



# HOUSE BILL No. 4144

January 17, 1995, Introduced by Rep. Freeman and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend the title of Act No. 64 of the Public Acts of 1979, entitled as amended

"Hazardous waste management act,"

as amended, being sections 299.501 to 299.551 of the Michigan Compiled Laws; and to add sections 52, 52a, 52b, 52c, 52d, 52e, 52f, 52g, 52h, 52i, 52j, 52k, and 52l.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title of Act No. 64 of the Public Acts of  
2 1979, as amended, being sections 299.501 to 299.551 of the  
3 Michigan Compiled Laws, is amended and sections 52, 52a, 52b,  
4 52c, 52d, 52e, 52f, 52g, 52h, 52i, 52j, 52k, and 52l are added to  
5 read as follows:

## TITLE

1  
2 An act to protect the public health and the natural  
3 resources of the state and to license and regulate persons  
4 engaged in generating, transporting, treating, storing, and dis-  
5 posing of hazardous waste; to provide for hazardous waste manage-  
6 ment facilities; to create a means for establishing hazardous  
7 waste site review boards; to provide for the inspection and  
8 licensing of equipment; to prescribe the powers and duties of  
9 certain state agencies; to develop a plan to provide for the safe  
10 management and disposal of hazardous waste; to regulate the oper-  
11 ation of and require corrective action regarding contaminants at  
12 treatment, storage, and disposal facilities; TO ESTABLISH A POL-  
13 LUTION PREVENTION PROGRAM; TO PROVIDE ACCESS TO CERTAIN  
14 INFORMATION; to establish a list and criteria of hazardous waste  
15 requiring treatment, storage, or disposal at approved treatment,  
16 storage, or disposal facilities; to establish a manifest system  
17 to track hazardous waste; to establish a hazardous waste service  
18 fund; to consider waste management and disposal needs of this  
19 state; and to prescribe remedies and penalties.

## PART II POLLUTION PREVENTION PROGRAM

20  
21 SEC. 52. (1) THE LEGISLATURE FINDS AND DECLARES THAT THE  
22 INHERENT LIMITATIONS OF THE TRADITIONAL SYSTEM OF POLLUTION CON-  
23 TROL SHOULD BE ADDRESSED BY A NEW EMPHASIS ON POLLUTION PREVEN-  
24 TION, INCLUDING ALL OF THE FOLLOWING:

25 (A) THE REDUCTION OF THE USE OF HAZARDOUS SUBSTANCES IN  
26 INDUSTRIAL AND MANUFACTURING PROCESSES, AND THE REDUCTION IN  
27 GENERATION OF HAZARDOUS SUBSTANCES AS NONPRODUCT OUTPUT.

1 (B) A DETAILED ACCOUNTING OF THE USE OF HAZARDOUS  
2 SUBSTANCES.

3 (C) A MULTIMEDIA APPROACH TO THE REGULATION OF HAZARDOUS  
4 SUBSTANCES AT EACH STEP OF A PROCESS TO IDENTIFY THE POINTS AND  
5 THE PROCEDURES BY WHICH POLLUTION CAN BE PREVENTED.

6 (2) THE LEGISLATURE ALSO FINDS AND DECLARES ALL OF THE  
7 FOLLOWING:

8 (A) POLLUTION PREVENTION MAY BE ACHIEVED THROUGH A MORE  
9 EFFICIENT AND RATIONAL USE OF HAZARDOUS SUBSTANCES, BY SUBSTITUT-  
10 ING LESS HAZARDOUS SUBSTANCES, OR BY THE DEVELOPMENT OF PROCESSES  
11 THAT ARE LESS PRONE TO PRODUCE POLLUTION.

12 (B) A SOUNDLY PLANNED POLLUTION PREVENTION PROGRAM MAY BE  
13 IMPLEMENTED WITHOUT ADVERSELY AFFECTING THE STATE'S ECONOMIC  
14 HEALTH OR THE LIVELIHOOD OF THOSE EMPLOYED BY INDUSTRIES THAT USE  
15 AND DISCHARGE HAZARDOUS SUBSTANCES.

16 (C) ONE OF THE MOST IMPORTANT MEANS OF ENCOURAGING THE  
17 REDUCED USAGE AND PRODUCTION OF HAZARDOUS SUBSTANCES IS TO  
18 ENCOURAGE DIRECT DIALOGUE BETWEEN INDUSTRIAL MANAGERS AND CON-  
19 CERNED CITIZENS, WORKERS, AND CONSUMERS REGARDING TOXIC CHEMICAL  
20 USAGE AND THE AVAILABLE ALTERNATIVES.

21 SEC. 52A. AS USED IN THIS PART:

22 (A) "ENVIRONMENTAL WASTES" MEANS ALL ENVIRONMENTAL POLLUT-  
23 ANTS, WASTES, DISCHARGES, AND EMISSIONS, REGARDLESS OF WHETHER OR  
24 HOW THEY ARE REGULATED AND REGARDLESS OF WHETHER THEY ARE  
25 RELEASED TO THE GENERAL ENVIRONMENT OR THE WORK PLACE  
26 ENVIRONMENT.

1 (B) "CLEAN AIR ACT" MEANS CHAPTER 360, 69 STAT. 322, 42  
2 U.S.C. 7401 TO 7431, 7470 TO 7479, 7491 TO 7492, 7501 TO 7509a,  
3 7511 TO 7515, 7521 TO 7525, 7541 TO 7545, 7547 TO 7550, 7552 TO  
4 7554, 7571 TO 7574, 7581 TO 7590, 7601 TO 7612, 7614 TO 7617,  
5 7619 TO 7622, 7624 TO 7627, 7641 TO 7642, 7651 TO 7651o, 7661 TO  
6 7661f, AND 7671 TO 7671q.

7 (C) "COUNCIL" MEANS THE ADVISORY COUNCIL OF POLLUTION PRE-  
8 VENTION CREATED IN SECTION 52G.

9 (D) "COVERED FACILITY" INCLUDES:

10 (i) TITLE III FACILITIES REQUIRED TO REPORT UNDER  
11 SECTION 313 OF THAT ACT.

12 (ii) LARGE QUANTITY GENERATORS REGULATED UNDER THE RESOURCE  
13 CONSERVATION AND RECOVERY ACT OF 1976, PUBLIC LAW 94-580.

14 (iii) MAJOR SOURCES AS DEFINED IN THE CLEAN AIR ACT.

15 (iv) ADDITIONAL CATEGORIES OF FACILITIES ADDED BY THE  
16 DEPARTMENT TO THE DEFINITION OF REPORTING FACILITIES BY RULE  
17 UNDER 1 OR BOTH OF THE FOLLOWING STANDARDS:

18 (A) TO MAKE THE REPORTING FACILITIES CONSISTENT WITH THE  
19 FACILITIES REPORTING UNDER FEDERAL LAW.

20 (B) THE DEPARTMENT FINDS THAT A CATEGORY OF FACILITIES NOT  
21 INCLUDED IN THIS DEFINITION IS USING OR RELEASING SIGNIFICANT  
22 QUANTITIES OF TOXIC SUBSTANCES.

23 (E) "FACILITY" MEANS BUILDINGS, EQUIPMENT, STRUCTURES, AND  
24 OTHER ITEMS THAT ARE LOCATED ON A SINGLE SITE OR CONTIGUOUS OR  
25 ADJACENT SITES AND ARE OWNED OR OPERATED BY THE SAME PERSON, OR  
26 BY A PERSON WHO CONTROLS, IS CONTROLLED BY, OR UNDER COMMON  
27 CONTROL WITH, THE PERSON. FACILITY INCLUDES ANY FEDERAL

1 GOVERNMENTAL FACILITY AND A FACILITY USED IN THE TRANSPORTATION  
2 OF TOXIC SUBSTANCES AND STORAGE INCIDENTAL TO TRANSPORTATION,  
3 INCLUDING A FACILITY USED IN THE TRANSPORTATION OF NATURAL GAS.

4 (F) "INSTITUTE" MEANS THE POLLUTION PREVENTION INSTITUTE  
5 SELECTED AS PROVIDED IN SECTION 52H.

6 (G) "PRODUCT" MEANS A GOOD, AN INTERMEDIATE GOOD, A FAMILY  
7 OF SIMILAR OR INTERCHANGEABLE GOODS, OR A SERVICE ACTIVITY OF THE  
8 TYPE THAT IS COMMONLY SOLD IN COMMERCE. PRODUCT MAY INCLUDE A  
9 FINAL SALABLE HAZARDOUS SUBSTANCE THAT IS USABLE WITHOUT FURTHER  
10 TREATMENT OR PROCESSING AND THAT IS USED AS A COMMODITY IN THE  
11 SAME FORM IN WHICH IT IS PRODUCED. PRODUCT DOES NOT INCLUDE A  
12 HAZARDOUS WASTE TRANSFERRED FOR TREATMENT, RECYCLING, OR  
13 DISPOSAL.

