

**SUBSTITUTE FOR
SENATE BILL NO. 396**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 502 and 1301 (MCL 324.502 and 324.1301),
section 502 as amended by 2004 PA 587 and section 1301 as amended
by 2018 PA 451, by adding section 52509, and by adding subchapter 6
to chapter 3 of article III.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 502. (1) The ~~commission~~**department** may promulgate rules,
2 not inconsistent with law, governing its organization and
3 procedure.

4 (2) The department ~~may~~**shall** do 1 or more of the following:

5 (a) Promulgate and enforce reasonable rules concerning the use
6 and occupancy of lands and property under its control in accordance

1 with section 504.

2 (b) Provide and develop facilities for outdoor recreation.

3 (c) Conduct investigations it considers necessary for the
4 proper administration of this part.

5 (d) Remove and dispose of forest products as required for the
6 protection, reforestation, and proper development and conservation
7 of the lands and property under the control of the department.

8 (e) Require the payment of a fee as provided by law for a
9 daily permit or other authorization that allows the person to hunt
10 and take waterfowl on a public hunting area managed and developed
11 for waterfowl.

12 **(f) Create a program to incentivize innovation for the use and**
13 **reutilization of captured carbon dioxide substances.**

14 (3) Except as provided in subsection (4), the department may
15 enter into contracts for the taking of coal, oil, gas, and other
16 mineral products from state owned lands, upon a royalty basis or
17 upon another basis, and upon the terms the department considers
18 just and equitable subject to section 502a. ~~This contract power~~
19 ~~includes authorization to~~ **The department may** enter into contracts
20 for the **capture, disposal, or** storage of gas, **carbon dioxide**
21 **substances**, or ~~other~~ mineral products in or upon state owned lands,
22 if the consent of the state agency having jurisdiction and control
23 of the state owned land is first obtained. A contract permitted
24 under this section for the taking of coal, oil, gas, or metallic
25 mineral products, or for the **capture, disposal, or** storage of gas,
26 **carbon dioxide substances**, or ~~other~~ mineral products, is not valid
27 unless the contract is approved by the state administrative board.
28 ~~Money received from a contract for the storage of gas or other~~
29 ~~mineral products in or upon state lands shall be transmitted to the~~

~~state treasurer for deposit in the general fund of the state to be used for the purpose of defraying the expenses incurred in the administration of this act and other purposes provided by law.~~

~~Other money~~ **Money** received from a contract ~~permitted under this subsection~~ **for the taking of coal, oil, gas, or metallic mineral products**, except money received from lands acquired with money from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010, shall be transmitted to the state treasurer for deposit in the Michigan natural resources trust fund created in section 35 of article IX of the state constitution of 1963 and provided for in part 19. ~~However, the money~~ **Money** received from the payment of service charges by a person using areas managed for waterfowl shall be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 and used only for the purposes provided by law. Money received from bonuses, rentals, delayed rentals, royalties, and the direct sale of resources, including forest resources, from lands acquired with money from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 shall be credited to the Michigan game and fish protection trust fund established in section 41 of article IX of the state constitution of 1963 and provided for in part 437, except as otherwise provided by law.

(4) The department shall not enter into a contract that allows drilling operations beneath the lake bottomlands of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, for the

1 exploration or production of oil or gas.

2 (5) This section does not permit a contract for the taking of
3 gravel, sand, coal, oil, gas, or other metallic mineral products
4 that does not comply with applicable local ordinances and state
5 law.

6 (6) Unless otherwise provided by law, money received from
7 bonuses, rentals, delayed rentals, and royalties collected or
8 reserved under provisions of leases for the capture, disposal, or
9 storage of gas, carbon dioxide substances, or mineral products in
10 or upon state lands shall be credited as follows:

11 (a) For lands other than tax reverted lands, to the fund from
12 which the land was purchased.

13 (b) For tax reverted lands, as follows:

14 (i) 50% to the Michigan game and fish protection trust fund
15 created in article IX, section 41 of the state constitution of 1963
16 and provided for in part 437.

17 (ii) 50% to the forest management trust fund created in section
18 52509.

19 (7) The department may sell carbon offset credits that it owns
20 from public land under its management, if all the following
21 criteria are met:

22 (a) The carbon offset credits are third-party verified.

23 (b) The sale of carbon offset credits allows for continued
24 land management as outlined by the department's land management
25 plans or strategies.

26 (8) This section does not create a preemptive right for the
27 department or this state to own any carbon offset credits related
28 to public land if a third party has legal rights to the credits.
29 Notwithstanding any law to the contrary, carbon offset credits or

1 tax credits that result from the sequestration of carbon dioxide on
2 public lands during the effective period of permitted sequestration
3 and until issuance of a certificate of project completion are the
4 property of a carbon sequestration project operator. Nothing in
5 this subsection prohibits a carbon sequestration project operator
6 from contracting for the sale, transfer, or other lawful
7 disposition of the credits.

8 (9) As used in this section, "carbon dioxide substance" means
9 a gaseous or liquid substance, consisting primarily of carbon
10 dioxide, that will be disposed of or put in storage, or that has
11 been or will be used to produce hydrocarbons in a secondary or
12 enhanced recovery operation.

13 Sec. 1301. As used in this part:

14 (a) "Application period" means the period beginning when an
15 application for a permit is received by the state and ending when
16 the application is considered to be administratively complete under
17 section 1305 and any applicable fee has been paid.

18 (b) "Department" means the department, agency, or officer
19 authorized by this act to approve or deny an application for a
20 particular permit. As used in sections 1315 to 1317, "department"
21 means the department of ~~environmental quality~~**environment, Great**
22 **Lakes, and energy**.

23 (c) "Director" means the director of the state department
24 authorized under this act to approve or deny an application for a
25 particular permit or the director's designee. As used in sections
26 1313 to 1317, "director" means the director of the department of
27 ~~environmental quality~~**environment, Great Lakes, and energy**.

28 ~~(d) "Environmental permit review commission" or "commission"~~
29 ~~means the environmental permit review commission established under~~

1 ~~section 1313(1).~~

2 (d) ~~(e)~~ "Environmental permit panel" or "panel" means a panel
3 of the environmental permit review commission, appointed under
4 section 1315(2).

5 (e) "Environmental permit review commission" or "commission"
6 means the environmental permit review commission established under
7 section 1313(1).

8 (f) "Permit", except as provided in subdivision (g), means a
9 permit, operating license, or registration required by any of the
10 following sections or by rules promulgated thereunder, or, in the
11 case of section 9112, by an ordinance referred to in that section:

12 (i) Section 3104, floodplain alteration permit.
13 (ii) Section 3503, permit for use of water in mining iron ore.
14 (iii) Section 4105, sewerage system construction permit.
15 (iv) Section 6516, vehicle testing license.
16 (v) Section 6521, motor vehicle fleet testing permit.
17 (vi) Section 8310, restricted use pesticide dealer license.
18 (vii) Section 8310a, agricultural pesticide dealer license.
19 (viii) Section 8504, license to manufacture or distribute
20 fertilizer.

