

HOUSE BILL No. 6582

December 1, 2010, Introduced by Reps. Geiss and Mayes and referred to the Committee on Energy and Technology.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding sections 62715, 62717, 62719,
62721, 62723, 62725, 62727, 62729, 62731, 62733, 62735, 62737,
62739, 62741, 62743, and 62745.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 62715. (1) A SEQUESTRATION PROJECT OWNER SHALL MAINTAIN
2 FINANCIAL ASSURANCE DURING THE SEQUESTRATION OPERATION AND UNTIL
3 THE DEPARTMENT ISSUES A CERTIFICATE OF COMPLETION OF THE
4 SEQUESTRATION OPERATION UNDER SECTION 62729.

5 (2) THE FINANCIAL ASSURANCE REQUIRED UNDER SUBSECTION (1)
6 SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

7 (A) APPLY TO ALL SEQUESTRATION OPERATIONS SUBJECT TO THE
8 SEQUESTRATION ORDER.

1 (B) BE IN AN AMOUNT DETERMINED BY THE DEPARTMENT TO BE
2 SUFFICIENT TO COVER THE COST TO ADMINISTER CLOSURE OF THE
3 SEQUESTRATION PROJECT, AND TO HIRE A THIRD PARTY TO REMOVE SURFACE
4 BUILDINGS AND EQUIPMENT UTILIZED IN GEOLOGIC SEQUESTRATION, TO
5 CONDUCT POSTCLOSURE MONITORING, AND TO IMPLEMENT NECESSARY
6 ENVIRONMENTAL PROTECTION MEASURES, INCLUDING ANY NECESSARY
7 REMEDIATION OF CONTAMINATION OF THE SOIL, SURFACE WATER, OR
8 GROUNDWATER CAUSED BY THE SEQUESTRATION OPERATION THAT IS IN
9 VIOLATION OF THE SEQUESTRATION ORDER.

10 (C) CONSIST OF ESCROW, CASH, CERTIFICATE OF DEPOSIT,
11 IRREVOCABLE LETTER OF CREDIT, SURETY BOND, OR ANY COMBINATION
12 THEREOF; OR ANY OTHER METHOD SATISFACTORY TO THE DEPARTMENT.

13 (3) EVERY 3 YEARS, OR AS THE DEPARTMENT CONSIDERS NECESSARY, A
14 SEQUESTRATION PROJECT OWNER SHALL ADJUST THE AMOUNT OF FINANCIAL
15 ASSURANCE AS DETERMINED BY THE DEPARTMENT TO ENSURE THAT IT IS
16 SUFFICIENT FOR THE PURPOSES OF SUBSECTION (2) (B) .

17 (4) IF THE SEQUESTRATION PROJECT OWNER FAILS TO MAINTAIN
18 FINANCIAL ASSURANCE REQUIRED UNDER THIS SECTION, THE DEPARTMENT MAY
19 ORDER IMMEDIATE SUSPENSION OF THE SEQUESTRATION OPERATION.

20 (5) THE DEPARTMENT SHALL WAIVE FINANCIAL ASSURANCE OTHERWISE
21 REQUIRED UNDER THIS PART TO THE EXTENT IT DUPLICATES FINANCIAL
22 ASSURANCE REQUIRED BY ANY FEDERAL AGENCY.

23 SEC. 62717. (1) BEFORE BEGINNING THE SEQUESTRATION OPERATION,
24 A SEQUESTRATION PROJECT OWNER SHALL RECORD A CERTIFIED COPY OF THE
25 SEQUESTRATION ORDER WITH THE REGISTER OF DEEDS OF THE COUNTY OR
26 COUNTIES IN WHICH THE SEQUESTRATION PROJECT IS TO BE LOCATED.

27 (2) THE SEQUESTRATION PROJECT OWNER SHALL NOTIFY THE

1 DEPARTMENT AT LEAST 30 DAYS BEFORE BEGINNING A SEQUESTRATION
2 OPERATION, AND 5 BUSINESS DAYS BEFORE ACTUAL GEOLOGIC SEQUESTRATION
3 BEGINS.

4 SEC. 62719. (1) A SEQUESTRATION ORDER MAY BE AMENDED TO NAME A
5 NEW SEQUESTRATION PROJECT OWNER WITH APPROVAL OF THE DEPARTMENT AS
6 FOLLOWS:

7 (A) THE PERSON REQUESTING TO BE THE NEW SEQUESTRATION PROJECT
8 OWNER SHALL SUBMIT TO THE DEPARTMENT ON FORMS PROVIDED BY THE
9 DEPARTMENT A REQUEST TO CHANGE THE SEQUESTRATION ORDER AND SHALL
10 PROVIDE THE FINANCIAL ASSURANCE REQUIRED UNDER SECTION 62715.

11 (B) THE PERSON REQUESTING TO BE THE NEW SEQUESTRATION PROJECT
12 OWNER SHALL ACCEPT THE CONDITIONS OF THE EXISTING SEQUESTRATION
13 ORDER AND ADHERE TO THE REQUIREMENTS SET FORTH IN THIS PART.

14 (C) IF THE CURRENT SEQUESTRATION PROJECT OWNER IS DETERMINED
15 BY THE DEPARTMENT TO BE IN VIOLATION OF THIS PART OR THE RULES
16 PROMULGATED UNDER THIS PART AT THE SEQUESTRATION PROJECT INVOLVED
17 IN THE TRANSFER, THEN THE SEQUESTRATION OPERATION SHALL NOT BE
18 CONDUCTED BY THE PERSON REQUESTING TO BE THE NEW SEQUESTRATION
19 PROJECT OWNER UNTIL THE CURRENT SEQUESTRATION PROJECT OWNER HAS
20 COMPLETED THE NECESSARY CORRECTIVE ACTIONS OR THE PERSON REQUESTING
21 TO BE THE NEW SEQUESTRATION PROJECT OWNER HAS ENTERED INTO A
22 WRITTEN CONSENT AGREEMENT WITH THE DEPARTMENT TO CORRECT ALL OF THE
23 VIOLATIONS.

24 (2) PENDING THE NAMING OF A NEW SEQUESTRATION PROJECT OWNER
25 UNDER SUBSECTION (1), THE CURRENT SEQUESTRATION PROJECT OWNER
26 REMAINS RESPONSIBLE FOR THE SEQUESTRATION OPERATION.

27 (3) A SEQUESTRATION ORDER MAY BE AMENDED, FOR PURPOSES OTHER

1 THAN NAMING A NEW SEQUESTRATION PROJECT OWNER, AS FOLLOWS:

2 (A) THE SEQUESTRATION PROJECT OWNER MAY SUBMIT TO THE
3 DEPARTMENT A REQUEST TO AMEND THE SEQUESTRATION ORDER TO ADDRESS
4 ANTICIPATED CHANGES IN THE SEQUESTRATION PROJECT.

5 (B) THE DEPARTMENT MAY REQUIRE A SEQUESTRATION ORDER TO BE
6 AMENDED IF THE DEPARTMENT DETERMINES THAT THE SEQUESTRATION PROJECT
7 OR SEQUESTRATION OPERATION DOES NOT SUPPORT THE FINDINGS MADE FOR
8 THE SEQUESTRATION PROJECT PURSUANT TO SECTION 62713(1)(C), (D), OR
9 (E), OR THAT THE SEQUESTRATION OPERATION IS NOT ADEQUATELY
10 ACHIEVING GEOLOGIC SEQUESTRATION.