14 (H) "PRODUCTION UNIT" MEANS A PRODUCTION PROCESS, LINE,  
15 METHOD, ACTIVITY, OR TECHNIQUE, OR COMBINATION OR SERIES THEREOF,  
16 THAT IS INTEGRAL TO AND NECESSARY FOR THE PRODUCTION OF A  
17 PRODUCT. PRODUCTION UNIT DOES NOT INCLUDE WASTE ACTIVITIES AND  
18 OUT-OF-PROCESS RECYCLING THAT IS NOT AN INTEGRAL PART OF AND DED-  
19 ICATED TO PRODUCTION UNITS. PRODUCTION UNIT MAY INCLUDE STORAGE  
20 OF RAW MATERIALS, MAINTENANCE, AND FINISHED GOODS HANDLING.

21 (I) "RELEASE" HAS THE MEANING GIVEN THE TERM UNDER TITLE  
22 III.

23 (J) "TITLE III" MEANS THE EMERGENCY PLANNING AND COMMUNITY  
24 RIGHT-TO-KNOW ACT OF 1986, TITLE III OF PUBLIC LAW 99-499, 42  
25 U.S.C. 11001 TO 11005, 11021 TO 11023, AND 11041 TO 11050.

26 (K) "TOXIC SUBSTANCES" OR "TOXICS" MEANS SUBSTANCES FOR  
27 WHICH REPORTING IS REQUIRED UNDER TITLE III; SUBSTANCES REGULATED

1 UNDER SECTIONS 101(14) AND 102 OF TITLE I OF THE COMPREHENSIVE  
2 ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980,  
3 PUBLIC LAW 96-510, 42 U.S.C. 101 AND 102; AND SUBSTANCES INCLUDED  
4 ON THE MICHIGAN CRITICAL MATERIALS REGISTER.

5 (1) "POLLUTION PREVENTION" MEANS THE EMPLOYMENT BY A BUSI-  
6 NESS OF A PRACTICE THAT REDUCES THE INDUSTRIAL USE OF TOXIC MATE-  
7 RIALS OR REDUCES THE ENVIRONMENTAL AND HEALTH HAZARDS ASSOCIATED  
8 WITH AN ENVIRONMENTAL WASTE WITHOUT DILUTING OR CONCENTRATING THE  
9 WASTE BEFORE THE RELEASE, HANDLING, STORAGE, TRANSPORT, TREAT-  
10 MENT, OR DISPOSAL OF THE WASTE. POLLUTION PREVENTION INCLUDES  
11 CHANGES IN PRODUCTION TECHNOLOGY, MATERIALS, PROCESSES, OPERA-  
12 TIONS, OR PROCEDURES, OR THE USE OF INPROCESS, INLINE, OR CLOSED  
13 LOOP RECYCLING, ACCORDING TO STANDARD ENGINEERING PRACTICES.  
14 POLLUTION PREVENTION DOES NOT INCLUDE A PRACTICE THAT IS APPLIED  
15 TO AN ENVIRONMENTAL WASTE AFTER THE WASTE IS GENERATED OR COMES  
16 INTO EXISTENCE OR AFTER THE WASTE EXITS A PRODUCTION OR COMMER-  
17 CIAL OPERATION. POLLUTION PREVENTION DOES NOT PROMOTE OR REQUIRE  
18 ANY OF THE FOLLOWING:

19 (i) WASTE BURNING IN INDUSTRIAL FURNACES, BOILERS, SMELTERS,  
20 OR CEMENT KILNS FOR PURPOSES OF ENERGY RECOVERY.

21 (ii) THE TRANSFER OF AN ENVIRONMENTAL WASTE, OTHERWISE KNOWN  
22 AS WASTE SHIFTING, FROM 1 ENVIRONMENTAL MEDIUM TO ANY OF THE  
23 FOLLOWING:

24 (A) ANOTHER ENVIRONMENTAL MEDIUM.

25 (B) THE WORKPLACE ENVIRONMENT.

26 (C) A PRODUCT.

(M) "WASTE ACTIVITIES" INCLUDES ANY OF THE FOLLOWING:

(i) THE CLEANUP, COMBUSTION, CONTROL, DISPOSAL, EXCHANGE, HANDLING, MANAGEMENT, RECOVERY, SEGREGATION, STORAGE, TREATMENT, TRANSFER, OR TRANSPORTATION OF WASTE, INCLUDING AIR AND WATER BY-PRODUCTS AND POLLUTANTS.

(ii) POLLUTION CONTROL.

(iii) CONTAINMENT OR MANAGEMENT OF WORKPLACE HAZARDS OR SPILLS.

(iv) ON-SITE AND OFF-SITE RECYCLING WITHOUT THE USE OF IN-PROCESS, IN-LINE, OR CLOSED-LOOP RECYCLING METHODS ACCORDING TO STANDARD ENGINEERING PRACTICES THAT IS NOT INTEGRAL TO AND NECESSARY FOR THE PRODUCTION OF THE PRODUCT WITHIN THE ORIGINAL PRODUCTION UNIT.

(v) A RESPONSE TO THE RELEASE OF HAZARDOUS MATERIALS.

SEC. 52B. (1) IT IS THE GOAL OF THIS STATE TO REDUCE ENVIRONMENTAL WASTES BY 50% WITHIN 5 YEARS AFTER THE EFFECTIVE DATE OF THIS PART.

(2) THE MEASUREMENT FOR THE BASE YEAR SHALL BE DETERMINED BY THE DEPARTMENT THROUGH THE ANALYSIS OF INFORMATION PROVIDED BY REPORTING FACILITIES IN THE FIRST ANNUAL REPORT REQUIRED TO BE FILED UNDER SECTION 52C.

(3) THE DEPARTMENT SHALL ANALYZE TOXIC SUBSTANCE USE AND RELEASE REDUCTION DATA AND TRENDS TO DETERMINE IF THE 50% REDUCTION GOAL IN THE SECTION IS MET.

SEC. 52C. (1) THE OWNER OR OPERATOR OF A COVERED FACILITY SHALL COMPLETE AN ANNUAL REPORT FOR EACH TOXIC SUBSTANCE MANUFACTURED, PROCESSED, OR OTHERWISE USED AT THE FACILITY IN

1 QUANTITIES EQUAL TO OR EXCEEDING THE APPLICABLE THRESHOLD  
2 QUANTITIES. IN ADDITION, THE REPORT SHALL INCLUDE A PLAN  
3 PROGRESS REPORT THAT DETAILS PROGRESS TOWARD THE GOAL IN EACH  
4 SECTION OF THE MOST CURRENT PLAN AS REQUIRED IN SECTION 52D,  
5 ACTIONS PLANNED FOR POLLUTION PREVENTION IN THE FOLLOWING YEAR,  
6 AND, IF APPLICABLE, AN EXPLANATION OF WHY THE FACILITY'S PROGRESS  
7 IS LESS THAN ANTICIPATED IN THE PLAN TIME SCHEDULE FOR  
8 IMPLEMENTATION. THE REPORT SHALL BE SUBMITTED TO THE DEPARTMENT  
9 ON OR BEFORE JULY 1 OF EACH YEAR AND SHALL CONTAIN DATA ON THE  
10 PRECEDING CALENDAR YEAR.

11 (2) AN ANNUAL REPORT SHALL IDENTIFY EACH TOXIC SUBSTANCE  
12 REPORTED UNDER SUBSECTION (1) AND SHALL INCLUDE THE FOLLOWING  
13 INFORMATION FOR EACH TOXIC SUBSTANCE:

14 (A) A COMPILATION OF ANNUAL INPUT, ACCUMULATION, AND OUTPUT  
15 QUANTITIES OF THE TOXIC SUBSTANCE AT THE FACILITY, INCLUDING THE  
16 QUANTITIES PRODUCED, USED, GENERATED AS ENVIRONMENTAL WASTES,  
17 CONSUMED, RECYCLED ON-SITE BUT OUT-OF-PROCESS, TRANSFERRED AS  
18 PRODUCT, OR TRANSFERRED AS A CONSTITUENT IN PRODUCTS.

19 (B) FOR EACH PRODUCTION UNIT OF THE FACILITY:

20 (i) THE AMOUNT OF THE TOXIC SUBSTANCE USED PER UNIT OF PROD-  
21 UCT AND GENERATED AS ENVIRONMENTAL WASTES PER UNIT OF PRODUCT.

