

**SUBSTITUTE FOR  
SENATE BILL NO. 1131**

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



1 ~~administration of this act and other purposes provided by law.~~  
 2 ~~Other money~~ **Money** received from a contract ~~permitted~~ under this  
 3 subsection **for the taking of coal, oil, gas, or metallic mineral**  
 4 **products**, except money received from lands acquired with money from  
 5 the former game and fish protection fund or the game and fish  
 6 protection account of the Michigan conservation and recreation  
 7 legacy fund provided for in section 2010, shall be transmitted to  
 8 the state treasurer for deposit in the Michigan natural resources  
 9 trust fund created in section 35 of article IX of the state  
 10 constitution of 1963 and provided for in part 19. ~~However, the~~  
 11 ~~money~~ **Money** received from the payment of service charges by a  
 12 person using areas managed for waterfowl shall be credited to the  
 13 game and fish protection account of the Michigan conservation and  
 14 recreation legacy fund provided for in section 2010 and used only  
 15 for the purposes provided by law. Money received from bonuses,  
 16 rentals, delayed rentals, royalties, and the direct sale of  
 17 resources, including forest resources, from lands acquired with  
 18 money from the former game and fish protection fund or the game and  
 19 fish protection account of the Michigan conservation and recreation  
 20 legacy fund provided for in section 2010 shall be credited to the  
 21 Michigan game and fish protection trust fund established in section  
 22 41 of article IX of the state constitution of 1963 and provided for  
 23 in part 437, except as otherwise provided by law.

24 (4) The department shall not enter into a contract that allows  
 25 drilling operations beneath the lake bottomlands of the Great  
 26 Lakes, the connected bays or harbors of the Great Lakes, or the  
 27 connecting waterways as defined in section 32301, for the  
 28 exploration or production of oil or gas.

29 (5) This section does not permit a contract for the taking of



1 gravel, sand, coal, oil, gas, or other metallic mineral products  
2 that does not comply with applicable local ordinances and state  
3 law.

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

9 (a) For lands other than tax reverted lands, to the fund  
10 providing financial support for the management of the leased land.  
11 For land managed by the forest resources division of the  
12 department, that fund is the forest development fund established  
13 pursuant to section 50507. For land managed by the wildlife or  
14 fisheries division of the department, that fund is the game and  
15 fish protection account of the Michigan conservation and recreation  
16 legacy fund provided for in section 2010. For other state land,  
17 that fund is the fund from which the land was purchased.

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

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

22 (ii) 50% to the forest development trust account created in  
23 section 514.

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

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

28 (b) The sale of carbon offset credits allows for continued  
29 land management as outlined by the department's land management



1 plans or strategies.

2 (8) This section does not create a preemptive right for the  
 3 department or this state to own any carbon offset credits related  
 4 to public land if a third party has legal rights to the credits.  
 5 Notwithstanding any law to the contrary, carbon offset credits or  
 6 tax credits that result from the sequestration of carbon dioxide on  
 7 public lands during the effective period of permitted sequestration  
 8 and until issuance of a certificate of project completion are the  
 9 property of a carbon sequestration project operator. Nothing in  
 10 this subsection prohibits a carbon sequestration project operator  
 11 from contracting for the sale, transfer, or other lawful  
 12 disposition of the credits.

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

18 Sec. 1301. As used in this part:

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

23 (b) "Department" means the department, agency, or officer  
 24 authorized by this act to approve or deny an application for a  
 25 particular permit. As used in sections 1315 to 1317, "department"  
 26 means the department of environmental quality.

27 (c) "Director" means the director of the state department  
 28 authorized under this act to approve or deny an application for a  
 29 particular permit or the director's designee. As used in sections



1 1313 to 1317, "director" means the director of the department of  
2 environmental quality.

3 (d) "Environmental permit review commission" or "commission"  
4 means the environmental permit review commission established under  
5 section 1313(1).

6 (e) "Environmental permit panel" or "panel" means a panel of  
7 the environmental permit review commission, appointed under section  
8 1315(2).

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

13 (i) Section 3104, floodplain alteration permit.

14 (ii) Section 3503, permit for use of water in mining iron ore.

15 (iii) Section 4105, sewerage system construction permit.