21 (ix) Section 9112, local soil erosion and sedimentation control
22 permit.

23 (x) Section 11509, solid waste disposal area construction
24 permit.

25 (xi) Section 11512, solid waste disposal area operating
26 license.

27 (xii) Section 11542, municipal solid waste incinerator ash
28 landfill operating license amendment.

1 (xiii) Section 11702, septage waste servicing license or septage
2 waste vehicle license.

3 (xiv) Section 11709, septage waste site permit.

4 (xv) Section 30104, inland lakes and streams project permit.

5 (xvi) Section 30304, state permit for dredging, filling, or
6 other activity in wetland. Permit includes an authorization for a
7 specific project to proceed under a general permit issued under
8 section 30312.

9 (xvii) Section 31509, dam construction, repair, or removal
10 permit.

11 (xviii) Section 32312, flood risk, high risk, or environmental
12 area permit.

13 (xix) Section 32512, permit for dredging and filling
14 bottomland.

15 (xx) Section 32603, permit for submerged log removal from Great
16 Lakes bottomlands.

17 (xxi) Section 35304, department permit for critical dune area
18 use.

19 (xxii) Section 36505, endangered species permit.

20 (xxiii) Section 41329, nonnative aquatic species sales
21 registration.

22 (xxiv) Section 41702, game bird hunting preserve license.

23 (xxv) Section 42101, dog training area permit.

24 (xxvi) Section 42501, fur dealer's license.

25 (xxvii) Section 42702, game dealer's license.

26 (xxviii) Section 44513, charter boat operating permit under
27 reciprocal agreement.

28 (xxix) Section 44516, boat livery operating permit.

(~~xxx~~) Section 45902, game fish propagation license.

(~~xxxi~~) Section 45906, game fish import license.

(~~xxxii~~) Section 48705, permit to take amphibians and reptiles for scientific or educational use.

(~~xxxiii~~) Section 61525, oil or gas well drilling permit.

(~~xxxiv~~) Section 62509, brine, storage, or waste disposal well drilling or conversion permit or test well drilling permit.

(~~xxxv~~) Section 63103a, ferrous mineral mining permit.

(~~xxxvi~~) Section 63514 or 63525, surface coal mining and reclamation permit or revision of the permit, respectively.

(~~xxxvii~~) Section 63704, sand dune mining permit.

(~~xxxviii~~) Section 65102, carbon sequestration project operating permit.

(~~xxxix~~) ~~(~~xxxviii~~)~~ Section 72108, use permits for a Pure Michigan Trail.

(~~xl~~) ~~(~~xxxix~~)~~ Section 76109, sunken aircraft or watercraft abandoned property recovery permit.

(~~xli~~) ~~(~~xxx~~)~~ Section 76504, Mackinac Island ~~motor vehicle and~~ land use permits.

(~~xlii~~) ~~(~~xxx~~)~~ Section 80159, buoy or beacon permit.

(g) "Permit", as used in sections 1313 to 1317, means any permit or operating license that meets both of the following conditions:

(i) The applicant for the permit or operating license is not this state or a political subdivision of this state.

(ii) The permit or operating license is issued by the department of ~~environmental quality~~ **environment, Great Lakes, and energy** under this act or the rules promulgated under this act.

(h) "Processing deadline" means the last day of the processing period.

(i) "Processing period", subject to section 1307(2) and (3), means the following time period after the close of the application period, for the following permit, as applicable:

(i) Twenty days for a permit under section 61525 or 62509, **except as follows for a permit under section 61525 for a well for secondary recovery, for the disposal of salt water or brine produced in association with oil or gas operations or other oil field wastes, or for the development of reservoirs for the storage of liquid or gaseous hydrocarbons:**

(A) **Twenty-five days if the department does not receive public comment on the application.**

(B) **Thirty-five days if the department receives public comment but does not hold a public hearing on the application.**

(C) **Ninety days if the department receives public comment and holds a public hearing on the application.**

(ii) Thirty days for a permit under section 9112 or 44516.

(iii) Thirty days after the department consults with the underwater salvage and preserve committee created under section 76103, for a permit under section 76109.

(iv) Sixty days, for a permit under section 30104 **or 32512** for a **project in a** minor project **category** established under section 30105(7) or 32512a(1), ~~or~~ **respectively, for** an authorization for a specific project to proceed under a general permit issued under section 30105(8) or 32512a(2), or for a permit under section 32312 or 41329.

(v) Sixty days or, if a hearing is held, 90 days for a permit under section 35304.

(vi) Sixty days or, if a hearing is held, 120 days for a permit under section 30104, other than a permit or authorization described in subparagraph ~~(ii) or~~ (iv), or for a permit under section 31509.

(vii) Ninety days for a permit under section 11512, a revision of a surface coal mining and reclamation permit under section 63525, or a permit under section 72108.

(viii) Ninety days or, if a hearing is held, 150 days for a permit under section 3104 or 30304, or a permit under section 32512 other than a permit described in subparagraph (iv).

(ix) Ninety days after the close of the review or comment period under section ~~32604~~, **32605**, or if a public hearing is held, 90 days after the date of the public hearing for a permit under section 32603.

(x) One hundred twenty days for a permit under section 11509, 11542, 63103a, 63514, or 63704.

(xi) One hundred fifty days for a permit under section 36505. However, if a site inspection or federal approval is required, the 150-day period is tolled pending completion of the inspection or receipt of the federal approval.

(xii) Two hundred days for a permit under section 65102.

(xiii) ~~(xii)~~ For any other permit, 150 days or, if a hearing is held, 90 days after the hearing, whichever is later.

Sec. 52509. (1) The forest management trust fund is created in the state treasury.

(2) The state treasurer shall deposit money and other assets received under section 502(6)(b)(ii) or from any other source in the fund. The state treasurer shall direct the investment of money in the fund and credit interest and earnings from the investments to the fund.

1 (3) The department is the administrator of the fund for audits
2 of the fund.

3 (4) The department shall, upon appropriation, expend from the
4 fund during any state fiscal year an amount not greater than 1/3 of
5 the revenue received by the fund, including interest and earnings,
6 during the previous state fiscal year. Money shall be expended from
7 the fund only for 1 or more of the following purposes:

8 (a) Road infrastructure on state forest.

9 (b) Habitat management activities on state forest.

10 (c) Reforestation and other forest management activities to
11 maintain the health of state forest.

12 (d) Administration of carbon-related leasing programs.

13 Article III

14 NATURAL RESOURCES MANAGEMENT

15 Chapter 3

16 MANAGEMENT OF NONRENEWABLE RESOURCES

17 Subchapter 6

18 CARBON SEQUESTRATION

19 Part 651

20 CARBON SEQUESTRATION REGULATION

21 Sec. 65101. As used in this part:

22 (a) "Carbon dioxide stream" means carbon dioxide that has been
23 captured from an emission source, incidental associated substances
24 derived from the source materials and the capture process, and any
25 substances added to enable or improve the injection process. Carbon
26 dioxide stream does not include a substance that meets the
27 definition of a hazardous substance under 40 CFR 261.3.