22 (ii) THE ANNUAL REDUCTION OR INCREASE IN THE AMOUNT PRESENT  
23 IN THE PRODUCT PER UNIT OF PRODUCT.

24 (iii) A DESCRIPTION OF THE PRODUCTION UNIT, INCLUDING THE  
25 PRODUCTION PROCESS, PRODUCT, AND UNIT OF PRODUCT.

26 (iv) THE AMOUNTS MANUFACTURED, OR OTHERWISE CREATED, AND  
27 USED, EXPRESSED AS A RANGE.



1 (C) TWO- AND 5-YEAR GOALS FOR REDUCTION IN EACH AMOUNT  
2 REPORTED UNDER SUBDIVISION (B)(i), AND THE AMOUNTS MANUFACTURED,  
3 PROCESSED, OTHERWISE USED, AND GENERATED AS ENVIRONMENTAL WASTES  
4 AT THE FACILITY.

5 (D) IDENTIFICATION OF THE TYPE OF POLLUTION PREVENTION TECH-  
6 NIQUE, OR OTHER FACTOR, THAT REDUCED BY 10% OR MORE FROM THE PRE-  
7 VIOUS YEAR ANY AMOUNT REPORTED UNDER SUBDIVISION (B)(i) OR (ii)  
8 FOR A PRODUCTION UNIT.

9 (3) IF FOR A CALENDAR YEAR THE OWNER OR OPERATOR OF A COV-  
10 ERED FACILITY SUBMITS AN ANNUAL REPORT UNDER SUBSECTION (1) THAT  
11 REPORTS OMISSIONS OF A TOXIC SUBSTANCE CONTAINED IN A REPORT FOR  
12 THE FACILITY FOR THE CALENDAR YEAR PRECEDING THE CALENDAR YEAR  
13 BEING REPORTED ON, THE OWNER OR OPERATOR OF THE FACILITY SHALL  
14 IDENTIFY IN THE REPORT ANY SUBSTANCE THAT IS A REPLACEMENT FOR  
15 THE OMITTED TOXIC SUBSTANCE AND STATE WHETHER THE SUBSTANCE IS A  
16 TOXIC SUBSTANCE.

17 (4) EACH ANNUAL REPORT SUBMITTED UNDER SUBSECTION (1) SHALL  
18 CONTAIN A CERTIFICATION SIGNED BY THE OWNER OR OPERATOR OF THE  
19 COVERED FACILITY. A CERTIFICATION SHALL STATE THAT, SUBJECT TO  
20 THE PENALTY OF PERJURY, THE OWNER OR OPERATOR HAS READ THE REPORT  
21 AND ANY PLAN REQUIRED UNDER THIS PART AND THEY ARE, TO THE  
22 PERSON'S BEST KNOWLEDGE AND BELIEF, TRUE, COMPLETE, ACCURATE, AND  
23 PREPARED UNDER A PROPER DATA ACCOUNTING AND PLANNING SYSTEM.

24 (5) THE USE OF FORMS AND FORMATS USED PURSUANT TO TITLE III  
25 SHALL BE ACCEPTABLE BY THE DEPARTMENT IN MEETING APPLICABLE  
26 REQUIREMENTS OF THIS ACT, WHENEVER FEASIBLE.

1 SEC. 52D. (1) THE OWNER OR OPERATOR OF A COVERED FACILITY  
2 SHALL COMPLETE A BIENNIAL POLLUTION PREVENTION PLAN FOR THE  
3 PURPOSE OF REDUCING THE USE OF THRESHOLD QUANTITIES OF TOXIC SUB-  
4 STANCES AT THE FACILITY.

5 (2) EACH POLLUTION PREVENTION PLAN SHALL INCLUDE ALL OF THE  
6 FOLLOWING:

7 (A) A STATEMENT OF MANAGEMENT POLICY REGARDING TOXICS USE  
8 REDUCTION.

9 (B) POLLUTION PREVENTION GOALS, AS DESCRIBED IN  
10 SECTION 52B.

11 (C) A CURRENT AND PROJECTED ANALYSIS OF EACH PRODUCTION  
12 UNIT, INCLUDING MATERIALS ACCOUNTING AND A FULL COST ASSESSMENT  
13 OF DIRECT AND INDIRECT ECONOMIC IMPACTS, INCLUDING LIABILITIES,  
14 ASSOCIATED WITH EACH TOXIC SUBSTANCE.

15 (D) AN EVALUATION OF OPTIONS FOR REDUCING THE USE OF TOXIC  
16 SUBSTANCES IN EACH PRODUCTION UNIT, INCLUDING BOTH OF THE  
17 FOLLOWING:

18 (i) A COMPREHENSIVE SEARCH FOR POLLUTION PREVENTION OPTIONS,  
19 INCLUDING SUBSTITUTION OF RAW MATERIALS, REFORMULATION OR REDE-  
20 SIGN OF PRODUCTS, PRODUCTION UNIT MODIFICATIONS, IMPROVEMENTS IN  
21 OPERATION OR MAINTENANCE, AND IN-PROCESS EXTENDED USE OR  
22 CLOSED-LOOP RECYCLING.

23 (ii) A MATERIALS ACCOUNTING AND ECONOMIC IMPACT ANALYSIS OF  
24 SELECTED TECHNICALLY FEASIBLE OPTIONS FOR THE PURPOSES OF COMPAR-  
25 ISON WITH THE RESULTS OF SUBDIVISION (C). THE OPTIONS MAY NOT  
26 INCLUDE THE USE OF WASTE ACTIVITIES.

1 (E) A SCHEDULE FOR IMPLEMENTING POLLUTION PREVENTION  
2 OPTIONS.

3 (F) AN EXPLANATION FOR NOT INCLUDING IN THE IMPLEMENTATION  
4 SCHEDULE TECHNICALLY FEASIBLE OPTIONS WITH A PAYBACK PERIOD OF  
5 LESS THAN 2 YEARS.

6 (G) THE EFFECTS OF THE TOXICS USE REDUCTION PLAN ON WORKERS,  
7 CONSUMERS, ENERGY USE, AND THE ENVIRONMENT.

8 (3) THE DEPARTMENT MAY REVIEW, INSPECT, REQUEST, OR SURVEY  
9 POLLUTION PREVENTION PLANS SUBMITTED UNDER SUBSECTION (1) FOR  
10 PURPOSES OF DETERMINING ADEQUACY AND COMPLETENESS AND INVESTIGAT-  
11 ING POLLUTION PREVENTION OPTIONS. THE DEPARTMENT MAY MODIFY OR  
12 REQUIRE MODIFICATION OF A PLAN TO REQUIRE ADEQUACY AND COMPLETE-  
13 NESS, INCLUDING EVALUATION OF TECHNICALLY FEASIBLE TOXICS USE  
14 REDUCTION PRACTICES AND FULL COST ACCOUNTING OF TOXICS USE. THE  
15 DEPARTMENT SHALL REQUIRE PLAN DEFICIENCIES TO BE CORRECTED BY THE  
16 OWNER OR OPERATOR OF THE COVERED FACILITY WITHIN 90 DAYS.

17 (4) THE OWNER OR OPERATOR OF THE COVERED FACILITY MAY SUBMIT  
18 A COPY OF THE POLLUTION PREVENTION PLAN OR SHALL SUBMIT A  
19 DETAILED AND COMPREHENSIVE SUMMARY OF EACH SECTION OF ITS POLLU-  
20 TION PREVENTION PLAN TO THE DEPARTMENT. THE PLAN OR SUMMARY SUB-  
21 MITTED UNDER THIS SUBSECTION SHALL BE MADE AVAILABLE TO THE  
22 PUBLIC.

23 (5) THE FIRST POLLUTION PREVENTION PLANS REQUIRED UNDER THIS  
24 SECTION SHALL BE SUBMITTED WITHIN 2 YEARS OF THE EFFECTIVE DATE  
25 OF THIS PART.

26 (6) IN PREPARING A POLLUTION PREVENTION PLAN, THE FACILITY  
27 SHALL INVOLVE A SPECTRUM OF EMPLOYEES, INCLUDING WORKER

1 REPRESENTATIVES AND PRODUCTION, PRODUCT DEVELOPMENT, AND RESEARCH  
2 AND DEVELOPMENT PERSONNEL.

3 SEC. 52E. (1) IN ADDITION TO ANY OTHER POWER OR DUTY OF THE  
4 DEPARTMENT UNDER THIS ACT, THE DEPARTMENT SHALL DO ALL OF THE  
5 FOLLOWING:

6 (A) IDENTIFY ALL DEPARTMENT REQUIREMENTS FOR REPORTING ON  
7 TOXICS USE, RELEASE, AND DISPOSAL, AND TO THE MAXIMUM EXTENT POS-  
8 SIBLE STANDARDIZE, CONSOLIDATE, AND COORDINATE THESE REPORTING  
9 REQUIREMENTS TO MINIMIZE UNNECESSARY DUPLICATION.