16 (iv) Section 6516, vehicle testing license.

17 (v) Section 6521, motor vehicle fleet testing permit.

18 (vi) Section 8310, restricted use pesticide dealer license.

19 (vii) Section 8310a, agricultural pesticide dealer license.

20 (viii) Section 8504, license to manufacture or distribute  
21 fertilizer.

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

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

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

28 (xii) Section 11542, municipal solid waste incinerator ash



1 landfill operating license amendment.

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

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

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

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

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

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

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

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

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

20 (xxii) Section 36505, endangered species permit.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

13          **(xxxviii) Section 65102, carbon sequestration project operating**  
14 **permit.**

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

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

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

21          **(xlii) ~~(xxxi)~~** Section 80159, buoy or beacon permit.

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

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

27           (ii) The permit or operating license is issued by the  
28 department of environmental quality under this act or the rules





1 promulgated under this act.

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

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

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

13 (A) Fifty days if the department does not receive public  
14 comment on the application.

15 (B) Seventy days if the department receives public comment but  
16 does not hold a public hearing on the application.

17 (C) One hundred and twenty days if the department receives  
18 public comment and holds a public hearing on the application.

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

20 (iii) Thirty days after the department consults with the  
21 underwater salvage and preserve committee created under section  
22 76103, for a permit under section 76109.

23 (iv) Sixty days, for a permit under section 30104 **or 32512** for  
24 a **project in a** minor project **category** established under section  
25 30105(7) or 32512a(1), ~~or~~ **respectively, for** an authorization for a  
26 specific project to proceed under a general permit issued under  
27 section 30105(8) or 32512a(2), or for a permit under section 32312  
28 or 41329.

29 (v) Sixty days or, if a hearing is held, 90 days for a permit



1 under section 35304.

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

5 (vii) Ninety days for a permit under section 11512, a revision  
6 of a surface coal mining and reclamation permit under section  
7 63525, or a permit under section 72108.

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

11 (ix) Ninety days after the close of the review or comment  
12 period under section ~~32604~~, **32605**, or if a public hearing is held,  
13 90 days after the date of the public hearing for a permit under  
14 section 32603.

15 (x) One hundred twenty days for a permit under section 11509,  
16 11542, 63103a, 63514, or 63704.

17 (xi) One hundred fifty days for a permit under section 36505.  
18 However, if a site inspection or federal approval is required, the  
19 150-day period is tolled pending completion of the inspection or  
20 receipt of the federal approval.

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

22 (xiii) For any other permit, 150 days or, if a hearing is held,  
23 90 days after the hearing, whichever is later.

24 **Article III**

25 **NATURAL RESOURCES MANAGEMENT**

26 **Chapter 3**

27 **MANAGEMENT OF NONRENEWABLE RESOURCES**

28 **Subchapter 6**

29 **CARBON SEQUESTRATION**



## 1 Part 651

## 2 CARBON SEQUESTRATION REGULATION

3 Sec. 65101. As used in this part:

4 (a) "Carbon dioxide" means carbon dioxide that is produced by  
5 anthropogenic sources and is of such purity and quality that it  
6 will not compromise the safety of geologic storage and will not  
7 compromise those properties of a storage reservoir that allow the  
8 reservoir to effectively enclose and contain a stored gas.

9 (b) "Carbon sequestration project" means 1 or more  
10 nonexperimental injection wells, a storage reservoir, and  
11 underground and surface facilities and equipment used or proposed  
12 to be used in geologic storage. Carbon sequestration project does  
13 not include an enhanced oil recovery well or pipelines used to  
14 transport carbon dioxide to a carbon sequestration project.

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

17 (d) "Director" means the director of the department of  
18 environment, Great Lakes, and energy.

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

21 (f) "Federal regulations" means any regulatory requirement  
22 applicable to a carbon sequestration well project under the United  
23 States Environmental Protection Agency underground injection  
24 control program for class VI wells provided for in 40 CFR part 145.

25 (g) "Geologic storage" means the permanent underground storage  
26 of carbon dioxide in a storage reservoir.