28 (b) "Carbon sequestration project" means 1 or more injection
29 wells, a storage reservoir, and underground and surface facilities

1 and equipment used or proposed to be used in geologic storage of
2 carbon dioxide streams. Carbon sequestration project does not
3 include an enhanced oil recovery well or pipelines used to
4 transport a carbon dioxide stream to a carbon sequestration
5 project.

6 (c) "Carbon sequestration project operator" means a person
7 that holds or is an applicant for a permit.

8 (d) "Confining zone" means that term as defined in section 2
9 of the subsurface pore space act.

10 (e) "Division" means the geologic resources management
11 division of the department of environment, Great Lakes, and energy.

12 (f) "Federal regulations" means any regulatory requirement
13 applicable to a carbon sequestration well project under the United
14 States Environmental Protection Agency underground injection
15 control program for class VI wells provided for in 40 CFR parts 144
16 and 146.

17 (g) "Geologic storage" means the long-term underground storage
18 of a carbon dioxide stream in an authorized storage reservoir by
19 injection through a class VI well. Geologic storage does not
20 include the injection or disposal of carbon dioxide, acid gas, or
21 other fluids subject to a permit and bond under section 61525.

22 (h) "Permit", unless the context indicates otherwise, means a
23 permit issued under this part authorizing a person to operate a
24 carbon sequestration project.

25 (i) "Pore space" means that term as defined in section 2 of
26 the subsurface pore space act.

27 (j) "Reservoir" means a subsurface sedimentary stratum,
28 formation, aquifer, cavity, or void, whether natural or
29 artificially created, including, but not limited to, an oil and gas

1 reservoir, saline formation, or coal seam, that is both of the
2 following:

3 (i) Suitable for or capable of being made suitable for
4 injecting and storing a carbon dioxide stream.

5 (ii) Hydraulically isolated, by 1 or more confining zones, from
6 any overlying formations containing an underground source of
7 drinking water.

8 (k) "Storage reservoir" means a reservoir proposed,
9 authorized, or used for storing a carbon dioxide stream as part of
10 a carbon sequestration project. Storage reservoir includes the
11 proposed and actual subsurface 3-dimensional extent of the carbon
12 dioxide stream plume, associated area of elevated pressure, and
13 displaced fluids.

14 (l) "Supervisor" means the state geologist as defined in
15 section 60101.

16 (m) "Surface waste" means either of the following:

17 (i) The unnecessary damage to or destruction of surface
18 property, natural resources, or the environment.

19 (ii) The unnecessary endangerment of public health, safety, or
20 welfare.

21 (n) "Underground source of drinking water" means that term as
22 defined in 40 CFR 144.3.

23 (o) "Unit area" means the pore space and surface lands
24 included in a carbon sequestration project.

25 Sec. 65102. (1) A person shall not engage in geologic storage
26 or construct or operate a carbon sequestration project except
27 pursuant to a permit issued by the division pursuant to part 13 or
28 by the United States Environmental Protection Agency. Any owner of
29 the carbon sequestration project or the carbon sequestration

1 project operator may apply for a permit.

2 (2) If an electric provider or independent power producer
3 submits an application for a permit to the division, the electric
4 provider or independent power producer shall simultaneously submit
5 a copy of the application to the Michigan public service commission
6 for informational purposes.

7 (3) The owner of a carbon sequestration project or a carbon
8 sequestration project operator is exempt from obtaining a permit
9 under part 625, but is not exempt from obtaining any other permit
10 or approval required under this act. This part does not exempt an
11 electric provider or independent power producer to which a permit
12 is issued from obtaining any other permit, a license, or an
13 authorization for the recovery of costs that is required by federal
14 or state law.

15 (4) A permit applicant or a carbon sequestration project
16 operator may claim information submitted to the division under this
17 part as confidential business information. The claim must be
18 asserted at the time of submission in the manner prescribed on the
19 application form or instructions or, in the case of other
20 submissions to the division, by placing the words "confidential
21 business information" on each page containing the information. The
22 division's determination with respect to each claim of
23 confidentiality shall be made after consideration of the
24 substantive criteria for use in confidentiality determinations
25 under 40 CFR 2.208 or any previously issued determinations that are
26 applicable. The division shall deny a claim of confidential
27 business information if confidentiality is prohibited by federal
28 regulations or state law.

29 (5) An application for a permit under subsection (1) shall

1 include, but is not limited to, the following:

2 (a) The names and addresses of record for all of the following
3 persons:

4 (i) Persons that have interests within the portion of the
5 storage reservoir underlying the area included within the carbon
6 sequestration project and within 1/4 mile of the boundaries of such
7 portion of the storage reservoir, including the following:

8 (A) Oil, gas, and mineral lessees.

9 (B) Oil, gas, and mineral owners.

10 (C) Holders of permits to drill and operate under part 615 or
11 625.

12 (D) Pore space owners.

13 (E) Owners and lessees of subsurface geological formations and
14 confining zones.

15 (ii) Surface owners of land overlying the portion of the
16 storage reservoir underlying the area included in the carbon
17 sequestration project and within 1/4 mile of the boundaries of that
18 portion of the storage reservoir.

19 (b) A map and accompanying description that clearly identifies
20 the location of all carbon dioxide sequestration activities for
21 which a permit is sought.

22 (c) A map and accompanying description that clearly identifies
23 the properties overlaying the sequestration activity.

24 (d) Copies of any permit and related application materials
25 submitted to or issued by the United States Environmental
26 Protection Agency in accordance with the federal class VI well
27 program.

28 (e) A report describing groundwater and soil gas baseline
29 conditions at the sequestration project and immediately adjacent

1 surface properties. The report shall meet all of the following
2 requirements:

3 (i) Contain sampling data generated within 180 calendar days
4 before the submission of the permit application.

5 (ii) Identify the constituents of concern for which monitoring
6 was conducted and the method for selecting those constituents of
7 concern.

8 (iii) Describe the sampling methodology employed to collect and
9 test groundwater and soil samples in a manner consistent with
10 standards established by a national laboratory accreditation body.

11 (iv) Identify the accredited laboratory used to conduct the
12 testing.

13 (v) Include the sampling results for the identified
14 constituents of concern.

15 (f) A report addressing how groundwater and surface water will
16 be protected and used by the carbon dioxide sequestration project
17 operator.

18 (g) A gas monitoring plan for groundwater and soil that
19 includes, but is not limited to, all of the following:

20 (i) A monitoring frequency designed to identify the nature and
21 extent of any release of carbon dioxide or other constituents of
22 concern, the source of the release, and the estimated volume of the
23 release.

24 (ii) Confirmation monitoring protocols to address any
25 monitoring results that reflect a statistically significant
26 increase over background levels.

27 (iii) Development and submission of monitoring reports to the
28 department at a frequency determined by the division.

29 (6) The department may enter into cooperative agreements with

1 other governments or government entities to regulate carbon
2 sequestration projects that extend beyond this state's geographic
3 boundaries.

