

# HOUSE BILL No. 5925

June 10, 1998, Introduced by Reps. Parks, Wallace, Anthony, Mans, Profit, Tesanovich, Brater, Varga, Vaughn, Freeman, Emerson, Price, Agee, Hale, Prusi, Thomas, Stallworth, Basham, Kelly, Kilpatrick, Schauer, Rison, Bogardus, Quarles, Schermesser and Mathieu and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
(MCL 324.101 to 324.90106) by amending the part heading to part  
13 and by adding sections 1301 to 1310.

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

1           PART 13 PERMITS AND ENVIRONMENTAL JUSTICE

2           SEC. 1301. AS USED IN THIS PART:

3           (A) "AFFECTED COMMUNITY" MEANS THAT GROUP OF PEOPLE LIVING  
4 WITHIN AN AREA SURROUNDING EITHER A PROPOSED NEW POLLUTION  
5 SOURCE, OR A PROPOSED MODIFICATION TO AN EXISTING POLLUTION  
6 SOURCE, WHO WOULD BE EXPOSED TO POLLUTION.

7           (B) "CLAWBACK AGREEMENT" MEANS AN AGREEMENT BETWEEN A FACIL-  
8 ITY AND A LOCAL UNIT OF GOVERNMENT THAT REQUIRES THE FACILITY TO  
9 REIMBURSE THE LOCAL UNIT'S INCENTIVES TO THE FACILITY, SUCH AS  
10 INVESTMENTS, ABATEMENTS, OR SUBSIDIES, IF THE FACILITY DOES NOT

1 FULFILL ITS PROMISES OF ECONOMIC DEVELOPMENT AND INCREASED  
2 EMPLOYMENT.

3 (C) "CUMULATIVE EFFECTS OR RISK" MEANS THE POTENTIAL FOR  
4 DELETERIOUS EFFECTS TO THE ENVIRONMENT OR HUMAN HEALTH RESULTING  
5 FROM ENVIRONMENTAL OR HUMAN EXPOSURE TO CHEMICAL, BIOLOGICAL,  
6 PHYSICAL, OR RADIOLOGICAL AGENTS FROM SINGLE OR MULTIPLE SOURCES  
7 WHEN ADDED TO THE IMPACTS OF PAST, PRESENT, AND REASONABLY FORE-  
8 SEEABLE FUTURE POLLUTION SOURCES, REGARDLESS OF WHAT ENTITY OR  
9 PERSON OPERATES SUCH OTHER POLLUTION SOURCES. CUMULATIVE EFFECTS  
10 CAN RESULT FROM INDIVIDUALLY MINOR BUT COLLECTIVELY SIGNIFICANT  
11 ACTIONS TAKING PLACE OVER A PERIOD OF TIME.

12 (D) "DEPARTMENT" MEANS THE DIRECTOR OF THE DEPARTMENT OF  
13 ENVIRONMENTAL QUALITY OR HIS OR HER DESIGNEE.

14 (E) "DISPROPORTIONATELY HIGH AND ADVERSE ENVIRONMENTAL  
15 EFFECTS" MEANS ADVERSE EFFECTS ON THE ENVIRONMENT WITHIN AN  
16 AFFECTED COMMUNITY THAT SIGNIFICANTLY EXCEED OR THREATEN TO  
17 EXCEED THE ADVERSE EFFECTS FOUND IN THE GENERAL ENVIRONMENT. THE  
18 ADVERSE EFFECTS MAY INCLUDE ECOLOGICAL EFFECTS, SUCH AS THE  
19 EFFECTS ON NATURAL RESOURCES AND ON THE COMPONENTS, STRUCTURES,  
20 AND FUNCTIONING OF AFFECTED ECOSYSTEMS, AND AESTHETIC, HISTORIC,  
21 CULTURAL, ECONOMIC, OR SOCIAL IMPACTS.

22 (F) "DISPROPORTIONATELY HIGH HUMAN HEALTH EFFECTS" MEANS  
23 ADVERSE EFFECTS ON THE HEALTH OF AN AFFECTED COMMUNITY THAT  
24 EXCEED OR THREATEN TO EXCEED THE ADVERSE EFFECTS ON HUMAN HEALTH  
25 FOUND IN THE SURROUNDING AREA OR REGION.

1 (G) "EMISSIONS" INCLUDES EMISSIONS AND DISCHARGES FROM POINT  
2 AND NONPOINT POLLUTION SOURCES, WHETHER PERMITTED OR  
3 NONPERMITTED.

4 (H) "ENVIRONMENT" MEANS THE COMBINATION OF PHYSICAL, SOCIAL,  
5 AND CULTURAL CONDITIONS THAT AFFECT AND INFLUENCE GROWTH, DEVEL-  
6 OPMENT, AND SURVIVAL, INCLUDING BUT NOT LIMITED TO COMMUNITIES  
7 AND LOCATIONS WITHIN COMMUNITIES WHERE PEOPLE LIVE, WORK, AND  
8 PLAY.

9 (I) "ENVIRONMENTAL JUSTICE" MEANS THE FAIR TREATMENT AND  
10 MEANINGFUL INVOLVEMENT OF ALL PEOPLE REGARDLESS OF RACE, COLOR,  
11 NATIONAL ORIGIN, OR INCOME, WITH RESPECT TO THE DEVELOPMENT,  
12 IMPLEMENTATION, AND ENFORCEMENT OF ENVIRONMENTAL LAWS, RULES, AND  
13 POLICIES. FAIR TREATMENT MEANS THAT NO GROUP OF PEOPLE, INCLUD-  
14 ING RACIAL, ETHNIC, OR SOCIOECONOMIC GROUPS, SHOULD BEAR A DIS-  
15 PROPORTIONATE SHARE OF THE NEGATIVE ENVIRONMENTAL EFFECTS RESULT-  
16 ING FROM INDUSTRIAL, MUNICIPAL, AND COMMERCIAL OPERATIONS OR THE  
17 EXECUTION OF FEDERAL, STATE, LOCAL, AND TRIBAL PROGRAMS AND  
18 POLICIES.