11 (C) WITHIN 30 DAYS AFTER RECEIVING A REQUEST TO AMEND A
12 SEQUESTRATION ORDER, OR UPON A DETERMINATION BY THE DEPARTMENT
13 UNDER SUBDIVISION (B), THE DEPARTMENT SHALL DETERMINE WHETHER THE
14 AMENDMENT WOULD CONSTITUTE A SIGNIFICANT SUBSTANTIVE CHANGE FROM
15 THE CONDITIONS OF THE APPROVED SEQUESTRATION ORDER.

16 (D) IF THE DEPARTMENT DETERMINES THAT THE AMENDMENT WOULD
17 CONSTITUTE A SIGNIFICANT SUBSTANTIVE CHANGE, THEN NOTICE SHALL BE
18 GIVEN AND AN EVIDENTIARY HEARING ON THE PROPOSED AMENDMENT
19 CONDUCTED IN THE SAME MANNER AS PROVIDED UNDER SECTION 62711.

20 (E) IF THE DEPARTMENT DETERMINES THAT THE REQUEST FOR
21 AMENDMENT DOES NOT CONSTITUTE A SIGNIFICANT SUBSTANTIVE CHANGE FROM
22 THE CONDITIONS OF THE APPROVED SEQUESTRATION ORDER, THE DEPARTMENT
23 SHALL PROVIDE WRITTEN NOTICE OF THE DETERMINATION TO THE COUNTY AND
24 TO THE CITY OR TOWNSHIP AND, IF APPLICABLE, VILLAGE WHERE THE
25 SEQUESTRATION PROJECT IS LOCATED. THE DEPARTMENT SHALL ALSO GIVE
26 NOTICE OF THE DETERMINATION BY PUBLICATION IN A NEWSPAPER OF
27 GENERAL CIRCULATION IN THE COUNTY OR COUNTIES WHERE THE

1 SEQUESTRATION PROJECT IS LOCATED. THE DEPARTMENT SHALL ISSUE A
2 DECISION ON THE AMENDMENT NOT MORE THAN 14 DAYS AFTER PUBLICATION
3 OF THE NOTICE AND SHALL NOTIFY THE SEQUESTRATION PROJECT OWNER OF
4 THE DECISION.

5 (4) THE DEPARTMENT SHALL APPROVE AN AMENDED SEQUESTRATION
6 ORDER IF THE DEPARTMENT DETERMINES THAT THE AMENDMENTS MEET THE
7 REQUIREMENTS OF SECTION 62713(1) WITH RESPECT TO THE UNDERLYING
8 SEQUESTRATION ORDER.

9 (5) IF THE DEPARTMENT DENIES A REQUEST TO AMEND A
10 SEQUESTRATION ORDER UNDER SUBSECTION (1) OR (2), THE DEPARTMENT
11 SHALL STATE THE REASONS FOR DENIAL IN AN ORDER PROVIDED TO THE
12 SEQUESTRATION PROJECT OWNER.

13 SEC. 62721. (1) A PERSON WHO OWNS OR HAS AN OWNERSHIP INTEREST IN
14 PORE SPACE OR OIL, GAS, OR MINERALS MAY FILE A PETITION ASSERTING THAT
15 CARBON DIOXIDE INJECTED PURSUANT TO A SEQUESTRATION ORDER HAS MIGRATED
16 OUT OF THE PREDICTED CARBON DIOXIDE PLUME AREA TO OCCUPY PORE SPACE IN
17 THE PERSON'S SUBSURFACE PROPERTY AND REQUESTING THAT THE SEQUESTRATION
18 ORDER BE AMENDED TO EXPAND THE LEGAL DESCRIPTION OF THE LANDS
19 COMPRISING THE CARBON DIOXIDE PLUME AREA AND THE BUFFER ZONE TO
20 INCLUDE THE PETITIONER'S LANDS.

21 (2) THE DEPARTMENT SHALL DETERMINE WHETHER THE PETITION IS
22 ADMINISTRATIVELY COMPLETE, SUBJECT TO SECTION 62707(6) AND (7). IF THE
23 PETITION IS ADMINISTRATIVELY COMPLETE, NOT MORE THAN 30 DAYS AFTER
24 RECEIPT OF THE PETITION, THE DEPARTMENT SHALL DETERMINE IF THERE IS A
25 REASONABLE BASIS FOR THE PETITION AND SHALL NOTIFY THE PETITIONER IN
26 WRITING OF ITS DETERMINATION. IF THERE IS A REASONABLE BASIS FOR THE
27 PETITION, THE DEPARTMENT SHALL GRANT THE PETITIONER AN EVIDENTIARY

1 HEARING ON THE ISSUE. OTHERWISE, THE DEPARTMENT SHALL DENY THE
2 PETITION.

3 (3) AN EVIDENTIARY HEARING UNDER SUBSECTION (2) SHALL BE HELD NOT
4 MORE THAN 90 DAYS AFTER THE PETITION IS GRANTED. THE DEPARTMENT SHALL
5 PROVIDE FOR A NOTICE OF THE EVIDENTIARY HEARING TO BE PUBLISHED IN A
6 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES IN WHICH
7 THE SEQUESTRATION PROJECT IS TO BE LOCATED AND IN AN OIL AND GAS
8 INDUSTRY PUBLICATION IF THERE ARE OPERATIONS FOR THE EXTRACTION OF OIL
9 OR GAS FROM THE PORE SPACE OWNED BY THE PETITIONER INTO WHICH THE
10 CARBON DIOXIDE PLUME IS ALLEGED TO HAVE MIGRATED. PUBLICATION SHALL
11 OCCUR NOT LESS THAN 45 DAYS BEFORE THE DATE OF THE HEARING. THE
12 DEPARTMENT SHALL ALSO MAIL COPIES OF THE NOTICE TO THE COUNTY CLERK
13 AND THE CLERK OF THE CITY OR THE TOWNSHIP AND, IF APPLICABLE, VILLAGE
14 WHERE THE GEOLOGIC SEQUESTRATION PROJECT IS TO BE LOCATED.

15 (4) IF THE DEPARTMENT DETERMINES, AFTER THE EVIDENTIARY HEARING,
16 THAT CARBON DIOXIDE INJECTED PURSUANT TO A SEQUESTRATION ORDER HAS
17 MIGRATED OUT OF THE CARBON DIOXIDE PLUME AREA, AS INITIALLY APPROVED,
18 TO OCCUPY THE PETITIONER'S SUBSURFACE PROPERTY, THE DEPARTMENT SHALL
19 GRANT THE PETITION. OTHERWISE, THE DEPARTMENT SHALL DENY THE PETITION.
20 IF THE DEPARTMENT GRANTS THE PETITION, BOTH OF THE FOLLOWING APPLY:

21 (A) THE PROJECT OWNER SHALL ACQUIRE ALL OF THE NECESSARY RIGHTS
22 TO PORE SPACE OR OIL, GAS, OR MINERALS IN THE PETITIONER'S TRACT BY
23 TITLE CONVEYANCE OR OTHER CONTRACTUAL ARRANGEMENT, BY EMINENT DOMAIN
24 AS PROVIDED UNDER SECTION 62723, OR AS OTHERWISE ALLOWED BY STATUTE.