10 (B) TO THE EXTENT POSSIBLE, COORDINATE INFORMATION ABOUT THE  
11 MANUFACTURE, DISTRIBUTION, PROCESS, SALE, STORAGE, DISPOSAL,  
12 RELEASE, OR OTHER USE OF TOXICS, INCLUDING THE INVENTORY REPORT-  
13 ING REQUIREMENT OF THIS ACT, ON A COMPUTER SYSTEM TO PROVIDE  
14 RELIABLE AND ACCESSIBLE INFORMATION ACROSS THE STATE TO AID IN  
15 STANDARDIZING THE INSPECTION, ENFORCEMENT, AND OTHER ACTIVITIES  
16 OF THE STATE. THE DEPARTMENT SHALL ALSO COOPERATE WITH AND MAKE  
17 THIS INFORMATION READILY AVAILABLE THROUGH COMPUTER CONNECTIONS  
18 AND OTHER MEANS TO THE POLLUTION PREVENTION INSTITUTE CREATED  
19 UNDER SECTION 52H, THE ENVIRONMENTAL PROTECTION DIVISION OF THE  
20 DEPARTMENT OF THE ATTORNEY GENERAL, AND OTHER STATE AGENCIES AND  
21 FACILITY OPERATORS.

22 (C) SEEK UNIFIED REPORTING AND ENFORCEMENT AUTHORITY FROM  
23 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

24 (D) WITHIN 2 YEARS OF THE EFFECTIVE DATE OF THIS PART,  
25 DEVELOP AND IMPLEMENT RULES REGARDING THE INSPECTION OF COVERED  
26 FACILITIES THAT DO ALL OF THE FOLLOWING:

1 (i) ENSURE THAT, IF APPROPRIATE, INSPECTIONS ARE MULTIMEDIA  
2 IN APPROACH.

3 (ii) ENSURE THAT, IF APPROPRIATE, INSPECTIONS ARE PERFORMED  
4 BY TEAMS OF INSPECTORS REPRESENTING EXISTING PROGRAMS WITHIN THE  
5 DEPARTMENT.

6 (iii) MINIMIZE DUPLICATION OF INSPECTION AND ENFORCEMENT  
7 EFFORTS BEING CONDUCTED WITH OTHER AGENCIES.

8 (E) CONDUCT RESEARCH ON POLLUTION PREVENTION TRENDS WITHIN  
9 EACH OF THE STANDARD INDUSTRIAL CLASSIFICATION INDUSTRY GROUPS.  
0 THIS RESEARCH SHALL INCLUDE AN ANALYSIS OF INFORMATION CONTAINED  
11 IN THE ANNUAL REPORTS AND POLLUTION PREVENTION PLANS AND PLAN  
12 SUMMARIES PREPARED AND SUBMITTED TO THE DEPARTMENT BY FACILITY  
13 OWNERS, AND MAY INCLUDE AN ANALYSIS OF THE POLLUTION PREVENTION  
14 PLANS. WITHIN 5 YEARS OF THE EFFECTIVE DATE OF THIS PART, THE  
15 DEPARTMENT SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A POL-  
16 LUTION PREVENTION PROFILE REPORT FOR EACH OF THE STANDARD INDUS-  
17 TRIAL CLASSIFICATION INDUSTRY GROUPS AND, IF WARRANTED BY THE  
18 RESEARCH, RECOMMENDATIONS FOR ACTIONS NECESSARY TO INCREASE POL-  
19 LUTION PREVENTION AND TOXICS USE REDUCTION ACTIVITIES AT THOSE  
20 FACILITIES.

21 (F) INITIATE WITHIN 1 YEAR OF THE EFFECTIVE DATE OF THIS  
22 PART A PILOT MULTIMEDIA INSPECTION PROJECT THAT IS COORDINATED  
23 WITHIN 1 OR MORE OF THE DISTRICT OFFICES OF THE DEPARTMENT.

24 (G) CONVENE AN INTERNAL WORK GROUP TO STUDY THE EFFECTIVE-  
25 NESS OF A FACILITY PERMIT PROJECT, IN WHICH 1 PERMIT WOULD BE  
26 GRANTED FOR ALL ENVIRONMENTAL EMISSIONS OR OTHER DEPARTMENT  
27 APPROVED REGULATED ACTIVITIES AT A FACILITY.

1 (H) PROMULGATE RULES AS MAY BE NECESSARY TO IMPLEMENT THIS  
2 PART.

3 (I) ANNUALLY COMPILE, ANALYZE, AND SUMMARIZE THE ANNUAL  
4 REPORTS AND POLLUTION PREVENTION PLANS OR SUMMARIES REQUIRED BY  
5 THIS PART TO THE EXTENT AVAILABLE AND SUBMIT A REPORT TO THE LEG-  
6 ISLATURE ON THE DEPARTMENT'S FINDINGS REGARDING PROGRESS IN AND  
7 EXPECTED PROGRESS IN POLLUTION PREVENTION AND EMISSIONS REDUCTION  
8 IN THE STATE.

9 (2) THE DEPARTMENT MAY CONSIDER A REPORTING FACILITY'S GOOD  
10 FAITH EFFORT TO COMPLY WITH THIS PART WHEN ISSUING A PERMIT OR  
11 LICENSE FOR THAT FACILITY OR WHEN PROMULGATING RULES FOR A REGU-  
12 LATORY PROGRAM.

13 SEC. 52F. THE DEPARTMENT SHALL ESTABLISH A POLLUTION PRE-  
14 VENTION OFFICE WITHIN THE EXECUTIVE OFFICE OF THE DEPARTMENT.  
15 THE OFFICE SHALL OVERSEE THE COORDINATION AND IMPLEMENTATION OF  
16 THIS PART.

17 SEC. 52G. (1) THE ADVISORY COUNCIL OF POLLUTION PREVENTION  
18 IS CREATED WITHIN THE DEPARTMENT OF NATURAL RESOURCES.

19 (2) THE COUNCIL SHALL CONSIST OF THE FOLLOWING MEMBERS:

20 (A) THE DIRECTOR OF THE DEPARTMENT.

21 (B) THE DIRECTOR OF LABOR.

22 (C) THE DIRECTOR OF COMMERCE.

23 (D) THE DIRECTOR OF PUBLIC HEALTH.

24 (E) THE ATTORNEY GENERAL.

25 (F) A REPRESENTATIVE OF THE POLLUTION PREVENTION INSTITUTE  
26 CREATED UNDER SECTION 52H.

1 (G) NINE REPRESENTATIVES APPOINTED BY THE GOVERNOR. THE  
2 REPRESENTATIVES SHALL INCLUDE ENVIRONMENTAL AND CONSERVATION  
3 REPRESENTATIVES, UNIONS, BUSINESS, INCLUDING SMALL BUSINESS,  
4 MUNICIPALITIES, ACADEMIA, PUBLIC HEALTH ORGANIZATIONS, AND THE  
5 GENERAL PUBLIC. AT LEAST 1 REPRESENTATIVE SHALL BE SELECTED FROM  
6 EACH GROUP LISTED IN THIS SUBDIVISION.

7 (3) THE COUNCIL SHALL HAVE ITS OWN STAFF. THE FIRST MEETING  
8 OF THE COUNCIL SHALL BE CALLED BY THE DEPARTMENT NOT LATER THAN  
9 60 DAYS AFTER THE EFFECTIVE DATE OF THIS PART. THE DIRECTOR  
10 SHALL BE THE CHAIRPERSON OF THE COUNCIL.

11 (4) A MAJORITY OF THE MEMBERS OF THE COUNCIL CONSTITUTES A  
12 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE  
13 COUNCIL. ACTION BY THE COUNCIL SHALL BE BY A MAJORITY OF THE  
14 VOTES CAST.

15 (5) THE BUSINESS THAT THE COUNCIL MAY PERFORM SHALL BE CON-  
16 DUCTED AT A PUBLIC MEETING OF THE COUNCIL HELD IN COMPLIANCE WITH  
17 THE OPEN MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976,  
18 BEING SECTIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS.