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



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

3 (j) "Reservoir" means a subsurface sedimentary stratum,  
4 formation, aquifer, cavity, or void, whether natural or  
5 artificially created, including, but not limited to, oil and gas  
6 reservoirs, saline formations, and coal seams, suitable for or  
7 capable of being made suitable for injecting and storing carbon  
8 dioxide.

9 (k) "Storage reservoir" means a reservoir proposed,  
10 authorized, or used for storing carbon dioxide beneath the  
11 lowermost formation containing an underground source of drinking  
12 water as part of a carbon sequestration project. Storage reservoir  
13 includes the proposed and actual subsurface 3-dimensional extent of  
14 the carbon dioxide plume, associated area of elevated pressure, and  
15 displaced fluids.

16 (l) "Unit area" means the pore space and surface lands included  
17 in a carbon sequestration project.

18 Sec. 65102. (1) A person shall not engage in geologic storage  
19 or construct or operate a carbon sequestration project except  
20 pursuant to a permit issued by the division pursuant to part 13 or  
21 by the United States Environmental Protection Agency. Any owner or  
22 operator of the carbon sequestration project may apply for a  
23 permit.

24 (2) Before the submission of an application for a permit, a  
25 permit applicant shall submit to the division the information  
26 required by federal regulations.

27 (3) If an electric provider or independent power producer  
28 submits an application for a permit to the department, the electric  
29 provider or independent power producer shall simultaneously submit



1 a copy of the application to the Michigan public service commission  
2 for informational purposes.

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

12 (5) A permit applicant or a carbon sequestration project  
13 operator may claim information submitted to the department under  
14 this part as confidential business information. Any such claims  
15 must be asserted at the time of submission in the manner prescribed  
16 on the application form or instructions or, in the case of other  
17 submissions to the department, by placing the words "confidential  
18 business information" on each page containing the information. The  
19 department shall deny a claim of confidential business information  
20 if confidentiality is prohibited by federal regulations or state  
21 law.

22 (6) A permit applicant shall provide the names and addresses  
23 of record for all of the following persons that have interests  
24 within the portion of the storage reservoir underlying the area  
25 covered by the carbon sequestration project and within 1/2 mile of  
26 the boundaries of such portion of the storage reservoir:

- 27 (a) Oil, gas, and mineral lessees.  
28 (b) Oil, gas, and mineral owner.  
29 (c) Holders of permits to drill and operate under part 615 or



1 625.

2 (d) Pore space owners.

3 (7) The department may enter into cooperative agreements with  
4 other governments or government entities to regulate carbon  
5 sequestration projects that extend beyond this state's regulatory  
6 authority.

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

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

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

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

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

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

23 (i) Persons that are within the portion of the storage  
24 reservoir underlying the area covered by the carbon sequestration  
25 project and within 1/2 mile of the boundaries of that portion of  
26 the storage reservoir, using information provided by the applicant  
27 in section 65102(6):

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

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



1 (C) Holders of permits to drill and operate under part 615 or  
2 625.

3 (D) Pore space owners.

4 (E) Owners and lessees of subsurface geological formations and  
5 cap rock.

6 (ii) Surface owners of land overlying the portion of the  
7 storage reservoir underlying the area covered by the applicable  
8 carbon sequestration project and within 1/2 mile of the boundaries  
9 of that portion of the storage reservoir.

10 (3) The notice under subsection (2) shall include the purpose,  
11 time, and location of the meeting and may include a copy of a draft  
12 permit or information on how to obtain a copy.

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

16 (5) A person with an interest associated with the mineral  
17 estate may request a hearing with the department during the permit  
18 processing period to present evidence that the mineral interest  
19 would be damaged by the project as proposed in the permit  
20 application. The department shall attempt to mediate the dispute,  
21 request modifications to drilling and construction plans as  
22 necessary to ensure the mineral interest is not damaged, and  
23 consider the evidence presented when making the final permit  
24 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, subject to section  
29 65104(5).



1 (b) The carbon sequestration project operator has submitted to  
2 the division all information required under federal regulations.