25 (B) THE DEPARTMENT MAY ORDER SEQUESTRATION OPERATIONS MODIFIED OR
26 SUSPENDED UNTIL THE PROJECT OWNER HAS ACQUIRED THE RIGHTS DESCRIBED IN
27 SUBDIVISION (A).

1 (5) THE ADMINISTRATIVE REMEDY PROVIDED BY THIS SECTION IS THE
2 EXCLUSIVE REMEDY AVAILABLE TO A PERSON WHO ASSERTS THAT THE CARBON
3 DIOXIDE PLUME IS OCCUPYING THE PORE SPACE IN THE PERSON'S SUBSURFACE
4 PROPERTY LOCATED OUTSIDE THE BOUNDARY OF A CARBON DIOXIDE PLUME AREA,
5 AS INITIALLY APPROVED.

6 SEC. 62723. (1) GEOLOGIC SEQUESTRATION RESULTS IN LONG-TERM
7 STORAGE OF CO₂, THEREBY REDUCING MAN-MADE CO₂ EMISSIONS TO THE
8 ATMOSPHERE AND THE ATTENDANT ADVERSE ATMOSPHERIC EFFECTS OF THESE
9 EMISSIONS ON NATURAL RESOURCES, THE ENVIRONMENT, AND PUBLIC HEALTH
10 AND SAFETY. CONSEQUENTLY, A SEQUESTRATION PROJECT IS A PUBLIC USE OF
11 PROPERTY. UPON ISSUANCE OF A SEQUESTRATION ORDER, THE SEQUESTRATION
12 PROJECT OWNER IS GRANTED THE RIGHT OF CONDEMNATION BY EMINENT DOMAIN
13 TO ACQUIRE THE FOLLOWING:

14 (A) NECESSARY RIGHTS TO USE OF THE PORE SPACE OR TO OIL, GAS, OR
15 MINERALS IN THE SEQUESTRATION ZONE.

16 (B) THE RIGHT TO USE OF PROPERTY AND RIGHTS-OF-WAY OF HIGHWAYS IN
17 THIS STATE, BUT ONLY FOR THE PURPOSE OF TRANSPORTING CARBON DIOXIDE BY
18 A PIPELINE OR PIPELINES, AND FOR LOCATING, LAYING, CONSTRUCTING,
19 MAINTAINING, AND OPERATING SUCH PIPELINES. THE PIPELINE OR PIPELINES
20 SHALL BE USED EXCLUSIVELY FOR THE TRANSMISSION, TRANSPORTATION, AND
21 DISTRIBUTION OF CARBON DIOXIDE WITHIN THIS STATE.

22 (2) CONDEMNATION BY EMINENT DOMAIN UNDER THIS SECTION SHALL BE
23 EXERCISED UNDER THE PROCEDURES OF THE UNIFORM CONDEMNATION PROCEDURES
24 ACT OF 1980, 1980 PA 87, MCL 213.51 TO 213.75.

25 (3) RIGHTS OR INTERESTS ACQUIRED FOR A SEQUESTRATION PROJECT BY A
26 SEQUESTRATION PROJECT OWNER BY TITLE CONVEYANCE OR OTHER CONTRACTUAL
27 ARRANGEMENT ARE NOT SUBJECT TO THE EXERCISE OF THE RIGHT OF EMINENT

1 DOMAIN AUTHORIZED BY SUBSECTION (1) FOR A DIFFERENT SEQUESTRATION
2 PROJECT.

3 (4) THIS SECTION DOES NOT ALTER ANY POWER OF EMINENT DOMAIN THAT
4 MAY EXIST UNDER ANY OTHER AUTHORITY.

5 (5) NONE OF THE FOLLOWING MAY BE TAKEN BY THE EXERCISE OF THE
6 RIGHT OF EMINENT DOMAIN GRANTED IN THIS SECTION:

7 (A) THE RIGHT OF AN OWNER OF OIL, GAS, OR MINERALS OR PORE SPACE
8 LOCATED ABOVE OR BELOW THE SEQUESTRATION ZONE TO DRILL A WELL INTO
9 STRATA ABOVE OR BELOW THE SEQUESTRATION ZONE IF THAT PERSON COMPLIES
10 WITH ALL OF THE APPLICABLE RULES AND REGULATIONS OF THE DEPARTMENT.

11 (B) THE RIGHT TO EXERCISE INTERESTS IN PROPERTY NOT ACQUIRED FOR
12 THE SEQUESTRATION PROJECT WITHIN THE BORDERS OF THE SEQUESTRATION
13 PROJECT BY THE OWNER OF SUCH PROPERTY.

14 (6) ANY ACQUISITION OF PROPERTY RIGHTS PURSUANT TO THIS SECTION
15 SHALL BE CONSIDERED A TAKING OF PRIVATE PROPERTY FOR WHICH JUST
16 COMPENSATION IS DUE. JUST COMPENSATION FOR PROPERTY DESCRIBED IN
17 SUBSECTION (1) (A) SHALL BE AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF
18 THE PORE SPACE OR OF VALUABLE OIL, GAS, AND MINERALS CONTAINED WITHIN
19 PORE SPACE TAKEN ON THE DATE OF THE EXERCISE OF EMINENT DOMAIN
20 AUTHORITY. IN THE ABSENCE OF A DEMONSTRATION OF AN ACTUAL OR
21 REASONABLY FORESEEABLE ALTERNATE USE, PORE SPACE WITHIN A
22 SEQUESTRATION FACILITY HAS NO COMPENSABLE VALUE.

23 (7) AN ACTION TAKEN UNDER THE PROVISIONS OF THIS PART, OR UNDER
24 ANY RULE PROMULGATED OR ORDER ISSUED PURSUANT TO THIS PART, DOES NOT
25 CAUSE A SEQUESTRATION PROJECT OWNER TO BE A COMMON CARRIER OR A PUBLIC
26 UTILITY FOR ANY PURPOSE WHATSOEVER, OR TO BE SUBJECT TO ANY DUTIES,
27 OBLIGATIONS, OR LIABILITIES AS A COMMON CARRIER OR PUBLIC UTILITY.

1 (8) THE DEPARTMENT AND ITS EMPLOYEES ARE NEITHER NECESSARY NOR
2 INDISPENSABLE PARTIES TO ANY EMINENT DOMAIN PROCEEDING, AND IF NAMED
3 AS A PARTY OR THIRD PARTY, HAVE AN ABSOLUTE RIGHT TO BE DISMISSED FROM
4 THE ACTION AT THE EXPENSE OF THE PARTY WHO NAMES THE DEPARTMENT OR ANY
5 EMPLOYEE. THE DEPARTMENT SHALL BE AWARDED ALL COSTS REASONABLY
6 INCURRED TO BE DISMISSED FROM THE ACTION, INCLUDING ATTORNEY FEES.

7 SEC. 62725. (1) A SEQUESTRATION PROJECT OWNER SHALL DO ALL OF
8 THE FOLLOWING:

9 (A) PROVIDE A COPY OF THE CONTINGENCY PLAN PROVIDED IN A
10 PETITION FOR A SEQUESTRATION ORDER TO EACH EMERGENCY MANAGEMENT
11 COORDINATOR HAVING JURISDICTION OVER THE SURFACE OF THE GEOGRAPHIC
12 AREA CONSTITUTING THE SEQUESTRATION PROJECT.

13 (B) CONDUCT THE SEQUESTRATION OPERATION IN ACCORDANCE WITH THE
14 APPROVED SEQUESTRATION ORDER.