19 (6) MEMBERS OF THE COUNCIL SHALL SERVE WITHOUT  
20 COMPENSATION. HOWEVER, MEMBERS OF THE COUNCIL MAY BE REIMBURSED  
21 FOR THE ACTUAL AND NECESSARY EXPENSES THAT THEY INCUR IN THE PER-  
22 FORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE COUNCIL.

23 (7) THE COUNCIL SHALL DO ALL OF THE FOLLOWING:

24 (A) WITHIN 1 YEAR OF THE COUNCIL'S ESTABLISHMENT, IDENTIFY  
25 ALL FEDERAL OR STATE LAWS OR REGULATIONS PERTAINING TO CHEMICAL  
26 PRODUCTION AND USE, HAZARDOUS WASTE, INDUSTRIAL HYGIENE, WORKER  
27 SAFETY, PUBLIC EXPOSURE TO TOXICS, AND RELEASES OF TOXICS INTO

1 THE ENVIRONMENT. THE COUNCIL SHALL PROMOTE INCREASED  
2 COORDINATION OF EFFORTS TO ENFORCE THESE LAWS AND REGULATIONS AND  
3 ALSO DETERMINE HOW STATE PROGRAMS SHOULD BE COORDINATED TO PRO-  
4 MOTE MOST EFFECTIVELY POLLUTION PREVENTION IN THE STATE.

5 (B) MAKE ANNUAL POLICY RECOMMENDATIONS IN A REPORT TO THE  
6 GOVERNOR REGARDING POLLUTION PREVENTION, THE IMPLEMENTATION OF  
7 THIS ACT, AND THE ACHIEVEMENT OF INCREASED POLLUTION PREVENTION,  
8 AND FILE A COPY OF THIS REPORT WITH THE CLERK OF THE HOUSE OF  
9 REPRESENTATIVES AND THE CLERK OF THE SENATE.

10 (C) CONDUCT RESEARCH AND HOLD PUBLIC HEARINGS CONCERNING THE  
11 CONTINUED USE, PRODUCTION, MANUFACTURE, DISCHARGE, OR DISPOSAL OF  
12 PERSISTENT TOXIC SUBSTANCES IN THE STATE AND THE POTENTIAL THREAT  
13 THAT THIS USE, PRODUCTION, MANUFACTURE, DISCHARGE, OR DISPOSAL  
14 POSES TO HUMAN HEALTH OR THE ENVIRONMENT AND, IF WARRANTED, MAKE  
15 A WRITTEN RECOMMENDATION TO THE GOVERNOR AND THE LEGISLATURE CON-  
16 CERNING THE PROHIBITION OF, OR RESTRICTIONS ON, THE CONTINUED  
17 USE, PRODUCTION, MANUFACTURE, DISCHARGE, OR DISPOSAL OF SUCH SUB-  
18 STANCES IN THE STATE.

19 (8) IN ORDER TO PROMOTE AND EFFECT POLLUTION PREVENTION, THE  
20 COUNCIL MAY COMMENT ON ALL PROPOSED REGULATIONS PERTAINING TO  
21 TOXICS PRODUCTION AND USE, HAZARDOUS WASTE, INDUSTRIAL HYGIENE,  
22 WORKER SAFETY, PUBLIC EXPOSURE TO TOXICS, OR RELEASES OF TOXICS  
23 INTO THE ENVIRONMENT PRIOR TO THEIR PROMULGATION.

24 SEC. 52H. (1) THE ADVISORY COUNCIL OF POLLUTION PREVENTION  
25 CREATED IN SECTION 52G SHALL SELECT A UNIVERSITY LOCATED IN THIS  
26 STATE TO ESTABLISH A POLLUTION PREVENTION INSTITUTE BEFORE  
27 JANUARY 1, 1996. EACH UNIVERSITY THAT IS LOCATED IN THIS STATE



1 THAT SUBMITS AN APPLICATION TO THE COUNCIL SHALL BE CONSIDERED  
2 FOR SELECTION UNDER THIS SECTION. THE SELECTION OF A UNIVERSITY  
3 BY THE COUNCIL SHALL BE BASED ON AN OBJECTIVE APPLICATION OF CRI-  
4 TERIA RELATING TO THE SUITABILITY OF THE UNIVERSITY AS THE ESTAB-  
5 LISHING ENTITY AND SITE FOR THE INSTITUTE. THE COUNCIL SHALL  
6 ADOPT GUIDELINES GOVERNING THE APPLICATION AND SELECTION PROCESS  
7 AND SETTING FORTH THE CRITERIA TO BE APPLIED IN MAKING THE  
8 SELECTION.

9 (2) THE UNIVERSITY SELECTED TO ESTABLISH AND OPERATE THE  
10 INSTITUTE SHALL SUBMIT TO THE COUNCIL A STATEMENT INDICATING THE  
11 TYPES OF SERVICES, PROGRAMS, AND PRIORITIES RELATED TO POLLUTION  
12 PREVENTION THAT THE INSTITUTE WILL OFFER.

13 (3) THE INSTITUTE SHALL ESTABLISH COOPERATIVE PROGRAMS AND  
14 MAY ENTER INTO CONTRACTS FOR THE PERFORMANCE OF DUTIES WITH  
15 PUBLIC AND PRIVATE COLLEGES AND UNIVERSITIES DESIGNED TO AUGMENT  
16 THE IMPLEMENTATION OF THIS SECTION. HOWEVER, THE INSTITUTE SHALL  
17 MAINTAIN ADMINISTRATIVE AND POLICY CONTROL OVER THE CONTRACTED  
18 WORK. THE INSTITUTE MAY ESTABLISH FEES, TUITION, OR OTHER FINAN-  
19 CIAL CHARGES FOR THE PROGRAMS OF THE INSTITUTE. THE INSTITUTE  
20 SHALL DO ALL OF THE FOLLOWING THROUGH THE INSTITUTE'S PROGRAMS:

21 (A) DEVELOP AND PROVIDE CURRICULUM AND TRAINING ON POLLUTION  
22 PREVENTION FOR STUDENTS AND FACULTY, EMPLOYEES OF THE OFFICE OF  
23 POLLUTION PREVENTION, AND BUSINESS MANAGERS AND EMPLOYEES OF  
24 BUSINESSES.

25 (B) ENGAGE IN RESEARCH, DEVELOPMENT, AND DEMONSTRATION OF  
26 TECHNIQUES AND METHODS FOR POLLUTION PREVENTION INCLUDING BOTH OF  
27 THE FOLLOWING:

1 (i) AN ASSESSMENT OF THE IMPACT OF ADOPTING THE METHODS ON  
2 THE ENVIRONMENT, PUBLIC HEALTH, AND WORK EXPOSURE.

3 (ii) ASSESSMENTS OF THE IMPACT ON PROFITABILITY AND EMPLOY-  
4 MENT WITHIN AFFECTED INDUSTRIES.

5 (C) PROVIDE WASTE GENERATORS AN OPPORTUNITY TO DEVELOP POL-  
6 LUTION PREVENTION PLANS.

7 (D) DEVELOP METHODS TO MEASURE POLLUTION PREVENTION PROGRESS  
8 AT THE PLANT LEVEL AND THE COMPANY LEVEL ON THE BASIS OF REDUC-  
9 TION IN WASTE GENERATION AND CHANGES IN TOXIC MATERIALS USE RELA-  
10 TIVE TO PRODUCTION OUTPUT FOR SPECIFIC WASTES. THIS SUBDIVISION  
11 SHALL NOT BE CONSTRUED TO REQUIRE A BUSINESS TO REVEAL ITS TRADE  
12 SECRETS.

13 (E) CONDUCT STUDIES TO IDENTIFY PROBLEMS ENCOUNTERED BY  
14 BUSINESSES AND GOVERNMENTS ATTEMPTING TO IMPLEMENT MULTIMEDIA  
15 POLLUTION PREVENTION PROGRAMS, AND RECOMMEND POLICIES AND PRO-  
16 GRAMS TO ADDRESS THESE PROBLEMS.