4 Sec. 65103. The division may charge a fee for a permit
5 application in an amount that does not exceed the actual reasonable
6 cost of processing the application.

7 Sec. 65104. (1) The division shall hold a public hearing on a
8 permit application within 60 days after the application is
9 considered to be administratively complete under section 1305. The
10 division may prepare a draft permit in accordance with federal
11 regulations.

12 (2) The division shall provide notice of a public hearing
13 under subsection (1) at least 30 days before the public hearing as
14 follows:

15 (a) By publication in 1 or more newspapers of general
16 circulation in each county in which all or part of the proposed
17 carbon sequestration project is to be located.

18 (b) By posting the notice on the division's website.

19 (c) By first-class mail with proof of delivery to each of the
20 following:

21 (i) The following persons that have interests within the
22 portion of the storage reservoir underlying the area covered by the
23 carbon sequestration project and within 1/4 mile of the boundaries
24 of that portion of the storage reservoir, using information
25 provided by the applicant under section 65102(5):

26 (A) Oil, gas, and mineral lessees.

27 (B) Oil, gas, and mineral owners.

28 (C) Holders of permits to drill and operate under part 615 or
29 625.

1 (D) Pore space owners.

2 (E) Owners and lessees of subsurface geological formations and
3 confining zone.

4 (ii) Surface owners of land overlying the portion of the
5 storage reservoir underlying the area covered by the applicable
6 carbon sequestration project and within 1/4 mile of the boundaries
7 of that portion of the storage reservoir.

8 (3) The notice under subsection (2) shall include the purpose,
9 time, and location of the hearing and a copy of the permit
10 application or information on how to obtain a copy.

11 (4) If substantial compliance with the notice requirements in
12 this section is achieved, inadvertent mistakes in compliance are
13 not a bar to processing the permit.

14 (5) The owner or lessee of a mineral interest may request a
15 hearing with the division during the permit processing period to
16 present evidence that the mineral interest would be damaged by the
17 project as proposed in the permit application. If a hearing is
18 requested, the division shall do all of the following:

19 (a) Attempt to mediate a mutually agreeable resolution of the
20 dispute.

21 (b) Request modifications to drilling and construction plans
22 as necessary to ensure the mineral interest is not damaged.

23 (c) Consider the evidence presented at the hearing when making
24 the final permit decision.

25 Sec. 65105. (1) The division shall issue a permit if the
26 division determines all of the following:

27 (a) The carbon sequestration project operator has complied
28 with this part in relation to the application.

29 (b) The carbon sequestration project operator has submitted to

1 the division all information required under federal regulations.

2 (c) The carbon sequestration project will comply with federal
3 regulations, including, but not limited to, requirements to protect
4 underground sources of drinking water.

5 (d) If the drilling and installation of a well and subsequent
6 injection of a carbon dioxide stream into the storage reservoir
7 will endanger or damage any oil, gas, or other mineral resource or
8 formation in any material respect, the endangerment or damage is or
9 can be satisfactorily addressed in an arrangement between the
10 applicant and the mineral lessee or mineral owners within the unit
11 area.

12 (e) The carbon sequestration project operator has obtained all
13 legal rights or authorizations associated with the proposed carbon
14 sequestration project that are necessary to operate the carbon
15 sequestration project, as demonstrated by 1 or more of the
16 following:

17 (i) Documentation that the carbon sequestration project
18 operator owns some or all of the property necessary to operate the
19 proposed carbon sequestration project.

20 (ii) Written approval of the persons holding some or all of the
21 legal rights in the property necessary to operate the proposed
22 carbon sequestration project.

23 (iii) An order for unit operations under part 653. However, the
24 division may issue a permit contingent on the applicant obtaining
25 an order for unit operations under part 653.

26 (f) The carbon sequestration project operator has submitted to
27 the division information demonstrating that the operator will
28 comply with federal regulations in effect on the effective date of
29 the amendatory act that added this section, excepting expiration

1 dates associated with available tax credits for carbon oxide
2 sequestration as provided by section 45Q of the internal revenue
3 code of 1986, 26 USC 45Q.

4 (g) The carbon sequestration project operator has provided
5 each local unit of government where the carbon sequestration
6 project is located with the emergency and remedial response plan
7 required under 40 CFR 146.94 and any other emergency response plans
8 requested by the local unit of government.

9 (2) The division shall incorporate permit conditions required
10 by federal regulations, including, but not limited to, the
11 following:

12 (a) Financial responsibility requirements.

13 (b) Requirements to record and report monitoring results.

14 (c) Requirements to protect public health and safety.

15 (3) The division may establish a schedule of compliance or
16 alternative schedule of compliance permitted under federal
17 regulations.

18 (4) An applicant shall maintain records of all data used to
19 complete permit applications and any supplemental information
20 submitted under federal regulations for a period of at least 10
21 years after the division issues a certificate of project completion
22 under section 65109.

23 (5) All permit applications, reports, or changes to
24 authorization shall be signed in the manner required under federal
25 regulations. A person that signs an application or report shall
26 include the certification required under federal regulations.

27 (6) The duration of a permit issued under this part shall
28 comply with federal regulations.

29 Sec. 65106. When the division issues a permit, it shall also

1 issue a certificate stating that the permit has been issued. The
2 certificate shall describe the area covered and include other
3 information the division considers appropriate. The carbon
4 sequestration project operator shall file a copy of the certificate
5 with the county register of deeds of each county where the storage
6 facility is located.

7 Sec. 65107. (1) Unless otherwise expressly provided by
8 contract, bill of sale, deed, mortgage, deed of trust, or other
9 legally binding document or by other applicable law, a carbon
10 sequestration project operator holds title to or control of the
11 carbon dioxide stream injected into and stored in a storage
12 reservoir until the division issues a certificate of project
13 completion under section 65109.

14 (2) A carbon sequestration project operator is not liable for
15 the presence of or pressure from the injected carbon dioxide stream
16 if this state has assumed any potential liability associated with
17 the carbon dioxide stream under section 65110(c). Otherwise, a
18 carbon sequestration project operator is not liable for the
19 presence of or pressure from the injected carbon dioxide stream
20 unless the person asserting that the carbon sequestration project
21 operator is liable establishes that the carbon dioxide stream has
22 caused any of the following:

23 (a) A substantial interference with the reasonable use of the
24 person's real property.

25 (b) A direct physical injury to the person or the person's
26 tangible property.

27 (c) A substantial interference with the recovery of oil or gas
28 from the person's producing oil and gas reservoir.

29 (3) A permit may be transferred to a new carbon sequestration

1 project operator or owner only if the permit has been modified or
2 revoked and reissued, or a minor modification made, to identify the
3 new carbon sequestration project operator and incorporate any other
4 updates or requirements necessary under this part.

5 Sec. 65108. (1) The division shall review a permit issued
6 under this part as required by federal regulations.

7 (2) Pursuant to federal regulations, a permit may be modified,
8 revoked and reissued, or terminated at the request of the permittee
9 or upon the division's initiative.