19 (J) "ENVIRONMENTAL OMBUDSMAN" OR "OMBUDSMAN" MEANS THE INDI-  
20 VIDUAL WHO HOLDS THE OFFICE OF ENVIRONMENTAL OMBUDSMAN CREATED IN  
21 SECTION 1306.

22 (K) "GENERAL PUBLIC CONCERN OR CONTROVERSY" MEANS THE PUBLIC  
23 EXPRESSION OF DISSATISFACTION OR DISCONTENT WITH A PROPOSED  
24 ACTION.

25 (L) "HEALTH DATA" MEANS DATA RELATING TO HUMAN HEALTH, OR  
26 ENVIRONMENTAL QUALITY, WITHIN AN AREA POTENTIALLY AFFECTED BY  
27 EMISSIONS FROM A NEW POLLUTION SOURCE OR THE MODIFICATION OF AN

1 EXISTING POLLUTION SOURCE. EXAMPLES INCLUDE, BUT ARE NOT LIMITED  
2 TO, LEVELS OF CANCERS, ASTHMA, EMPHYSEMA, BIRTH DEFECTS, LOW  
3 BIRTH WEIGHT, INFANT AND CHILD MORTALITY, BLOOD LEAD LEVELS,  
4 ENDOCRINE SYSTEM DISRUPTIONS, AND ASBESTOSIS.

5 (M) "HOST COMMUNITY" MEANS THE GEOGRAPHIC UNIT OF GOVERNMENT  
6 POSSESSING ZONING AUTHORITY ENCOMPASSED WITHIN AN AREA SURROUND-  
7 ING EITHER A PROPOSED NEW POLLUTION SOURCE, OR A PROPOSED MODIFI-  
8 CATION TO AN EXISTING POLLUTION SOURCE, THAT WOULD BE EXPOSED TO  
9 POLLUTION.

10 (N) "IMPACT" MEANS ANY IDENTIFIABLE CHANGE IN SOME ELEMENT  
11 OF THE HUMAN OR NATURAL ENVIRONMENT.

12 (O) "MEANINGFUL INFORMATION" MEANS INFORMATION TO WHICH ALL  
13 OF THE FOLLOWING APPLY:

14 (i) THE INFORMATION IS UNDERSTANDABLE TO THOSE WITHOUT A  
15 HIGHER EDUCATION DEGREE.

16 (ii) THE INFORMATION INCLUDES THE CLEAR PRESENTATION OF WHAT  
17 A FACILITY PRODUCES, WHAT POLLUTANTS IT RELEASES, HOW THESE POL-  
18 LUTANTS ARE MANAGED, POLLUTION CONTROL TECHNOLOGY, ALTERNATIVES  
19 TO POLLUTION CONTROL TECHNOLOGY, AND THE POTENTIAL RISK TO THE  
20 POPULATION.

21 (iii) THE PUBLIC HAS REASONABLE ACCESS TO THE INFORMATION,  
22 INCLUDING THE ABILITY TO OBTAIN PERMIT-RELATED DOCUMENTS, RELI-  
23 ABLE STUDIES, AND STAFF ACTIVITY REPORTS SUFFICIENTLY IN ADVANCE  
24 OF PUBLIC HEARINGS TO BE ABLE TO ADEQUATELY REVIEW AND CONSIDER  
25 THE INFORMATION AND TO OBTAIN THE INFORMATION.

26 (P) "MINORITY COMMUNITY" INCLUDES THOSE INDIVIDUALS WHO ARE  
27 MEMBERS OF POPULATION GROUPS RECOGNIZED BY THE FEDERAL OR STATE

1 GOVERNMENT, INCLUDING BUT NOT LIMITED TO NATIVE AMERICAN AND  
2 INDIGENOUS PERSON, ARAB-AMERICAN, ASIAN OR PACIFIC ISLANDER,  
3 AFRICAN-AMERICAN, OR HISPANIC. MINORITY COMMUNITIES EXIST WHERE  
4 THE POPULATION OF MINORITIES WITHIN AN AFFECTED COMMUNITY IS DIS-  
5 PROPORTIONATELY LARGER THAN THE POPULATION OF MINORITIES WITHIN  
6 THE STATE. A MINORITY COMMUNITY MAY BE A GROUP OF INDIVIDUALS  
7 LIVING IN GEOGRAPHIC PROXIMITY TO ONE ANOTHER OR A GEOGRAPHICALLY  
8 DISPERSED OR TRANSIENT SET OF INDIVIDUALS, SUCH AS MIGRANT WORK-  
9 ERS, WHERE EITHER TYPE OF GROUP EXPERIENCES COMMON CONDITIONS OF  
10 ENVIRONMENTAL EXPOSURE OR EFFECT. THE APPROPRIATE UNIT OF GEO-  
11 GRAPHIC ANALYSIS MAY BE A GOVERNING BODY'S JURISDICTION, A NEIGH-  
12 BORHOOD, CENSUS TRACT, OR OTHER SIMILAR UNIT THAT IS TO BE CHOSEN  
13 SO AS TO NOT ARTIFICIALLY DILUTE OR INFLATE THE AFFECTED MINORITY  
14 POPULATION.