17 (4) THE INSTITUTE SHALL ESTABLISH AND OPERATE A PLANNING  
18 PROGRAM FOR INDIVIDUALS WHO DESIRE TO BE QUALIFIED AS POLLUTION  
19 PREVENTION PLANNERS. PUBLIC AND PRIVATE COLLEGES AND UNIVERSI-  
20 TIES LOCATED IN THIS STATE MAY ESTABLISH AND OPERATE PROGRAMS FOR  
21 QUALIFYING POLLUTION PREVENTION PLANNERS. TO ENSURE CONSISTENT  
22 TRAINING PROCEDURES, THE INSTITUTE SHALL PROVIDE A CURRICULUM  
23 PLAN FOR QUALIFYING POLLUTION PREVENTION PLANNERS TO COLLEGES AND  
24 UNIVERSITIES THAT DO NOT OPERATE THE INSTITUTE. THE PROGRAMS  
25 ESTABLISHED UNDER THIS SECTION SHALL BE DESIGNED TO TRAIN AUDI-  
26 TORS TO BE QUALIFIED TO ASSIST BUSINESSES AND BUSINESS  
27 ORGANIZATIONS IN THE DEVELOPMENT AND IMPLEMENTATION OF THE MOST

1 UP-TO-DATE POLLUTION PREVENTION TECHNIQUES AND PRACTICES AND  
2 PREPARE AND REVIEW POLLUTION PREVENTION PLANS. THE INSTITUTE  
3 SHALL QUALIFY AS A POLLUTION PREVENTION PLANNER AN INDIVIDUAL WHO  
4 HAS SUCCESSFULLY COMPLETED A POLLUTION PREVENTION PLANNING  
5 PROGRAM.

6 (5) THE INSTITUTE SHALL ASSIST GOVERNMENTAL AGENCIES, BUSI-  
7 NESSES, AND BUSINESS ORGANIZATIONS IN DEVELOPING METHODS AND MEA-  
8 SUREMENT TECHNIQUES FOR ASSESSING PROGRESS IN POLLUTION PREVEN-  
9 TION PER UNIT OF OUTPUT AND SHALL EXPLORE THE DEVELOPMENT OF PER-  
10 SONAL COMPUTER SOFTWARE FOR THESE PURPOSES.

11 (6) IF REQUESTED BY THE DIRECTOR, THE INSTITUTE MAY ASSIST  
12 IN THE TRAINING OF INSPECTORS AND OTHER KEY PERSONNEL EMPLOYED BY  
13 THE OFFICE OF POLLUTION PREVENTION AND OTHER KEY PERSONNEL  
14 EMPLOYED BY THE OFFICE OR THE DEPARTMENT TO ASSIST IN THE IMPLE-  
15 MENTATION OF THIS ACT. IN ADDITION, THE INSTITUTE MAY DO THE  
16 FOLLOWING:

17 (A) ESTABLISH PROGRAMS FOR THE STUDY OF PRIVATE AND NONGOV-  
18 ERNMENTAL POLLUTION PREVENTION INITIATIVES, PROPOSALS, AND  
19 PROGRAMS.

20 (B) REVIEW AND ASSESS NATIONAL AND INTERNATIONAL POLLUTION  
21 PREVENTION TECHNOLOGY INNOVATION AND DIFFUSION.

22 (C) DEVELOP AND PROMOTE INVOLVEMENT IN STUDIES CONCERNING  
23 ASPECTS OF POLLUTION PREVENTION THAT HAVE AN EFFECT ON CHANGING  
24 INSTITUTIONS AND VALUES.

25 (D) RECOMMEND POLLUTION PREVENTION POLICY INSTRUMENTS AND  
26 CONCEPTS.

1 (E) DEVELOP CURRICULUM TO BE USED IN ELEMENTARY AND  
2 SECONDARY PROGRAMS.

3 (7) BEFORE JANUARY OF EACH YEAR, THE INSTITUTE SHALL PREPARE  
4 AND SUBMIT TO THE GOVERNOR, THE COUNCIL, THE DIRECTOR, AND THE  
5 LEGISLATURE A REPORT ON THE INSTITUTE'S OPERATIONS AND ACTIVITIES  
6 UNDER THIS SECTION, INCLUDING THE STATUS, FUNDING, AND RESULTS OF  
7 ALL PROJECTS. THE REPORT SHALL DO THE FOLLOWING:

8 (A) INCLUDE RECOMMENDATIONS THE INSTITUTE MAY HAVE FOR  
9 LEGISLATION.

10 (B) IDENTIFY STATE AND FEDERAL ECONOMIC AND FINANCIAL INCEN-  
11 TIVES THAT CAN BEST ACCELERATE AND MAXIMIZE THE RESEARCH, DEVEL-  
12 OPMENT, DEMONSTRATION, AND SUPPORT OF POLLUTION PREVENTION TECH-  
13 NOLOGIES AND PRACTICES.

14 (C) INCLUDE A PROPOSED WORK PLAN FOR THE FOLLOWING YEAR.

15 (8) THE INSTITUTE SHALL MAKE ANY STUDY, REPORT, ASSESSMENT,  
16 OR ANALYSIS PREPARED BY THE INSTITUTE AVAILABLE TO THE PUBLIC.  
17 THE INSTITUTE MAY PROVIDE ANY DOCUMENT DESCRIBED IN THIS SUBSEC-  
18 TION FREE OF CHARGE OR AT A REDUCED CHARGE TO A PERSON THAT IS  
19 EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501(c)(3) OF  
20 THE INTERNAL REVENUE CODE. HOWEVER, THE INSTITUTE MAY NOT MAKE  
21 INFORMATION CONCERNING A PARTICULAR BUSINESS AVAILABLE TO THE  
22 PUBLIC THROUGH A STUDY, REPORT, ASSESSMENT, OR ANALYSIS CONDUCTED  
23 UNDER THIS PART UNLESS THE BUSINESS PROVIDES THE INSTITUTE WITH  
24 WRITTEN APPROVAL FOR THE PUBLIC RELEASE OF THE INFORMATION.

25 (9) THE ACTIVITIES AND POLICIES OF THE INSTITUTE SHALL BE  
26 COORDINATED WITH THE ACTIVITIES AND POLICIES OF THE DEPARTMENT  
27 AND SHALL ADDRESS SPECIFIC PROBLEMS INVOLVING A PARTICULAR

1 SITUATION OR CONDITION AFFECTING A BUSINESS OR BUSINESSES AT  
2 PRODUCTION OR COMMERCIAL LOCATIONS. THE ACTIVITIES OF THE INSTI-  
3 TUTE SHALL BE COORDINATED WITH THE ACTIVITIES OF OTHER PUBLIC AND  
4 PRIVATE PROGRAMS THAT PROVIDE MANAGERIAL AND TECHNICAL ASSISTANCE  
5 TO BUSINESSES, INCLUDING PROGRAMS OPERATED BY PUBLIC AND PRIVATE  
6 EDUCATIONAL INSTITUTIONS. THE INSTITUTE MAY MAKE GRANTS TO  
7 PUBLIC OR PRIVATE PERSONS OR ASSOCIATIONS TO ESTABLISH AND OPER-  
8 ATE ELEMENTS OF THE PROGRAM.

9 (10) THE INSTITUTE AND THE DEPARTMENT MAY ENTER INTO A WRIT-  
10 TEN MEMORANDUM OF UNDERSTANDING DESCRIBING THE RESPONSIBILITIES  
11 OF THE INSTITUTE AND THE DEPARTMENT IN COORDINATING THE IMPLEMEN-  
12 TATION OF THIS SECTION.

13 (11) THE INSTITUTE MAY PROVIDE EXPERTS FOR ON-SITE TECHNICAL  
14 ASSISTANCE, ECONOMIC ADVICE, AND OTHER MANAGERIAL ADVICE TO BUSI-  
15 NESSES AND INDUSTRIES NEEDING ASSISTANCE, INCLUDING ADVICE ON  
16 PLANNING FOR POLLUTION PREVENTION AUDITS.

17 (12) THE FIRST REPORT THAT THE POLLUTION PREVENTION INSTI-  
18 TUTE IS REQUIRED TO PREPARE SHALL BE SUBMITTED TO THE GOVERNOR,  
19 THE POLLUTION PREVENTION COUNCIL, THE DIRECTOR, AND THE LEGISLA-  
20 TURE WITHIN 2 YEARS OF THE INSTITUTE'S ESTABLISHMENT.

21 SEC. 52I. THE DEPARTMENT SHALL WORK WITH THE DEPARTMENT OF  
22 PUBLIC HEALTH AND THE DEPARTMENT OF LABOR TO COORDINATE THE  
23 IMPLEMENTATION OF THIS PART.

