

**SUBSTITUTE FOR
HOUSE BILL NO. 4651**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 5501 (MCL 324.5501), as amended by 1998 PA
245, and by adding section 5503a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 5501. 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 atmo-
5 sphere 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,
8 to plant life, or to property, or that interfere with the
9 enjoyment of life and property in this state, and excludes all
10 aspects of employer-employee relationships as to health and

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1 safety hazards. With respect to any mode of transportation,
2 nothing in this part or in the rules promulgated under this part
3 shall be inconsistent with the federal regulations, emission
4 limits, standards, or requirements on various modes of
5 transportation. Air pollution does not mean those usual and
6 ordinary odors associated with a farm operation if the person
7 engaged in the farm operation is following generally accepted
8 agricultural and management practices.

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

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

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

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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. 322, 42
4 U.S.C. 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,
7 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to
8 7661f, and 7671 to 7671q, and regulations promulgated under the
9 clean air act.

10 (h) "Emission" means the emission of an air contaminant.

11 (i) "Farm operation" has the meaning ascribed to it in the
12 Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

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

22 (k) "Fee-subject facility" means the following sources:

23 (i) Any major source as defined in 40 C.F.R. 70.2.

24 (ii) Any source, including an area source, subject to a
25 standard, limitation, or other requirement under section 111 of
26 part A of title I of the clean air act, chapter 360,

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1 84 Stat. 1683, 42 U.S.C. 7411, when the standard, limitation, or
2 other requirement becomes applicable to that source.

3 (iii) Any source, including an area source, subject to a
4 standard, limitation, or other requirement under section 112 of
5 part A of title I of the clean air act, 84 Stat. 1685,
6 42 U.S.C. 7412, when the standard, limitation, or other require-
7 ment becomes applicable to that source. However, a source is not
8 a fee-subject facility solely because it is subject to a regula-
9 tion, limitation, or requirement under section 112(r) of part A
10 of title I of the clean air act, chapter 360, 84 Stat. 1685, 42
11 U.S.C. 7412.

12 (iv) Any affected source under title IV.

13 (v) Any other source in a source category designated by the
14 administrator of the United States environmental protection
15 agency as required to obtain an operating permit under title V,
16 when the standard, limitation, or other requirement becomes
17 applicable to that source.

18 (l) "Fund" means the emissions control fund created in
19 section 5521.

20 (m) "General permit" means a permit to install, permit to
21 operate authorized pursuant to rules promulgated under
22 section 5505(6), or an operating permit under section 5506, for a
23 category of similar sources, processes, or process equipment.
24 General provisions for issuance of general permits shall be pro-
25 vided for by rule.

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1 (n) "Generally accepted agricultural and management
2 practices" has the meaning ascribed to it in the Michigan right
3 to farm act, 1981 PA 93, MCL 286.471 to 286.474.

4 (O) "GREENHOUSE GASES" MEANS THE GASES LISTED AS GREENHOUSE
5 GASES IN ANNEX A TO THE KYOTO PROTOCOL.

6 (P) "KYOTO PROTOCOL" MEANS THE KYOTO PROTOCOL TO THE UNITED
7 NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE, CONFERENCE OF THE
8 PARTIES, 3D SESS., DECISION 1/CP.3, FCCC/CP/1997/7/ADD.1, AT 7
9 (MARCH 18, 1998).

10 (Q) ~~(o)~~ "Major emitting facility" means a stationary
11 source that emits 100 tons or more per year of any of the
12 following:

13 (i) Particulates.

14 (ii) Sulfur dioxides.

15 (iii) Volatile organic compounds.

16 (iv) Oxides of nitrogen.

17 (R) ~~(p)~~ "Process" means an action, operation, or a series
18 of actions or operations at a source that emits or has the poten-
19 tial to emit an air contaminant.

20 (S) ~~(q)~~ "Process equipment" means all equipment, devices,
21 and auxiliary components, including air pollution control equip-
22 ment, stacks, and other emission points, used in a process.

23 (T) ~~(r)~~ "Responsible official" means for the purposes of
24 signing and certifying as to the truth, accuracy, and complete-
25 ness of permit applications, monitoring reports, and compliance
26 certifications any of the following:

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1 (i) For a corporation: a president, secretary, treasurer,
2 or vice-president in charge of a principal business function, or
3 any other person who performs similar policy or decision making
4 functions for the corporation, or an authorized representative of
5 that person if the representative is responsible for the overall
6 operation of 1 or more manufacturing, production, or operating
7 facilities applying for or subject to a permit under this part
8 and either the facilities employ more than 250 persons or have
9 annual sales or expenditures exceeding \$25,000,000.00, or if the
10 delegation of authority to the representative is approved in
11 advance by the department.