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

6 (d) If the drilling and installation of a well and subsequent  
7 injection of carbon dioxide into the storage reservoir will  
8 endanger or damage any oil, gas, or other mineral resource or  
9 formation in any material respect, the endangerment or damage is  
10 addressed in an arrangement between the applicant and the mineral  
11 lessee or mineral owners within the unit 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 to demonstrate that the project operator  
28 will comply with federal regulations necessary to receive tax  
29 credits for carbon oxide sequestration as provided by section 45Q





1 of the internal revenue code of 1986, 26 USC 45Q.

2 (2) The division shall incorporate in a permit conditions  
3 required by federal regulations, including, but not limited to, the  
4 following:

5 (a) Financial responsibility requirements

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

7 (3) The division may establish a schedule of compliance or  
8 alternative schedule of compliance permitted under federal  
9 regulations.

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

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

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

21 Sec. 65106. When the division issues a permit, it shall also  
22 issue a certificate stating that the permit has been issued. The  
23 certificate shall describe the area covered and include other  
24 information the division considers appropriate. The carbon  
25 sequestration project operator shall file a copy of the certificate  
26 with the county register of deeds of each county where the storage  
27 facility is located.

28 Sec. 65107. (1) Unless otherwise expressly provided by  
29 contract, bill of sale, deed, mortgage, deed of trust, or other



1 legally binding document or by other applicable law, a carbon  
2 sequestration project operator holds title to or control of the  
3 carbon dioxide injected into and stored in a storage reservoir  
4 until the division issues a certificate of project completion under  
5 section 65109.

6 (2) A carbon sequestration project operator is not liable for  
7 the presence of or pressure from injected carbon dioxide substances  
8 if this state has assumed any potential liability associated with  
9 the carbon dioxide under section 65110(c). Otherwise, a carbon  
10 sequestration project operator is not liable for the presence of or  
11 pressure from injected carbon dioxide substances unless the person  
12 asserting that the carbon sequestration project operator is liable  
13 establishes that the carbon dioxide substance has caused any of the  
14 following:

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

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

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

21 (3) A permit may be transferred to a new carbon sequestration  
22 project operator or owner only if the permit has been modified or  
23 revoked and reissued, or a minor modification made, to identify  
24 that new carbon sequestration project operator and incorporate  
25 other requirements as may be necessary under this part.

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

28 (2) Pursuant to federal regulations, a permit may be modified,  
29 revoked and reissued, or terminated at the request of the permittee



1 or upon the division's initiative.

2 Sec. 65109. (1) A carbon sequestration project operator may  
3 submit to the division an application for a certificate of project  
4 completion.

5 (2) If the division determines that the application for a  
6 certificate of project completion is incomplete or inaccurate, the  
7 division shall return the application to the carbon sequestration  
8 project operator with a written statement of the deficiencies of  
9 the application and the right to submit a corrected application  
10 with the department.

11 (3) The division shall hold a public hearing on an application  
12 for a certificate of project completion within 60 days after  
13 receiving a complete and accurate application. The division shall  
14 provide notice of the purpose, time, and location of the public  
15 hearing in compliance with section 65104(2) and (3).

16 (4) Within 180 days after receiving a complete and accurate  
17 application, the division shall issue or deny a certificate of  
18 project completion and notify the carbon sequestration project  
19 operator of the reasons for denial. The division shall issue a  
20 certificate of project completion if the division determines all of  
21 the following:

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

24 (b) The carbon sequestration project operator has done all of  
25 the following:

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

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



1 (iii) Submitted to the division a plugging report required under  
2 federal regulations.

3 (iv) Prepared, maintained, and complied with a plan for post-  
4 injection site care and site closure required under federal  
5 regulations.

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

8 (vi) Complied with any other federal regulations regarding  
9 post-injection site care and site closure.

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

12 (5) A carbon sequestration project operator that is denied a  
13 certificate of project completion may submit a new application for  
14 a certificate of project completion under subsection (1).

15 Sec. 65110. When a certificate of project completion is issued  
16 under section 65109, all of the following apply:

17 (a) This state assumes title to and ownership of and  
18 responsibility for the carbon sequestration project and carbon  
19 dioxide injected into the storage reservoir.

20 (b) This state assumes responsibility for all regulatory  
21 requirements associated with the carbon sequestration project, and  
22 the carbon sequestration project operator and the owner of the  
23 carbon sequestration project are released from responsibility for  
24 all regulatory requirements associated with the carbon  
25 sequestration project.