10 Sec. 65109. (1) After the cessation of carbon dioxide
11 injection, a carbon sequestration project operator shall conduct
12 monitoring, as specified in the postinjection site care and site
13 closure plan required by federal regulations. The monitoring shall
14 be conducted for at least 50 years or an alternative time frame
15 approved by the division pursuant to federal regulations, and until
16 containment of the carbon dioxide stream is verified and the carbon
17 sequestration project no longer poses an endangerment to
18 underground sources of drinking water, as demonstrated to the
19 satisfaction of the division by substantial evidence from
20 monitoring and other site-specific data submitted to and approved
21 by the division pursuant to federal regulations.

22 (2) If, before the end of the 50-year period or the approved
23 alternative time frame under subsection (1), the owner or carbon
24 sequestration project operator demonstrates to the satisfaction of
25 the division, based on substantial evidence from monitoring and
26 other site-specific data submitted to and approved by the division
27 pursuant to federal regulations, that the carbon sequestration
28 project no longer poses an endangerment to underground sources of
29 drinking water, the director may approve an amendment to the

1 postinjection site care and site closure plan to reduce the
2 frequency of monitoring or may authorize site closure before the
3 end of the 50-year period or of the approved alternative time
4 frame.

5 (3) The division must hold a public hearing before approving
6 an alternative time frame under subsection (1) or a site-closure
7 date under subsection (2).

8 (4) A carbon sequestration project operator may submit to the
9 division an application requesting a certificate of project
10 completion. If the division determines that the application for a
11 certificate of project completion is incomplete or inaccurate, the
12 division shall return the application to the carbon sequestration
13 project operator with a written statement of the deficiencies of
14 the application and the right to submit a corrected application
15 with the department.

16 (5) The division shall hold a public hearing on an application
17 for a certificate of project completion within 60 days after
18 receiving a complete and accurate application. The division shall
19 provide notice of the purpose, time, and location of the public
20 hearing in compliance with section 65104(2) and (3).

21 (6) Within 180 days after receiving a complete and accurate
22 application, the division shall issue or deny a certificate of
23 project completion and notify the carbon sequestration project
24 operator of the reasons for denial. The division shall issue a
25 certificate of project completion if the division determines all of
26 the following:

27 (a) The carbon sequestration project operator is in compliance
28 with all laws governing the carbon sequestration project.

29 (b) The carbon sequestration project operator has done all of

1 the following:

2 (i) Submitted to the division a well plugging plan and notice
3 of intent to plug required under federal regulations.

4 (ii) Plugged the wells, removed equipment and facilities, and
5 completed any reclamation work required by the division

6 (iii) Submitted to the division a plugging report required under
7 federal regulations.

8 (iv) Prepared, maintained, and complied with a plan for
9 postinjection site care and site closure required under federal
10 regulations.

11 (v) Submitted to the division all other notices and reports
12 required under federal regulations.

13 (vi) Complied with any other federal regulations regarding
14 postinjection site care and site closure.

15 (c) Project data demonstrates the containment integrity of the
16 storage reservoir, and the injected carbon dioxide stream is
17 reasonably expected to remain emplaced and not endanger an
18 underground source of drinking water.

19 (5) A carbon sequestration project operator that is denied a
20 certificate of project completion may submit a new application for
21 a certificate of project completion under subsection (4).

22 Sec. 65110. (1) When a certificate of project completion is
23 issued under section 65109, all of the following apply:

24 (a) This state assumes title to and ownership of and
25 responsibility for the carbon sequestration project and carbon
26 dioxide stream injected into the storage reservoir.

27 (b) This state assumes responsibility for all regulatory
28 requirements associated with the carbon sequestration project, and
29 the carbon sequestration project operator and the owner of the

1 carbon sequestration project are released from responsibility for
2 all regulatory requirements associated with the carbon
3 sequestration project.

4 (c) This state assumes any potential liability associated with
5 the carbon sequestration project and carbon dioxide stream injected
6 into the storage reservoir, and the carbon sequestration project
7 operator, the owner of the carbon sequestration project, and the
8 owner of the carbon dioxide stream injected into the storage
9 reservoir are released from all liability associated with the
10 carbon sequestration project and the carbon dioxide stream.
11 However, the carbon sequestration project operator shall retain
12 liability associated with the carbon sequestration project if any
13 of the following occurs:

14 (i) The carbon sequestration project operator violated state
15 law related to the project, the violation was not remedied before
16 the issuance of the certificate of project completion, and any
17 applicable statutes of limitation have not run.

18 (ii) The division determines, after notice and hearing, that
19 the carbon sequestration project operator provided deficient or
20 erroneous information that was material and relied upon by the
21 division to support the issuance of the certificate of project
22 completion.

23 (iii) Liability arises from the carbon sequestration project
24 operator's conduct associated with the project that, if known,
25 would have materially affected the division's decision in issuing
26 the certificate of project completion.

27 (d) If a performance bond or other form of financial
28 responsibility required to be provided by the carbon sequestration
29 project operator or the owner of the carbon dioxide stream injected

1 into the storage reservoir has a duration that extends beyond the
2 date of the issuance of the certificate of completion, that
3 performance bond or other form of financial responsibility is no
4 longer required and shall be released within 60 days after issuance
5 of the certificate of project completion.

6 (e) The administrator of the United States Environmental
7 Protection Agency or, if the division has obtained primary
8 enforcement responsibility for the class VI well program under
9 section 65112, the division may take emergency actions authorized
10 under the safe drinking water act of 1974, 42 USC 300f to 300j-27,
11 and the federal regulations promulgated under that act, to protect
12 the health of persons when the administrator or division receives
13 information that a contaminant associated with a carbon
14 sequestration project is present in or is likely to enter a public
15 water system or an underground source of drinking water and may
16 present an imminent and substantial endangerment to the health of
17 those persons.

18 (2) Subsection (1) does not alter liability a carbon
19 sequestration project operator may have under contract or criminal
20 law.

21 Sec. 65111. (1) The division may request the attorney general
22 to commence a civil action for appropriate relief, including a
23 permanent or temporary injunction, for a violation of this part or
24 a permit or order issued or rule promulgated under this part. An
25 action under this subsection may be brought in the circuit court
26 for the county of Ingham or for the county in which the defendant
27 is located, resides, or is doing business. The court has
28 jurisdiction to restrain the violation and to require compliance.
29 In addition to any other relief granted under this subsection, the

1 court may impose a civil fine of not less than \$2,500.00 for each
2 instance of violation and, if the violation is continuous, not more
3 than \$2,500.00 for each day of violation.

4 (2) A person who willfully violates this part or a permit or
5 order issued or rule promulgated under this part is guilty of a
6 misdemeanor punishable by a fine of not less than \$5,000.00 for
7 each instance of violation and, if the violation is continuous, not
8 more than \$5,000.00 for each day of violation.

9 Sec. 65112. (1) Within 1 year after the effective date of the
10 amendatory act that added this section, the division shall submit
11 to the administrator of the United States Environmental Protection
12 Agency an application to administer a class VI well program. The
13 application shall include a complete program description, a letter
14 from the governor, and a statement from the attorney general, to
15 the United States Environmental Protection Agency administrator
16 under federal regulations.

