HOUSE BILL No. 4348

February 8, 1995, Introduced by Reps. Middaugh, Alley, Hill and Murphy and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend Act No. 451 of the Public Acts of 1994, entitled

"Natural resources and environmental protection act,"

being sections 324.101 to 324.90101 of the Michigan Compiled Laws, by adding sections 90104 and 90105 and parts 401, 403, 405, 409, 411, 415, 417, 419, 421, 425, 427, 431, 433, 435, 437, 439, 441, 445, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 471, 473, 475, 477, 479, 483, 485, 487, 489, 491, 501, 503, 505, 507, 511, 513, 515, 517, 519, 525, 527, 529, 601, 603, 605, 607, 609, 615, 616, 617, 619, 621, 625, 631, 633, 635, 637, and 641; to amend the headings of certain parts; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Act No. 451 of the Public Acts of 1994, being sections 324.101 to 324.90101 of the Michigan Compiled Laws, is

amended by adding sections 90104 and 90105 and parts 401, 403, 405, 409, 411, 415, 417, 419, 421, 425, 427, 431, 433, 435, 437, 439, 441, 445, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 471, 473, 475, 477, 479, 483, 485, 487, 489, 491, 501, 503, 505, 507, 511, 513, 515, 517, 519, 525, 527, 529, 601, 603, 605, 607, 609, 615, 616, 617, 619, 621, 625, 631, 633, 635, 637, and 641 and by amending the headings of certain parts to read as follows:

~~CHAPTER 2: MANAGEMENT OF RENEWABLE RESOURCES~~

~~SUBCHAPTER 1: WILDLIFE~~

~~WILDLIFE CONSERVATION~~

~~Part 401. Wildlife Conservation~~

CHAPTER 2: MANAGEMENT OF RENEWABLE RESOURCES

SUBCHAPTER 1: WILDLIFE

WILDLIFE CONSERVATION

PART 401 WILDLIFE CONSERVATION

Sec. ~~2~~ 40101. For purposes of this ~~act~~ PART, the words and phrases defined in sections ~~3~~ 40102 to ~~5 shall~~ 40104 have the meanings ascribed to them in those sections.

Sec. ~~3~~ 40102. (1) "Animals" means wild birds and wild mammals.

(2) "Bag limit" means the number of animals ~~which~~ THAT may be taken and possessed as determined by the ~~commission~~ DEPARTMENT.

(3) "Bow" means a device for propelling an arrow from a string drawn, held, and released by hand where the force used to

hold the string in the drawn position is provided by the archer's muscles.

(4) "Buy" or "sell" means an exchange or attempt or offer to exchange for money, barter, or ~~for~~ anything of value.

(5) "Chase" means to follow animals with dogs or other WILD OR DOMESTIC animals TRAINED FOR THAT PURPOSE.

~~(6) "Commission" means the commission of natural resources.~~

~~(7) "Department" means the department of natural resources.~~

~~(8) "Director" means the director of the department.~~

(6) ~~(9)~~ "Firearm" means a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of a spring ~~,~~ OR air ~~,~~ or gas.

Sec. ~~4~~ 40103. (1) "Game" means any of the following animals:

(a) Badger.

(b) Bear.

(c) Beaver.

(d) Bobcat.

(e) Brant.

(f) Coot.

(g) Coyote.

(h) Crow.

(i) Deer.

(j) Duck.

(k) Elk.

(ℓ) Fisher.

(m) Florida gallinule.

(n) Fox.

(o) Geese.

(p) Hare.

(q) Hungarian partridge.

(r) Marten.

(s) Mink.

(t) Moose.

(u) Muskrat.

(v) Opossum.

(w) Otter.

(x) Pheasant.

(y) Quail.

(z) Rabbit.

(aa) Raccoon.

(bb) Ruffed grouse.

(cc) Sharptailed grouse.

(dd) Skunk.

(ee) Snipe.

(ff) Sora rail.

(gg) Squirrels.

(hh) Weasel.

(ii) Wild turkey.

(jj) Woodchuck.

(kk) Woodcock.

(*ll*) ~~(11)~~ Virginia rail.

(2) "Handicap" means a determinable physical characteristic of an individual ~~which~~ THAT may result from disease, injury, congenital condition of birth, or functional disorder.

(3) "Interim order of the ~~director~~ DEPARTMENT" means an order of the ~~director~~ DEPARTMENT issued under section ~~9~~ 40108.

(4) "Kind" means an animal's sex, age, or physical characteristics.

(5) "Open season" means the dates during which game may be legally taken.

(6) "Parts" means any or all portions of an animal, including the skin, plumage, hide, fur, entire body, or egg of an animal.

~~(7) "Person" means an individual, sole proprietorship, partnership, association, corporation, or other legal entity.~~

(8) "Protected" or "protected animal" means an animal or kind of animal that is designated by the ~~commission~~ DEPARTMENT as an animal that shall not be taken.

Sec. ~~5~~ 40104. (1) "Take" means to hunt with any weapon, dog, raptor, or other WILD OR DOMESTIC animal TRAINED FOR THAT PURPOSE; kill; chase; follow; harass; harm; pursue; shoot; rob; trap; capture; or collect animals, or to attempt to engage in such an activity.

(2) "Transport" means to carry or ship animals within this state or to points outside this state.

(3) "Trap" means taking or attempting to take animals by means of a trap or other device designed to kill or capture animals.

(4) "Vehicle" means every device in, upon, or by which any person or property is or may be transported, except devices exclusively moved by human power.

Sec. ~~6~~ 40105. All animals ~~, whether resident or migratory and whether native or introduced,~~ found in this state, WHETHER RESIDENT OR MIGRATORY AND WHETHER NATIVE OR INTRODUCED, are the property of the people of the state, and the taking of all animals shall be regulated by the ~~commission and the~~ department as provided by law.

Sec. ~~7~~ 40106. A person shall not take, release, transport, sell, buy, or have in his or her possession game or any protected animal, whether living or dead, or parts of any game or protected animal, from this state ~~,~~ or from outside of this state, except as provided for in this ~~act~~ PART or by an order of the ~~commission~~ DEPARTMENT or an interim order of the ~~director~~ DEPARTMENT. This section ~~shall~~ DOES not ~~be construed to~~ enhance the ~~commission's~~ DEPARTMENT'S powers to establish an open season for an animal that is not game or ~~to~~ give the ~~commission~~ DEPARTMENT the power to designate a species as game.

Sec. ~~8~~ 40107. (1) The ~~commission~~ DEPARTMENT shall manage animals in this state. In managing animals, the

~~commission~~ DEPARTMENT may issue orders to do all of the following:

(a) Make recommendations to the legislature regarding animals that should be added or deleted from the category of game.

(b) Determine the kinds of animals that may be taken.

(c) Determine the animals OR KINDS OF ANIMALS that are protected.

(d) Except as otherwise provided in section ~~11~~ 40110, establish open seasons for taking or possessing game.

(e) Establish lawful methods of taking game.

(f) Establish lawful methods of taking game for persons who have certain handicaps.

(g) Establish bag limits.

(h) Establish geographic areas within the state where certain regulations may apply to the taking of animals.

(i) Determine conditions under which permits may be issued by the ~~director~~ DEPARTMENT.

(j) Establish fees for the issuing of permits by the ~~director~~ DEPARTMENT.

(k) Regulate the hours during which animals may be taken.

(*l*) Require that a person involved in a chase of an animal have in his or her possession a valid license that would authorize the taking of the animal being chased.

(m) Establish conditions under which animals taken or possessed outside of this state may be imported into this state.

(n) Regulate the buying and selling of animals and parts of animals.

(o) Establish methods of taking animals ~~,~~ that are primarily taken because of the value of their pelts, which METHODS supplement the lawful methods of taking such animals that exist on ~~the effective date of this section~~ OCTOBER 1, 1988.

(2) In exercising a power under this section, the ~~commission~~ DEPARTMENT shall comply with the following ~~procedure~~ PROCEDURES in a manner that assures adequate public notice, opportunity for public comment, and due regard for traditional methods and practices that were lawful prior to ~~the effective date of this act~~ OCTOBER 1, 1988:

(a) An order shall be prepared by the ~~director~~ DEPARTMENT after comments from department field personnel and interested persons have been solicited and considered.

(b) The order shall be on the ~~commission~~ DEPARTMENT agenda for at least 1 month prior to its consideration. ~~by the commission.~~

(c) The ~~commission~~ DEPARTMENT shall provide an opportunity for public comment on the order.

(d) Except as otherwise provided in this subdivision, the ~~commission~~ DEPARTMENT prior to issuance of an order shall provide a copy of each order to each member of the senate and the house of representatives standing committees that consider legislation pertaining to conservation, environment, recreation, tourism, and natural resources. The members of the standing committees ~~shall~~ have 30 days to review and submit comments to the ~~commission~~ DEPARTMENT regarding an order. This subdivision shall not apply to an order that does not alter the substance of

a lawful provision that exists in the form of a statute, rule, regulation, or order at the time the order is prepared.

(e) The ~~commission~~ DEPARTMENT shall approve, reject, or modify the order.

(3) The ~~commission~~ DEPARTMENT may revise an order issued pursuant to this section, and any revision of such an order shall comply with the procedure set forth in subsection (2).

(4) Not later than January 1, 1990, the commission shall issue orders pursuant to subsection (1) AND FILE ORDERS WITH THE SECRETARY OF STATE that the commission considers sufficient to take the place of ~~the game law of 1929,~~ FORMER Act No. 286 of the Public Acts of 1929. ~~, being sections 311.1 to 315.5 of the Michigan Compiled Laws. The commission shall file the orders with the secretary of state and shall designate the orders as being the orders that are intended to result in the repeal of Act No. 286 of the Public Acts of 1929.~~ The orders filed with the secretary of state pursuant to this subsection shall indicate that the orders become effective upon filing with the secretary of state. FOLLOWING THE EFFECTIVE DATE OF THIS PART, THE DEPARTMENT SHALL UNDERTAKE ALL OF THE POWERS GIVEN TO THE COMMISSION IN FORMER ACT NO. 256 OF THE PUBLIC ACTS OF 1988.

Sec. ~~9~~ 40108. The ~~director~~ DEPARTMENT may modify ~~a commission~~ AN order ISSUED UNDER SECTION 40107 by issuing an interim order consistent with federal regulations or when the ~~director~~ DEPARTMENT determines that animals are at risk of being depleted or extirpated, or the animal is threatening public safety ~~,~~ or inflicting damage to horticulture, agriculture, or

other property. The ~~director~~ DEPARTMENT shall publicize an interim order in a manner that ~~insures~~ ENSURES that interested persons are provided notice of the proposed interim order, the reasons for the requested modifications, and the proposed effective date of the order. In addition, the ~~director~~ DEPARTMENT shall provide a copy of an interim order to each member of the senate and the house of representatives standing committees that consider legislation pertaining to conservation, environment, recreation, tourism, and natural resources. An interim order under this section shall be in effect for not longer than 6 months.

Sec. ~~10~~ 40109. If game is transported, the sex and species of the game shall be readily identifiable unless the game is game that has been cleaned at a hunting preserve and tagged as required by law. If game is transported, it shall be tagged as required by law or a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107. This section ~~shall~~ DOES not apply to skins, pelts, or hides of game that is lawfully taken and legally possessed.

Sec. ~~11~~ 40110. Only the legislature may designate a species as game. If an animal is designated under this section by the legislature as game, then only the legislature may authorize the establishment of the first open season for that animal. After the legislature authorizes the establishment of the first open season for game pursuant to this section, the ~~commission~~ DEPARTMENT may issue orders pertaining to that animal for each of the purposes listed in section ~~8~~ 40107.

Sec. ~~12~~ 40111. (1) Except as otherwise provided in this ~~act~~ PART or in a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, a person shall not take an animal from in or upon a vehicle.

(2) Except as otherwise provided in this ~~act~~ PART or in a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, a person shall not transport or have in possession a firearm in or upon a vehicle, unless the firearm is unloaded in both barrel and magazine and enclosed in a case, carried in the trunk of a vehicle, or unloaded in a motorized boat.

(3) Except as otherwise provided in this ~~act~~ PART, a person shall not transport or have in possession a bow in or upon a vehicle, unless the bow is unstrung, enclosed in a case, or carried in the trunk of a vehicle.

(4) A person shall not hunt or discharge a firearm within 150 yards of an occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation, without obtaining the written permission of the owner, renter, or occupant of the property.

Sec. ~~12a~~ 40112. (1) A person shall not obstruct or interfere in the lawful taking of animals by another person with the intent to prevent that lawful taking.

(2) A person violates this section when ~~he or she~~ THE PERSON intentionally or knowingly does any of the following:

(a) Drives or disturbs animals for the purpose of disrupting a lawful taking.

(b) Blocks, impedes, or harasses another person who is engaged in the process of lawfully taking an animal.

(c) Uses A natural or artificial visual, aural, olfactory, gustatory, or physical stimulus to affect animal behavior in order to hinder or prevent the lawful taking of an animal.

(d) Erects barriers with the intent to deny ingress or egress to areas where the lawful taking of animals may occur. This subdivision ~~shall~~ DOES not ~~be construed to~~ apply to a person who erects barriers to prevent trespassing on his or her property.

(e) Intentionally interjects himself or herself into the line of fire of a person lawfully taking wildlife.

(f) Affects the condition or placement of personal or public property intended for use in the lawful taking of an animal in order to impair the usefulness of the property or prevent the use of the property.

(g) Enters or remains upon private lands without the permission of the owner or ~~his or her~~ THE OWNER'S agent, with intent to violate this section.

(3) Upon petition of an aggrieved person or a person who reasonably may be aggrieved by a violation of this section, a court of competent jurisdiction, upon a showing that a person was engaged in and threatens to continue to engage in illegal conduct under this section, may enjoin that conduct.

(4) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than $500.00 or more than $1,000.00, or both,

and the costs of prosecution. In addition, any permit or license issued by the department authorizing the person to take animals shall be revoked.

(5) This section ~~shall~~ DOES not apply to a peace officer while ~~he or she is in the performance of~~ THE PEACE OFFICER PERFORMS his or her lawful duties.

Sec. ~~13~~ 40113. (1) Except as otherwise provided in a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107 for a specified animal, a person shall not use an artificial light in taking game or in an area frequented by animals; throw or cast the rays of a spotlight, headlight, or other artificial light in a field, woodland, or forest while having a bow or firearm or other weapon capable of shooting a projectile in the person's possession or under the person's control unless otherwise permitted by law. A licensed hunter may use an artificial light 1 hour before and 1 hour after shooting hours while in possession of any unloaded firearm or bow and traveling afoot to and from ~~his or her~~ THE LICENSED HUNTER'S hunting location.

(2) Except as otherwise provided in a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, a person shall not throw, cast, or cause to be thrown or cast, the rays of an artificial light from December 1 to October 31 between the hours of ~~11:00~~ 11 p.m. and ~~6:00~~ 6 a.m. for the purpose of locating animals. Except as otherwise permitted by law or an order of the ~~commission~~ DEPARTMENT, from November 1 to November 30, a person shall not throw, cast, or cause to be thrown or cast, the rays of a spotlight, headlight, or other

artificial light for the purpose of locating animals. This subsection does not apply to any of the following:

(a) A peace officer while in the performance of the officer's duties.

(b) A person operating an emergency vehicle in an emergency.

(c) An employee of a public or private utility while working in the scope of his or her employment.

(d) A person operating a vehicle with headlights in a lawful manner upon a street, highway, or roadway.

(e) A person using an artificial light to identify a house or mailbox number.

(f) The use of artificial lights used to conduct a census by the department.

(g) A person using an artificial light ~~on property~~ from November 1 to November 30 ON PROPERTY that is owned by that person or by a member of that person's immediate family.

(3) The operator of a vehicle from which the rays of an artificial light have been cast in a clear attempt to locate game shall immediately stop the vehicle upon the request of a uniformed peace officer or when signaled by a peace officer with a flashing signal light or siren from a marked patrol vehicle.

Sec. ~~14~~ 40114. (1) The ~~director or an authorized representative of the director~~ DEPARTMENT may issue a permit to a person who is unable to walk due to being a paraplegic or an amputee, or being permanently disabled and unable to walk because of other disease or injury. A permit issued under this

subsection ~~shall authorize~~ AUTHORIZES the person to take game during the open season for that game, including deer of either sex, from or upon a standing vehicle if that person holds a license to take that game issued pursuant to ~~the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws,~~ PART 435 and complies with all other laws and rules for the taking of game.

(2) The ~~director or an authorized representative of the director~~ DEPARTMENT may issue a permit to a person who is permanently disabled and who has full use of only 1 arm and who upon investigation is unable to hold, aim, and shoot a bow. A permit issued under this subsection ~~shall authorize~~ AUTHORIZES the person to take game during the open season for that game with a bow that has been modified so that the bow may be held, aimed, and shot with 1 arm, if that person holds a license to take that game issued pursuant to ~~the hunting and fishing license act, Act No. 86 of the Public Acts of 1980,~~ PART 435 and complies with all other laws and rules for the taking of game.

(3) In addition, the ~~director or an authorized representative of the director~~ DEPARTMENT may issue permits authorizing 1 or more of the following:

(a) The taking or possession of animals for the purpose of rehabilitating animals.

(b) The taking of animals to prevent or control damage and nuisance caused by the animals.

(c) The collection, transportation, possession, or disposition of animals ~~,~~ and parts of animals ~~,~~ for scientific purposes.

(d) The public exhibition of animals.

(e) Taxidermy.

(f) The disposition of accidentally or unlawfully taken or injured animals ~~,~~ or animals that are unlawfully possessed.

(g) The taking of game with a crossbow by a person who is permanently disabled as provided in section ~~14a~~ 40115.

(4) A permit issued under this section or section ~~14a~~ 40115 may be suspended, revoked, annulled, withdrawn, recalled, canceled, or amended pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. If the holder of a permit is convicted of violating this section, his or her permit or license may be revoked and any animal and the parts of any animal in his or her possession shall be disposed of in a manner approved by the ~~director~~ DEPARTMENT.

(5) Except as otherwise provided in section ~~14a~~ 40115 for a permit described in subsection (3)(g), all fees received for permits and licenses issued under this section shall be forwarded by the department to the state treasurer to be credited to the game and fish protection fund CREATED IN PART 435.

Sec. ~~14a~~ 40115. (1) As used in this section:

(a) "Crossbow" means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire an arrow, bolt, or quarrel by the release of a bow string which is

controlled by a mechanical or electric trigger and has a working safety and ~~with~~ a draw weight of 100 pounds or greater.

(b) "Physical therapist" means a person licensed to engage in the practice of physical therapy under article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws.

(c) "Physician" means a person licensed by the state to engage in the practice of medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code, Act No. 368 of the Public Acts of 1978.

(2) The ~~director or an authorized representative of the director~~ DEPARTMENT may issue a permit to a person who is certified as being permanently disabled by a physician as provided in this section. That permit shall be issued without cost to the applicant and shall authorize that person to take game with a crossbow during the open season for that game if that person holds a license to take that game issued pursuant to ~~the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws,~~ PART 435 and complies with all other laws and rules for the taking of game.

(3) An applicant for a permit under this section shall submit to the ~~director or an authorized representative of the director~~ DEPARTMENT a signed certification from a physician indicating that the physician received from a physical therapist and reviewed and confirmed objective test findings indicating the percentage of disability determined to be present in the permit

applicant by the physical therapist. Based on the test findings, the physician may certify that the applicant is permanently disabled as required by this section if the physician finds that the permit applicant has at least 80%, in combination or individual impairment, of a hand, elbow, or shoulder. In support of such a determination, the physician and the physical therapist shall utilize the following standards and criteria:

(a) If applicable, muscle weaknesses with a grade of fair or below for involved upper extremity muscle groups will be used to determine if a person is eligible for a permit under this section. Testing by the physical therapist will use as a guideline ~~,~~ "Techniques of Manual Muscle Testing", by Daniels and Worthingham, or other guidelines accepted by the American medical association.

(b) Impaired range of motion. Goniometric measurements using the "American medical association guide to evaluation and permanent impairment rating", or other guidelines accepted by the American medical association.

(c) Peripheral nerve involvement, using the "American medical association guide to evaluation and permanent impairment rating", or other guidelines accepted by the American medical association.

(d) Amputations involving 4 fingers at the proximal interphalangeal joint, wrist, elbow, and shoulder do not require objective test findings. However, the applicant is required to present a physician's diagnosis to be qualified for a permit.

(e) Unilateral hand weakness disabilities. In addition to manual muscle testing, a grip dynamometer, pinch grip, and lateral grip measurements will be used to compare dominant to nondominant hand. A 5% deficit is standard acceptance for the nondominant hand. Bilateral hand weaknesses or bilateral upper extremity weaknesses, or both, are subject to manual muscle testing only.

(f) Any spinal cord injury above the level of C-8, resulting in permanent disability to the lower extremities, leaving the applicant permanently nonambulatory, as diagnosed by a physician, do not require objective test findings. However, the applicant is required to present a physician's diagnosis to be qualified for a permit.

(g) Coordination assessment. Coordination is the ability to execute smooth, accurate, controlled movement. Incoordination or coordination deficit describes abnormal motor function characterized by awkward, extraneous, uneven, or inaccurate movements, caused by central nervous disorders, including, but not limited to, Parkinson's disease, cerebral palsy, hemiplegia, hemiparesis, and closed head trauma; or by progressive neuromuscular diseases, such as muscular dystrophy, multiple sclerosis, and amyotrophic lateral sclerosis. Purpose: to assess the ability of muscles or groups of muscles to work together to perform a task. For safety considerations, this test will eliminate severely ~~involved~~ IMPAIRED applicants from qualifying for a permit.

(4) A person shall not seek diagnosis from a physical therapist or a physician for purposes of meeting the requirements

of this section on more than 2 occasions within a 6-month period. ~~A~~ IF A person ~~who~~ seeks a diagnosis from a physical therapist and the results of the testing do not meet the requirements of this section for eligibility for a permit, THE PERSON may do either of the following:

(a) Within 30 days of obtaining the test results, seek another opinion from the same or a different physical therapist.

(b) After 180 days or more, seek another opinion from the same or a different physical therapist.

(5) A permit issued under this section to a person who is eligible for that permit because he or she has a progressive neuromuscular disease or a central nervous disorder shall be issued for 2 years and then is renewable only upon reapplication pursuant to this section. All other crossbow permits issued pursuant to this section are valid unless revoked pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(6) Arrows, bolts, and quarrels used for taking deer, bear, elk, and turkey with a crossbow under a permit issued under this section are required to have a broadhead hunting type of point not less than 7/8 OF AN inch wide and must be a minimum of 14 inches in length.

(7) A person who falsely obtains or uses a permit authorized in this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than

$200.00 or more than $1,000.00, or both, and the cost of prosecution.

Sec. ~~15~~ 40116. (1) A person shall not take game during the established daylight shooting hours from August 15 through April 30 unless the person wears a cap, hat, vest, jacket, or rain gear of the highly visible color commonly referred to as hunter orange. Hunter orange includes blaze orange, flame orange, or fluorescent blaze orange, and camouflage that is not less than 50% hunter orange. The garments ~~made up of~~ THAT ARE hunter orange shall be the hunter's outermost garment and shall be visible from all sides of the hunter. This section ~~shall~~ DOES not apply to a person engaged in the taking of deer with a bow during archery deer season ~~,~~ or ENGAGED IN the taking of waterfowl, crow, or turkey.

(2) The failure of a person to comply with this section ~~shall~~ IS not ~~be treated as~~ evidence of contributory negligence in a civil action for injury to the person or for the person's wrongful death.

Sec. ~~16~~ 40117. In all prosecutions for violations of this ~~act~~ PART, a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, or an interim order of the ~~director~~ DEPARTMENT, the possession of the parts of any game or protected animal, except when the taking is permitted by this ~~act~~ PART, ~~shall be~~ IS prima facie evidence that the animal was taken in violation of this ~~act~~ PART by the person possessing the animal.

Sec. ~~17~~ 40118. (1) A person who violates this ~~act~~ PART, a ~~commission~~ DEPARTMENT order authorized under section ~~8~~

40107, an interim order of the ~~director~~ DEPARTMENT, or a condition of a permit issued under this ~~act~~ PART, except for a violation specified in subsections (2) to (12), is guilty of a misdemeanor, ~~and shall be punished~~ PUNISHABLE by imprisonment for not more than 90 days, or a fine of not less than $50.00 ~~,~~ ~~nor~~ OR more than $500.00, or both, and the costs of prosecution. In addition, a permit issued by the ~~director~~ DEPARTMENT under this ~~act~~ PART shall be revoked pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) A person who violates A PROVISION OF this ~~act~~ PART, a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, or an interim order of the ~~director~~ DEPARTMENT, regarding the possession or taking of all game, except deer, bear, wild turkey, moose, or elk, is guilty of a misdemeanor, ~~and shall be punished~~ PUNISHABLE by imprisonment for not more than 90 days, or a fine of not less than $100.00 ~~, nor~~ OR more than $1,000.00, or both, and the costs of prosecution.

(3) A person who violates A PROVISION OF this ~~act or~~ PART, a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, or an interim order of the ~~director~~ DEPARTMENT, regarding the possession or taking of deer, bear, or wild turkey is guilty of a misdemeanor, and shall be punished by imprisonment for not less than 5 days ~~, nor~~ OR more than 90 days, and a fine of not less than $200.00 ~~, nor~~ OR more than $1,000.00, and the costs of prosecution.

(4) A person who violates A PROVISION OF this ~~act~~ PART, a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, or an interim order of the ~~director~~ DEPARTMENT, regarding the possession ~~of~~ or taking of elk is guilty of a misdemeanor, ~~and shall be punished~~ PUNISHABLE by imprisonment for not less than 30 days ~~, nor~~ OR more than 180 days, or a fine of not less than $500.00 ~~, nor~~ OR more than $2,000.00, or both, and the costs of prosecution.

(5) A person who violates A PROVISION OF this ~~act~~ PART, a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, or an interim order of the ~~director~~ DEPARTMENT, regarding the possession ~~of~~ or ~~the~~ taking of moose is guilty of a misdemeanor, and shall be punished by imprisonment for not less than 90 days ~~nor~~ OR more than 1 year and a fine of not less than $1,000.00 ~~nor~~ OR more than $5,000.00, and the costs of prosecution.

(6) A person sentenced pursuant to ~~subsections~~ SUBSECTION (3), (4), (5), (10), ~~and~~ OR (11) shall not secure or possess a license of any kind to hunt during the remainder of the year in which convicted and the next 3 succeeding calendar years. A person sentenced pursuant to subsection (7) shall not secure or possess a license to hunt during the remainder of the year in which convicted and the next succeeding calendar year.

(7) A person who violates section ~~13(1)~~ 40113(1) is guilty of a misdemeanor, ~~and shall be punished~~ PUNISHABLE by imprisonment for not less than 5 days ~~nor~~ OR more than 90 days, or a

fine of not less than $100.00 ~~, nor~~ OR more than $500.00, or both, and the costs of prosecution.

(8) A person who violates section ~~13(2)~~ 40113(2) is guilty of a misdemeanor, ~~and shall be punished~~ PUNISHABLE by imprisonment for not more than 90 days, or a fine of not less than $50.00 ~~, nor~~ OR more than $500.00, or both, and the costs of prosecution.

(9) A person who violates section ~~13(3)~~ 40113(3) is guilty of a misdemeanor and shall be punished by imprisonment for not less than 5 days ~~nor~~ OR more than 90 days and a fine of not less than $100.00 ~~nor~~ OR more than $500.00, and the costs of prosecution.

(10) A person who violates a provision of this ~~act or~~ PART, a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, or an interim order of the ~~director~~ DEPARTMENT, regarding the taking or possession of an animal that has been designated by the ~~commission~~ DEPARTMENT to be a protected animal, other than an animal that appears on a list prepared pursuant to section ~~6 of the endangered species act of 1974, Act No. 203 of the Public Acts of 1974, being section 299.226 of the Michigan Compiled Laws~~ 36505, is guilty of a misdemeanor, ~~and shall be punished~~ PUNISHABLE by imprisonment for not more than 90 days or a fine of not less than $100.00 ~~nor~~ OR more than $1,000.00, or both, and the costs of prosecution.

(11) A person who buys or sells game or a protected animal in violation of this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of

not more than $1,000.00, or both, for the first offense, and is guilty of a felony for each subsequent offense.

(12) ~~When~~ IF a person is convicted of a violation of this ~~act or~~ PART, a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, or an interim order of the ~~director~~ DEPARTMENT and it is alleged in the complaint and proved or admitted at trial or ascertained by the court after conviction that the person had been previously convicted 2 times within the preceding 5 years for a violation of this ~~act or~~ PART, a ~~commission~~ DEPARTMENT order authorized under section ~~8~~ 40107, or an interim order of the ~~director~~ DEPARTMENT, the person is guilty of a misdemeanor, and shall be punished by imprisonment for not less than 10 days ~~nor~~ OR more than 180 days, and a fine of not less than $500.00 ~~, nor~~ OR more than $2,000.00, and costs of prosecution.

Sec. ~~18~~ 40119. (1) In addition to the penalties provided for violating this ~~act~~ PART or an order issued under this ~~act~~ PART, and the penalty provided in section ~~8 of the endangered species act of 1974, Act No. 203 of the Public Acts of 1974, being section 299.228 of the Michigan Compiled Laws~~ 36507, a person convicted of the illegal killing, possessing, purchasing, or selling, ~~in whole or in part,~~ of game or protected animals, in whole or in part, shall reimburse the state for the value of the game or protected animal as follows:

(a) Bear, elk, hawk, moose, or any animal that appears on a list specified in section ~~6 of the endangered species act of 1974, Act No. 203 of the Public Acts of 1974, being section~~

~~299.226 of the Michigan Compiled Laws~~ 36505, $1,500.00 per animal.

(b) Deer, owl, and wild turkey, $1,000.00 per animal.

(c) Other game not listed in subdivision (a) or (b), not less than $100.00 ~~nor~~ OR more than $500.00 per animal.

(d) Other protected animals, $100.00 per animal.

(2) The court in which a conviction for a violation of subsection (1) is obtained shall order the defendant to forfeit to the state a sum as set forth in subsection (1). If 2 or more defendants are convicted of the illegal killing, possessing, purchasing, or selling, in whole or in part, of game or protected animals listed in subsection (1), the forfeiture prescribed shall be declared against them jointly.

(3) If a defendant fails to pay upon conviction the sum ordered by the court to be forfeited, the court shall either impose a sentence and, as a condition of the sentence, require the defendant to satisfy the forfeiture in the amount prescribed and fix the manner and time of payment, or make a written order permitting the defendant to pay the sum to be forfeited in installments at those times and in those amounts that, in the opinion of the court, the defendant is able to pay.

(4) If a defendant defaults in payment of the sum forfeited or of an installment, the court on motion of the department or upon its own motion may require the defendant to show cause why the default should not be treated as a civil contempt, and the court may issue a summons or warrant of arrest for his or her appearance. Unless the defendant shows that the default was not

due to an intentional refusal to obey the order of the court ~~,~~ or TO a failure to make a good faith effort to obtain the funds required for the payment, the court shall find that the default constitutes a civil contempt.

(5) If it appears that the defendant's default in the payment of the forfeiture does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the forfeiture or of each installment, or revoking the forfeiture or the unpaid portion of the forfeiture, in whole or in part.

(6) A default in the payment of the forfeiture or an installment payment may be collected by any means authorized for the enforcement of a judgment under chapter 60 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.6001 to 600.6098 of the Michigan Compiled Laws.

(7) A court receiving forfeiture damages shall remit the damages to the county treasurer, who shall deposit the damages with the state treasurer, who shall deposit the damages in the game and fish protection fund CREATED IN PART 435.

~~Sec. 19. Act No. 286 of the Public Acts of 1929, being sections 311.1 to 315.5 of the Michigan Compiled Laws, is repealed when the commission orders required under section 8(4) are filed with the secretary of state and become effective.~~

~~Sec. 20. (1) Sections 1 to 5 and sections 8, 11, 19, and this section shall take effect October 1, 1988.~~

~~(2) Sections 6, 7, 9, 10, and sections 12 to 18 shall take effect when the commission orders required under section 8(4) are filed with the secretary of state and become effective.~~

~~Part 403. Wildlife Preservation~~

PART 403 WILDLIFE PRESERVATION

Sec. ~~1~~ 40301. The department ~~of natural resources~~ may issue for sale to the public a stamp, decal, medallion, or other item of personal property intended to signify the interest of the purchaser in contributing to wildlife preservation.

Sec. ~~2~~ 40302. Net proceeds from the sale of an item authorized by this ~~act~~ PART shall be used by the department exclusively for wildlife research and habitat improvement for nongame wild animals or designated endangered species ~~,~~ or designated plant species.

Sec. ~~3~~ 40303. The department may attach such rights and privileges to the items sold as will best serve the interests of wildlife preservation and shall market the items without the use of general fund appropriation.

~~Part 405. Wildlife Restoration, Management, and Research~~

PART 405 WILDLIFE RESTORATION, MANAGEMENT, AND RESEARCH

Sec. ~~1~~ 40501. The ~~conservation commission is hereby authorized, empowered, and directed to~~ DEPARTMENT SHALL perform such acts as may be necessary to ~~the~~ conduct and ~~establishment of~~ ESTABLISH wildlife restoration, management, and research projects and areas in cooperation with the federal government as defined in ~~the act of congress, entitled "An act to provide that the United States shall aid the states in wildlife restoration~~

~~projects, and for other purposes," approved September 2, 1937, (Public No. 415, 75th Congress)~~ CHAPTER 899, 50 STAT. 917, 16 U.S.C. 669 TO 669b AND 669c TO 669i, COMMONLY KNOWN AS THE FEDERAL AID IN WILDLIFE RESTORATION ACT, and with rules and regulations promulgated by the UNITED STATES secretary of agriculture ~~thereunder~~ UNDER THAT ACT; and in compliance with ~~said~~ THAT act, ~~no~~ funds accruing to ~~the~~ THIS state ~~of Michigan~~ from license fees paid by hunters shall NOT be used for any purpose other than game and fish activities under the administration of the ~~conservation~~ department.

~~Part 407. Snowy Heron and American Egret~~

~~Part 409. Homing Pigeons~~

PART 409 HOMING PIGEONS

Sec. ~~1~~ 40901. ~~No~~ A person ~~or persons~~ shall NOT at any time of the year or in any manner, hunt, take, pursue, capture, wound, kill, maim, or disfigure the homing pigeons of another PERSON.

Sec. ~~2~~ 40902. ~~No~~ A person ~~or persons~~ shall NOT at any time make use of any pit, pitfalls, deadfall, scaffold, cage, snarl, trap, net, baited hook, or any similar device, or any drug poison, chemical, or explosive for the purpose of injuring, capturing, or killing ~~any~~ A homing ~~pigeons~~ PIGEON of another PERSON.

Sec. ~~3~~ 40903. ~~Any~~ A person who ~~shall violate any of the provisions of~~ VIOLATES this ~~act~~ PART, upon conviction of a first offense, ~~shall be deemed~~ IS guilty of a misdemeanor, ~~and shall be punished~~ PUNISHABLE by IMPRISONMENT FOR NOT MORE THAN

90 DAYS, OR a fine of not less than $25.00 ~~nor~~ OR more than $100.00 ~~together with~~ AND the cost of prosecution, ~~or by imprisonment for not more than 90 days,~~ or both.

~~Part 411. Protection and Preservation of Fish, Game, and Birds~~

PART 411 PROTECTION AND PRESERVATION OF FISH, GAME, AND BIRDS

Sec. ~~2~~ 41101. As used in this ~~act~~ PART:

(A) ~~(b)~~ "Area" means the whole of the state and the whole or any designated portion of any township or townships ~~,~~ OR county or counties within the state.

(B) ~~(a)~~ "Waters" means any ~~single or individual~~ inland lake, stream, river, pond, or other ~~single or individual~~ body of water including the Great Lakes and connecting waters, ~~or~~ any part or portion ~~thereof~~ OF SUCH WATERS, and any and all chains, systems, or combinations of ~~the same~~ SUCH WATERS, in any township or townships ~~,~~ OR county or counties, within this state, and in which any species of fish or waterfowl are protected by the laws of this state.

Sec. ~~1~~ 41102. The ~~commission of conservation of the department of conservation of this state shall~~ DEPARTMENT, in accordance with ~~the provisions of~~ this ~~act~~ PART, ~~have power to~~ MAY regulate the taking or killing of all fish, game and fur-bearing animals, and game birds protected by the laws of this state, and may suspend or abridge the open season provided by law for the taking or killing of ~~any~~ such fish, animals, or game birds in any designated waters or area of this state, ~~whenever~~ IF in the opinion of ~~said commission of conservation~~ THE

DEPARTMENT it ~~becomes~~ IS necessary to assist in the increased or better protection of ~~such~~ THE fish, game or fur-bearing animals, or game birds, or ~~of~~ any particular kinds or species of ~~the same~~ FISH, GAME OR FUR-BEARING ANIMALS, OR GAME BIRDS, which may in the opinion of ~~said commission~~ THE DEPARTMENT be threatened from any cause or causes with depletion or extermination in ~~said~~ THE waters or area. ~~, and for the purpose of such regulation, suspension, or abridgement, said commission of conservation is hereby empowered to make and promulgate any and all orders and regulations~~ THE DEPARTMENT MAY PROMULGATE RULES AND ORDERS necessary to ~~carry out the provisions of~~ IMPLEMENT this ~~act and as in this act provided, on the recommendation of the director of conservation~~ PART after a thorough investigation has been made by THE DEPARTMENT. ~~him.~~

Sec. ~~3~~ 41103. (1) If the ~~commission of natural resources~~ DEPARTMENT determines that any fish, game or fur-bearing animals, or game birds of any kind or species are in danger of depletion or extermination and require additional protection in any designated waters or area within the state, the ~~commission~~ DEPARTMENT may ~~make and promulgate~~ ISSUE an order suspending or abridging the open season on fish, game or fur-bearing animals, or game birds, or may regulate their taking or killing in the waters or area as ~~in~~ the ~~judgment of the commission may be~~ DEPARTMENT CONSIDERS necessary ~~or expedient~~ for the further protection of fish, game or fur-bearing animals, or game birds in those waters or areas. ~~, and shall in the order~~ THE ORDERS SHALL clearly specify the manner and condition

relative to the taking or killing. The orders shall clearly and distinctly describe and set forth the waters or area affected by each order, and whether the order is applicable to all fish, game or fur-bearing animals, or game birds, or only to certain kinds or species designated in the order, and shall also clearly specify and set forth the length of time during which the order shall remain in ~~force and~~ effect. ~~, that shall not exceed~~ HOWEVER, AN ORDER SHALL NOT REMAIN IN EFFECT FOR MORE THAN 5 years. The public shall be notified of orders changing the rules pertaining to hunting, fishing, or trapping in the annual hunting, fishing, and trapping guides available by licensed agents of the department ~~of natural resources~~ and field offices of the department or the department ~~of natural resources~~ may publish the orders at least 21 days but not more than 60 days prior to taking effect, and at least once annually while in force, in at least 1 newspaper in each county, if a newspaper is published in a county, the whole or any portion of which is affected by the order. The first newspaper publication shall appear at least once each week for 3 successive weeks. A copy of the order as printed in the newspaper shall be filed with the clerk of each county. Proof by affidavit of the newspaper publication or other form of publication allowed in this section shall be filed with the ~~commission of natural resources~~ DEPARTMENT, and a copy of the order, ~~so long as~~ WHILE it is in force and effect, shall be included and printed in the authorized biennial compilation of the Michigan fish and game laws. The original of all orders on file in the Lansing office of the department ~~of natural~~

~~resources~~ shall be under the seal of the department ~~of natural resources~~ and shall bear the signatures of the chairperson and secretary of the commission ~~of natural resources~~ and shall be countersigned by the ~~director of the~~ department. ~~of natural resources.~~ The ~~commission of natural resources~~ DEPARTMENT shall establish the seasons, size limits, creel limits, and methods of taking fish in certain designated inland lakes not to exceed 20 in number at any ~~one~~ 1 time and in certain designated streams or portions of streams not to exceed 10 in number at any ~~one~~ 1 time for the purpose of fisheries research. The ~~commission of natural resources is authorized to~~ DEPARTMENT MAY establish not more than 1 experimental game management area that shall not exceed 40,000 acres in size, 4 experimental game management areas not to exceed 5,000 acres each in size, and 1 experimental game management area that shall include Beaver island in its entirety and the 4 islands that comprise the Little Beaver islands state game area. ~~, and~~ THE DEPARTMENT shall ~~have authority to~~ establish rules and orders governing the kind of game that may be taken in ~~these~~ THE AREAS designated ~~areas~~ IN THIS SUBSECTION and the time, place, and manner or method of the taking.

(2) The department shall publish annually in 1 or more newspapers of general circulation in this state notice of the availability of the annual sports fishing handbook. The published notice shall inform the public of when, where, and how the annual sports fishing handbook may be obtained.

(3) The department shall notify the public of an amendment, correction, or addition to the annual sports fishing handbook in the same manner as provided for newspaper publication in subsection (1).

Sec. ~~4~~ 41104. ~~Whenever in any waters or area in which~~ IF the open season ~~,~~ during which any species of fish, game or fur-bearing animals, or game birds may be taken or killed ~~,~~ ~~have~~ HAS been suspended or abridged IN ANY WATERS OR AREA by ~~any~~ AN order of the ~~commission of conservation~~ DEPARTMENT as ~~herein~~ provided IN THIS PART, ~~and while such~~ IF THAT order is still in force, AND IF it ~~shall appear~~ APPEARS to the ~~satisfaction of said commission of conservation~~ DEPARTMENT that the conditions existing in ~~said~~ THE waters or area AFFECTED BY THE ORDER no longer ~~demand such~~ REQUIRE THAT additional protection for ~~such~~ THOSE species, THEN the ~~said commission~~ DEPARTMENT shall cause a thorough investigation to be made of ~~such~~ THE waters ~~and~~ OR area ~~,~~ and the conditions ~~therein~~ prevailing IN THE WATERS OR AREA. ~~; and if from such~~ IF AFTER THE investigation ~~said commission shall be~~ THE DEPARTMENT IS satisfied that ~~by reason~~ BECAUSE of the increase of ~~said~~ THE fish, game or fur-bearing animals, or game birds ~~,~~ protected by ~~said~~ THE order in ~~said~~ THE waters or area, or BECAUSE OF the removal of the cause threatening ~~said~~ THOSE species with depletion or extermination, the additional protection afforded by ~~said~~ THE order is no longer needed, ~~said commission~~ THE DEPARTMENT may ~~, in their discretion,~~ rescind or modify ~~said~~ THE original order. ~~, and notices~~ NOTICES of the rescinding or

modifying of the order shall be published in the same manner as notice of the original order and filed in ~~like~~ THE SAME manner in the office of the clerk of each county. ~~: Provided, That this act shall~~ THIS PART DOES not ~~be construed to~~ suspend, abridge, or regulate the open seasons established by law for the taking of fish for commercial purposes from the waters of ~~lakes~~ LAKES Superior, Michigan, Huron, AND Erie, and the bays ~~thereof~~ OF THOSE WATERS.

Sec. ~~5~~ 41105. ~~Any~~ A person who ~~shall take~~ TAKES or ~~kill~~ KILLS any fish, game, or fur-bearing animal, or game bird, contrary to ~~any~~ AN order or rule promulgated ~~as provided for~~ under this ~~act~~ PART, or who ~~shall violate any of the provisions of~~ VIOLATES this ~~act~~ PART, is guilty of a misdemeanor, ~~and upon conviction thereof,~~ PUNISHABLE for the first offense ~~, shall be punished~~ by IMPRISONMENT FOR NOT MORE THAN 60 DAYS OR a fine of not more than $100.00. ~~, or imprisonment for not more than 60 days, and for~~ FOR each ~~and every~~ OFFENSE THAT IS CHARGED AS A second or subsequent offense, ~~when charged as such,~~ the person ~~shall be punished by a fine of not less than $50.00 nor more than $250.00 and~~ IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY imprisonment for not less than 20 ~~nor~~ DAYS OR more than 90 days, OR A FINE OF NOT LESS THAN $50.00 OR MORE THAN $250.00.

~~SHOOTING AND HUNTING GROUNDS~~

~~Part 415. Public Shooting and Hunting Grounds~~

SHOOTING AND HUNTING GROUNDS

PART 415 PUBLIC SHOOTING AND HUNTING GROUNDS

SUBPART 1

Sec. ~~1~~ 41501. ~~That all~~ ALL of the lands belonging to the state ~~of Michigan~~ and being in township 16 north, range 9 east, in Wild Fowl bay, in the county of Huron, in this state, commonly known as the "middle ground," lying between Maison island, in Saginaw bay, and the main land, ~~shall be and is hereby~~ ARE set apart and dedicated for a public shooting or hunting ground for the benefit and enjoyment of the people of this state.

Sec. ~~2~~ 41502. ~~All persons~~ A PERSON who ~~now have~~ HAS LOCATED UPON OR OCCUPIED or ~~shall hereafter locate~~ IN THE FUTURE LOCATES upon or ~~occupy~~ OCCUPIES any part of ~~such~~ THE lands DESCRIBED IN THIS SUBPART, except as ~~herein~~ provided ~~shall be considered trespassers~~ IN THIS SUBPART, IS A TRESPASSER and may be prosecuted as ~~trespassers~~ A TRESPASSER upon the public lands in the manner ~~now~~ provided by law.

Sec. ~~3~~ 41503. ~~It shall be lawful for any and all persons to~~ A PERSON MAY go upon any parts of ~~said~~ THE lands DESCRIBED IN THIS SUBPART at any and all times permitted by the game laws of this state for the purpose of hunting or shooting ~~wild fowl~~ WILDFOWL or game. ~~thereon; but no~~ HOWEVER, A person ~~or persons~~ shall NOT hunt or shoot ~~wild fowl~~ WILDFOWL or game on ~~said~~ THE lands, or any part ~~thereof~~ OF THE LANDS, DESCRIBED IN THIS SUBPART at any season or time or manner THAT IS not permitted by the game laws of this state, and any person

violating any game laws of this state by hunting ~~wild fowl~~ WILDFOWL or game on any of ~~said~~ THE lands DESCRIBED IN THIS SUBPART shall be punished as provided by law.

Sec. ~~4~~ 41504. ~~Said public~~ PUBLIC shooting grounds ~~shall be~~ DESCRIBED IN THIS SUBPART ARE under the control of the ~~commissioner of the state land office of this state~~ DEPARTMENT. The ~~said commissioner shall have authority to~~ DEPARTMENT MAY make, publish, and enforce ~~such~~ reasonable rules and regulations for the care and preservation of the ~~said~~ shooting grounds, for the maintenance of good order, and for the protection of property as ~~shall~~ from time to time ~~be deemed~~ ARE necessary or expedient. ~~Whenever~~ IF the ~~said commissioner shall make~~ DEPARTMENT MAKES any rules or regulations pertaining to the management or welfare of ~~said~~ THE shooting grounds, ~~he shall have authority to~~ THE DEPARTMENT MAY enforce ~~same~~ THE RULES OR REGULATIONS and ~~to~~ cause ~~offenders and persons~~ A PERSON violating any ~~rules and regulations prescribed~~ RULE OR REGULATION to be punished ~~therefor~~ FOR THAT VIOLATION in the manner set forth in this ~~act~~ SUBPART. All rules and regulations made by the ~~said commissioner~~ DEPARTMENT under the authority of this SUBPART or any other PART OR act shall be effective within the whole territory referred to in this ~~act~~ SUBPART. ~~Any~~ A person who violates ~~any of the provisions of~~ this ~~act~~ SUBPART or any of the rules and regulations prescribed by the ~~said commissioner shall be deemed~~ DEPARTMENT IS guilty of a misdemeanor, ~~and upon conviction thereof shall be fined~~ PUNISHABLE BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS OR MORE THAN

60 DAYS, OR A FINE OF not more than ~~50 dollars~~ $50.00, ~~or by imprisonment for a period of not less than 10 days nor more than 60 days,~~ or both. ~~such fine and imprisonment in the discretion of the court.~~

SUBPART 2

Sec. ~~1~~ 41505. ~~That all~~ ALL OF that part of Lake Erie lying adjacent to the surveyed lands of Monroe and Wayne counties and any submerged lands within the surveyed lines of ~~said~~ THESE counties and connected with Lake Erie and THE Detroit river, providing ~~such~~ THE surveyed lands are owned by the state, ~~of Michigan, shall be and hereby~~ are set apart and dedicated for a public shooting or hunting ground for the benefit and enjoyment of the people of the state, ~~of Michigan,~~ for a distance extending 1 mile into ~~said~~ Lake Erie, the eastern line of the submerged lands and waters ~~hereby~~ reserved BY THIS SUBPART being 1 mile distant from the surveyed lines of the east side of ~~said~~ MONROE AND WAYNE counties and parallel ~~thereto: Provided, That this~~ TO THOSE SURVEYED LINES. THIS reservation and dedication shall not interfere with ~~,~~ or detract from ~~,~~ any rights or privileges as to fishing now enjoyed by any person ~~,~~ or the public.

Sec. ~~2~~ 41506. ~~All persons~~ A PERSON who ~~now have, or shall hereafter locate~~ HAS LOCATED upon OR OCCUPIED OR IN THE FUTURE LOCATES UPON OR OCCUPIES any part of ~~such~~ THE submerged lands or lake DESCRIBED IN THIS SUBPART, ~~or occupy the same~~ except as ~~herein~~ provided IN THIS SUBPART, ~~shall be considered trespassers~~ IS A TRESPASSER and may be prosecuted as

~~trespassers~~ A TRESPASSER upon the public lands in the manner ~~now~~ provided by law. ~~: Provided, That such~~ HOWEVER, THE waters shall be free for all purposes of navigation.

Sec. ~~3~~ 41507. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT cut ~~,~~ or otherwise destroy the rushes and other submarine vegetation growing on ~~such~~ THE reserve DESCRIBED IN THIS SUBPART without the consent of the ~~board~~ BOARDS of ~~supervisors~~ COMMISSIONERS of ~~said~~ MONROE AND WAYNE counties. ~~and any~~ A person ~~or persons~~ who ~~shall wilfully cut~~ WILLFULLY CUTS or ~~destroy~~ DESTROYS the same, or ~~cause the same~~ CAUSES THAT CUTTING OR DESTRUCTION to be done, knowingly, ~~shall be~~ IS guilty of a misdemeanor, ~~and shall be punished~~ PUNISHABLE by IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR a fine OF not ~~exceeding 100 dollars, or imprisonment in the county jail of said Monroe or Wayne county not exceeding 90 days~~ MORE THAN $100.00.