26 (c) This state assumes any potential liability associated with  
27 the carbon sequestration project and carbon dioxide injected into  
28 the storage reservoir, and the carbon sequestration project  
29 operator, the owner of the carbon sequestration project, and the



1 owner of the carbon dioxide injected into the storage reservoir are  
2 released from all liability associated with the carbon  
3 sequestration project and the carbon dioxide. However, the carbon  
4 sequestration project operator shall retain liability associated  
5 with the carbon sequestration project if any of the following  
6 occurs:

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

11 (ii) The division determines, after notice and hearing, that  
12 the carbon sequestration project operator provided deficient or  
13 erroneous information that was material and relied upon by the  
14 division to support the issuance of the certificate of project  
15 completion.

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

20 (d) If a performance bond or other form of financial  
21 responsibility required to be provided by the carbon sequestration  
22 project operator or the owner of the carbon dioxide injected into  
23 the storage reservoir has a duration that extends beyond the date  
24 of the issuance of the certificate of completion, that performance  
25 bond or other form of financial responsibility is no longer  
26 required and shall be released.

27 Sec. 65111. (1) The division may request the attorney general  
28 to commence a civil action for appropriate relief, including a  
29 permanent or temporary injunction, for a violation of this part or



1 a permit or order issued or rule promulgated under this part. An  
2 action under this subsection may be brought in the circuit court  
3 for the county of Ingham or for the county in which the defendant  
4 is located, resides, or is doing business. The court has  
5 jurisdiction to restrain the violation and to require compliance.  
6 In addition to any other relief granted under this subsection, the  
7 court may impose a civil fine of not less than \$2,500.00 for each  
8 instance of violation and, if the violation is continuous, not more  
9 than \$2,500.00 for each day of violation.

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

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

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

26 Sec. 65113. (1) The division shall implement this part in a  
27 manner that complies with federal regulations.

28 (2) To comply with federal regulations or otherwise implement  
29 this part, the division may promulgate rules pursuant to the



1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
2 24.328.

3       Sec. 65114. This part does not prohibit an oil, gas, or  
4 mineral owner or lessee, a carbon sequestration project operator,  
5 or a prospective carbon sequestration project operator from  
6 drilling through or near a reservoir, a disposal well project, or  
7 an oil and gas producing reservoir, or through an enhanced oil  
8 recovery project, to explore for and develop minerals if the  
9 drilling activities, including, but not limited to, completion  
10 activities on previously drilled wells, meet both of the following  
11 requirements:

12       (a) Comply with the requirements of this act for drilling to  
13 strata beneath gas storage reservoirs, disposal well projects, or  
14 oil and gas producing reservoirs, or drilling through existing  
15 enhanced recovery projects.

16       (b) Preserve the integrity of any storage reservoir.

17       Sec. 65115. (1) Each calendar year, by a date specified by the  
18 division, a carbon sequestration project operator shall pay the  
19 division a fee set by the division for each ton of carbon dioxide  
20 injected for storage in the preceding calendar year. The fee shall  
21 be based on the department's anticipated expenses associated with  
22 long-term monitoring and management of the carbon sequestration  
23 project after issuance of a certificate of project completion under  
24 section 65109.

25       (2) The fee under this section shall not exceed 8 cents per  
26 ton of carbon dioxide injected. The state treasurer shall adjust  
27 this maximum amount annually by the inflation rate as that term is  
28 defined in section 34d of the general property tax act, 1893 PA  
29 206, MCL 211.34d.



1 (3) Fees collected pursuant to this section shall be remitted  
2 to the state treasurer for deposit in the carbon sequestration fund  
3 created in section 65116.

4 Sec. 65116. (1) The carbon sequestration fund is created in  
5 the state treasury.

6 (2) The state treasurer shall deposit into the fund all fees  
7 received under section 65115 and revenue from any other source  
8 designated for the fund. The state treasurer shall direct the  
9 investment of money in the fund and credit interest and earnings  
10 from investments to the fund.

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

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

15 (a) To pay expenses the division incurs in long-term  
16 monitoring and management of a closed carbon sequestration project  
17 after issuance of a certificate of project completion under section  
18 65109.