24 SEC. 52J. (1) ANY OWNER OR OPERATOR OF AN INDUSTRIAL FACIL-  
25 ITY REQUIRED TO PREPARE A POLLUTION PREVENTION PLAN AND SUBMIT TO  
26 THE DEPARTMENT A POLLUTION PREVENTION PLAN SUMMARY MAY OMIT FROM  
27 THE POLLUTION PREVENTION PLAN OR POLLUTION PREVENTION PLAN

1 SUMMARY THE SPECIFIC CHEMICAL IDENTITY OF A HAZARDOUS SUBSTANCE  
2 ABOUT WHICH INFORMATION IS REQUIRED, AND INCLUDE INSTEAD THE GEN-  
3 ERIC CLASS OR CATEGORY OF THE HAZARDOUS SUBSTANCE, OR MAY OMIT  
4 ANY OTHER INFORMATION REQUIRED TO BE DISCLOSED, IF THE OWNER OR  
5 OPERATOR FILES WITH THE DEPARTMENT A TRADE SECRET CLAIM PURSUANT  
6 TO THIS SECTION.

7 (2) ANY OWNER OR OPERATOR OF AN INDUSTRIAL FACILITY OMITTING  
8 INFORMATION FROM A POLLUTION PREVENTION PLAN OR POLLUTION PREVEN-  
9 TION PLAN SUMMARY PURSUANT TO THIS SECTION SHALL SUBMIT TO THE  
10 DEPARTMENT, ACCOMPANIED BY THE POLLUTION PREVENTION PLAN SUMMARY,  
11 A TRADE SECRET CLAIM IN WHICH THE OWNER OR OPERATOR OF THE INDUS-  
12 TRIAL FACILITY PROVIDES THE DIRECTOR WITH THE INFORMATION  
13 OMITTED, AND A STATEMENT DEMONSTRATING THAT THE INFORMATION  
14 OMITTED MEETS THE CRITERIA FOR A VALID TRADE SECRET ESTABLISHED  
15 PURSUANT TO SUBSECTION (3) OF THIS SECTION. THE TRADE SECRET  
16 CLAIM SHALL INCLUDE THE INFORMATION OMITTED FROM THE POLLUTION  
17 PREVENTION PLAN OR POLLUTION PREVENTION PLAN SUMMARY, AND THE  
18 DIRECTOR SHALL MAINTAIN THIS INFORMATION ON A CONFIDENTIAL  
19 BASIS. ANY TRADE SECRET CLAIM MADE PURSUANT TO THIS SECTION THAT  
20 THE DEPARTMENT DETERMINES IS FALSE OR FRIVOLOUS IS A VIOLATION OF  
21 THIS PART.

22 (3) AN OWNER OR OPERATOR OF AN INDUSTRIAL FACILITY SHALL NOT  
23 OMIT INFORMATION FROM A POLLUTION PREVENTION PLAN OR POLLUTION  
24 PREVENTION PLAN SUMMARY UNLESS THE OWNER OR OPERATOR DEMONSTRATES  
25 THAT:

1 (A) THE INFORMATION HAS NOT BEEN DISCLOSED TO ANY OTHER  
2 PERSON OTHER THAN TO A PERSON BOUND BY A CONFIDENTIALITY  
3 AGREEMENT.

4 (B) THE OWNER OR OPERATOR HAS TAKEN ALL REASONABLE MEASURES  
5 NECESSARY TO PROTECT THE SECRECY OF THE INFORMATION.

6 (C) THE INFORMATION IS NOT REQUIRED TO BE DISCLOSED, OR TO  
7 BE OTHERWISE MADE AVAILABLE, TO THE PUBLIC PURSUANT TO ANY OTHER  
8 FEDERAL OR STATE LAW.

9 (D) DISCLOSURE OF THE INFORMATION WOULD BE LIKELY TO CAUSE  
10 THE OWNER OR OPERATOR SUBSTANTIAL ECONOMIC DISADVANTAGE OR HARM.

11 (E) THE INFORMATION IS NOT READILY DISCOVERABLE THROUGH  
12 REVERSE ENGINEERING OR OTHER ANALYTICAL TECHNIQUES.

13 (4) THE DEPARTMENT SHALL ACT TO MAKE A DETERMINATION ON THE  
14 VALIDITY OF A TRADE SECRET CLAIM WHEN A REQUEST IS MADE BY ANY  
15 PERSON FOR THE DISCLOSURE OF THE INFORMATION FOR WHICH THE TRADE  
16 SECRET CLAIM WAS MADE, OR AT ANY TIME THAT THE DEPARTMENT CONSID-  
17 ERS APPROPRIATE. UPON MAKING A DETERMINATION ON THE VALIDITY OF  
18 A TRADE SECRET CLAIM, THE DEPARTMENT SHALL INFORM THE OWNER OR  
19 OPERATOR OF THE AFFECTED INDUSTRIAL FACILITY OF THE DETERMINATION  
20 BY CERTIFIED MAIL. IF THE DEPARTMENT DETERMINES THAT THE OWNER'S  
21 OR OPERATOR'S TRADE SECRET CLAIM IS NOT VALID, THE OWNER OR OPER-  
22 ATOR SHALL HAVE 45 DAYS FROM THE RECEIPT OF THE DEPARTMENT'S  
23 DETERMINATION TO FILE WITH THE DEPARTMENT A WRITTEN REQUEST FOR  
24 AN ADMINISTRATIVE HEARING ON THE DETERMINATION. IF THE OWNER OR  
25 OPERATOR DOES NOT FILE SUCH A REQUEST WITHIN 45 DAYS, THE DEPART-  
26 MENT SHALL TAKE ACTION TO PROVIDE THAT THE INFORMATION FOR WHICH  
27 THE TRADE SECRET CLAIM WAS MADE BE DISCLOSED PURSUANT TO THE

1 PROVISIONS OF THIS ACT. IF AN OWNER OR OPERATOR REQUESTS AN  
2 ADMINISTRATIVE HEARING PURSUANT TO THE PROVISIONS OF THIS SUBSEC-  
3 TION, THE DEPARTMENT SHALL REFER THE MATTER FOR A HEARING. AT  
4 THE HEARING, THE OWNER OR OPERATOR SHALL HAVE THE BURDEN TO SHOW  
5 THAT THE TRADE SECRET CLAIM IS VALID. WITHIN 45 DAYS OF RECEIPT  
6 OF THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDATION, THE DEPARTMENT  
7 SHALL AFFIRM, REJECT, OR MODIFY THE RECOMMENDATION. THE  
8 DEPARTMENT'S ACTION SHALL BE CONSIDERED THE FINAL AGENCY ACTION  
9 FOR THE PURPOSES OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
10 ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO  
11 24.328 OF THE MICHIGAN COMPILED LAWS, AND SHALL BE SUBJECT ONLY  
12 TO JUDICIAL REVIEW AS PROVIDED IN THE MICHIGAN RULES OF COURT.  
13 THE DEPARTMENT SHALL INFORM THE OWNER OR OPERATOR OF ITS DECISION  
14 ON THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDATION BY CERTIFIED  
15 MAIL. IF THE DEPARTMENT DETERMINES THAT THE TRADE SECRET CLAIM  
16 IS NOT VALID, THE OWNER OR OPERATOR SHALL HAVE 45 DAYS TO NOTIFY  
17 THE DEPARTMENT IN WRITING THAT HE OR SHE HAS FILED AN APPEAL OF  
18 THE DEPARTMENT'S DECISION IN THE COURTS. IF THE OWNER OR OPERA-  
19 TOR DOES NOT SO NOTIFY THE DEPARTMENT, THE DEPARTMENT SHALL TAKE  
20 ACTION TO PROVIDE THAT THE INFORMATION FOR WHICH THE TRADE SECRET  
21 CLAIM WAS MADE BE DISCLOSED PURSUANT TO THE PROVISIONS OF THIS  
22 ACT.

23 (5) THE DEPARTMENT SHALL PROVIDE ANY INFORMATION FOR WHICH A  
24 TRADE SECRET CLAIM IS PENDING OR HAS BEEN APPROVED PURSUANT TO  
25 THIS SECTION TO A PHYSICIAN OR OSTEOPATH WHEN SUCH INFORMATION IS  
26 NEEDED FOR MEDICAL DIAGNOSIS OR TREATMENT. THE DEPARTMENT SHALL  
27 REQUIRE THE PHYSICIAN OR OSTEOPATH TO SIGN AN AGREEMENT



1 PROTECTING THE CONFIDENTIALITY OF INFORMATION DISCLOSED PURSUANT  
2 TO THIS SUBSECTION.

3 (6) ANY POLLUTION PREVENTION PLAN SUMMARY CONTAINING INFOR-  
4 MATION FOR WHICH A TRADE SECRET CLAIM IS PENDING OR HAS BEEN  
5 APPROVED SHALL BE MADE AVAILABLE TO THE PUBLIC WITH THAT INFORMA-  
6 TION OMITTED.