15 (C) CONDUCT MONITORING OF THE SEQUESTRATION OPERATION IN
16 ACCORDANCE WITH THE PROVISIONS OF THE PLAN OF OPERATIONS.

17 (2) COMPLIANCE WITH THE PROVISIONS OF THIS PART DOES NOT
18 RELIEVE A SEQUESTRATION PROJECT OWNER OF THE OBLIGATION TO COMPLY
19 WITH ALL OTHER APPLICABLE STATE AND FEDERAL LAW AND, SUBJECT TO
20 SECTION 62743(5) AND (6), LOCAL ORDINANCES.

21 (3) THE POSTCLOSURE MONITORING PERIOD SHALL BE 20 YEARS
22 FOLLOWING PERMANENT CESSATION OF SUBSURFACE INJECTION OF CARBON
23 DIOXIDE FOR A SEQUESTRATION PROJECT. THE DEPARTMENT MAY REDUCE THE
24 POSTCLOSURE MONITORING PERIOD UPON REQUEST BY THE SEQUESTRATION
25 PROJECT OWNER IF THE DEPARTMENT DETERMINES THAT THERE IS NOT A
26 SIGNIFICANT RISK THAT THE SEQUESTERED CARBON DIOXIDE WILL ENDANGER
27 NATURAL RESOURCES, THE ENVIRONMENT, OR PUBLIC HEALTH AND SAFETY BY

1 MIGRATING OUTSIDE THE SEQUESTRATION ZONE. THE REQUEST SHALL BE MADE
2 IN WRITING NOT LESS THAN 6 MONTHS BEFORE THE PROPOSED POSTCLOSURE
3 MONITORING TERMINATION DATE AND SHALL PROVIDE THE DEPARTMENT WITH
4 TECHNICAL DATA AND INFORMATION DEMONSTRATING THAT ADDITIONAL
5 MONITORING IS NOT NEEDED TO ENSURE THAT THERE IS NO SIGNIFICANT
6 POTENTIAL FOR ENDANGERMENT OF NATURAL RESOURCES, THE ENVIRONMENT,
7 OR PUBLIC HEALTH AND SAFETY. NOTICE SHALL BE GIVEN AND AN
8 EVIDENTIARY HEARING ON THE REQUEST SHALL BE CONDUCTED IN THE SAME
9 MANNER AS PROVIDED UNDER SECTION 62711.

10 SEC. 62727. (1) A SEQUESTRATION PROJECT OWNER SHALL FILE WITH
11 THE DEPARTMENT A BIENNIAL GEOLOGIC SEQUESTRATION REPORT ON OR
12 BEFORE MARCH 15 AND SEPTEMBER 15 OF EACH YEAR, DURING THE PERIOD
13 THE SEQUESTRATION OPERATION AND DURING THE POSTCLOSURE MONITORING
14 PERIOD. THE GEOLOGIC SEQUESTRATION REPORT SHALL CONTAIN ALL OF THE
15 FOLLOWING:

16 (A) A DESCRIPTION OF THE STATUS OF THE SEQUESTRATION PROJECT.

17 (B) AN UPDATE OF THE CONTINGENCY PLAN. THE SEQUESTRATION
18 PROJECT OWNER SHALL PROVIDE A COPY OF THE UPDATE TO THE EMERGENCY
19 MANAGEMENT COORDINATOR.

20 (C) A REPORT OF MONITORING RESULTS FOR THE PRECEDING PERIOD.

21 (D) A REPORT OF THE TOTAL TONS OF CARBON DIOXIDE INJECTED INTO
22 THE SEQUESTRATION ZONE FOR EACH MONTH OF THE PRECEDING PERIOD.

23 (E) A LIST OF ALL SEQUESTRATION WELLS PLUGGED AND ABANDONED
24 DURING THE PRECEDING PERIOD.

25 (F) A LIST OF ALL SEQUESTRATION WELLS DRILLED DURING THE
26 PRECEDING PERIOD.

27 (G) A LIST OF ALL SEQUESTRATION WELLS GRANTED TEMPORARY

1 ABANDONED STATUS UNDER PART 625 DURING THE PRECEDING PERIOD.

2 (H) A LIST OF THE NOTIFICATIONS UNDER SUBSECTION (2) FOR THE
3 PRECEDING CALENDAR YEAR.

4 (2) A SEQUESTRATION PROJECT OWNER SHALL NOTIFY THE DEPARTMENT
5 WITHIN 8 HOURS OF LEARNING OF ANY INCIDENT, ACT OF NATURE, OR
6 EXCEEDANCE OF A PERMIT STANDARD OR CONDITION AT A SEQUESTRATION
7 PROJECT THAT ENDANGERS OR HAS A SIGNIFICANT RISK TO ENDANGER
8 NATURAL RESOURCES, THE ENVIRONMENT, OR PUBLIC HEALTH AND SAFETY.

9 (3) RECORDS UPON WHICH THE GEOLOGIC SEQUESTRATION REPORTS ARE
10 BASED SHALL BE PRESERVED BY THE SEQUESTRATION PROJECT OWNER FOR 3
11 YEARS. HOWEVER, RECORDS UPON WHICH NOTIFICATIONS UNDER SUBSECTION
12 (2) ARE BASED SHALL BE PRESERVED BY THE PROJECT OWNER UNTIL THE END
13 OF THE POSTCLOSURE MONITORING PERIOD. RECORDS DESCRIBED IN THIS
14 SUBSECTION SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

15 SEC. 62729. (1) AT THE END OF THE POSTCLOSURE MONITORING
16 PERIOD, THE DEPARTMENT SHALL INSPECT THE SEQUESTRATION PROJECT AND
17 PROVIDE NOTICE AND HOLD A PUBLIC HEARING IN THE SAME MANNER AS
18 REQUIRED UNDER SECTION 62709 ON THE QUESTION OF ISSUING A
19 CERTIFICATE OF COMPLETION OF THE SEQUESTRATION OPERATION. THE
20 DEPARTMENT SHALL ISSUE A CERTIFICATE OF COMPLETION OF THE
21 SEQUESTRATION OPERATION UPON A SHOWING BY THE SEQUESTRATION PROJECT
22 OWNER OF ALL OF THE FOLLOWING:

23 (A) THERE IS NOT A SIGNIFICANT RISK THAT THE SEQUESTERED
24 SUBSTANCE WILL ENDANGER NATURAL RESOURCES, THE ENVIRONMENT, OR
25 PUBLIC HEALTH AND SAFETY BY MIGRATING OUTSIDE OF THE SEQUESTRATION
26 ZONE.

27 (B) THE SEQUESTRATION OPERATION HAS NOT RESULTED IN ANY

1 ONGOING CONDITIONS REQUIRING CORRECTION OR REMEDIATION.

2 (C) ALL WELLS THAT ARE PART OF THE SEQUESTRATION PROJECT HAVE
3 BEEN PROPERLY PLUGGED AND ABANDONED.

4 (D) ALL SURFACE FACILITIES ASSOCIATED WITH THE SEQUESTRATION
5 PROJECT HAVE BEEN REMOVED, ALL UNDERGROUND PIPELINES REMOVED OR
6 CAPPED, AND THE LAND RESTORED TO AS NEAR ITS ORIGINAL CONTOURS AS
7 IS REASONABLY PRACTICAL, EXCEPT AS OTHERWISE APPROVED BY THE
8 DEPARTMENT PURSUANT TO A WRITTEN REQUEST BY THE OPERATOR.