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

#### 22 Part 653

#### 23 CARBON SEQUESTRATION UNITIZATION

24 Sec. 65301. As used in this part:

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

27 (b) "Carbon sequestration project" means that term as defined  
28 in section 65101.

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





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

3 (e) "Plan for unit operations" means a plan under section  
4 65305.

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

7 (g) "Storage reservoir" means that term as defined in section  
8 65101.

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

10 Sec. 65302. Subject to the limitations of this part, the  
11 division shall make and enforce such orders, rules, and regulations  
12 and do such things as may be necessary or proper to carry out the  
13 purposes of this part. This duty includes the adoption of a  
14 schedule of fees to be paid upon the filing of petitions,  
15 amendments to petitions, and other instruments in connection with  
16 petitions that bear reasonable relation to the cost of examination,  
17 inspection, and supervision required under this part.

18 Sec. 65303. Any applicant or prospective applicant for a  
19 permit under part 651 may file with the division a verified  
20 petition requesting an order for unit operations of the carbon  
21 sequestration project or parts of the carbon sequestration project  
22 and for pooling of interests in pore space in the applicable  
23 portion of the storage reservoir. The petition shall contain all of  
24 the following:

25 (a) A copy of any permit, draft permit, or application for a  
26 permit under part 651 for the carbon sequestration project or any  
27 part thereof.

28 (b) A description of the proposed unit area.

29 (c) The names, as disclosed by the records in the office of



1 the register of deeds for each county in which the proposed unit  
2 area is located, of the following:

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

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

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

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

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

16 (f) A proposed plan for unitization applicable to the proposed  
17 unit area that the petitioner considers fair, reasonable, and  
18 equitable. The proposed plan shall include provisions for  
19 determining all of the following:

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

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

23 (iii) The appointment of a unit operator.

24 (iv) The effective date of the plan for unitization.

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

27 (g) A verified statement indicating in detail what action the  
28 petitioner has taken to contact and obtain the approval of each  
29 person of record that owns or has an interest in the proposed unit



1 area and that has not approved the proposed plan for unitization.  
2 If the plan for unitization will be considered at a supplemental  
3 hearing before the supervisor, the verified statement may be filed  
4 separately before the supplemental hearing rather than as part of  
5 the petition.

6 (h) An appraisal setting forth the proposed compensation to be  
7 paid to a person that owns or otherwise has an interest in pore  
8 space and that has not approved the proposed plan for unitization.

9 (i) A copy of any written agreements between the applicant and  
10 owners of pore space within the portion of the storage reservoir  
11 proposed to be included in a carbon sequestration project.

12 Sec. 65304. (1) Upon the filing of a petition for unitization  
13 under this part, the petitioner shall provide notice by first-class  
14 mail, with proof of delivery, to the following persons at their  
15 last known address:

16 (a) The last owner of record of the pore space interests  
17 underlying the lands or areas directly affected by the proposed  
18 action; the surface owners; oil, gas, and mineral owners and  
19 lessees; and the owners and lessees of the subsurface geological  
20 formations and cap rock.

21 (b) The last owner of record of the pore space interests  
22 underlying the lands or areas immediately adjacent to, and  
23 contiguous to, the lands or areas directly affected by the proposed  
24 action, and the surface owners.

25 (2) The notice under subsection (1) shall include all of the  
26 following:

27 (a) The procedure required to file a protest against the  
28 petition.

29 (b) The name, address, and phone number of a representative of



1 the petitioner who is available to discuss the petition.

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

5 (d) For the notice to pore space and surface owners who have  
6 not approved the plan for unitization, a copy of the petition,  
7 except that the petitioner may omit from the notice parts of the  
8 petition referred to in section 65303(c) and (d).

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

14 (4) To protest the petition, a person shall submit to the  
15 division a written notice of the protest and the reason or reasons  
16 for the protest not more than 15 days after the completion of the  
17 publication of notice under section 65316. If such a notice of  
18 protest is timely submitted, the division shall hold a hearing on  
19 the petition. If such a notice of protest is not timely submitted,  
20 the division may issue an order for unit operations without holding  
21 a hearing.