SUBPART 3

Sec. ~~1~~ 41508. ~~That all~~ ALL of the swamp or submerged lands lying along the borders of Lakes Erie, Huron, Michigan, Superior, and St. Clair, except such parts of the "St. Clair Flats," so-called, as ~~shall~~ have been, prior to January ~~first~~ 1, 1899, actually occupied, built up, cultivated, or improved to the extent of at least ~~25 dollars~~ $25.00, within the boundaries of the state, ~~of Michigan,~~ and within the limits ~~hereinafter~~ described IN THIS SECTION, and also all swamp or submerged lands adjoining ~~said~~ THESE lakes, or in the bayous adjoining or emptying into ~~said~~ THESE lakes, and also all swamp or submerged

lands contiguous to and lying along the shores of the Kalamazoo river, Grand river, and Muskegon river, which now belong to the state, ~~of Michigan,~~ or to which the state ~~of Michigan shall hereafter acquire~~ LATER ACQUIRES title, ~~shall be and hereby is~~ ARE set apart and dedicated for a public shooting and hunting ground, for the benefit and enjoyment of the people of the state. ~~of Michigan.~~ This park ~~so set aside~~ shall extend to the state line into the respective lakes from the ~~shore line thereof~~ SHORELINE OF THE LAKES, and the outer boundary ~~thereof~~ OF THE PARK shall be the center line of ~~said~~ THE lakes or the boundary of ~~said~~ THE state. ~~, and~~ THE PARK DESCRIBED IN THIS SUBPART shall include all swamp or submerged lands lying between ~~said shore line~~ THE SHORELINE and THE outer boundary. ~~: Provided, That no~~ THE premises ~~herein~~ described ~~shall be deemed to include~~ IN THIS SUBPART DO NOT INCLUDE any islands in any of the ~~said~~ lakes to which the state ~~of Michigan has~~ DOES not HAVE title, unless the state ~~shall~~ first ~~acquire such~~ ACQUIRES title. ~~Said~~ THE park shall also include the swamp or submerged lands owned OR ACQUIRED by the state ~~aforesaid or hereafter acquired by the state, bordering~~ THAT BORDER upon ~~said~~ THE lakes or in or upon the bayous emptying ~~therein~~ INTO THE LAKES.

Sec. ~~2~~ 41509. (1) If the state acquires title to any swamp or submerged lands within the limits described in section ~~1~~ 41508, whether by purchase, escheat, forfeiture, tax bid, or tax title, the ~~same~~ LANDS shall be, by operation of this ~~act~~

SUBPART, included in the park DESCRIBED IN THIS SUBPART and shall not ~~thereafter~~ be offered for sale by the state.

(2) This section does not apply to a conveyance made pursuant to a public act or a conveyance ratified pursuant to section ~~2a~~ 41510.

Sec. ~~2a~~ 41510. All conveyances made before July 1, 1977, by or for and on behalf of the state ~~of Michigan~~ conveying swamp or submerged lands described in section ~~1~~ 41508 or ~~2~~ 41509 are ~~hereby~~ ratified and declared to have passed good and sufficient title to the lands conveyed.

Sec. ~~3~~ 41511. ~~This~~ THE reservation and dedication IN SECTION 41508 shall not interfere with or detract from any rights or privileges of fishing now enjoyed by private persons or the public, but the ~~said~~ park DESCRIBED IN THIS SUBPART shall be subject to the fish and game laws of this state in the same manner as though there had been no dedication. The waters in this park shall be free for all purposes of navigation. This ~~act~~ SUBPART shall not ~~be deemed to~~ interfere with the common law right of riparian owners to dockage and wharfage, ~~nor to~~ AND SHALL NOT interfere in any manner with dock or harbor lines or regulations of any municipality or of the state.

Sec. ~~4~~ 41512. ~~All persons~~ A PERSON who ~~now have~~ HAS LOCATED UPON OR OCCUPIED or ~~shall hereafter locate~~ IN THE FUTURE LOCATES upon OR OCCUPIES any part of the park ~~here~~ set aside IN SECTION 41508, ~~or who shall occupy the same,~~ except as ~~herein~~ provided IN THIS SUBPART, ~~shall be deemed trespassers~~ IS A TRESPASSER against the state, ~~of Michigan,~~ and an action

may be brought against ~~such persons~~ THE PERSON in the name of the people of the state ~~of Michigan~~ by the prosecuting attorney or the board of supervisors of any county in which ~~such~~ THE trespass occurs, ~~or by either the auditor general of the state of Michigan or the commissioner of the state land office;~~ and no statute of limitations shall be ~~deemed~~ CONSIDERED operative against the state so as to bar any suit or proceeding brought by or on behalf of the state regarding the possession of ~~such~~ THESE swamp or submerged lands.

Sec. ~~5~~ 41513. The board of ~~supervisors~~ COMMISSIONERS of each county shall have the care and control of that part of ~~said~~ THE park DESCRIBED IN THIS SUBPART within its own boundaries and that part lying opposite and immediately adjoining in the Great Lakes. The respective boards of ~~supervisors~~ COMMISSIONERS, in their discretion, may allow the cutting or ~~the~~ destruction of the rushes and submarine vegetation growing in ~~said~~ THE park in or opposite their respective counties.

Sec. ~~6~~ 41514. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT cut or otherwise destroy, or cause the ~~same to be done~~ CUTTING OR DESTRUCTION OF, any rushes or other submarine vegetation growing on ~~this~~ THE park DESCRIBED IN THIS SUBPART without the consent of the board of ~~supervisors~~ COMMISSIONERS of the county to which ~~such~~ THAT portion of ~~said~~ THE park is immediately adjoining; and any person ~~or persons~~ who ~~shall wilfully cut or destroy~~ WILLFULLY CUTS OR DESTROYS the same, or ~~cause the same~~ CAUSES SUCH CUTTING OR DESTRUCTION to be done, ~~shall be~~ IS guilty of a misdemeanor, ~~and upon conviction~~

~~thereof shall be punished~~ PUNISHABLE by IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR a fine OF not ~~exceeding 100 dollars~~ MORE THAN $100.00 and costs of prosecution, or ~~by imprisonment in the county jail not exceeding 90 days, or~~ both. ~~such fine and imprisonment, at the discretion of the court.~~

Sec. ~~7~~ 41515. ~~It shall be unlawful for any~~ A person ~~or persons to wilfully~~ SHALL NOT WILLFULLY scare or drive wild ducks or other wild ~~water fowl~~ WATERFOWL, or cause the same to be done, from or away from any person lawfully hunting ~~the same~~ WILD DUCKS OR WILD WATERFOWL within ~~said~~ THE park DESCRIBED IN THIS SUBPART, for the purpose of depriving or attempting to deprive ~~such~~ THE person of any or all of his OR HER opportunities of shooting or hunting ~~such~~ THE wild duck or other wild ~~water fowl; and every~~ WATERFOWL. A person ~~so offending shall be~~ WHO VIOLATES THIS SECTION IS guilty of a misdemeanor, ~~and upon conviction thereof shall be punished by a fine not exceeding 100 dollars and costs of prosecution, or~~ PUNISHABLE by imprisonment ~~in the county jail~~ FOR not ~~exceeding~~ MORE THAN 90 days, OR A FINE OF NOT MORE THAN $100.00 AND COSTS OF PROSECUTION, or both. ~~such fine and imprisonment, at the discretion of the court. Nothing herein contained shall be deemed to~~ THIS SUBPART DOES NOT detract from the right of passage over ~~said~~ THE waters DESCRIBED IN THIS SUBPART, in good faith, or in the ordinary course of navigation.

~~Part 417. Private Shooting Preserves~~

PART 417 PRIVATE SHOOTING PRESERVES

SEC. 41701. AS USED IN THIS PART, "LICENSE" MEANS A LICENSE ISSUED BY THE DEPARTMENT TO OPERATE A PRIVATE SHOOTING PRESERVE.

Sec. ~~1~~ 41702. The ~~director of the~~ department may issue licenses authorizing the establishment and operation of private shooting preserves. The fee for ~~the~~ A license ~~shall be~~ IS $35.00 for a shooting preserve of 320 acres or less and $60.00 for a shooting preserve in excess of 320 acres. Unless revoked as provided by law, licenses issued under this section ~~shall be~~ ARE valid from July 1 through June 30. Private shooting preserves licensed under this section may allow hunting on Sundays, notwithstanding the provisions of A local ~~ordinances~~ ORDINANCE or ~~regulations~~ REGULATION.

Sec. ~~2~~ 41703. (1) Each shooting preserve shall contain not less than 80 acres ~~nor~~ OR more than 640 acres of leased or owned land, except that those preserves ~~whose~~ WHICH HAVE operations THAT are confined only to ducks may contain a minimum of 50 acres. The exterior boundaries of each preserve shall be clearly defined with signs erected at intervals of 150 feet or less.

(2) Shooting preserves with operations involving animals not native or commonly found in the wild in this state shall be adequately fenced and maintained to keep the animals in complete and continuous captivity as approved by the ~~director~~ DEPARTMENT.

Sec. ~~3~~ 41704. (1) Birds that may be hunted under a shooting preserve license shall be limited to artificially propagated wild turkeys and wild turkey hybrids and other artificially propagated species as prescribed by the ~~director~~ DEPARTMENT. A

license holder may propagate and sell the prescribed birds, carcasses, or products, in addition to releasing the birds for hunting purposes, by adhering to all requirements, except breeder's license fee requirements OF PART 427, ~~of Act No. 191 of the Public Acts of 1929, being sections 317.71 to 317.84 of the Michigan Compiled Laws,~~ and orders issued or rules promulgated by the ~~commission of natural resources~~ DEPARTMENT under ~~authority of~~ that ~~act~~ PART.

(2) Wild turkey or wild turkey hybrids authorized under a license shall have 1 wing pinioned and shall be fenced and released in compliance with regulations established by the department.

Sec. ~~4~~ 41705. The licenses ~~herein~~ provided for ~~shall~~ IN THIS PART entitle the holders ~~thereof~~ OF THE LICENSES and their lessees and licensees to take, by hunting, the percentage of each species released on the premises each year as the ~~director of conservation may determine~~ DEPARTMENT DETERMINES.

Sec. ~~5~~ 41706. Each bird shot under authority of a shooting preserve license, before being either consumed on the premises or removed ~~therefrom~~ FROM THE PROPERTY, shall have affixed to the carcass, or wrapper, a stamp-mark, band, tag, or seal as designated by the ~~director~~ DEPARTMENT. The bands, tags, or seals shall be furnished at reasonable cost to the operator of the shooting preserve by the ~~director~~ DEPARTMENT. The stamp-mark, band, tag, or seal shall remain affixed to the carcass or wrapper until the carcass is prepared for consumption. Such items of identification shall not be reused by any person.

Sec. ~~6~~ 41707. ~~No~~ A wild bird or wild animal of a species other than permitted to be hunted under authority of ~~the~~ A license ~~herein provided~~ ISSUED UNDER THIS PART shall NOT be hunted or killed on any shooting preserve except in accordance with the laws of this state governing the hunting of ~~such~~ THAT species.

Sec. ~~8~~ 41708. Each operator of a shooting preserve licensed under ~~the provisions of~~ this ~~act~~ PART shall maintain a record of the names, addresses, and hunting license numbers of all persons hunting upon the preserve, together with the date upon which they hunted ~~,~~ AND the number of each species taken. The operator shall also maintain an accurate record of the total number, by species of birds propagated, reared, or purchased, and the date and number of each species released. The records shall be open for inspection by the ~~director or his representative~~ DEPARTMENT at any reasonable time. ~~; and the~~ THE licensee shall ALSO provide complete and accurate reports when and as required by the ~~director~~ DEPARTMENT.

Sec. ~~9~~ 41709. A person applying for a license under this ~~act~~ PART shall submit an application to the ~~director~~ DEPARTMENT on forms furnished by the ~~director~~ DEPARTMENT, stating the name and address of the applicant, the legal description of the premises to be licensed, the kind of birds to be covered by the license, and other information required by the ~~director~~ DEPARTMENT. The ~~director~~ DEPARTMENT shall prepare and distribute suitable forms necessary to ~~carry out the provisions of~~ IMPLEMENT this ~~act~~ PART.

Sec. ~~10~~ 41710. (1) The ~~director, subject to the approval of the commission of natural resources,~~ DEPARTMENT may establish an open season for shooting preserves that shall be not less than 120 days, and may promulgate rules AND ISSUE ORDERS governing the administration of this ~~act~~ PART as the ~~director~~ DEPARTMENT considers expedient. ~~In addition, the commission of natural resources may issue orders governing the administration of this act as the commission considers expedient.~~

(2) ~~Commission orders~~ ORDERS ISSUED under this ~~act~~ PART shall be issued according to the procedure ~~provided~~ THAT PROVIDES for ~~in section 8(2) and (3) of the wildlife conservation act, Act No. 256 of the Public Acts of 1988, being section 300.258 of the Michigan Compiled Laws~~ THE ISSUANCE OF ORDERS OF THE DEPARTMENT UNDER SECTION 40107.

Sec. ~~11~~ 41711. All ~~moneys~~ MONEY received from the sale of licenses and tags or seals as ~~herein~~ provided IN THIS PART shall be deposited in the state treasury to the credit of the game AND FISH protection fund CREATED IN PART 435.

Sec. ~~12~~ 41712. (1) A person who violates this ~~act~~ PART or the rules promulgated under this ~~act~~ PART is guilty of a misdemeanor punishable by IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR a fine of not more than $100.00 ~~,~~ and the costs of prosecution, ~~or imprisonment for not more than 90 days,~~ or ~~by~~ both.

(2) In addition to the penalty provided in this section, a license issued under this ~~act~~ PART may be suspended or revoked, after a hearing as provided by law, ~~when~~ IF the license holder fails to comply with the requirements of this ~~act~~ PART, ~~when~~

IF a licensee fails to maintain or submit accurate reports and records as required by the ~~director~~ DEPARTMENT, or ~~when~~ IF a licensee is convicted of a violation of this ~~act~~ PART. Birds and animals held under a license that is suspended or revoked shall then be disposed of only in a manner approved by the ~~director~~ DEPARTMENT.

~~Sec. 12a. As used in this act:~~

~~(a) "Department" means the department of natural resources.~~

~~(b) "Director" means the director of the department.~~

~~(c) "License" means a license issued by the department to operate a private shooting preserve.~~

~~(d) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.~~

~~Sec. 13. Act No. 249 of the Public Acts of 1929, as amended, being sections 317.101 to 317.109 of the Compiled Laws of 1948, is hereby repealed.~~

~~Part 419. Hunting Area Control~~

PART 419 HUNTING AREA CONTROL

~~Sec. 1. (1) A hunting area control committee, composed of a representative of the department of conservation, a representative of the department of state police, the township supervisor, or if he declines to serve, a representative selected by the township board, and a representative of the sheriff's department of the respective counties involved is established and shall perform such duties as are authorized by this act.~~

~~(2) The representatives of the state agencies shall be selected from the staff of each agency by its chief authority and designated as that agency's representative. The committee shall select 1 of its members as chairman and the chairmanship shall be alternated between the agencies each year. The department of conservation shall perform clerical, operational and administrative duties of the committee in accordance with rules, regulations, procedures and policies promulgated and adopted by the committee and the department of conservation as the agency within which the committee operates. Expense incurred by individual members in carrying out the intent and purpose of this act shall be borne by the member's department. Costs of surveys and actions requiring services outside the committee and the sheriff's department shall be borne by the department of conservation.~~

Sec. ~~2~~ 41901. (1) In ADDITION TO ALL OF THE DEPARTMENT POWERS, IN the interest of public safety and the general welfare, the ~~committee is empowered to~~ DEPARTMENT MAY regulate and prohibit hunting, and the discharge of firearms and bow and arrow, as ~~herein~~ provided IN THIS PART, on those areas established under ~~the provisions of~~ this ~~act~~ PART where hunting or the discharge of firearms or bow and arrow may or is likely to kill, injure, or disturb persons who can reasonably be expected to be present in ~~such~~ THE areas or to destroy or damage buildings or personal property situated or customarily situated in ~~such~~ THE areas or will impair the general safety and welfare. ~~; and~~ IN ADDITION, the ~~committee is empowered to~~ DEPARTMENT MAY

determine and define the boundaries of ~~such~~ THE areas. Areas OR PARTS OF AREAS may be closed throughout the year. ~~or parts thereof.~~ The ~~committee~~ DEPARTMENT, in furtherance of safety, may designate areas where hunting is permitted only by prescribed methods and weapons THAT ARE not inconsistent with law. Whenever the governing body of any political subdivision determines THAT the safety and well-being of persons or property are endangered by hunters or discharge of firearms or bow and arrows, by resolution it may request the ~~committee~~ DEPARTMENT to recommend ~~such area~~ closure OF THE AREA as may be required to relieve the problem. Upon receipt of a certified resolution, the ~~committee~~ DEPARTMENT shall establish a date for a public hearing in the political subdivision, and the requesting political authority shall arrange for suitable quarters for the hearing. The ~~committee~~ DEPARTMENT shall receive testimony on the nature of the problems resulting from hunting activities and firearms use from all interested parties on the type, extent, and nature of the closure, regulations, or controls desired locally to remedy these problems.

(2) Upon completion of the public hearing, the ~~committee~~ DEPARTMENT shall cause such investigations and studies to be made of the area as it ~~deems~~ CONSIDERS appropriate and shall then make a statement of the facts of the situation as found at the hearing and as a result of its investigations. The ~~committee~~ DEPARTMENT shall then prescribe ~~such~~ regulations as are necessary to alleviate or correct the problems found.

Sec. ~~3~~ 41903. (1) The ~~committee~~ DEPARTMENT shall submit its findings and recommendations to the governing body of the political subdivision concerned. By majority vote, the governing body shall advise the ~~committee~~ DEPARTMENT by certified resolution that it approves or disapproves the prescribed hunting or firearms controls. If the governing body disapproves the prescribed controls, ~~no~~ further action shall NOT be taken. If the governing body approves the prescribed controls, a local ordinance shall be enacted in accordance with the provisions of law pertaining to the enactment of ordinances, which ORDINANCE shall be identical in all respects to the regulations prescribed by the ~~committee~~ DEPARTMENT. A certified copy of the ordinance shall be forwarded to the ~~committee~~ DEPARTMENT. The governing body of the political subdivision, having established such an ordinance, by majority vote, may repeal the ordinance at any time. The ~~committee~~ DEPARTMENT shall be informed of such action by certified resolution.

(2) State, local, and county law enforcement officers shall enforce ordinances enacted in accordance with this ~~act~~ PART.

(3) All rules promulgated under this section and section ~~2~~ 41901 before ~~the effective date of this subsection~~ MARCH 17, 1986 shall remain in effect unless rescinded pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

Sec. ~~4~~ 41903. The ~~committee~~ DEPARTMENT shall designate closure notice signs of approved material, overall size, number,

and letter size and composition of message. At least 4 notices, relatively equally spaced, shall be posted on the boundaries of the closed area. ~~No~~ A closure ~~shall be~~ IS NOT effective prior to the erection of closure notices BY THE PETITIONING POLITICAL SUBDIVISIONS and approval of the same by the ~~committee~~ DEPARTMENT. The petitioning political subdivision shall place and maintain the signs and shall publish a notice of closure for 3 successive weeks, at least once in each week, in a newspaper published in the county in which the area to be closed is located. If no newspaper is published in the county, then the notice shall be published in a newspaper published in an adjoining county. If, in the judgment of the ~~committee~~ DEPARTMENT, closure signs are not ~~so~~ maintained SO as to adequately give notice of the closure to a careful and prudent person, the closure may be rescinded by service of notice of rescission on the clerk or recording officer of the political subdivision, and in such case the closure shall terminate 30 days after service of notice of rescission.

Sec. ~~5~~ 41904. Any prohibition against discharge of firearms made under authority of this ~~act shall~~ PART DOES not apply to peace officers or members of any branch of the armed forces in the discharge of their proper duties. The ~~director of conservation~~ DEPARTMENT may authorize the use of firearms to prevent or control the depredations of birds or animals in situations where significant damages are being caused by wildlife.

Sec. ~~6~~ 41905. Any person who violates ~~any provisions of~~ this ~~act~~ PART or ~~regulations~~ A RULE promulgated under ~~authority of~~ this ~~act~~ PART is guilty of a misdemeanor.

~~Part 421. Dog Training Areas~~

PART 421 DOG TRAINING AREAS

Sec. ~~1~~ 42101. Upon application of any club or organization having 10 or more members who are citizens of this state, or upon the application of 10 or more citizens of this state, and the payment of a registration fee of $5.00, the ~~director of the~~ department ~~of natural resources~~ may issue a permit authorizing the establishment and maintenance by ~~such~~ THE club, organization, or citizens on land owned by them, or over which they have legal control, of a special dog training area where dogs may be trained at any time during the ~~entire~~ year. A dog training area shall not be ~~of~~ less than 40 acres ~~nor of~~ OR more than 240 acres, ~~nor shall~~ AND permits SHALL NOT be issued for more than 6 special dog training areas in any 1 county. In counties having a population of 100,000 or more, ~~such~~ THE DEPARTMENT MAY ISSUE additional permits as the ~~director of the~~ department ~~of natural resources may deem~~ CONSIDERS to be in the public interest. ~~may be issued.~~

Sec. ~~2~~ 42102. ~~Permittees~~ PERMIT HOLDERS may at any time during the ~~entire~~ year train their own dogs or the dogs of other persons on ~~such area~~ LAND DESCRIBED IN SECTION 42101 or permit others to do so under ~~such~~ conditions ~~as shall be~~ THAT ARE mutually agreed upon and under ~~such~~ rules as may be ~~deemed~~ CONSIDERED expedient by the ~~director~~ DEPARTMENT.

Hunting or the carrying or possession of firearms other than A pistol or revolver with blank cartridges at any time of year on ~~such areas shall be~~ LANDS DESCRIBED IN SECTION 42101 IS unlawful.

Sec. ~~3~~ 42103. The boundary lines of each such special dog training area DESCRIBED IN SECTION 42101 shall be kept plainly and conspicuously posted by ~~permittee~~ THE PERMIT HOLDER with legible notices at least 10 inches by 12 inches in size placed not more than 100 yards apart which shall bear the following warning:

Special Dog Training Area

Hunting is Unlawful

This Land is Set Aside under Special Permit

For the Training of Dogs

Entering Hereon for the Purpose of Hunting or

Permitting Dogs to Enter without Proper Authorization

Is Punishable by Fine and/or Imprisonment

.....

(Name and address of ~~permittee~~ PERMIT HOLDER to be printed here)

Sec. ~~3a~~ 42104. The ~~commission of natural resources is authorized to~~ DEPARTMENT MAY establish areas ~~which shall~~ THAT include the Gladwin, Brighton, Highland, Waterloo, Ionia, Escanaba state forest, and White Cloud areas for field dog trials and dog training on state owned lands or lands under ~~their~~ THE DEPARTMENT'S jurisdiction or control and may promulgate rules ~~in the manner provided by Act No. 306 of the Public Acts of 1969, as~~

~~amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws,~~ governing the operation and control of the areas as it considers desirable or expedient. The ~~commission of natural resources~~ DEPARTMENT may close the areas for any period to the hunting, trapping, or both, of any or all species of wild birds and wild animals or to dog training. The ~~commission of natural resources~~ DEPARTMENT may establish a fee for the use of the areas established by this section or may require a performance bond to insure cleanup measures and other factors, or MAY ESTABLISH AND REQUIRE both a fee and a bond. Fees collected for the use of the areas, subject to annual appropriations by the legislature, shall be used in the care and maintenance of the areas.

Sec. ~~4~~ 42105. ~~It shall be unlawful for any~~ A person ~~to wilfully~~ SHALL NOT WILLFULLY, negligently, or maliciously cut, remove, cover up, deface, or otherwise mutilate, injure, or destroy any special dog training area boundary fence or wire or poster placed in accordance with ~~the provisions of~~ this ~~section~~ PART.

Sec. ~~5~~ 42106. ~~Any~~ A person ~~violating any of the provisions of~~ WHO VIOLATES this ~~act~~ PART or ~~of~~ any rule promulgated under section ~~2~~ 42102 or ~~3a shall~~ 42104, upon conviction, ~~be~~ IS guilty of a misdemeanor, punishable by ~~a fine of not more than $100.00 and costs of prosecution, or by~~ imprisonment for ~~a period~~ not more than 90 days, OR A FINE OF NOT MORE THAN $100.00 AND COSTS OF PROSECUTION, or both. ~~a fine and imprisonment in the discretion of the court.~~

~~POSSESSION, SALE, REGULATION OF WILDLIFE~~

~~Part 425. Furs, Hides, and Pelts~~

POSSESSION, SALE, AND REGULATION OF WILDLIFE

PART 425 FURS, HIDES, AND PELTS

Sec. ~~1~~ 42501. (1) ~~No~~ A person ~~, firm or corporation either for his or its own account or as agent of another,~~ shall NOT engage in the business of buying, selling, dealing, or the tanning and dressing of raw furs, hides, or pelts of beaver, otter, fisher, marten, muskrat, mink, skunk, raccoon, opossum, wolf, lynx, bobcat, fox, weasel, coyote, badger, deer, or bear and the plumage, skins, or hides of protected game birds and game animals until ~~each such~~ THAT person ~~, firm or corporation shall have procured~~ PROCURES a license to do so from the ~~director of conservation~~ DEPARTMENT. Fees payable to the ~~director of conservation~~ DEPARTMENT for such A license ~~shall be~~ ARE as follows:

(a) For any person who engages in the business of buying and selling raw furs, hides, and pelts of fur-bearing animals and the plumage, skins, or hides of protected game birds and game animals, the fee ~~shall be~~ IS $10.00.

(b) Each person ~~, firm or corporation engaged~~ in the business of manufacturing furs ~~,~~ who buys raw pelts ~~shall be considered~~ IS a dealer, and the fee for each such resident citizen, or agent who buys furs, ~~shall be~~ IS $10.00, and for each nonresident the fee ~~shall be~~ IS $50.00.

(c) The fee for any person ~~, firm or corporation~~ who engages in the business of custom tanning or dressing of raw furs

~~shall pay a fee of~~ IS $5.00, but such a license ~~shall~~ DOES not authorize ~~them~~ THAT PERSON to buy or sell raw furs.

(2) Any person holding a fur dealer's license under this ~~act~~ PART ~~, shall be~~ IS entitled to buy furs, hides, pelts, and the plumage, skins, or hides, or parts thereof, of protected game birds and game animals THAT ARE legally taken.

(3) ~~No~~ A person holding a fur dealer's license under this ~~act shall be~~ PART IS NOT eligible to secure or hold a license to trap beaver.

(4) The ~~conservation commission~~ DEPARTMENT may designate the plumage and skin of those game birds and game animals ~~which~~ THAT may not be bought or sold ~~whenever~~ IF it ~~is determined~~ DETERMINES THAT such A prohibition will best serve the public interest. The plumage and skins, or parts ~~thereof~~ OF PLUMAGE AND SKINS, of migratory game and nongame birds may be bought and sold only in accordance with federal law or rule.

(5) For the ~~purpose~~ PURPOSES of this ~~act~~ PART, "plumage" means any part of the feathers, head, wings, or tail of any bird.

Sec. ~~2~~ 42502. The ~~director of conservation is authorized to~~ DEPARTMENT MAY prepare suitable report forms and blanks covering the different kinds of licenses to be issued under ~~the provisions of~~ this ~~act~~ PART. All licenses issued ~~hereunder shall be~~ UNDER THIS PART ARE for the calendar year and shall expire on December 31 of each year. Licenses may be revoked at any time by the ~~director of conservation~~ DEPARTMENT for ~~any~~ A violation of the law relating to the buying, selling, or dealing

in furs, hides, or pelts of fur-bearing animals and the plumage, skins, or hides of protected game birds and game animals. Any fraudulent practice employed in connection with the buying or selling of the furs, hides, or pelts of any of the animals mentioned in this ~~act~~ PART and the plumage, skins, or hides of protected game birds and game animals, or the failure to make ~~reports~~ A REPORT required by this ~~act~~ PART, ~~shall be~~ IS sufficient grounds for the revocation of ~~such~~ A license ISSUED UNDER THIS PART. Any person whose license ~~shall have~~ HAS been revoked shall not secure another license except ~~at~~ IN the discretion of the ~~director of conservation~~ DEPARTMENT.

Sec. ~~3~~ 42503. Any dealer who desires to ship or transport out of the state any fur-bearing animals or the raw skins of fur-bearing animals, or parts thereof, or the plumage, skins, or hides, or parts thereof, of protected game birds and game animals legally taken or killed in the state during the open season, shall first procure a permit from the department. ~~of conservation.~~ The permit shall state the names of the consignee and consignor, destination and number and kinds of fur-bearing animals, or the raw skins of fur-bearing animals, or parts thereof, or the plumage, skins, or hides, or parts thereof, of protected game birds and game animals that are to be shipped or transported, and ~~said~~ THE permit shall be presented to transportation company with consignment. All shippers of fur-bearing animals, or the raw skins of fur-bearing animals, or parts thereof, or the plumage, skins, or hides, or parts thereof, of protected game birds and game animals are required to label all

packages offered for shipment by parcel post, common carrier, or otherwise. ~~, such~~ THE label ~~to~~ SHALL be securely attached to the package, and SHALL plainly indicate the names and addresses of the consignee and consignor ~~,~~ and the complete contents of ~~such~~ THE package. ~~No~~ A person ~~or persons~~ or the agent or employee of any common carrier, association, stage, express, railway, or transportation company ~~,~~ shall NOT transport or receive for transportation or carriage, or sell or offer for sale, any fur-bearing animals legally taken during the open season ~~therefor~~ FOR THAT ANIMAL, or the raw skins of such A fur-bearing ~~animals~~ ANIMAL, or ~~parts~~ PART thereof, or the plumage, ~~skins~~ SKIN, or ~~hides~~ HIDE, or parts thereof, of protected game birds and game animals except as specifically provided for by this ~~act and all~~ PART. ALL fur-bearing animals, or the raw skins of fur-bearing animals, or parts thereof, or the plumage, skins, or hides, or parts thereof, of protected game birds and game animals ~~had in possession~~ POSSESSED or ~~which~~ THAT have been shipped or are being transported in violation of ~~any of the provisions of~~ this ~~act~~ PART, shall be confiscated and disposed of as provided by law.

Sec. ~~4~~ 42504. Within 10 days after the close of the respective open seasons provided by law for the taking of fur-bearing animals, game birds, and game animals, each person ~~,~~ ~~firm or corporation~~ holding a license ~~as herein provided,~~ UNDER THIS PART shall ~~be required to make a~~ report to the ~~director of conservation~~ DEPARTMENT stating the number and kinds of furs, hides, or pelts of each fur-bearing animal, and

the plumage, skins, or hides, or parts thereof, of protected game birds and game animals in his OR HER possession on the last day of the open season for each fur-bearing animal, game bird, and game animal. ~~Said~~ THE reports ~~must~~ SHALL be notarized and sent by registered mail.

Sec. ~~5~~ 42505. On or before the tenth day of every month, each person licensed to do business under ~~the provisions of~~ this ~~act,~~ PART shall make a report to the ~~director of conservation~~ DEPARTMENT on blanks to be furnished by ~~him~~ THE DEPARTMENT, stating the number and kinds of raw furs, hides, or pelts of fur-bearing animals, or the plumage, skins, or hides, or parts thereof, of protected game birds and game animals purchased or sold during the preceding month, and the name and address of the person from whom purchased and to whom sold. ~~Said reports must~~ THE REPORT SHALL be notarized and sent by registered mail.

Sec. ~~6~~ 42506. All ~~moneys~~ MONEY received from the sale of licenses as provided in this ~~act,~~ PART shall be forwarded to the auditor general and placed to the credit of the game AND FISH protection fund CREATED IN PART 435, and shall be used for the purpose necessary to the protection, propagation, and distribution of game and fur-bearing animals as provided by law.

Sec. ~~7~~ 42507. ~~Any~~ A person ~~, firm or corporation by themselves or their agents, or servants~~ OR HIS OR HER AGENT OR SERVANT who ~~shall violate any of the provisions of~~ VIOLATES this ~~act,~~ PART is guilty of a misdemeanor, and shall forfeit to the state all furs, hides, and pelts of fur-bearing animals and the plumage, skins, or hides, or parts thereof, of protected game

birds or game animals illegally bought or held, and reimburse the state for illegal furs or illegal plumage, skins, hides, or parts thereof, of protected game birds and game animals sold. ~~In cases in which~~ IF a fine ~~with~~ AND costs ~~is~~ ARE imposed, the court shall sentence the offender to ~~be confined in the county jail~~ IMPRISONMENT until ~~such~~ THE fine and costs are paid, but for a period not exceeding the maximum jail penalty provided for this offense.

~~Part 427. Breeders and Dealers~~

PART 427 BREEDERS AND DEALERS

Sec. ~~1a~~ 42701. As used in this ~~act~~ PART:

~~(a) "Commission" means the commission of natural resources.~~

~~(b) "Director" means the director of the department of natural resources.~~

(A) ~~(d)~~ "Game" has the same meaning ascribed to that term in ~~the wildlife conservation act, Act No. 256 of the Public Acts of 1988, being sections 300.251 to 300.270 of the Michigan Compiled Laws~~ PART 401.

(B) ~~(c)~~ "License" means a game breeder's license issued pursuant to this ~~act~~ PART.

~~(e) "Rules" means rules promulgated pursuant to the administrative procedures act, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.~~

(C) ~~(f)~~ "Stock" means game.

Sec. ~~1~~ 42702. The ~~director~~ DEPARTMENT shall issue licenses to authorize the possession for propagation, and for

dealing in and selling game. A license shall not be granted to an applicant who is not the owner or lessee of the premises to be used for the purposes designated by the license. A license issued pursuant to this ~~act shall be~~ PART IS nontransferable and ~~shall be~~ IS valid from July 1 to June 30 of the third license year.

Sec. ~~2~~ 42703. A person shall not maintain in captivity or propagate or sell game, except as otherwise provided by law, unless ~~he or she~~ THAT PERSON holds a valid and current license issued pursuant to this ~~act~~ PART. Public zoological parks ~~shall~~ ARE not ~~be~~ required to secure a license. A license ~~shall~~ IS not ~~be~~ required of a person who purchases any carcass, product, or part of game sold from a person licensed pursuant to this ~~act~~ PART.

Sec. ~~3~~ 42704. The fee for a license shall be established by the ~~director~~ DEPARTMENT as follows:

(a) If it is practicable to count the applicant's game, the fee shall be $45.00 for the total number of game not exceeding 500, and an additional fee of $15.00 shall be assessed for each additional number of game of 500 or less.

(b) If it is impracticable to count the game, the fee shall be $45.00 for 40 acres or less ~~which~~ THAT is to be used by the applicant for game propagation purposes, and $15.00 for each additional 40 acres or less.

(c) If the fee for an applicant is determined by utilizing a combination of the methods provided in subdivisions (a) and (b),

the fee shall be the larger one that can be charged under either SUBDIVISION (a) or (b).

(d) The maximum fee for a single license shall not exceed $150.00.

Sec. ~~4~~ 42705. ~~Any~~ A person who has secured a license may possess, propagate, use, buy, sell, trap, kill, consume, ship, or transport any or all of the stock designated in that license, and ~~their~~ offspring, products, carcasses, pelts, or other parts OF THE STOCK as provided in this ~~act~~ PART.

Sec. ~~5~~ 42706. (1) All islands, enclosures, and pens used for propagation purposes shall be of a character and in a location that the ~~director~~ DEPARTMENT approves as satisfactory to keep in complete and continuous captivity the stock covered by the license, and shall be constructed in a manner to prevent the entrance of wild stock of the same species. However, pinioned or wing-clipped birds may be kept in unroofed enclosures.

(2) After July 1, 1986, the ~~director of the~~ department shall not issue a license to a person, or approve an enclosure or pen capable of enclosing deer, unless the following conditions are met:

(a) The township or city in which the enclosure or pen is to be located has granted authorization for the enclosure or pen to be located within the township or city.

(b) If there are deer within the area to be enclosed, the applicant or license holder flushes that area to eliminate those deer. The applicant or license holder shall submit the proposed

method to be used to flush deer from the area to the department for approval.

(3) Any deer that cannot be flushed from the land that is to be enclosed and is covered by a license issued under this ~~act~~ PART shall be purchased from the state as provided in section ~~6~~ 42707.

(4) Subsections (2) and (3) ~~shall~~ DO not apply to a person who has a valid license on July 1, 1986, unless the license holder expands the lands covered by the license.

(5) As used in this section, "flush" or "flushed" means to move or chase from the area that is to be enclosed.

Sec. ~~6~~ 42707. ~~When~~ IF wild, state owned game animals are present on land that is covered by a license, ~~under this act,~~ the applicant may purchase the state owned game from the state and secure title to the game. Except as otherwise provided in this section, the price to be paid for the game shall be fixed by the ~~director~~ DEPARTMENT, ~~subject to the approval of the commission,~~ but the price shall not exceed the market value that the game have for breeding purposes. However, the price of deer purchased from the state shall be $250.00 per deer.

Sec. ~~7~~ 42708. (1) Game covered by a license may be taken or killed in any manner and at any time, except that game birds covered by a license may not be shot, except by the holder of a license in special situations when the ~~commission~~ DEPARTMENT promulgates rules or the ~~commission~~ DEPARTMENT issues orders permitting the shooting of game birds.

(2) Wild turkey or wild turkey hybrids covered by a license shall have 1 wing pinioned within 14 days of hatching.

Sec. ~~8~~ 42709. (1) Game, including the parts or products of game, may be removed from licensed premises only when identified as required by the ~~commission~~ DEPARTMENT. This identification may be by bill of sale, invoice, or seals, tags, bands, or appropriate stamp mark affixed to carcasses and their parts ~~,~~ or to wrappers, crates, or other containers. ~~Tags~~ REQUIRED TAGS and seals ~~as are required~~ shall be provided to the license holder by the ~~director~~ DEPARTMENT at reasonable cost. The use of seals, bands, and tags shall not be required on consignments of game sent to the department or to other state institutions to be used for scientific purposes.

(2) Live game may be removed from licensed premises only by licensed game breeders, shooting preserve operators, or persons holding permits authorizing the possession of the game. Wild turkeys or wild turkey hybrids shall not be removed from licensed premises unless they are pinioned.

(3) Fertile eggs from wild turkeys or wild turkey hybrids shall not be removed from licensed premises.

Sec. ~~10~~ 42710. (1) The ~~commission~~ DEPARTMENT may issue orders considered necessary by the ~~commission~~ DEPARTMENT to protect the public interest and to provide for the proper administration of this ~~act~~ PART. ~~Commission orders~~ ORDERS under this ~~act~~ PART shall be issued according to the procedure FOR THE ISSUANCE OF ORDERS provided for in ~~section 8(2) and (3) of the wildlife conservation act, Act No. 256 of the Public Acts of~~

~~1988, being section 300.258 of the Michigan Compiled Laws~~ PART 401.

(2) The ~~director, with the approval of the commission,~~ DEPARTMENT may promulgate rules designating certain game that do not require protection under this ~~act~~ PART and ~~which~~ THAT may be possessed, propagated, purchased, or sold without a license.

Sec. ~~11~~ 42711. (1) Game that are released or that escape from the premises of a person licensed under this ~~act shall~~ PART become the property of the state.

(2) ~~No game~~ GAME birds shall NOT be released without the written permission of the ~~director~~ DEPARTMENT.

Sec. ~~12~~ 42712. All money received from the sale of licenses under this ~~act~~ PART shall be credited to the game AND FISH protection fund CREATED IN PART 435.

Sec. ~~13~~ 42713. Any license issued under this ~~act~~ PART may be suspended or revoked after a hearing conducted pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, upon reasonable notice, when the license holder fails to comply with this ~~act~~ PART, or fails to provide accurate reports and records within reasonable time limits as designated by the ~~commission~~ DEPARTMENT. In addition, ~~whenever any~~ IF A person licensed under this ~~act~~ PART is convicted of a violation of the game laws of the state, his or her license may be revoked or its renewal denied and the game held under his or her license may be disposed of only in a manner approved by the ~~director~~ DEPARTMENT.

Sec. ~~14~~ 42714. A person who violates this ~~act~~ PART or any of the rules ~~adopted~~ PROMULGATED under this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both. A person who is convicted of a second violation of this ~~act~~ PART or any of the rules ~~adopted~~ PROMULGATED under this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both.

~~Part 429. Ferrets and Fitchew~~

~~Part 431. Foxes in Captivity~~

PART 431 FOXES IN CAPTIVITY

Sec. ~~1~~ 43101. Silver, silver-black, black, and cross foxes, which of their nature, in the absence of efforts for their domestication, were known as wild, ~~whenever the same shall have been~~ WHICH ARE brought into or born in ~~restraint or~~ captivity upon ~~any~~ A farm or ranch for the purpose of cultivating or pelting their furs, together with their offspring and increase, are ~~and shall be considered and classified as~~ domestic animals for the purpose of ~~and within the meaning of~~ any statute or law relating generally to domestic animals, other than dogs and cats or other pets, or relating to farming or to animal husbandry or to the encouragement of agriculture, unless any such statute or law is ~~or shall be~~ impossible ~~of application~~ TO APPLY to such fur-bearing animals. Such fur-bearing animals, together with their offspring and increase, are ~~and shall be~~ the subjects of ownership, lien, and all ~~kinds of absolute and~~ other property rights, IN the same MANNER as purely domestic animals, in

whatever situation, location, or condition ~~such~~ THE fur-bearing animals may ~~thereafter come or~~ be, and regardless of ~~their remaining~~ WHETHER THEY REMAIN in or ~~escaping~~ ESCAPE from ~~such restraint or~~ captivity. Such fur-bearing animals shall receive the same protection of law AS, and in the same way and to the same extent ~~shall be~~ ARE the subject of trespass or larceny as, other personal property. ~~: Provided, however, That nothing herein contained~~ THIS PART shall NOT be construed to include silver, silver-black, black, and cross foxes within the definition of ~~"~~ livestock, ~~"~~ or give any person any right to recovery for damage or destruction ~~thereof~~ OF THE ANIMAL under the ~~provisions of~~ DOG LAW OF 1919, Act No. 339 of the Public Acts of 1919, ~~as amended,~~ being sections ~~5245~~ 287.261 to ~~5257~~ 287.290 of the MICHIGAN Compiled Laws. ~~of 1929.~~

Sec. ~~2~~ 43102. ~~Any~~ AN owner or prospective owner of ~~such~~ A fur-bearing ~~animals in restraint or~~ ANIMAL DESCRIBED IN THIS PART WHICH IS LIVING IN captivity ~~shall be~~ IS entitled, ~~from time to time,~~ by written subscribed statement, to adopt distinctive brands or tattoo marks, not including Arabic numerals and not INCLUDING BRANDS OR TATTOO MARKS already in known use by others, for ~~any of~~ such fur-bearing animals, and to have ~~such~~ THE distinctive identifying brands or tattoo marks recorded in his OR HER name in the office of the ~~commissioner~~ COMMISSION of agriculture, ~~of the state of Michigan,~~ upon paying a recording fee of $1.00 for each ~~such~~ brand or ~~for~~ each ~~such~~ tattoo mark. ~~: Provided, That all~~ ALL fees received by the department of agriculture ~~, as herein provided,~~ UNDER THIS PART shall be

retained by ~~said~~ THE department OF AGRICULTURE and used to defray the expenses of administering this ~~act~~ PART. Such statements shall be recorded in a suitable book to be kept ~~therefor~~ in ~~said~~ THE office OF THE COMMISSION OF AGRICULTURE. The presence of ~~such~~ A recorded brand or recorded tattoo ~~marks~~ MARK upon ~~any~~ such A fur-bearing animal ~~shall be~~ IS prima facie evidence of the ownership of ~~such~~ THE animal ~~in~~ BY the person ~~, persons, partnerships, association or corporation~~ in whose name ~~such~~ THE brand or tattoo mark is ~~so~~ recorded, subject always to ~~his, their or its~~ THAT PERSON'S right to make due transfer of title, right or interest in, or lien upon ~~such~~ THE animal.

Sec. ~~3~~ 43103. ~~No person, without~~ WITHOUT the permission of the owner of ~~any such~~ A privately owned fur-bearing animal DESCRIBED IN THIS PART, A PERSON shall NOT enter the enclosure within which ~~any such~~ THE privately owned fur-bearing animal is kept, ~~for preservation, culture, breeding or growing,~~ or trespass on private ground adjoining such AN enclosure and ~~shall there~~ knowingly annoy or disturb ~~said~~ THE animals. ~~; and no~~ A person shall NOT knowingly and willfully kill, trap, or injure any fur-bearing animal owned by another person without the consent of the owner. ~~: Provided, That any~~ HOWEVER, A duly authorized peace or conservation officer may enter upon such premises in the performance of his OR HER regular duties.

Sec. ~~4~~ 43104. ~~Any~~ A person who violates ~~the terms of~~ this ~~act shall be deemed~~ PART IS guilty of a misdemeanor, ~~and on conviction thereof shall be punished by~~ PUNISHABLE BY

IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR a fine of not more than $100.00, or ~~by imprisonment in the county jail for not more than 90 days, or by~~ both. ~~fine and imprisonment, in the discretion of the court.~~

~~Sec. 5. All acts or portions of acts in conflict herewith are hereby repealed: Provided, That this repeal shall not affect any cause or action or proceeding under the existing law at the date this repeal becomes effective.~~

~~Part 433. Limitation on Acreage for Propagation or Sporting Purposes~~

PART 433 LIMITATION ON ACREAGE FOR PROPAGATION OR SPORTING PURPOSES

Sec. ~~1~~ 43301. ~~It shall be unlawful, after this act shall take effect, for any~~ A person ~~, partnership, corporation, or association to~~ SHALL NOT acquire, hold, or occupy by purchase, lease, or other evidence of title, possession, or right of occupancy or ~~to~~ enclose by fences or other barriers in 1 tract an amount of real estate within this state exceeding 15,000 acres ~~in extent~~ for the purpose of the preservation or propagation of game or fish ~~,~~ or for use for yachting, hunting, boating, fishing, rowing, or any other sporting purpose.

Sec. ~~2~~ 43302. ~~It shall also be unlawful for any such~~ A person ~~, partnership, corporation or association to~~ SHALL NOT acquire, hold, or occupy in the manner and for the purposes ~~above~~ stated IN SECTION 43301 any real estate ~~which shall be~~ THAT IS located within 2 miles of any other real estate acquired,

held, or occupied for any of the uses or purposes mentioned in ~~the preceding~~ section 43301.

Sec. ~~3~~ 43303. ~~Any~~ A person ~~, partnership, corporation, or association violating any of the provisions of~~ WHO VIOLATES this ~~act shall be~~ PART IS subject to a ~~penalty~~ CIVIL FINE of ~~50 dollars~~ $50.00 for each ~~and every~~ day that ~~such~~ A violation OF THIS PART continues. ~~, which penalty~~ THE FINE shall be recovered in the manner ~~now~~ provided by law.

~~SUBCHAPTER 2. HUNTING AND FISHING LICENSING~~

~~Part 435. Hunting and Fishing Licenses~~

SUBCHAPTER 2: HUNTING AND FISHING LICENSES

PART 435 HUNTING AND FISHING LICENSING

~~Sec. 101. This act shall be known and may be cited as "the hunting and fishing license act".~~

~~Sec. 102~~ 43501. For the purposes of this ~~act~~ PART, the words and phrases defined in sections ~~103~~ 43502 to ~~109 shall~~ 43508 have the meanings ascribed to them in those sections.

Sec. ~~103~~ 43502. (1) "Amphibian" means any frog, toad, salamander, or any other member of the class amphibia.

(2) "Bow" means a device for propelling an arrow from a string drawn, held, and released by hand where the force used to hold the string in the drawn position is provided by the archer's muscles.

~~(3) "Commission" means the commission of natural resources.~~

(3) ~~(4)~~ "Crustacea" means any freshwater crayfish, shrimp, or prawn of the order decapoda.

~~(5) "Department" means the director or his or her designee.~~

~~(6) "Director" means the director of the department of natural resources.~~

Sec. ~~104~~ 43503. (1) "Fish" means all species of fish.

(2) "Fishing" means the pursuing, capturing, catching, killing, or taking of fish, and includes attempting to pursue, capture, catch, kill, or take fish.

(3) "Firearm" means a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of a spring ~~,~~ OR air ~~,~~ or gas.

(4) "Firearm deer season" means any period in which deer may be lawfully hunted with a firearm.

(5) "Fur-bearing animals" includes badger, beaver, bobcat, coyote, fisher, fox, lynx, marten, mink, muskrat, opossum, otter, raccoon, skunk, weasel, and wolf.

Sec. ~~105~~ 43504. "Game" ~~means any animal listed~~ HAS THE MEANING GIVEN THAT TERM in ~~section 4 of the wildlife conservation act, Act No. 256 of the Public Acts of 1980, being section 300.254 of the Michigan Compiled Laws~~ PART 401.

Sec. ~~106~~ 43505. (1) "Hunt" and "hunting" mean to pursue, capture, shoot, kill, chase, follow, harass, harm, rob, or trap a wild animal, or to attempt to engage in such an activity.

(2) "License" means a document ~~,~~ or a tag, stamp, plastic card, or other device that may include a stamp or a tag that authorizes the licensee to hunt, fish, trap, or possess wild animals or fish.

(3) "Minor child" means a person less than 17 years of age.

(4) "Nonresident" means a person who is not a resident.

Sec. ~~107~~ 43506. (1) "Open season" means the time during which game animals, game birds, fur-bearing animals, and fish may be legally taken or killed. Open season includes both the first and last day of the season or period.

(2) "Passbook" means a folder, document, plastic card, or other device issued by the department containing space for the applicant's name, address, and vital statistics or a Michigan ~~driver's~~ DRIVER license when authorized by the department.

~~(3) "Person" means an individual, sole proprietor, partnership, association, corporation, or other legal entity.~~

(3) ~~(4)~~ "Reptile" means a turtle, snake, lizard, or any other member of the class reptilia.

(4) ~~(5)~~ "Resident" means any of the following:

(a) A person who resides in a settled or permanent home or domicile within the boundaries of this state with the intention of remaining in this state.

(b) A student who is enrolled in a full-time course at a college or university within this state.

(c) A person regularly enlisted or commissioned as an officer in the armed forces of the United States and officially stationed in this state.

(d) A person regularly enlisted or commissioned as an officer in the armed forces of the United States who, at the time of enlistment, was a resident of this state and has maintained his or her residence in this state for purposes of obtaining a driver's license or voter registration, or both.

Sec. ~~108~~ 43507. (1) "Senior citizen" means a resident 65 years of age or older.

(2) "Slingshot" means a Y-shaped device with an elastic strip attached between the prongs used for projecting a stone or other object.

(3) "Small game" includes all species of protected game birds and game animals except bear, deer, elk, moose, wild turkey, and fur-bearing animals.

(4) "Small game season" means that period between September 15 and March 31.

Sec. ~~109~~ 43508. (1) "Take" means fishing, hunting, trapping, catching, capturing, killing, or the attempt to engage in such an activity.

(2) "Trap" and "trapping" mean the taking of wild animals by means of a trap.

(3) "Waterfowl" means ducks, geese, gallinules, and mergansers.

(4) "Wild animal" means a mammal, bird, fish, reptile, amphibian, or crustacea of a wild nature indigenous to this state or introduced to this state by the department or a species determined by the ~~commission~~ DEPARTMENT to be of public benefit.

(5) "Wiggler" means a mayfly nymph or other aquatic insect nymphs or larvae.

Sec. ~~201~~ 43509. (1) A person 17 years of age or older shall not fish in any waters over which this state has jurisdiction ~~,~~ or possess fish without having in ~~the person's~~ HIS OR HER possession a valid license as provided in this ~~act~~ PART.

(2) A person shall not hunt, trap, or possess a wild animal without having in ~~the person's~~ HIS OR HER possession a valid license as provided in this ~~act~~ PART.

(3) A person 17 years of age or older shall not take or attempt to take wigglers or crustacea for ~~their~~ HIS OR HER personal use without a fishing license as provided in this ~~act~~ PART.

(4) A person 17 years of age or older shall not take or attempt to take reptiles or amphibians for ~~their~~ HIS OR HER personal use without a fishing license as provided in this ~~act~~ PART.

