deposition control, ~~chapter 360, 104 Stat. 2584,~~  
19 ~~42 U.S.C. 42 USC 7651 to 7651o.~~

20 (X) ~~(v)~~ "Title V" means title V of the clean air act, ~~chapter~~  
21 ~~360, 104 Stat. 2635, 42 U.S.C. 42 USC 7661 to 7661f.~~

22 (2) WITH RESPECT TO ANY MODE OF TRANSPORTATION, NOTHING IN  
23 THIS PART OR IN THE RULES PROMULGATED UNDER THIS PART SHALL BE  
24 INCONSISTENT WITH THE FEDERAL REGULATIONS, EMISSION LIMITS,  
25 STANDARDS, OR REQUIREMENTS ON VARIOUS MODES OF TRANSPORTATION.

26 SEC. 5501B. (1) THE AIR POLLUTION CONTROL COMMISSION IS  
27 CREATED WITHIN THE DEPARTMENT.

1 (2) THE COMMISSION SHALL CONSIST OF THE FOLLOWING MEMBERS:

2 (A) THE DIRECTOR OF THE DEPARTMENT.

3 (B) THE FOLLOWING 11 MEMBERS, WHO SHALL BE APPOINTED BY THE  
4 GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE AND  
5 REPRESENT DIVERSE GEOGRAPHIC AREAS OF THIS STATE:

6 (i) TWO INDIVIDUALS REPRESENTING COMMERCE AND INDUSTRY IN THIS  
7 STATE.

8 (ii) TWO INDIVIDUALS REPRESENTING LOCAL UNITS OF GOVERNMENT IN  
9 THIS STATE.

10 (iii) TWO HEALTH PROFESSIONALS WITH EXPERIENCE IN THE  
11 TOXICOLOGY OF AIR CONTAMINANTS.

12 (iv) TWO INDIVIDUALS REPRESENTING PRIVATE ENVIRONMENTAL  
13 PROTECTION ORGANIZATIONS.

14 (v) THREE INDIVIDUALS REPRESENTING THE GENERAL PUBLIC.

15 (3) THE MEMBERS FIRST APPOINTED TO THE COMMISSION SHALL BE  
16 APPOINTED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

17 (4) MEMBERS OF THE COMMISSION APPOINTED UNDER SUBSECTION  
18 (2) (B) SHALL SERVE FOR TERMS OF 3 YEARS OR UNTIL A SUCCESSOR IS  
19 APPOINTED, WHICHEVER IS LATER, EXCEPT THAT OF THE MEMBERS FIRST  
20 APPOINTED 3 SHALL SERVE FOR 1 YEAR, 4 SHALL SERVE FOR 2 YEARS, AND  
21 4 SHALL SERVE FOR 3 YEARS.

22 (5) IF A VACANCY OCCURS IN AN APPOINTED SEAT ON THE  
23 COMMISSION, THE GOVERNOR SHALL MAKE AN APPOINTMENT FOR THE  
24 UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

25 (6) THE GOVERNOR MAY REMOVE A MEMBER OF THE COMMISSION FOR  
26 INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR  
27 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.



1           (7) THE FIRST MEETING OF THE COMMISSION SHALL BE CALLED BY THE  
2 DIRECTOR OF THE DEPARTMENT NOT MORE THAN 60 DAYS AFTER THE  
3 EFFECTIVE DATE OF THIS SECTION. AT THE FIRST MEETING, THE  
4 COMMISSION SHALL ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND  
5 OTHER OFFICERS AS IT CONSIDERS NECESSARY OR APPROPRIATE. AFTER THE  
6 FIRST MEETING, THE COMMISSION SHALL MEET AT LEAST QUARTERLY, OR  
7 MORE FREQUENTLY AT THE CALL OF THE CHAIRPERSON OR IF REQUESTED BY 3  
8 OR MORE MEMBERS.

9           (8) A MAJORITY OF THE MEMBERS OF THE COMMISSION CONSTITUTE A  
10 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE  
11 COMMISSION. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE  
12 REQUIRED FOR OFFICIAL ACTION OF THE COMMISSION.

13           (9) THE BUSINESS THAT THE COMMISSION MAY PERFORM SHALL BE  
14 CONDUCTED AT A PUBLIC MEETING OF THE COMMISSION HELD IN COMPLIANCE  
15 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

16           (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR  
17 RETAINED BY THE COMMISSION IN THE PERFORMANCE OF AN OFFICIAL  
18 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,  
19 MCL 15.231 TO 15.246.