17 (2) The division may enter into a memorandum of agreement with
18 the regional administrator of the United States Environmental
19 Protection Agency as permitted by federal regulations.

20 Sec. 65113. (1) The division shall implement this part in a
21 manner that complies with federal regulations in effect on the
22 effective date of the amendatory act that added this section.

23 (2) To comply with federal regulations or otherwise implement
24 this part, the division may promulgate rules pursuant to the
25 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
26 24.328. In addition, the division has jurisdiction over and shall
27 promulgate rules to address the following issues as they pertain to
28 carbon sequestration projects:

29 (a) Surface waste.

1 (b) Isolation distances established pursuant to part 127 of
2 the public health code, 1978 PA 368, MCL 333.12701 to 333.12771,
3 and the safe drinking water act, 1976 PA 399, MCL 325.1001 to
4 325.1023.

5 (c) Reasonable location and setback requirements to manage the
6 risk that, in the event of carbon dioxide leakage from an injection
7 well, carbon dioxide will flow or accumulate in a location where it
8 would endanger public health or safety.

9 (d) Reasonable location, setback, and testing requirements to
10 ensure facilities and equipment do not result in surface waste or
11 unnecessary damage or danger to or destruction of underground
12 resources, neighboring property or property rights, or public
13 safety.

14 (e) To reasonably manage the risks of induced seismicity.

15 Sec. 65114. This part does not prohibit an oil, gas, or
16 mineral owner or lessee, a carbon sequestration project operator,
17 or a prospective carbon sequestration project operator from
18 drilling through or near a reservoir, a disposal well project, or
19 an oil and gas producing reservoir, or through an enhanced oil
20 recovery project, to explore for and develop minerals if the
21 drilling activities, including, but not limited to, completion
22 activities on previously drilled wells, meet both of the following
23 requirements:

24 (a) Comply with the requirements of this act and rules
25 promulgated under this act, for drilling to strata beneath gas
26 storage reservoirs, disposal well projects, or oil and gas
27 producing reservoirs, or drilling through existing enhanced
28 recovery projects.

29 (b) Preserve the integrity of any reservoir.

1 Sec. 65115. (1) Each calendar year, by a date specified by the
2 division, a carbon sequestration project operator shall pay the
3 division a fee set by the division for each ton of carbon dioxide
4 stream injected for storage in the preceding calendar year. The fee
5 shall be based on the department's anticipated reasonable expenses
6 associated with long-term monitoring and management of the carbon
7 sequestration project after issuance of a certificate of project
8 completion under section 65109.

9 (2) The fee under this section shall not exceed 32 cents per
10 ton of carbon dioxide stream injected. The state treasurer shall
11 adjust this maximum amount annually by the inflation rate as that
12 term is defined in section 34d of the general property tax act,
13 1893 PA 206, MCL 211.34d.

14 (3) The fees collected pursuant to this section shall be
15 remitted to the state treasurer for deposit as follows:

16 (a) 10% in the Michigan nongame fish and wildlife trust fund
17 established in section 42 of article IX of the state constitution
18 of 1963 and provided for in part 439.

19 (b) 10% to each of the following funds:

20 (i) The community benefits fund created in section 65116.

21 (ii) The long-term remediation fund created in section 65117.

22 (iii) The first responders fund created in section 65118.

23 (c) The balance to the carbon sequestration fund created in
24 section 65119.

25 Sec. 65116. (1) The community benefits fund is created in the
26 state treasury.

27 (2) The state treasurer shall deposit into the fund all fee
28 revenue received under section 65115(3) (b) (i) and revenue from any
29 other source designated for the fund. The state treasurer shall

1 direct the investment of money in the fund and credit interest and
2 earnings from investments to the fund.

3 (3) The division is the administrator of the fund for audits
4 of the fund.

5 (4) The division shall expend money from the fund, upon
6 appropriation, only for grants to surface owners of land overlying
7 the portion of the storage reservoir underlying the area included
8 within the applicable carbon sequestration project and within 1/4
9 mile of the boundaries of that portion of the storage reservoir, to
10 mitigate adverse impacts of a carbon sequestration project.

11 Sec. 65117. (1) The long-term remediation fund is created in
12 the state treasury.

13 (2) The state treasurer shall deposit into the fund all fee
14 revenue received under section 65115(3) (b) (ii) and revenue from any
15 other source designated for the fund. The state treasurer shall
16 direct the investment of money in the fund and credit interest and
17 earnings from investments to the fund.

18 (3) The division is the administrator of the fund for audits
19 of the fund.

20 (4) The division shall expend money from the fund, upon
21 appropriation, only for remediation of carbon dioxide leakage from
22 a carbon sequestration project after a certificate of project
23 completion is issued for the project under section 65109.

24 Sec. 65118. (1) The first responders fund is created in the
25 state treasury.

26 (2) The state treasurer shall deposit into the fund all fee
27 revenue received under section 65115(3) (b) (iii) and revenue from any
28 other source designated for the fund. The state treasurer shall
29 direct the investment of money in the fund and credit interest and

1 earnings from investments to the fund.

2 (3) The division is the administrator of the fund for audits
3 of the fund.

4 (4) The division shall expend money from the fund, upon
5 appropriation, for the following purposes:

6 (a) Grants to the department of state police to develop and
7 administer emergency preparedness training resources under the
8 emergency management act of 1976, 1976 PA 390, MCL 30.401 to
9 30.421.

10 (b) Grants to local units of government for training and
11 equipment for life support agencies, as defined in section 20906 of
12 the public health code, 1978 PA 368, MCL 333.20906, and fire
13 departments to respond to an emergency at a carbon sequestration
14 project.

15 (c) Grants to disaster relief forces, operators, or other
16 persons for the costs to attend a carbon sequestration project
17 emergency training course or costs for additional personnel,
18 volunteer support, or equipment required to adequately respond to
19 and manage a release of carbon dioxide.

20 (d) Other expenditures the division considers necessary to
21 protect public safety from a release from a carbon dioxide
22 pipeline, including, but not limited to, carbon dioxide monitors
23 and air supply respirators.

24 Sec. 65119.(1) The carbon sequestration fund is created in the
25 state treasury.

26 (2) The state treasurer shall deposit into the fund all fee
27 revenue received under section 65115(3)(c) and revenue from any
28 other source designated for the fund. The state treasurer shall
29 direct the investment of money in the fund and credit interest and

1 earnings from investments to the fund.

2 (3) The division is the administrator of the fund for audits
3 of the fund.

4 (4) The division shall expend money from the fund, upon
5 appropriation, only for the following purposes:

6 (a) To pay expenses the division incurs in long-term
7 monitoring and management of a closed carbon sequestration project
8 after issuance of a certificate of project completion under section
9 65109.

10 (b) To pay expenses that are incurred to perform regulatory
11 responsibilities with respect to a carbon sequestration project
12 that are not paid for by any other fee imposed under this part.