22 (5) The division shall issue an order for unit operations of  
23 the carbon sequestration project or parts of the carbon  
24 sequestration project and for pooling of interests in pore space in  
25 the applicable portion of the storage reservoir if the division  
26 finds all of the following:

27 (a) That the material representations contained in the  
28 verified petition are substantially true.

29 (b) That the unitization requested will facilitate the



1 operation of a carbon sequestration project under part 651.

2 (c) That the type of operations contemplated by the proposed  
3 plan for unitization is feasible and the injection of carbon  
4 dioxide into the storage reservoir for the unit will not endanger  
5 or injure any oil, gas, or other mineral formation in any material  
6 respect unless otherwise addressed in an arrangement between the  
7 applicant and the oil, gas, or mineral owner or lessee within the  
8 unit area.

9 (d) That the application outlines operations that will comply  
10 with part 651.

11 Sec. 65305. An order for unit operations under section  
12 63504(5) shall include terms and conditions that are fair,  
13 reasonable, and equitable. The order shall prescribe a plan for  
14 unit operations that includes all of the following:

15 (a) A description of the unit area, including any part of the  
16 surface estate within the unit area that will be used as part of  
17 the carbon sequestration project. This part does not authorize the  
18 location of any monitoring well on the surface estate of any tract.  
19 Any monitoring well location and facilities will be determined  
20 through negotiation between the applicant and owners of the surface  
21 estate.

22 (b) A statement in reasonable detail of the operations  
23 contemplated.

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

28 (d) The general manner in which the unit and the further  
29 development and operation of the unit area shall or may be



1 conducted.

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

6 (f) Provisions for supervision and management of the unit  
7 operations.

8 (g) The effective date of the plan of unitization and the date  
9 when unit operations may commence.

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

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

14 (j) Findings by the division that the injection of carbon  
15 dioxide into the carbon sequestration project for the unit will not  
16 endanger or injure any oil, gas, or other mineral formation in any  
17 material respect, or that any such endangerment or injury has been  
18 addressed in an arrangement between the petitioner and the mineral  
19 lessee or mineral owners within the unit area.

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

22 Sec. 65306. An order for unit operations under section  
23 63504(5) does not take effect until the division makes a finding,  
24 either in the order for unit operations or in a supplemental order,  
25 that the plan for unit operations has been approved in writing by  
26 persons owning at least 60% of the pore space storage capacity  
27 within the unit area. For purposes of this part, any unknown or  
28 unlocatable pore space owners shall be considered to have approved  
29 the plan of unit operations and are subject to a proposed unit if



1 the petitioner complied with the notice requirements set forth in  
2 section 65304(1) and (2).

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

18       Sec. 65308. An order for unit operations may be amended by an  
19 order issued by the division in the same manner and subject to the  
20 same conditions as apply to the issuance of an original order for  
21 unit operations. The division, upon its own motion or upon  
22 application, and with notice and hearing, may modify an order for  
23 unit operations regarding the operation, size, or other  
24 characteristics of the unit area to prevent or assist in preventing  
25 a substantial 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 unitization.

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 unitization or order of the division  
23 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) Except as provided under section 65304, the  
9 division shall not issue, put into effect, revoke, change, renew,  
10 or extend an order under this part, unless the division has held a  
11 public hearing on the proposal. The public hearing shall be held at  
12 such time, place, and manner as provided for in this part or by  
13 rules promulgated under this part, including notice as provided in  
14 section 65316.

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

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

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

29 Sec. 65317. The rules, procedures, penalties, and other



1 provisions set forth in MCL 324.61709 and MCL 324.61728 through  
2 324.61737 governing the process employed by the division for the  
3 unitization of oil and gas drilling units apply to a petition filed  
4 for unitization of pore space interests within a unit area under  
5 this part and any order under this part. However, to the extent  
6 that the provisions set forth in MCL 324.61709 and MCL 324.61728  
7 through 324.61737 conflict with this part, the provisions of this  
8 part control.

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

14       Enacting section 1. This amendatory act does not take effect  
15 unless all of the following bills of the 102nd Legislature are  
16 enacted into law:

17       (a) Senate Bill No. 1132.

18       (b) Senate Bill No. 1133.