20           (11) MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT  
21 COMPENSATION. HOWEVER, THE DIRECTOR OF THE DEPARTMENT SHALL SERVE  
22 WITHOUT ADDITIONAL COMPENSATION. MEMBERS OF THE COMMISSION MAY BE  
23 REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE  
24 PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE COMMISSION.

25           SEC. 5501D. (1) THE COMMISSION SHALL CARRY OUT ALL  
26 RESPONSIBILITIES AS PROVIDED IN THIS ACT AND AS OTHERWISE PROVIDED  
27 BY LAW.

1 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, THE  
2 COMMISSION SHALL EXERCISE SUPERVISORY AUTHORITY OVER ALL OF THE  
3 FOLLOWING UNDER THIS PART:

4 (A) THE ISSUANCE, DENIAL, REVOCATION, SUSPENSION, OR  
5 MODIFICATION OF PERMITS.

6 (B) THE PROMULGATION OF RULES.

7 (C) THE DEVELOPMENT OF DEPARTMENT POLICIES.

8 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, THE  
9 DIRECTOR OF THE DEPARTMENT OR THE DEPARTMENT SHALL NOT EXERCISE THE  
10 POWERS LISTED IN SUBSECTION (2) WITHOUT THE APPROVAL OF THE  
11 COMMISSION.

12 (4) THE COMMISSION SHALL RECEIVE COMPLAINTS OF AIR POLLUTION  
13 IN ALLEGED VIOLATION OF THIS PART, RULES PROMULGATED UNDER THIS  
14 PART, OR ANY DETERMINATION, PERMIT, OR ORDER ISSUED UNDER THIS  
15 PART.

16 (5) IN RESPONSE TO A COMPLAINT UNDER SUBSECTION (4), THE  
17 COMMISSION MAY DO ANY OF THE FOLLOWING:

18 (A) REQUIRE THE DIRECTOR OF THE DEPARTMENT OR THE DEPARTMENT  
19 TO TAKE INVESTIGATORY OR ENFORCEMENT ACTION AS PROVIDED IN THIS  
20 PART.

21 (B) REQUEST THE ATTORNEY GENERAL TO COMMENCE AN ACTION IN  
22 COURT AS PROVIDED IN THIS PART.

23 Sec. 5522. (1) Until October 1, 2019, the owner or operator of  
24 each fee-subject facility shall pay air quality fees as required  
25 and calculated under this section. The department may levy and  
26 collect an annual air quality fee from the owner or operator of  
27 each fee-subject facility in this state. The legislature intends

1 that the fees required under this section meet the minimum  
2 requirements of the clean air act and that this expressly stated  
3 fee system serve as a limitation on the amount of fees imposed  
4 under this part on the owners or operators of fee-subject  
5 facilities in this state.

6 (2) The annual air quality fee shall be calculated for each  
7 fee-subject facility, according to the following procedure:

8 (a) Except as provided in subdivision (d), for category I  
9 facilities, the annual air quality fee shall be the sum of a  
10 facility charge of \$5,250.00 and an emissions charge as specified  
11 in subdivision (e) or (f).

12 (b) For category II facilities, the annual air quality fee  
13 shall be the sum of a facility charge of \$1,795.00 and an emissions  
14 charge as specified in subdivision (e) or (f).

15 (c) For category III facilities, the annual air quality fee  
16 shall be \$250.00.

17 (d) For municipal electric generating facilities that are  
18 category I facilities and that emit more than 730 tons of fee-  
19 subject air pollutants, the annual air quality fee shall be the  
20 following amount, based on the number of tons of fee-subject air  
21 pollutants emitted:

22 (i) For more than 730 tons but less than 5,000 tons, an annual  
23 fee of \$41,830.00.

24 (ii) For 5,000 tons or more, an annual fee equal to the sum of  
25 a facility charge of \$5,250.00 and an emissions charge as specified  
26 in subdivision (e).