9 (2) THE DEPARTMENT SHALL PUBLISH A FULL COPY OF THE
10 CERTIFICATE OF COMPLETION IN A NEWSPAPER OF LOCAL DISTRIBUTION IN
11 THE AREA WHERE THE SEQUESTRATION PROJECT IS LOCATED.

12 SEC. 62731. (1) UPON THE ISSUANCE OF THE CERTIFICATE OF
13 COMPLETION OF THE SEQUESTRATION OPERATION:

14 (A) SUBJECT TO SUBSECTION (2), THE SEQUESTRATION PROJECT OWNER
15 IS IMMUNE FROM LIABILITY IN ANY CIVIL OR ADMINISTRATIVE ACTION FOR
16 ANY DAMAGE CAUSED BY THE SEQUESTRATION OPERATION TO PERSONS,
17 PROPERTY, NATURAL RESOURCES, THE ENVIRONMENT, OR PUBLIC HEALTH AND
18 SAFETY OCCURRING AFTER THE DATE OF ISSUANCE OF THE CERTIFICATE OF
19 COMPLETION.

20 (B) ANY REMAINING FINANCIAL ASSURANCE SHALL BE RELEASED.

21 (C) THE SEQUESTRATION REMEDIATION FUND CREATED IN SECTION
22 62735 SHALL BE SOLELY UTILIZED FOR CORRECTION OR REMEDIATION OF
23 CONDITIONS CAUSED BY THE SEQUESTRATION OPERATION.

24 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, A
25 SEQUESTRATION PROJECT OWNER IS LIABLE FOR ANY DAMAGE FROM THE
26 SEQUESTRATION OPERATION THAT IS PROXIMATELY CAUSED BY EITHER OF THE
27 FOLLOWING COMMITTED BY OR ON BEHALF OF THE SEQUESTRATION PROJECT

1 OWNER:

2 (A) GROSS NEGLIGENCE.

3 (B) INTENTIONAL CONCEALMENT OR MISREPRESENTATION OF MATERIAL
4 FACTS.

5 (3) DAMAGES OR INJUNCTIVE RELIEF SHALL NOT BE AWARDED TO A
6 PRIVATE CLAIMANT FOR A CLAIM OF NUISANCE OR TRESPASS RELATED TO THE
7 INJECTION INTO OR PRESENCE IN THE SEQUESTRATION ZONE OF CARBON
8 DIOXIDE, OR FROM THE RELEASE OF CARBON DIOXIDE FROM THE
9 SEQUESTRATION ZONE, UNLESS, SUBJECT TO SUBSECTION (1), THE
10 PLAINTIFF HAS INCURRED HARM IN ADDITION TO MERE OCCUPATION OF
11 SUBSURFACE PROPERTY, THE SURFACE, OR AIRSPACE ABOVE THE SURFACE.

12 SEC. 62733. (1) AFTER A SEQUESTRATION ORDER BECOMES EFFECTIVE,
13 THE DEPARTMENT SHALL ASSESS A SEQUESTRATION PROJECT OWNER A
14 SEQUESTRATION SURVEILLANCE FEE OF NOT MORE THAN 15 CENTS PER TON OF
15 SEQUESTERED SUBSTANCE INJECTED DURING THE PREVIOUS CALENDAR YEAR,
16 AS REPORTED UNDER SECTION 62727(1)(D), BUT NOT LESS THAN
17 \$50,000.00, FOR EACH CALENDAR YEAR IN WHICH THE SEQUESTRATION
18 OPERATION IS ONGOING. SURVEILLANCE FEES COLLECTED UNDER THIS
19 SECTION SHALL BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT IN
20 THE SEQUESTRATION ADMINISTRATION FUND CREATED IN SUBSECTION (6).
21 THE SURVEILLANCE FEE RATE SHALL BE CALCULATED EACH YEAR AS FOLLOWS:

22 (A) THE DEPARTMENT SHALL CALCULATE THE ADJUSTED APPROPRIATION
23 BY DEDUCTING ANY UNEXPENDED MONEY IN THE FUND AT THE CLOSE OF THE
24 PRIOR FISCAL YEAR FROM THE AMOUNT APPROPRIATED FOR THE CURRENT
25 FISCAL YEAR FOR SURVEILLANCE, MONITORING, ADMINISTRATION, AND
26 ENFORCEMENT OF THIS PART.

27 (B) THE DEPARTMENT SHALL DETERMINE THE TOTAL TONS OF CARBON

1 DIOXIDE INJECTED BY ALL SEQUESTRATION OPERATIONS IN THIS STATE IN
2 THE PRIOR CALENDAR YEAR.

3 (C) THE FEE RATE SHALL BE THE RATIO, TO THE NEAREST 1/100 OF
4 1%, OF THE ADJUSTED APPROPRIATION AS DETERMINED UNDER SUBDIVISION
5 (A) TO THE TOTAL TONS OF SEQUESTERED SUBSTANCE AS DETERMINED UNDER
6 SUBDIVISION (B).

7 (2) THE SEQUESTRATION SURVEILLANCE FEE DESCRIBED IN SUBSECTION
8 (1) IS DUE BY 30 DAYS AFTER THE DEPARTMENT SENDS WRITTEN NOTICE TO
9 THE SEQUESTRATION PROJECT OWNER OF THE AMOUNT DUE.

10 (3) A FINE EQUAL TO 2% OF THE AMOUNT DUE, OR \$1,000.00,
11 WHICHEVER IS GREATER, SHALL BE ASSESSED AGAINST THE SEQUESTRATION
12 PROJECT OWNER FOR A SEQUESTRATION SURVEILLANCE FEE THAT IS NOT PAID
13 WHEN DUE, FOR EACH FULL MONTH THE PAYMENT IS OVERDUE. THE
14 DEPARTMENT MAY FILE AN ACTION IN THE CIRCUIT COURT FOR INGHAM
15 COUNTY TO COLLECT THE UNPAID FEE AND PENALTY.

16 (4) IF PAYMENT OF THE SEQUESTRATION SURVEILLANCE FEE FOR A
17 SEQUESTRATION PROJECT IS OVERDUE BY MORE THAN 6 MONTHS, THE
18 DEPARTMENT MAY ORDER THE SUSPENSION OF THE SEQUESTRATION OPERATION
19 UNTIL THE FEE AND ALL PENALTIES ARE PAID.

20 (5) FINES PAID PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN
21 THE SEQUESTRATION ADMINISTRATION FUND.

22 (6) THE SEQUESTRATION ADMINISTRATION FUND IS CREATED WITHIN
23 THE STATE TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER
24 ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE ADMINISTRATION FUND.
25 THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE
26 ADMINISTRATION FUND. THE STATE TREASURER SHALL CREDIT TO THE
27 ADMINISTRATION FUND INTEREST AND EARNINGS FROM ADMINISTRATION FUND

1 INVESTMENTS. MONEY IN THE ADMINISTRATION FUND AT THE CLOSE OF THE
2 FISCAL YEAR SHALL REMAIN IN THE ADMINISTRATION FUND AND SHALL NOT
3 LAPSE TO THE GENERAL FUND. THE DEPARTMENT SHALL BE THE
4 ADMINISTRATOR OF THE ADMINISTRATION FUND FOR AUDITING PURPOSES.