15 (Q) "PERMIT" MEANS ANY GOVERNMENTAL AUTHORIZATION TO PROCEED  
16 WITH CONSTRUCTION, MODIFICATION, OR OPERATION OF A FACILITY OR  
17 ACTIVITY REQUIRED BY EITHER STATE LAW OR LOCAL ORDINANCE. PERMIT  
18 DOES NOT MEAN A GOVERNMENTAL AUTHORIZATION TO MODIFY A FACILITY  
19 FOR CLOSURE.

20 (R) "PERMIT REVIEW PROCESS" INCLUDES PREAPPLICATION MEETINGS  
21 BETWEEN DEPARTMENT EMPLOYEES AND A PERSON INTERESTED IN SEEKING A  
22 PERMIT; THE SUBMISSION OF AN APPLICATION; AND PUBLIC HEARINGS,  
23 PRODUCTION OF DEPARTMENT REPORTS, AND A FINAL DECISION ON AN  
24 APPLICATION.

25 (S) "PUBLIC PARTICIPATION PROCESS" MEANS A PROCESS THAT DOES  
26 ALL OF THE FOLLOWING:

1 (i) PROVIDES AN OPPORTUNITY FOR MEANINGFUL PUBLIC INPUT THAT  
2 WILL INFLUENCE DECISIONS ABOUT ACTIONS THAT AFFECT HUMAN LIFE.

3 (ii) COMMUNICATES THE INTERESTS AND MEETS THE PROCESS NEEDS  
4 OF ALL PARTICIPANTS.

5 (iii) SEEKS OUT AND FACILITATES THE INVOLVEMENT OF THOSE  
6 POTENTIALLY AFFECTED.

7 (iv) INVOLVES PARTICIPANTS IN DEFINING HOW THEY  
8 PARTICIPATE.

9 (v) COMMUNICATES TO PARTICIPANTS HOW THEIR INPUT WAS, OR WAS  
10 NOT, UTILIZED.

11 (vi) PROVIDES PARTICIPANTS WITH THE INFORMATION THEY NEED TO  
12 PARTICIPATE.

13 (T) "SIGNIFICANT IMPACT" MEANS ANY IMPACT THAT MAY, INDIVID-  
14 UALLY OR CUMULATIVELY, ADVERSELY AFFECT HUMAN HEALTH OR THE  
15 ENVIRONMENT. SIGNIFICANT IMPACTS CAN RESULT FROM CUMULATIVE  
16 EFFECTS.

17 (U) "SITE" MEANS A LOCATION OF ENVIRONMENTAL CONTAMINATION.  
18 SEC. 1302. THE REQUIREMENTS OF THIS PART APPLY IN ADDITION  
19 TO ANY OTHER REQUIREMENTS OF THIS ACT. IF THERE IS A CONFLICT  
20 BETWEEN A PROVISION OF THIS PART AND A PROVISION OF ANY OTHER  
21 PART OF THIS ACT, THE PROVISION OF THIS PART APPLIES.

22 SEC. 1303. (1) A NOTICE OF A PERMIT APPLICATION FOR ANY  
23 ENVIRONMENTAL PROGRAM IN THIS STATE THAT MAY HAVE A SIGNIFICANT  
24 IMPACT SHOULD INDICATE THE NAME, ADDRESS, AND TELEPHONE NUMBER OF  
25 A DEPARTMENT OFFICIAL TO MAKE THE DECISION, AND ALL OTHER DEPART-  
26 MENT PERSONNEL WHO WILL EVALUATE THE DECISION, WHO HAVE

1 ADDITIONAL INFORMATION ABOUT A PENDING ACTION, OR WHO HOLD  
2 ORIGINAL FILES, APPLICATIONS, CONSENT ORDERS, OR PERMITS.

3 (2) A NOTICE OF SUCH A PERMIT APPLICATION SHALL BE ISSUED IN  
4 WRITING, AND OTHER MEANS MOST APPROPRIATE TO THE HOST COMMUNITY,  
5 IN LANGUAGE UNDERSTANDABLE TO THE AVERAGE PERSON IN THAT COMMUNI-  
6 TY, INCLUDING IN LANGUAGES OTHER THAN ENGLISH IF APPROPRIATE.

7 (3) A NOTICE OF SUCH A PERMIT APPLICATION SHALL BE ISSUED AT  
8 LEAST 60 DAYS IN ADVANCE OF ANY PUBLIC HEARING TO ENSURE THAT THE  
9 PUBLIC HAS AN ADEQUATE OPPORTUNITY TO BECOME INFORMED AND PROVIDE  
10 MEANINGFUL INPUT INTO DECISION MAKING.

11 (4) A NOTICE OF SUCH A PERMIT APPLICATION SHALL BE MADE  
12 AVAILABLE TO THE PUBLIC THROUGH ADVERTISING IN LOCAL NEWSPAPERS,  
13 PUBLIC SERVICE ANNOUNCEMENTS INVOLVING MAJOR SOURCES, DISTRIBU-  
14 TION TO PUBLIC SCHOOLS, PUBLIC HEALTH OFFICES, SENIOR CENTERS,  
15 RELIGIOUS CENTERS, NEIGHBORHOOD ORGANIZATION NEWSLETTERS, LOCAL  
16 CABLE ACCESS, HOSPITALS LOCATED IN A HOST COMMUNITY, AND ENVIRON-  
17 MENTAL ORGANIZATIONS.

18 SEC. 1304. (1) THE DEPARTMENT SHALL HOLD A PUBLIC HEARING  
19 UPON THE WRITTEN REQUEST OF ANY CITIZEN RESIDING IN THE HOST COM-  
20 MUNITY AND WITH RESPECT TO ANY PERMIT APPLICATION THAT RAISES  
21 GENERAL PUBLIC CONCERN OR CONTROVERSY.