Sec. ~~202~~ 43510. A person shall not carry or transport a firearm, slingshot, bow and arrow, or a trap while in any area frequented by wild animals unless that person has in ~~the person's~~ HIS OR HER possession a license as required under this ~~act~~ PART.

Sec. ~~203~~ 43511. During the open season for the taking of deer or elk with a firearm, other than the muzzle-loading deer season, a person shall not transport or possess a shotgun with buckshot, slug load, ball load, or cut shell or a rifle other than a .22 caliber rim fire, unless the person has in ~~the~~

~~person's~~ HIS OR HER possession a license to hunt deer or elk with a firearm.

Sec. ~~204~~ 43512. A person shall not carry a firearm or a bow and arrow while in any area open for wild turkey hunting during the spring wild turkey hunting season, unless the person possesses a valid turkey license issued under section ~~306~~ 43524.

Sec. ~~205~~ 43513. A person may carry, transport, or possess a firearm or a bow and arrow without a hunting license while at or going to and from a recognized rifle or target range, trap, or skeet shooting ground, or archery range if the firearm or bow and arrow, while being carried or transported, is as follows:

(a) The firearm is unloaded in both barrel and magazine and either enclosed in a case or carried in the trunk of a vehicle.

(b) The bow is unstrung, ~~or~~ enclosed in a case, or carried in the trunk of a vehicle.

Sec. ~~206~~ 43514. (1) A resident, the resident's spouse, and the resident's children may hunt small game without a license upon the enclosed farmlands upon which they are regularly domiciled, at a time and in a manner permitted by law; except that they shall obtain a waterfowl hunting license for hunting waterfowl and a federal migratory bird hunting stamp as required by law.

(2) A resident, the resident's spouse, and the resident's children may fish without a license in water wholly within the limits of their enclosed farmlands or other enclosed lands upon

which they are regularly domiciled, at a time and in a manner permitted by law.

Sec. ~~207~~ 43515. The ~~director~~ DEPARTMENT may issue a permit authorizing a mentally retarded person or a resident of a home for the aged licensed under article 17 of THE PUBLIC HEALTH CODE, Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22181 of the Michigan Compiled Laws, to fish without a license if the mentally retarded person or the resident of the licensed home for the aged is a member of a group accompanied by 1 or more adults licensed under this ~~act~~ PART.

Sec. ~~208~~ 43516. (1) A person who has been issued a hunting, fishing, or fur harvester's license, when hunting, fishing, or trapping ~~,~~ or in the possession of firearms or other hunting, fishing, or trapping apparatus in an area frequented by wild animals or fish, shall carry the license and shall exhibit the license upon the demand of a conservation officer, a law enforcement officer, or the owner or occupant of the land upon which the person is hunting, fishing, or trapping.

(2) A person shall not carry or possess afield a shotgun with buckshot, slug loads, or ball loads; a bow and arrow; a muzzle-loading rifle or black powder handgun; or a centerfire handgun or centerfire rifle during firearm deer season unless that person has a valid firearm deer license, with an unused kill tag, if issued, issued in his or her name.

(3) The unused kill tag, if issued, shall be exhibited upon the request of a conservation officer, a law enforcement officer,

or the owner or occupant of the land upon which the person is hunting.

Sec. ~~209~~ 43517. A parent or legal guardian of a minor child shall not permit or allow the minor child to hunt under the authority of a license issued pursuant to ~~article 3~~ THIS PART on land upon which the parent or guardian is not regularly domiciled without being accompanied by the parent ~~,~~ OR guardian ~~,~~ or ~~other~~ ANOTHER person authorized by the parent or guardian who is 17 years of age or older.

Sec. ~~301~~ 43518. (1) As used in this ~~article, "director"~~ SECTION TO SECTION 43544, "DEPARTMENT" includes a person designated by the ~~director~~ DEPARTMENT to issue and sell licenses.

(2) A license issued under this ~~act~~ PART is not valid unless it is signed as required by the ~~director~~ DEPARTMENT.

Sec. ~~302~~ 43519. (1) To obtain a hunting, fur harvester, fishing, or sportsperson's license, an applicant shall do all of the following:

(a) Submit to the ~~director~~ DEPARTMENT proof of residency or sign an affidavit of Michigan residency.

(b) Provide the information required on the license application.

(c) Pay the license fee.

(d) Possess a valid passbook.

(2) A person shall not obtain or attempt to obtain a hunting, fur harvester, fishing, or sportsperson's license if a court order prohibits the person from obtaining ~~such a~~ THAT license.

Sec. ~~303~~ 43520. (1) Subject to other requirements of this ~~act~~ PART, the ~~director~~ DEPARTMENT may issue a hunting license to a minor child subject to both of the following conditions:

(a) On application of a parent or legal guardian of the minor child, if the minor child, when hunting on lands upon which the minor child's parents are not regularly domiciled, is accompanied by the parent ~~,~~ OR guardian ~~,~~ or ~~other~~ ANOTHER person authorized by the parent or guardian who is 17 years of age or older.

(b) Payment of the license fee.

(2) A license to hunt deer, bear, or elk with a firearm shall not be issued to a person who is less than 14 years of age.

(3) A license to hunt shall not be issued to a person who is less than 12 years of age.

(4) A person authorized to sell hunting licenses shall not issue a hunting license to a person born after January 1, 1960, unless the person presents proof of previous hunting experience in the form of a hunting license issued by this state, another state, a province of Canada, or another country or a certification of completion of training in hunter safety issued to the person by this state, another state, a province of Canada, or another country. If an applicant for a hunting license does not have proof of a previous license or a certification of completion of training in hunter safety, a person authorized to sell hunting licenses may issue a hunting license if the applicant submits a signed affidavit stating that they have completed a course in

hunter safety or that they have possessed a hunting license previously. The person selling a hunting license shall record as specified by the ~~director~~ DEPARTMENT the form of proof of the previous hunting experience or certification of completion of ~~hunters~~ HUNTER safety training presented by the applicant.

Sec. ~~304a~~ 43521. (1) The ~~director~~ DEPARTMENT may issue TO A RESIDENT OF THIS STATE a sportsperson's license ~~to a resident of this state which~~ THAT includes all of the following:

(a) Resident firearm deer LICENSE.

(b) Resident small game LICENSE.

(c) Resident ~~fish~~ FISHING LICENSE.

(d) Resident ~~archery~~ BOW AND ARROW deer LICENSE.

(e) Resident trout and salmon license.

(2) The sportsperson's license shall be issued instead of the individual licenses enumerated in subsection (1) and shall confer the combined rights and privileges of those licenses.

(3) The fee for a sportsperson's license is $45.00.

Sec. ~~304b~~ 43522. If a person applying for a license or permit under this ~~act~~ PART, other than a limited fishing license under section ~~316~~ 43533, does not possess or the ~~director~~ DEPARTMENT does not authorize the use of a Michigan ~~driver's~~ DRIVER license, the ~~director~~ DEPARTMENT shall issue an alternative form of passbook. A person authorized by the ~~director~~ DEPARTMENT to issue licenses shall charge a $1.00 fee for each passbook that ~~the person~~ HE OR SHE issues. The authorized person shall forward the fee collected pursuant to this section to the department. The ~~director~~ DEPARTMENT shall issue

a license and a passbook provided for in this ~~article~~ PART if the applicant satisfies the license requirements and pays the license fees. Each license shall bear the number of the applicant's passbook and shall authorize the person whose passbook number is printed on the license to hunt, fish, trap, or otherwise exercise the privileges conferred by the license in a manner and at a time prescribed by law.

Sec. ~~305~~ 43523. (1) Except as otherwise provided in this ~~act~~ PART, a person shall not hunt small game without a current small game license. Each small game license authorizes the person named in the license to hunt for small game except for animals or birds that require a special license. The fee for a resident small game license is $9.50. If authorized in an order issued under ~~section 8 of the wildlife conservation act, Act No. 256 of the Public Acts of 1988, being section 300.258 of the Michigan Compiled Laws~~ PART 401, a resident possessing a current small game license may take specified fur-bearing animals by means other than trapping during the open season for hunting these fur-bearing animals. The fee for a nonresident small game license is $50.00. The resident small game license fee for a minor child is $4.75.

(2) A nonresident may purchase a limited small game license entitling that person to hunt for a 3-day period all species of small game that are available to hunt under the small game license. The fee for the limited nonresident small game license is $20.00.

(3) A person who holds a fur harvester's license may trap fur-bearing animals without a small game license.

(4) A small game license is void between the hours of 1/2 hour after sunset and 1/2 hour before sunrise.

(5) A nonresident hunter who legally possesses a nonresident hunting license may take from this state as open hand baggage the number of birds and animals that are permitted to be taken and in the person's possession at any 1 time.

Sec. ~~306~~ 43524. (1) A person shall not hunt wild turkeys without a wild turkey hunting license. The fee for a resident wild turkey hunting license is $9.50. The fee for a resident wild turkey hunting license for a senior citizen is $1.00. The fee for a nonresident wild turkey hunting license is $50.00. Applications for a WILD TURKEY HUNTING license ~~to hunt wild turkeys~~ shall be entered into a lottery designed and run by the department. A person selected in the lottery shall, upon meeting the requirements of this ~~act~~ PART, receive a wild turkey hunting license. The license shall be issued for a specified hunting period and shall confer upon the holder of the license the right to hunt wild turkeys.

(2) The fees collected for wild turkey hunting licenses shall be used for scientific research, biological survey work on wild turkeys, and wild turkey management in this state.

(3) THE DEPARTMENT SHALL CHARGE A NONREFUNDABLE APPLICATION FEE NOT TO EXCEED $3.00 FOR EACH PERSON WHO APPLIES FOR A WILD TURKEY HUNTING LICENSE.

Sec. ~~307~~ 43525. (1) A person 16 years of age or older shall not hunt waterfowl without a current waterfowl hunting license issued by this state. The annual license is in addition to the requirements for a small game license and federal migratory bird hunting stamp. The fee for the waterfowl hunting license is $3.50.

(2) If issued as a stamp, a waterfowl hunting license shall be affixed to the small game license of the person and signed across the face of the stamp by the person to whom it is issued.

(3) A collector may purchase a waterfowl hunting license, if it is issued as a stamp, without being required to place it on a small game license, sign across its face, or provide proof of competency under section ~~303(4)~~ 43520(4). However, a license described in this subsection is not valid for hunting waterfowl.

(4) A person shall not hunt waterfowl or deer if deer hunting is regulated by permit in an area designated by the ~~commission~~ DEPARTMENT as a managed waterfowl area without an annual or daily managed waterfowl area permit and any other license, permit, or passbook required by this ~~act~~ PART. The fee for a daily managed waterfowl area permit is $3.00. The fee for an annual managed waterfowl area permit is $10.00.

(5) Following a lottery among applicants for hunting privileges in managed waterfowl areas, only those successful applicants who accept the permit privileges are required to purchase a daily or annual managed waterfowl area permit.

(6) The fee collected for a waterfowl hunting license shall be used to acquire wetlands and other lands to be managed for the

benefit of waterfowl. The fee collected for an annual or daily managed waterfowl area permit shall be used to operate, maintain, and develop managed waterfowl areas in this state.

(7) THE DEPARTMENT SHALL CHARGE A NONREFUNDABLE APPLICATION FEE NOT TO EXCEED $3.00 FOR EACH PERSON WHO APPLIES FOR A PERMIT TO HUNT IN A MANAGED WATERFOWL AREA.

Sec. ~~308~~ 43526. (1) A person shall not hunt deer during the firearm deer season without purchasing a firearm deer license. The fee for a resident firearm deer license is $12.50. The fee for a nonresident firearm deer license is $100.00. Where authorized by the ~~commission~~ DEPARTMENT, a person may purchase a second firearm deer license in 1 season. The fee for a second resident firearm deer license is $12.50. The fee for a second nonresident firearm deer license is $100.00. The ~~commission in exercising its powers to~~ DEPARTMENT MAY issue orders under ~~section 8 of the wildlife conservation act, Act No. 256 of the Public Acts of 1988, being section 300.258 of the Michigan Compiled Laws, may designate~~ PART 401 DESIGNATING the kind of deer ~~which~~ THAT may be taken, and may limit the issuance of a second firearm deer license FOR USE in areas it considers advisable in managing deer.

(2) The ~~director~~ DEPARTMENT may issue a kill tag with or as part of each deer license. The kill tag shall bear the license number. The kill tag shall also include space for other pertinent information including the date and month of killing the animal, the sex of the animal, and size of the antlers. This pertinent information shall be completed by the licensee upon the

killing of a deer. The kill tag, if issued, is part of the license.

(3) THE DEPARTMENT SHALL CHARGE A NONREFUNDABLE APPLICATION FEE NOT TO EXCEED $3.00 FOR EACH PERSON WHO APPLIES FOR AN ANTLERLESS DEER PERMIT.

Sec. ~~309~~ 43527. (1) A person shall not hunt deer with a bow and arrow during the bow and arrow deer season without a bow and arrow deer license. The fee for a resident bow and arrow deer license is $12.50. The fee for a nonresident bow and arrow deer license is $75.00. The resident bow and arrow deer license fee for a minor child is $6.25. Where authorized by the ~~commission~~ DEPARTMENT, a person may purchase a second bow and arrow deer license in 1 season. The fee for a second resident bow and arrow deer license is $12.50. The fee for a second nonresident bow and arrow deer license is $75.00. The ~~commission in exercising its powers to~~ DEPARTMENT MAY issue orders under ~~section 8 of the wildlife conservation act, Act No. 256 of the Public Acts of 1988, being section 300.258 of the Michigan Compiled Laws, may designate~~ PART 401 DESIGNATING the kind of deer which may be taken, and may limit the issuance of a second bow and arrow deer license FOR USE in areas it considers advisable in managing deer.

(2) The ~~director~~ DEPARTMENT may issue a kill tag with, or as a part of, each bow and arrow deer license. Section ~~308(2)~~ 43526(2) applies with respect to a bow and arrow deer license.

Sec. ~~310~~ 43528. (1) A person shall not hunt bear without a bear hunting license. The fee for a resident bear hunting

license is $14.00. The fee for a nonresident bear hunting license is $150.00.

(2) The ~~director~~ DEPARTMENT may issue a tag with, or as a part of, a bear HUNTING license. Section ~~308(2)~~ 43526(2) applies with respect to a bear HUNTING license.

Sec. ~~311~~ 43529. (1) A resident shall not hunt elk during the elk season without an elk hunting license. The fee for an elk hunting license is $100.00. The ~~commission~~ DEPARTMENT may establish a nonrefundable application fee not to exceed $4.00 for each person who applies for an elk hunting license.

(2) The ~~director~~ DEPARTMENT may issue a tag with, or as a part of, an elk HUNTING license. Section ~~308(2)~~ 43526(2) applies with respect to an elk HUNTING license.

Sec. ~~313~~ 43530. (1) A person shall not hunt small game on shooting preserves licensed under ~~Act No. 134 of the Public Acts of 1957, as amended, being sections 317.301 to 317.313 of the Michigan Compiled Laws,~~ PART 417 without a small game license as provided in section ~~305~~ 43523. However, instead of a small game license, a person may obtain a special shooting preserve license for a fee of $8.50.

(2) Each shooting preserve license shall have the date of issue affixed to the license and shall authorize the holder to hunt only on licensed shooting preserves and only for species for which the shooting preserve is licensed.

Sec. ~~314~~ 43531. (1) Except as otherwise provided in section ~~305(1)~~ 43523(1), a person shall not trap or hunt fur-bearing animals without purchasing and possessing a fur

harvester's license. The fee for a resident fur harvester's license is $15.00. The fee for a fur harvester's license for a resident minor child is $7.50.

(2) The department may issue a nonresident fur harvester's license to a nonresident of this state if the state, province, or country in which the nonresident applicant resides allows residents of this state to obtain equivalent hunting and trapping privileges in that state, province, or country. The fee for an eligible nonresident fur harvester's license is $150.00. Nonresident fur harvester's licenses shall not be sold or purchased prior to November 15 of each year.

(3) A person who holds a fur harvester's license may hunt fur-bearing animals during the season open to taking fur-bearing animals with firearms and may trap fur-bearing animals during the season open to trapping fur-bearing animals.

Sec. ~~315~~ 43532. (1) A person 17 years of age or older shall not fish in the waters over which this state has jurisdiction without a license. The fee for a resident annual fishing license is $9.50. The fee for a nonresident annual fishing license is $20.00.

(2) The annual fishing license entitles the licensee to take fish other than trout or salmon.

(3) The holder of an annual fishing license, upon payment of an additional fee of $9.50, may procure a trout and salmon license that entitles the holder to take trout and salmon in a manner and at a time prescribed by law.

~~(4) The holder of an annual fishing license who purchases a salmon snagging license under section 11 of chapter III of the Michigan sportsmen fishing law, Act No. 165 of the Public Acts of 1929, being section 303.11 of the Michigan Compiled Laws, is not required to purchase a trout and salmon license to snag salmon lawfully. However, after the 1993 open season, the department shall not sell salmon snagging licenses.~~

Sec. ~~316~~ 43533. A resident or nonresident may purchase a limited fishing license entitling that person to fish for all species of fish in all waters of this state. The fee for a limited fishing license is $5.00 per day.

Sec. ~~316a~~ 43534. (1) ~~Beginning May 1, 1986, the director, with the approval of the commission,~~ THE DEPARTMENT may designate 1 day or 2 consecutive days each year as ~~a~~ free fishing ~~day~~ DAYS, during which a resident or nonresident may fish for all species of fish in waters of this state designated by the ~~director~~ DEPARTMENT without purchasing a license or permit.

(2) A person who fishes during the free fishing day or days pursuant to subsection (1) ~~shall have~~ HAS the same privileges and ~~shall be~~ IS subject to the same rules and regulations as would BE the holder of a limited fishing license issued pursuant to section ~~316~~ 43533.

Sec. ~~317~~ 43535. A resident of this state who is 65 years of age or older may obtain a senior citizen hunting license. The fee for a senior citizen hunting license ~~shall be~~ IS $4.00. A senior citizen hunting license ~~shall confer~~ CONFERS upon the licensee all the combined rights and privileges granted by a

resident small game license, a resident firearm deer license, a resident bow and arrow deer license, a resident bear HUNTING license, and a resident fur harvester's license.

Sec. ~~318~~ 43536. A resident of this state WHO IS 65 years of age or older may obtain a senior citizen fishing license. The fee for a senior citizen fishing license ~~shall be~~ IS $1.00. A senior citizen who purchases a senior citizen fishing license may obtain a senior citizen fishing license for his or her spouse at no additional charge. A senior citizen fishing license ~~shall confer~~ CONFERS upon the licensee all the combined rights and privileges conferred by a resident annual fishing license and trout and salmon ~~stamp~~ LICENSE.

Sec. ~~320~~ 43537. (1) A resident who is declared legally blind ~~shall be~~ IS eligible to purchase a senior citizen fishing license. The ~~director~~ DEPARTMENT may demand proof of blindness. The licensee, when fishing, shall possess proof of blindness and shall furnish the proof upon the request of a law enforcement or conservation officer.

(2) A resident who has been determined by the UNITED STATES DEPARTMENT OF veterans ~~administration of the federal government~~ AFFAIRS to be permanently and totally disabled and entitled to veteran benefits at the 100% rate, for a disability other than blindness, ~~shall be~~ IS eligible to purchase a senior citizen hunting LICENSE or A SENIOR CITIZEN fishing license, or both. The ~~director~~ DEPARTMENT may demand proof of eligibility under this subsection. The licensee, when hunting or fishing, shall possess proof of HIS OR HER eligibility under this subsection and

shall furnish the proof upon the request of a law enforcement or conservation officer.

(3) The department shall process licenses issued under this section in the same manner as licenses issued to senior citizens for purposes of receiving appropriations from the legislature under section ~~401~~ 43546.

Sec. ~~321~~ 43538. The ~~director~~ DEPARTMENT may permit a person licensed under the fishing laws of an adjacent state to fish in the inland lakes and rivers or portions of rivers of this state ~~which~~ THAT constitute a part of the border of this state, if the adjacent state grants similar privileges to a person licensed in this state.

Sec. ~~323~~ 43539. The department may require each licensed hunter, trapper, and angler to make a report to the ~~director~~ DEPARTMENT of the number, kinds, and location of game animals, game birds, fur-bearing animals, and fish taken during the respective open season by the licensee. The ~~director~~ DEPARTMENT shall establish the prescribed manner in which the requested information is reported.

Sec. ~~324~~ 43540. (1) An application for 1 or more licenses issued under this ~~article~~ PART may be made by mail or telephone to the department, or a person designated by the department, who shall forward the license issued to the applicant at an address the applicant directs. An applicant shall satisfy all the requirements of this ~~act~~ PART for obtaining a license before a license is issued by mail or telephone. The department may charge a fee for an application made by mail or telephone in

addition to the fee for the license or licenses and the transaction fee authorized under section ~~325~~ 43541. Total fees collected by the department under this subsection in any license year shall not exceed the additional cost of providing mail or telephone service in that year.

(2) If a check or draft of a required fee is not paid on its first presentation, the fee is delinquent as of the date the check or draft was tendered. The person tendering the check or draft remains liable for the payment of each fee and any penalty.

(3) The ~~director~~ DEPARTMENT may revoke a license, duplicate license, application, or permit if the ~~director~~ DEPARTMENT has determined that a fee prescribed in this ~~act~~ PART has not been paid and remains unpaid after reasonable notice or demand.

(4) If a fee is still delinquent 15 days after the ~~director~~ DEPARTMENT has given notice to a person who tendered the check or draft, the ~~director~~ DEPARTMENT shall assess and collect a $15.00 penalty in addition to the license and transaction fee authorized under section ~~305~~ 43541.

(5) The director may refuse to issue additional licenses under this ~~act~~ PART to a person who is delinquent in payment of fees or penalties provided in subsection (4) at the time the application is submitted.

Sec. ~~325~~ 43541. (1) Until the department implements an automated licensing system, a person authorized by the department to issue licenses on March 15, 1993, may retain 8.0% of the fees for each passbook, license, duplicate license, application, or

permit that the person sells. After the implementation of an automated licensing system, a person authorized by the department to issue licenses on March 15, 1993, may retain 7.5% of the fees for each passbook, license, duplicate license, application, or permit that the person sells. A person authorized by the ~~director~~ DEPARTMENT after March 15, 1993 to issue licenses may retain 5% of the fees for each passbook, license, duplicate license, application, or permit that the person sells. The department shall consider any additional location established after March 15, 1993 at which licenses are sold as a new authorized agent for purposes of determining the percentage of fees that may be retained for sales at the new location by that authorized agent.

(2) In addition to the fees authorized under subsection (1), the ~~director~~ DEPARTMENT may also authorize a person WHO IS authorized ~~by the department~~ to issue licenses to charge and retain a 50-cent transaction fee for 1 or both of the following:

(a) Inquiries regarding the status of a previous permit application pending with the department.

(b) Collecting migratory bird survey responses.

(3) In addition to the license, application, and permit fees prescribed in ~~article 3~~ THIS PART, after the implementation of an automated licensing system, the department may require a person authorized by the department to issue licenses to charge a 50-cent transaction fee which the authorized person shall forward to the department.

Sec. ~~326~~ 43542. All licenses issued under this ~~article~~ PART are valid from March 1 through March 31 of the following year, except for licenses or permits that are valid for a limited season designated in the license or permit.

Sec. ~~327~~ 43543. The department shall provide for a course of instruction in the safe handling of firearms and shall designate persons, without compensation, to serve as instructors and to award certificates. A person desiring to take the course of instruction shall register with an instructor certified by the department. Upon successful completion of the course, the person shall be issued a certificate of competency.

Sec. ~~328~~ 43544. (1) If a license or passbook issued pursuant to this ~~act~~ PART or a deer kill tag or back tag is lost or destroyed, a licensee may procure a duplicate from the ~~director~~ DEPARTMENT. To obtain a duplicate license, passbook, deer kill tag, or back tag, the licensee shall file a certification of loss form with the ~~director~~ DEPARTMENT and shall pay the duplicate fee as provided in subsection (2) for each duplicate requested.

(2) If the licensee meets the requirements of subsection (1) and all other requirements of this ~~act~~ PART for procuring a license, passbook, or if required by this ~~act~~ PART a deer kill tag, or back tag, the ~~director~~ DEPARTMENT shall verify the purchase of the original and issue to the licensee the duplicates requested and collect the following applicable duplicate fees:

(a) Except as provided in subdivisions (b) and (c), $3.00 for all licenses included in a certification of loss.

(b) For a duplicate of a validated deer kill tag, $12.85 for a resident and $100.35 for a nonresident.

(c) For a duplicate of a sportsperson's license, $12.85 for 1 deer kill tag, and $25.70 for the entire license. Without replacement of the deer kill tags, the duplicate license fee for the license shall be included in the $3.00 fee established in subdivision (a).

(d) For a duplicate of a passbook, other than a Michigan driver license, $1.00.

(3) The fee for the wildlife resource protection fund provided for in section ~~604~~ 43555 shall not be added to the duplicate fee provided for in this section, but shall be deducted from the duplicate fee and paid to the wildlife resource protection fund.

(4) If the total fees originally paid by the licensee are less than the applicable duplicate fee, the fee that shall be paid for the duplicate license shall be equal to the initial license fees.

~~Sec. 328a. The department shall charge a nonrefundable application fee not to exceed $3.00 for each person who applies for a wild turkey hunting license issued under section 306, an antlerless deer permit, or a permit to hunt in a managed waterfowl area issued under section 307.~~

Sec. ~~401~~ 43546. (1) Before June 1 of each year, the department shall determine the total number of senior citizen hunting and fishing licenses issued and the total fees collected the preceding license year. The department shall determine the

total fees that would have been collected if those senior citizens had been required to purchase small game licenses, firearm deer licenses, and annual fishing licenses during the preceding license year. From this total, the department shall subtract the fees collected from the sale of senior citizen hunting and fishing licenses during the preceding license year. The difference is the amount ~~which~~ THAT would otherwise be collected.

(2) The legislature shall annually appropriate from the general fund a sum equal to the fees that would otherwise be collected as determined pursuant to subsection (1). The sum appropriated shall be credited to the game and fish protection fund.

Sec. ~~501~~ 43547. (1) The department shall prepare the passbook and licenses to comply with this ~~act~~ PART and may authorize persons to issue passbooks, other than Michigan driver licenses, and licenses.

(2) A passbook shall provide the following information as required by the department:

(a) The name of the applicant.

(b) The height and weight of the applicant.

(c) The address of the applicant.

(d) The birth date of the applicant.

(e) The applicant's social security number.

(3) A license may provide the following information:

(a) The date and time of issuance of the license.

(b) The identification code of the person issuing the license.

(c) The form of proof of eligibility to receive a license by the applicant as required.

(d) The passbook number.

(e) The applicant's date of birth.

(4) Beginning on March 1, 1994, the department may require persons authorized to issue licenses under this ~~act~~ PART to purchase or rent equipment necessary for the issuance of licenses. The purchase or lease charge shall not exceed the actual cost incurred by the department in making the equipment available for purchase or lease. The use of any equipment required under this ~~act~~ PART on a ~~state wide~~ STATEWIDE basis shall not be required or used until all authorized agents have that equipment. However, notwithstanding the equipment rental or purchase charges otherwise required under this section, if the department requires the use of designated computer equipment for the issuance of licenses, the department shall supply each licensed agent who is entitled to retain 7.5% of the fees received with a computer system at no charge to the licensed agent for each location at which that licensed agent sells licenses. A person who is eligible to receive equipment without charge may be required to purchase a service and maintenance contract for that equipment. The cost of ~~such a~~ THE contract shall ~~be~~ not BE more than $200.00 for the first year of the contract and thereafter the actual cost to the state of maintaining the computer system. Equipment that is supplied without charge to a licensed agent shall be returned to the department at such time as the person is no longer a licensed agent. The

department shall annually exempt from the requirements of this subsection a person who requests from the department authority to issue only limited fishing licenses under section ~~316~~ 43533.

(5) Beginning on March 1, 1994, a person who is authorized after March 15, 1993 to issue licenses shall pay the full annual rental or purchase fee for equipment required under subsection (4).

(6) A person who on March 15, 1993 is authorized to issue licenses who rents the equipment for the issuance of licenses required under subsection (4) shall pay rent or service and maintenance contract cost, as applicable for that equipment not to exceed 50% of the sum of the person's annual cumulative commission authorized under section ~~325(1)~~ 43541(1), or the rental charge otherwise determined by the department, whichever is less.

(7) The department shall provide persons authorized to issue licenses and passbooks under this ~~act~~ PART with conservation law enforcement stamps to enable the purchaser of the stamps to contribute to the wildlife resource protection fund created in section ~~604~~ 43555. Conservation law enforcement stamps shall be issued by the department in the amounts of $2.00 and $5.00.

Sec. ~~502~~ 43548. (1) Until the department implements an automated licensing system, the department may require a person authorized to issue passbooks and licenses to file a bond with the department. The type and amount of the bond shall be determined by the department.

(2) A person issuing a passbook, license, or permit shall remit to the department money received from the sale of each passbook, license, duplicate license, application, or permit by the method and at the frequency prescribed by the department.

(3) A person shall not charge a fee for a passbook or a license in an amount that is different from the license and transaction fee printed on the passbook or license by the department.

(4) All fees collected from the sale of passbooks, licenses, duplicate licenses, applications, or permits, except for the fees and commissions provided in section ~~325(1)~~ 43541(1) and (2), are held in trust for the state.

Sec. ~~503~~ 43549. A person who violates section ~~502~~ 43548, in addition to other penalties provided by law, forfeits the right to issue licenses and passbooks and forfeits the right to retain any percentage of the license or passbook fees not received by the department within 48 hours after the date and time the license or passbook fees should have been deposited as required by the department.

Sec. ~~504~~ 43550. The ~~director~~ DEPARTMENT shall select the format of the license.

Sec. ~~506~~ 43551. The ~~director~~ DEPARTMENT may restrict the issuance of certain licenses TO ISSUANCE only by department offices or employees.

Sec. ~~507~~ 43552. The ~~commission~~ DEPARTMENT may ~~require the director to~~ establish a quota on the number of each kind of license that may be issued.

Sec. ~~601~~ 43553. (1) Except as provided in sections ~~604~~ 43555 and ~~605~~ 43556, the ~~director~~ DEPARTMENT shall transmit all money received from the sale of licenses to the state treasurer, together with a statement indicating the amount of money received and the source of the money. The game and fish protection fund is created as a separate fund in the department of treasury, and the state treasurer shall credit the money received from the sale of passbooks and licenses to the game and fish protection fund.

(2) Except as provided in sections ~~306, 307, 314, 602, 605,~~ 43524, 43525, 43531, 43554, AND 43556 and subsection (3), money credited to the game and fish protection fund shall be paid out by the state treasurer pursuant to the accounting laws of this state for the following purposes:

(a) Services rendered by the ~~director and the director's assistants~~ DEPARTMENT, together with the expenses incurred in the enforcement and administration of the game, fish, and fur laws of the state, including the necessary equipment and apparatus incident to the operation and enforcement of the game, fish, and fur laws, and the protection, propagation, distribution, and control of game, fish, birds, fur-bearing animals, and other wildlife forms.

(b) The propagation and liberation of game, fur-bearing animals, birds, or fish and for their increase at the time, place, and manner as the ~~director~~ DEPARTMENT considers advisable.

(c) The purchase, lease, and management of lands, together with the necessary equipment for the purpose of propagating and

rearing game, fur-bearing animals, birds, or fish, and for establishing and maintaining game refuges, wildlife sanctuaries, public shooting, and fishing grounds.

(d) Conducting investigations and compiling and publishing information relative to the propagation, protection, and conservation of wildlife.

(e) Delivering lectures, developing cooperation, and carrying on appropriate educational activities relating to the conservation of the wildlife of this state.

(3) The ~~director~~ DEPARTMENT may make direct grants to colleges and universities in this state, out of funds appropriated from the game and fish protection fund, to conduct fish or wildlife research ~~,~~ or both FISH AND WILDLIFE RESEARCH.

(4) The department and any other executive department of the state that receives money from the game and fish protection fund shall submit an annual report to the legislature showing the amount of money received by the department from the game and fish protection fund and how that money was spent. The executive departments required to submit a report as provided in this subsection shall send a copy of their report to the legislature and to the department.

Sec. ~~602~~ 43554. One dollar and fifty cents of the license fee for each firearm deer, bow and arrow deer, and resident sportsperson's ~~hunting~~ license shall be used for improving and maintaining a habitat for deer and for the acquisition of lands for an effective program of deer habitat management.

Sec. ~~604~~ 43555. (1) In addition to each license and stamp fee prescribed in ~~article 3~~ THIS PART, a person shall be charged a 35-cent fee that shall be transmitted to the department for deposit in the wildlife resource protection fund created in this section.

(2) The wildlife resource protection fund is created as a separate fund within the state treasury. The state treasurer shall credit the money received from the department under this section to the wildlife resource protection fund. The money in the fund shall be expended by the ~~director~~ DEPARTMENT for the following purposes:

(a) Rewards for information leading to the arrest and prosecution of poachers.

(b) Hiring conservation officers for the investigation of poaching and the investigation of tips regarding potential poaching.

(c) A promotional and educational campaign to inform the general public on 1 or more of the following:

(*i*) The harm and danger of poaching.

(*ii*) The reward for information ~~which~~ THAT leads to the arrest and prosecution of poachers.

(*iii*) Other anti-poaching programs undertaken by the department.

(3) At the time a person purchases a license or stamp under this ~~act~~ PART, he or she may make a voluntary contribution in any amount to the wildlife resource protection fund to be expended for the purposes provided in subsection (2). A person

who wishes to make such a contribution may purchase 1 or more conservation law enforcement stamps from a person authorized to issue licenses and passbooks under this ~~act~~ PART.

(4) Subsection (1) ~~shall~~ DOES not apply to a license or stamp ~~which~~ THAT is issued to a senior citizen.

(5) The ~~director~~ DEPARTMENT shall annually report to the legislature on the expenditures from the wildlife resource protection fund.

Sec. ~~605~~ 43556. (1) Thirty-five cents of the fee for each hunting license sold to a resident of zone III shall be used for the purpose of acquiring and administering hunter access leases on private land and for habitat development on the leased land.

(2) The ~~commission~~ DEPARTMENT may determine and provide lease payments in amounts ~~which~~ THAT are related to the benefits the leased land provides for public use if for a designated lease period a participating landowner agrees to allow public access to certain lands for the purpose of hunting. Department field personnel shall inspect the lands and determine their value to the program. Final approval of lease proposals shall be made by the department.

(3) Participating landowners have authority to control hunter access according to the terms of the lease agreement, including terms requiring a hunter to obtain verbal or written permission to hunt on the participating landowners' land.

(4) Pursuant to rules adopted under this section, participating landowners may cancel their lease agreement at any time prior to the expiration of the lease. Cancellation of the

agreement prior to the expiration of the lease shall result in the forfeiture of all lease payments that have been received by the participating landowner for the year in which cancellation occurs.

(5) Participating landowners shall post, with signs provided by the department, the boundaries of land leased under this section.

(6) A cause of action shall not arise for injuries to persons hunting on lands leased under this section unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(7) The ~~commission~~ DEPARTMENT may issue orders pursuant to ~~section 8 of the wildlife conservation act, Act No. 256 of the Public Acts of 1988, being section 300.258 of the Michigan Compiled Laws,~~ PART 401 governing the administration and operation of a hunting access program.

Sec. ~~606~~ 43557. The department may sell, or contract for the sale of, license application lists or information filed with the department pursuant to this ~~act~~ PART and related publications of the department. The department shall establish the price for the lists, information, and publications, and the proceeds of all sales pursuant to this section shall be credited to the game and fish protection fund in the manner prescribed in section ~~601~~ 43553.

Sec. ~~701~~ 43558. (1) A person is guilty of a misdemeanor if the person does any of the following:

(a) Makes a false statement as to material facts for the purpose of obtaining a license ~~,~~ or uses or attempts to use a license obtained by making a false statement.

(b) Affixes to a license a date or time other than the date or time issued.

(c) Charges more than the passbook or license fees provided for in this ~~act~~ PART or issues a passbook or a license without receiving the fee.

(d) Without a license, hunts, traps, ~~or~~ fishes, or ~~has in the person's possession,~~ POSSESSES a wild animal, wild bird, or fish, or possesses or takes reptiles, amphibians, mollusks, crustacea, or wigglers.

(e) Sells, loans, or permits in any manner another person to use the person's license or uses or attempts to use another person's license.

(f) Falsely makes, alters, forges, or counterfeits a passbook or a hunting, fishing, or fur harvester's license or possesses an altered, forged, or counterfeited hunting, fishing, or fur harvester's license.

(g) Uses a tag furnished with a firearm deer license, bow and arrow deer license, bear hunting license, elk HUNTING license, or WILD turkey ~~permit~~ HUNTING LICENSE more than 1 time, or attaches or allows a tag to be attached to a deer, bear, elk, or turkey other than a deer, bear, elk, or turkey lawfully killed by the person.

(h) Makes an application for, obtains, or purchases more than 1 license for a hunting, fishing, or trapping season, not

including a daily fishing license, second bow and arrow license, second firearm deer license, or other license specifically authorized by law, or if the applicant's license has been lost or destroyed.

(i) ~~Makes application~~ APPLIES for, obtains, or purchases a license during a time that the person is ineligible to secure a license.

(2) Except as provided in subsection (5), a person who violates subsection (1) shall be punished by imprisonment for not more than 90 days, or a fine of not less than $25.00 or more than $250.00 and the costs of prosecution, or both. In addition, the person shall surrender any license and license tag that was wrongfully obtained.

(3) A person licensed to carry a firearm under this ~~act~~ PART is prohibited from doing so while under the influence of a controlled substance or alcohol or a combination ~~thereof~~ OF A CONTROLLED SUBSTANCE AND ALCOHOL. A person who violates this subsection is guilty of a misdemeanor, punishable by IMPRISONMENT FOR 90 DAYS, OR a fine of $500.00, ~~or 90 days in jail,~~ or both.

(4) An applicant for a license under this ~~act~~ PART who has previously been convicted of a violation of the game and fish laws of this state ~~,~~ may be required to file an application with the ~~director~~ DEPARTMENT together with other information ~~as~~ THAT the ~~director~~ DEPARTMENT considers expedient. The license may be issued by the ~~director~~ DEPARTMENT.

(5) A person who violates subsection (1)(d), upon a showing that the person was ineligible to secure a license pursuant to court order or other lawful authority, is guilty of a misdemeanor, punishable by imprisonment for not more than 180 days, or a fine of not less than $500.00 and not more than $2,500.00, or both, and the costs of prosecution.

Sec. ~~702~~ 43559. If a person is convicted of violating this ~~act~~ PART, or another law relative to hunting, fishing, or trapping ~~which~~ THAT does not otherwise require the revocation of, or prohibit the securing of, a hunting, fishing, or fur harvester's license, the court may order the revocation of the person's hunting, fishing, or fur harvester's license, including a sportsperson's license, and may by order provide that the person shall not secure a hunting, fishing, or fur harvester's license for not less than the remainder of the year in which convicted and during the next succeeding year, or longer in the discretion of the court.

Sec. ~~703~~ 43560. A person who violates this ~~act~~ PART or a rule promulgated under this ~~act~~ PART, for which violation a penalty is not otherwise provided for in this ~~act~~ PART, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than $25.00 ~~nor~~ OR more than $250.00 and the costs of prosecution, or both.

Sec. ~~901~~ 43561. The department shall promulgate rules for the administration of this ~~act~~ PART. ~~The rules shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969,~~

~~as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.~~

~~Part 437. Game and Fish Protection Trust Fund~~

PART 437 GAME AND FISH PROTECTION TRUST FUND

~~Sec. 1. This act shall be known and may be cited as the "game and fish protection trust fund act".~~

Sec. ~~2~~ 43701. As used in this ~~act~~ PART:

(a) "Game and fish protection fund" means the GAME AND FISH PROTECTION fund in the department of treasury that is created in ~~section 601 of the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being section 316.601 of the Michigan Compiled Laws~~ PART 435.

(b) "Gas" means a mixture of hydrocarbons and nonhydrocarbons in a gaseous state which may or may not be associated with oil and includes liquids resulting from the condensation of those hydrocarbons and nonhydrocarbons.

(c) "Mineral" means an inorganic substance that can be extracted from the earth, except for oil or gas, and includes rock, metal ores, and mineral water.

(d) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir.

(e) "Trust fund" means the game and fish protection trust fund established in section ~~3~~ 43702.

Sec. ~~3~~ 43702. The game and fish protection trust fund is created for the benefit of the people of this state and shall consist of the following:

(a) Gifts, grants, or bequests conveyed to the trust fund, or income derived from such gifts, grants, or bequests.

(b) All funds transferred to the game and fish protection fund by section ~~12(a) of the natural resources trust fund act of 1985, Act No. 101 of the Public Acts of 1985, being section 318.512 of the Michigan Compiled Laws~~ 1909(A).

(c) From October 1, 1985, through September 30, 1987, royalties that would have accrued under the Kammer recreational land trust fund act of 1976, former Act No. 204 of the Public Acts of 1976, and would have been deposited in the game and fish protection trust account created in section 4 of that former act.

(d) After September 30, 1987, bonuses, rentals, delayed rentals, royalties, and other revenues collected or reserved by the state under ~~provisions of~~ leases or direct sale contracts in effect on or after ~~the effective date of this act~~ APRIL 7, 1986, entered into by the state pursuant to section ~~2 of Act No. 17 of the Public Acts of 1921, being section 299.2 of the Michigan Compiled Laws,~~ 502, 503, OR 33936 OR section 12 of FORMER Act No. 280 of the Public Acts of 1909, ~~being section 322.212 of the Michigan Compiled Laws, section 27 of Act No. 326 of the Public Acts of 1913, being section 322.427 of the Michigan Compiled Laws,~~ or any other law enacted for leasing for the purpose of permitting extraction or removal of minerals, coal, oil, gas, or other resources from state owned lands, if these bonuses,

rentals, delayed rentals, royalties, direct sale proceeds, and other revenues accrue from lands acquired by the state using revenues derived from the game and fish protection fund, the game and fish protection trust account created in section 4 of the Kammer recreational land trust fund act of 1976, former Act No. 204 of the Public Acts of 1976, federal funds made available to the state under ~~16 U.S.C. 669 to 669i, 16 U.S.C. 777 to 777k~~ CHAPTER 899, 50 STAT. 917, 16 U.S.C. 669 TO 669b AND 669c TO 669i, COMMONLY KNOWN AS THE FEDERAL AID IN WILDLIFE RESTORATION ACT, OR CHAPTER 658, 64 STAT. 430, 16 U.S.C. 777 TO 777e, 777f TO 777i, AND 777k TO 777*l*, COMMONLY KNOWN AS THE FEDERAL AID IN FISH RESTORATION ACT, or related state or federal funds.

Sec. ~~4~~ 43703. The interest and earnings from the trust fund shall be deposited in the game and fish protection fund. The corpus of the trust fund shall be maintained by the state treasurer in a manner that will provide for future disbursements to the game and fish protection fund from the trust fund's interest and earnings.

Sec. ~~5~~ 43704. The state treasurer shall direct the investment of the trust fund and shall invest the trust fund in the same manner as surplus funds are invested.

~~Sec. 6. This act shall not take effect unless House Bill No. 4047 of the 83rd Legislature is enacted into law.~~

~~Part 439. Nongame Fish and Wildlife Trust Fund~~

PART 439 NONGAME FISH AND WILDLIFE TRUST FUND

~~Sec. 1. This act shall be known and may be cited as the "nongame fish and wildlife trust fund act".~~

Sec. ~~2~~ 43901. As used in this ~~act~~ PART:

~~(a) "Department" means the department of natural resources.~~

(A) ~~(b)~~ "Nongame fish and wildlife" means fish or wild animals that are unconfined and not ordinarily taken for sport, fur, or food, and the habitat that supports them. However, nongame fish and wildlife includes fish and wild animals designated as game species when located in an area of this state where the taking of that species of fish or wild animal is prohibited.

(B) ~~(c)~~ "Trust fund" means the nongame fish and wildlife trust fund created in section ~~3~~ 43902.

Sec. ~~3~~ 43902. (1) The nongame fish and wildlife trust fund is created in the state treasury. The trust fund shall consist of all money credited to the trust fund pursuant to section 439 of THE INCOME TAX ACT OF 1967, Act No. 281 of the Public Acts of 1967, being section 206.439 of the Michigan Compiled Laws, AND any interest and earnings accruing from the saving and investment of that money.

(2) The trust fund may receive appropriations, money, or other things of value.

(3) The state treasurer shall direct the investment of the trust fund.

Sec. ~~4~~ 43903. (1) At least ~~20 percent~~ 20% of the money annually credited to the trust fund pursuant to section 439 of THE INCOME TAX ACT OF 1967, Act No. 281 of the Public Acts of 1967, being section 206.439 of the Michigan Compiled Laws, shall be retained in the trust fund on a permanent basis.

(2) The interest and earnings of the trust fund and any money not otherwise retained under subsection (1) shall be expended for the purposes of implementing the management plan described in section ~~5~~ 43904.

Sec. ~~5~~ 43904. The department ~~of natural resources~~ shall develop and implement a long-range plan for the management of Michigan's nongame fish and wildlife resources. ~~The plan shall be written with the assistance of the advisory committee described in section 6.~~ The plan shall be reviewed and updated as necessary every 5 years.

Sec. ~~6~~ 43905. The ~~director shall appoint an advisory committee representative of organizations and individuals familiar and interested in nongame fish and wildlife to assist the~~ department ~~in~~ SHALL DO ALL OF the following:

(a) ~~Developing~~ DEVELOP long-range nongame wildlife plans.

(b) ~~Providing~~ PROVIDE information to the public about the value of nongame fish and wildlife and their habitats.

(c) ~~Reviewing~~ REVIEW and ~~recommending~~ DEVELOP proposals for projects to implement the long-range management plan.

(d) ~~Determining~~ DETERMINE the interests and opinions of the public in managing nongame fish and wildlife.

(e) ~~Encouraging~~ ENCOURAGE public involvement by offering projects and activities with which the public can become involved to increase their knowledge and understanding of nongame fish and wildlife resources in this state.

(f) ~~Integrating~~ INTEGRATE the nongame fish and wildlife program with other department programs ~~which~~ THAT affect or benefit nongame fish and wildlife or their ~~habitat~~ HABITATS.

Sec. ~~7~~ 43906. The department shall determine which projects should be funded with money from the trust fund. The department shall solicit and approve proposals from individuals, groups, and institutions for the management of nongame fish and wildlife species. In order for a proposal to be approved, the proposal must comply with the long-range plan once completed and must further the management of nongame fish and wildlife species identified in the plan.

Sec. ~~8~~ 43907. The department ~~of natural resources~~ shall develop and implement a public information program to present the values and benefits of nongame fish and wildlife and their habitats to our society, including the means by which citizens can observe and enjoy nongame fish and wildlife; to inform the public ~~of~~ AS TO how the nongame fish and wildlife fund is being utilized to meet the goals set forth in the plan; and to inform the public on the existence of the nongame fish and wildlife fund and its purpose.

~~Sec. 9. Section 4 of Act No. 179 of the Public Acts of 1974, being section 299.214 of the Michigan Compiled Laws, is repealed.~~

~~Sec. 10. This act shall take effect 30 days after it is enacted into law.~~

~~Sec. 11. This act shall not take effect unless Senate Bill No. 737 of the 83rd Legislature is enacted into law.~~

~~Part 441. Game and Fish Lifetime License Trust Fund~~

PART 441 GAME AND FISH LIFETIME LICENSE TRUST FUND

~~Sec. 1. This act shall be known and may be cited as the "game and fish lifetime license trust fund".~~

Sec. ~~2~~ 44101. As used in this ~~act~~ PART:

~~(a) "Department" means the department of natural resources.~~

(A) ~~(b)~~ "Resident" means EITHER OF the following:

(*i*) A person who resides in a settled or permanent home or domicile within the boundaries of this state with the intention of remaining in this state.

(*ii*) A student who is enrolled in a full-time course of study at a college or university within this state.

(B) ~~(c)~~ "Trust fund" means the game and fish lifetime license trust fund created in section ~~5~~ 44104.

Sec. ~~3~~ 44102. (1) From March 1, 1989 to February 28, 1990, certain lifetime hunting or fishing licenses may be purchased by a resident of this state as provided in this ~~act~~ PART, for the following fees:

(a) The fee for a lifetime small game license, equivalent to the license available annually pursuant to section ~~305 of the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being section 316.305 of the Michigan Compiled Laws, shall be~~ 43523, IS $220.00.

(b) The fee for a lifetime firearm deer license, equivalent to the license available annually to take 1 deer in a season pursuant to section ~~308 of the hunting and fishing license act,~~

~~Act No. 86 of the Public Acts of 1980, being section 316.308 of the Michigan Compiled Laws, shall be~~ 43526, IS $285.00.

(c) The fee for a lifetime bow and arrow DEER license, equivalent to the license available annually to take 1 deer in a season pursuant to section ~~309 of the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being section 316.309 of the Michigan Compiled Laws, shall be~~ 43527, IS $285.00.

(d) The fee for a lifetime ~~sportsperson~~ SPORTSPERSON'S license, equivalent to the license available pursuant to section ~~304a of the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being section 316.304a of the Michigan Compiled Laws, shall be~~ 43521, IS $1,000.00.

(e) The fee for a comprehensive lifetime hunting and fishing license is $1,025.00 and shall include all of the following:

(*i*) Resident small game license.

(*ii*) Resident firearm deer license.

(*iii*) Resident bow and arrow deer license.

(*iv*) Resident ~~fish~~ FISHING license.

(*v*) Resident trout and salmon ~~stamp~~ LICENSE.

(*vi*) Resident bear HUNTING license.

(*vii*) Waterfowl hunting ~~stamp~~ LICENSE.

(*viii*) Resident fur harvester's license.

(f) The fee for a lifetime fishing license, equivalent to the resident annual fishing license issued pursuant to section ~~315 of the hunting and fishing license act, Act No. 86~~

~~of the Public Acts of 1980, being section 316.315 of the Michigan Compiled Laws, shall be~~ 43532, IS $220.00.

(g) The fee for a lifetime trout and salmon license, equivalent to the annual trout and salmon ~~stamp~~ LICENSE issued pursuant to section ~~315 of the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being section 316.315 of the Michigan Compiled Laws, shall be~~ 43532, IS $220.00.

(2) A lifetime license issued pursuant to this section shall allow the holder of that license, throughout his or her lifetime, the same privileges, responsibilities, and duties as would the equivalent annual license or stamp issued pursuant to ~~the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws~~ PART 435. However, a lifetime license issued under this ~~act~~ PART does not guarantee the holder of that license the right to take game except in compliance with harvest regulations and license and permit conditions established for that species by the ~~commission of natural resources~~ DEPARTMENT.

(3) A lifetime license issued to a person who is a resident of this state at the time the license is purchased ~~shall continue~~ CONTINUES to be valid even if the holder of that license becomes a nonresident.

(4) A person who holds a lifetime sportsperson license may purchase a comprehensive lifetime hunting and fishing license for $25.00.

Sec. ~~4~~ 44103. (1) A resident of this state may purchase a lifetime license by submitting a completed application

accompanied by the fee required in section ~~3~~ 44102 to a person authorized by the ~~director~~ DEPARTMENT to sell lifetime licenses between March 1, 1989 and February 28, 1990. The application shall provide information required by the department including:

(a) The name of the applicant.