7 (7) THE SUBJECT OF ANY TRADE SECRET CLAIM PENDING OR  
8 APPROVED SHALL BE TREATED AS CONFIDENTIAL INFORMATION.  
9 CONFIDENTIAL INFORMATION SHALL BE KEPT IN A LOCKED FILE WITHIN A  
10 LOCKED ROOM AT THE DEPARTMENT, AND SHALL NOT BE DUPLICATED BY ANY  
11 PERSON, INCLUDING ANY EMPLOYEE OF THE DEPARTMENT. THE DEPARTMENT  
12 SHALL MAINTAIN A RECORD OF ALL PERSONS OBTAINING ACCESS TO THE  
13 CONFIDENTIAL INFORMATION, INCLUDING THE DATE AND TIME OF, AND THE  
14 REASONS FOR, THE ACCESS. EXCEPT AS PROVIDED IN SUBSECTION (5),  
15 THE DEPARTMENT SHALL NOT DISCLOSE ANY CONFIDENTIAL INFORMATION TO  
16 ANY PERSON EXCEPT AN OFFICER OR EMPLOYEE OF THE STATE IN CONNEC-  
17 TION WITH THE OFFICIAL DUTIES OF THE OFFICER OR EMPLOYEE UNDER  
18 ANY LAW FOR THE PROTECTION OF PUBLIC HEALTH, OR TO THE CONTRAC-  
19 TORS OF THE STATE AND THEIR EMPLOYEES IF, IN THE OPINION OF THE  
20 DEPARTMENT, THE DISCLOSURE IS NECESSARY FOR THE COMPLETION OF ANY  
21 WORK CONTRACTED FOR IN CONNECTION WITH THE IMPLEMENTATION OF THIS  
22 ACT. ANY OFFICER OR EMPLOYEE OF THE STATE, CONTRACTOR OF THE  
23 STATE, PHYSICIAN, OR OSTEOPATH WHO HAS ACCESS TO ANY CONFIDENTIAL  
24 INFORMATION AND WHO WILLINGLY AND KNOWINGLY DISCLOSES THE CONFIDENTIAL  
25 INFORMATION TO ANY PERSON NOT AUTHORIZED TO RECEIVE IT IS  
26 GUILTY OF A CRIME OF THE THIRD DEGREE.

1 (8) THE DIRECTOR SHALL NOT APPROVE ANY TRADE SECRET CLAIM  
2 FOR ANY INFORMATION WHICH THE ADMINISTRATOR OF THE UNITED STATES  
3 ENVIRONMENTAL PROTECTION AGENCY HAS DETERMINED IS NOT A TRADE  
4 SECRET PURSUANT TO 42 U.S.C. SECTION 11042 OR 42 U.S.C. SECTION  
5 6921.

6 (9) AN OWNER OR OPERATOR OF AN INDUSTRIAL FACILITY MAY NOT  
7 CLAIM THE FOLLOWING INFORMATION AS A TRADE SECRET:

8 (A) THE CHEMICAL NAME, IDENTITY, AND AMOUNTS OF ANY HAZARD-  
9 OUS SUBSTANCE DISCHARGED INTO THE AIR OR THE SURFACE WATERS OR  
10 GROUNDWATERS OF THE STATE OR INTO A WASTEWATER TREATMENT SYSTEM,  
11 THE CHEMICAL IDENTITY AND AMOUNTS OF HAZARDOUS WASTE GENERATED,  
12 OR THE LOCATION OF A DISCHARGE OR GENERATION.

13 (B) THE INFORMATION FOR WHICH A TRADE SECRET CLAIM IS MADE  
14 PURSUANT TO THIS SECTION MAY BE USED BY THE DEPARTMENT IN GENERAL  
15 COMPILATIONS OF INFORMATION BASED ON INDUSTRY GROUPS OR CLASSIFI-  
16 CATIONS OF HAZARDOUS SUBSTANCES, OR FOR THE CONDUCTING OF  
17 RESEARCH AND PREPARATION OF THE REPORTS REQUIRED PURSUANT TO SEC-  
18 TION 52H IF THIS USE DOES NOT IDENTIFY THE SPECIFIC INDUSTRIAL  
19 FACILITY OR PRIORITY INDUSTRIAL FACILITY FOR WHICH THE INFORMA-  
20 TION WAS REPORTED.

21 (10) RECORDS AND INFORMATION OBTAINED BY ANY DEPARTMENT,  
22 COMMISSION, OR PUBLIC AGENCY RELATED TO A REVIEW BY THE DIRECTOR  
23 UNDER SUBSECTION (4) AND TO INFORMATION DETERMINED BY THE DIREC-  
24 TOR TO BE A TRADE SECRET IN THAT REVIEW IS EXEMPT FROM DISCLOSURE  
25 UNDER THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC  
26 ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN  
27 COMPILED LAWS.

1 (11) NOTWITHSTANDING INFORMATION THAT HAS BEEN CLAIMED AS A  
2 TRADE SECRET PURSUANT TO 29 C.F.R. 1910.1200(I) OR HAS BEEN  
3 UPHELD BY THE DIRECTOR AS A TRADE SECRET PURSUANT TO THIS SEC-  
4 TION, A REPORTING FACILITY SHALL DISCLOSE SUCH INFORMATION TO THE  
5 DEPARTMENT AS NECESSARY TO ENABLE THE DEPARTMENT TO FULFILL ITS  
6 RESPONSIBILITIES UNDER THIS PART.

7 (12) AS USED IN THIS SECTION, "TRADE SECRET" MEANS A CONFIDENTIAL  
8 PROCESS, FORMULA, PATTERN, DEVICE, OR COMPILATION OF  
9 INFORMATION THAT IS USED IN A REPORTING FACILITY'S BUSINESS AND  
10 THAT GIVES THE FACILITY THE OPPORTUNITY TO OBTAIN AN ADVANTAGE  
11 OVER COMPETITORS WHO DO NOT KNOW OR USE IT.

12 SEC. 52K. (1) A PERSON WHO VIOLATES THIS PART IS SUBJECT TO  
13 A CIVIL FINE OF \$25,000.00 PER VIOLATION PER DAY.

14 (2) A PERSON WHO MAKES A FRIVOLOUS TRADE SECRET CLAIM UNDER  
15 THIS PART IS SUBJECT TO A CIVIL FINE OF \$25,000.00 PER FRIVOLOUS  
16 CLAIM.

17 (3) AT THE REQUEST OF A STATE AGENCY, THE ATTORNEY GENERAL  
18 MAY BRING A CIVIL ACTION FOR INJUNCTIVE RELIEF AGAINST ANY PERSON  
19 WHO VIOLATES THIS ACT.

20 (4) A DEFAULT IN A CIVIL FINE ORDERED UNDER THIS PART MAY BE  
21 REMEDIED BY ANY MEANS AUTHORIZED UNDER THE REVISED JUDICATURE ACT  
22 OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING  
23 SECTIONS 600.101 TO 600.9947 OF THE MICHIGAN COMPILED LAWS.

24 (5) THE PENALTIES AND REMEDIES IN PART I ARE NOT APPLICABLE  
25 TO THIS PART.

26 SEC. 52L. (1) A PERSON MAY BRING AN ACTION IN CIRCUIT COURT  
27 AGAINST ANY PERSON ALLEGED TO HAVE BEEN OR BE IN VIOLATION OF

1 THIS PART, OR AGAINST AN APPROPRIATE GOVERNMENT OFFICIAL IF THERE  
2 IS ALLEGED TO HAVE BEEN A FAILURE OF THE OFFICIAL TO PERFORM A  
3 NONDISCRETIONARY DUTY UNDER THIS PART.

4 (2) AN ACTION SHALL NOT BE BROUGHT UNDER THIS SECTION PRIOR  
5 TO 60 DAYS AFTER THE PLAINTIFF GIVES NOTICE TO THE COVERED FACIL-  
6 ITY OR OFFICIAL WHO IS ALLEGED TO HAVE VIOLATED THIS PART, TO THE  
7 DEPARTMENT, AND TO THE ATTORNEY GENERAL. IN ADDITION, AN ACTION  
8 SHALL NOT BE BROUGHT UNDER THIS SECTION IF THE DEPARTMENT OR THE  
9 ATTORNEY GENERAL HAS COMMENCED AND IS DILIGENTLY PROSECUTING AN  
10 ADMINISTRATIVE CIVIL ACTION AGAINST THE ALLEGED VIOLATOR.

11 (3) THE COURT MAY AWARD TO THE SUBSTANTIALLY PREVAILING  
12 PARTY IN AN ACTION BROUGHT UNDER THIS SECTION THE PARTY'S COSTS  
13 AND ATTORNEYS' FEES.