22 (2) A PUBLIC HEARING SHALL BE HELD IN THE CITY, VILLAGE, OR  
23 TOWNSHIP OF THE PROPOSED FACILITY OR ACTIVITY AND AS CLOSE TO THE  
24 PROPOSED SITE AS POSSIBLE. THE DEPARTMENT SHALL SEEK TO USE  
25 SCHOOLS OR OTHER LOCAL FACILITIES, INCLUDING RELIGIOUS CENTERS,  
26 CHURCHES, TEMPLES, OR MOSQUES.

1 (3) THE DEPARTMENT SHALL HOLD A PUBLIC HEARING AT A TIME AND  
2 LOCATION THAT WILL ENABLE THE GREATEST NUMBERS OF THE CONCERNED  
3 PUBLIC AND INTERESTED INDIVIDUALS TO ATTEND THE PUBLIC HEARING.  
4 THIS MAY MEAN THAT PUBLIC HEARINGS WILL BE CONVENED IN THE  
5 EVENING.

6 (4) THE DEPARTMENT SHALL MAINTAIN A RECORD SHOWING PUBLIC  
7 HEARING PARTICIPANTS, THEIR ORGANIZATIONAL AFFILIATION, IF APPLI-  
8 CABLE, AND A COMPLETE TEXT OF WRITTEN COMMENTS.

9 (5) DEPARTMENT OFFICIALS CONDUCTING PUBLIC HEARINGS SHALL  
10 ANSWER QUESTIONS OF THE PUBLIC THAT THEY ARE ABLE TO ANSWER ON  
11 ANY ISSUE PERTAINING TO THE APPLICATION. THE DEPARTMENT OFFI-  
12 CIALS SHALL ENCOURAGE AND SOLICIT QUESTIONS FROM DEPARTMENT STAFF  
13 AND STAFF REACTIONS TO PUBLIC INPUT.

14 (6) AT A PUBLIC HEARING, THE OPPORTUNITY FOR PUBLIC COMMENT  
15 SHALL BE DISTRIBUTED EQUITABLY BETWEEN REGULATED PARTIES AND MEM-  
16 BERS OF THE GENERAL PUBLIC.

17 (7) IF THE ENVIRONMENTAL OMBUDSMAN HAS DETERMINED THAT A  
18 PERMIT APPLICATION OR MODIFICATION HAS THE POTENTIAL FOR DISPRO-  
19 PORTIONATELY HIGH AND ADVERSE EFFECTS ON A LOW-INCOME OR MINORITY  
20 COMMUNITY, THE DECISION-MAKER SHALL ATTEMPT TO PROVIDE INFORMA-  
21 TION TO THE POTENTIALLY AFFECTED POPULATION AND TO SEEK INPUT  
22 FROM THIS POPULATION. THE DEPARTMENT SHALL CONTACT LOCAL COMMU-  
23 NITY MEMBERS OR INTEREST GROUPS WITH SPECIFIC INTERESTS IN, OR  
24 UNDERSTANDINGS OF, ENVIRONMENTAL JUSTICE ISSUES FOR ADVICE TO  
25 IDENTIFY POTENTIAL AREAS OF CONCERN AND MITIGATION ACTIONS.



1           SEC. 1305. (1) THE DEPARTMENT SHALL LOG OR RECORD  
2 IMMEDIATELY UPON RECEIPT AND SHALL ACKNOWLEDGE A CITIZEN  
3 COMPLAINT ABOUT POLLUTION OR DEPARTMENT PROCEDURES.

4           (2) THE DEPARTMENT SHALL RESPOND TO A CITIZEN COMPLAINT  
5 ABOUT POLLUTION OR DEPARTMENT PROCEDURES IN A MANNER THAT  
6 REFLECTS A SERIOUS AND MEANINGFUL ATTEMPT TO REACT TO THE ISSUES  
7 PRESENTED BY THE COMPLAINT. THE DEPARTMENT SHALL RESPOND IMMEDI-  
8 ATELY IF POSSIBLE OR BY FOLLOW-UP WITHIN A REASONABLE TIME.

9           (3) THE DEPARTMENT SHALL DETERMINE WHETHER AN APPLICANT HAS  
10 BEEN CITED FOR VIOLATIONS OF ENVIRONMENTAL LAWS OR CONVICTED OF  
11 VIOLATING ENVIRONMENTAL, CONSUMER PROTECTION, ANTITRUST, LABOR,  
12 OR EMPLOYMENT LAWS A PART OF THE PERMIT REVIEW PROCESS. IF AN  
13 APPLICANT HAS BEEN CHARGED OR CONVICTED OF A VIOLATION OF ANY OF  
14 THESE LAWS, THE DEPARTMENT SHALL NOTIFY THE PUBLIC, IN THE STAFF  
15 ACTIVITY REPORT AND AT ANY PUBLIC HEARINGS, AND SHALL NOTIFY THE  
16 GOVERNING BODY AND ZONING COMMISSION, IF ANY, OF THE HOST  
17 COMMUNITY.

18           (4) THE DEPARTMENT SHALL DISCLOSE ANY INFORMATION ON NONCOM-  
19 PLIANCE WITH ENVIRONMENTAL, CONSUMER PROTECTION, ANTITRUST,  
20 LABOR, OR EMPLOYMENT LAWS BY A REGULATED PARTY CANDIDLY TO ANY  
21 COMPLAINANT.

22           (5) THE DEPARTMENT SHALL PROMPTLY INFORM ALL COMPLAINANTS OF  
23 ANY FINAL DECISION BY THE DEPARTMENT ON HOW A COMPLAINT WILL BE  
24 RESOLVED, WHETHER BY ACTION OR INACTION, IMMEDIATELY UPON A  
25 DETERMINATION OF THE CONTESTED ISSUES.