27 (e) The emissions charge for category I facilities that are

1 electric providers and that are not covered by subdivision (d) and  
2 for category II facilities that are electric providers shall equal  
3 the emission charge rate multiplied by the actual tons of fee-  
4 subject air pollutants emitted. The emission charge rate for fee-  
5 subject air pollutants shall be \$51.15. A pollutant that qualifies  
6 as a fee-subject air pollutant under more than 1 class shall be  
7 charged only once. The actual tons of fee-subject air pollutants  
8 emitted shall be considered to be the sum of all fee-subject air  
9 pollutants emitted at the fee-subject facility for the calendar  
10 year 2 years preceding the year of billing, but not more than the  
11 lesser of the following:

12 (i) 6,100 tons.

13 (ii) 1,500 tons per pollutant, if the sum of all fee-subject  
14 air pollutants except carbon monoxide emitted at the fee-subject  
15 facility is less than 6,100 tons.

16 (f) The emissions charge for category I or category II  
17 facilities that are not electric providers shall be calculated in  
18 the same manner as provided in subdivision (e). However, the actual  
19 tons of fee-subject air pollutants emitted shall be considered to  
20 be the sum of all fee-subject air pollutants emitted at a fee-  
21 subject facility for the calendar year 2 years preceding the year  
22 of billing, but not more than the lesser of the following:

23 (i) 4,500 tons.

24 (ii) 1,250 tons per pollutant, if the sum of all fee-subject  
25 air pollutants except carbon monoxide emitted at the fee-subject  
26 facility is less than 4,500 tons.

27 (3) After January 1, but before January 15 of each year, the

1 department shall notify the owner or operator of each fee-subject  
2 facility of its assessed annual air quality fee. Payment is due  
3 within 90 calendar days of the mailing date of the air quality fee  
4 notification. If an assessed fee is challenged under subsection  
5 (5), payment is due within 90 calendar days of the mailing date of  
6 the air quality fee notification or within 30 days of receipt of a  
7 revised fee or statement supporting the original fee, whichever is  
8 later. However, to combine fee assessments, the department may  
9 adjust the billing date and due date under this subsection for  
10 category III facilities that are dry cleaning facilities also  
11 subject to the licensing or certification requirements of section  
12 13305 of the public health code, 1978 PA 368, MCL 333.13305, and  
13 section 5i of the fire prevention code, 1941 PA 207, MCL 29.5i. The  
14 department shall deposit all fees collected under this section to  
15 the credit of the fund.

16 (4) If the owner or operator of a fee-subject facility fails  
17 to submit the amount due within the time period specified in  
18 subsection (3), the department shall assess the owner or operator a  
19 penalty of 5% of the amount of the unpaid fee for each month that  
20 the payment is overdue up to a maximum penalty of 25% of the total  
21 fee owed. However, to combine fee assessments, the department may  
22 waive the penalty under this subsection for dry cleaning facilities  
23 described in subsection (3).

24 (5) To challenge its assessed fee, the owner or operator of a  
25 fee-subject facility shall submit the challenge in writing to the  
26 department. The department shall not process the challenge unless  
27 it is received by the department within 45 calendar days of the

1 mailing date of the air quality fee notification described in  
2 subsection (3). A challenge shall identify the facility and state  
3 the grounds upon which the challenge is based. Within 30 calendar  
4 days of receipt of the challenge, the department shall determine  
5 the validity of the challenge and provide the owner with  
6 notification of a revised fee or a statement setting forth the  
7 reason or reasons why the fee was not revised. Payment of the  
8 challenged or revised fee is due within the time frame described in  
9 subsection (3). If the owner or operator of a facility desires to  
10 further challenge its assessed fee, the owner or operator of the  
11 facility has an opportunity for a contested case hearing as  
12 provided for under the administrative procedures act of 1969, 1969  
13 PA 306, MCL 24.201 to 24.328.

14 (6) If requested by the department, by March 15 of each year,  
15 or within 45 days of a request by the department, whichever is  
16 later, the owner or operator of each fee-subject facility shall  
17 submit information regarding the facility's previous year's  
18 emissions to the department. The information shall be sufficient  
19 for the department to calculate the facility's emissions for that  
20 year and meet the requirements of 40 CFR 51.320 to 51.327.

21 (7) By July 1 of each year, the department shall provide the  
22 owner or operator of each fee-subject facility required to pay an  
23 emission charge pursuant to this section with a copy of the  
24 department's calculation of the facility emissions for the previous  
25 year. Within 60 days of this notification, the owner or operator of  
26 the facility may provide corrections to the department. The  
27 department shall make a final determination of the emissions by

1 December 15 of that year. If the owner or operator disagrees with  
2 the determination of the department, the owner or operator may  
3 request a contested case hearing as provided for under the  
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
5 24.328.