5 (7) THE DEPARTMENT SHALL EXPEND MONEY FROM THE SEQUESTRATION
6 ADMINISTRATION FUND, UPON APPROPRIATION, ONLY FOR SURVEILLANCE,
7 MONITORING, ADMINISTRATION, AND ENFORCEMENT OF THIS PART.

8 SEC. 62735. (1) THE SEQUESTRATION REMEDIATION FUND IS CREATED
9 WITHIN THE STATE TREASURY.

10 (2) FEES COLLECTED UNDER SUBSECTION (5) SHALL BE DEPOSITED IN
11 THE FUND. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
12 FROM ANY SOURCE FOR DEPOSIT INTO THE SEQUESTRATION REMEDIATION
13 FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE
14 REMEDIATION FUND. THE STATE TREASURER SHALL CREDIT TO THE
15 REMEDIATION FUND INTEREST AND EARNINGS FROM REMEDIATION FUND
16 INVESTMENTS. MONEY IN THE REMEDIATION FUND AT THE CLOSE OF THE
17 FISCAL YEAR SHALL REMAIN IN THE REMEDIATION FUND AND SHALL NOT
18 LAPSE TO THE GENERAL FUND.

19 (3) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR
20 AUDITING PURPOSES.

21 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE REMEDIATION
22 FUND, UPON APPROPRIATION, ONLY FOR CORRECTION OR REMEDIATION OF
23 PHYSICAL CONDITIONS CAUSED BY A SEQUESTRATION OPERATION THAT OCCUR
24 AFTER ISSUANCE OF THE CERTIFICATE OF COMPLETION OF THE
25 SEQUESTRATION OPERATION UNDER SECTION 62729. SUCH AN APPROPRIATION
26 FROM THE REMEDIATION FUND IS AN APPROPRIATION FOR A PUBLIC PURPOSE.

27 (5) A SEQUESTRATION PROJECT OWNER SHALL PAY A FEE FOR THE

1 INJECTION OF EACH TON OF A SEQUESTERED SUBSTANCE INJECTED AFTER A
2 SEQUESTRATION ORDER BECOMES EFFECTIVE. FEES COLLECTED UNDER THIS
3 SUBSECTION SHALL BE DEPOSITED IN THE REMEDIATION FUND.

4 (6) AS SOON AS PRACTICABLE AFTER THE DATE OF ENACTMENT OF THIS
5 PART, THE DEPARTMENT SHALL ESTABLISH BY RULE THE MINIMUM AND
6 MAXIMUM BALANCE FOR THE REMEDIATION FUND, AND THE AMOUNT OF THE FEE
7 REQUIRED UNDER SUBSECTION (5) TO MAINTAIN A FUND BALANCE IN THAT
8 RANGE, AFTER TAKING INTO ACCOUNT THE FOLLOWING CRITERIA:

9 (A) THE ESTIMATED QUANTITY OF CARBON DIOXIDE TO BE INJECTED
10 ANNUALLY BY ALL SEQUESTRATION OPERATIONS IN THE STATE.

11 (B) THE LIKELIHOOD OF AN INCIDENT RESULTING IN LIABILITY.

12 (C) THE LIKELY DOLLAR VALUE OF ANY DAMAGES RELATING TO AN
13 INCIDENT.

14 (D) OTHER FACTORS RELATING TO THE RISK OF THE SEQUESTRATION
15 PROJECT.

16 (E) THE EFFECT OF THE FEE ON COMMERCIAL AND ECONOMIC VIABILITY
17 OF SEQUESTRATION OF CARBON DIOXIDE.

18 (7) THE DEPARTMENT SHALL REVIEW AND IF APPROPRIATE ADJUST THE
19 MINIMUM AND MAXIMUM REMEDIATION FUND BALANCE AT LEAST EVERY 5 YEARS
20 TO ENSURE THAT THE LEVELS COMPORT WITH THE POTENTIAL NEED FOR
21 PAYMENTS FROM THE REMEDIATION FUND.

22 (8) THE GEOLOGIC SEQUESTRATION ADVISORY BOARD IS CREATED
23 WITHIN THE DEPARTMENT. THE BOARD SHALL CONSIST OF THE FOLLOWING
24 MEMBERS:

25 (A) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

26 (i) 1 MEMBER REPRESENTING AN ORGANIZATION OF INTRASTATE GAS
27 PIPELINE OPERATORS.

1 (ii) 1 MEMBER THAT IS A CARBON SEQUESTRATION RESEARCHER OR
2 GEOLOGIST.

3 (iii) 1 MEMBER REPRESENTING AN ENVIRONMENTAL PROTECTION
4 ORGANIZATION.

5 (B) THE FOLLOWING MEMBERS APPOINTED BY THE SENATE MAJORITY
6 LEADER:

7 (i) 1 MEMBER REPRESENTING THE MICHIGAN OIL AND GAS INDUSTRY.

8 (ii) 1 MEMBER WHO IS AN ENGINEER SPECIALIZING IN CARBON
9 SEQUESTRATION.

10 (C) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF THE
11 HOUSE OF REPRESENTATIVES:

12 (i) 1 MEMBER REPRESENTING THE NATURAL GAS STORAGE INDUSTRY.

13 (ii) 1 MEMBER WHO IS AN ACTUARY.

14 (D) THE FOLLOWING EX OFFICIO MEMBERS:

15 (i) THE DIRECTOR OF THE DEPARTMENT OR HIS OR HER DESIGNEE.

16 (ii) THE MANAGER OF THE OPERATIONS AND WHOLESALE MARKET
17 DIVISION, OR A SUCCESSOR DIVISION, OF THE MICHIGAN PUBLIC SERVICE
18 COMMISSION.

19 (iii) THE STATE TREASURER OR HIS OR HER DESIGNEE, AS A NONVOTING
20 MEMBER.

21 (9) THE MEMBERS FIRST APPOINTED TO THE BOARD SHALL BE
22 APPOINTED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.
23 MEMBERS OF THE BOARD SHALL SERVE FOR TERMS OF 4 YEARS OR UNTIL A
24 SUCCESSOR IS APPOINTED, WHICHEVER IS LATER, EXCEPT THAT THE MEMBER
25 FIRST APPOINTED UNDER SUBSECTION (8) (A) (ii) SHALL SERVE FOR 1 YEAR,
26 THE MEMBERS FIRST APPOINTED UNDER SUBSECTION (8) (B) (i) AND (C) (i)
27 SHALL SERVE FOR 2 YEARS, AND THE MEMBERS FIRST APPOINTED UNDER

1 SUBSECTION (8) (B) (ii) AND (C) (ii) SHALL SERVE FOR 3 YEARS. IF A
2 VACANCY OCCURS ON THE BOARD, THE VACANCY SHALL BE FILLED BY
3 APPOINTMENT FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE
4 ORIGINAL APPOINTMENT. THE OFFICER APPOINTING A MEMBER OF THE BOARD
5 MAY REMOVE THE MEMBER FOR INCOMPETENCY, DERELICTION OF DUTY,
6 MALFEASANCE, MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER
7 GOOD CAUSE.