26           (6) THE DEPARTMENT SHALL MAINTAIN A TOLL-FREE TELEPHONE  
27 HOTLINE NUMBER TO RECEIVE COMPLAINTS ABOUT FACILITIES AND

1 REGULATED PARTIES. A LOG OF CALLS SHALL BE MAINTAINED AND  
2 PROVIDED ON A MONTHLY BASIS TO THE ENVIRONMENTAL OMBUDSMAN.

3 (7) THE DEPARTMENT SHALL PUBLISH A SIGNIFICANT VIOLATOR LIST  
4 ACROSS ALL PROGRAMS TO INFORM ALL DEPARTMENT DIVISIONS AND THE  
5 PUBLIC OF CURRENT AND RECENT UNRESOLVED VIOLATIONS.

6 SEC. 1306. (1) THE OFFICE OF ENVIRONMENTAL OMBUDSMAN IS  
7 CREATED WITHIN THE DEPARTMENT AS AN INDEPENDENT OFFICE TO PROVIDE  
8 MEANINGFUL TECHNICAL ASSISTANCE TO HOST COMMUNITIES POTENTIALLY  
9 AFFECTED BY NEW PERMITS AND PERMIT MODIFICATIONS.

10 (2) FUNDING FOR THE OFFICE OF ENVIRONMENTAL OMBUDSMAN SHALL  
11 BE PROVIDED ANNUALLY BY THE LEGISLATURE FOR A PERIOD OF NOT LESS  
12 THAN 10 YEARS.

13 (3) FUNDING FOR THE OFFICE OF ENVIRONMENTAL OMBUDSMAN SHALL  
14 BE SUFFICIENT TO ENABLE THE OFFICE TO DESIGN, DIRECT, AND UNDER-  
15 TAKE PUBLIC OUTREACH AND EDUCATIONAL EVENTS AND TO PERFORM INDE-  
16 PENDENT ENVIRONMENTAL INVESTIGATIONS, ASSESSMENTS, AND KNOWN AND  
17 POTENTIAL RISK SOURCE INVENTORY.

18 (4) THE OMBUDSMAN MAY INSPECT RECORDS MAINTAINED BY THE  
19 DEPARTMENT AND THE DEPARTMENT OF COMMUNITY HEALTH, INCLUDING  
20 INTERNAL REPORTS AND INTERAGENCY CORRESPONDENCE, AND RECORDS  
21 RELATED TO COMPLIANCE AND ENFORCEMENT.

22 (5) THE OMBUDSMAN SHALL REPORT TO THE ENVIRONMENTAL EQUITY  
23 COMMISSION ON A QUARTERLY BASIS.

24 (6) THE OMBUDSMAN SHALL MAINTAIN A LIBRARY CONTAINING ENVI-  
25 RONMENTAL JUSTICE REPORTS PUBLISHED BY THE UNITED STATES ENVIRON-  
26 MENTAL PROTECTION AGENCY, NONPROFIT ORGANIZATIONS, AND STUDIES  
27 PUBLISHED IN PROFESSIONAL PUBLICATIONS, INCLUDING LAW REVIEWS AND

1 HEALTH AND ENVIRONMENTAL JOURNALS. THIS LIBRARY SHALL BE  
2 ACCESSIBLE TO THE PUBLIC.

3 (7) THE DEPARTMENT SHALL PROVIDE THE OMBUDSMAN COPIES OF ALL  
4 PERMIT APPLICATIONS OR MODIFICATIONS. THE OMBUDSMAN SHALL DETER-  
5 MINE WHETHER THE POTENTIALLY AFFECTED COMMUNITY INCLUDES A MINOR-  
6 ITY COMMUNITY OR LOW-INCOME POPULATION. IF SO, THE OMBUDSMAN  
7 SHALL NOTIFY THE DEPARTMENT AND THE DEPARTMENT SHALL PROVIDE  
8 ENHANCED PUBLIC PARTICIPATION.

9 (8) THE DEPARTMENT SHALL PROMPTLY SEND COPIES OF ALL COM-  
10 PLAINTS RECEIVED ABOUT ANY PERMITTED FACILITY TO THE OMBUDSMAN.  
11 THE OMBUDSMAN MAY ALSO RECEIVE COMPLAINTS DIRECTLY FROM THE  
12 PUBLIC AND SHALL SEND COPIES OF SUCH COMPLAINTS TO THE APPROPRI-  
13 ATE DIVISION WITH THE DEPARTMENT. ALL COMPLAINTS RECEIVED IN THE  
14 OMBUDSMAN'S OFFICE SHALL BE ACKNOWLEDGED WITHIN 3 TO 5 DAYS OF  
15 RECEIPT OF THE COMPLAINT. THE ACKNOWLEDGMENT SHALL CONTAIN  
16 INFORMATION ABOUT THE STEPS TO BE FOLLOWED BY THE OMBUDSMAN.

17 (9) THE OMBUDSMAN SHALL ORGANIZE ALL COMPLAINTS BY GEOGRAPH-  
18 ICAL AREA, INCLUDING CENSUS BLOCK AND COUNTY, AND BY POLLUTION  
19 SOURCE. THE OMBUDSMAN SHALL DETERMINE WHETHER COMPLAINTS REGARD-  
20 ING PERMITTED FACILITIES ARE RESPONDED TO BY THE DEPARTMENT IN A  
21 TIMELY AND APPROPRIATE MANNER, AND DETERMINE WHETHER THE FACILI-  
22 TIES THAT ARE THE SUBJECT OF SUCH COMPLAINTS ARE DISPROPORTION-  
23 ATELY LOCATED IN MINORITY COMMUNITIES.