13 Part 653

14 CARBON SEQUESTRATION UNITIZATION

15 Sec. 65301. As used in this part:

16 (a) "Carbon sequestration project" means that term as defined
17 in section 65101.

18 (b) "Confining zone" means that term as defined in section 2
19 of the subsurface pore space act.

20 (c) "Division" means that term as defined in section 65101.

21 (d) "Order for unit operations" means an order of the division
22 under section 65304(4).

23 (e) "Plan for unit operations" means a plan under section
24 65305.

25 (f) "Pore space" means that term as defined in section 2 of
26 the subsurface pore space act.

27 (g) "Storage reservoir" means that term as defined in section
28 65101.

29 (h) "Unit area" means that term as defined in section 65101.

1 Sec. 65302. Subject to the limitations of this part, the
2 division shall make and enforce such orders, rules, and regulations
3 and do such things as may be necessary or proper to carry out the
4 purposes of this part. This duty includes the adoption of a
5 schedule of fees to be paid upon the filing of petitions,
6 amendments to petitions, and other instruments in connection with
7 petitions that bear reasonable relation to the cost of examination,
8 inspection, and supervision required under this part.

9 Sec. 65303. Any applicant or prospective applicant for a
10 permit under part 651 may file with the division a verified
11 petition requesting an order for unit operations of the carbon
12 sequestration project or parts of the carbon sequestration project
13 and for pooling of interests in pore space in the applicable
14 portion of the storage reservoir. The petition shall contain all of
15 the following:

16 (a) A copy of any permit, draft permit, or application for a
17 permit under part 651 for the carbon sequestration project or any
18 part thereof.

19 (b) A legal description of the proposed unit area, including
20 total acreage, township, range, and section information.

21 (c) The names, as disclosed by the records in the office of
22 the register of deeds for each county in which the proposed unit
23 area is located, of the following:

24 (i) Each person that owns or has an interest in the surface
25 estate or pore space within the proposed unit area, including
26 mortgagees and the owners of other liens or encumbrances.

27 (ii) Each person that owns or has an interest in the surface
28 estate or pore space not within but immediately adjoining the
29 proposed unit area.

1 (iii) Each oil, gas, and mineral owner and lessee within the
2 areas identified in subparagraphs (i) and (ii).

3 (d) The address of each person identified in subdivision (c) (i)
4 and (ii), if known. If the name and address of any person is
5 unknown, the petition shall so indicate.

6 (e) A statement of the type of operations proposed to comply
7 with this part and part 651.

8 (f) A proposed plan for unit operations applicable to the
9 proposed unit area that the petitioner considers fair, reasonable,
10 and equitable. The proposed plan shall include provisions for
11 determining all of the following:

12 (i) The pore space to be used within the unit area.

13 (ii) The quantity of pore space storage capacity that will be
14 assigned to each separately owned parcel within the unit area.

15 (iii) The appointment of a unit operator.

16 (iv) The effective date of the plan for unit operations.

17 (v) The manner in which the unit area will be supervised and
18 managed.

19 (g) A verified statement indicating in detail what action the
20 petitioner has taken to contact and obtain the approval of each
21 person of record that owns or has an interest in the proposed unit
22 area and that has not approved the proposed plan for unit
23 operations. If the plan for unit operations will be considered at a
24 supplemental hearing before the supervisor, the verified statement
25 may be filed separately before the supplemental hearing rather than
26 as part of the petition.

27 (h) An appraisal setting forth the proposed compensation to be
28 paid to a person that owns or otherwise has an interest in pore
29 space and that has not approved the proposed plan for unit

1 operations.

2 (i) A summary of all written agreements between the applicant
3 and owners of pore space within the portion of the storage
4 reservoir proposed to be included in a carbon sequestration
5 project.

6 Sec. 65304. (1) Upon the filing of a petition for unit
7 operations under this part, the petitioner shall provide notice by
8 first-class mail, with proof of delivery, to the following persons
9 at their last known address:

10 (a) The last owner of record of the pore space interests
11 underlying the lands or areas directly affected by the proposed
12 action; the surface owners; oil, gas, and mineral owners and
13 lessees; and the owners and lessees of the subsurface geological
14 formations and confining zone.

15 (b) The last owner of record of the pore space interests
16 underlying the lands or areas immediately adjacent to, and
17 contiguous to, the lands or areas directly affected by the proposed
18 action, and the surface owners.

19 (2) The notice under subsection (1) shall include all of the
20 following:

21 (a) The procedure required to file a protest against the
22 petition.

23 (b) The name, address, and phone number of a representative of
24 the petitioner who is available to discuss the petition.

25 (c) A statement that the division may issue an order approving
26 the petition without a hearing if a protest is not received in the
27 time period provided in subsection (4).

28 (d) For the notice to pore space and surface owners who have
29 not approved the plan for unit operations, a copy of the petition,

1 except that the petitioner may omit from the notice parts of the
2 petition referred to in section 65303(c) and (d).

3 (3) The failure of a petitioner to give notice under
4 subsections (1) and (2) to a person entitled to notice is not a bar
5 to holding a hearing or issuing an order under this part if the
6 petitioner substantially complied with the notice requirements of
7 this part.

8 (4) To protest the petition for unit operations, a person
9 shall submit to the division a written notice of the protest and
10 the reason or reasons for the protest not more than 15 days after
11 the petitioner complies with subsections (1) and (2). If such a
12 notice of protest is timely submitted, the division shall hold a
13 hearing on the petition. If such a notice of protest is not timely
14 submitted, the division may issue an order for unit operations
15 without holding a hearing.

16 (5) The division shall issue an order for unit operations of
17 the carbon sequestration project or parts of the carbon
18 sequestration project and for pooling of interests in pore space in
19 the applicable portion of the storage reservoir if the division
20 finds all of the following:

21 (a) That the material representations contained in the
22 verified petition are substantially true.

23 (b) That the unitization requested will facilitate the
24 operation of a carbon sequestration project under part 651.

25 (c) That the type of operations contemplated by the proposed
26 plan for unit operations is feasible and the injection of carbon
27 dioxide stream into the storage reservoir for the unit will not
28 endanger or injure any oil, gas, or other mineral formation in any
29 material respect unless otherwise addressed in an arrangement

1 between the applicant and the oil, gas, or mineral owner or lessee
2 within the unit area.

3 (d) That the application outlines operations that will comply
4 with part 651.

5 Sec. 65305. An order for unit operations under section
6 63504(5) shall include terms and conditions that are fair,
7 reasonable, and equitable. The order shall prescribe a plan for
8 unit operations that includes all of the following:

9 (a) A description of the unit area, including any part of the
10 surface estate within the unit area that will be used as part of
11 the carbon sequestration project. This part does not authorize the
12 location of any monitoring well on the surface estate of any tract.
13 Any monitoring well location and facilities will be determined
14 through negotiation between the applicant and owners of the surface
15 estate.

16 (b) A statement in reasonable detail of the operations
17 contemplated.