12 (ii) For a partnership or sole proprietorship: a general
13 partner or the proprietor.

14 (iii) For a county or municipality or a state, federal, or
15 other public agency: a principal executive officer or ranking
16 elected official. For this purpose, a principal executive offi-
17 cer of a federal agency includes the chief executive officer
18 having responsibility for the overall operations of a principal
19 geographic unit of the agency.

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

24 (U) ~~(s)~~ "Schedule of compliance" means, for a source not
25 in compliance with all applicable requirements of this part,
26 rules promulgated under this part, and the clean air act at the
27 time of issuance of an operating permit, a schedule of remedial

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1 measures including an enforceable sequence of actions or
2 operations leading to compliance with an applicable requirement
3 and a schedule for submission of certified progress reports at
4 least every 6 months. Schedule of compliance means, for a source
5 in compliance with all applicable requirements of this part,
6 rules promulgated under this part, and the clean air act at the
7 time of issuance of an operating permit, a statement that the
8 source will continue to comply with these requirements. With
9 respect to any applicable requirement of this part, rules promul-
10 gated under this part, and the clean air act effective after the
11 date of issuance of an operating permit, the schedule of compli-
12 ance shall contain a statement that the source will meet the
13 requirements on a timely basis, unless the underlying applicable
14 requirement requires a more detailed schedule.

15 (V) ~~(t)~~ "Source" means a stationary source as defined in
16 section 302(z) of title III of the clean air act, 77 Stat. 400,
17 42 U.S.C. 7602, and has the same meaning as stationary source
18 when used in comparable or applicable circumstances under the
19 clean air act. A source includes all the processes and process
20 equipment under common control that are located within a contigu-
21 ous area, or a smaller group of processes and process equipment
22 as requested by the owner or operator of the source, if in
23 accordance with the clean air act.

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

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

3 SEC. 5503A. (1) SUBJECT TO SUBSECTIONS (2) AND (3), THE
4 DEPARTMENT SHALL NOT DO ANY OF THE FOLLOWING:

5 (A) PROPOSE OR PROMULGATE A RULE INTENDED IN WHOLE OR PART
6 TO REDUCE EMISSIONS OF GREENHOUSE GASES PURSUANT TO THE KYOTO
7 PROTOCOL, UNLESS THE LEGISLATURE HAS ENACTED SPECIFIC ENABLING
8 LEGISLATION FOR SUCH A RULE.

9 (B) EXPEND FUNDS TO REDUCE EMISSIONS OF GREENHOUSE GASES
10 PURSUANT TO THE KYOTO PROTOCOL OR DESIGN POLICIES OR PROGRAMS TO
11 REDUCE EMISSIONS OF GREENHOUSE GASES PURSUANT TO THE KYOTO
12 PROTOCOL.

13 (C) SUBMIT TO THE UNITED STATES ENVIRONMENTAL PROTECTION
14 AGENCY OR ANY OTHER AGENCY OF THE FEDERAL GOVERNMENT ANY LEGALLY
15 ENFORCEABLE COMMITMENTS RELATED TO THE REDUCTION OF EMISSIONS OF
16 GREENHOUSE GASES PURSUANT TO THE KYOTO PROTOCOL.

17 (2) SUBSECTION (1) DOES NOT APPLY IF THE UNITED STATES
18 SENATE RATIFIES THE KYOTO PROTOCOL AND FEDERAL LEGISLATION IS
19 ENACTED IMPLEMENTING THE KYOTO PROTOCOL.

20 (3) SUBSECTION (1) DOES NOT PROHIBIT THE DEPARTMENT FROM
21 DOING ANY OF THE FOLLOWING:

22 (A) ENCOURAGING ENERGY EFFICIENCY.

23 (B) ENCOURAGING THE DEVELOPMENT OF RENEWABLE ENERGY
24 SOURCES.

25 (C) ENFORCING THIS PART OR PROPOSING, PROMULGATING, OR
26 ENFORCING RULES TO IMPLEMENT THIS PART OR THE CLEAN AIR ACT.