24 SEC. 1307. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS  
25 ACT, THE DEPARTMENT SHALL NOT ISSUE A PERMIT TO A PROPOSED OR  
26 EXISTING POLLUTION SOURCE UNLESS THE DEPARTMENT MAKES A FINDING  
27 THAT ISSUING THE PERMIT WOULD NOT CAUSE A SIGNIFICANT IMPACT.

1 THE DEPARTMENT'S FINDING SHALL BE BASED UPON A DETAILED  
2 ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT OF THE INDIVIDUAL AND  
3 CUMULATIVE IMPACTS OF THE PERMIT. THE DEPARTMENT SHALL PRODUCE  
4 THE RESULTS OF SUCH ANALYSIS IN AN ENVIRONMENTAL AND SOCIAL  
5 IMPACT ASSESSMENT BEFORE THE BEGINNING OF THE PUBLIC COMMENT  
6 PERIOD REQUIRED BY LAW.

7 (2) THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENTS SHALL BE  
8 CONDUCTED TO DETERMINE POTENTIAL EFFECTS ON THE AFFECTED COMMU-  
9 NITY AND EXPOSURE PATHWAYS, INCLUDING BUT NOT LIMITED TO DERMAL,  
10 INGESTION, INHALATION, AND EXISTING BODY BURDEN. THE DEPARTMENT  
11 SHALL OVERLAY THIS INFORMATION WITH INFORMATION OBTAINED FROM  
12 LOCATIONAL ANALYSES USING GEOGRAPHIC INFORMATION SYSTEM AND  
13 CENSUS DATA TO IDENTIFY MINORITY COMMUNITIES OR LOW-INCOME POPU-  
14 LATIONS THAT ARE LOCATED WITHIN THE IDENTIFIED EXPOSURE  
15 PATHWAYS. OTHER INFORMATION WHICH MAY BE USED INCLUDES THE  
16 NATIONAL HUMAN EXPOSURE ASSESSMENT SURVEY, NATIONAL HEALTH AND  
17 NUTRITION EXAMINATION SURVEY III, ENVIRONMENTAL DATA FROM AIR  
18 MONITORING SYSTEMS, AND THE TOXIC RELEASE INVENTORY DATABASE.

19 (3) EACH ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT SHALL  
20 CONTAIN ALL OF THE FOLLOWING:

21 (A) A DESCRIPTION OF THE POTENTIAL IMPACT OF THE ACTION ON  
22 THE ENVIRONMENT, INCLUDING ANY ASSOCIATED IMPACTS ON HUMAN LIFE.

23 (B) A DESCRIPTION OF THE PROBABLE, UNAVOIDABLE ADVERSE  
24 IMPACTS OF THE ACTION, INCLUDING BUT NOT LIMITED TO AIR OR WATER  
25 POLLUTION, THREATS TO HUMAN HEALTH, OR OTHER ADVERSE EFFECTS ON  
26 HUMAN LIFE.

1 (C) A DESCRIPTION OF OTHER SITES OF KNOWN OR POTENTIAL  
2 ENVIRONMENTAL RISK IN THE HOST COMMUNITY WITHIN A 3-MILE RADIUS.

3 (D) A DESCRIPTION OF ANY VULNERABLE POPULATIONS IN THE  
4 AFFECTED COMMUNITY, INCLUDING BUT NOT LIMITED TO CHILDREN WITH  
5 ELEVATED BLOOD-LEAD LEVELS, THE ELDERLY, AND LOW-INCOME  
6 POPULATIONS.

7 (E) A DESCRIPTION OF WHETHER THE HOST SITE OR AFFECTED COM-  
8 MUNITY IS PREDOMINANTLY RESIDENTIAL AND WHETHER PUBLIC OR PRIVATE  
9 SCHOOLS, RECREATIONAL FACILITIES, NURSING HOMES, HEALTH CARE  
10 FACILITIES, PUBLIC HOUSING, DAY-CARE FACILITIES, LIBRARIES, OR  
11 HOSPITALS ARE LOCATED WITHIN 3 MILES OF THE PROPOSED SITE.

12 (F) A DESCRIPTION OF THE NUMBER OF JOBS EXPECTED TO BE CRE-  
13 ATED BY CONSTRUCTION AND OPERATION OF THE PROPOSED SITE AND THE  
14 FACTS SUPPORTING SUCH AN ASSESSMENT; THE PERCENTAGE OF FULL-TIME  
15 AND PART-TIME JOBS; OCCUPATIONAL CATEGORIES; THE PAY SCALE FOR  
16 SUCH JOBS; THE PERCENT OF THE WORK FORCE FOR SUCH JOBS THAT WOULD  
17 BE PAID MINIMUM WAGE; AND THE PERCENT OF THOSE EXPECTED TO BE  
18 HIRED FOR SUCH JOBS FROM THE HOST COMMUNITY.

19 (G) A DESCRIPTION OF WHETHER THE PROPOSED SITE IS IN A HOST  
20 COMMUNITY IN WHICH THE PERCENTAGE OF INDIVIDUALS WHO BELONG TO A  
21 RACIAL MINORITY GROUP IS GREATER THAN IN THE COUNTY OR THE  
22 STATE.

23 (H) THE AGE OF THE POPULATION OF THE HOST COMMUNITY RELATIVE  
24 TO THE COUNTY AND STATE ACCORDING TO THE MOST RECENT U.S. CENSUS  
25 BUREAU REPORTS.