(b) The age of the applicant.

(c) The height, weight, and eye color of the applicant.

(d) The address of the applicant.

(e) If the applicant has a ~~driver's~~ DRIVER license, the ~~driver's~~ DRIVER license number of the applicant.

(f) The social security number of the applicant.

(2) The holder of a lifetime license shall notify the department if he or she has a name or address change.

(3) A person may purchase a lifetime license for another person, and upon receipt of full payment, the department shall issue a certificate entitling the designated person to apply for a license as provided for in this ~~act~~ PART. If a lifetime license is purchased and a certificate issued in the name of a minor child who is under the lawful age to utilize the license, the completed application shall be submitted at a district or regional office of the department when the child is of lawful age to utilize the license. The holder of a certificate ~~shall~~ IS not ~~be~~ eligible to hunt or fish pursuant to the lifetime license until he or she completes the application process and receives a license from the department.

(4) Upon receipt of the completed application from the person authorized to sell lifetime licenses ~~,~~ and RECEIPT OF

the fee, the department shall review the application and mail the lifetime license to the applicant within 7 days. However, if the department determines that the applicant is not eligible for the equivalent license or stamp under ~~the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws~~ PART 435, the department shall return the fee to the applicant, minus the amount retained by the person authorized by the ~~director~~ DEPARTMENT to sell lifetime licenses, with notification of the denial of the application for a lifetime license.

(5) A person authorized by the ~~director~~ DEPARTMENT to sell lifetime licenses may retain the following amount:

(a) Six dollars from each lifetime fishing license, small game license, and trout and salmon license.

(b) Eight dollars from each lifetime firearm and bow and arrow deer license.

(c) Fifteen dollars from each lifetime sportsperson license and each comprehensive lifetime hunting and fishing license.

(6) A person authorized to sell lifetime licenses shall, before the twenty-fifth day of each month, tender TO THE DEPARTMENT the money received from the fifteenth day of the preceding month to the fifteenth day of the month in which payment is tendered for the lifetime licenses sold during that period, ~~to the director,~~ along with any other relevant information required by the ~~director~~ DEPARTMENT.

(7) A person authorized to sell lifetime licenses, before March 31, 1990, shall file with the department a complete report

of all lifetime licenses sold between March 1, 1989 and February 28, 1990. All information required in ~~section 4~~ SUBSECTION (1), unsold lifetime licenses, and remaining money, not previously sent to the department, shall be returned to the department.

(8) If a license issued under this ~~act~~ PART is lost, damaged, or destroyed, the licensee may apply to the department for a replacement lifetime license by filing an affidavit and meeting the requirements of this ~~act~~ PART for procuring a lifetime license. However, the fee for a lifetime license shall be waived if the licensee presents the department with the damaged license ~~,~~ or the facts presented regarding the destruction or loss of the lifetime license are verified by a police report or other verification approved by the department. The ~~director of the~~ department or a conservation officer may require the holder of a lifetime license to obtain a replacement license from the department if the license is mutilated or illegible.

(9) The ~~director~~ DEPARTMENT shall forward the proceeds of the sale of lifetime licenses to the state treasurer.

Sec. ~~5~~ 44104. (1) The game and fish lifetime license trust fund is created within the state treasury for the benefit of the people of this state to assist in providing adequate long-term funding for the game and fish protection fund created in ~~section 601 of the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws~~ PART 435.

(2) The state treasurer shall credit money received from the sale of lifetime hunting and fishing licenses under this ~~act~~ PART to the trust fund.

(3) The state treasurer shall invest the trust fund in the same manner as surplus funds are invested.

Sec. ~~6~~ 44105. (1) Except as otherwise provided in subsections (2) and (3), the corpus of the trust fund and the interest and earnings of the trust fund shall be maintained and invested by the state treasurer as provided in section ~~5~~ 44104.

(2) Beginning on March 1, 1989 until February 28, 1990, for each lifetime license issued under this ~~act~~ PART, the state treasurer shall credit to the game and fish protection fund that amount of money that the department would have received had the holder of the lifetime license purchased the equivalent annual license during the license year.

(3) Beginning on March 1, 1990, and for each year thereafter, for each lifetime license issued under this ~~act~~ PART, the state treasurer shall credit annually to the game and fish protection fund from the accumulated interest and earnings of the trust fund, and from the corpus of the trust fund if the accumulated interest and earnings of the trust fund are insufficient, that amount of money that the department would have received had the holder of the lifetime license purchased the equivalent annual license during the license year. For a comprehensive lifetime hunting and fishing license, the equivalent annual license for purposes of calculations required by this section shall be the annual sportsperson license available pursuant to

section ~~304a of the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being section 316.304a of the Michigan Compiled Laws~~ 43521.

Sec. ~~7~~ 44103. In addition to any other penalty provided by law, a person who violates section ~~4~~ 44103 shall forfeit the right to issue lifetime licenses and shall forfeit the right to retain the fee provided in section ~~4(5)~~ 44103(5) for lifetime licenses not received by the department within 20 days after the date the fees should have been tendered as provided in section ~~4~~ 44103.

~~Sec. 8. This act shall take effect July 1, 1988.~~

~~SUBCHAPTER 3. FISHERIES~~

~~CHARTER AND LIVERY BOATS~~

~~Part 445. Charter and Livery Boat Safety~~

SUBCHAPTER 3: FISHERIES

CHARTER AND LIVERY BOATS

PART 445 CHARTER AND LIVERY BOAT SAFETY

~~Sec. 1. This act shall be known and may be cited as the "charter and livery boat safety act".~~

Sec. ~~2~~ 44501. As used in this ~~act~~ PART:

(a) "Boat livery" means either of the following:

(*i*) A place of business or any location where a person rents or leases any vessel to the general public for noncommercial use on the waters of this state.

(*ii*) A place where a person offers cabins, cottages, motel rooms, hotel rooms, or other similar rental or leased units where a vessel is furnished for the use of the person renting or

leasing the unit, but does not include a single privately owned cabin or cottage leased or rented to another where a vessel is furnished for the use of the person renting or leasing the unit.

(b) "Carrying passengers for hire" or "carry passengers for hire" means the transporting of any person on a vessel for consideration regardless of whether the consideration is directly or indirectly paid to the owner of the vessel, the owner's agent, the operator of the vessel, or any other person who holds any interest in the vessel.

(c) "Charter boat" means a vessel ~~which~~ THAT is rented or leased or offered for rent or lease to carry passengers for hire if the owner or the owner's agent retains possession, command, and control of the vessel.

(d) "Class A vessel" means a vessel, except a sailboat, that carries for hire on navigable waters not more than 6 passengers.

(e) "Class B vessel" means a vessel, except a sailboat, that carries for hire on inland waters not more than 6 passengers.

(f) "Class C vessel" means a vessel, except a sailboat, that carries for hire on inland waters more than 6 passengers.

(g) "Class D vessel" means a vessel ~~which~~ THAT is propelled primarily by a sail or sails and ~~which~~ carries for hire on navigable waters not more than 6 passengers or carries passengers for hire on inland waters.

(h) "Class E vessel" means a vessel that carries not more than 6 passengers for hire and meets either of the following requirements:

(*i*) Is utilized primarily as a river-drift boat that is propelled primarily by hand.

(*ii*) Is a vessel that is 18 feet or less in length operated primarily on a river or tributary to the Great Lakes, Lake St. Clair, or their connecting waterways.

~~(i) "Department" means the department of natural resources.~~

(I) ~~(j)~~ "Equipment" means a system, part, or component of a vessel as originally manufactured, or a system, part, or component manufactured or sold for replacement, repair, or improvement of a system, part, or component of a vessel; an accessory or equipment for, or appurtenance to, a vessel; or a marine safety article, accessory, or equipment intended for use by a person on board a vessel; but does not include radio equipment.

(J) ~~(k)~~ "Inland waters" means all waters of this state, except navigable waters.

(K) ~~(*l*)~~ "Livery boat" means a vessel which is offered for rent or lease by the boat livery or boat owner or his or her agent or is rented or leased from a boat livery or a boat owner or his or her agent and the boat livery or boat owner or his or her agent relinquishes complete physical control of the vessel to the renter or lessee, except the boat livery or owner retains legal title to the vessel.

(*l*) "MARINE SAFETY FUND" MEANS THE MARINE SAFETY FUND CREATED IN SECTION 80115.

(m) "Navigable waters" means those waters of the state over which ~~the~~ THIS state ~~of Michigan~~ and the United States coast

guard exercise concurrent jurisdiction, including the Great Lakes and waters connected to the Great Lakes, to the upstream limit of navigation as determined by the United States department of the army corps of engineers.

(n) "Operate" means to start any propulsion engine or to physically control the motion, direction, or speed of a vessel.

(o) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or an equitable interest in a vessel ~~which~~ THAT entitles that person to possession of the vessel.

(p) "Passenger" means a person carried on board a charter boat except either of the following:

(*i*) The owner of the vessel or the owner's agent.

(*ii*) The pilot and members of the crew of the vessel who have not contributed consideration for their transportation either before, during, or after the voyage.

(q) "Peace officer" means every sheriff or sheriff's deputy; village or township marshal; officer of the police department of any city, village, or township; any officer of the Michigan state police; or any other police officer or law enforcement officer who is trained and certified pursuant to the Michigan law enforcement officers training council act of 1965, Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Michigan Compiled Laws, and includes the director ~~of the department~~ and conservation officers employed by the department.

~~(r) "Person" means an individual, sole proprietorship, partnership, corporation, association, or governmental entity, and includes any trustee, receiver, assignee, or other legal representative or agent.~~

(R) ~~(s)~~ "Personal watercraft" means a vessel that meets all of the following requirements:

(*i*) Uses a motor-driven propeller or an internal combustion engine powering a water jet pump as its primary source of propulsion.

(*ii*) Is designed without an open load carrying area that would retain water.

(*iii*) Is designed to be operated by 1 or more persons positioned on, rather than within, the confines of the hull.

(S) ~~(t)~~ "Pilot's license" means a vessel operator's license issued by the United States coast guard or other federal agency, or a license issued by the department to an operator of a charter boat that is operated on inland waters.

~~(u) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.~~

(T) ~~(v)~~ "Training or instructional purposes" means the teaching of any person in the handling and navigation of a vessel or the techniques of waterskiing.

(U) ~~(w)~~ "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means

of transportation on water irrespective of the method of operation or propulsion.

(V) ~~(x)~~ "Waters of the state" means any waters within the territorial limits of this state and includes those waters of the Great Lakes which are under the jurisdiction of this state.

Sec. ~~3~~ 44502. (1) A person shall not rent or lease, or offer to rent or lease, a charter boat, and a person shall not carry passengers for hire on a vessel on the waters of this state unless all of the following conditions are satisfied:

(a) The department has inspected the vessel, if required by this ~~act~~ PART, and has issued a certificate of inspection that is valid and current for the vessel.

(b) The operator of the vessel is a licensed pilot or is under the direct supervision of a licensed pilot who is on board the vessel.

(c) The person complies with the reporting requirements of section ~~8b~~ 44508.

(2) The licensed pilot of a charter boat shall possess a valid and current pilot's license issued in his or her name and shall immediately display that license upon demand of any peace officer.

(3) A person shall not operate a charter boat that carries 7 or more passengers on navigable waters without first obtaining a current vessel inspection certificate and a pilot's license from the United States coast guard or other federal agency.

Sec. ~~4~~ 44503. A person shall not advertise or arrange for the carrying of any passenger on a charter boat unless the

charter boat has been issued a valid and current certificate of inspection provided for in section ~~3~~ 44502 or operates under a reciprocal agreement pursuant to section ~~13~~ 44513.

Sec. ~~5~~ 44504. (1) The department shall promulgate rules to establish minimum safety standards for charter boats. The safety standards shall be designed to ~~insure~~ ENSURE the safety and well-being of persons utilizing a charter boat and shall include all of the following:

(a) Methods for determining that a charter boat is of a structure suitable for carrying passengers and crew ~~,~~ and is in a condition to enable it to be navigated safely.

(b) Necessary equipment and operating requirements.

(c) Minimum public liability insurance requirements.

(d) Methods for determination of maximum passenger capacity.

(e) Suitable tests to determine the sufficiency of the charter boat's structure, equipment, and stability.

(2) Except rules addressing vessel ventilation and rail height, rules pertaining to safety standards promulgated under the authority of former Act No. 228 of the Public Acts of 1965 shall remain in effect as provided in section ~~25~~ 44526. Vessel ventilation and rail height shall be consistent with generally accepted and federally approved manufacturing processes.

Sec. ~~6~~ 44505. ~~Any~~ AN insurance carrier ~~who~~ THAT issues public liability insurance required by this ~~act~~ PART or a rule promulgated ~~pursuant to~~ UNDER this ~~act~~ PART shall

notify the department immediately, in writing, whenever the insurance is canceled or expires and is not renewed.

Sec. ~~7~~ 44506. The department ~~pursuant to this act~~ shall promulgate rules for the licensing of pilots of charter boats on inland waters. Rules promulgated ~~pursuant to~~ UNDER this section shall be designed to ~~insure~~ ENSURE that pilots of charter boats have the training and skills necessary to ~~insure~~ ENSURE the safety and well-being of charter boat passengers, crew members, and members of the general public.

Sec. ~~8~~ 44507. (1) Except for an inspection under section ~~11(2)~~ 44511(2) and except for a class E vessel that is a charter boat, the department shall inspect or arrange for the inspection of every charter boat and its equipment once every 24 months while the charter boat is at dockside and at least once every 72 months while the charter boat is in dry dock to determine if the charter boat and its equipment ~~complies~~ COMPLY with the rules promulgated ~~pursuant to~~ UNDER section ~~5~~ 44504. In addition, the department may at any time inspect or provide for the inspection of any charter boat if the department has reasonable cause either to believe that a provision of this ~~act~~ PART has been violated or that an inspection is necessary to ~~insure~~ ENSURE the safety of life and property. This subsection shall not apply to a class E vessel that is a charter boat; however, the department may inspect a class E vessel that is a charter boat if necessary to ~~insure~~ ENSURE the safety of life and property.

(2) If, after the inspection provided for in section ~~3~~ 44502 and payment of the fees prescribed in section ~~11~~ 44511, it is found that the charter boat and its equipment complies with this ~~act~~ PART and the rules promulgated under this ~~act~~ PART, the department shall issue to the owner of the charter boat a certificate of inspection to be furnished by the department. The certificate of inspection shall:

(a) Contain the maximum passenger, crew, and total person capacity of the charter boat.

(b) Be prominently displayed on the charter boat while the charter boat is operated upon waters of the state.

(c) Expire on May 31 of the second year following the year in which the charter boat was dockside inspected, except that the department may extend the expiration date if conditions exist ~~which would~~ THAT prevent the launching or the inspection of the charter boat before the expiration of the certificate of inspection.

(3) The department may determine the number of crew necessary for the safe operation of a charter boat.

(4) If it is determined by the department that a charter boat or its equipment does not comply with this ~~act~~ PART, or the rules promulgated ~~pursuant to~~ UNDER this ~~act~~ PART, or applicable federal law or regulations, a certificate of inspection shall not be issued and any current certificate of inspection may be revoked by the department pursuant to chapter 5 of the administrative procedures act of 1969, Act No. 306 of the

Public Acts of 1969, being sections 24.291 to 24.292 of the Michigan Compiled Laws.

Sec. ~~8b~~ 44508. (1) The department may research the availability of fish in the waters of this state that are utilized by charter boats.

(2) The department shall form a catch activity committee that is composed of 2 individuals from the department and 2 representatives from the Michigan charter boat association. The catch activity committee shall do all of the following:

(a) Develop a monthly catch activity report form that pertains to the number, type, and location of fish taken from charter boats in this state.

(b) Plan and prioritize research concerning the information gathered pursuant to this section.

(3) The department shall distribute to each charter boat operator in this state the monthly catch activity report form developed under subsection (2), and each charter boat operator engaged in fishing shall complete and maintain that form in the manner prescribed in subsection (5).

(4) The department shall compile an annual report based upon information contained in those monthly catch activity report forms submitted to the department pursuant to subsection (5). The annual report shall not disclose the identity of a charter boat operator who provides information pursuant to subsection (5).

(5) A charter boat operator engaged in fishing shall do each of the following:

(a) Maintain on board each charter boat under his or her control a daily record of all catch activity of that charter boat for the current calendar month.

(b) Make available for inspection the daily catch activity records required to be maintained under this subsection upon the request of a peace officer.

(c) Complete a monthly catch activity report form provided by the department for each charter boat under his or her control.

(d) Sign, date, and submit to the ~~director of the~~ department, on or before the tenth day of each month, a monthly catch activity report form completed by that charter boat operator for each charter boat under his or her control that was engaged in fishing during the previous month.

(e) The operator of a charter boat that is used for fishing on 2 or more bodies of water within a calendar month shall complete for that charter boat a separate monthly catch activity report form for each body of water fished, and shall sign, date, and submit each form to the ~~director of the~~ department in the manner prescribed by this section.

(f) If a charter boat operator engaged in fishing does not submit to the ~~director of the~~ department a completed monthly catch activity report form within 30 days after that form is required to be delivered to the ~~director of the~~ department, the department shall notify that charter boat operator of his or her noncompliance with this section. If a charter boat operator engaged in fishing fails to return a completed monthly catch

activity report form for a vessel within 60 days after that form is required to be delivered to the department, the department may revoke the state certificate of inspection issued for that vessel.

Sec. ~~9~~ 44509. (1) A person shall not operate a charter boat in violation of the terms of a certificate of inspection.

(2) Subsection (1) ~~shall~~ DOES not apply when the charter boat is being utilized by the owner of the charter boat exclusively for noncommercial purposes.

Sec. ~~10~~ 44510. (1) The department shall examine, or provide for the examination of, all applicants for a state pilot's license or renewal of an existing state pilot's license pursuant to the rules promulgated ~~pursuant to~~ UNDER section ~~7~~ 44506 to ~~insure~~ ENSURE that an applicant has the skill, knowledge, and experience necessary to pilot a charter boat. If the department has reasonable cause to believe it necessary, the department may reexamine the holder of a state pilot's license at any time to determine continued compliance with the rules. ~~It if~~ IF IT is determined by the department that the holder of the state pilot's license no longer complies with the rules, the department may revoke the license pursuant to chapter 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.291 to 24.292 of the Michigan Compiled Laws.

(2) If, after the applicant has successfully completed the examination and paid the fees prescribed in section ~~11~~ 44511, the department determines that the applicant is qualified pursuant to the rules promulgated under section ~~7~~ 44506, the

department shall issue to the applicant a state pilot's license to be furnished by the department.

(3) A state pilot's license shall be issued for a 3-year period.

Sec. ~~11~~ 44511. (1) The owner of a charter boat required to be inspected under this ~~act~~ PART and a person required to be licensed as a state pilot under this ~~act~~ PART shall file an application with the required fee for the charter boat inspection or the state pilot's examination with the department on a form prescribed and furnished by the department. Persons applying for a certificate of inspection or a state pilot's license shall furnish information reasonably required by the department. A person shall not file an application for charter boat inspection or state pilot's examination that contains false information. A person filing an application shall certify by the person's signature that the information furnished on the application is true and correct.

(2) The owner of a charter boat, or livery boat as provided for under section ~~17~~ 44517, which has ~~not been dry dock or dockside inspected during the 24 month period prior to the effective date of this act, or has~~ never been inspected ~~,~~ shall pay to the department an inspection fee for dry dock and dockside inspection according to the following schedule:

(a) Class A and D vessels..... $250.00

(b) Class B vessels..... $120.00

(c) Class C vessels..... $350.00

(3) ~~After the effective date of this act~~ BEGINNING ON APRIL 1, 1987, for each required dry dock or dockside inspection of a charter boat, or livery boat as provided for under section ~~17~~ 44517, other than an inspection under subsection (2), the owner shall pay the department a fee according to the following schedule:

(a) Class A and D vessels

(*i*) Dockside inspection..... $100.00

(*ii*) Dry dock inspection..... $150.00

(b) Class B vessels

(*i*) Dockside inspection..... $ 60.00

(*ii*) Dry dock inspection..... $ 60.00

(c) Class C vessels

(*i*) Dockside inspection..... $150.00

(*ii*) Dry dock inspection..... $200.00

(4) When the department inspects any charter boat, or livery boat as provided for under section ~~17~~ 44517, at an interval other than as required by this ~~act~~ PART, the inspection shall be conducted without an inspection fee for a dockside inspection and for a reduced fee to be determined by the department for a dry dock inspection. When a 24-month dockside inspection and a 72-month dry dock inspection are required in the same year, the owner shall only pay the fee for the dry dock inspection, as provided in subsection (3).

(5) For each examination of a person for a state pilot's license, the applicant shall pay a fee of $30.00 to the department.

(6) The charter boat inspection fee or state pilot's license examination fee shall be forfeited to the department and credited to the marine safety fund if the owner of the charter boat or the applicant for a state pilot's license fails to keep an appointment, which has been mutually agreed upon between the owner or the applicant and the department, for an inspection or reinspection of the charter boat or a state pilot's license examination, without first notifying the inspecting officer or the department's marine safety section within the department's law enforcement division at least 24 hours prior to the scheduled appointment. Upon the forfeiture of an application fee, the owner of the charter boat or the applicant for a state pilot's license must submit a new application and the required fee before the department shall conduct any inspection of the charter boat or conduct any examination of the applicant for a state pilot's license.

(7) Except as otherwise provided in section ~~17~~ 44517, the revenue received for inspection fees under this section shall be deposited in the state treasury to the credit of the marine safety fund and shall only be used to pay for inspections required by this ~~act~~ PART, and to maintain the education and enforcement program provided for in section ~~13(2)~~ 44513(2). The revenue division of the department of treasury shall annually provide to the department an accurate total of revenue collected and shall annually credit that amount to the marine safety fund.

Sec. ~~12~~ 44512. (1) A person denied a state pilot's license or the owner of a charter boat for which a certificate of

inspection has been denied or revoked may petition the department for an evidentiary hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) A person who owns a charter boat may petition the department for an evidentiary hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, regarding the determination of the maximum passenger, crew, or total person capacity of the charter boat.

(3) A person who is aggrieved by the decision of the department under subsection (1) or (2) may appeal the action of the department in the manner provided in chapter 6 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.301 to 24.306 of the Michigan Compiled Laws.

Sec. ~~13~~ 44513. (1) The department may enter into reciprocal agreements with other states and countries concerning the operation and inspection of charter boats from those states and countries that operate on the waters of this state. Reciprocity shall be granted only if a state or country can establish to the satisfaction of the department that their laws and standards concerning charter boats meet or exceed the laws and rules of this state. A charter boat that operates on the waters of this state under a reciprocal agreement pursuant to this section shall obtain an annual operating permit from the department for a fee of $100.00 for each year the charter boat does business on the waters of this state. The department shall utilize the fees for

annual operating permits issued pursuant to this section to provide funds for the education and enforcement program provided for in subsection (2).

(2) The department shall develop an education and enforcement program designed to eliminate the operation of charter and livery boats that have not been inspected as required by this ~~act,~~ PART and to prepare printed materials to provide the public with information regarding the safety features and requirements necessary for the lawful operation of charter and livery boats.

Sec. ~~14~~ 44514. A person shall not operate a boat livery within this state unless the boats and equipment of the boat livery are inspected and a permit to operate a boat livery is issued pursuant to this ~~act~~ PART.

Sec. ~~15~~ 44515. The department shall promulgate rules requiring equipment and minimum safety standards for livery boats that are rented or leased to the public by boat liveries. The rules shall be for the purpose of ~~insuring~~ ENSURING the safety of those persons utilizing the facilities of boat liveries and shall include all of the following:

(a) Safe operation standards.

(b) Maximum vessel load capacity.

(c) Maximum horsepower of any motor to be used to propel the vessel.

(d) Required equipment and equipment standards to ~~insure~~ ENSURE the safety of the general public.

Sec. ~~16~~ 44516. The owner of a boat livery shall make an application to the sheriff of the county in which the livery is located for inspection of its livery boats and equipment. The application shall be made on a form provided by the department and shall include:

(a) The boat livery name.

(b) The mailing address of the boat livery.

(c) The location of the boat livery.

(d) The waters of the state on which the boat livery rents vessels.

(e) The number and types of livery boats available for rent.

Sec. ~~17~~ 44517. (1) Any livery boat more than 20 feet in length, except for a class E vessel that is a livery boat, that is used or to be used on navigable waters without the owner being either on board or operating the vessel shall pay the inspection fees established pursuant to section ~~11(3)~~ 44511 for each livery boat to be inspected. Fees collected pursuant to this section shall be forwarded to the department. The department shall utilize the fees to develop and maintain the education and enforcement program provided for in section ~~13(2)~~ 44513(2).

(2) Upon receipt of the required fee and an application for an inspection and a permit, the department shall inspect, or provide for inspection OF by the county sheriff or sheriff's deputy, ~~of~~ all livery boats and their equipment of the boat livery. Upon completion of the inspection, the department, county sheriff, or the sheriff's deputy shall approve the issuance of a

permit to operate a boat livery, provided the requirements of this ~~act~~ PART are met. A permit furnished by the department shall be prominently displayed on the site of the boat livery and shall expire on December 31 of each year in which a permit is issued.

Sec. ~~18~~ 44518. (1) An inspecting officer, designated by the department, shall affix or cause to be affixed to each and every livery boat that meets the minimum safety standards established under rules promulgated ~~pursuant to~~ UNDER this ~~act~~ PART an inspection decal, plate, or tab furnished by the department which bears all of the following information:

(a) The maximum number of persons permitted to be carried aboard the vessel.

(b) The maximum horsepower of a motor permitted to be used on the vessel.

(c) Other information as the department may reasonably require.

(2) Each boat livery owner shall pay a fee of $2.00 to the inspecting officer for each decal, plate, or tab affixed to the livery boats. The inspecting officer shall forward all fees collected under this subsection to the treasurer of the county in which the fee is collected to be credited for the purpose of reimbursing the sheriff's department for expenses incurred pursuant to this ~~act~~ PART. If the inspecting officer is a conservation officer, fees collected under this section shall be forwarded to the department of treasury to be credited to the marine safety fund.

Sec. ~~19~~ 44519. A boat livery owner, the designated representative of the boat livery owner, or any other person, except an inspecting officer, shall not remove, damage, or mutilate a valid inspection decal, plate, or tab affixed to a livery boat except that when a livery boat is sold, damaged, destroyed, or removed from rental or leasing service, the boat livery owner or his or her designated representative shall remove the valid inspection decal, plate, or tab and return it to the inspecting officer.

Sec. ~~20~~ 44520. (1) The owner of a boat livery shall not rent or lease a livery boat more than 20 feet in length to be used on navigable water until a written rental contract or lease agreement has been made between the boat livery owner and the renter or lessee.

(2) A boat livery owner or his or her designated representative shall not permit a livery boat to depart the premises of the boat livery if:

(a) The equipment required pursuant to rules promulgated ~~pursuant to~~ UNDER this ~~act~~ PART is not aboard the livery boat.

(b) The livery boat contains a number of persons in excess of the maximum number approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

(c) The livery boat is equipped with a motor with a horsepower rating in excess of the maximum horsepower approved for the

livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

Sec. ~~21~~ 44521. (1) Any person renting, leasing, or operating a livery boat on navigable waters that is more than 20 feet in length shall present for examination, upon demand of any peace officer, a copy of the rental contract or lease agreement.

(2) A person renting, leasing, or operating a livery boat on waters of the state shall not do any of the following:

(a) Permit the operation of the livery boat without the equipment required by rules promulgated ~~pursuant to~~ UNDER this ~~act~~ PART.

(b) Permit the operation of the livery boat if it contains a number of persons in excess of the maximum number approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

(c) Permit the operation of the livery boat, if it is equipped with a motor with a horsepower rating in excess of the maximum horsepower approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

Sec. ~~21a~~ 44522. ~~(1)~~ A boat livery shall not lease, hire, or rent a personal watercraft to a person who is under 16 years of age.

~~(2) This section shall not be enforced until after January 1, 1991.~~

Sec. ~~22~~ 44523. (1) ~~Any~~ A boat livery owner denied a permit to operate a boat livery by an inspecting officer designated by the department may petition the department for an

evidentiary hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) ~~Any~~ A boat livery owner may petition the department for an evidentiary hearing pursuant to the administrative procedures act, Act No. 306 of the Public Acts of 1969, regarding the determination by the inspecting officer of the maximum vessel load capacity of a livery boat, the maximum horsepower of any motor to be used to propel a livery boat, and any equipment requirements or standards.

Sec. ~~23~~ 44524. (1) A person who violates this ~~act~~ PART or a rule promulgated ~~pursuant to~~ UNDER this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or ~~by~~ a fine of not more than $1,000.00, or both.

(2) When a vessel is operated in violation of section ~~3, 9,~~ 44502, 44509, or ~~14~~ 44514, the vessel may be seized as evidence, and upon conviction of the owner, the vessel may be condemned and confiscated in the same manner as provided for under ~~Act No. 192 of the Public Acts of 1929, being sections 300.11 to 300.18 of the Michigan Compiled Laws~~ PART 16.

(3) A peace officer may issue an appearance ticket to any person violating ~~any of the provisions of~~ this ~~act~~ PART or a rule promulgated ~~pursuant to~~ UNDER this ~~act~~ PART.

Sec. ~~24~~ 44525. (1) Except for the reporting requirements of section ~~8b~~ 44508, this ~~act~~ PART does not apply to a vessel that is required to be inspected by federal law or regulations for the purposes of carrying passengers for hire and that carries

a valid and current certificate of inspection issued pursuant to federal law.

(2) This ~~act~~ PART does not require a person to secure a state pilot's license if that person has been issued a valid and current federal pilot's license from the United States coast guard or other federal agency.

(3) This ~~act~~ PART does not apply to a vessel 20 feet or less in length that is used primarily for training or instructional purposes and IS not used at any time as a charter boat or a livery boat.

Sec. ~~25~~ 44526. ~~(1) The following acts and parts of acts are repealed: (a) Act No. 257 of the Public Acts of 1952, being sections 281.561 to 281.568 of the Michigan Compiled Laws. (b) Act No. 228 of the Public Acts of 1965, being sections 281.801 to 281.813 of the Michigan Compiled Laws. (2)~~ Except as otherwise provided in section ~~5~~ 44504, rules promulgated pursuant to ~~the acts listed in subsection (1)~~ FORMER ACT NO. 244 OF THE PUBLIC ACTS OF 1986 OR AN ACT REPEALED BY THAT FORMER PUBLIC ACT remain in effect until replaced by rules promulgated pursuant to ~~this act~~ FORMER ACT NO. 244 OF THE PUBLIC ACTS OF 1986 OR THIS PART.

~~AQUATIC SPECIES~~

~~Part 451. Fishing from Inland Waters~~

AQUATIC SPECIES

PART 451 FISHING FROM INLAND WATERS

Sec. ~~1~~ 45101. ~~No~~ A person shall NOT take any fish from any of the inland lakes of this state, within which fish ~~shall be~~ ARE planted at the expense of the people of this state,

~~after the passage of this act, from which waters~~ IF the public is excluded from taking fish FROM THOSE WATERS. ~~: Provided, however, That~~ HOWEVER, this ~~act shall~~ PART DOES not apply to any small inland lakes covering less than 250 acres in which fish ~~may be so~~ ARE planted without the written consent of the persons who together own in fee simple the submerged acreage.

Sec. ~~2~~ 45102. ~~Any~~ A person ~~violating the provisions of~~ WHO VIOLATES this ~~act shall be~~ PART IS guilty of a misdemeanor, ~~and upon conviction thereof subject to a fine of not less than 10 dollars or more than 100 dollars or~~ PUNISHABLE BY imprisonment ~~in the county jail~~ for ~~a term of~~ not more than 30 days, OR A FINE OF NOT LESS THAN $10.00 OR MORE THAN $100.00, or both. ~~said fine and imprisonment in the discretion of the court.~~

~~Part 453. Fishing with Hook and Line~~

PART 453 FISHING WITH HOOK AND LINE

Sec. ~~1~~ 45301. ~~That in~~ IN any of the navigable or meandered waters of this state where fish have been or ~~hereafter may be~~ ARE propagated, planted, or spread at the expense of the people of this state or the United States, the people ~~shall~~ have the right to catch fish with hook and line during ~~such~~ THE seasons and in ~~such~~ THE waters ~~as~~ THAT are not otherwise prohibited by the laws of this state.

Sec. ~~2~~ 45302. ~~No~~ AN action ~~at law~~ shall NOT be maintained against ~~persons~~ A PERSON entering upon ~~such~~ THE waters for the purpose of ~~such~~ fishing, by the owner, lessee, or ~~persons~~ OTHER PERSON having the right of possession of

adjoining lands, except for actual damage done. In ~~any~~ such AN action, the defendant under a proper notice may dispute ~~on the~~ AT trial the plaintiff's right to either title or possession of the land claimed to ~~be~~ HAVE BEEN trespassed upon.

~~Part 455. Frogs~~

PART 455 FROGS

Sec. ~~1~~ 45501. ~~Hereafter it shall be unlawful to~~ A PERSON SHALL NOT take or kill ~~in any manner~~ any species of frogs in this state from November ~~16th~~ 16 in any year to the Friday immediately preceding the opening of the season on black bass of the FOLLOWING year. ~~following, both dates inclusive: Provided, however, That it shall be unlawful to~~ A PERSON SHALL NOT spear frogs at any time with the aid of an artificial light.

Sec. ~~2~~ 45502. ~~Nothing in this act shall be construed to~~ THIS PART DOES NOT prevent ~~at any time~~ the purchase, sale, or possession of frogs or any portion of the carcasses of frogs that have been legally taken or that have been shipped in from ~~without the~~ OUTSIDE THIS state.

Sec. ~~3~~ 45503. The ~~director of conservation~~ DEPARTMENT may upon written application issue permits to take frogs at any season of the year ~~when~~ IF used for scientific or experimental purposes. ~~All permits so issued shall be~~ THESE PERMITS ARE revocable at the pleasure of the ~~director of conservation~~ DEPARTMENT.

Sec. ~~6~~ 45504. ~~Any~~ A person ~~violating any of the provisions of~~ WHO VIOLATES this ~~act~~ PART or who makes ~~any~~ A false statement in securing or attempting to secure a permit ~~provided~~

~~herein shall be~~ UNDER THIS PART IS guilty of a misdemeanor, ~~and upon conviction thereof shall be fined~~ PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR A FINE OF not more than ~~50 dollars, together with~~ $50.00 AND costs of prosecution, ~~or imprisonment in the county jail not to exceed 90 days~~ or both. ~~such fine and imprisonment in the discretion of the court.~~

~~Part 457. Mussels~~

PART 457 MUSSELS

Sec. ~~9~~ 45701. As used in this ~~act the words~~ PART:

(a) "Mussel" ~~shall mean and embrace~~ MEANS the pearly ~~fresh water~~ FRESHWATER mussel, clam, or naiad, and the shells ~~thereof~~ OF THE PEARLY FRESHWATER MUSSEL, CLAM, OR NAIAD.

(b) "Crowfoot bar" ~~shall mean~~ MEANS a bar of any material bearing a series of hooks designed to catch or adapted for catching mussels by the insertion of ~~such~~ THE hooks between the shells of mussels.

(c) "Hand rod" ~~shall mean~~ MEANS any mechanism of capture ~~which~~ THAT is adapted for picking the mussels singly from the bottom of waters and is operated by the picker holding the hand rod in the hand.

Sec. ~~1~~ 45702. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT take, catch, or kill mussels by means of any kind of apparatus or in any manner ~~whatsoever~~ in any of the inland waters of this state without first ~~having been registered in~~ REGISTERING WITH the ~~office of the director of conservation~~ DEPARTMENT and OBTAINING a license issued ~~therefor~~ FOR THIS PURPOSE in accordance with ~~the provisions of~~ this ~~act~~ PART.

Sec. ~~2~~ 45703. ~~Any~~ A person ~~desiring to~~ SHALL NOT take, catch, or kill mussels in any of the inland waters of this state ~~shall make application therefor~~ WITHOUT APPLYING to the ~~director of conservation~~ DEPARTMENT on a ~~blank~~ FORM provided for that purpose by the ~~director of conservation,~~ DEPARTMENT. THE APPLICATION SHALL BE accompanied by a fee of ~~3 dollars~~ $3.00, if the applicant is a resident of this state, and a fee of ~~50 dollars~~ $50.00, if the applicant is a ~~non resident~~ NONRESIDENT of this state.

Sec. ~~3~~ 45704. The ~~director of conservation~~ DEPARTMENT shall upon receipt of ~~such~~ AN application and the proper fee issue a license to take, catch, or kill mussels. All ~~such~~ licenses shall begin July 1 and expire on ~~the thirtieth day of~~ September 30, following ~~their issue~~ ISSUANCE. Licenses shall be consecutively numbered as issued, and a record OF LICENSES AND THEIR NUMBERS shall be kept ~~thereof in~~ BY the ~~office of the~~ department. ~~of conservation. Such~~ A license shall state whether it is a resident or ~~non resident~~ NONRESIDENT license, the address of the licensee, and the amount paid for the license. ~~Said~~ THE license shall also state what waters have been closed to the capture of mussels by the ~~conservation commission~~ DEPARTMENT. Every person while taking, catching, or killing mussels shall have ~~such~~ THE license REQUIRED BY THIS SECTION in his OR HER possession and shall exhibit the ~~same~~ LICENSE when requested to do so by an authorized officer.

Sec. ~~4~~ 45705. The ~~director of conservation~~ DEPARTMENT shall keep a record of all applications and licenses issued ~~by~~

~~him~~ and on the first day of each month shall pay ~~over~~ to the ~~auditor general~~ STATE TREASURER all ~~moneys~~ MONEY received for the sale of licenses issued under ~~the provisions of~~ this ~~act~~ PART, and ~~such moneys~~ THE MONEY shall be credited to the game and fish protection fund CREATED IN PART 435 and shall be disbursed by the ~~auditor general~~ STATE TREASURER for services of the ~~director of conservation and his deputies~~ DEPARTMENT and ~~their~~ FOR THE DEPARTMENT'S expenses in enforcing this ~~act~~ PART and the game and fish laws of this state, for propagation, and for biological investigations and such other investigations as may be necessary. For the ~~purpose~~ PURPOSES of this ~~act~~ PART, a ~~non resident~~ NONRESIDENT of this state ~~shall be deemed to be any~~ IS A person who has not resided within this state for a period of at least ~~the~~ 6 consecutive months immediately prior to the time application is made for A license under ~~the provisions of~~ this ~~act~~ PART.

Sec. ~~5~~ 45706. Any person to whom a license has been issued under ~~the provisions of~~ this ~~act~~ PART may operate not more than 1 boat, with or without A motor, in taking, catching, or killing mussels. ~~Any such~~ THE person may use 1 additional boat, with or without A motor, for the purpose of towing only when ~~no~~ AN apparatus for taking, catching, or killing mussels is NOT used or kept ~~thereon~~ ON THE BOAT. ~~It shall be unlawful to have in possession on the waters while~~ A PERSON engaged in taking, catching, or killing mussels ~~,~~ ON THE WATERS SHALL NOT POSSESS more than 4 crowfoot bars, SHALL HAVE not more than 2 of ~~said~~ THE bars ~~to be~~ in the water at 1 time, ~~or to~~ AND SHALL

NOT use or ~~have in possession~~ POSSESS a crowfoot bar of greater THAN 20 FEET IN length. ~~than 20 feet. Any such~~ A person may also use his OR HER hands or a device known as a hand rod in taking, catching, or removing mussels from the waters. ~~:~~ ~~Provided, That it shall be unlawful to~~ HOWEVER, A PERSON SHALL NOT use TO GATHER MUSSELS a fork, dredge, tongs, or other device ~~, which in use~~ THAT WHEN USED digs deeply into the bed of the stream. ~~, in gathering mussels: Provided further, That all~~ ALL boats propelled by an internal combustion engine or motor and used in taking, catching, killing, or conveying mussels taken under ~~the provisions of~~ this ~~act~~ PART shall be equipped at all times with a quiet muffler for the exhaust.

Sec. ~~6~~ 45707. ~~It shall be unlawful to~~ A PERSON SHALL NOT take, catch, kill, offer for sale, or ~~have in possession~~ POSSESS, IN A QUANTITY OF more than ~~1 per cent~~ 1% by weight, mussels of the varieties known either as mucket or pocketbook species of a size less than 3 inches ~~in~~ AT THE greatest dimension. Undersized mussels shall be immediately culled and returned to the water ~~whence~~ FROM WHICH THEY WERE taken without avoidable injury.

Sec. ~~7~~ 45708. The ~~conservation commission~~ DEPARTMENT may, ~~from time to time as may be required~~ for the conservation of the mussel resources of the state, prescribe areas in any part of the state from which mussels shall not be taken for ~~such~~ a period ~~as may be~~ specified by the ~~commission~~ DEPARTMENT. ~~It shall be unlawful to~~ A PERSON SHALL NOT take, catch, or kill mussels in CLOSED waters. ~~so closed.~~ All orders of the

~~conservation commission~~ DEPARTMENT affecting mussels shall be published once a year in a newspaper of general circulation ~~,~~ published within each county containing or having on its boundary waters affected by ~~such~~ THE order. All such orders shall take effect at the time ~~fixed therein~~ ESTABLISHED IN THE ORDER, but not less than 21 days after the publication ~~thereof~~ OF THE ORDER. The ~~conservation commission~~ DEPARTMENT may extend the time within which ~~such~~ THE order ~~shall take~~ TAKES effect.

Sec. ~~8~~ 45709. On or before ~~the thirty first day of~~ December 31 of the year in which any license was issued, the holder ~~thereof~~ OF THE LICENSE shall make a written report to the ~~director of conservation~~ DEPARTMENT, on ~~blanks~~ A FORM furnished by the ~~director of conservation~~ DEPARTMENT, under oath ~~when~~ IF requested ~~so~~ to do SO, stating the total weight of mussel shells taken, caught, or killed under ~~such~~ THE license, the names and locations of waters from which the mussels were taken, the weight of shells taken from each water, ~~and~~ the amount of ~~moneys~~ MONEY received for shells sold, and ~~such~~ ANY other information ~~as may be~~ required by the ~~director of conservation~~ DEPARTMENT in determining the trend of the industry and available supply of mussels. The ~~director of conservation~~ DEPARTMENT may deny a new license to ~~such~~ THE holder until ~~such~~ THE report ~~shall be~~ IS made in accordance with ~~the provisions of~~ this ~~act~~ PART.

Sec. ~~10~~ 45710. ~~Permit to take mussels for culture or scientific investigation. It shall be unlawful for any~~ A person ~~to~~ SHALL NOT take from any of the inland waters of this state

any kind of mussels in any manner for the purpose of culture or scientific investigation ~~,~~ without first obtaining a permit from the ~~director of conservation~~ DEPARTMENT.

Sec. ~~11~~ 45711. ~~Any~~ A person ~~violating any of the provisions of~~ WHO VIOLATES this ~~act shall be deemed~~ PART IS guilty of a misdemeanor, ~~and upon conviction thereof shall be fined~~ PUNISHABLE BY A FINE OF not less than ~~10 nor~~ $10.00 OR more than ~~100 dollars~~ $100.00 and costs of prosecution, and in default ~~thereof~~ OF THE PAYMENT OF THE FINE, by imprisonment ~~in the county jail~~ for ~~a period~~ not ~~exceeding~~ MORE THAN 90 days, or both. ~~such fine and imprisonment in the discretion of the court.~~

~~Part 459. Propagation of Game Fish in Private Waters~~

PART 459 PROPAGATION OF GAME FISH IN PRIVATE WATERS

Sec. ~~1~~ 45901. ~~The term~~ AS USED IN THIS PART, "game fish" ~~shall include~~ INCLUDES all species of fish in the families of salmonidae (trout and salmon), thymallidae (grayling), esocidae (northern pike and muskellunge), serranidae (white bass and striped bass), centrarchidae (bass, bluegill, and crappie), percidae (perch and walleye), acipenseridae (sturgeon), ictaluridae (catfish), and coregonidae (whitefish).

Sec. ~~2~~ 45902. ~~No~~ A person shall NOT propagate, rear, or have in possession for the purpose of offering for sale or selling any kind of game fish unless he OR SHE has applied for and ~~has~~ been issued a license as provided in this ~~act~~ PART. All such licenses ~~shall be~~ ARE nontransferable and ~~shall~~ expire on December 31 of the year for which issued. A separate license

~~shall be~~ IS required for each place of business where game fish are propagated, reared, or possessed for the purpose of sale or offering for sale. ~~The provisions of this act shall~~ THIS PART DOES not apply to the sale, offering for sale, or possession of dead, fresh, or frozen brook trout, brown trout, or rainbow trout lawfully taken in ~~,~~ and exported from ~~,~~ another state or country or ~~which~~ THAT have been procured from a licensed dealer within ~~the~~ THIS state.

Sec. ~~3~~ 45903. Any person owning or having control of private waters in this state ~~desiring~~ WHO DESIRES a license under ~~the provisions of~~ this ~~act~~ PART shall make application ~~therefor~~ FOR THE LICENSE to the ~~director of conservation~~ DEPARTMENT, on a form provided by the ~~director~~ DEPARTMENT, accompanied by a fee of $5.00. The application shall state the name and address of the applicant ~~,~~ AND INCLUDE the description of the premises where game fish are to be propagated, reared, possessed, or offered for sale, together with ~~such~~ additional information as may be required. Upon receipt of the application and fee, the ~~director of conservation~~ DEPARTMENT, if satisfied that ~~the provisions of~~ this ~~act~~ PART and the rules ~~and regulations~~ promulgated ~~hereunder~~ UNDER THIS PART have been complied with, shall issue a license to the applicant.

Sec. ~~4~~ 45904. ~~No~~ A person shall NOT propagate, rear, or ~~have in possession~~ POSSESS, for the purpose of offering for sale or selling, any game fish, ~~as herein described~~ except at the location described in his OR HER license. The license shall

be conspicuously posted at ~~such~~ THE PERSON'S place of business at all times.

Sec. ~~5~~ 45905. The ~~director of conservation~~ DEPARTMENT may ~~adopt~~ PROMULGATE and enforce ~~such~~ rules ~~and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948,~~ as may be necessary to carry out the intent of this ~~act~~ PART and to protect the public interest.

Sec. ~~5a~~ 45906. ~~It is unlawful for a~~ A person ~~to~~ SHALL NOT import into ~~the~~ THIS state any live game fish or viable eggs of any game fish without a license as provided for in this ~~act~~ PART. The ~~director~~ DEPARTMENT may ~~adopt~~ PROMULGATE rules under ~~the provisions of~~ this ~~act~~ PART to prohibit or restrict the importation of game fish or any other species of fish when the importation of ~~such~~ THAT species would endanger the public fishery resources of this state.

Sec. ~~6~~ 45907. All ~~moneys~~ MONEY received from the sale of licenses provided for in this ~~act~~ PART shall be paid over to the state treasurer and ~~by him~~ SHALL BE credited BY THE STATE TREASURER to the game and fish protection fund CREATED IN PART 435.

Sec. ~~7~~ 45908. ~~Any~~ A person violating ~~any of the provisions of~~ this ~~act~~ PART or the rules ~~and regulations adopted thereunder shall be~~ PROMULGATED UNDER THIS PART IS guilty of a misdemeanor, ~~and upon conviction shall be punished by a fine of~~

~~not more than $100.00 together with costs of prosecution, or~~ PUNISHABLE BY imprisonment ~~in the county jail~~ for not ~~to exceed~~ MORE THAN 90 days, OR A FINE OF NOT MORE THAN $100.00, or ~~by~~ both. ~~such fine and imprisonment in the discretion of the court and, in~~ IN addition to ~~such~~ THE penalty, any license issued ~~hereunder~~ UNDER THIS PART may be revoked. Any license issued under this ~~act~~ PART may be suspended or revoked by the ~~director of conservation~~ DEPARTMENT after a hearing, upon reasonable notice, when any of the operations under it fail to comply with the requirements of this ~~act~~ PART or the rules ~~and regulations adopted thereunder~~ PROMULGATED UNDER THIS PART. Whenever any license ~~shall be~~ IS suspended or revoked, the fish held under ~~such~~ THE license shall ~~then~~ be disposed of only in a manner approved by the ~~director of conservation~~ DEPARTMENT.

~~Sec. 8. Act No. 170 of the Public Acts of 1905, as amended, being sections 308.101 to 308.106 of the Compiled Laws of 1948, is hereby repealed.~~

~~Sec. 9. This act shall take effect January 1, 1958.~~

~~Part 461. Special Provisions Regulating Fishing in Bays and Harbors~~

PART 461 REGULATING FISHING IN NORTHPORT HARBOR

Sec. ~~1~~ 46101. (1) ~~It shall be unlawful to~~ A PERSON SHALL NOT take any of the species of fish known as perch with gill nets, pound nets, trap nets, seines, setlines, or set hooks, or any other device ~~,~~ except a hook and line, and no nets of any description for the taking of perch shall be set within 200 feet of any dock in the waters of Northport harbor (known as

Northport bay), and within a line beginning at the extreme southern end of lot 3, section 36, town 32 north, range 11 west of Northpoint point at the water's edge; thence on a line southerly across Northport bay to Bellows (Gull) island; thence southerly on a line from Bellows (Gull) island to most northerly point of lot 3, section 25, town 31 north, range 11 west; thence due west to the east shore of lot 1, section 25, town 31 north, range 11 west; thence northerly following the bay shore to the place of beginning. ~~It shall be unlawful to~~ A PERSON SHALL NOT set any trap or pound net in that part of Northport harbor north of a line beginning at the extreme southern end of lot 3, section 36, town 32 north, range 11 west of Northport point at the water's edge and extending west to the town line between 31 north and 32 north in the village of Northport.

(2) ~~It shall be lawful to~~ A PERSON SHALL NOT use a bait net in shallow waters along the shores of Northport harbor during the smelt spawning season to obtain smelt for other than A commercial ~~purposes~~ PURPOSE.

Sec. ~~2~~ 46102. ~~Any~~ A person ~~violating the provisions of~~ WHO VIOLATES this ~~act shall, upon conviction thereof, be deemed~~ PART IS guilty of a misdemeanor, ~~and subject to~~ PUNISHABLE BY a fine of not more than ~~100 dollars~~ $100.00, or ~~to~~ imprisonment ~~in the county jail~~ for not more than 90 days, or both. ~~such fine and imprisonment.~~

~~Part 463. St. Joseph River~~

PART 463 FISHING LAWS IN ST. JOSEPH RIVER

Sec. ~~1~~ 46301. ~~On and after the effective date of this act all~~ ALL general laws ~~now in effect or that may hereafter be enacted~~ relative to fishing on inland lakes ~~shall be and the same~~ are ~~hereby made~~ applicable to the waters in that part of the St. Joseph river formerly known as Municipal pond, and now known as Union Lake, Union City, Branch county, Michigan, extending from a point known as Arbogast bridge westward to and including the Riley dam.

~~Part 465. Structures Used While Fishing Through Ice~~

PART 465 FISHING SHANTIES

Sec. ~~1~~ 46501. As used in this ~~act~~ PART:

(a) "Fishing shanty" means a fishing house or any other structure or shelter placed on the ice on the waters over which this state has jurisdiction.

(b) "Local unit of government" means a county, city, township, village, or other governmental unit. Local unit of government does not include the state.