8 (10) THE FIRST MEETING OF THE BOARD SHALL BE CALLED BY THE
9 DIRECTOR OF THE DEPARTMENT. AT THE FIRST MEETING, THE BOARD SHALL
10 ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT
11 CONSIDERS NECESSARY OR APPROPRIATE. AFTER THE FIRST MEETING, THE
12 BOARD SHALL MEET AT LEAST ANNUALLY, OR MORE FREQUENTLY AT THE CALL
13 OF THE CHAIRPERSON OR IF REQUESTED BY 2 OR MORE MEMBERS. A MAJORITY
14 OF THE MEMBERS OF THE BOARD CONSTITUTE A QUORUM FOR THE TRANSACTION
15 OF BUSINESS AT A MEETING OF THE BOARD. A MAJORITY OF THE MEMBERS
16 PRESENT AND SERVING ARE REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

17 (11) THE BUSINESS THAT THE BOARD MAY PERFORM SHALL BE
18 CONDUCTED AT A PUBLIC MEETING OF THE BOARD HELD IN COMPLIANCE WITH
19 THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275. A WRITING
20 PREPARED, OWNED, USED, IN THE POSSESSION OF, OR RETAINED BY THE
21 BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNCTION IS SUBJECT TO THE
22 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

23 (12) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION.
24 HOWEVER, MEMBERS OF THE BOARD MAY BE REIMBURSED FOR THEIR ACTUAL
25 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
26 OFFICIAL DUTIES AS MEMBERS OF THE BOARD.

27 (13) THE BOARD SHALL MAKE RECOMMENDATIONS TO THE DEPARTMENT ON

1 ALL OF THE FOLLOWING:

2 (A) THE FEES TO BE ESTABLISHED UNDER THIS SECTION.

3 (B) ESTABLISHMENT OF A MINIMUM AND MAXIMUM SEQUESTRATION
4 REMEDIATION FUND BALANCE.

5 (C) MANAGEMENT OF THE REMEDIATION FUND.

6 (14) THE DEPARTMENT SHALL CONSIDER THE RECOMMENDATIONS OF THE
7 BOARD AND SHALL EXPLAIN THE REASONS IN WRITING IF RECOMMENDATIONS
8 OF THE BOARD ARE NOT ADOPTED.

9 SEC. 62737. (1) THIS PART DOES NOT APPLY TO THE USE OF CARBON
10 DIOXIDE AS A PART OF OR IN CONJUNCTION WITH ANY SECONDARY RECOVERY
11 PROJECT APPROVED BY THE DEPARTMENT UNDER PART 615 OR PART 617, OR
12 BOTH, AND ANY CONSEQUENTIAL GEOLOGIC SEQUESTRATION, IF THE PRIMARY
13 PURPOSE OF THE PROJECT IS SECONDARY OIL OR GAS RECOVERY.

14 (2) THE DEPARTMENT MAY PROMULGATE RULES TO ALLOW CONVERSION OR
15 EXPANSION OF AN EXISTING SECONDARY RECOVERY PROJECT APPROVED UNDER
16 PART 615 OR PART 617, OR BOTH, INTO A SEQUESTRATION PROJECT. UPON
17 APPROVAL OF SUCH A CONVERSION OR EXPANSION OF A SECONDARY RECOVERY
18 PROJECT, THE PROVISIONS OF THIS PART APPLY TO THE PROJECT.

19 SEC. 62739. (1) IF THE DEPARTMENT DETERMINES THAT A
20 SEQUESTRATION PROJECT OWNER HAS VIOLATED THIS PART, A RULE
21 PROMULGATED UNDER THIS PART, OR A SEQUESTRATION ORDER ISSUED UNDER
22 THIS PART, THE DEPARTMENT SHALL REQUIRE THE SEQUESTRATION PROJECT
23 OWNER TO CORRECT THE VIOLATION.

24 (2) IF THE DEPARTMENT DETERMINES THAT THE SEQUESTRATION
25 PROJECT OWNER HAS VIOLATED THIS PART, A RULE PROMULGATED UNDER THIS
26 PART, OR AN ORDER ISSUED UNDER THIS PART, AND THAT THE VIOLATION IS
27 ENDANGERING OR HAS A SIGNIFICANT POTENTIAL TO ENDANGER NATURAL

1 RESOURCES, THE ENVIRONMENT, OR PUBLIC HEALTH AND SAFETY, THE
2 DEPARTMENT SHALL SERVE NOTICE BY REGISTERED MAIL OR IN PERSON OF
3 THIS DETERMINATION, IN WRITING, TO THE PROJECT OWNER AND TO ANY
4 SURETY EXECUTING A BOND FILED WITH THE DEPARTMENT BY THE PROJECT
5 OWNER. THE NOTICE SHALL SPECIFY ACTIONS NECESSARY TO REMEDIATE THE
6 VIOLATION. IF THE PROJECT OWNER AND SURETY FAIL TO TAKE THE ACTIONS
7 DESCRIBED IN THE NOTICE OF DETERMINATION AS SOON AS PRACTICABLE BUT
8 NOT LATER THAN 30 DAYS AFTER THE DATE OF SERVICE, THE DEPARTMENT
9 MAY ENTER INTO AND UPON ANY PRIVATE OR PUBLIC PROPERTY NECESSARY TO
10 REACH THE SITE OF THE SEQUESTRATION PROJECT, AND TAKE ACTIONS
11 NECESSARY TO REMEDIATE THE VIOLATION, AND THE PROJECT OWNER AND
12 SURETY ARE JOINTLY AND SEVERALLY LIABLE FOR ALL EXPENSES INCURRED
13 BY THE DEPARTMENT. THE PROJECT OWNER OR SURETY SHALL PAY WITHIN 30
14 DAYS ANY CLAIM SUBMITTED BY THE DEPARTMENT LISTING THE EXPENSES
15 INCURRED TO REMEDIATE THE VIOLATION. IF A CLAIM IS NOT PAID WITHIN
16 THAT TIME, THE DEPARTMENT MAY BRING SUIT AGAINST THE PROJECT OWNER
17 OR SURETY, JOINTLY OR SEVERALLY, FOR THE COLLECTION OF THE CLAIM IN
18 ANY COURT OF COMPETENT JURISDICTION. A PERSON CHALLENGING THE
19 RECOVERY OF COSTS UNDER THIS SUBSECTION HAS THE BURDEN OF
20 ESTABLISHING THAT THE COSTS WERE NOT REASONABLY INCURRED UNDER THE
21 CIRCUMSTANCES THAT EXISTED AT THE TIME THE COSTS WERE INCURRED.

22 (3) THIS SECTION DOES NOT REQUIRE A SURETY TO MAKE PAYMENTS IN
23 EXCESS OF ITS OBLIGATIONS UNDER THE APPLICABLE SURETY INSTRUMENT.

24 (4) A FINDING OF SIGNIFICANT ENDANGERMENT UNDER THIS SECTION
25 DOES NOT PROVIDE A BASIS FOR A FINDING OF AN IMMINENT AND
26 SUBSTANTIAL ENDANGERMENT OR A SIMILAR FINDING UNDER ANY OTHER
27 PROVISION OF LAW.

1 (5) IF THE DEPARTMENT FINDS THAT EMERGENCY ACTION IS REQUIRED
2 TO PROTECT NATURAL RESOURCES, THE ENVIRONMENT, OR PUBLIC HEALTH AND
3 SAFETY, THE DEPARTMENT MAY ISSUE AN EMERGENCY ORDER WITHOUT A
4 HEARING TO REQUIRE A SEQUESTRATION PROJECT OWNER TO SUSPEND THE
5 SEQUESTRATION OPERATION OR TO TAKE OTHER CORRECTIVE ACTIONS. AN
6 EMERGENCY ORDER SHALL REMAIN IN FORCE AND EFFECT FOR NOT MORE THAN
7 21 DAYS.