26 (I) A DESCRIPTION OF STATE OR CITY TAX ABATEMENTS OR  
27 SUBSIDIES RECEIVED BY THE APPLICANT, INCLUDING BUT NOT LIMITED TO

1 LOANS, INDUSTRIAL DEVELOPMENT BONDS, AND FUNDS OBTAINED FROM THE  
2 MICHIGAN STRATEGIC FUND. THIS DESCRIPTION SHALL INCLUDE A SUM-  
3 MARY OF THE TOTAL COST TO THE TAXPAYERS OF THE PROPOSED  
4 FACILITY.

5 (J) AN EVALUATION OF WHETHER THE APPLICANT HAS EVER BEEN  
6 CITED FOR OR CONVICTED OF A VIOLATION OF ENVIRONMENTAL, ANTI-  
7 TRUST, CONSUMER PROTECTION, ELECTION, EMPLOYMENT, OR LABOR LAWS.

8 (K) AN EVALUATION OF ALTERNATIVES TO THE PROPOSED ACTION  
9 THAT MIGHT AVOID SOME OR ALL OF THE ADVERSE IMPACTS, INCLUDING AN  
10 EXPLANATION OF WHY EACH ALTERNATIVE WAS NOT SELECTED AND WHY THE  
11 DEPARTMENT DETERMINED TO PURSUE THE ACTION IN ITS CONTEMPLATED  
12 FORM.

13 (L) THE POSSIBLE MODIFICATIONS TO THE PROJECT OR MITIGATION  
14 MEASURES THAT WOULD ELIMINATE OR MINIMIZE ADVERSE IMPACTS,  
15 INCLUDING A DISCUSSION OF THE ADDITIONAL COSTS INVOLVED IN SUCH  
16 MODIFICATIONS OR MITIGATION MEASURES.

17 (4) UPON COMPLETION OF THE ENVIRONMENTAL AND SOCIAL IMPACT  
18 ASSESSMENT, THE DEPARTMENT SHALL MAKE THE ASSESSMENT PART OF THE  
19 OFFICIAL RECORD OF THE APPLICANT. THE DEPARTMENT SHALL PROVIDE  
20 COPIES OF THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT TO THE  
21 PUBLIC AT ANY PUBLIC HEARINGS, TO THE ENVIRONMENTAL EQUITY AND  
22 JUSTICE COMMISSION, TO APPROPRIATE LOCAL AGENCIES, TO PUBLIC AND  
23 PRIVATE ORGANIZATIONS, AND, UPON REQUEST, TO CITIZENS FOR THEIR  
24 REVIEW AND COMMENT.

25 (5) THE DEPARTMENT SHALL PROVIDE A FORUM FOR PUBLIC COMMENTS  
26 ON ANY ACTION THAT MAY RESULT IN POTENTIAL IMPAIRMENT OR

1 DESTRUCTION TO HUMAN HEALTH OR THE ENVIRONMENT IF IT DETERMINES  
2 THAT THE PUBLIC HAS NOT HAD SUFFICIENT OPPORTUNITY TO BE HEARD.  
3 SEC. 1308. (1) SUBJECT TO SUBSECTIONS (4) AND (5), THE  
4 DEPARTMENT AND ANY OTHER GOVERNMENTAL ENTITY WITH PERMITTING OR  
5 ZONING AUTHORITY CONCERNING A FACILITY SHALL OPERATE UNDER THE  
6 PRESUMPTIONS IN SUBSECTIONS (2) AND (3).

7 (2) THERE IS A REBUTTABLE PRESUMPTION AGAINST PERMITTING THE  
8 CONSTRUCTION, MODIFICATION, OR OPERATION OF ANY POLLUTION SOURCE  
9 IF BOTH OF THE FOLLOWING APPLY:

10 (A) THE POLLUTION SOURCE WOULD HAVE A SIGNIFICANT IMPACT.

11 (B) THERE ARE ALREADY DISPROPORTIONATELY HIGH AND ADVERSE  
12 EFFECTS TO MINORITY COMMUNITIES OR LOW-INCOME POPULATIONS IN THE  
13 HOST COMMUNITY.

14 (3) THERE IS A REBUTTABLE PRESUMPTION AGAINST PERMITTING THE  
15 CONSTRUCTION, MODIFICATION, OR OPERATION OF ANY POLLUTION SOURCE  
16 IF BOTH OF THE FOLLOWING APPLY:

17 (A) THE POLLUTION SOURCE WOULD HAVE A SIGNIFICANT IMPACT.

18 (B) THE PROSPECTIVE SITE OR THE MODIFICATION TO AN EXISTING  
19 SITE WILL IMPACT A COMMUNITY NOT WITHIN THE JURISDICTION OF THE  
20 LOCAL ZONING AUTHORITY.

21 (4) THE PRESUMPTION IN SUBSECTION (2) MAY BE REBUTTED IF 1  
22 OR MORE OF THE FOLLOWING APPLY:

23 (A) NO OTHER SUITABLE SITE FOR SUCH A FACILITY IS AVAILABLE  
24 IN THE COUNTY BECAUSE OF AQUIFER VULNERABILITY, SENSITIVE ENVI-  
25 RONMENTAL ATTRIBUTES, OR CONCENTRATIONS OF POLLUTING FACILITIES.

1 (B) THE HOST COMMUNITY HAS CHOSEN TO ACCEPT THE SITING OF  
2 THE FACILITY BECAUSE OF INCENTIVES SUCH AS 1 OR MORE OF THE  
3 FOLLOWING:

4 (i) INCREASED EMPLOYMENT OPPORTUNITIES FOR THOSE RESIDING IN  
5 THE AFFECTED COMMUNITY.

6 (ii) REASONABLE HOST FEES NOT TO EXCEED PREVAILING STATE  
7 AVERAGE.