~~(c) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.~~

Sec. ~~2~~ 46502. (1) A person shall not set, place, erect, or cause to be set, placed, or erected, or use a fishing shanty at any time upon the ice in waters over which the state has jurisdiction, unless the name and address of the owner is affixed to each side of the outside of the fishing shanty in legible letters not less than 2 inches in height. The letters shall be

readily visible and consist of materials that are not soluble in water.

(2) Placing the owner's name and address on a piece of wood, plastic, or other material and affixing that piece of material to the fishing shanty is not ~~in~~ compliance with this section.

Sec. ~~3~~ 46503. A person who sets, places, erects, or causes to be set, placed, or erected a fishing shanty upon the ice of any waters OF COUNTIES LOCATED within the Upper Peninsula, or the waters of the Great Lakes adjacent to the Upper Peninsula, shall remove the fishing shanty before ice conditions are unsafe for its removal. However, except as provided in section ~~6~~ 46506, the fishing shanty shall not remain on the ice beyond 12 midnight, March 31, of any year.

Sec. ~~4~~ 46504. A person who sets, places, erects, or causes to be set, placed, or erected a fishing shanty upon the ice of any water in Emmet, Cheboygan, Presque Isle, Charlevoix, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Oceana, Newaygo, Mecosta, Isabella, Midland, or Bay counties, or those waters of the Great Lakes adjacent to the counties listed in this section, shall remove ~~a~~ THE fishing shanty before ice conditions are unsafe for its removal. However, except as provided in section ~~6~~ 46506, the fishing shanty shall not remain on the ice beyond 12 midnight, March 15, of any year.

Sec. ~~5~~ 46505. A person who sets, places, erects, or causes to be set, placed, or erected a fishing shanty upon the ice of water in any of the counties of this state not listed in section ~~3 or 4~~ 46504, and those waters of the Great Lakes adjacent to these counties, except as provided in section ~~7~~ 46507, shall remove a fishing shanty before ice conditions are unsafe for its removal. However, except as provided in section ~~6~~ 46506, the fishing shanty shall not remain on the ice beyond 12 midnight, March 1, of any year.

Sec. ~~6~~ 46506. After the dates listed in sections ~~3~~ 46503, ~~4~~ 46504, and ~~5~~ 46505, a person may place and use a fishing shanty for the purposes of fishing if the fishing shanty is removed from the ice at the conclusion of each day's fishing activity.

Sec. ~~7~~ 46507. A person who sets, places, erects, or causes to be set, placed, or erected any fishing shanty upon the ice of lake St. Clair within the jurisdiction of this state shall remove the fishing shanty before ice conditions are unsafe for its removal or before sundown on the first Sunday after February 20 and on a daily basis following that date. Failure to remove a fishing shanty within the time specified in this section is a violation of this ~~act~~ PART, and the department ~~of natural resources~~ or the local unit of government may then authorize the removal and storage or destruction of the fishing shanty.

Sec. ~~8~~ 46508. A local unit of government shall not pass an ordinance, rule, or regulation regulating the placement, use, marking, or removal of a fishing shanty on the ice of any waters

over which this state has jurisdiction. An ordinance, rule, or regulation described in this section that is in effect on ~~the effective date of this act~~ APRIL 1, 1994 is void. However, if a person fails to remove a fishing shanty within the time specified in sections ~~3~~ 46503, ~~4~~ 46504, and ~~5~~ 46505, a local unit of government may remove the fishing shanty from the ice or water and store or destroy the fishing shanty.

Sec. ~~9~~ 46509. (1) A person who violates this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not more than 30 days, or ~~by~~ a fine of not less than $100.00 or more than $500.00, or both, and costs of prosecution.

(2) Upon conviction for the violation of this ~~act~~ PART, the court shall order the defendant to reimburse the governmental entity that removes or provides for the removal of the fishing shanty from the water or ice an amount equal to 3 times the cost of removal.

~~Sec. 10. Act No. 134 of the Public Acts of 1943, being sections 752.211 to 752.213 of the Michigan Compiled Laws, is repealed.~~

~~Part 467. Suspension or Modification of the Commercial Fishing Laws~~

PART 467 MODIFICATION OF COMMERCIAL FISHING LAWS

Sec. ~~1~~ 46701. ~~The provisions of~~ NOTWITHSTANDING any other act OR PART to the contrary, ~~notwithstanding, the provisions of~~ any statute or law of this state governing commercial fishing may be suspended, abridged, extended, or modified by the ~~conservation commission~~ DEPARTMENT when, in the opinion of

~~said commission~~ THE DEPARTMENT, ~~such~~ THAT action is necessary for the better protection, preservation, maintenance, and harvesting of ~~such~~ THE fish. The existing statutes and laws regulating commercial fishing shall remain in full force and effect unless suspended, abridged, extended, or modified by order of the ~~conservation commission~~ DEPARTMENT in the manner ~~herein~~ provided ~~,~~ IN THIS PART or by subsequent acts of the legislature.

Sec. ~~2~~ 46702. The effective date of any order ~~promulgated~~ ISSUED by the ~~conservation commission~~ DEPARTMENT under ~~authority of~~ this ~~act~~ PART shall be not less than 30 days from and after the date of its ~~adoption~~ ISSUANCE. Within 10 days after the date of its ~~adoption~~ ISSUANCE, a copy of ~~said~~ THE order shall be sent by first-class mail to all persons of record licensed under ~~the provisions of Act No. 84 of the Public Acts of 1929, as amended, being sections 308.1 to 308.51 of the Compiled Laws of 1948, who will be affected by such order~~ PART 473.

Sec. ~~3~~ 46703. ~~Any~~ A person who ~~shall violate~~ VIOLATES any ~~of the provisions of any~~ order ~~promulgated~~ ISSUED under ~~the authority of~~ this ~~act shall be~~ PART IS guilty of a misdemeanor. Each violation ~~shall be deemed~~ IS a separate and distinct offense and, in addition to the penalties ~~herein~~ provided IN THIS PART, any license issued under authority of ~~Act No. 84 of the Public Acts of 1929, as amended,~~ PART 473 to any person ~~, firm, partnership, co partnership, association or corporation~~ convicted in any ~~one~~ 1 license year of 3 violations of any order or orders promulgated under authority of

this ~~act~~ PART, or of any act OR PART regulating commercial fishing, shall be automatically revoked and ~~cancelled~~ CANCELED for the remainder of the license year for which issued. ~~, and said~~ THE revocation shall prohibit for the balance of the license year the use of any boats, nets, or other gear covered by ~~such~~ THE license.

~~Sec. 4. All rules, regulations and orders promulgated under authority of this act shall be adopted and promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.~~

Sec. ~~5~~ 46704. Nothing in this ~~act shall be construed to confer~~ PART CONFERS upon the ~~conservation commission~~ DEPARTMENT the power to alter any provisions of the statutes relating to forfeitures, penalties, or license fees.

~~Part 469. Taking Rainbow Trout in Soo Rapids and St. Marys River~~

PART 469 TAKING RAINBOW TROUT IN SOO RAPIDS AND ST. MARYS RIVER

Sec. ~~1~~ 46901. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT take or attempt to take rainbow trout in the waters of the Soo Rapids, and the United States power canal and tailrace, the north and south canals, the locks and the approaches thereto, between the international railway bridge and a line drawn from the ferry dock immediately below the St. ~~Mary's~~ MARYS falls in Sault Ste. Marie, Michigan, to the

ferry dock in Sault Ste. Marie, Ontario, all being a part of the St. ~~Mary's~~ MARYS river, Chippewa county, except from June 1 to November 30. ~~, inclusive: Provided, That the above regulations shall~~ THIS SECTION DOES not apply to the Michigan northern power canal, which ~~shall be considered~~ IS a part of the connecting waters between Lake Superior and Lake Huron for the purpose of regulating fishing ~~therein~~ IN THAT AREA.

Sec. ~~2~~ 46902. ~~Any~~ A person ~~violating the provisions of this act shall upon conviction be punished by a fine of not less than 10 dollars nor more than 100 dollars or by~~ WHO VIOLATES THIS PART IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY imprisonment ~~in the county jail for a period of~~ FOR not less than 10 days ~~nor~~ OR more than 90 days, OR A FINE OF NOT LESS THAN $10.00 OR MORE THAN $100.00, or both. ~~such fine and imprisonment in the discretion of the court.~~

~~Part 471. Board of Fish Commissioners~~

PART 471 FISHERIES MAINTENANCE

~~Sec. 1. That it shall be the duty of the governor, by and with the advice and consent of the senate, to appoint 3 persons, residents of this state, who shall constitute a board of fish commissioners. The persons so appointed shall hold office each for the term of 6 years, the terms of office of the several persons now composing said board, to continue for the time for which they were appointed, or until their respective successors are appointed, confirmed, and qualified. The board of fish commissioners, as at present organized and constituted by law, and their successors in office appointed hereunder, or under any act~~

~~of the legislature of this state which may hereafter become a law shall constitute a body corporate by and with the name and title of the "state board of fish commissioners," with the right, as such corporation of contracting, suing, and being sued, of making and using a common seal, taking conveyances and leases of lands and tenements, and holding and disposing of the same, in the said corporate name, and of owning, using, and disposing of personal property, for the uses of said board in carrying out the objects of their organization and appointment, as the same are herein, or may by law hereafter be declared. Any vacancies occurring in the membership of said board, to be filled by the governor; appointments to fill vacancies to be submitted to the senate for confirmation at its next regular session, if extending beyond a session of the legislature.~~

Sec. ~~2~~ 47101. ~~It shall be the duty of the said board of commissioners to~~ THE DEPARTMENT SHALL select suitable locations within this state ~~whereon~~ AT WHICH to establish and maintain fish-breeding establishments for the propagation and cultivation of whitefish, and such other kinds of food fish as ~~they~~ THE DEPARTMENT may direct, for the purpose of stocking ~~with~~ such fish and replenishing the supply of the ~~same~~ FISH in ~~such of~~ the inland and bordering waters of this state. ~~as they may know, or have reason to believe are suitable for the kinds of fish they may select.~~ All property owned or leased by the ~~fish commission~~ DEPARTMENT shall be exempt from taxation so long as held and used for state purposes under this ~~act~~ PART. ~~Said board of commissioners~~ THE DEPARTMENT shall employ a competent

person as superintendent of fisheries, whose duty it shall be to devote his OR HER entire time to gathering ova, hatching and planting, or distributing fish, and superintending generally the practical operations of the work. ~~, under the direction of the board of commissioners at a salary of not to exceed 2,500 dollars per annum. They may also employ such other assistants as the exigencies of the work may require. All persons employed by the board shall be governed by the regulations it may adopt for that purpose.~~

Sec. ~~3~~ 47102. ~~Said board of commissioners shall cause to be kept~~ THE DEPARTMENT SHALL KEEP proper books of accounts and records of ~~their own~~ ITS transactions, and also of all operations and experiments in the discharge of the duties ~~aforesaid~~ UNDER THIS PART, and shall report biennially to the governor upon ~~their~~ ITS operations and the practical results and success of the ~~same~~ OPERATIONS.

Sec. ~~4~~ 47103. The ~~said board~~ DEPARTMENT may take ~~,~~ or cause to be taken ~~,~~ any fish in any manner or at any time, for the purposes connected with the fish culture or with scientific observation. ~~And they~~ THE DEPARTMENT shall further discharge any duties required of ~~them~~ IT by law relating to the fishing interests ~~,~~ or ~~the enforcement of~~ TO ENFORCE laws relating to the protection of fish and fisheries in this state. ~~Said board may receive from the state treasurer, out of the appropriations made therefor, all the expenses actually disbursed by them while in the discharge of the duties required of them by law.~~

Sec. ~~5~~ 47104. ~~Appropriations for the necessary expenses of the work of said board shall be paid to them by the state treasurer on the warrants of the auditor general, from time to time, as their vouchers for the same are exhibited and approved.~~ The unexpended balance of any appropriation TO IMPLEMENT THIS PART at the end of the year for which the ~~same~~ APPROPRIATION is made shall be carried forward to the credit of the ~~board~~ DEPARTMENT, ~~provided~~ IF the ~~board certify~~ DEPARTMENT CERTIFIES to the auditor general and THE state treasurer that the ~~same~~ MONEY is needed for the purchase of additional grounds, FOR making permanent improvements upon any of its property, or for ~~apparatus~~ EQUIPMENT or labor. ~~in extending the work.~~

Sec. ~~6~~ 47105. In case appropriations by other states contiguous to the waters of ~~Michigan shall be~~ THIS STATE ARE made, and a disposition for joint action with ~~the~~ THIS state ~~of Michigan be~~ IS expressed, the ~~said board of commissioners~~ DEPARTMENT, with the approval of the governor, ~~of the state,~~ may arrange for and carry into effect joint action for replenishing the supply of food fish in ~~such~~ THE contiguous waters.

~~Part 473. Commercial Fishing Law~~

PART 473 COMMERCIAL FISHING

Sec. ~~1~~ 47301. All fish of whatever kind found in the waters of ~~lakes~~ LAKES Superior, Michigan, Huron, and Erie, commonly known as the Great Lakes, ~~and~~ the bays ~~thereof~~ OF THE GREAT LAKES, and the connecting waters between ~~the~~ THOSE lakes within the jurisdiction of this state ~~, shall be, and~~ are ~~declared to be,~~ the property of the state, and ~~the~~ taking

~~thereof~~ THE FISH FROM THOSE WATERS is ~~declared to be~~ a privilege. All fish in ~~such~~ waters DESCRIBED IN THIS SECTION shall be taken, transported, sold, and possessed only in accordance with ~~the provisions of~~ this ~~act~~ PART.

~~Sec. 1a. This act shall be known and may be cited as "The commercial fishing law of 1929".~~

Sec. ~~1b~~ 47302. (1) Notwithstanding the provisions of this or any other PART OR act, the ~~director of conservation~~ DEPARTMENT, when in ~~his~~ THE DEPARTMENT'S opinion it is necessary for the better protection, preservation, management, harvesting, and utilization of the fisheries in the waters described in section ~~1~~ 47301 may limit the number of fishing licenses to be issued under ~~the provisions of~~ this ~~act~~ PART and fix and determine the qualifications of ~~such licensees~~ PERSONS TO WHOM LICENSES ARE ISSUED. In determining the number of licenses that the ~~director of conservation~~ DEPARTMENT issues during any license year, ~~he~~ THE DEPARTMENT shall ~~take into consideration~~ CONSIDER the number of persons holding ~~such~~ licenses, the number of licensees needed to harvest the fish known or believed to be harvestable, the capacity of the boats and equipment owned and used by licensees to ~~effectuate such harvesting~~ HARVEST THOSE FISH, and any other facts ~~which~~ THAT may bear upon the allowing of a limited number of licensed persons to engage in commercial fishing in an economical and profitable manner. In determining the qualifications of the licensees, the ~~director of conservation~~ DEPARTMENT shall consider the kind, nature, and condition of the boats and fishing equipment

and gear to be used by the applicant, the years of experience the applicant has had in commercial fishing, and the quantity and kinds of fish that the applicant has caught during the previous 5 years, and ~~such~~ other facts ~~which~~ THAT may assist ~~him~~ THE DEPARTMENT in determining that the applicant is capable ~~to engage~~ OF ENGAGING in commercial fishing in a proper and profitable manner and will comply with the laws applicable to commercial fishing.

(2) In addition to the requirements of this ~~act~~ PART and rules promulgated ~~pursuant to~~ UNDER this ~~act~~ PART, the license issued by the ~~director of conservation~~ DEPARTMENT may contain provisions THAT DO 1 OR MORE OF THE FOLLOWING:

(a) ~~Fixing~~ ESTABLISH the amount of fish to be taken by species and kind.

(b) ~~Designating~~ DESIGNATE the areas in which the licensee ~~shall be~~ IS permitted to fish.

(c) ~~Specifying~~ SPECIFY the season when and the depths where the licensee may conduct ~~his~~ commercial fishing operations.

(d) ~~Specifying~~ SPECIFY the methods and gear ~~which~~ THAT the licensee shall use.

(e) ~~Specifying~~ SPECIFY other conditions, terms, and restrictions ~~which~~ THAT are ~~deemed to be~~ CONSIDERED necessary in ~~carrying out the provisions of~~ IMPLEMENTING this ~~act~~ PART, including, but not limited to, the right to inspect the licensee's fishing operations in the waters, on board, or ashore.

(3) All licenses issued by the ~~director~~ DEPARTMENT pursuant to this ~~act shall~~ PART expire on December 31 of the year in which issued.

(4) The ~~director of conservation~~ DEPARTMENT may suspend or revoke any license issued under this ~~act when~~ PART IF the licensee fails to fulfill or violates any of the conditions, terms, or restrictions of the license. The ~~director~~ DEPARTMENT shall afford the licensee a hearing in accordance with the ~~provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948~~ ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS. Any person whose license has been suspended or revoked ~~shall~~ IS not ~~be~~ eligible to apply for or receive a license for the ensuing 2 calendar years following ~~such~~ THE suspension or revocation.

(5) Any licensee ~~presently~~ licensed ~~at the time this section becomes effective shall have~~ ON NOVEMBER 15, 1968 HAS the right to have his OR HER license renewed from year to year by the ~~director of conservation~~ DEPARTMENT if ~~such~~ THE licensee continues to meet the qualifications set forth in this section and the qualifications specified in any rules promulgated under this section regardless of the determination of the number of licenses to be issued ~~hereunder~~ UNDER THIS PART. ~~Such licenses so issued shall~~ LICENSES DESCRIBED IN THIS SECTION ARE not ~~be~~ transferable without the permission of the ~~director~~ DEPARTMENT.

Sec. ~~1c~~ 47303. The ~~conservation commission~~ DEPARTMENT shall provide ~~a~~ financial remuneration to the state for fish taken for commercial purposes by collection from the licensee of not more than 5% of the price received by the licensee. ~~Moneys~~ MONEY received shall be credited to the GAME AND fish ~~and game~~ protection fund CREATED IN PART 435 to be used in the development and management of the fisheries resource.

~~Sec. 1d. The governor shall appoint a Great Lakes fishery advisory committee to advise the director of conservation on matters affecting the Great Lakes fisheries as submitted to it by the director. The committee shall consist of not more than 9 members. The terms of office shall be 3 years, except that of the members first appointed, 3 shall be appointed for 3 years, 3 for 2 years and 3 for 1 year, or if a lesser number than 9 are appointed, their terms of office shall be prorated accordingly. The members of the advisory committee shall be entitled to actual and necessary expense incurred in the performance of their advisory duties in accordance with standard travel regulations of the department of administration.~~

Sec. ~~1e~~ 47305. For the purpose of carrying out ~~the provisions of~~ THIS SECTION AND sections ~~1b to 1e~~ 47302 AND 47303, the ~~director of conservation~~ DEPARTMENT may promulgate ~~such~~ rules as may be necessary. ~~in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948.~~

Sec. ~~2~~ 47306. ~~It shall be unlawful to~~ A PERSON SHALL NOT place or set any kind of a net or set hook lines or take or

attempt to take any kind of fish with a net or set hook lines, except minnow seines as provided in section ~~5 of this act~~ 47309, in any of the connecting waters between ~~lake~~ LAKE Superior and ~~lake~~ LAKE Huron and the connecting waters between ~~lake~~ LAKE Huron and ~~lake~~ LAKE Erie. For the ~~purpose~~ PURPOSES of this ~~act~~ PART, the connecting waters between ~~lake~~ LAKE Superior and ~~lake~~ LAKE Huron ~~shall be defined as~~ ARE all OF that part of the straits of St. Mary in this state, extending from a line drawn from Birch point range front light to the most westerly point of Round island, thence following the shore of Round island to the most northerly point thereof, thence from the most northerly point of said Round island to Point Aux Pins light, Ontario, to a line drawn east and west from the most southerly point of Little Lime island; and the connecting waters of ~~lake~~ LAKE Huron and ~~lake~~ LAKE Erie ~~shall be defined as~~ ARE all OF the St. Clair river and all of lake St. Clair and all of the Detroit river extending from fort Gratiot light in ~~lake~~ LAKE Huron to a point in the lower Detroit river where the center line of Oak street, city of Wyandotte, Wayne county, Michigan, extended due east, would intersect the international boundary line. The boundary line between ~~lake~~ LAKE Michigan and ~~lake~~ LAKE Huron ~~shall be defined as~~ IS a line extending due north from old Mackinac point lighthouse across the straits of Mackinac.

Sec. ~~3~~ 47307. ~~It shall be unlawful to~~ A PERSON SHALL NOT set any net, set hook lines, or other device for the purpose of taking or catching fish within 160 rods on either side of the

thread of the stream at the mouth of any river or outlet of an inland lake emptying into ~~lakes~~ LAKES Superior, Michigan, Huron, or Erie, commonly known as the ~~great lakes~~ GREAT LAKES, or the bays ~~thereof~~ OF THE GREAT LAKES, navigable for vessels drawing 10 feet or more, leaving an open channel of 1 mile in width for the free passage of fish, extending at right angles from the ~~shore line~~ SHORELINE as near as may be, 2 miles from shore. ~~: Provided, That~~ HOWEVER, within the next 1/2 mile on either side of any such rivers or outlets of inland lakes, ~~no~~ nets, set hook lines, or other devices shall NOT be used for the purpose of taking fish that will extend a greater distance than 1 mile from shore. The purpose ~~being~~ OF THE LIMITATIONS IN THIS SECTION IS to leave an open channel of 1 mile in width 1 mile out, and 2 miles in width for the second mile out, for the free passage of fish. No net or other device for taking fish shall be set or used within 40 rods on either side of the thread of the stream at the mouth of any other river or the outlet of any other inland lake leaving an open channel of 80 rods in width for the free passage of fish, extending at right angles with the ~~shore line~~ SHORELINE as near as may be 2 miles out from shore. For the purpose of this section, the shore ~~shall be deemed to commence~~ COMMENCES at the average low-water mark. ~~In case of dispute as to~~ IF the location of the open channel or the average low-water mark IS IN DISPUTE, ~~the same~~ THIS LOCATION shall be determined by the ~~director of conservation~~ DEPARTMENT. Except as provided in sections ~~6~~ 47311 and ~~8 of this act~~ 47313, ~~it shall be lawful~~ A PERSON MAY at all times ~~to~~ catch any kind of

fish in all OF the waters named in this ~~act~~ PART, and from the docks, harbors of refuge, or breakwaters, with a hook and line except largemouth black bass, smallmouth black bass, bluegills, sunfish, brook or speckled trout, rainbow and steelhead trout, brown and Loch Leven trout, northern pike, pike-perch, perch, or muskellunge, which shall only be taken or possessed in the manner and at the time specified by the laws of this state protecting ~~such~~ THOSE fish. ~~: Provided, That it shall be lawful to~~ A PERSON MAY ALSO spear carp, suckers, mullet, redhorse, sheepshead, lake trout, herring, smelt, perch, pike-perch, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee white fish, catfish, dogfish, and garpike through the ice in the connecting waters as defined in this ~~act~~ PART.

Sec. ~~4~~ 47308. Except as otherwise provided by law, ~~it shall hereafter be lawful to~~ A PERSON MAY use in the waters of ~~lakes~~ LAKES Michigan, Superior, Huron, and Erie, and the bays ~~thereof~~ OF THOSE LAKES, within the jurisdiction of this state, set hook lines or spears for the purpose of taking fish; and for the purpose of securing bait for use in baiting said hook lines, ~~it shall be lawful to~~ A PERSON MAY use gill nets as provided in section ~~5 of this act: Provided, That it shall be unlawful to~~ 47309. HOWEVER, A PERSON SHALL NOT market or ~~have in possession~~ POSSESS for the purpose of marketing any fish taken in ~~such~~ bait nets. ~~: Provided, That all~~ ALL unused bait, fresh or old, shall be taken ashore.

Sec. ~~5~~ 47309. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT possess on any boat licensed under ~~the provisions~~

~~of~~ this ~~act~~ PART or ~~to~~ use in the waters of ~~lakes~~ LAKES Michigan, Superior, Huron, and Erie, and the bays ~~thereof~~ OF THOSE LAKES, within the jurisdiction of this state, any pound or trap net, gill net, seine, or any fixed, set, or movable net of any kind or description, ~~whatever,~~ the meshes of which are different than ~~prescribed by this section, as follows~~ THE FOLLOWING:

(a) Gill nets with meshes of not less than 4-1/2 inches shall be used for the taking of whitefish, lake trout, and yellow pickerel. In ~~lake~~ LAKE Erie, ~~such~~ THE nets shall have meshes not less than 4-3/4 inches. ~~Such~~ THE nets shall be set not nearer than 20 rods from the shore of the mainland fronting ~~lake~~ LAKE Superior and its bays. ~~Such~~ THE nets shall be set not nearer than 20 rods from the shore of the mainland fronting ~~lake~~ LAKE Michigan southerly from Seven Mile point, Emmet county, during the months of March, April, and May. There shall be no nets, except gill nets, of any kind with mesh larger than 2-3/4 inches set in the waters of ~~lake~~ LAKE Superior within a radius of 50 miles of the village of Houghton, Michigan, during the period between October 10 and November 4, except by permit from the department ~~of conservation~~ for the taking of spawn from trout for the fish hatcheries.

(b) Gill nets with meshes of not less than 2-1/2 inches or more than 2-3/4 inches may be set in water of any depth, and gill nets with meshes of not less than 2-1/2 inches or more than 3 inches may be set in waters not exceeding 100 feet in depth, for the purpose of taking herring, chubs, perch, and pilot fish,

commonly called menominees, wherever and whenever they will not take to exceed 10% by weight of other fish, such percentage to be determined by the ~~director of conservation, or any of his deputies~~ DEPARTMENT, by inspection of the fish taken in ~~such~~ THE nets. All uninjured fish, except herring, chubs, perch, and pilot fish, shall be returned to the waters from which they were taken with as little injury as possible, by the persons lifting the nets; all sound, undersized, AND dead fish found in the nets ~~shall be~~ ARE the property of the state, and shall not be sold or disposed of, but shall be dressed and brought in and delivered immediately to the ~~director of conservation or his representatives~~ DEPARTMENT at the fishing port of the person taking the ~~same~~ FISH. The sound, undersized, AND dead fish shall be then disposed of by the ~~director of conservation as hereinafter provided; if~~ DEPARTMENT. IF more than 10% of fish other than herring, chubs, perch, and pilot fish are taken, then all of ~~such~~ THE other fish shall be disposed of by the ~~director of conservation. It shall not be unlawful for fisher men to~~ DEPARTMENT. AN ANGLER MAY have in HIS OR HER possession, not to exceed in quantity the percentage allowed of lake trout, whitefish, yellow pickerel, perch, or suckers, of a ~~less~~ weight or length LESS than established by this ~~act~~ PART, which are caught in 2-1/2 inch to 2-3/4 inch or 2-1/2 inch to 3 inch mesh gill nets, as provided for in this subsection, but the same may be shipped and disposed of only under the direction of the ~~director of conservation~~ DEPARTMENT. All undersized fish taken over under ~~the provisions of~~ this section shall be disposed of

by the ~~director of conservation~~ DEPARTMENT to state, county, or charitable institutions. ~~; parties~~ PARTIES handling the fish shall be paid not ~~to exceed~~ MORE THAN 3 cents per pound for boxing, packing, and icing the fish. The ~~director of conservation~~ DEPARTMENT shall remove or cause to be removed any of ~~such~~ THE nets ~~whenever or wherever~~ IF, from the inspection ~~herein~~ provided IN THIS SECTION, ~~he shall determine~~ THE DEPARTMENT DETERMINES that ~~such~~ THE nets are taking more fish of ~~the~~ species other than herring, chubs, perch, and pilot fish than allowed by ~~the provisions of~~ this section.

(c) Gill nets with meshes of not less than 2-1/4 inches ~~nor~~ OR more than 2-3/4 inches may be used ~~for the purpose of taking~~ TO TAKE blue back herring in the waters of ~~lake~~ LAKE Superior and Whitefish bay, and those waters of the straits of Mackinac bounded on the ~~lake~~ LAKE Huron end by a line drawn from the southernmost tip of St. Martin point, Mackinac county, to the westernmost tip of Lime Kiln point on Bois Blanc island, thence in a southerly direction to the northernmost tip of Point Au Sable in T 38 N, R 2 W, Cheboygan county, and bounded on the ~~lake~~ LAKE Michigan end by a line drawn from the southernmost tip of Seul Croix point in Schoolcraft county in an easterly direction to the Lansing shoal lighthouse, thence to the White shoal lighthouse, thence in a southeasterly direction to the westernmost tip of Waugoshance point in Emmet county, and Green bay of ~~lake~~ LAKE Michigan, as defined in section ~~6 of this act~~ 47311, wherever they will not interfere with or take

whitefish or lake trout or any other fish protected under the laws of this state.

(d) The ~~director of conservation~~ DEPARTMENT may issue permits to allow the use of gill nets having meshes not less than 1-1/2 inches ~~nor~~ OR more than 1-3/4 inches for taking smelt and alewife for commercial purposes under ~~such~~ rules and regulations as ~~he may prescribe~~ THE DEPARTMENT PRESCRIBES.

(e) Gill nets with meshes of not less than 1-1/4 inches ~~nor~~ OR more than 1-3/4 inches may be used ~~for the purpose of securing~~ TO SECURE bait for use in baiting hook lines, ~~when and where such~~ IF THE nets will not take undersized fish.

(f) Pound nets having meshes not less than 4-1/2 inches in the lifting pot, crib, or pocket and in the heart and tunnel, and having meshes not less than 5 inches in the lead, shall be used for taking whitefish and lake trout. In ~~such~~ THE pound nets, meshes not more than 3-1/2 inches may be used in 1 side of the pot or in the back, being that part of the pot opposite the tunnel entrance. In fishing ~~such~~ WITH THE pound nets, or any other pound nets permitted by this ~~act~~ PART, the crib or pot and hearts and lead shall extend to or above the surface of the water; the crib or pot and hearts shall be entirely open at the top, the sides or walls of the pot or crib and of the hearts shall be held vertically as near as possible and shall have 5 or more stakes driven into the earth at the bottom of the lake to hold ~~said~~ THE net in place. ~~No~~ A pound net permitted under this ~~act nor~~ PART OR any part of the webbing ~~thereof~~ OF THE NET shall NOT be set in water of a depth greater than 80 feet.

Pound nets fished through the ice may be held in place by fastening them to the ice without the use of stakes.

(g) Pound nets having meshes not exceeding 3-1/2 inches in the lifting pot or crib and in the tunnel inside the pot or crib, and having meshes not less than 3-1/2 inches in that part of the tunnel outside of the pot or crib and in the heart and lead, may be used for taking all legal fish except whitefish and lake trout. Saginaw bay ~~as defined in section 33 of this act~~ shall be considered rough fish grounds, and other similar bays may be designated by the ~~director of conservation~~ DEPARTMENT as rough fish grounds if the catch of whitefish and lake trout taken in pound nets and trap nets during the last 2 preceding years averaged less than 12% of the total catch, on which grounds all legal fish caught in pound nets and trap nets having meshes not exceeding 3-1/2 inches in the lifting pot or crib may be taken and all lake trout and whitefish taken in such nets set in all other waters shall be returned uninjured to the waters. The ~~director of conservation~~ DEPARTMENT may issue permits to allow the use of pound nets having meshes less than 3-1/2 inches in that part of the tunnel outside of the pot or crib and in the heart and lead for the taking of smelt and alewife for commercial purposes, under ~~such~~ rules and regulations as ~~he~~ THE DEPARTMENT may prescribe, which may include the waters ~~wherein such~~ IN WHICH THE nets may be fished and the period of time during which they may be used.

(h) Trap nets having meshes not less than 4-1/2 inches in the lifting pot, crib, or pocket and in the heart and tunnel and

having meshes not less than 5 inches in the lead shall be used for taking whitefish and lake trout. In such trap nets, meshes not more than 3-1/2 inches may be used in the tunnel inside the pot, in either the front, back, or 1 side of the pot for a distance not exceeding 5 feet from the bottom of the net and in that portion of the bottom of the net connected thereto for a distance not exceeding 5 feet, and in the connecting ends for a depth and width not exceeding 5 feet, for the purpose of shoaling fish. ~~Such~~ THESE trap nets shall not be used in any of the waters under the jurisdiction of this state except in ~~lakes~~ LAKES Huron and Erie and then only in such a manner that no trap net or any part of the webbing ~~thereof~~ OF THE NET is set in water of a depth greater than 80 feet. Trap nets having meshes as described in this subsection and with no part of the lifting pot or crib over 15 feet in depth may be used to take whitefish and lake trout in ~~lakes~~ LAKES Superior and Michigan in water of a depth not greater than 80 feet.

(i) Trap nets having meshes not exceeding 3-1/2 inches in the lifting pot or crib and in the tunnel inside the pot or crib and having meshes not less than 3-1/2 inches in that part of the tunnel outside of the pot or crib and in the heart and lead may be used for taking all legal fish except whitefish and lake trout. The depth of no part of the lifting pot or crib shall be greater than 15 feet. No such trap nets ~~nor any~~ AND NO part of the webbing ~~thereof~~ OF THE NET shall be set in water of a depth greater than 50 feet in ~~lakes~~ LAKES Michigan and Superior, ~~nor~~ OR in water of a depth greater than 80 feet in ~~lakes~~

LAKES Huron and Erie. The ~~director of conservation~~ DEPARTMENT may issue permits to allow the use of trap nets having meshes less than 3-1/2 inches in that part of the tunnel outside the pot or crib and in the heart and lead for the taking of smelt and alewife for commercial purposes, under ~~such~~ rules and regulations as ~~he~~ THE DEPARTMENT may prescribe, which may include the waters ~~wherein~~ IN WHICH such nets may be fished and the period of time during which they may be used. Trap nets having a lifting pot or crib not exceeding 4 feet in depth may have webbing less than 3-1/2 inches in the 2 sides of inner heart.

(j) Any pound net or trap net with meshes in the lifting pot or crib between 3-1/2 and 4-1/2 inches, or any lifting pot or crib of such nets with meshes between 3-1/2 and 4-1/2 inches, is ~~hereby declared~~ illegal and shall be seized and confiscated when found in use. Hoop nets, fyke nets, drop nets, and gobbler nets are considered under this ~~act~~ PART to be trap nets.

(k) Seines having wings with meshes of not less than 4 inches, and the pocket or bag, the bag of which shall be not more than 1/4 the length of the seine, having meshes of not less than 2-1/4 inches, may be used ~~for the purpose of taking~~ TO TAKE carp, yellow pickerel, perch, herring, and other rough fish ~~wherever~~ IF they ~~will~~ DO not interfere with or take whitefish or lake trout. All seines in use or set along the shores of the waters ~~named~~ LISTED in section ~~1 of this act~~ 47301, when unattended, shall have a metal tag securely attached ~~thereto~~ TO THE SEINE bearing the commercial fishing license number of the owner or user ~~thereof~~ OF THE SEINE. Minnow seines not to

exceed 80 feet in length and 8 feet in width may be used in the ~~great lakes~~ GREAT LAKES and connecting waters.

(*l*) The measurement of the mesh of all nets and seines as prescribed in this section shall be by extension measure. The size of the mesh of all nets or netting used in fishing as provided by this ~~act~~ PART shall be determined by extension measure, and the measurement shall be made of meshes irrespective of where the net or netting is found, whether in the water, on boat, on reel, on dock, or in any other place on land. Extension measure ~~shall mean~~ MEANS the distance between the extreme angles of any single mesh, and ~~such~~ THE measurements shall be taken between and inside the knots. All measurements of the mesh in gill nets or gill netting shall be made with a flexible steel gauge constructed and used as ~~herein~~ prescribed IN THIS SECTION. All measurements of the mesh of gill nets or gill netting shall be made by inserting in the mesh parallel with the selvage a gauge made of spring steel free from rust, of a length equal to the number of inches prescribed in this section for the mesh measured. The ends of the gauge shall be free of sharp edges or burrs. The gauge shall not be graduated, and any necessary markings shall be placed near the ends of the gauge. The length of the gauge measured parallel with the long edge shall not at any point exceed or be less than the prescribed length by more than 2/1000 of an inch. Its width at any point shall not exceed 9/16 of an inch or be less than 7/16 of an inch. Its thickness shall be such that when it is set vertically on a solid anvil with its upper end loaded with a dead weight between 7-1/2

and 8-1/2 ounces, the gauge shall deflect at its middle 1/10 of its length. The meshes to be gauged shall be at least 3 meshes removed from the selvage or side lines ~~,~~ AND shall not be stretched or manipulated in any way prior to or after the insertion of the gauge, and the same mesh shall not be gauged more than once. In gauging a mesh, the flexible gauge shall be held only by the ends and bent between thumb and forefinger, ~~and~~ the bent rule shall then be inserted in the mesh parallel with the selvage and with the collapsed mesh, and finger pressure shall be released immediately, not gradually. If the gauge does not straighten out completely under its own tension within 2 seconds after its release in the mesh without slipping a knot or breaking the twine, the mesh ~~shall be considered~~ IS unlawful, and if the majority of 10 or more meshes selected at random by the enforcement officer from any part or parts of the gill net or from the entire gill net or from any gill netting being gauged are found to be unlawful, the gill net or gill netting if found in use or in or upon any licensed commercial fishing boat shall be seized and confiscated. If found in possession but not in use, any such gill net or gill netting shall be sealed by the enforcement officer with a suitable seal provided by the ~~director of conservation~~ DEPARTMENT and, when once sealed and for so long as the seal ~~shall remain~~ REMAINS intact ~~thereon~~ ON THE NET OR NETTING, may be possessed by the owner ~~thereof~~ until disposed of or destroyed by ~~him~~ THE OWNER as ~~herein~~ provided IN THIS SECTION. ~~Such~~ THE gill net or gill netting shall not be disposed of or destroyed except under direction of a conservation

officer and, until that time, shall be available for inspection by the ~~director of conservation~~ DEPARTMENT or any conservation officer. Any person who, without authority from the ~~director of conservation, shall break~~ DEPARTMENT, BREAKS or ~~destroy any such~~ DESTROYS A seal attached to a gill net or gill netting, or any person who ~~shall refuse~~ REFUSES or ~~neglect~~ NEGLECTS to produce for inspection any SEALED gill net or gill netting, ~~so sealed,~~ or who ~~shall dispose~~ DISPOSES of or ~~destroy same~~ DESTROYS A SEALED GILL NET OR GILL NETTING except under the direction of a conservation officer, ~~shall be~~ IS guilty of a misdemeanor and upon conviction ~~thereof shall be~~ IS subject to the penalty provided for in section ~~21 of this act~~ 47327. ~~It shall be unlawful to~~ A PERSON SHALL NOT use any gill net of a greater measurement than 11 feet in depth in any of the waters of the ~~great lakes~~ GREAT LAKES and the bays ~~thereof~~ OF THE GREAT LAKES. In ~~lake~~ LAKE Erie, ~~no~~ A gill net shall NOT be over 36 meshes deep. ~~No~~ A trawl of any kind ~~may~~ SHALL NOT be licensed.

(m) Gill nets having meshes not less than 8 inches may be used for taking carp in Wildfowl bay in Huron county.

Sec. ~~5a~~ 47310. (1) Except as provided in subsections (2) and (3), within the jurisdiction of this state the holder of a license or permit issued under this ~~act~~ PART shall not take, catch, or attempt to take or catch ~~,~~ any fish with a gill net, pound net, or trap net in Lake Erie and the connecting waters of Lake Erie and Lake Huron, or in the portions of Lake Michigan and Lake Huron located south of a line extending due east and west of

the forty-fifth parallel of latitude, or in the rivers and streams which connect with any of the bodies of water described in this subsection from April 15 to September 15.

(2) Subsection (1) does not apply to a license or permit holder who prior to September 15, 1984 holds a license or permit issued under this ~~act~~ PART to take, catch, or attempt to take or catch any fish with a gill net, pound net, or trap net in those waters described in subsection (1). Fishing licenses described in this subsection are not transferable without the permission of the ~~director of the~~ department. ~~of natural resources.~~

(3) The ~~director of the~~ department ~~of natural resources~~ may issue a license or permit that authorizes the holder of the license or permit to take, catch, or attempt to take or catch coregonus, commonly known as chubs, with a gill net, pound net, or trap net as follows:

(a) Except as provided in subdivision (b), in those waters described in subsection (1) that exceed 240 feet in depth.

(b) In those waters of Lake Michigan located south of a line extending due west of the south pier of Grand Haven harbor that exceed 180 feet in depth.

(4) This section ~~shall~~ DOES not apply after December 31, 1986.

Sec. ~~6~~ 47311. (1) ~~It~~ A PERSON shall ~~be unlawful to~~ NOT take from any of the waters ~~named~~ LISTED in section ~~1 of this act~~ 47301 any OF THE FOLLOWING:

(a) Lake trout, in ~~lake~~ LAKE Huron and ~~lake~~ LAKE Michigan from October 1 to December 10; in ~~lake~~ LAKE Superior from October 5 to November 4.

(b) Whitefish, in ~~lake~~ LAKE Huron and ~~lake~~ LAKE Michigan from October 1 to December 10; in ~~lake~~ LAKE Superior from November 1 to November 26.

(c) Pike-perch (yellow pickerel), northern pike, from April 1 to May 20. In Saginaw bay, as defined in section ~~32 of this act~~ 47339, ~~it~~ A PERSON shall ~~be unlawful to~~ NOT take pike-perch from March 5 to April 10. ~~It shall be lawful to~~ A PERSON MAY spear pike-perch through the ice during the closed season in ~~lake~~ LAKE Huron and the connecting waters of the ~~great lakes~~ GREAT LAKES for ~~non commercial~~ NONCOMMERCIAL use only.

(d) Perch, from April 15 to May 20. In the waters of ~~lake~~ LAKE Michigan only, ~~it shall be unlawful to~~ A PERSON MAY take perch from April 25 to June 1. In Saginaw bay, perch of legal size may be taken at any time. ~~The taking of~~ A PERSON MAY TAKE perch with hook and line ~~shall be lawful~~ at any time.

(e) White bass, in ~~lake~~ LAKE Michigan at any time of the year. ~~The taking of~~ A PERSON MAY TAKE white bass with hook and line ~~shall be lawful~~ at any time.

(f) Suckers, from April 15 to May 20. In Saginaw bay, suckers may be taken at any time. ~~The taking of~~ A PERSON MAY TAKE suckers with hook and line ~~shall be lawful~~ at any time.

(g) Black crappie, also known as calico bass, in ~~lake~~ LAKE Huron from June 1 to August 25. ~~, and in lake~~ IN LAKE Erie,

~~lake~~ LAKE Michigan, and ~~lake~~ LAKE Superior, black crappie may not be taken at any time.

(2) In the waters of Green bay of ~~lake~~ LAKE Michigan within the jurisdiction of this state, which for the purpose of this ~~act shall be deemed to be~~ PART ARE those waters lying inside a line drawn from the most southerly part of Point Detour to the most easterly points of Sumner and Poverty islands, thence due south to the Michigan-Wisconsin boundary line, thence along the boundary line to the shore, ~~it shall be unlawful~~ A PERSON SHALL NOT from April 15 to May 20 ~~to~~ set, place, or use any gill net having meshes less than 4-1/2 inches. The ~~director of conservation~~ DEPARTMENT may issue permits under such rules and regulations as ~~he may prescribe~~ PRESCRIBED BY THE DEPARTMENT to allow the use of gill nets having meshes not less than 2-1/4 inches or more than 2-3/4 inches for taking herring from the waters of Green bay from April 15 to May 20, ~~when and where such~~ IF THE nets will not interfere with or take any other species of fish. The closed seasons established by this section ~~shall~~ DO not apply to ~~lake~~ LAKE Erie and the lower Detroit river, where ~~no~~ nets shall NOT be set and ~~no~~ fish of any kind shall NOT be taken with nets from January 1 to March 10. ~~It shall not be unlawful to~~ A PERSON MAY take carp with seines at any time from ~~said~~ THESE waters.

(3) In every case, the season shall open and close at 12 ~~o'clock~~ noon on the dates named in this section.

(4) All live fish ~~,~~ on which the season is closed ~~,~~ shall be liberated and returned to the water with as little

injury as possible, and any sound, dead fish, on which the season is closed, shall be dressed, brought ashore, and delivered immediately to the ~~director of conservation or his representatives~~ DEPARTMENT at ~~their or his~~ THE DEPARTMENT'S fishing port, which fish shall be disposed of in the same manner as provided for the disposition of undersized fish in section ~~5 of this act~~ 47309.

(5) ~~It is a violation of this act to~~ A PERSON SHALL NOT set nets or hooks for the taking of lake trout or whitefish before the first day of the open season for taking the fish, and the license of any person ~~, firm, copartnership, association or corporation~~ shall be immediately revoked upon conviction of unlawfully setting nets before the first day of the open season as provided in this ~~act~~ PART, and revocation shall prohibit the use of boat and gear by ~~any~~ THAT person during the balance of the year for which A license was issued. ~~Any~~ A person ~~, firm, copartnership, association or corporation~~ engaged in the taking of fish for commercial purposes from May 15 to September 15 ~~, both dates inclusive,~~ under ~~the provisions of~~ this ~~act~~ PART shall carry sufficient ice and properly chill the fish at the time and place of their removal from the waters.

Sec. ~~7~~ 47312. The ~~director of conservation~~ DEPARTMENT may authorize the taking of trout, whitefish, and yellow pickerel for the purpose of fish culture at any time during the open or closed seasons ~~herein~~ provided IN THIS PART, when it is determined by test nets set under the direction of the ~~director of conservation,~~ DEPARTMENT that at least ~~20 per cent~~ 20% of the fish taken are females and at least ~~40 per cent~~ 40% of these

females are ripe and ready to spawn. ~~: Provided, That~~ HOWEVER, when all spawn needed for state and federal hatcheries has been secured, the ~~director of conservation~~ DEPARTMENT may close all commercial fishing during the remainder of the closed season. The ~~director of conservation is hereby authorized to~~ DEPARTMENT MAY close all commercial fishing during the closed season on those grounds ~~which~~ THAT are so located as to prevent proper handling of spawn or where it appears that little or no spawn is being taken.

Sec. ~~8~~ 47313. All persons ~~, firms, copartnerships, associations or corporations~~ engaged in fishing for whitefish, trout, yellow pickerel, or perch in the waters named in this ~~act,~~ PART shall from the beginning of the spawning season for these fish, such time to be determined by test under the direction of the ~~director of conservation~~ DEPARTMENT, until the beginning of the closed season provided by section ~~6 of this act,~~ 47311 and before and after the ~~said~~ closed season, strip all ripe fish, both male and female, save all of the spawn, properly impregnate it, and deliver it to the ~~director of conservation or to his representatives,~~ DEPARTMENT at ~~his or~~ its fishing port, and all such persons ~~, firms, copartnerships, associations and corporations~~ shall have a sufficient ~~force~~ NUMBER of ~~men~~ PEOPLE on each boat and all the equipment needed properly to save, handle, impregnate, and deliver such spawn. The saving, handling, impregnating, and delivering of spawn shall be done under the direction of the ~~director of conservation~~ DEPARTMENT and in accordance with such regulations and under such

supervision as ~~he may prescribe~~ PRESCRIBED BY THE DEPARTMENT. ~~: Provided, That~~ HOWEVER, the ~~director of conservation~~ DEPARTMENT shall not discriminate against any person ~~, firm, copartnership, association or corporation~~ engaged in ~~such~~ fishing during ~~said~~ THE closed or open season, having ON EACH BOAT a sufficient ~~force~~ NUMBER of ~~men~~ PEOPLE and ALL THE equipment ~~on each boat~~ NEEDED properly to save, handle, impregnate, and deliver such spawn at any port or fishing ground when it has been determined that fish are ripe for spawning. ~~, and this~~ THIS determination shall be made by setting test nets on each fishing ground where spawn will be taken. ~~Any~~ A person ~~, firm, copartnership, association or corporation~~ engaged in commercial fishing ~~failing~~ THAT FAILS to properly save, handle, impregnate, and deliver such spawn during any period when spawn are ripe ~~shall be deemed~~ IS guilty of a violation of this ~~act: Provided, That it shall be unlawful to~~ PART. A PERSON SHALL NOT take from the waters of the ~~great lakes~~ GREAT LAKES any lake or Mackinaw trout during the closed season established by this ~~act~~ PART for ~~said~~ THOSE fish, except by the use of gill nets, trap nets, and pound nets after tests have been made and the percentage of ripe fish secured as provided for in section ~~7 of this act~~ 47312.

Sec. ~~9~~ 47314. The ~~director of conservation~~ DEPARTMENT shall deliver to designated representatives of the United States bureau of fisheries and to the state fish hatcheries ~~so~~ AS much of ~~said~~ THIS spawn as may be desired by ~~said~~ THE bureau and state hatcheries for propagation and planting in the waters of

~~said~~ THE lakes within the jurisdiction of this state, and the remainder of the spawn shall be properly impregnated and planted upon the spawning beds from which it was taken. The persons ~~, firms, copartnerships, associations or corporations~~ so fishing shall plant upon the spawning beds the fry hatched from such proportion of the spawn as may have been taken from the fish caught by ~~said~~ THE persons ~~, firms, copartnerships, associations or corporations~~ when directed ~~so~~ to do SO by the ~~director of conservation~~ DEPARTMENT. ~~Any~~ A person ~~, firm, copartnership, association or corporation~~ refusing or failing to comply with ~~the provisions of~~ this section ~~shall be deemed~~ IS guilty of a violation of ~~the provisions of~~ this ~~act~~ PART.

Sec. ~~10~~ 47315. ~~It shall be lawful for the director of conservation to~~ THE DEPARTMENT MAY take fish in any manner, in any of the waters mentioned in this ~~act~~ PART, at any and all seasons of the year, for the purpose of fish culture and scientific investigation; ~~to~~ MAY have and ~~to~~ hold ripe and unripe fish in order to take spawn ~~therefrom~~ FROM THE FISH; ~~to~~ MAY sell all ~~such~~ OF THOSE ripe and unripe fish; and ~~to~~ MAY devote the proceeds of ~~such~~ THE sales exclusively toward defraying the expenses incurred IN taking ~~such~~ THE fish and fertilizing and planting the spawn ~~therefrom~~ FROM THE FISH.

Sec. ~~11~~ 47316. ~~It shall be unlawful for any~~ A person ~~, firm, company, partnership, copartnership, association or corporation to~~ SHALL NOT ship or transport within this state any fish in packages or containers without plainly and correctly marking each package or container with the name of the consignor and the

kinds of fish contained ~~therein~~ IN THE PACKAGE. ~~It shall be unlawful for any~~ A railroad company, boat line, express company, motor truck company, aerial freight or express company, or other transportation company or common carrier, or any agent of any such company, or the owner of any boat, ~~aeroplane~~ AIRPLANE, car, truck or other vehicle operated privately or as a common carrier, or ~~for~~ the agent or representative of such owners, ~~to~~ SHALL NOT accept for shipment or transport any package or container of fish unless it is properly marked as prescribed in this section. The presence in any package or container of ~~10 per centum~~ 10% by weight of any fish that is illegal to ship shall make the entire contents of ~~said~~ THE package or container subject to seizure as an illegal shipment.

Sec. ~~12~~ 47317. The possession of any package or shipment of illegal fish offered to any common carrier as ~~mentioned~~ DESCRIBED in section ~~11~~ 47316 shall be construed to be and SHALL remain in the consignor until delivered to the consignee. ~~: Provided, That~~ HOWEVER, if any common carrier as ~~hereinbefore mentioned~~ DESCRIBED IN SECTION 47316 is not able ~~,~~ or refuses or neglects to show from whom the consignment of any shipment of fish was received, the shipment ~~is hereby declared~~ SHALL BE CONSIDERED to be in possession of the common carrier having ~~same~~ THE SHIPMENT in transit, and they may be proceeded against the same as the original owner.