8 (6) IF A SEQUESTRATION PROJECT OWNER FAILS TO COMPLY WITH AN
9 ORDER UNDER SUBSECTION (1), THE DEPARTMENT MAY REQUEST THE ATTORNEY
10 GENERAL TO COMMENCE A CIVIL ACTION FOR APPROPRIATE RELIEF,
11 INCLUDING A PERMANENT OR TEMPORARY INJUNCTION, FOR A VIOLATION OF
12 THIS PART, A RULE PROMULGATED UNDER THIS PART, OR AN ORDER ISSUED
13 UNDER THIS PART. AN ACTION UNDER THIS SUBSECTION MAY BE BROUGHT IN
14 THE CIRCUIT COURT FOR THE COUNTY OF INGHAM OR FOR THE COUNTY IN
15 WHICH THE DEFENDANT IS LOCATED, RESIDES, OR IS DOING BUSINESS. THE
16 COURT HAS JURISDICTION TO RESTRAIN THE VIOLATION AND TO REQUIRE
17 COMPLIANCE. IN ADDITION TO ANY OTHER RELIEF GRANTED UNDER THIS
18 SECTION, THE COURT MAY IMPOSE A CIVIL FINE OF NOT LESS THAN
19 \$2,500.00, AND THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND
20 COSTS TO THE PREVAILING PARTY. THE MAXIMUM FINE IMPOSED BY THE
21 COURT SHALL BE NOT MORE THAN \$25,000.00 PER DAY OF VIOLATION.

22 (7) THE ATTORNEY GENERAL MAY FILE A CIVIL SUIT IN A COURT OF
23 COMPETENT JURISDICTION TO RECOVER, IN ADDITION TO A FINE UNDER
24 SUBSECTION (6), THE FULL VALUE OF THE INJURIES DONE TO THE NATURAL
25 RESOURCES OF THIS STATE AND THE COSTS OF SURVEILLANCE AND
26 ENFORCEMENT BY THE STATE RESULTING FROM THE VIOLATION.

27 (8) A CIVIL FINE OR OTHER CIVIL AWARD IMPOSED UNDER THIS

1 SECTION IS PAYABLE TO THIS STATE AND SHALL BE CREDITED TO THE
2 GENERAL FUND. THE FINE CONSTITUTES A LIEN ON ANY PROPERTY, OF ANY
3 NATURE OR KIND, OWNED BY THE DEFENDANT.

4 SEC. 62741. A PERSON WHO INTENTIONALLY MAKES A FALSE
5 STATEMENT, REPRESENTATION, OR CERTIFICATION IN A PETITION FOR A
6 SEQUESTRATION PROJECT UNDER THIS PART OR IN A NOTICE OR REPORT
7 REQUIRED UNDER THIS PART OR UNDER A SEQUESTRATION ORDER IS GUILTY
8 OF A FELONY AND MAY BE IMPRISONED FOR NOT MORE THAN 2 YEARS AND
9 SHALL BE FINED NOT LESS THAN \$2,500.00 OR MORE THAN \$25,000.00 FOR
10 EACH VIOLATION.

11 SEC. 62743. (1) THE DEPARTMENT HAS JURISDICTION AND AUTHORITY
12 OVER ALL PERSONS AND PROPERTY NECESSARY TO ADMINISTER AND ENFORCE
13 EFFECTIVELY THE PROVISIONS OF THIS PART.

14 (2) THE DEPARTMENT MAY PROMULGATE RULES AND ISSUE ORDERS AS
15 MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS PART.

16 (3) THE DEPARTMENT MAY ENTER AT ALL REASONABLE TIMES IN OR
17 UPON A SEQUESTRATION PROJECT SUBJECT TO THIS PART FOR THE PURPOSE
18 OF INSPECTING AND INVESTIGATING OPERATING RECORDS, SEQUESTRATION
19 WELLS, AND FACILITIES OF A SEQUESTRATION PROJECT. THE DEPARTMENT
20 SHALL CONDUCT SUCH AN INSPECTION AND INVESTIGATION AT LEAST
21 ANNUALLY.

22 (4) THE DEPARTMENT MAY ENTER INTO COOPERATIVE AGREEMENTS WITH
23 THE FEDERAL GOVERNMENT OR OTHER STATE GOVERNMENTS OR STATE
24 GOVERNMENT ENTITIES FOR THE PURPOSE OF REGULATING SEQUESTRATION
25 PROJECTS THAT EXTEND BEYOND STATE REGULATORY AUTHORITY UNDER THIS
26 PART.

27 (5) A LOCAL UNIT OF GOVERNMENT SHALL NOT ENACT, MAINTAIN, OR

1 ENFORCE AN ORDINANCE, REGULATION, OR RESOLUTION THAT DUPLICATES,
2 CONTRADICTS, EXCEEDS, OR CONFLICTS WITH A PROVISION OF THIS PART,
3 EXCEPT THAT AN ORDINANCE MAY REGULATE ABOVEGROUND ELEMENTS OF THE
4 SEQUESTRATION OPERATION OR SEQUESTRATION PROJECT TO PROTECT PUBLIC
5 HEALTH AND SAFETY.

6 (6) A SEQUESTRATION OPERATION OR SEQUESTRATION PROJECT THAT
7 HAS BEEN APPROVED BY A SEQUESTRATION PROJECT ORDER IS NOT SUBJECT
8 TO AN ORDINANCE ADOPTED UNDER THE MICHIGAN ZONING ENABLING ACT,
9 2006 PA 110, MCL 125.3101 TO 125.3702.

10 (7) A CARBON DIOXIDE INJECTION PROJECT DESIGNED TO GATHER DATA
11 OR AS A PILOT OR FEASIBILITY STUDY OF GEOLOGIC SEQUESTRATION THAT
12 INJECTS NOT MORE THAN 2,000,000 TONS OF CARBON DIOXIDE IS NOT
13 SUBJECT TO THIS PART, IF THE OWNER OR OPERATOR OF THE PROJECT
14 COMPLIES WITH ALL APPLICABLE PROVISIONS OF PART 615 AND PART 625,
15 AS APPROPRIATE, AND PURSUANT TO THOSE PARTS, OBTAINS THE APPROVAL
16 OF THE DEPARTMENT FOR CONSTRUCTION AND OPERATION OF THE PROJECT.
17 THE PROJECT MAY AT ANY TIME BE CONSIDERED FOR CONVERSION INTO A
18 SEQUESTRATION PROJECT SUBJECT TO THIS PART, ON A PROSPECTIVE BASIS,
19 UPON FILING A PETITION PURSUANT TO SECTION 62707.

20 SEC. 62745. THIS PART SHALL BE CONSTRUED LIBERALLY TO
21 EFFECTUATE THE LEGISLATIVE INTENT AND THE PURPOSES AS COMPLETE AND
22 INDEPENDENT AUTHORITY FOR THE PERFORMANCE OF EACH AND EVERY ACT AND
23 THING AUTHORIZED BY THIS PART, AND ALL POWERS GRANTED SHALL BE
24 BROADLY INTERPRETED TO EFFECTUATE THE INTENT AND PURPOSES AND NOT
25 AS A LIMITATION OF POWERS.

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. ____ or House Bill No. 6581(request no.

1 05367'09 *) of the 95th Legislature is enacted into law.