8 (iii) CONTRIBUTIONS BY THE FACILITY TO THE COMMUNITY INFRA-  
9 STRUCTURE, SUCH AS ROAD MAINTENANCE OR PARK DEVELOPMENT.

10 (iv) COMPENSATION TO ADJACENT INDIVIDUAL LANDOWNERS FOR ANY  
11 DECREASE IN PROPERTY VALUES.

12 (v) SUBSIDIZATION OF COMMUNITY SERVICES.

13 (5) THE PRESUMPTION IN SUBSECTION (2) OR (3) MAY BE REBUTTED  
14 IF THE DEPARTMENT AGREES TO REQUIRE OR UNDERTAKE MITIGATION MEA-  
15 SURES IN CONSULTATION WITH THE AFFECTED COMMUNITY. MITIGATION  
16 MEASURES MAY INCLUDE A VARIETY OF APPROACHES FOR ADDRESSING  
17 POTENTIAL EFFECTS AND BALANCING THE NEEDS AND CONCERNS OF THE  
18 AFFECTED COMMUNITY WITH THE REQUIREMENTS OF THE ACTION OR ACTIVI-  
19 TY, SUCH AS 1 OR MORE OF THE FOLLOWING:

20 (A) REDUCING POLLUTANT LOADINGS THROUGH CHANGES IN PROCESSES  
21 OR TECHNOLOGIES.

22 (B) REDUCING OR ELIMINATING OTHER SOURCES OF POLLUTANTS OR  
23 IMPACTS TO REDUCE CUMULATIVE IMPACTS.

24 (C) PLANNING FOR AND ADDRESSING INDIRECT IMPACTS BEFORE  
25 PROJECT INITIATION, SUCH AS PLANNING FOR ALTERNATIVE PUBLIC  
26 TRANSPORTATION IF THE PROJECT MAY RESULT IN INCREASED POPULATION  
27 GROWTH.



1 (D) PROVIDING ASSISTANCE TO AN AFFECTED COMMUNITY TO ENSURE  
2 THAT IT RECEIVES AT LEAST ITS PROPORTIONAL SHARE OF THE ANTICI-  
3 PATED BENEFITS OF THE PROPOSED ACTION, SUCH AS THROUGH JOB TRAIN-  
4 ING OR COMMUNITY INFRASTRUCTURE IMPROVEMENTS.

5 (E) RELOCATING AFFECTED COMMUNITIES UPON REQUEST OR WITH  
6 CONCURRENCE FROM THE AFFECTED INDIVIDUALS.

7 (F) ESTABLISHING A COMMUNITY OVERSIGHT COMMITTEE TO MONITOR  
8 PROGRESS AND IDENTIFY POTENTIAL COMMUNITY CONCERNS.

9 (G) CHANGING THE TIMING OF AN IMPACT, SUCH AS NOISE OR POL-  
10 LUTANT LOADINGS, TO REDUCE EFFECTS ON MINORITY COMMUNITIES OR  
11 LOW-INCOME POPULATIONS.

12 (H) CONDUCTING MEDICAL MONITORING ON AFFECTED COMMUNITIES  
13 AND PROVIDING TREATMENT OR OTHER RESPONSES IF NECESSARY.

14 (6) THE DEPARTMENT SHALL NOT ISSUE A PERMIT FOR A HAZARDOUS  
15 WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITY, SOLID WASTE DIS-  
16 POSAL AREA, OR MAJOR SOURCE TO LOCATE WITHIN 5,000 FEET OF ANY  
17 RESIDENTIAL PROPERTY, DAY-CARE PROPERTY, CHURCH PROPERTY, SCHOOL  
18 PROPERTY, OR PARK PROPERTY.

19 (7) THE DEPARTMENT SHALL ASSIST COMMUNITIES TO ENTER INTO  
20 CLAWBACK AGREEMENTS WITH THE OPERATORS OF ANY NEW FACILITY. IF A  
21 LOCAL UNIT OF GOVERNMENT DECIDES TO OFFER INCENTIVES TO THE OPER-  
22 ATORS OF A FACILITY TO LOCATE IN THE COMMUNITY IN EXCHANGE FOR  
23 PROMISES OF ECONOMIC DEVELOPMENT AND INCREASED EMPLOYMENT, THE  
24 LOCAL UNIT OF GOVERNMENT AND THE FACILITY MAY ENTER A CLAWBACK  
25 AGREEMENT.

26 SEC. 1309. (1) A PERSON SEEKING TO ENFORCE THIS PART MAY  
27 SUE EITHER FOR SUCH PERSON OR FOR OTHER PERSONS SIMILARLY

1 SITUATED, OR BOTH, IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH  
2 THE VIOLATION IS ALLEGED TO HAVE OCCURRED.

3 (2) THE RIGHTS AND REMEDIES PROVIDED BY THIS PART ARE IN  
4 ADDITION TO, AND NOT IN LIEU OF, ANY OTHER STATUTORY RIGHTS AND  
5 REMEDIES, AND ARE NOT INTENDED TO ALTER OR AFFECT OTHER STATUTORY  
6 RIGHTS AND REMEDIES.

7 (3) A PERSON SEEKING TO ENFORCE THIS PART MUST BRING AN  
8 ACTION WITHIN 3 YEARS OF THE TIME FOLLOWING A DECISION TO GRANT A  
9 PERMIT.

10 (4) IN A SUIT UNDER THIS PART, THE COURT, IN ITS DISCRETION,  
11 SHALL ALLOW THE PREVAILING PLAINTIFFS AN AWARD OF COSTS, INCLUD-  
12 ING REASONABLE ATTORNEY FEES.

13 SEC. 1310. THIS PART APPLIES TO PERMITS ISSUED NOT LESS  
14 THAN 120 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.