Sec. ~~13~~ 47318. Any package or car of fish in transit opened by the ~~director of conservation or his deputies~~ DEPARTMENT, if found to be a lawful shipment under this ~~act~~

PART, shall be repacked in as good A condition as possible. ~~:~~ ~~Provided, That no~~ A package or car of fish legally shipped shall NOT be detained in transit by or for inspection.

Sec. ~~14~~ 47319. (1) ~~It shall be unlawful to~~ A PERSON SHALL NOT market, ~~have in possession~~ POSSESS, transport, or offer for sale at any time in this state, whether caught within or ~~without~~ OUTSIDE OF this state, any OF THE FOLLOWING:

(a) Whitefish, of a ~~less~~ length LESS than 17 inches.

(b) Lake trout, of a ~~less~~ weight LESS than 1-1/2 pounds in the round, and 1-1/4 pounds when dressed.

(c) Ciscowet trout, of a ~~less~~ weight LESS than 1-1/2 pounds in the round.

(d) Perch, of a ~~less~~ length LESS than 8-1/2 inches in the round and filleted perch of a ~~less~~ weight LESS than 1-3/4 ounces; perch with heads and tails off of a ~~less~~ length LESS than 5-1/2 inches.

(e) Suckers, of a ~~less~~ length LESS than 14 inches.

(f) Northern pike, of a ~~less~~ length LESS than 20 inches.

(g) Catfish, of a ~~less~~ length LESS than 17 inches. Catfish of not less than 15 inches in length may be taken from the waters of ~~lake~~ LAKE Erie.

(h) Pike-perch (yellow pickerel), of a ~~less~~ length LESS than 15-1/2 inches in the round and filleted pike-perch (yellow pickerel) of a ~~less~~ weight LESS than 9 ounces. Pike-perch (yellow pickerel) not less than 13 inches in length may be taken from ~~lake~~ LAKE Erie. Pike-perch (yellow pickerel) not less than 13 inches in length taken from the waters of ~~lake~~ LAKE

Erie may be sold or offered for sale at a dock or docks along ~~lake~~ LAKE Erie. Any such pike-perch (yellow pickerel) of a length less than 15-1/2 inches shall not be otherwise offered for sale, bartered, or sold within the limits of the state.

(i) Blue pike, of a ~~less~~ length LESS than 11 inches.

(j) White bass, of a ~~less~~ length LESS than 9 inches.

(k) Sturgeon, of a ~~less~~ length LESS than 42 inches.

(*l*) Black crappie, of a ~~less~~ length LESS than 7 inches.

(2) Imported commercial fish species and game fish ~~when~~ IF of a size or weight or species not prohibited by the laws of the state or country where caught may be possessed, transported, offered for sale, and marketed in this state, if EITHER OF THE FOLLOWING CONDITIONS ARE MET:

(a) ~~Such~~ THE fish are processed outside the state ~~,~~ AND sold to consumers in the same package as imported, and each package is labeled as a product of the state or country where the fish were caught. ~~, or~~

(b) A chain of satisfactory evidence of importation is maintained through to the retailer who sells to the consumer, in a manner prescribed by the ~~director of natural resources~~ DEPARTMENT.

(3) The measurement of the length of a fish within the meaning of this ~~act~~ PART shall be taken in a straight line from the tip of the snout to the utmost end of the tail fin. For the purpose of this ~~act~~ PART, a "fish in the round" ~~shall be deemed to be~~ IS a fish that is entirely intact as it was taken out of the water with no part removed by dressing. A "dressed fish"

~~shall be deemed~~ IS a fish with the head attached but with the gills and the entire gut or viscera (stomach, liver, intestine, gonads) removed. ~~, and a~~ A "filleted fish" ~~shall be deemed to be~~ IS a fish with the entire head, gut or viscera, gills, bones, scales, and all fins removed. The measurements of length and weight as prescribed in this ~~act shall~~ PART apply without any allowance made for the shrinkage of the fish. ~~The possession~~ A PERSON SHALL NOT POSSESS on any boat, or on any other conveyance used to reach the nets from shore, ~~of~~ any meat grinders or similar devices by the use of which the identification of the species or measurement of the individual fish is impossible. ~~, is hereby prohibited. It shall be unlawful for any fisherman to~~ A PERSON SHALL NOT bring ashore any fish ~~which~~ THAT is so mutilated that identification and measurement is impossible. ~~It shall be unlawful to~~ A PERSON SHALL NOT market, ~~have in possession~~ POSSESS, or offer for sale any fish illegally taken from the waters defined by this ~~act~~ PART.

Sec. ~~15~~ 47320. ~~It shall be unlawful for any~~ A person ~~or persons~~ engaged in lifting pound nets, trap nets, or seines in the waters of this state ~~, to~~ SHALL NOT take from the ~~said~~ waters OF THIS STATE any undersized fish, and all undersized fish found in ~~such~~ THE nets fished in ~~said~~ THOSE waters shall be returned to ~~said~~ THE waters with as little injury as possible by the person or persons lifting the net or nets. For the purpose of this ~~act~~ PART, undersized fish ~~shall be construed to mean~~ ARE fish of a smaller size than established by this ~~act~~ PART.

Sec. ~~16~~ 47321. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT take or catch with any kind of a net or other device used in commercial fishing in any of the waters mentioned in this ~~act~~ PART, any OF THE FOLLOWING:

(a) Largemouth black bass, Huro salmoides. ~~;~~

(b) Smallmouth black bass, Micropterus dolomieu. ~~;~~

(c) White crappie, also known as strawberry bass, Pomoxis annularis. ~~;~~

(d) Bluegill, Lepomis macrochirus. ~~;~~

(e) Common sunfish, Lepomis gibbosus. ~~;~~

(f) Brook or speckled trout, Salvelinus fontinalis. ~~;~~

(g) Rainbow and steelhead trout, Salmo gairdnerii. ~~;~~

(h) Brown and Loch Leven trout, Salmo trutta. ~~;~~

(i) Muskellunge, Esox masquinongy. ~~;~~

(2) ~~Or to~~ IN ADDITION TO THE PROHIBITION IN SUBSECTION (1), A PERSON SHALL NOT sell or offer for sale or ~~to have in possession~~ POSSESS at any time any of the ~~said~~ fish LISTED IN SUBSECTION (1) unless otherwise provided by law. Any such fish, whether dead or alive, shall at once be returned to the waters from which taken by the person or persons taking ~~same~~ THE FISH.

Sec. ~~17~~ 47322. ~~It shall be unlawful for any~~ A person ~~, firm, copartnership, association or corporation to~~ SHALL NOT set or use nets, set hook lines, or any other continuous device in any of the waters mentioned in this ~~act~~ PART without marking its location by buoys and identifying ~~said~~ THE nets ~~,~~ or other devices by showing the license number in plain figures upon

the bowls of ~~said~~ THE buoys of the person ~~, firm, copartnership, association or corporation~~ using the nets, set lines, or other devices; the license number to be attached to all gill net buoys; to the stakes at the heart or pot of pound nets; to the lifting buoy of trap nets, where the heart and pot are set below the surface of the water; to a buoy at the point of heart or pot of fyke nets where the cover of the hearts or pots comes to the surface of the water. ~~: Provided, That~~ HOWEVER, when any of ~~said~~ THE nets, set hook lines, or other devices are set under the ice, their location shall be marked by a stake extending not less than 4 feet above the ice at each end of ~~such~~ THE net or nets, set hook lines, or other continuous device and the license number, in legible figures, shall be attached to each ~~such~~ stake or to the ends of the net or nets, set hook line, or other device.

Sec. ~~18~~ 47323. Every person ~~, firm, copartnership, association or corporation~~ taking fish for market in any of the waters mentioned in this ~~act~~ PART shall bring them to some port or place in ~~Michigan~~ THIS STATE where they may be inspected before shipping. ~~: Provided, That~~ HOWEVER, the ~~director of conservation~~ DEPARTMENT may grant permission to take fish to ports or places in other states when the commercial fishing laws of ~~said~~ THE other states substantially conform to the commercial fishing laws of ~~the~~ THIS state. ~~of Michigan.~~

Sec. ~~19~~ 47324. The ~~director of conservation~~ DEPARTMENT may take, for fish cultural purposes only, fish taken by any person ~~, firm, copartnership, association or corporation~~

fishing in ~~Michigan~~ THE waters OF THIS STATE, and when so taken the fish shall be weighed and shall be paid for. ~~, the~~ THE price ~~to~~ SHALL be based on the Chicago, Detroit, and New York markets, or at such other price as may be agreed upon by the person or persons taking the fish and the ~~director of conservation~~ DEPARTMENT, plus the cost of transportation, if any.

Sec. ~~20~~ 47325. Every person ~~, firm, copartnership, association or corporation~~ taking fish for the market in any of the waters mentioned in this ~~act~~ PART shall keep an accurate report of each day's catch upon ~~blanks~~ FORMS furnished by the ~~director of conservation~~ DEPARTMENT of the number of pounds of each kind of fish taken, of the locality fished, of the kind and amount of fishing gear employed, of the length of time (number of nights) each unit of gear employed fished without being lifted, of the kind and amount of spawn taken, of the kind and amount of caviar taken, and of such other data as the biologists may require in following the trend of the fisheries, and shall each month report, ~~(~~ under oath when requested, ~~so to do)~~ the above data to the ~~director of conservation~~ DEPARTMENT. Any person ~~, firm, copartnership, association or corporation~~ whose report for the last preceding month is not received by the ~~director of conservation~~ DEPARTMENT at ~~his~~ ITS office in Lansing, Michigan, on or before the fifteenth day of the month following, ~~shall be considered~~ IS delinquent, and notice to that effect shall be mailed ~~such~~ TO THE delinquent person ~~, firm, copartnership, association or corporation~~ by the

~~director~~ DEPARTMENT. Failure to submit a report within 30 days after the close of the month for which a report is required shall be considered as intent to violate ~~the provisions of~~ this section. The license of any person ~~, firm, copartnership, association or corporation~~ who fails to submit reports for 2 or more months, and who has been duly notified by the ~~director of conservation~~ DEPARTMENT each following month as provided ~~herein~~ IN THIS SECTION, may be suspended by the ~~director of conservation~~ DEPARTMENT until such time as the delinquent reports are submitted to ~~him~~ THE DEPARTMENT. The boat and nets for which a license is suspended shall not be used for commercial fishing by any person ~~, firm, copartnership, association or corporation~~ until the suspension has been lifted and the license restored. ~~: Provided, That~~ HOWEVER, any person ~~, firm, copartnership, association or corporation failing~~ WHO FAILS to make the report or reports as ~~above~~ described IN THIS SECTION shall be denied a new license or a renewal of his or ~~their~~ HER license until ~~the provisions of this section of~~ this ~~act have~~ PART HAS been complied with. Any person ~~, firm, copartnership, association or corporation~~ engaged in fishing operations shall submit a monthly ~~blank~~ FORM to the department regardless of whether fishing was discontinued for 1 or more months, noting the facts.

Sec. ~~20a~~ 47326. Every person ~~, firm, company, partnership, copartnership, association or corporation~~ licensed to take fish under ~~the provisions of~~ this ~~act shall~~ PART, at the close of the 24-hour period immediately following the close of

the respective open seasons provided for by this ~~act~~ PART, SHALL report to the ~~director of conservation or his authorized representative~~ DEPARTMENT, on forms provided by ~~him~~ THE DEPARTMENT, the kinds of ~~such~~ fish and number or weight ~~thereof in possession~~ OF FISH POSSESSED at the close of ~~said~~ THE 24-hour period. Any subsequent shipment ~~and/or~~ OR sale, OR BOTH, of such fish shall be reported immediately to the ~~director of conservation or his authorized representative~~ DEPARTMENT, on forms furnished by ~~him~~ THE DEPARTMENT, showing the amount and kinds of fish shipped or sold, the date ~~thereof~~ OF THE SHIPMENT OR SALE, and the name and address of the person or persons to whom THE FISH WERE shipped or sold. All fish in possession upon which the season is closed shall be made available for inspection at any reasonable time upon the demand of the ~~director of conservation or his authorized representative~~ DEPARTMENT. ~~It shall be unlawful to have in possession~~ A PERSON SHALL NOT POSSESS or ~~to~~ ship, transport, or sell any fish upon which the season is closed and which have not been reported as ~~herein~~ provided IN THIS SECTION.

Sec. ~~21~~ 47327. Any person ~~violating any of the provisions of~~ WHO VIOLATES sections ~~1~~ 47301 to ~~20~~ 47325, ~~both inclusive, of this act shall,~~ upon conviction ~~,~~ for the first offense SHALL be punished by IMPRISONMENT FOR NOT MORE THAN 30 DAYS, OR a fine of not less than ~~25 dollars nor~~ $25.00 OR more than ~~100 dollars~~ $100.00 and costs of prosecution, ~~or imprisonment in the county jail for not more than 30 days,~~ or ~~by~~ both. ~~such fine and imprisonment in the discretion of the court;~~

~~and for~~ FOR the second or ~~any~~ A subsequent offense, charged as ~~such~~ A SECOND OR SUBSEQUENT OFFENSE in the complaint, THE PERSON shall be punished by IMPRISONMENT FOR NOT LESS THAN 30 DAYS OR MORE THAN 90 DAYS, OR a fine of not less than ~~50 dollars nor~~ $50.00 OR more than ~~100 dollars~~ $100.00 and costs of prosecution, ~~or by imprisonment in the county jail for not less than 30 days nor more than 90 days,~~ or ~~by~~ both. ~~such fine and imprisonment in the discretion of the court. When~~ IF a fine with costs is imposed under ~~the provisions of~~ this ~~act~~ PART, the court shall sentence the offender to be confined in the county jail until ~~such~~ THE fine and costs are paid, but for a period not exceeding the maximum penalty for the offense.

Sec. ~~22~~ 47328. ~~It shall be unlawful for any~~ A person ~~, firm, company, copartnership, partnership, association or corporation to make~~ SHALL NOT use ~~of~~ any kind of a boat, tug, or launch, ~~(~~ except when used in hook and line fishing, ~~),~~ OR ANY KIND OF net or nets, set hook lines, or commercial trolling rigs for the purpose of taking, catching, killing, or transporting fish in any of the waters bordering on this state, regardless of whether for commercial purposes or for personal use, without first having applied for and been issued a license for ~~same~~ THAT ACTIVITY, in accordance with ~~the provisions of~~ this ~~act. Provided, That no~~ PART. A license, except as otherwise provided by law, ~~shall be~~ IS NOT required of persons engaged in sport trolling in these waters, except that the owners of boats operated with either an inboard or outboard motor and offered for hire in sport trolling for lake trout shall ~~be required to~~

obtain a license for each ~~said~~ boat. ~~: Provided further, That no~~ A license, except as otherwise provided by law, ~~shall be~~ IS NOT required of persons engaged in taking fish with set lines in lake St. Clair as provided in section ~~2 of this act~~ 47302.

Sec. ~~23~~ 47329. (1) ~~Any~~ A person ~~, firm, company, copartnership, partnership, association or corporation~~ desiring a license under ~~the provisions of~~ this ~~act~~ PART shall ~~make~~ SUBMIT AN application ~~therefor~~ FOR THAT LICENSE to the ~~director of conservation~~ DEPARTMENT on oath when required on a ~~blank~~ FORM provided for that purpose by the ~~director of conservation~~ DEPARTMENT, accompanied by the fee ~~hereinafter provided. Such~~ REQUIRED UNDER THIS PART. THE application shall state the name and residence of the applicant, the manner in which he OR SHE proposes to fish, THE name or number of the tug, launch, boat, scow, or skiff, the ~~over all~~ OVERALL length and the gross tonnage ~~thereof~~ OF THE BOAT, the value of the boat, the name of the port from which the boat will operate, ~~and~~ the number and kind of net or nets and hooks or other gear which he OR SHE intends to use, the value of the buildings and grounds, and such other information as may be required for statistical purposes.

(2) AS USED IN THIS SECTION, ~~"Over all~~ "OVERALL length" ~~shall mean~~ MEANS the minimum distance between the extreme outside end of the bow and ~~of~~ the stern considering the nearest whole number of feet. The amount of the license fee to be paid shall be based on the ~~over all~~ OVERALL length of the boat or boats, if a boat is used.

Sec. ~~24~~ 47330. (1) The ~~director of conservation~~ DEPARTMENT, when application is made by any person ~~, firm, company, copartnership, partnership, association or corporation~~ in accordance with section ~~23~~ 47329, shall issue the license provided for in this ~~act~~ PART upon payment by the applicant, if a resident of this state, of the following fees:

(a) For fishing with set hook lines or nets, with or without a boat not exceeding 16 feet in overall length, or a boat used in sport trolling for lake trout for hire, $16.00 per year. Any person ~~, firm, company, copartnership, partnership, association or corporation~~ using more than a single crew consisting of not ~~to exceed~~ MORE THAN 4 ~~men~~ PEOPLE in fishing nets or hooks under the ice shall secure a license for each crew MEMBER. The ~~director of conservation~~ DEPARTMENT, upon proper application, ~~therefor,~~ shall issue with each license to fish nets or set hook lines under the ice 4 identification cards bearing the number of the license and the year for which issued. Each member of a single crew engaged in the setting, lifting, or pulling of nets, set hook lines, or other devices, set under the ice under authority of the license, shall carry ~~such~~ THE card on his OR HER person at all times while so engaged and upon demand of any conservation officer shall exhibit ~~such~~ THE card. Minnow seines and dip nets are exempt from ~~the provisions of~~ this section.

(b) For each rowboat, sailboat, powerboat, motorboat, steamboat, or scow used in catching, killing, taking, or transporting fish caught with nets, set hook lines, or trolling

rigs, $3.00 per foot overall length, and $1.00 per ton additional for each ton over 10 gross tons. ~~No~~ A license ~~shall be~~ IS NOT required for a scow used only in transporting nets. Each license for a boat propelled by sail, steam, gas, or other mechanical power ~~shall entitle~~ ENTITLES the licensee to operate a rowboat not exceeding 16 feet in overall length. Each ~~such~~ rowboat shall bear the same identification as the boat for which the license is issued and shall be used only while attending ~~said~~ THE boat. ~~No~~ A resident person ~~, firm, company, copartnership, partnership, association or corporation~~ shall NOT pay less than $50.00 or more than $200.00 on any 1 boat in any 1 license year.

(2) ~~If~~ FOR a nonresident of this state, the fee shall be 5 times the fee required of a resident in accordance with the schedule prescribed in this section. ~~Beginning in the year 1966, there will be a ban on the issuance of licenses~~ A LICENSE under section ~~23 to nonresidents~~ 47329 SHALL NOT BE ISSUED TO A NONRESIDENT for fishing in Lake Erie and Lake Huron except at the discretion of the ~~conservation director~~ DEPARTMENT.

(3) For the purpose of this ~~act~~ PART, a nonresident ~~shall be deemed to be~~ IS any person who has not actually resided in this state for 3 years immediately prior to the date of application for a license, ~~or,~~ any person applying for a license for use of nets or a boat registered or of record at a port outside of the state, or ~~,~~ any firm, company, copartnership, partnership, association, or corporation in which any of their stock, boats, nets, and fishing equipment has been owned by nonresident

persons at any time during the 3 years immediately prior to the date of application for a license.

Sec. ~~25~~ 47331. (1) Upon the payment of the fee provided for in section ~~24~~ 47330, the ~~director of conservation~~ DEPARTMENT shall have prepared and shall issue to ~~persons, firms or corporations~~ A PERSON entitled to the same, a printed or written license signed by ~~him,~~ THE DEPARTMENT setting forth the date of issuing the ~~same~~ LICENSE, to whom issued, the date on which it will expire, the name or number, and the kind of boat, tug, OR launch, ~~(~~ INCLUDING THE number of and kind of ~~)~~ net or nets for which ~~said~~ THE license was issued. ~~: Provided, That the director of conservation~~ THE DEPARTMENT shall also issue, with the license, a suitable tag bearing the license number and the year for which issued which must be attached to the boat to facilitate identification. ~~: And provided, That the director of conservation~~ THE DEPARTMENT, upon application ~~therefor~~ and the payment of a fee of $1.00, may DO 1 OR MORE OF THE FOLLOWING:

(a) Permit the transfer of ~~said~~ A license to a larger or a smaller boat or to any boat, tug, or launch during ~~such~~ A period of time ~~as such~~ THAT THE licensed boat, tug, or launch ~~shall be~~ IS disabled and undergoing repairs.

(b) In case of the sale or the transfer of the title of any licensed boat, transfer the license to the new owner or owners. ~~: Provided, That if such~~ HOWEVER, IF THE sale or transfer ~~shall be~~ IS to a ~~non resident~~ NONRESIDENT as determined by the preceding sections, then the difference between the fee for a

resident license and a ~~non-resident~~ NONRESIDENT license ~~must~~ SHALL also be paid.

(c) In case of the loss of a vessel by fire, collision, or otherwise, for which a license has been issued, transfer the license to any similar boat to which the licensee may acquire title.

(2) Whenever a license is transferred to a larger boat, the difference between the fee paid for the license and the fee required by this ~~act~~ PART for ~~such~~ THAT boat shall also be paid. ~~No~~ A refund shall NOT be made when A license is transferred to a smaller boat. ~~: Provided, That~~ HOWEVER, any boat to which a license has been transferred as ~~herein~~ provided IN THIS SECTION shall be used in THE taking, catching, or killing of fish or in the setting or pulling of nets, set hook lines, or other commercial fishing devices, only within a radius of 50 miles of the port designated in the license as originally issued, and not more than 1 license shall be issued for any 1 boat in any 1 calendar year. ~~: Provided, however, That the~~ THE owner of any licensed boat acquired from the estate of a deceased licensee or as a result of bankruptcy proceedings may, in addition to having the license transferred in his OR HER name, have a port of his OR HER choice designated in ~~such~~ THE license.

Sec. ~~26~~ 47332. All licenses in effect after July ~~first~~ 1, 1946 ~~shall~~ expire on ~~the thirty-first day of~~ December 31 in the calendar year for which issued. ~~: Provided, That~~ HOWEVER, any license which expires December ~~thirty-first~~ 31, 1946, shall be issued for 1/2 the fee prescribed in section ~~24~~

~~of this act~~ 47330. The ~~director of conservation~~ DEPARTMENT shall keep a record of all applications and licenses. On the first day of each month, the ~~director of conservation~~ DEPARTMENT shall pay over to the ~~auditor general~~ STATE TREASURER all ~~moneys~~ MONEY received by ~~him~~ THE DEPARTMENT under ~~the provisions of~~ this ~~act~~ PART, and ~~said moneys~~ THE MONEY shall be credited to the game and fish protection fund CREATED IN PART 435 and shall be disbursed by the ~~auditor general~~ STATE TREASURER for services of the ~~director of conservation and his deputies and their~~ DEPARTMENT AND THE DEPARTMENT'S expenses in enforcing the commercial fishing laws, for the protection and propagation of fish, and for the purchase of patrol boats and other apparatus to be used for that purpose, and as otherwise provided by law.

Sec. ~~26a~~ 47333. (1) Every person ~~, firm, company, copartnership, partnership, association or corporation~~ who deals in fish by operating a wholesale fish market or fish house, or who solicits the purchase of or ~~who~~ buys fish for wholesale distribution, shall secure a license from the ~~director of conservation~~ DEPARTMENT. ~~Every such~~ EACH license shall expire on ~~the thirty first day of~~ December 31, and the fee for ~~such~~ THE license ~~shall be 5 dollars~~ IS $5.00.

(2) ~~No~~ A person ~~, firm, company, copartnership, partnership, association or corporation~~ holding a license under the provisions of this section shall NOT transport or cause to be transported, or deliver or receive for transportation, any package or parcel containing any fish or carcass or part

~~thereof~~ OF ANY FISH OR CARCASS unless the ~~same~~ PACKAGE OR PARCEL is labeled in plain English on the address side of ~~such~~ THE package or parcel so as to disclose the name and address of the consignor, the name and address of the consignee, and the number of pounds of each kind of fish contained in ~~such~~ THE package or parcel.

(3) Any person ~~, firm, company, copartnership, partnership, association or corporation~~ licensed under ~~the provisions of~~ this section may, at any time, sell, purchase, or barter, or have in his OR HER possession ~~,~~ or under his OR HER control ~~,~~ for the purpose of sale or barter, any commercial fish. ~~: Provided, That~~ HOWEVER, the provisions of section ~~14 of this act~~ 47319 shall at all times be observed. Each person ~~, firm, company, copartnership, partnership, association or corporation~~ shall keep a separate record of the purchase of ~~such~~ fish in ~~such~~ A form as ~~shall be~~ required by the ~~director of conservation, and such~~ DEPARTMENT. THE record shall at all times be open to inspection by the ~~director of conservation or his representatives~~ DEPARTMENT.

Sec. ~~27~~ 47334. Any person ~~, persons, firm, company, copartnership, partnership, association or corporation violating any of the provisions of~~ WHO VIOLATES sections ~~22~~ 47328 to ~~26 a, both inclusive, of this act shall be deemed~~ 47333 IS guilty of a misdemeanor and upon conviction ~~thereof~~ for the first offense shall be punished by IMPRISONMENT FOR NOT MORE THAN 60 DAYS, OR a fine of not less than ~~25 dollars nor,~~ $25.00 OR more than ~~100 dollars, together with~~ $100.00 AND THE costs of

prosecution, ~~or by imprisonment in the county jail for a period not exceeding 60 days~~ or ~~by~~ both. ~~such fine and imprisonment in the discretion of the court: Provided, however, That each~~ EACH violation ~~shall be deemed~~ IS a separate and distinct offense. In addition to the penalties ~~herein~~ provided IN THIS SECTION, the license of any person ~~, firm, company, copartnership, partnership, association or corporation~~ convicted of violating section ~~26 a of this act~~ 47333 may be revoked by the ~~director of conservation~~ DEPARTMENT.

Sec. ~~29~~ 47335. ~~It shall be unlawful for any~~ A person ~~or persons to~~ SHALL NOT take or catch fish of any kind with gill nets, pound nets, trap nets, seines, or other device of any kind except with hook and line and spear in the waters of ~~lake~~ LAKE Superior within a radius of 1/2 mile from the mouth of the Two Hearted river located in T 50 N, R 9 W, Luce county.

Sec. ~~30~~ 47336. ~~Grand Traverse bay. It shall be unlawful to~~ A PERSON SHALL NOT take or attempt to take fish with seines or nets of any kind in ~~all~~ that part of Grand Traverse bay lying southerly of a line drawn due east and west through Mission Point light, Grand Traverse county, said waters being further described as the east arm and the west arm of Grand Traverse bay. ~~: Provided, That it shall be lawful to~~ A PERSON MAY take chubs with gill nets in any part of Grand Traverse bay where the depth of water exceeds 300 feet.

Sec. ~~30a~~ 47337. ~~It shall be unlawful to~~ A PERSON SHALL NOT take or catch, or attempt to take or catch, any species of fish with gill nets, pound nets, trap nets, seines, set hook

lines, or any other device whatsoever, except a hook and line and spear as permitted by law, or ~~to~~ set any such nets, seines, set hook lines, or devices, in the waters of Lake Michigan within a radius or distance of 2 miles from Charlevoix south pierhead light, located at the mouth of the Pine river in Charlevoix county.

Sec. ~~31~~ 47338. ~~It shall be unlawful to~~ A PERSON SHALL NOT set ~~,~~ or use any kind of a net mentioned in this ~~act~~ PART, except seines in the taking of noxious fish, within a radius of 1/2 mile of any public dock or pier from which the public is not excluded from fishing with hook and line. ~~:~~ ~~Provided, That it shall be lawful to~~ HOWEVER, A PERSON MAY set nets under the ice for the purpose of taking all fish, except perch, within the 1/2 mile radius of any such dock or pier. Public docks for the purpose of this ~~act shall be held to~~ PART include all docks except docks owned by individuals and used exclusively for their own boats. ~~: Provided, That the provisions of this~~ THIS section ~~shall~~ DOES not apply to St. James Harbor, Beaver Island, AND Charlevoix county.

Sec. ~~32~~ 47339. AS USED IN THIS PART, "Saginaw bay" ~~, for the purpose of this act, shall be defined as all~~ MEANS those waters lying inside of a line drawn from Tawas point lighthouse in Iosco county to a monument which shall be erected by the ~~director of conservation~~ DEPARTMENT on Oak point in Huron county, including the waters of Tawas bay, ~~wherein~~ IN WHICH AREA nets may be set and used as provided by law. ~~, except that~~

~~no~~ HOWEVER, nets shall NOT be set or used IN ANY OF THE FOLLOWING LOCATIONS:

(a) Within that area between the shoreline and a line drawn from a monument which shall be erected by the ~~director of conservation~~ DEPARTMENT on Fish point in Tuscola county to a monument which shall be erected by ~~said director~~ THE DEPARTMENT on the westerly point of Stony island, thence to a monument which shall be erected by ~~said director~~ THE DEPARTMENT on the westerly point of North island, thence to a monument which shall be erected by ~~said director~~ THE DEPARTMENT on the westerly end of Sand point in Huron county. ~~: Provided, That~~ HOWEVER, nets may be used in that part of this area lying southerly of the south line of section 21, town 16 north of range 9 east, extending due west. ~~: Provided further, That seines~~ SEINES not exceeding 5 feet in depth and 100 rods in length may be used in that part of this area lying northerly of the south line of section 21, town 16 north, range 9 east, extending due west, for the taking of noxious fish. ~~;~~

(b) Within that area enclosed within and bounded by the following lines: beginning at the monument on Sand point ~~herein~~ described IN SUBDIVISION (A), thence for a distance of 1 mile along a line drawn from ~~said~~ THAT monument to a monument to be erected by the ~~director of conservation~~ DEPARTMENT on the easterly point of Little Charity island, thence 218 degrees along a line to a point where it would intersect a line drawn from the Gravelly point shoal lighthouse to the monument on North island ~~herein~~ described IN SUBDIVISION (A), thence southeasterly along

the latter line to the ~~said~~ monument on North island, thence northeasterly to the point of beginning; the object being to provide a channel approximately 1 mile in width for the free passage of fish.

(c) Within that area of Tawas bay bounded on the south by a line extending from the U.S. fog signal building on Tawas point due west to the mainland.

Sec. ~~33a~~ 47340. ~~No~~ A person shall NOT drive ~~any~~ stakes for fishing purposes, ~~nor~~ OR set, place, or extend any pound, trap, stake, or set net of any kind, or any other device, except hook and line and spear as permitted by law, ~~for the purpose of taking~~ TO TAKE or ~~catching~~ CATCH fish in the waters of Marquette Bay, beginning with a line from the Presque Isle breakwater on the S.S.E. period line to east side of section 8 opposite the mouth of the Chocolay river.

Sec. ~~33b~~ 47341. Commencing June 15, 1962, ~~it shall be unlawful to~~ A PERSON SHALL NOT place or set any kind of net or set hook lines or take or attempt to take any kind of fish with a net or set hook line in the waters of east bay and west bay, Grand Marais harbor, and in the waters of Lake Superior within 2 miles on either side of the range lights at the entrance to Grand Marais harbor, extending out to 30 fathoms of water, all in Alger county, Michigan.

Sec. ~~34~~ 47342. ~~False Presque Isle bay, Lake Huron. It shall be unlawful to~~ A PERSON SHALL NOT set nets or seines of any kind or description west of a certain line commencing at the 1/4 post between sections 13 and 24 in town 33 north, range 8

east; thence north across the bay of False Presque Isle to 1/4 post between sections 12 and 13 in said town 33 north, range 8 east, in Presque Isle county. ~~, at any time from and after the passage of this act.~~

Sec. ~~34a~~ 47343. ~~It shall be unlawful to~~ A PERSON SHALL NOT take or attempt to take fish with seines, set hook lines, or nets of any kind in the waters of Presque Isle harbor and that portion of ~~lake~~ LAKE Huron within a line drawn between Presque Isle light in section 8, town 34 north, range 8 east, and South Albany Point in section 22, town 34 north, range 8 east, Presque Isle county.

Sec. ~~35~~ 47344. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT catch or take fish of any kind with A net ~~,~~ or other device of any kind, except hook and line and spear as permitted by law, from that part of Thunder Bay in Lake Huron, lying inside, or south and west of a straight line extending from the mouth of Thunder Bay river to the center of Surplur Island; thence south and east to the north and south line between sections 20 and 21 in township 29 north, of range 9 east, in the state of Michigan, where said line intersects the waters of the said lake, excepting therefrom that part of said Thunder Bay in front of sections 2, 11 and 12 in township 29 north, of range 8 east, and sections 34 and 35 in township 30 north, of range 8 east. ~~: Provided, That~~ HOWEVER, no net or other device of any kind, except hook and line and spear as permitted by law, shall be used by any person to take or catch fish in that part of the waters of said Thunder Bay within 1/2 mile of the mouth in any

direction of any stream that discharges its waters into that portion of said Thunder Bay.

Sec. ~~36~~ 47345. ~~Whitney bay. No~~ A person ~~or persons~~ shall NOT fish with, use, or set any seines, gill nets, or any form of pound, trap, sweep, or set nets, or any ~~like~~ SIMILAR device for taking fish in Whitney bay or any waters tributary ~~thereto~~ TO THAT BAY in the township of Drummond, county of Chippewa.

Sec. ~~36a~~ 47346. ~~It shall be unlawful for any~~ A person ~~or persons to~~ SHALL NOT take or catch fish of any kind ~~,~~ with gill nets, trap nets, pound nets, seines, or other device of any kind, except hook and line, in that part of upper Lake Huron known as Pike Bay and Island Harbor within a line drawn from the most southerly point of section 17, town 41 north, range 5 east, on Drummond Island to the most westerly point of Espanore Island; thence southerly and easterly along the shore to the most southerly point of said Espanore Island; thence due east to the mainland of Drummond Island. ~~: Provided, That it shall be lawful to~~ HOWEVER, A PERSON MAY use spears through the ice of ~~such~~ THOSE waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

Sec. ~~37~~ 47347. ~~It shall be unlawful for any~~ A person ~~or persons to~~ SHALL NOT take or catch fish of any kind ~~,~~ with gill nets, trap nets, seines, or other device of any kind, except

hook and line and spear as permitted by law, in that part of the Straits of Mackinac, within 1 mile from the ~~shore line~~ SHORELINE, from a point where the section line between sections 22 and 23, town 40 north, of range 4 west intersects the Straits of Mackinac, and running from there easterly to where the west line of the city limits of the city of St. Ignace intersects the Straits of Mackinac, and within 1/2 mile from there easterly and northerly to where the north line of the city of St. Ignace intersects Lake Huron or the Straits of Mackinac.

Sec. ~~38~~ 47348. (1) ~~It shall be unlawful hereafter to~~ A PERSON SHALL NOT fish with seines, gill nets, or any form of trap nets, or in any manner ~~,~~ except by hook and line, the channels known as the Les Cheneaux channels, in Mackinac county, or in the entrances ~~thereto,~~ TO THE CHANNELS or in the waters adjacent ~~thereto~~ TO THE CHANNELS, within a line drawn as follows: Beginning at the southerly extremity of the point of land on the easterly side of Dudley bay; running thence southwesterly in a straight line to the southeasterly extremity of Beaver Tail Point; thence westerly in a straight line to the southeasterly point of Crow island; thence southwesterly in a straight line to the extreme southeasterly point of Boot island; thence southwesterly in a straight line to Point Fuyards; thence northwesterly in a straight line to the extreme southerly part of St. Martin's Point. ~~: Provided, That~~ HOWEVER, pound nets of legal mesh and size, for the taking of whitefish and lake trout, may be set and used in any place in ~~said~~ THE protected waters, except in that portion of Prentice bay lying north of a line drawn from the

south end of Scotty's Point to the south end of Whitefish Point and in the channels known as the Les Cheneaux channels, in Mackinac county, or in the entrances ~~thereto~~ TO THE CHANNELS, lying west of the east line of section 34, in town 42 north, range 1 east, said line running north and south. ~~: And provided further,~~ Gill nets of not more than 150 feet in length and of the size mesh established in section ~~5 of this act~~ 47309 for taking herring and menominees ~~,~~ may be legally used and set in ~~said~~ THE protected waters, at any place or places where nets for the taking of whitefish and lake trout are permitted by this ~~act~~ PART, during the months of January, February, and March of each year, for the purpose of taking herring and menominees for commercial purposes. ~~: And provided further, That it shall be lawful to~~ A PERSON MAY use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike. ~~: And provided further, That if any~~ IF perch, black bass, northern pike, or pike-perch ~~,~~ are taken in any of the ~~aforesaid~~ nets DESCRIBED IN THIS SECTION used for the taking of whitefish and lake trout, menominee, or herring, as permitted by this ~~act~~ PART, they shall be immediately released and placed back in the water.

(2) ~~It shall be unlawful for any one~~ A person ~~to~~ SHALL NOT take more than 50 perch by hook and line and spear from ~~said protected~~ waters DESCRIBED IN THIS SECTION, in any ~~one~~ 1 day,

and the sale of any perch, black bass, northern pike, or pike-perch caught or taken from ~~said~~ THOSE protected waters ~~,~~ by hook and line and spear, is ~~hereby prohibited and made~~ unlawful.

Sec. ~~38a~~ 47349. ~~It shall be unlawful for any~~ A person ~~or persons to~~ SHALL NOT take or catch fish of any kind ~~,~~ with gill nets, pound nets, trap nets, seines, or other device of any kind, except a hook and line, in those waters of upper Lake Huron within the following boundaries: Beginning at a point where the north line of town 41 north intersects the shore of the mainland south of the village of Detour, in Chippewa county; thence due east to Drummond Island; thence northerly and easterly along the shore of Drummond Island to a point where the section line between sections 23 and 24, town 43 north, range 6 east, on Poe Point, meets the waters edge; thence northwesterly to a point on the international boundary line where it intersects a line drawn due north from the most westerly end of Chippewa Point; thence due north to the international boundary line; thence westerly along said international boundary line to a point where it intersects a line drawn due east through the most southerly point of Little Lime Island; thence due west from said point to the mainland; thence following the shore of the mainland southeasterly to the point of beginning. ~~: Provided, That~~ HOWEVER, nets with meshes not less than 4-1/2 inches and set hook lines may be used from December ~~15th~~ 15 to April ~~1st, inclusive,~~ 1 OF each year in these waters except in that portion of Potagannissing Bay lying southerly of a line drawn from the most northerly part of

Dix Point on section 19, town 42 north, range 5 east, to Chippewa Point on section 30, town 43 north, range 6 east, on Drummond Island, Chippewa county, where no device for taking fish other than a hook and line shall be used at any time. ~~: Provided further, That it shall be unlawful for any~~ A person ~~or persons to~~ SHALL NOT take or catch fish of any kind ~~,~~ with gill nets, pound nets, trap nets, seines, or other device of any kind, except a hook and line, in the waters on the south side of Drummond Island lying north of a line beginning at the most southerly part of Cream City Point on section 22, town 41 north, range 5 east, thence easterly to Traverse Point, thence easterly to Scammon Point, thence southeasterly to the most southerly part of Long Point on section 29, town 41 north, range 7 east. ~~: And provided further, That it shall be lawful to~~ A PERSON MAY use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

Sec. ~~39~~ 47350. ~~It shall be unlawful for any~~ A person ~~or persons to~~ SHALL NOT take or catch fish of any kind ~~,~~ with gill nets, trap nets, seines, or other device of any kind, except hook and line and spear as permitted by law, and except the dipping of minnows, as defined ~~by section 1 of chapter 4 of Act No. 165 of the Public Acts of 1929, as amended, being section 304.1 of the Compiled Laws of 1948~~ IN SECTION 48728, by hand net

and the taking of minnows by glass trap, in that part of Little Traverse bay on ~~lake~~ LAKE Michigan, lying east of the line common to sections 9 and 10, township 34 north, of range 6 west, extended northerly across the bay to meet the line common to sections 9 and 10, township 35 north, of range 6 west, all in Emmet county. Minnows ~~as defined by section 1 of chapter 4 of Act No. 165 of the Public Acts of 1929, as amended, being section 304.1 of the Compiled Laws of 1948,~~ may be taken or caught from the waters above-described by use of a seine, hand net, or glass trap except seines may not be used within 100 feet of any public dock from which the public is not excluded from fishing with hook and line.

Sec. ~~40~~ 47351. ~~No~~ A person ~~or persons~~ shall NOT fish with, use, or set any seines, gill nets, or any form of pound, trap, sweep, or set nets, or any like device, or use any spear, night line, or set line for taking fish in any of the waters of this state known as Little Bay de Noquette, which ~~within the meaning of this act shall be defined as~~ MEANS those waters of Little Bay de Noquette ~~,~~ and tributaries north from a line drawn from the extreme end of Saunders' Point on the west shore to the extreme end of Squaw Point on the east shore. ~~:~~ ~~Provided, however, It shall hereafter be lawful~~ HOWEVER, A PERSON MAY from ~~the 15th day of~~ December 15 to ~~the 1st day of~~ April 1 ~~, inclusive,~~ of each year ~~, to~~ take suckers in any of the waters ~~above~~ described IN THIS SECTION by means of pound nets, ~~provided that such~~ IF THE pound nets ~~shall be~~ ARE lifted only under the supervision of representatives of the

department. ~~of conservation: Provided further, That it shall be lawful to~~ A PERSON MAY use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

Sec. ~~40a~~ 47352. ~~It shall be unlawful for any~~ A person ~~or persons to~~ SHALL NOT take or catch fish of any kind with gill nets, pound nets, trap nets, seines, or other device of any kind, except hook and line and spear as permitted by law, in the waters of Garden Bay on Lake Michigan within a radius of 1-1/4 miles from the mouth of Garden Creek, Delta county. ~~: Provided, That~~ HOWEVER, nets as used in Big Bay De Noc for taking smelt may be used also in Garden Bay to take smelt ~~when and where~~ IF they do not take or injure any other species of fish.

Sec. ~~40b~~ 47353. ~~It shall be unlawful~~ A PERSON SHALL NOT in the waters of this state ~~,~~ known as Little Bay de Noquette and Big Bay de Noquette, and that part of Green Bay lying north of a line drawn from the point where the south boundary of Delta county (being the south line of township 37 north) meets the west shore of Green Bay, thence easterly to the most southerly point of St. Martin Island, thence northeasterly through the most southeasterly point of Poverty Island to the most southeasterly point of Summer Island (also called Big Summer Island), thence northerly along the shore of Summer Island to the most easterly

point thereof, thence northerly to the navigation buoy off the south end of Point Detour:

(a) ~~To fish~~ FISH, set, use, or maintain in the water any pound net designed for the impounding of fish, unless ~~it be~~ THE POUND NET IS held in place solely by 10 or more stakes driven firmly into the ground beneath the water. ~~;~~

(b) ~~To fish~~ FISH, set, use, or maintain any pound net in water having a depth greater than 50 feet. ~~;~~

(c) ~~To fish~~ FISH, set, or have in the water any trap net, hoop net, fyke net, drop net, or gobbler net at any time from April 15 to May 20. ~~, both dates inclusive;~~

(d) ~~To fish~~ FISH, set, use, maintain, or permit to remain in the water any net of any description, except minnow seines, between July 1 and September 10, ~~both dates inclusive,~~ in whole or in part within any of the areas described as follows:

(*i*) ~~(1)~~ In Big Bay de Noquette north of a line from the southernmost tip of Porcupine Point to the westernmost tip of Valentine Point. ~~;~~

(*ii*) ~~(2)~~ In Little Bay de Noquette between the westerly shore and a line drawn from the extreme end of Saunders Point to the extreme end of Squaw Point and thence to the mouth of the channel into the Gladstone yacht harbor. ~~;~~

(*iii*) ~~(3)~~ In Little Bay de Noquette and Green Bay between the westerly shore and a line drawn from the most easterly point on Portage Point 1 and 1/2 miles south, thence in a general southerly direction parallel to the westerly ~~shore line~~ SHORELINE and 1 and 1/2 miles out from shore to a point where the

township line between town 37 n and 38 n, r 23 w intersect, thence west to the shore.

(e) ~~The provisions of paragraphs (a) and (b) of this section shall~~ SUBDIVISIONS (A) AND (B) DO not apply to or restrict the fishing, setting, use, or maintenance of pound nets otherwise lawfully used for the taking of smelt or herring during the winter months under the ice.

Sec. ~~41~~ 47354. ~~It shall be unlawful to~~ A PERSON SHALL NOT take, catch, or attempt to take or catch any fish with seines, gill nets, or any form of pound or trap nets or in any manner except by the use of hook and line and spear as permitted by law in the waters of L'Anse bay, which ~~within the meaning of this act~~ are defined as follows: South of an east and west line beginning at the meander corner between sections 25 and 36, township 51 north, range 33 west, and extending west to the meander corner between section 27 and section 34, township 51 north, range 33 west. In the remaining waters of ~~lake~~ LAKE Superior inside of a line extending from Manitou light on Manitou island, Keweenaw county, to the Huron island light on west Huron island and thence to the mouth of the Huron river in township 52 north, range 29 west, Marquette county, excluding Huron bay as defined in section ~~42 of this act, it shall be unlawful~~ 47356, from January 1 to October 31 in each year ~~to~~ A PERSON SHALL NOT set or use in waters between 120 feet in depth and 300 feet in depth any gill net with meshes less than 4-1/2 inches, except for taking herring when the net is floated so that the lower line ~~thereof~~ OF THE NET is not more than 42 feet below the surface

of the water, and for the taking of bait for set hook lines in accordance with section ~~5 of this act~~ 47309.

Sec. ~~41a~~ 47355. ~~It shall be unlawful to~~ A PERSON SHALL NOT take, catch, or attempt to take or catch any fish with seines, gill nets, or any form of pound nets or trap nets or in any manner except by the use of hook and line in those waters of Houghton county, commencing at the northerly entrance to Portage Lake and extending through Portage Lake ship canal and within 1/2 mile in all directions from the canal entrance inside of the breakwaters. ~~: Provided, That it shall be lawful to~~ HOWEVER, A PERSON MAY use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, nothern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

Sec. ~~42~~ 47356. ~~It shall be unlawful to~~ A PERSON SHALL NOT take, catch, or attempt to take or catch any fish with seines, gill nets, or any form of pound or trap nets or in any manner except by the use of hook and line in the waters of Huron bay, which within ~~the meaning of~~ this ~~act are defined as follows~~ PART MEAN: South of an east and west line beginning at the meander corner between sections 14 and 23, township 52 north, range 31 west, and running west to the meander corner between sections 15 and 22, township 52 north, range 31 west, Baraga county. ~~It shall be lawful to~~ A PERSON MAY use spears through the ice of ~~such~~ THOSE waters during the months of January,

February, and March for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike.

Sec. ~~44~~ 47357. ~~Duncan Bay. It shall be unlawful for any~~ A person ~~to make~~ SHALL NOT use ~~of~~ any kind of a net, set hook line, or other device for the purpose of taking or catching fish in the waters of Duncan Bay, Lake Huron, which ~~within the meaning of~~ AS USED IN this ~~act shall be defined as~~ PART MEAN all those waters of ~~said~~ Duncan Bay, Lake Huron, lying south of a line drawn west from Cheboygan Point lighthouse on Lighthouse Point to a point where the easterly boundary line of Beaugrand township meets the westerly boundary line of the corporate limits of the city of Cheboygan extended due north would intersect the waters of Lake Huron. ~~: Provided, however, That it shall be lawful to~~ HOWEVER, A PERSON MAY take or catch fish in these closed waters with hook and line or spears in accordance with the laws of ~~the~~ THIS state. ~~of Michigan.~~

Sec. ~~45~~ 47358. ~~It shall be unlawful for any~~ A person ~~or persons to~~ SHALL NOT take or catch fish of any kind in any manner except with hook and line and spear as permitted by law in any of the waters of Munising and Murray bays of Lake Superior which ~~within the meaning of~~ AS USED IN this ~~act shall be defined as all of~~ PART MEAN those waters of ~~said~~ Munising and Murray bays of Lake Superior lying westerly of a line drawn from Sand Point in section number 19, town 47 north, range 18 west, to

the eastern end of the eighth line dividing lots 1 and 2 in the northeast quarter of section number 24, town 47 north, range 19 west, and easterly of a line drawn from the southern end of the quarter line between lots 2 and 3 of section number 22, town 47 north, range 19 west, to the northern end of the quarter line between lots number 2 and 3 in section number 27, town 47 north, range 19 west, ~~: Provided, That~~ AND fish so taken shall not be bought or sold.

Sec. ~~46~~ 47359. The taking of minnows ~~,~~ as defined ~~by section 1 of chapter 4 of Act No. 165 of the Public Acts of 1929, as amended,~~ IN SECTION 48728 and other small fish for bait with nets not otherwise prohibited by law ~~shall~~ IS not ~~be considered~~ a violation of this ~~act~~ PART.

Sec. ~~47~~ 47360. Nothing contained in this ~~act shall be deemed as authorizing~~ PART AUTHORIZES the taking, selling, or transporting of fish, ~~or~~ the use of illegal nets, or the setting of nets at a place ~~,~~ or places ~~,~~ or AT times ~~, or~~ otherwise forbidden by law.

Sec. ~~48~~ 47361. ~~Any~~ A person ~~violating any of the provisions of~~ WHO VIOLATES sections ~~28~~ 47335 to ~~47 of this act shall be deemed~~ 47360 IS guilty of a misdemeanor, ~~and upon conviction thereof shall be punished~~ PUNISHABLE by IMPRISONMENT FOR NOT MORE THAN 30 DAYS, OR a fine of not less than $10.00 ~~nor~~ OR more than $100.00 and costs of prosecution, ~~or imprisonment in the county jail not to exceed 30 days,~~ or both. ~~such fine and imprisonment.~~ The license of any person ~~or persons, firm, company, copartnership, partnership, association or corporation~~

convicted of 3 violations of this ~~act~~ PART or other acts OR PARTS regulating commercial fishing in any 1 license year ~~,~~ shall be automatically revoked and canceled for the balance of the license year for which issued, and SUCH A revocation ~~shall prohibit the~~ PROHIBITS THE use of boats, nets, or other gear by any person ~~, firm, copartnership, association or corporation~~ during the balance of the year for which THE license was issued.

Sec. ~~50~~ 47362. ~~Nothing in this act~~ THIS PART shall NOT be construed to repeal ~~Act No. 350 of the Public Acts of 1865~~ PART 479.