6 (8) By March 1 annually, the department shall prepare and  
7 submit to the governor, the legislature, the chairpersons of the  
8 standing committees of the senate and house of representatives with  
9 primary responsibility for environmental protection issues related  
10 to air quality, and the chairpersons of the subcommittees of the  
11 senate and house appropriations committees with primary  
12 responsibility for appropriations to the department a report that  
13 details the department's activities of the previous fiscal year  
14 funded by the fund. This report shall include, at a minimum, all of  
15 the following as it relates to the department:

16 (a) The number of full-time equated positions performing title  
17 V and non-title V air quality enforcement, compliance, or  
18 permitting activities.

19 (b) All of the following information related to the permit to  
20 install program authorized under section 5505:

21 (i) The number of permit to install applications received by  
22 the department.

23 (ii) The number of permit to install applications for which a  
24 final action was taken by the department. The number of final  
25 actions shall be reported as the number of applications approved,  
26 the number of applications denied, and the number of applications  
27 withdrawn by the applicant.

1           (iii) The number of permits to install approved that were  
2 required to complete public participation under section 5511(3)  
3 before final action and the number of permits to install approved  
4 that were not required to complete public participation under  
5 section 5511(3) ~~prior to~~ **BEFORE** final action.

6           (iv) The average number of final permit actions per permit to  
7 install reviewer full-time equivalent position.

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

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

14           (vii) The percentage and number of permit to install  
15 applications for which a final action was taken by the department  
16 within 180 days of receipt for those applications not required to  
17 complete public participation under section 5511(3) ~~prior to~~ **BEFORE**  
18 final action, or within 240 days of receipt for those applications  
19 which are required to complete public participation under section  
20 5511(3) ~~prior to~~ **BEFORE** final action.

21           (viii) The percentage and number of permit to install  
22 applications for which a processing period extension was requested  
23 and granted.

24           (c) All of the following information for the renewable  
25 operating permit program authorized under section 5506:

26           (i) The number of renewable operating permit applications  
27 received by the department.



1           (ii) The number of renewable operating permit applications for  
2 which a final action was taken by the department. The number of  
3 final actions shall be reported as the number of applications  
4 approved, the number of applications denied, and the number of  
5 applications withdrawn by the applicant.

6           (iii) The percentage and number of initial permit applications  
7 processed within the required time.

8           (iv) The percentage and number of permit renewals and  
9 modifications processed within the required time.

10          (v) The number of permit applications reopened by the  
11 department.

12          (vi) The number of general permits issued by the department.

13          (d) The number of letters of violation sent.

14          (e) The amount of penalties collected from all consent orders  
15 and judgments.

16          (f) For each enforcement action that includes payment of a  
17 penalty, a description of what corrective actions were required by  
18 the enforcement action.

19          (g) The number of inspections done on sources required to  
20 obtain a permit under section 5506 and the number of inspections of  
21 other sources.

22          (h) The number of air pollution complaints received,  
23 investigated, not resolved, and resolved by the department **OR THE**  
24 **COMMISSION**.

25          (i) The number of contested case hearings and civil actions  
26 initiated and completed, and the number of voluntary consent  
27 orders, administrative penalty orders, and emergency orders entered

1 or issued, for sources required to obtain a permit under section  
2 5506.

3 (j) The amount of revenue in the fund at the end of the fiscal  
4 year.

5 (9) The report under subsection (8) shall also include the  
6 amount of revenue for programs under this part received during the  
7 prior fiscal year from fees, from federal funds, and from general  
8 fund appropriations. Each of these amounts shall be expressed as a  
9 dollar amount and as a percent of the total annual cost of programs  
10 under this part.

11 (10) The attorney general may bring an action for the  
12 collection of the fees imposed under this section.

13 (11) This section does not apply if the administrator of the  
14 United States Environmental Protection Agency determines that the  
15 department is not adequately administering or enforcing the  
16 renewable operating permit program and the administrator  
17 promulgates and administers a renewable operating permit program  
18 for this state.

19 (12) As used in this section, "electric provider" means that  
20 term as defined in section 5 of the clean, renewable, and efficient  
21 energy act, 2008 PA 295, MCL 460.1005.

22 Enacting section 1. This amendatory act takes effect 90 days  
23 after the date it is enacted into law.