18 (c) The quantity of pore space capacity allocated to each
19 separately owned tract within the unit area, representing each
20 tract's share of pore space being used in the carbon sequestration
21 project, and the method used to make that allocation.

22 (d) The general manner in which the unit and the further
23 development and operation of the unit area shall or may be
24 conducted.

25 (e) Provisions, based upon appraisals submitted by the
26 applicant and pore space owners whose interests have not been
27 acquired for use in unit operations, for compensation for the fair
28 market value of the pore space.

29 (f) Provisions for supervision and management of the unit

1 operations.

2 (g) The effective date of the plan for unit operations and the
3 date when unit operations may commence.

4 (h) The time when, conditions under which, and method by which
5 the unit shall be dissolved and its affairs wound up.

6 (i) A requirement that the carbon sequestration project
7 comprising the unit area obtain a permit under part 651.

8 (j) Findings by the division that the injection of the carbon
9 dioxide stream into the carbon sequestration project for the unit
10 will not endanger or injure any oil, gas, or other mineral
11 formation in any material respect, or that any such endangerment or
12 injury has been or can be reasonably addressed in an arrangement
13 between the petitioner and the mineral lessee or mineral owners
14 within the unit area.

15 (k) Any additional provisions that the division finds are
16 appropriate for carrying on the unit operations.

17 Sec. 65306. An order for unit operations under section
18 65304(5) does not take effect until the division makes a finding,
19 either in the order for unit operations or in a supplemental order,
20 that the plan for unit operations has been approved in writing by
21 persons owning at least 60% of the pore space storage capacity
22 within the unit area. For purposes of this part, any unknown or
23 unlocatable pore space owners shall be considered to have approved
24 the plan of unit operations and are subject to a proposed unit if
25 the petitioner complied with the notice requirements set forth in
26 section 65304(1) and (2). The lessees of state-owned pore space
27 that is leased through a state leasing program under section 65314
28 and comprises all or a portion of the pore space storage capacity
29 for a carbon sequestration project shall be considered to have

1 approved the plan of unit operations under this section. The plan
2 of unit operations is subordinate to the terms and conditions of
3 any state pore space lease.

4 Sec. 65307. If persons owning at least 60% of the pore space
5 storage capacity within the unit area have not approved the plan
6 for unit operations when the division issues the order for unit
7 operations, the division on its own motion or the motion of any
8 interested person shall, after providing notice, hold 1 or more
9 supplemental hearings to determine if the plan for unit operations
10 has been approved under section 65306. If the division finds that
11 the plan has been approved, the division shall issue a supplemental
12 order declaring the plan effective and setting forth the date for
13 the commencement of unit operations. If, within 180 days from the
14 date on which the order for unit operations is issued, the division
15 does not find that the plan has been approved, the order for unit
16 operations is ineffective and shall be revoked by the division
17 unless for good cause shown the division extends the time for an
18 additional period not to exceed 1 year.

19 Sec. 65308. In the same manner as and subject to the same
20 conditions that apply to the issuance of an original order for unit
21 operations, the division, upon its own motion or upon application,
22 and with notice and hearing, may modify or amend an order for unit
23 operations regarding the operation, size, or other characteristics
24 of the unit area to prevent or assist in preventing a substantial
25 inequity resulting from operation of the unit.

26 Sec. 65309. Operations conducted pursuant to an order for unit
27 operations constitute a fulfillment of all the express and implied
28 obligations of each lease or contract covering the lands in the
29 unit area to the extent that compliance with the obligations is

1 prevented by the order for unit operations.

2 Sec. 65310. Except to the extent that the parties affected
3 agree otherwise, an order for unit operations does not result in a
4 transfer of all or part of the title of any person's pore space
5 rights in any tract within the unit area.

6 Sec. 65311. If the plan for unit operations under section
7 65305 so provides, a unit created under this part may, through its
8 operator, sue, be sued, and contract as a unit in its own right.
9 The operator of the unit, on behalf and for the account of all
10 owners of interest within the unit area, may supervise, manage, and
11 conduct further development and operations for the carbon
12 sequestration project within the unit area under the authority and
13 limitations of the order for unit operations.

14 Sec. 65312. After the effective date of an order for unit
15 operations, the unit area defined in the order shall not be
16 operated by persons other than the unit operator or persons acting
17 under the unit operator's authority, or operated other than in the
18 manner and to the extent provided in the plan for unit operations.

19 Sec. 65313. Property rights, leases, contracts, and all other
20 rights and obligations shall be considered to be amended and
21 modified to the extent necessary to conform to this part and to any
22 valid and applicable plan for unit operations or order of the
23 division made pursuant to this part.

24 Sec. 65314. The division shall not require the unitization of
25 state-owned properties or parts of state-owned properties under
26 this part if this state provides for the orderly development of
27 state-owned pore space through a leasing program.

28 Sec. 65315. (1) The department may promulgate rules to
29 implement this part pursuant to the administrative procedures act

1 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

2 (2) Except as provided under section 65304, the division shall
3 not issue, put into effect, revoke, change, renew, or extend an
4 order under this part, unless the division has held a public
5 hearing. The public hearing shall be held at such time, place, and
6 manner as provided for in this part or by rules promulgated under
7 this part, including notice as provided in section 65316.

8 Sec. 65316. (1) If a written notice of protest is timely filed
9 under section 65304(4), the division shall not issue, put into
10 effect, revoke, change, renew, or extend an order under this part,
11 unless the division has held a public hearing on the proposal. The
12 public hearing shall be held at such time, place, and manner as
13 provided for in this part or by rules promulgated under this part.

14 (2) Jurisdictional requirements of notice for all hearings
15 required by this part, except proceedings for criminal or civil
16 enforcement of this part, are satisfied by publication of the time,
17 place, and issues involved in the hearing as provided in either of
18 the following:

19 (a) Publication once each week for 2 weeks consecutively in a
20 newspaper of general circulation in the county in which the unit
21 area or any portion of the unit area is located with the date of
22 last publication at least 20 days before the date set for the
23 hearing.

24 (b) Publication at least 20 days before the date set for the
25 hearing in a trade journal, periodical, newsletter, or paper, or
26 commercially available scout report, in general circulation within
27 appropriate industries as determined by the division.

28 Sec. 65317. The rules, procedures, penalties, and other
29 provisions set forth in section 61709 and sections 61728 to 61737

governing the process employed by the division for the unitization of oil and gas drilling units apply to a petition filed for unitization of pore space interests within a unit area under this part and any order under this part. However, to the extent that the provisions set forth in section 61709 and sections 61728 to 61737 conflict with this part, the provisions of this part control.

Sec. 65319. A certified copy of an order of the division issued under this part may be recorded in the office of the register of deeds for each county where all or any portion of the unit area is located, and such recordation constitutes notice to all persons in interest and their heirs, successors, and assigns.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 103rd Legislature are enacted into law:

(a) Senate Bill No. _____ (request no. S01284'25) or House Bill No. _____ (request no. H01284'25).

(b) Senate Bill No. _____ (request no. S01285'25) or House Bill No. _____ (request no. H01285'25).