~~Sec. 51. All suits, actions or proceedings for the violation of any law now in force, which may be started before this act takes effect, shall not be thereby abated, and may be prosecuted in the same manner and with like effect as though this act had not been passed.~~

~~Part 475. Fish Hatcheries to Restock the Great Lakes~~

PART 475 FISH HATCHERIES FOR RESTOCKING THE GREAT LAKES

Sec. ~~1~~ 47501. The ~~conservation commission~~ DEPARTMENT may plan the establishment of fish hatcheries for the propagation and cultivation of pickerel, trout, and whitefish for restocking the ~~great lakes which~~ GREAT LAKES THAT border ~~the~~ THIS state ~~of Michigan.~~

~~Sec. 2. There is hereby appropriated from the game and fish fund of the state of Michigan for the fiscal year ending June 30, 1957, the sum of $5,000.00, for the purpose of carrying out the provisions of this act.~~

~~Sec. 3. The amounts hereby appropriated shall be paid out of the state treasury and the expenditures thereof shall be accounted for at such time and in such manner as is or may be provided by law.~~

~~Part 477. Fish Restoration and Management Projects~~

PART 477 FISH RESTORATION AND MANAGEMENT PROJECTS

Sec. ~~1~~ 47701. The ~~conservation commission is hereby authorized, empowered, and directed to~~ DEPARTMENT MAY perform ~~such~~ acts as may be necessary to the ~~conduct and~~ establishment AND MANAGEMENT of fish restoration, management, and research projects and areas in cooperation with the federal government as defined in ~~the act of congress, entitled "An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950, (Public Law 681, 81st Congress),~~ CHAPTER 658, 64 STAT. 430, 16 U.S.C. 777 TO 777e, 777f TO 777i, AND 777k TO 777*l*, COMMONLY KNOWN AS THE FEDERAL AID IN FISH RESTORATION ACT, and with rules and regulations promulgated by the UNITED STATES secretary of the interior ~~thereunder~~ UNDER THAT ACT; and in compliance with ~~said~~ THAT act, ~~no~~ funds accruing to the state ~~of Michigan~~ from license fees paid by ~~fishermen~~ ANGLERS shall NOT be used for any purpose other than fish and game activities under the administration of the ~~conservation~~ department.

~~Part 479. Fisheries~~

PART 479 FISHERIES CONTAMINATION

Sec. ~~2~~ 47901. All fish, offal, or filth ~~of any description~~ accruing from the catching and curing of fish ~~,~~

shall be burned or buried AT LEAST 10 rods ~~distant~~ AWAY from the beach or shore of any stream, pond, or lake.

Sec. ~~8~~ 47902. The COUNTY board of ~~supervisors~~ COMMISSIONERS of each county, or a majority of ~~them~~ THE COUNTY BOARD OF COMMISSIONERS, shall grant, on the application of ~~any transient or non resident~~ A NONRESIDENT person, ~~or persons,~~ a written ~~permission or~~ 1-YEAR license, ~~for 1 year,~~ for each ~~and every~~ pound or trap net used, ~~on~~ UPON payment of ~~50 dollars legal money~~ $50.00. ~~All persons concerned in the breach of this act,~~ A PERSON WHO VIOLATES THIS PART shall forfeit the sum of ~~100 dollars~~ $100.00, ~~with~~ AND all costs of suit. ~~It shall be the duty of the~~ THE COUNTY board of ~~supervisors~~ COMMISSIONERS, or a majority of ~~them, to~~ THE COUNTY BOARD OF COMMISSIONERS, SHALL enforce ~~the provisions of~~ this ~~act,~~ PART, and all ~~moneys~~ MONEY accruing from fishing licenses and forfeitures ~~,~~ shall be paid ~~over~~ to the county treasurer.

Sec. ~~10~~ 47903. ~~It shall be unlawful for any~~ A person ~~or persons to~~ SHALL NOT put into ~~said waters~~ ANY STREAM, POND, OR LAKE any sand, coal, cinders, ashes, log slabs, decayed wood, bark, sawdust, or filth. ~~It is further provided that it shall be unlawful for any person or persons, or any~~ A boat owner, ~~or~~ A captain of any boat or vessel, ~~to~~ OR ANY OTHER PERSON SHALL NOT run into or molest any pond net, trap net, or other stationary ~~nets~~ NET or ~~fixtures~~ FIXTURE set in any lake for fishing purposes.

Sec. ~~11~~ 47904. ~~Any~~ A person ~~or persons offending against the provisions of~~ WHO VIOLATES this ~~act shall be~~

~~deemed~~ PART IS guilty of a misdemeanor, ~~and upon conviction thereof shall be liable to a fine not exceeding 100 dollars or~~ PUNISHABLE BY imprisonment ~~in the county jail not to exceed~~ FOR NOT MORE THAN 90 days, OR A FINE OF NOT MORE THAN $100.00, or both, ~~such fine and imprisonment, in the discretion of the court,~~ and ~~such~~ THE person ~~or persons~~ shall be liable civilly for damages done in an action in any court having jurisdiction. ~~thereof.~~

Sec. ~~12~~ 47905. ~~It shall be unlawful for any~~ A person ~~or persons to wilfully~~ SHALL NOT WILLFULLY cut, tear, untie, remove, or in any manner injure, damage, molest, or destroy any net, rope, line, stake, anchor, or other property belonging to, in use, or to be used in any pond net or trap net or other net or nets and fixtures thereto belonging, lawfully set and used for the purpose of taking fish from any of the lakes or streams in ~~the~~ THIS state ~~of Michigan~~ or in any of the lakes or waters bordering upon ~~said~~ THIS state. ~~of Michigan. Any~~ A person ~~or persons offending against the provisions of~~ WHO VIOLATES this section ~~shall be deemed~~ IS guilty of a misdemeanor, ~~and on conviction thereof shall be punished~~ PUNISHABLE by a fine OF not ~~to exceed 500 dollars~~ MORE THAN $500.00, or imprisonment ~~in the county jail~~ FOR not more than 6 months, or both, ~~such fine and imprisonment in the discretion of the court;~~ and ~~such~~ THE person ~~or persons shall be~~ IS liable civilly for all damages done ~~wilfully~~ WILLFULLY to ~~such~~ THE property to the legal owners or occupants ~~thereof~~ OF THE PROPERTY, to be recovered in an action of trespass in any court ~~of~~ HAVING

JURISDICTION IN the county where ~~such~~ THE property is ~~situate, having jurisdiction thereof~~ LOCATED.

~~Part 481. Fishing Apparatus~~

~~Part 483. Passage of Fish Over Dams~~

PART 483 PASSAGE OF FISH OVER DAMS

Sec. ~~1~~ 48301. ~~It is hereby made the duty of the conservation commission to~~ THE DEPARTMENT SHALL prescribe ~~means and to lay down~~ rules and regulations to ~~admit of~~ PROVIDE FOR the free passage and uninterrupted passage of fish over or through dams now in existence or ~~which shall hereafter be~~ THAT ARE OR MAY BE erected over rivers, streams, or creeks. ~~: Provided, That the director of conservation is authorized to~~ THE DEPARTMENT MAY abrogate the provisions of this ~~act requiring~~ PART THAT REQUIRE the erection of fish ladders ~~whenever, in~~ IF the ~~opinion of the commissioner,~~ DEPARTMENT DETERMINES THAT the height of the dam or the condition of the river or stream makes the installation of ~~such~~ THE ladders impracticable or unnecessary.

Sec. ~~2~~ 48302. The ~~director of conservation~~ DEPARTMENT is ~~hereby made~~ THE inspector of dams across rivers, streams, and creeks of this state and ~~it~~ shall ~~be his duty to~~ prepare a draft of a general plan that THE DEPARTMENT DETERMINES will ~~, in his opinion,~~ best permit ~~of~~ the free passage of large and small fish up and down a stream at the dam. Each ~~such~~ plan shall set forth ~~such~~ details and specifications ~~in respect to~~ FOR material and construction and connection with the dam ~~as~~ THAT will enable the owner of ~~such~~ THE dam to properly

construct and place the means designated. ~~and it shall be the duty of the director of conservation to~~ THE DEPARTMENT SHALL furnish a copy of ~~such~~ THE plans and specifications to each owner or occupant of a dam, on request.

Sec. ~~3~~ 48303. Any person ~~, firm or corporation~~ owning or using any dam ~~now existing, or which~~ THAT EXISTS OR may ~~hereafter~~ be constructed across any river, stream, or creek in this state, ~~when~~ IF ordered ~~to do so~~ by the ~~director of conservation~~ DEPARTMENT, shall, within 90 days after the issuance of ~~said~~ THE order, erect and maintain in good repair sufficient and permanent means to admit ~~of~~ the free and uninterrupted passage of fish over or through ~~such~~ THE dam. ~~Such~~ THE means providing for the free passage of fish shall be of ~~such~~ A kind and shall be placed in ~~such~~ A manner ~~as shall be~~ prescribed by the ~~director of conservation~~ DEPARTMENT.

Sec. ~~4~~ 48304. ~~It shall be the duty of the director of conservation to~~ THE DEPARTMENT SHALL prosecute in the name of the people of the state in all cases where ~~the provisions of this act are not complied with and it shall be the duty of~~ THIS PART IS VIOLATED, AND the prosecuting attorney of the county in which a prosecution is commenced under this ~~act to~~ PART SHALL aid in ~~said~~ THE prosecution when requested to do so by the ~~director of conservation or any of his deputies or such officer or department as shall accede to the powers and duties of this office: Provided, That the~~ DEPARTMENT. THE attorney general may institute mandamus proceedings in the circuit court for

Ingham county to compel any person ~~, firm or corporation~~ to comply with ~~the provisions of~~ this ~~act~~ PART.

Sec. ~~5~~ 48305. If any person ~~, firm or corporation~~ owning, using, or employing the use of any dam across any of the rivers, streams, or creeks of this state ~~shall refuse~~ REFUSES or ~~fail~~ FAILS to erect and maintain in proper repair the means or equipment ~~, when~~ ordered by the ~~director of conservation so to do, such~~ DEPARTMENT, THAT person ~~, firm or corporation shall be deemed~~ IS guilty of a violation of ~~the provisions of~~ this ~~act~~ PART, and every period of 30 days during which any person ~~, firm or corporation~~ owning or using a dam ~~shall fail~~ FAILS to erect or maintain in proper repair ~~such~~ THE means OR EQUIPMENT for the free passage of fish ~~or equipment shall render such~~ RENDERS THAT person ~~or corporation~~ guilty of a distinct and separate offense of ~~the provisions of~~ this ~~act~~ PART.

Sec. ~~6~~ 48306. ~~In case~~ IF the owner or user of any dam ~~shall refuse~~ REFUSES or ~~fail~~ FAILS to construct and maintain the means or equipment for the free passage of fish when ordered by the ~~director of conservation so to do, said director~~ DEPARTMENT, THE DEPARTMENT may cause the same to be constructed over or through ~~said~~ THE dam at ~~such~~ THE place in the dam ~~as~~ THAT will cause THE least injury to the water power, and the expense of the construction of ~~such~~ THE means for the free passage of fish shall be ~~by him~~ certified BY THE DEPARTMENT to the COUNTY board of ~~supervisors~~ COMMISSIONERS of the county in which ~~such~~ THE dam is located, and ~~such~~ THE expense shall be audited by the COUNTY board of ~~supervisors~~ COMMISSIONERS and

shall be paid from the general fund of ~~said~~ THE county. The COUNTY board of ~~supervisors~~ COMMISSIONERS of any county, upon auditing and allowing ~~such~~ THE expense, shall ORDER, by resolution, ~~order~~ the supervisor of the township or ward in which ~~said~~ THE dam is situated to spread the ~~amount of such~~ expense upon the assessment roll of ~~such~~ THE township or ward as a tax against the property to which ~~said~~ THE dam is appurtenant and against the owners of ~~such~~ THE property to be collected in the same manner as other township taxes and paid over to the county treasurer or returned as delinquent in accordance with law.

Sec. ~~7~~ 48307. ~~It shall be unlawful for any~~ EXCEPT AS AUTHORIZED BY LAW, A person ~~, firm or corporation to~~ SHALL NOT obstruct the channel or course of any river, stream, or creek in this state by placing or causing to be placed ~~therein~~ IN THAT RIVER, STREAM, OR CREEK any net, wire, screen, or any other apparatus or material of any kind ~~whatever, which~~ THAT will ~~tend to~~ prevent the free passage of fish up and down ~~such~~ THE river, stream, or creek. ~~, except as authorized by law and any~~ A person ~~or corporation so offending shall be deemed~~ WHO VIOLATES THIS SECTION IS guilty of a violation of ~~the provisions of~~ this ~~act: Provided, That the director of conservation~~ PART. THE DEPARTMENT may ~~, when deemed to be~~ in the public interest ~~,~~ authorize the placing of screens in any river, stream, creek, or in the inlet or outlet of any lake.

~~Part 485. Spearing of Fish in Houghton Lake~~

PART 485 SPEARING OF FISH IN HOUGHTON LAKE PROHIBITED

Sec. ~~1~~ 48501. ~~It shall be unlawful to~~ A PERSON SHALL NOT spear ~~any~~ fish in Houghton lake, Roscommon county. ~~Any~~ A person ~~violating the provisions of~~ WHO VIOLATES this ~~act~~ PART shall, upon conviction, ~~thereof,~~ be punished by a fine of not less than $10.00 ~~nor~~ OR more than $100.00, or ~~by~~ imprisonment ~~in the county jail~~ for ~~a period of~~ not less than 10 days ~~nor~~ OR more than 90 days, or both. ~~such fine and imprisonment in the discretion of the court.~~

~~Part 487. Sportsmen Fishing Law~~

PART 487 SPORT FISHING

~~CHAPTER I DEFINITIONS~~ SUBPART I DEFINITIONS

~~Sec. 1. This act shall be known and may be cited as the "Michigan sports fishing law."~~

~~Sec. 3. For the purpose of this act the inland waters of this state shall be construed to be all the waters within the jurisdiction of the state of Michigan except Saginaw river, lakes Michigan, Superior, Huron and Erie and the bays and the connecting waters which are hereby defined as follows: The connecting waters between lake Superior and lake Huron shall be defined as all that part of the Straits of St. Mary in this state extending from a line drawn from Birch Point Range front light to the most westerly point of Round Island, thence following the shore of Round Island to the most northerly point thereof, thence from the most northerly point of said Round Island to Point Aux Pins light, Ontario, to a line drawn due east and west from the most southerly point of Little Lime Island; and the connecting waters~~

~~of lake Huron and lake Erie shall be defined as all the St. Clair river and all of lake St. Clair and all of the Detroit river extending from Port Gratiot light in lake Huron to a point in the lower Detroit river where the center line of Oak street, city of Wyandotte, Wayne county, Michigan, extended due east, would intersect the international boundary line.~~

~~Sec. 4. As used in this act:~~

~~(a) "Person" means individuals, copartnerships, associations, and corporations.~~

~~(b) "Resident" means:~~

~~(i) A person who resides in a settled or permanent home or domicile with the intention of remaining in this state.~~

~~(ii) A student who is enrolled in a full time course at a college or university within this state.~~

~~(c) "Nonresident" means a person who does not meet the standards of subdivision (b).~~

~~Sec. 5. Open season. The term "open season" shall mean the time during which fish may be legally taken or killed, and shall include both the first and last day of the season or period designated by this act.~~

~~Sec. 6. The term "game fish" as used in this act shall be deemed to include:~~

~~(a) Mackinaw or lake trout, (Christivomer namaycush);~~

~~(b) Brook or speckled trout, (Salvelinus fontinalis);~~

~~(c) Brown and lock leven trout, (Salmo trutta);~~

~~(d) Rainbow and steelhead trout, (Salmo gairdnerii);~~

~~(e) Landlocked salmon (Salmo salar sebago);~~

~~(f) Grayling, (Thymallus tricolor and thymallus montanus);~~

~~(g) Largemouth black bass, (Huro salmoides);~~

~~(h) Smallmouth black bass, (Micropterus dolomieu);~~

~~(i) Bluegill, (Lepomis macrochirus);~~

~~(j) Pumpkinseed or common sunfish, (Lepomis gibbosus);~~

~~(k) Black crappie and white crappie, also known as calico bass and strawberry bass, (Pomoxis sparoides and pomoxis annularis);~~

~~(l) Yellow perch, commonly called perch, (perca flavescens);~~

~~(m) Pike perch, commonly called walleyed pike, (Stizostedion vitreum);~~

~~(n) Northern pike, also known as grass pike or pickerel, (Esox lucius);~~

~~(o) Muskellunge, (Esox masquinongy);~~

~~(p) Sturgeon.~~

~~Sec. 7. Non game fish. The term "non game fish" as used in this act shall be deemed to include all kinds of fish, except game fish.~~

~~Sec. 8. A trout stream within the terms of this act shall be construed to mean any stream or portion of any stream which contains a significant population of any species of trout or salmon as determined by the director of conservation. The director of conservation may designate not more than 100 miles of trout streams wherein only such lures or baits as he prescribes may be used in fishing and may prescribe the size and number of fish which may be taken therefrom.~~

~~Sec. 9. Non trout streams. The term "non trout streams" under the provisions of this act shall be deemed to be all streams or portions of streams other than trout streams as defined herein.~~

~~Sec. 10. A trout lake under the terms of this act shall be deemed to be a lake in which brook trout, brown trout, or rainbow trout are the predominating species of game fish found therein, and commonly known as trout lakes, such lakes to be designated by the conservation commission. Provided, That the conservation commission may designate certain trout lakes in which certain species of fish are not desired, in which lakes it shall be unlawful to use live fish of any kind for bait.~~

~~Sec. 11. As used in this act:~~

~~(a) "Amphibian" means any frog, toad, or salamander of the class amphibia.~~

~~(b) "Mollusks" means any mollusk of the classes bivalvia and gastropoda.~~

~~(c) "Crustacea" means any freshwater crayfish, shrimp, or prawn of the order decapoda.~~

~~(d) "Reptiles" means any turtle, snake, or lizard of the class reptilia.~~

SEC. 48701. AS USED IN THIS PART:

(A) "AMPHIBIAN" MEANS ANY FROG, TOAD, OR SALAMANDER OF THE CLASS AMPHIBIA.

(B) "CRUSTACEA" MEANS ANY FRESHWATER CRAYFISH, SHRIMP, OR PRAWN OF THE ORDER DECAPODA.

(C) "GAME FISH" INCLUDES ALL OF THE FOLLOWING:

(*i*) MACKINAW OR LAKE TROUT (CHRISTIVOMER NAMAYCUSH).

(*ii*) BROOK OR SPECKLED TROUT (SALVELINUS FONTINALIS).

(*iii*) BROWN AND LOCH LEVEN TROUT (SALMO TRUTTA).

(*iv*) RAINBOW AND STEELHEAD TROUT (SALMO GAIRDNERII).

(*v*) LANDLOCKED SALMON (SALMO SALAR SEBAGO).

(*vi*) GRAYLING (THYMALLUS TRICOLOR AND THYMALLUS MONTANUS).

(*vii*) LARGEMOUTH BLACK BASS (HURO SALMOIDES).

(*viii*) SMALLMOUTH BLACK BASS (MICROPTERUS DOLOMIEU).

(*ix*) BLUEGILL (LEPOMIS MACROCHIRUS).

(*x*) PUMPKINSEED OR COMMON SUNFISH (LEPOMIS GIBBOSUS).

(*xi*) BLACK CRAPPIE AND WHITE CRAPPIE, ALSO KNOWN AS CALICO BASS AND STRAWBERRY BASS (POMOXIS SPAROIDES AND POMOXIS ANNULARIS).

(*xii*) YELLOW PERCH, COMMONLY CALLED PERCH (PERCA FLAVESCENS).

(*xiii*) PIKE-PERCH, COMMONLY CALLED WALLEYED PIKE (STIZOSTEDION VITREUM).

(*xiv*) NORTHERN PIKE, ALSO KNOWN AS GRASS PIKE OR PICKEREL (ESOX LUCIUS).

(*xv*) MUSKELLUNGE (ESOX MASQUINONGY).

(*xvi*) STURGEON.

(D) "INLAND WATERS OF THIS STATE" MEANS THE WATERS WITHIN THE JURISDICTION OF THE STATE EXCEPT SAGINAW RIVER, LAKES MICHIGAN, SUPERIOR, HURON, AND ERIE, AND THE BAYS AND THE CONNECTING WATERS. THE CONNECTING WATERS BETWEEN LAKE SUPERIOR AND LAKE HURON ARE THAT PART OF THE STRAITS OF ST. MARY IN THIS STATE

EXTENDING FROM A LINE DRAWN FROM BIRCH POINT RANGE FRONT LIGHT TO THE MOST WESTERLY POINT OF ROUND ISLAND, THENCE FOLLOWING THE SHORE OF ROUND ISLAND TO THE MOST NORTHERLY POINT THEREOF, THENCE FROM THE MOST NORTHERLY POINT OF SAID ROUND ISLAND TO POINT AUX PINS LIGHT, ONTARIO, TO A LINE DRAWN DUE EAST AND WEST FROM THE MOST SOUTHERLY POINT OF LITTLE LIME ISLAND. THE CONNECTING WATERS OF LAKE HURON AND LAKE ERIE ARE ALL OF THE ST. CLAIR RIVER, ALL OF LAKE ST. CLAIR, AND ALL OF THE DETROIT RIVER EXTENDING FROM FORT GRATIOT LIGHT IN LAKE HURON TO A POINT IN THE LOWER DETROIT RIVER WHERE THE CENTER LINE OF OAK STREET, CITY OF WYANDOTTE, WAYNE COUNTY, MICHIGAN, EXTENDED DUE EAST, WOULD INTERSECT THE INTERNATIONAL BOUNDARY LINE.

(E) "MOLLUSKS" MEANS ANY MOLLUSK OF THE CLASSES BIVALVIA AND GASTROPODA.

(F) "NONGAME FISH" INCLUDES ALL KINDS OF FISH EXCEPT GAME FISH.

(G) "NONRESIDENT" MEANS A PERSON WHO IS NOT A RESIDENT.

(H) "NONTROUT STREAMS" MEANS ALL STREAMS OR PORTIONS OF STREAMS OTHER THAN TROUT STREAMS.

(I) "OPEN SEASON" MEANS THE TIME DURING WHICH FISH MAY BE LEGALLY TAKEN OR KILLED AND INCLUDES BOTH THE FIRST AND LAST DAY OF THE SEASON OR PERIOD DESIGNATED BY THIS PART.

(J) "REPTILES" MEANS ANY TURTLE, SNAKE, OR LIZARD OF THE CLASS REPTILIA.

(K) "RESIDENT" MEANS EITHER OF THE FOLLOWING:

(*i*) A PERSON WHO RESIDES IN A SETTLED OR PERMANENT HOME OR DOMICILE WITH THE INTENTION OF REMAINING IN THIS STATE.

(*ii*) A STUDENT WHO IS ENROLLED IN A FULL-TIME COURSE AT A COLLEGE OR UNIVERSITY WITHIN THIS STATE.

(*l*) "TROUT LAKE" MEANS A LAKE IN WHICH BROOK TROUT, BROWN TROUT, OR RAINBOW TROUT ARE THE PREDOMINATING SPECIES OF GAME FISH FOUND IN THE LAKE, AND SUCH LAKES SHALL BE DESIGNATED BY THE DEPARTMENT. THE DEPARTMENT MAY DESIGNATE CERTAIN TROUT LAKES IN WHICH CERTAIN SPECIES OF FISH ARE NOT DESIRED AND IN WHICH IT IS UNLAWFUL TO USE LIVE FISH OF ANY KIND FOR BAIT.

(M) "TROUT STREAM" MEANS ANY STREAM OR PORTION OF A STREAM THAT CONTAINS A SIGNIFICANT POPULATION OF ANY SPECIES OF TROUT OR SALMON AS DETERMINED BY THE DEPARTMENT. THE DEPARTMENT MAY DESIGNATE NOT MORE THAN 100 MILES OF TROUT STREAMS IN WHICH ONLY LURES OR BAITS AS THE DEPARTMENT PRESCRIBES MAY BE USED IN FISHING, AND THE DEPARTMENT MAY PRESCRIBE THE SIZE AND NUMBER OF FISH THAT MAY BE TAKEN FROM THOSE STREAMS.

Sec. ~~2~~ 48702. All fish, reptiles, amphibians, mollusks, and crustaceans found in this state are ~~hereby declared to be~~ the property of the state ~~of Michigan~~ and may only be taken at ~~such~~ times and in ~~such~~ A manner as ~~hereinafter~~ provided IN THIS PART.

~~CHAPTER II FISHING DEVICES~~ SUBPART II FISHING DEVICES

Sec. ~~1~~ 48703. (1) A person shall not take, catch, or kill or attempt to take, catch, or kill a fish in the waters of this state with a spear or grab hook, snag hook, OR gaff hook, ~~or~~ by the use of jack or artificial light, ~~or~~ by the use of a set or night line ~~,~~ or a net ~~,~~ or firearm ~~,~~ or an explosive substance or combination of substances ~~which~~ THAT have a

tendency to kill or stupefy fish, or by any other means or device other than a single line ~~,~~ or a single rod and line while held in the hand or under immediate control, and with a hook or hooks attached, baited with a natural or artificial bait while being used for still fishing, ice fishing, casting, or trolling for fish, which is a means of the fish taking the bait or hook in the mouth. A person shall not use more than 2 single lines ~~,~~ or 2 single rods and lines, or a single line and a single rod and line, and shall not attach more than 4 hooks on all lines. For the ~~purpose~~ PURPOSES of this ~~act~~ PART, a hook ~~shall be considered to be~~ IS a single, double, or treble pointed hook. A hook, single, double, or treble pointed, attached to a manufactured artificial bait shall be counted as 1 hook. The ~~director of the~~ department ~~of natural resources~~ may designate waters where a treble hook and an artificial bait or lure having more than 1 single pointed hook shall not be used during the periods the ~~director~~ DEPARTMENT designates. In recognized smelt waters, any numbers of hooks, attached to a single line, may be used for the taking of smelt.

(2) A person shall not set or use a tip-up, paddle, or other similar device for the purpose of taking fish through the ice unless the name and address ~~, in legible English,~~ of the person owning the tip-up, paddle, or other similar device is marked IN LEGIBLE ENGLISH on the tip-up, paddle, or other similar device or securely fastened to it by a plate or tag.

(3) A spear or bow and arrow may be used from April 1 to May 31 in the Lower Peninsula and during the month of May in the

Upper Peninsula for taking carp, suckers, redhorse, mullet, dogfish, and garpike in the rivers and streams of ~~the~~ THIS state. The ~~director of the~~ department ~~of natural resources~~ may designate a county, stream, or a portion of a stream in which a jack or other artificial light may be used in taking fish with a spear or bow and arrow only. A person shall not use or possess a spear or bow and arrow in, upon, or along any trout stream in this state, except in a stream ~~,~~ or portion of a stream ~~which~~ THAT is designated by the ~~director of the~~ department ~~of natural resources~~ for the taking of carp, suckers, redhorse, mullet, dogfish, and garpike. A person may spear carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, whitefish, ciscoes, pilot fish or Menominee whitefish, sturgeon, catfish, bullheads, dogfish, and garpike through the ice during the months of January and February in the inland waters of this state not otherwise closed to spearing. The ~~director of the~~ department ~~of natural resources~~ may designate certain inland waters in which a spear or bow and arrow may be used, with or without artificial light, for the taking of carp, dogfish, and garpike during the periods from May 1 to August 15 in each year. The ~~director of the~~ department ~~of natural resources~~ may designate a trout lake, trout stream, or a portion of a trout stream in which a spear may be used through the ice. The ~~director of the~~ department ~~of natural resources~~ may designate certain waters in which a rubber or spring propelled spear may be used for the taking of carp, dogfish, garpike, and suckers, but only when the person using the spear is swimming or

submerged in the water and has the spear under control by means of an attached line not exceeding 20 feet in length. A person may use A spear ~~and~~ OR bow and arrow for the taking of carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or Menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish, and garpike through the ice with or without jack or other artificial lights in the connecting waters of the Great Lakes, except that a jack or other artificial light shall not be used in the connecting waters between Lake Erie and Lake Huron. In the connecting waters between Lakes Huron and Erie, a person may take carp, dogfish, and garpike with a spear or bow and arrow without the use of artificial light. All species of fish except largemouth and smallmouth black bass, crappies, bluegills, sunfish, brook or speckled trout, rainbow and steelhead trout, brown and ~~lochleven~~ LOCH LEVEN trout, muskellunge, or sturgeon may be taken with a spear or bow and arrow with or without the use of a jack or other artificial light from the waters of the Great Lakes not otherwise closed to spearing except that species of commercial fish shall not be taken in this manner during a closed season established under the laws governing commercial fishing. Other than with seines for the taking of carp, a person shall not fish in the waters of the Lake Huron between Pointe-Aux Barques light and Harbor Beach within 1 mile of the shoreline except with a hook and line.

(4) A hand net may be used from March 1 to May 31 for taking smelt, suckers, mullet, carp, dogfish, and garpike. The

~~director of the~~ department ~~of natural resources~~ may designate the waters where the fish may be taken ~~,~~ and the time within the dates when the fish may be taken. For the purpose of this ~~act~~ PART, "hand net" means a mesh bag of webbing or wire ~~,~~ suspended from a circular, oval, or rectangular frame attached to a handle.

(5) A dip net without sides or walls and not exceeding 9 feet square may be used in the nontrout rivers and streams and in other rivers and streams ~~,~~ or portions of the rivers and streams designated by the ~~director of the~~ department ~~of natural resources~~ from April 1 to May 31 in the Lower Peninsula and during the month of May in the Upper Peninsula for the purpose of taking suckers, mullet, smelt, carp, dogfish, and garpike. For the purpose of this ~~act~~ PART, "dip net" means a square net ~~which~~ THAT is constructed from a piece of webbing of heavy twine, hung on heavy cord or a frame so as to be without sides or walls, and ~~which is~~ suspended from the corners and attached in such a manner that when the net is lifted no part ~~shall be~~ IS more than 4 feet below the plane formed by the imaginary lines connecting the corners from which the net is suspended. As used in fishing, it shall be lowered and raised vertically as nearly as possible.

(6) A person desiring to fish with a dip net shall first obtain a permit from the ~~director of the~~ department. ~~of natural resources.~~ A dip net shall not be erected or fished within 100 feet of a dam. The name and address ~~, in legible English,~~ of the person setting, using, or having control over the dip net

equipment, including frame, boom, supporting members, and temporary buildings, shall be plainly marked IN LEGIBLE ENGLISH on the dip net equipment ~~,~~ or securely fastened to it by a plate or tag. Dip net equipment and a temporary building erected and used pursuant to this subsection ~~which~~ THAT are located on public land or THE land of another PERSON shall be removed prior to June 10 of each year unless maintained with proper permission of the landowner. This subsection does not authorize the erection or fishing of a dip net on the land or premises of another PERSON without proper permission from the landowner.

(7) A setover net not exceeding 5 feet in diameter may be used from March 15 to May 15 for the purpose of taking suckers from an inland lake designated by the ~~director of the department. of natural resources.~~

(8) A trammel net not exceeding 12 feet in length may be used from April 1 to May 31 for taking carp, suckers, redhorse, mullet, dogfish, and other nongame fish in the Tittabawassee river and its tributaries down from the dam at Sanford, down from the dam at St. Louis, and down from the dam at Mt. Pleasant, and IN the Shiawassee river and its tributaries down from the dam at Chesaning in Saginaw county. A person shall not take more than 100 of these fish in 1 day.

(9) A spear or bow and arrow may be used during the daytime and with a light at night from May 15 to June 24 for the taking of carp and suckers in the Tittabawassee river and its tributaries, and in the Tobacco river and its tributaries, not

previously designated by the department ~~of natural resources~~ as a trout stream in Gladwin and Midland counties.

(10) A hoop net may be used between the dates of December 15 and February 28 in the river or stream or ~~a~~ portion ~~thereof~~ OF A RIVER OR STREAM designated by the ~~director of the~~ department ~~of natural resources~~ for the taking of burbot (lawyers).

Sec. ~~1b~~ 48704. ~~Any~~ A person holding a resident fishing license may take cisco with 1 gill net, not exceeding 165 feet in length and having meshes not less than 2 inches ~~nor~~ OR more than 4 inches extension measure, between November 15 and December 10 of each year in those inland lakes and under ~~such~~ rules PROMULGATED ~~as prescribed~~ by the ~~director of natural resources~~ DEPARTMENT.

Sec. ~~1c~~ 48705. (1) Reptiles, amphibians, mollusks, and crustaceans may only be taken in a manner and during those times prescribed by the ~~director of the~~ department. ~~of natural resources.~~ Persons taking, trapping, catching, or fishing for turtles or frogs for their personal use shall have a valid fishing license issued pursuant to ~~the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws~~ PART 435.

(2) A person shall not take, trap, catch, or fish for reptiles or amphibians for commercial purposes unless he or she purchases an annual commercial reptile and amphibian license for a fee of $150.00.

Sec. ~~2~~ 48706. ~~It shall be unlawful for any~~ EXCEPT AS OTHERWISE PROVIDED BY LAW, A person ~~to~~ SHALL NOT fish with any

kind of seines or nets within a radius of 100 feet of or from any dam, ~~or to~~ frighten or hinder fish from the free passage up or down a fish chute or ladder, or ~~to~~ place any obstruction or device in or across any race, stream, or river in this state in ~~such~~ a manner ~~as to obstruct~~ THAT OBSTRUCTS the free passage of fish up and down the ~~same except as otherwise provided by law~~ RACE, STREAM, OR RIVER. For the purpose of this ~~act~~ PART, a dam ~~shall be defined as any~~ IS AN artificial barrier or obstruction placed in ~~any~~ A river or stream in this state which changes the natural elevation of the water level more than 2 feet.

Sec. ~~2a~~ 48707. ~~It shall be unlawful to~~ A PERSON SHALL NOT fish ~~in any manner~~ within a distance of 100 feet ~~up or down stream~~ UPSTREAM OR DOWNSTREAM from ~~such~~ A lamprey control ~~weirs~~ WEIR installed by the department ~~of conservation~~ or the United States fish and wildlife service ~~as may be~~ AND designated by the ~~director of conservation~~ DEPARTMENT.

Sec. ~~2b~~ 48708. ~~It shall be lawful to~~ A PERSON MAY use a net not more than 50 feet in length and having meshes not less than 1-1/4 inches ~~nor~~ OR more than 1-3/4 inches ~~, for the purpose of taking~~ TO TAKE smelt in waters along the shores of the ~~great lakes~~ GREAT LAKES and connecting waters ~~thereof~~ OF THE GREAT LAKES, as ~~shall be~~ designated by the ~~director of conservation~~ DEPARTMENT. The annual license fee for each ~~such~~ net ~~shall be~~ DESCRIBED IN THIS SECTION IS $3.00. When A NET DESCRIBED IN THIS SECTION IS set, there shall be affixed to both ends of the net ~~,~~ a buoy or staff marker ~~which shall have~~

THAT HAS affixed ~~thereto~~ TO IT the name, address, and license number of the owner of the net.

Sec. ~~3~~ 48709. ~~No~~ A person shall NOT destroy or attempt to destroy, or interfere with in any manner, any artificial dam or barrier placed in A trout ~~streams~~ STREAM under the direction of the ~~director of conservation~~ DEPARTMENT.

Sec. ~~4~~ 48710. (1) This ~~chapter shall~~ PART DOES not ~~be construed to~~ prohibit the use of a gaff, except on or along trout streams, or A landing net to assist in landing fish already caught by a lawful device. ~~, nor to~~ THIS PART DOES NOT apply to a person engaged in the business of propagating fish under ~~authority of Act No. 196 of the Public Acts of 1957, as amended, being sections 308.111 to 308.119 of the Michigan Compiled Laws,~~ PART 459 or to fish caught by a device for which a lawful permit or license is obtained from the ~~director of natural resources~~ DEPARTMENT under this ~~act~~ PART.

(2) A person shall not use or possess a landing net more than 5-1/2 feet in circumference or with a handle exceeding 14 inches in length on a trout stream during the months of April, May, and June.

Sec. ~~5~~ 48711. ~~It~~ A PERSON shall ~~be unlawful for any person to~~ NOT have in his OR HER possession any net, set lines, jack or other artificial light of any kind, dynamite, giant powder, or other explosive substance ~~,~~ or combination of substances, hook and line, or any other contrivance or device ~~whatsoever,~~ to be used for the purpose of taking fish in violation of ~~the provisions of~~ this PART or any other act OR

PART. Any such property, contrivance, or device ~~, so~~ found in THE possession of ~~any~~ A person ~~,~~ or found in ~~any~~ A boat, boathouse, or any other place on any of the waters of this state or along the shores ~~thereof,~~ OF THE WATERS OF THIS STATE shall be confiscated and disposed of in the manner provided by law. ~~It shall be unlawful at any time for any~~ A person ~~to~~ SHALL NOT have a gaff in his OR HER possession on or along any trout stream in this state ~~,~~ or ~~to~~ use, except from June 1 to Labor Day, ~~inclusive,~~ on any trout stream a single hook of any kind that is more than 3/8 inches between the point of the hook and the shank. ~~The provisions of this~~ THIS section ~~shall~~ DOES not ~~be construed to~~ prohibit the use or possession of minnow seines, minnow traps, or dip nets as provided in section ~~4 of chapter 4 of this act, nor to~~ 48730 OR the use and possession of seines, nets, spears, or artificial lights for the use of which a lawful permit or license has been issued by the ~~director of conservation~~ DEPARTMENT. ~~It shall not be unlawful for any~~ A person ~~to~~ MAY have in his OR HER possession ~~any~~ AN artificial light of any kind ~~to be used~~ for ~~the purpose of~~ taking white bass. Commercial ~~fishermen~~ ANGLERS who have licenses to take fish in the ~~great lakes~~ GREAT LAKES may have in their possession nets or hook lines for that purpose only. In prosecutions for the violations of ~~the provisions hereof~~ THIS SECTION, and in proceedings for the confiscation of the property described in this section, the possession of any such property, contrivance, or device ~~,~~ or, when not found in possession of any person, the presence of any such property in a boat, boathouse, or any other

place on the waters of this state ~~,~~ or along the shores ~~thereof, shall be deemed~~ OF THE WATERS OF THIS STATE IS prima facie evidence that ~~such~~ THE property is owned, possessed, or used for the purpose of violating ~~the provisions of~~ this ~~act~~ PART. The possession of any such property, contrivance, or device on ~~such~~ THE waters of this state ~~as shall be~~ THAT ARE closed to all fishing during the closed season on or along ~~such~~ THOSE waters ~~shall be~~ IS prima facie evidence that ~~such~~ THE property is owned, possessed, or used for the purpose of violating ~~the provisions of~~ this ~~act~~ PART. ~~The provisions of this~~ THIS ACT or any other act ~~shall~~ DOES not apply to the department ~~of conservation~~ in its program in fisheries management or in the control of aquatic vegetation by individuals under permit issued by the ~~director of conservation~~ DEPARTMENT when, in the opinion of ~~said director~~ THE DEPARTMENT, ~~such~~ THAT control is not inimical to the public interest.

Sec. ~~5a~~ 48712. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT catch any fish or attempt to catch any fish in any manner in any lake, stream, or pond ~~,~~ or ~~such~~ portion of any lake, stream, or pond ~~which~~ THAT is used by the state or federal government for the propagation of fish, except in ~~such~~ THE portion or portions of ~~said lakes~~ THE LAKE, ~~streams~~ STREAM, or ~~ponds~~ POND as may be designated by the ~~director of conservation~~ DEPARTMENT as open to fishing.

Sec. ~~5b~~ 48713. ~~It is unlawful for any~~ A person ~~to~~ SHALL NOT catch any game or nongame fish in any manner in any

lake, stream, OR pond or in the Great Lakes for the purpose of removing its eggs.

Sec. ~~5c~~ 48714. (1) A nonresident who resides in a state or country that does not allow residents of ~~Michigan~~ THIS STATE to act as commercial fishing guides within that state or country shall not act as a commercial fishing guide on the inland waters of this state.

(2) Notwithstanding subsection (1), a nonresident shall not act as a commercial fishing guide on the inland waters of Gogebic or Iron county.

(3) As used in this section, "commercial fishing guide" means a person who, for a fee or other consideration of value, regardless of whether the fee or consideration is paid directly or indirectly, is present and provides assistance to another person in pursuing, capturing, catching, killing, taking, or attempting to take fish.

~~CHAPTER III OPEN SEAONS~~ SUBPART III OPEN SEASONS

Sec. ~~1~~ 48715. Except as otherwise provided by law, ~~it shall be unlawful for any~~ A person ~~to~~ SHALL NOT take, catch, or kill ~~,~~ or attempt to take, catch, or kill any species of fish in any OF THE FOLLOWING:

(a) ~~Trout~~ A TROUT stream or ~~in~~ any inland lake designated as a trout lake under ~~the provisions of~~ this ~~act~~ PART except from the last Saturday in April through the second Sunday in September. ~~: Provided, That~~ HOWEVER, the ~~director of conservation~~ DEPARTMENT may designate certain trout streams, or portions of ~~such~~ TROUT streams in which ~~non game~~ NONGAME fish

and game fish other than trout occur, as open to hook and line fishing at all seasons of the year for taking any species of fish on which the season is not closed. ~~,~~

(b) ~~Inland lakes~~ LAKES other than lakes designated as trout lakes shall be open to fishing throughout the year for taking any species of fish on which the season is not closed. The ~~non trout~~ NONTROUT streams, the ~~great lakes~~ GREAT LAKES, and the connecting waters ~~thereof~~ OF THE GREAT LAKES shall be open to fishing throughout the year for taking any species of fish on which the season is not closed.

Sec. ~~1a~~ 48716. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT take, catch, or kill ~~,~~ or attempt to take, catch, or kill any fish of the species named in this section in any of the waters over which this state has jurisdiction except during the following open seasons:

(a) Largemouth and smallmouth black bass from the Saturday immediately preceding Memorial Day to December 31, except in Lake St. Clair and the St. Clair and Detroit Rivers, IN WHICH WATERS THE OPEN SEASON IS from the third Saturday in June to December 31.

(b) Bluegills and sunfish, no closed season.

(c) Northern pike, pike-perch, and muskellunge from the last Saturday in April to March 15 ~~from~~ IN the inland waters. ~~Such~~ THESE fish may be taken at any time from lake Macatawa, Ottawa county; Muskegon lake and White lake, Muskegon county; Spring lake, Muskegon and Ottawa counties; Pentwater lake, Oceana county; Pere Marquette lake, Mason county; Manistee lake, Bar

lake at Arcadia, and Portage lake, Manistee county; Betsie lake, Benzie county; lake Charlevoix and Round lake, Charlevoix county; the Muskegon river downstream from Rogers dam, Mecosta county; and ~~from lake~~ LAKE Erie and the connecting waters of the Great Lakes. In ~~lakes~~ LAKES Superior, Michigan, and Huron, except Saginaw bay, ~~such~~ THESE fish may be taken from May 21 to March 31. In Saginaw bay, ~~such~~ THESE fish may be taken from April 11 to March 4. In that part of upper ~~lake~~ LAKE Huron known as Whitney bay, Pike bay, Island harbor, Les Cheneaux channels, Potagannissing bay, and certain waters on the south side of Drummond island, all as described in sections ~~36, 36a, 38 and 38a of Act No. 84 of the Public Acts of 1929, as amended, being sections 308.36, 308.36a, 308.38 and 308.38a of the Compiled Laws of 1948, such~~ 47345, 47346, 47348, AND 47349, THESE fish may be taken from May 1 to March 31.

(d) Brook trout, brown trout, rainbow trout, lake trout, splake, and landlocked salmon from the last Saturday in April through the second Sunday in September in the inland waters. The ~~director of conservation~~ DEPARTMENT shall designate the waters ~~wherein~~ IN WHICH, in addition to the ~~aforesaid~~ season PROVIDED FOR IN THIS SUBDIVISION, any species of trout and in addition ~~such~~ other fish ~~upon~~ FOR which the season is open may be taken with hook and line only during additional open seasons ~~as he may prescribe~~ THAT THE DEPARTMENT PRESCRIBES.

(e) All species of trout except lake trout from the first Saturday in April to November 30 in the Great Lakes and

connecting waters not otherwise closed to their taking. ~~No~~ THERE IS NO closed season on lake trout in these waters.

(f) Perch, saugers, white bass, rock bass, warmouth bass, crappies, catfish, bullheads, ciscoes, herring, whitefish, pilot fish or menominee whitefish, smelt, suckers, mullet, redhorse carp, buffalo, shad, garfish, dogfish, lawyers, and sheepshead may be taken at all seasons of the year in waters that are open to fishing.

(g) Sturgeon DURING January and February from inland waters; at any time from waters of the Great Lakes and connecting waters not otherwise closed to their taking.

Sec. ~~1b~~ 48717. Notwithstanding any other provision in this ~~act~~ PART or any order of the ~~commission of natural resources or the director of the department of natural resources~~ DEPARTMENT, the following provisions ~~shall be~~ ARE applicable during the open season for trout in that portion of Duck Creek within Gogebic County, Watersmeet Township, beginning at the old railroad bridge SE-SE section 16, T44N-R39W downstream to the Middle Branch of the Ontonagon River at NW-NW Section 27, T45N-R39W:

(a) Only artificial lures may be used to take trout.

(b) Trout must be at least 10 inches in length.

(c) Not more than 5 trout may be taken per day.

Sec. ~~2~~ 48718. The ~~director of conservation~~ DEPARTMENT may establish a closed season on any spawning bed when it appears that spawning or guarding does not coincide with the time of the closed season provided by law. Notices defining the closed areas

must be posted not less than 5 days ~~prior to~~ BEFORE taking effect. For the purpose of this ~~act~~ PART, a spawning bed means any section of a lake, river, pond, or other body of water where fish are known to congregate for the purpose of spawning. ~~It shall be unlawful to~~ A PERSON SHALL NOT operate any boat, floating device, or other contrivance propelled by or using as motive power ~~,~~ steam, gas, naphtha, oil, gasoline, or electricity upon any spawning bed posted as ~~herein~~ provided IN THIS PART. The ~~director of conservation~~ DEPARTMENT may open to fishing at any time, for any species, in any manner, any waters in which an excessive mortality of fish occurs or is threatened.

Sec. ~~3~~ 48719. (1) ~~No~~ A person shall NOT take or ~~have in possession~~ POSSESS any OF THE FOLLOWING:

(a) Brook trout, brown trout, rainbow trout, steelhead, lake trout, and splake of a ~~less~~ length LESS than 7 inches when taken from the inland waters ~~;~~ OR 10 inches when taken from the Great Lakes and connecting waters. ~~;~~

(b) Black bass, ~~large~~ LARGEMOUTH or smallmouth, and landlocked salmon ~~,~~ of a ~~less~~ length LESS than 10 inches. ~~;~~

(c) ~~Pike (great~~ GREAT northern PIKE, grass pike, or pickerel ~~)~~ of a ~~less~~ length LESS than 20 inches, except that in Cisco lake, Thousand Island lake, Big African lake, Lindsley lake, and Poor lake in the Cisco chain of lakes and the West Branch of the Presque Isle river, all in the Upper Peninsula, great northern pike shall not be of a length less than 14 inches, and ~~further~~ the ~~director~~ DEPARTMENT may lower size limits in designated waters. ~~;~~

(d) Pike-perch ~~(wall eyed pike),~~ OR WALLEYED PIKE of a ~~less~~ length LESS than 13 inches. ~~;~~

(e) Muskellunge ~~,~~ of a ~~less~~ length LESS than 30 inches. ~~;~~

(f) Sturgeon of a ~~less~~ length LESS than 42 inches.

(2) ~~It shall be unlawful to have in possession~~ A PERSON SHALL NOT POSSESS on any waters over which this state has jurisdiction any fish ~~which~~ THAT is so mutilated that the identification or measurement ~~thereof~~ OF THAT FISH is impossible.

Sec. ~~3b~~ 48720. ~~Notwithstanding the provisions of section 3a, the director of conservation~~ THE DEPARTMENT may designate Crystal lake in Benzie county as open to fishing ~~without regard to the seasons prescribed in section 3a~~ whenever it appears that ~~such~~ THIS action is not inimical to the public interest.

Sec. ~~4~~ 48721. (1) Except as otherwise provided in ~~a commission~~ AN order authorized under ~~Act No. 230 of the Public Acts of 1925, being sections 300.1 to 300.5 of the Michigan Compiled Laws~~ PART 411, a person shall not in a single day catch, kill, or have in possession at any 1 time ~~,~~ more than the number of fish indicated ~~below~~ AS FOLLOWS:

(a) Brook trout, brown trout, rainbow trout, steelhead, lake trout, and splake, ~~of the combined species~~ IN ANY COMBINATION OF SPECIES, 10 when taken from rivers and streams ~~,~~ OR 5 when taken from inland lakes or Great Lakes, but not more than 10 pounds and 1 fish.

(b) Largemouth and smallmouth black bass, 5.

(c) Bluegills, sunfish, warmouth bass, rock bass, AND crappies, 25 aggregate of any 1 species or in any combination of species.

(d) Pike-perch, 5. Any person may take and ~~have in possession~~ POSSESS 10 pike-perch when legally taken in the connecting waters or the waters of the Great Lakes.

(e) Saugers, 20, when taken from the waters commonly known as the Portage canal and including Portage lake and Torch lake, all in Houghton county. Saugers when so taken shall not be bought or sold.

(f) Northern pike, 5.

(g) Landlocked salmon, 5.

(h) White bass, 10; 25 when taken from THE Great Lakes ~~and~~ OR connecting waters.

(i) Whitefish, 12.

(j) Sturgeon, 2 ~~,~~ per season. ~~It shall be unlawful to possess any~~ A PERSON SHALL NOT POSSESS sturgeon on or along the shores of an inland water except during the months of January and February.

(k) Perch, 50 in the Upper Peninsula and all waters of the Great Lakes that are within the jurisdiction of this state and are 10 or fewer miles from a border of the Upper Peninsula; in all other waters of the state, 100.

(2) A person shall not in a single day catch, kill, or ~~have in possession~~ POSSESS more than a combined total of 5 ~~large~~ LARGEMOUTH or smallmouth bass, pike-perch, and northern pike,

except that a person may take and ~~have in possession~~ POSSESS a combined total of 10 of those fish when taken in the connecting waters or the waters of the Great Lakes.

(3) A person shall not ~~have in possession~~ POSSESS a fish illegally taken.

Sec. ~~5~~ 48722. ~~Any person holding~~ A RESIDENT OR NONRESIDENT WHO HOLDS an unexpired fishing license issued in his OR HER name ~~, either resident or non-resident, shall be entitled to~~ MAY carry as open hand baggage not ~~to exceed~~ MORE THAN 1 day's legal catch of fish. ~~: Provided, That~~ HOWEVER, any person holding an unexpired fishing license ~~shall be entitled to~~ MAY obtain ~~1, and~~ only 1 ~~,~~ permit from the ~~director of conservation or his designated representatives~~ DEPARTMENT authorizing ~~such~~ THAT person to ship 1 day's legal catch of any species of game fish or combination ~~thereof~~ OF SPECIES. The catch of 2 or more licensed ~~fishermen~~ ANGLERS may be combined in a single package. ~~: Provided, however, That~~ HOWEVER, the permit of each ~~such fisherman is~~ ANGLER WHOSE CATCH IS COMBINED IN THE PACKAGE SHALL BE attached TO THE PACKAGE.

Sec. ~~6~~ 48723. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT purchase, buy, or sell, ~~or~~ attempt to purchase, buy, or sell, ~~or~~ transport to any point outside of this state at any time, or ~~have in possession~~ POSSESS during the periods in which the taking or catching of ~~such~~ THE fish is prohibited, any species of fish taken on a sport fishing license or any species of fish taken without a commercial fishing license. Any lawfully taken fish may be possessed for 60 days after the close

of the respective open seasons. ~~Any~~ A person possessing a nonresident fishing license may take from this state a day's legal catch of fish in accordance with ~~the provisions of~~ his OR HER license. ~~Nothing in this~~ THIS section ~~shall interfere~~ DOES NOT APPLY TO OR CONFLICT with the possession, sale, or transportation of fish taken legally under the commercial fishing laws and regulations of this state.

Sec. ~~6a~~ 48724. (1) As used in this section, "fish cleaning station" means an operation or location used to clean salmon for sport fishers.

(2) Except as provided in subsection (3)(c), a person shall not purchase, sell, or otherwise exchange anything of value for raw or unprocessed salmon eggs unless the person is licensed pursuant to section ~~26a of the commercial fishing law of 1929, Act No. 84 of the Public Acts of 1929, being section 308.26a of the Michigan Compiled Laws,~~ 47333 and the sale, purchase, or exchange of the raw or unprocessed salmon eggs is made with another person who is also licensed pursuant to section ~~26a of Act No. 84 of the Public Acts of 1929~~ 47333.

(3) A person who operates or is the agent of an operator of a fish cleaning station shall not do any of the following:

(a) Accept raw or unprocessed salmon eggs except from whole salmon, known as salmon in the round, or eggs salvaged from salmon cleaned at the station.

(b) Operate a fish cleaning station that sells raw or unprocessed salmon eggs without a current and valid permit issued by the ~~director of the~~ department. ~~of natural resources.~~

(c) Buy, barter, or otherwise exchange anything of value for raw or unprocessed salmon eggs. This subdivision ~~shall~~ DOES not ~~be construed to~~ prohibit the operator of a fish cleaning station or his or her agents from exchanging the service of cleaning salmon in exchange for the eggs in the ~~salmon's~~ SALMONS' carcasses or from charging a fee for cleaning salmon.

(d) Buy or sell salmon carcasses taken by a person licensed under ~~the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws~~ PART 435.

(4) A person issued a permit to operate a fish cleaning station shall comply with all of the following requirements:

(a) Raw or unprocessed salmon eggs may only be collected and stored at the location of the fish cleaning station specified in the permit.

(b) The fish cleaning station shall be licensed in accordance with THE FOOD PROCESSING ACT OF 1977, Act No. 328 of the Public Acts of 1978, ~~as amended,~~ being sections 289.801 to 289.810 of the Michigan Compiled Laws, and operated in compliance with the Michigan food law OF 1968, Act No. 39 of the Public Acts of 1968, ~~as amended,~~ being sections 289.701 to 289.727 of the Michigan Compiled Laws, only when the salmon eggs or salmon, or both, are sold or given to another PERSON for human consumption.

(c) Disposal of offal and unwanted salmon carcasses shall be in a manner approved by the local health department.

(d) A permit holder shall accept from sport fishers all salmon carcasses that are brought to the station and SHALL hold

and dispose of them and their offal only in a manner approved by the local health department.

(e) As a condition of his or her permit, a permit holder whose fish cleaning station is located on state owned land shall provide free access to the fish cleaning station facilities to ~~fishers~~ ANGLERS who wish to use the facilities to clean their own salmon catch.

(5) ~~Nothing in this~~ THIS section shall NOT be construed to prohibit the selling or buying of chemically treated salmon eggs in the form of spawn sacks or spawn bags.

(6) If the department ~~of natural resources~~ finds that a person is in violation of THIS SECTION OR a permit issued under this section, ~~or a provision of this section,~~ the department may issue an order requiring the person to comply with the permit. In addition to the penalties provided for in this ~~act~~ PART, the ~~director of the~~ department ~~of natural resources,~~ or ~~his or her~~ ITS agent, the attorney general, or a person may seek injunctive relief for a violation of THIS SECTION OR a permit issued under this section. ~~or for a violation of a provision of this section.~~

Sec. ~~7~~ 48725. ~~It shall be unlawful for any~~ A person SHALL NOT at any time ~~to~~ take, ~~or~~ attempt to take, or ~~have in possession~~ POSSESS any grayling taken from any of the waters over which this state has jurisdiction.

Sec. ~~10~~ 48726. The ~~conservation commission~~ DEPARTMENT may adopt ~~such~~ fishing rules and regulations as it ~~deems~~ CONSIDERS necessary for the harvest of new species of game fish

including coho ~~(silver)~~ OR SILVER salmon, kokanee salmon, chinook salmon, and striped bass in any of the waters of this state.

Sec. ~~11~~ 48727. ~~(1) Notwithstanding any other provision of this act, only until the close of the open season set forth in subdivision (a), (b), or (c), coho (silver) salmon and chinook salmon may be taken from September 10 to October 25 by means of catching or snagging in the mouth of or on the body of the fish with unweighted double or treble pointed hooks not exceeding 3/8 inch from point to shank, unweighted single pointed hooks not exceeding 1/2 inch from point to shank, or by artificial baits, only in the following locations:~~

~~(a) Until the close of the 1992 open season, the Sable river between Hamlin dam and the mouth of the Sable river in Mason county.~~

~~(b) Until the close of the 1993 open season, the Pere Marquette river between signs located 1/4 mile upstream and 3/4 mile downstream from Scottville bridge in Mason county.~~

~~(c) Until the close of the 1993 open season, the big Manistee river between the Tippy dam and signs posted approximately 1 mile downstream from the Tippy dam in Manistee county.~~

~~(2)~~ (1) On and after October 26, 1993, THE snagging of fish is illegal in this state.

~~(3) Requirements for permits, licensing, and fees, and limits on the number of coho (silver) salmon and chinook salmon which may be caught, killed, or in possession pursuant to this section shall be the same as requirements provided for the taking~~

~~of those fish in this act and rules adopted by the commission of natural resources pursuant to section 10 of this chapter and in the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws. In addition, commencing with the 1985 salmon snagging season, a person taking any salmon pursuant to this section shall obtain an annual salmon snagging stamp. The fee for the stamp shall be $7.25. The proceeds of the sale of the salmon snagging stamp shall be credited to the game and fish protection fund.~~

(2) ~~(4)~~ The department ~~of natural resources~~ shall manage fisheries on the Pere Marquette river at or above the site of the lamprey blocking weir.

~~(5) As used in this section:~~

~~(a) "Artificial bait" means a fish lure or fly that is manufactured in imitation of or as a substitute for natural bait, and used to attract and to catch fish.~~

~~(b) "Unweighted hook" means a hook to which no weight is attached. Unweighted hook does not include a hook fastened rigidly to an artificial bait by soldering, gluing, wrapping, or similar means.~~

~~CHAPTER IV MINNOWS~~ SUBPART IV MINNOWS

Sec. ~~1~~ 48728. As used in this ~~act~~ PART:

(a) "Commercial purposes" means offering for sale, selling, giving, or furnishing to others.

(b) "Crayfish" ~~or "crawfish"~~ means any arthropod of the decapoda family.

~~(c) "Director" means the director of the department of natural resources.~~

(C) ~~(d)~~ "Minnows" means chubs, shiners, suckers, when of a size ordinarily used for bait in hook and line fishing, dace, stonerollers, muddlers, and mudminnows.

(D) ~~(e)~~ "Wigglers" means Mayfly nymphs or any other aquatic insect nymphs or larvae.

Sec. ~~2~~ 48729. A person shall not DO ANY OF THE FOLLOWING:

(a) Take or ~~have in possession~~ POSSESS minnows, wigglers, or crayfish for commercial purposes from any of the waters over which this state has jurisdiction; ~~, or~~ import minnows, wigglers, or crayfish for commercial purposes from outside of ~~the~~ THIS state; ~~,~~ or transport minnows, wigglers, or crayfish without having first procured a license ~~,~~ as provided in section ~~6 of chapter 5~~ 48732. A license, except a license to fish in the waters of this state as provided ~~for~~ in ~~the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws~~ PART 435, ~~shall~~ IS not ~~be~~ required of persons taking minnows, wigglers, or crayfish for their individual use for bait. A person shall not set or use minnow traps for the taking of minnows, wigglers, or crayfish for any purpose unless the name and address of the user is on the trap.

(b) Transport outside of this state any minnows, wigglers, or crayfish, dead or alive, taken either in or outside OF this state. The ~~director~~ DEPARTMENT, upon receipt of a payment of

$25.00, may issue a permit, revocable by the ~~director~~ DEPARTMENT, under such regulations as the ~~director may prescribe~~ DEPARTMENT PRESCRIBES, to any resident licensed as provided for in section ~~6 of chapter 5~~ 48732, enabling that person to transport outside OF this state minnows, wigglers, or crayfish preserved in liquid and bottled for fish bait. The ~~director~~ DEPARTMENT may limit to 15 OR FEWER days ~~or less~~ of any 1 year the taking of minnows by a licensed person for ~~preserving~~ PRESERVATION for fish bait purposes. A person holding a permit as provided in this subdivision shall allow the ~~director or the director's authorized representative~~ DEPARTMENT to inspect his or her books and records at any reasonable time. A permit issued pursuant to this subdivision may be revoked by the ~~director~~ DEPARTMENT upon good cause and shall expire on December 31 following the date of ~~issue~~ ISSUANCE unless the license is revoked prior to that date.

(c) Use or attempt to use live goldfish or carp for bait in fishing.

(d) Offer for sale or use lamprey for bait in fishing.

(e) Take, possess, or transport minnows, wigglers, or crayfish for commercial purposes from any of the waters over which this state has jurisdiction unless the taker is a resident of this state and holds a permit or license as required by law.

Sec. ~~3~~ 48730. (1) The ~~director~~ DEPARTMENT may designate the lakes and streams and parts of lakes and streams from which minnows, wigglers, and crayfish may be taken for commercial purposes and ~~to~~ make rules, regulations, and restrictions for

taking, possessing, and transporting minnows, wigglers, and crayfish.

(2) A person shall not take or attempt to take minnows, wigglers, or crayfish for commercial purposes from any waters of the state not designated by the ~~director~~ DEPARTMENT or ~~to~~ violate any of the rules, regulations, ~~and~~ OR restrictions established pursuant to this section.

Sec. ~~4~~ 48731. (1) Except as otherwise provided in this subsection, minnow seines OF not ~~to exceed~~ MORE THAN 125 feet in length and 16 feet in width may be used in the Great Lakes and their connecting waterways ~~,~~ and in the inland lakes, streams, and rivers of this state. Minnows may only be taken from trout streams during open season with glass or wire traps. Minnow seines shall not be used in trout streams at any time.

(2) Hand nets not exceeding 8 feet square without sides or walls, minnow traps not exceeding 2 feet in length, minnow seines not exceeding 12 feet in length and 4 feet in width, and hook and line may be used for taking minnows for personal use in any of the waters designated by the ~~director~~ DEPARTMENT, as provided in section ~~3 of this chapter~~ 48730. However, a person shall not take minnows in trout streams with hand or dip nets.

~~CHAPTER V LICENSES AND PERMITS~~ SUBPART V LICENSES AND PERMITS

Sec. ~~6~~ 48732. (1) As used in this section, "place of business" means a single location designated in a license application.

(2) The ~~director~~ DEPARTMENT, upon receipt of a fee of $25.00, may issue a limited retail minnow dealer's license to

entitle the licensee to operate 1 place of business and 1 motor vehicle ~~,~~ and to buy, transport, and retail minnows, wigglers, and crayfish.

(3) The ~~director~~ DEPARTMENT, upon receipt of a fee of $100.00, may issue to a resident a wholesale minnow dealer's license to ENTITLE THE LICENSEE TO operate 1 place of business, ~~and~~ to transport, using up to 3 motor vehicles, and to sell at wholesale to licensed minnow dealers ~~,~~ minnows, wigglers, and crayfish.

(4) The ~~director~~ DEPARTMENT, upon receipt of a fee of $50.00, may issue to the holder of a limited retail MINNOW DEALER'S LICENSE or a wholesale minnow dealer's license a minnow catcher's license to permit the taking, collecting, transporting, and possessing of live or fresh minnows, wigglers, or crayfish to be used for commercial purposes in accordance with this ~~act~~ PART. Each minnow catcher's license ~~shall entitle~~ ENTITLES the licensee to operate up to 3 crews consisting of not more than 4 persons and 4 motor vehicles for the purpose of taking, collecting, and transporting live or fresh minnows, wigglers, or crayfish.

(5) The ~~director~~ DEPARTMENT, upon receipt of a fee of $500.00, may issue to a nonresident of the state a wholesale minnow dealer's license to ENTITLE THE LICENSEE TO operate 1 place of business, ~~and~~ to transport, using up to 3 motor vehicles, and to sell at wholesale to licensed minnow dealers ~~,~~ minnows, wigglers, and crayfish.

(6) Crayfish shall not be imported for commercial purposes from outside ~~the~~ OF THIS state without a special permit from the ~~director~~ DEPARTMENT. Minnows and wigglers not native to ~~Michigan~~ THE waters OF THIS STATE shall not be imported from outside ~~the~~ OF THIS state.

(7) The holder of a license issued pursuant to this section who possesses minnows, wigglers, or crayfish for commercial purposes at more than 1 place of business shall obtain a separate license for each place of business. The holder of a license issued pursuant to this section may use more than 3 crews not to exceed 4 crew members in taking, collecting, and transporting minnows, wigglers, and crayfish, or use additional motor vehicles in collecting and transporting minnows, wigglers, or crayfish, for a fee of $15.00 for each ~~such~~ additional crew of not more than 4 persons and for each additional motor vehicle.

(8) With each minnow catcher's license issued under this section, the department shall issue 12 identification cards bearing the number of the license and the year for which the license ~~was~~ IS issued. Each member of a crew engaged in taking, collecting, and transporting minnows, wigglers, or crayfish for commercial purposes shall carry an identification card at all times while taking, collecting, or transporting minnows, wigglers, or crayfish. The ~~director~~ DEPARTMENT shall supply license application forms which shall state the name and address of the licensee and the lakes and streams and parts of ~~the~~ lakes and streams from which minnows, wigglers, or crayfish may be taken. ~~Any~~ A person to whom a limited retail or wholesale minnow

dealer's license has been issued under this ~~act~~ PART shall prominently display at the place of business designated in that license a placard to be furnished by the ~~director~~ DEPARTMENT which will contain the ~~following~~ words "Licensed Minnow Dealer" and the license number and the year for which the license was issued. Any person to whom such a license has been issued under this section shall permanently display the license number in 4-inch block letters on each side of the tanks on the motor vehicle or on the front doors of the motor vehicle and on the back of the motor vehicle.

(9) ~~On~~ UPON demand of a conservation officer or any other peace officer, ~~any~~ A person found taking, collecting, possessing, or transporting any live or fresh minnows, wigglers, or crayfish for commercial purposes shall display a license or identification card provided for in this section. The records, seines, nets, minnow traps, transporting EQUIPMENT, and other equipment of every kind utilized in the handling of minnows, wigglers, and crayfish and the tanks and ponds where minnows, wigglers, and crayfish are held shall be open to inspection at any reasonable time by a conservation officer or any other peace officer.

(10) All licenses issued pursuant to this section ~~shall be~~ ARE revocable upon just cause and, if not revoked, ~~shall~~ expire on December 31 following the date of issuance. Any person whose license has been revoked shall not be issued a commercial minnow, wiggler, and crayfish license within a period of 1 year from the date of revocation.

Sec. ~~7~~ 48733. The ~~director of conservation is hereby authorized to~~ DEPARTMENT MAY designate the lakes or streams in this state from which cisco, whitefish, suckers, and carp may be taken by means of a spear and artificial light from October ~~fifteenth~~ 15 to December ~~thirty first~~ 31 in the waters lying north of north line of town 16 north, and west of Saginaw bay and from November ~~first~~ 1 to December ~~thirty first~~ 31 in the waters south of north line of town 16 north, and east of Saginaw bay including the thumb. ~~: Provided, That~~ HOWEVER, whitefish or cisco ~~so~~ taken AS DESCRIBED IN THIS SECTION shall not be bought or sold, ~~: And provided further, That~~ AND in Higgins lake, Roscommon county, ~~such~~ THOSE fish shall not be taken by means of a spear and artificial light before November 1.

Sec. ~~8~~ 48734. ~~Permit to remove noxious fish from the waters of this state.~~ The ~~director of conservation~~ DEPARTMENT may ~~in his discretion~~ issue permits for the removal of dogfish, carp, garfish, sheepshead, and other noxious fish from all the waters over which this state has jurisdiction with seines, nets, spears, or in any other manner, and sell or authorize the sale of same for the purpose of paying the expense of ~~such~~ THE removal on ~~such~~ terms ~~as shall be to~~ THAT ARE IN the best advantage of the state. ~~: Provided, That~~ HOWEVER, the ~~director of conservation or a deputy designated by him~~ DEPARTMENT shall be present at the time and place of the taking and ~~removing~~ REMOVAL of ~~such~~ THE fish and A REPRESENTATIVE OF THE DEPARTMENT shall personally superintend the ~~same~~ TAKING AND REMOVAL. The ~~director of conservation~~ DEPARTMENT shall incorporate ~~such~~

regulations and restrictions in ~~said~~ THE permits as ~~he may deem~~ THE DEPARTMENT CONSIDERS advisable, and any person taking ~~such~~ fish under ~~said~~ SUCH A permit shall conform to all the regulations and restrictions specified ~~therein~~ IN THE PERMIT. ~~: Provided, That non residents~~ A NONRESIDENT who ~~operate~~ OPERATES under ~~this~~ A permit ISSUED UNDER THIS SECTION shall, in addition to the percentage paid to the state, be required to pay the ~~non resident~~ NONRESIDENT license fee ~~,~~ as provided for ~~non residents~~ NONRESIDENTS under the commercial fishing laws of this state.

Sec. ~~9~~ 48735. (1) ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT take from any of the inland waters of this state any fish in any manner for the purpose of fish culture or scientific investigation ~~,~~ without first obtaining a permit from the ~~director of the~~ department, ~~of natural resources,~~ except that ~~persons~~ A PERSON who ~~are~~ IS operating a private fish pond may take ~~such~~ fish from ~~their~~ HIS OR HER own ~~ponds~~ POND for the purpose of propagation, scientific investigation, or sale under ~~the provisions of Act No. 196 of the Public Acts of 1957, being sections 308.111 to 308.119 of the Michigan Compiled Laws~~ PART 459. The ~~director of the department of natural resources~~ DEPARTMENT may issue permits to possess live game fish in public or private ponds, pools, or aquariums under ~~such~~ rules and regulations as the ~~commission of natural resources may prescribe~~ DEPARTMENT PRESCRIBES. The ~~director of the~~ department may cause to be taken from the inland waters of this state ~~,~~ any species of fish for the purpose of obtaining spawn for fish

culture or scientific investigation or for the protection of the inland waters from ecological damage or imbalance. In addition, the ~~director~~ DEPARTMENT may cause to be taken from the inland waters of this state species of fish that are not required to maintain the fishery resources of the inland waters. All fish taken under this section shall be taken under the supervision of a deputy of the department appointed for that purpose and in accordance with the regulations of the ~~Michigan~~ department of agriculture, and the fish may be sold or transferred by the department. ~~No~~ A person shall NOT import or bring any live game fish or viable eggs of any game fish from outside of ~~the~~ THIS state except under ~~authority of~~ a permit from the ~~director of the~~ department ~~of natural resources~~ or under ~~authority of Act No. 196 of the Public Acts of 1957, as amended,~~ PART 459 and the rules promulgated in accordance with that ~~act~~ PART. ~~No~~ A person shall NOT plant any spawn, fry, or fish of any kind in any of the public waters of this state ~~,~~ or any other waters under the jurisdiction of this state without first obtaining a permit from the ~~director~~ DEPARTMENT that states the species, number, and ~~the~~ approximate size or age of the spawn, fry, or fish to be planted and the name and location of the waters where ~~such~~ THE spawn, fry, or fish shall be planted. ~~No~~ A permit ~~shall be~~ IS NOT required to plant spawn, fry, or fish furnished by the federal or state government. All permits shall be exhibited upon the request of any law enforcement officer.

(2) The department ~~of natural resources~~ shall annually report to the legislature all fish sold or transferred pursuant to this ~~act~~ PART.

Sec. ~~9a~~ 48736. Except as ~~herein~~ provided IN THIS SECTION, ~~it~~ A PERSON shall ~~be unlawful for any person to~~ NOT take or remove or attempt to take or remove any caddis fly larvae or other insect larvae or insects of any kind from any trout stream of ~~the~~ THIS state. The ~~director of conservation~~ DEPARTMENT may designate trout streams or portions ~~thereof~~ OF TROUT STREAMS from which caddis fly larvae or other insect larvae or insects may be taken for commercial purposes by persons licensed in accordance with section ~~6 of chapter 5 of this act~~ 48732. ~~Nothing in this~~ THIS section ~~shall be construed to~~ DOES NOT prohibit the taking of any caddis fly larvae or other insect larvae or insects ~~in~~ FROM any trout stream of the state for personal use in fishing the stream from which taken.

Sec. ~~10~~ 48737. All ~~moneys~~ MONEY collected from the sale of licenses and stamps as provided in this ~~act~~ PART shall be paid over to the ~~auditor general~~ STATE TREASURER by the ~~director of conservation~~ DEPARTMENT and held to the credit of the game and fish protection fund CREATED IN PART 435, and shall be used for the purposes necessary to the protection, propagation, and distribution of fish and game ~~,~~ and as otherwise provided by law.

Sec. ~~12~~ 48738. (1) A person who violates this ~~act~~ PART or rules ~~, commission~~ OR orders ~~, or orders of the director~~ issued to implement this ~~act~~ PART, if a penalty is not

OTHERWISE provided for that violation in this section, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both.

(2) A person convicted of using dynamite, nitroglycerin, lime, electricity, any other explosive substance, or poison for the purpose of taking or killing fish, ~~or a person~~ convicted of using nets not authorized by law for taking game fish, or CONVICTED OF buying or selling game fish or any parts of game fish is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than $250.00 or more than $1,000.00, or both.

(3) A person who takes or possesses sturgeon in violation of this ~~act~~ PART or rules ~~, commission orders,~~ or orders ~~of the director~~ issued to implement this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not less than 30 days or more than 180 days, or a fine of not less than $500.00 or more than $2,000.00, or both, and the costs of prosecution.

(4) If a person is convicted of a violation of this ~~act~~ PART or rules ~~, commission orders,~~ or orders ~~of the director~~ issued to implement this ~~act~~ PART and it is alleged in the complaint and proved or admitted at trial or ascertained by the court at the time of sentencing that the person had been previously convicted 3 or more times of a violation of this ~~act~~ PART within the 5 years immediately preceding the last violation of this ~~act~~ PART, the person is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not

more than $1,000.00, or both, and the costs of prosecution. This subsection ~~shall~~ DOES not apply to the following violations:

(a) Failing to possess or display a valid fishing license or trout and salmon ~~stamp~~ LICENSE issued pursuant to ~~the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws~~ PART 435.

(b) Taking or possessing an overlimit of bluegill, sunfish, crappie, perch, or nongame fish.

(c) Taking or possessing not more than 5 undersized fish.

(d) Fishing with too many lines.

(e) Failing to attach THE PERSON'S name and address to tip-ups or minnow traps.

(f) Fishing with lines not under immediate control.

(5) In addition to the penalties provided in this section, a fishing license issued to a person sentenced pursuant to subsections (2), (3), or (4) shall be revoked, and the person shall not be issued a license during the remainder of the year in which convicted or during the next 3 succeeding license years.

Sec. ~~12a~~ 48739. (1) A person who snags fish in violation of this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than $250.00 or more than $500.00, or both, and costs of prosecution.

(2) A person who is convicted of a second violation of snagging fish in violation of this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not more than 90

days, or a fine of not less than $500.00 or more than $1,000.00, or both, and costs of prosecution. In addition, the court shall suspend a sports fishing license issued to a person sentenced under this subsection for not less than 2 years and order that the person shall not secure a fishing license during ~~the~~ THAT 2-year period.

(3) A person who is convicted of a third or subsequent violation of snagging fish in violation of this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than $1,000.00 or more than $2,000.00, or both, and costs of prosecution. In addition, the court shall suspend a sports fishing license issued to a person sentenced under this subsection for not less than 3 years and order that the person shall not secure a fishing license during ~~the~~ THAT 3-year period.

(4) A person who possesses or sells in this state any multi-pointed hook with a weight permanently attached is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than $100.00 or more than $300.00, or both, and costs of prosecution.

(5) A person who is convicted of a second violation of subsection (4) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than $300.00 or more than $500.00, or both, and costs of prosecution.

(6) A person who is convicted of a third or subsequent violation of subsection (4) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less

than $500.00 or more than $1,000.00, or both, and costs of prosecution.

Sec. ~~13~~ 48740. (1) In addition to the penalties provided in this ~~act~~ PART, a person convicted of taking game fish during a closed season; ~~, or~~ taking or possessing game fish in excess of lawful limits; ~~, or buying or selling, or~~ taking game fish ~~,~~ OR nongame fish ~~, or any parts of game or nongame fish,~~ by use of an unlawful device; OR BUYING OR SELLING GAME FISH, NONGAME FISH, OR ANY PARTS OF GAME OR NONGAME FISH TAKEN BY USE OF AN UNLAWFUL DEVICE shall forfeit to the state for the fish unlawfully taken or possessed as follows:

(a) For each game fish other than sturgeon, of an individual weight of 1 pound or more, $10.00 for each pound or fraction of a pound of fish illegally taken or possessed.

(b) For each game fish other than sturgeon, of an individual weight of less than 1 pound, $10.00 for each fish illegally taken or possessed.

(c) For sturgeon, $1,500.00 for each fish illegally taken or possessed.

(d) For each nongame fish, $5.00 for each pound or fraction of a pound of fish illegally taken or possessed.

(2) In every ~~case of~~ conviction for a violation of subsection (1), the court before ~~whom such~~ WHICH THE conviction is obtained shall order the defendant to forfeit to the state the sums provided in subsection (1). If 2 or more defendants are convicted of the illegal taking or ~~the illegal~~ possession of

the ~~same~~ fish, the forfeiture shall be declared against them jointly and severally.

(3) If a defendant fails to pay the sums forfeited for a violation of subsection (1), upon conviction, the court shall either impose a sentence of probation, and as a condition of sentence ~~,~~ require the defendant to satisfy the forfeiture in the amount prescribed and fix the manner and time of payment, or make a written order permitting the defendant to pay the forfeited sums in installments at the times and in the amounts as the court determines ~~,~~ the defendant is able to pay.

(4) A default in the payment of forfeiture or an installment of the forfeiture may be collected by any means authorized for the enforcement of a judgment under chapter 60 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, ~~as amended,~~ being sections 600.6001 to 600.6097 of the Michigan Compiled Laws.

(5) All courts collecting forfeitures as provided in this section shall promptly remit the forfeiture to the county treasurer, who shall transmit it to the state treasurer to be credited to the game and fish protection fund CREATED IN PART 435.

~~Sec. 2. Nothing in this act shall be construed to repeal Act No. 170 of the Public Acts of 1905, Act No. 247 of the Public Acts of 1919, or Act No. 194 of the Public Acts of 1925.~~

~~Sec. 3. All suits, actions or proceedings for the violation of any law now in force, which may be started before this act takes effect, shall not be thereby abated, but may be prosecuted~~

~~in the same manner and with like effect as though this act had not been passed.~~

~~Part 489. Whaiska Bay~~

PART 489 WHAISKA BAY

Sec. 1. ~~It shall be unlawful to~~ A PERSON SHALL NOT place or set any kind of net or set hook lines or take or attempt to take any kind of fish with a net or set hook lines, except minnow seines, as provided in section ~~5 of Act No. 84 of the Public Acts of 1929~~ 47309, in the ~~following~~ connecting waters between Lake Superior and Lake Huron, said waters known as the Whaiska Bay, and also including all waters lying southerly to a line drawn from the most southeasterly point of lot 1, section 32, township 47 north, range 2 west, state of Michigan, and extending easterly to the most westerly point of Round Island.

~~Part 491. Reciprocal Agreements With Adjoining States~~

PART 491 RECIPROCAL AGREEMENTS WITH ADJOINING STATES

Sec. ~~1~~ 49101. In order to provide uniform fishing regulations in any river or any of the Great Lakes forming a common boundary with an adjoining state and any inland lake or lakes bisected by ~~such~~ A COMMON boundary WITH AN ADJOINING STATE, the ~~conservation commission~~ DEPARTMENT may enter into a reciprocal agreement with the authorized representatives of any adjoining state to establish the minimum size of fish that may be taken, the number that may be taken in any ~~one~~ 1 day, the seasons when fish may be taken, and the methods by which ~~they~~ FISH may be taken from ~~said~~ waters DESCRIBED IN THIS SECTION. Any such

agreement shall clearly set forth the waters to be included and the period during which ~~it~~ THE AGREEMENT shall be in effect.

Sec. ~~2~~ 49102. Any order ~~promulgated~~ ISSUED under ~~authority of~~ this ~~act shall supersede~~ PART SUPERSEDES all other laws and regulations governing fishing in ~~such~~ THE waters that in any way conflict. The regulations contained in any such order shall be included in the annual digest of fishing laws, rules, and regulations published and distributed annually by the department. ~~of conservation.~~

Sec. ~~3~~ 49103. ~~Any~~ A person who ~~shall violate~~ VIOLATES any regulation made under ~~such~~ A reciprocal agreement ~~shall be~~ ENTERED INTO UNDER THIS PART IS guilty of a misdemeanor, ~~and shall upon conviction be punished by a fine of not more than $100.00 and costs of prosecution, or~~ PUNISHABLE by imprisonment for ~~a term of~~ not more than 90 days, ~~in the county jail,~~ or ~~by~~ A FINE OF NOT MORE THAN $100.00 AND COSTS OF PROSECUTION, OR both. ~~such fine and imprisonment in the discretion of the court.~~

~~SUBCHAPTER 4. FORESTS~~

~~THE TIMBER INDUSTRY~~

~~Part 501. Forest Improvements~~

SUBCHAPTER 4: FORESTS

THE TIMBER INDUSTRY

PART 501 FOREST IMPROVEMENTS

SUBPART 1 GENERAL PROVISIONS

~~Sec. 101. This act shall be known and may be cited as the "forest improvement act".~~

Sec. ~~104~~ 50101. ~~The~~ AS USED IN THIS PART, THE words and phrases defined in sections ~~105~~ 50102 to ~~108 shall~~ 50105 have the meanings ascribed to them in those sections.

Sec. ~~105~~ 50102. (1) "Agency of this state" means a board, bureau, commission, department, or other division of the executive branch of government of this state.

(2) "Board" means the board of directors of the forest improvement district.

(3) "Bond" means a bond, note, or any other instrument issued to evidence indebtedness.

~~(4) "Commission" means the commission of natural resources.~~

(4) ~~(5)~~ "Cost-share payment" means a payment made by a forest improvement district pursuant to section ~~601~~ 50145 to a member who owns or occupies forest land.

(5) ~~(6)~~ "County with high unemployment" means a county with an annual unemployment rate, as reported by the Michigan employment security commission, higher than the mean annual unemployment rate of this state.

~~(7) "Department" means the department of natural resources.~~

(6) ~~(8)~~ "District" or "forest improvement district" means a governmental subdivision of the state established under section ~~401~~ 50123.

Sec. ~~106~~ 50103. (1) "Fish and wildlife habitat improvements" means measures designed to protect, maintain, or enhance fish and wildlife habitats.

(2) "Follow-up work" means forest practices to promote the survival of seeds or seedlings planted ~~,~~ or THE protection or enhancement of other work previously undertaken under this ~~act~~ PART.

(3) "Forest improvement project" or "project" means each of the following:

(a) Production, processing, handling, storage, marketing, or transportation of forest resources, ~~or~~ CONDUCTED in carrying out the purposes of this ~~act~~ PART, including sawmills, hardboard mills, power stations, warehouses, air and water pollution control equipment, and solid waste disposal facilities.

(b) Forest practice or follow-up work.

(c) Study, planning, or other work intended to improve forest lands or forest resources or to demonstrate means of improving forest lands or forest resources.

(4) "Forest land" means a tract of land or the timber rights in that land owned or occupied by a member, which LAND is at least 10% occupied by forest tree species with ~~50 cubic feet~~ A growth potential OF 50 CUBIC FEET per acre per year and consists of 40 acres or more. Forest land includes land from which forest tree species have been removed ~~but which~~ AND have not been restocked, but does not include land converted to uses other than the growing of forest tree species or land currently zoned for uses incompatible with forest practices.

(5) "Forest management plan" means a forest and land management plan submitted to a district pursuant to ~~article~~ SUBPART 5.

(6) "Forest practice" includes, but is not limited to, the following:

(a) The preparation of management plans for forest land.

(b) The improvement of forest tree species.

(c) Reforestation.

(d) The harvesting of forest tree species.

(e) Road construction associated with the improvement or harvesting of forest tree species or reforestation.

(f) Use of chemicals or fertilizers for the purpose of growing or managing forest tree species.

(g) The management of slashings resulting from other forest practices.

(h) Any other actions intended to improve forest land or forest resources.

(7) "Forest resources" means those products, uses, and values associated with forest land, including recreation and aesthetics, fish, forage, soil, timber, watershed, wilderness, and wildlife.

(8) "Gross territorial boundary" means the jurisdictional limit of the area of the district within which landowners are eligible for membership in the district.

(9) "Proposed gross territorial boundary" means the proposed jurisdictional limit of the area of the district within which owners or occupiers of land are eligible for membership in the district.

Sec. ~~107~~ 50104. (1) "Harvest" means the point at which timber that has been cut, severed, or removed for purposes of

sale or use is first measured in the ordinary course of business as determined by reference to common practice in the timber industry.

(2) "Land occupier" or "occupier of land" means a person who is in possession of forest land whether as a lessee ~~,~~ OR tenant, or otherwise.

(3) "Landowner" OR "OWNER OF LAND" means a person who holds an ownership interest in forest land and is a voluntary member in the district.

(4) "Member" means a person who is a voluntary participant in a district and who owns or occupies forest land within the gross territorial boundaries of a district.

(5) "Notice of a hearing" means notice as required by THE OPEN MEETINGS ACT, Act No. 267 of the Public Acts of 1976, ~~as amended,~~ being sections 15.261 to 15.275 of the Michigan Compiled Laws.

~~(6) "Person" includes an individual, partnership, association, corporation, or the state or a political subdivision of the state.~~

(6) ~~(7)~~ "Project costs" means the sum total of all reasonable or necessary costs incurred for carrying out the acquisition, ~~,~~ construction, or undertaking of a forest improvement project under this ~~act~~ PART. Project costs include the following costs: studies and surveys; plans, specifications, AND architectural ~~,~~ and engineering services; legal, marketing, or other special services; financing, acquisition, demolition, construction, equipment, and site development of new and

rehabilitated buildings; rehabilitation, reconstruction, repair, or remodeling of existing buildings; interest and carrying charges during construction and before full earnings are achieved, and operating expenses before full earnings are achieved ~~,~~ or for a period of 1 year after the completion of construction, whichever occurs first; and a reasonable reserve for payment of principal and interest on bonds of a district.

Sec. ~~108~~ 50105. (1) "Reforestation" means planting of tree seedlings, cuttings, or seed.

(2) "Small business entity" means a business enterprise with $500,000.00 or less average annual gross revenue during its last 3 tax years.

(3) "Stumpage value" of timber means values determined from log grade value tables adopted or used by the department.

(4) "Timber" means wood growth, mature or immature, growing or dead, standing or down. Timber does not include ANY OF THE FOLLOWING:

(a) Christmas trees and associated greens.

(b) Material harvested from an individual's own land and used on that land for the construction of fences ~~,~~ OR buildings ~~,~~ or FOR other personal use.

(c) Fuel wood harvested for use in individual homes.

(5) "Timber owner" means a person who holds an ownership interest in forest tree species on forest land. An ownership interest includes a license or other right to timber on state lands.

(6) "Timber volume agreement" means that portion of the difference between the allowable cut volume and a projected future need volume which can be committed to a person.

(7) "Unit of proper measurement" means a unit of measurement commonly used in the timber industry for measuring timber and harvested timber products.

Sec. ~~102~~ 50106. (1) The purpose of this ~~act~~ PART is to stimulate improved management and utilization of forest land and forest resources within this state as recommended by Jaakko Poyry and company, Helsinki, Finland, in Michigan's timber resource development project. Economic and community development opportunities based on the forest resource will be enhanced by ensuring adequate future high-quality timber supplies, increased employment opportunities, a diversified economy, and other economic benefits ~~,~~ and the protection, maintenance, and enhancement of a productive and stable forest resource system for the public benefit of present and future generations.

(2) The primary purpose of this ~~act shall be~~ PART IS to demonstrate and improve the timber productivity of forest land within this state. Consistent with this purpose, the objective is to effect a utilization of waste material and determine the commercial feasibility ~~thereof~~ OF THAT WASTE MATERIAL, as well as to improve all forest resources, such as fish and wildlife habitat and soil resources, so that the overall effect is to improve the total forest resource system.

Sec. ~~103~~ 50107. This ~~act~~ PART, being necessary to secure the public health, safety, welfare, and convenience of the

citizens of the state, shall be liberally construed to effect the public policy and purposes declared in this ~~article~~ SUBPART.

SUBPART 2 FOREST RESTORATION PILOT PROJECT

Sec. ~~201~~ 50108. (1) The ~~commission~~ DEPARTMENT may fund a forest restoration pilot project or any other district created ~~pursuant to~~ UNDER this ~~act for the purpose of implementing the purposes of~~ PART TO IMPLEMENT this ~~act~~ PART. The forest restoration pilot project may consist of the establishment and funding of the forest improvement district formed under this ~~act~~ PART.

(2) The ~~commission~~ DEPARTMENT may fund the pilot project or any other district created pursuant to this ~~act~~ PART from funds appropriated annually by the legislature and from the following sources:

(a) General fund of the state.

(b) Grants from the federal government.

(c) Grants or gifts from private persons.

(d) Any other permissible source.

(3) When allocating available funds among proposed pilot projects, the ~~commission~~ DEPARTMENT shall consider those projects ~~which~~ THAT in its judgment will produce the greatest public benefit, giving consideration to all of the following factors:

(a) The need to demonstrate the potential commercial benefits of forest practices ~~which~~ THAT can be recognized by the establishment of a forest improvement district.

(b) The need to demonstrate the potential benefits to long-term production, maintenance, and enhancement of the total forest resource system.

Sec. ~~202~~ 50109. A district board of directors shall determine the annual expenses of the district and shall submit an itemized list of the expenses to the department. The department shall include those expenses in its annual budget request to the legislature.

Sec. ~~203~~ 50110. (1) In addition to the definitions contained in ~~article~~ SUBPART 1 ~~which~~ THAT are not modified by this ~~article~~ SUBPART, the definitions contained in this section ~~shall~~ also apply to the western Upper Peninsula forest restoration project.

(2) "Departments" means the departments of agriculture, commerce, and natural resources.

(3) "District" or "forest improvement district" means a governmental subdivision of the state established under this ~~article~~ SUBPART containing at least 4 working forests.

(4) "Forest improvement project" or "project" means each of the following:

(a) Production, processing, handling, storage, marketing, or transportation of forest resources, including the operation of processing and manufacturing plants, power stations, warehouses, air and water pollution control equipment, and solid waste disposal facilities.

(b) Forest practice or follow-up work.

(c) Study, planning, or other work intended to improve forest lands or forest resources or to demonstrate means of improving forest lands or forest resources.

(d) Consulting with the department of agriculture on soil conditions for conservation and reforestation purposes.

(e) Maintaining a data bank accumulating timber resource and forest practice facts on a uniform basis for all working forests.

(f) Maintaining uniform accounting in accordance with generally accepted accounting principles for profit enterprises as prescribed and established by a certified public accountant for all working forests.

(g) Preparing and filing annual reports based on the data bank information and accounting results with the ~~commission~~ DEPARTMENT and with the department of commerce for analysis and evaluation.

~~(5) "Person" includes an individual, partnership, association, corporation, the state or a political subdivision of the state, or a department or agency of the federal government.~~

(5) ~~(6)~~ "Timber" means living trees suited for the manufacture of marketable forest products and living trees that will be so suited as a result of restructuring the forest. Timber does not include:

(a) Christmas trees and associated greens.

(b) Material harvested and not marketed.

(6) ~~(7)~~ "Timber owner" means a person who holds an ownership interest in or cutting license for living trees on

forest land if the interest or license is for a term of at least 15 years and if the interest or license does not contain detailed cutting specifications and restrictions such as for certain species only with minimum diameters breast height.

(7) ~~(8)~~ "Waste wood" means wood from trees cut to improve forest productivity in growth and quality, but does not include timber.

(8) ~~(9)~~ "Working forest" means an area of 10,000 to 20,000 acres within a radius of approximately 20 miles ~~comprised~~ COMPOSED of various large blocks or tracts of forest land.

Sec. ~~204~~ 50111. (1) A forest restoration pilot project organized as a forest improvement district with a gross territorial boundary encompassing the western 6 counties of the Upper Peninsula of this state with its headquarters and industrial site in or near the village of Baraga shall be established as a governmental subdivision of the state when a petition signed by 25 or more landowners of a total combined acreage of more than 55,000 acres within the gross territorial boundary is filed with the ~~commission~~ DEPARTMENT. The name of the district shall be the "western Upper Peninsula forest improvement district". The petition shall set forth those requirements prescribed by section ~~402(1)(a)~~ 50124(1)(A), (b), and (e). The district forester of the department ~~of natural resources~~ may sign the petition ~~,~~ and include in the petition forest lands under the jurisdiction of ~~that~~ THE department to establish 1 working forest within each district. In the western Upper Peninsula pilot project district, at least 25% of the lands shall be

~~comprised~~ COMPOSED of nonindustrial private timber owners of at least 40-acre tracts and not more than 640-acre tracts. Not more than 15,000 acres in each district may be owned by 1 timber owner. One timber owner shall not have a majority ownership in more than 1 working forest in a district. One timber owner of more than 7,500 acres shall not vote for a director from more than 1 working forest.

(2) The pilot project district shall give preference to ~~lands~~ LAND well stocked predominantly with hardwood trees ~~,~~ and may include other broadleaf trees having approximately 6 inches or more diameter breast height ~~,~~ and having above average future market values to expedite marketability from the restructuring ~~thereof~~ OF THE LAND.

(3) The selection of ~~lands comprising~~ LAND COMPOSING each working forest in the pilot project district shall be made from the written applications received from the timber owners on application forms prescribed by a committee composed of 7 members, 3 of whom shall be the 3 directors of forest restoration, inc., and 4 OF WHOM SHALL BE members of the public ~~,~~ appointed by these 3 directors. Not less than 4 members of the committee shall be graduate foresters who have had at least 5 years' experience supervising logging operations. The committee shall select the ~~lands~~ LAND and may employ a full-time forester.

(4) When the selection of ~~lands~~ LAND is made and the working forests identified, the committee shall establish a sequence ~~of activating~~ FOR THE ACTIVATION OF the working forests in the pilot project district when, and as, a substantial use for or

marketing of waste wood becomes available, if more than 4 working forests are identified. When the working forests are to be activated, the forest management plans of the members shall be approved, and the members of each activated working forest then shall elect a director of the district.

(5) The department ~~of natural resources~~ or any other state agency shall remit to the western Upper Peninsula forest improvement district funds appropriated for such purposes by the legislature.

(6) The funds OTHERWISE appropriated ~~otherwise~~ for the western Upper Peninsula forest improvement district shall be determined and allocated to produce the greatest public benefit based on the following factors:

(a) The potential economic benefits of forest practices which can be recognized by the establishment of the western Upper Peninsula forest improvement district.

(b) The potential benefits to long-term production, maintenance, and enhancement of the total forest resource system.

(c) The potential benefits from a large-volume use of waste wood as a primary fuel for electric generating plants or as raw material for processing and manufacturing plants.

(d) The potential increased employment produced by the adoption of forest practices.

Sec. ~~205~~ 50112. (1) The western Upper Peninsula forest improvement district shall be managed pursuant to this ~~act~~ PART by a board of directors ~~comprised~~ COMPOSED of 1 member elected

by the members of each working forest in which more than 50% of the forest lands are private landowners; the Baraga district forester for 1 working forest on lands in which more than 50% of the forest lands are under the jurisdiction of the department; ~~of natural resources;~~ 1 member appointed by the county board of commissioners for each working forest in which more than 50% of the lands are owned by governmental units or agencies other than the state and the United States government and are primarily situated within the county; 1 member appointed by the United States government for any working forest in which more than 50% of the forest lands are owned by the United States government or an agency of the United States government; 1 member appointed by the tribal council for any working forest in which more than 50% of the lands are under the jurisdiction of the Keweenaw bay tribal council ~~,~~ and 1 member chosen by the other members of the board. All landowner members in a working forest in which more than 50% of the lands are privately owned shall be candidates for the board unless a member files a written declaration that the member desires not to serve. Elected directors shall be elected by written ballots voted privately, and the ballots shall be preserved for 1 year.

(2) The board of directors of the western Upper Peninsula forest improvement district shall DO ALL OF THE FOLLOWING:

(a) Elect officers of the district, designate their duties, and delegate authority to them to perform those duties.

(b) Establish the forms and requirements for membership agreements applicable to the forest lands each member has in a working forest within the district.

(c) Effect a contract with a Michigan profit corporation as its agent if a majority of the board of directors of the profit corporation are members of the board of directors of the district.

(d) Furnish a budget to the ~~departments~~ DEPARTMENT AND THE DEPARTMENT of commerce ~~and natural resources~~ setting forth all projected costs and expenses expected to be incurred in the ensuing year and all estimated sources of income to be received.

(e) Exercise all powers and authority granted by this ~~act~~ PART.

(3) The profit corporation having a contract as agent for the district ~~shall have~~ HAS the following powers, responsibilities, duties, and authority:

(a) To employ a capable professional forester to supervise each working forest, review the forest management plans of each member within that working forest, and effect compliance with the forest practices prescribed by the board of directors of the district; and to employ a director of forestry when there are 6 or more working forests within the district.

(b) To employ a certified public accountant licensed to do business in ~~Michigan~~ THIS STATE who has experience in accounting for logging and sawmill operations to prescribe, supervise, and audit a uniform system of accountings, billings, and payments for each working forest and the district; and to establish and

supervise for each working forest and the district a data bank on forest resources, practices, and production permitting analysis and evaluation of each working forest and the entire district on an annual basis.

(c) To provide an independent certified audit by a certified public accountant of all accounting data, showing profits and losses and financial condition annually by each working forest and the district.

(d) To furnish to the department of agriculture data on soil conditions and conservation and furnish to the ~~departments~~ DEPARTMENT AND THE DEPARTMENT of commerce, ~~and natural resources,~~ at least annually, a detailed summary of the operations and results of the forest practices and the profit and loss and financial condition of each working forest and to consolidate it for the district.

(e) To act as an agent for the district in the exercise of the powers granted under section ~~413~~ 50135.

(f) To assist in establishing, finding, or developing markets for all wood products harvested. A timber owner shall not be restricted in any way from disposing of or marketing wood products produced from that timber owner's land.

(g) To provide the district with a surety bond protecting the district against misuse, theft, or embezzlement of funds.

(h) To take such other action as delegated to it from time to time by the board of directors of the district.

(4) The western Upper Peninsula forest improvement district may act in, through, or by a profit corporation and as a

political subdivision using the profit corporation to permit better evaluation of the commercial feasibility of the entire pilot project.

(5) Upon approval of the member's forest management plan, the member shall proceed to conduct those approved forest practices designated to enhance improved tree growth, improve quality of the trees allowed to remain in the residual stand, and, in general, manage the timberland for the purpose of developing maximum production of high quality commercial timber. The practices shall include, but not be limited to, ALL OF THE FOLLOWING:

(a) Timber stand improvement thinnings of defective, poorly formed, diseased, or otherwise undesirable living trees in the forest.

(b) Waste wood harvest of overmature, defective cull trees and trees too small or otherwise unsuited for manufacture of forest products but suited for production of chips for fuel or other purposes.

(c) Planting open areas in existing forests where natural tree reproduction has not been adequate or where there is benefit in changing or converting the forest site from a less desirable and less productive tree species to a more valuable and more productive tree species as economically feasible.

(d) Planting trees in open fields destined not to be used for future growth of agriculture crops as economically feasible.

(e) Salvage of broken, storm-damaged trees or other trees which by reason of their present condition will deteriorate in value in future years rather than improve in growth and quality.

(6) To the extent funds are available to the western Upper Peninsula forest improvement district, the district may make an incentive payment to or for the members of the district who submit forest management plans approved by the district and adopt and comply with forest practices prescribed in this ~~article~~ SUBPART and as prescribed for the working forests in the district. One-fourth of each annual incentive payment shall be used by the district to discharge its administrative and operating costs, and 3/4 of the payment shall be returned to the member. The incentive payments paid to the members ~~shall be~~ ARE subject to the following terms and conditions:

(a) Production of at least 1 ton per acre per year of waste wood in minimum aggregate units of 10 tons, or production of pulpwood, bolts, OR saw or veneer logs from or reforestation of the forest lands of the landowner member in accordance with the members' approved forest practice plan. However, if there is not a market available for the pulpwood, bolts, OR saw or veneer logs, ~~this~~ THE requirement IN THIS SUBDIVISION may be waived.

(b) If ~~lands are~~ LAND IS publicly owned and exempt from ad valorem property taxes, the incentive payments shall be reduced by $1.50 per acre. A member's ~~lands~~ LAND may remain or be placed under ~~the commercial forest reserve act, Act No. 94 of the Public Acts of 1925, being sections 320.301 to 320.314 of the Michigan Compiled Laws~~ PART 511. Such ~~lands~~ LAND shall continue to be taxed pursuant to ~~Act No. 94 of the Public Acts of 1925~~ PART 511, and the incentive payments for ~~such lands~~ THE LAND shall be reduced by $1.20 per acre.

(c) If in any year a landowner member does not comply with the requirements of this subsection, the annual incentive payments for that year are to be repaid by the member to the district, with interest, at the average annual rate being earned on money deposited in the investment account of the general fund of this state. If a member substantially fails to comply with the member's approved forest practice plan, all payments received by the member shall be repayable to the district in full with interest within 30 days after the mailing of written notice of default to the member. In the alternative, the district or its agents, representatives, or assigns may enter upon the lands of the member and cut and remove waste wood, pulp, bolts, or timber in accordance with the prescribed forestry practices and apply the proceeds ~~therefrom~~ to the repayment of the annual incentive payments due from the member, together with interest. If a member receiving annual incentive payments fails to effect compliance with the member's management plan and the prescribed forestry practices and does not repay the incentive payments received, with interest, and the district does not cut or remove timber or pulpwood from the member's land receiving net proceeds sufficient to offset the repayment due, then the district may place a lien on the member's land. To effect a lien on the member's land, the supervisory forester of the working forest in which the member landowner's lands are located shall certify to the board the noncompliance by the member and the basis of the noncompliance on a form prescribed by the board ~~,~~ and shall serve a copy of the form on the member. The member shall be

entitled to a hearing by the board after receipt of notice, to be held within 30 days after the giving of notice to the member of the noncompliance. If the board determines that there has been noncompliance by the landowner member, the board shall set forth its determination in writing and record that determination in the office of the register of deeds in which the lands are located. The recorded determination of the default or noncompliance by the member ~~shall constitute~~ CONSTITUTES a lien in favor of the district on the land of the defaulting or noncomplying member. Copies of the written determination shall be served upon the member and the appropriate local taxing authorities. A member determined to be in noncompliance shall not be entitled to further incentive payments.

(7) The board of the western Upper Peninsula forest improvement district also shall effect an investigation of and determine the feasibility of acquiring an industrial site for processing operations by the district and to erect and operate a processing or manufacturing plant, and to acquire sites for power plants generating electricity using waste wood as their primary fuel, and to acquire, erect, and operate the same, issuing bonds for these purposes pursuant only to the procedure, terms, and conditions of ~~article~~ SUBPART 7, as the board ~~deems~~ CONSIDERS proper and without other or further approval.

Sec. ~~206~~ 50113. During the years of operation of the western Upper Peninsula forest improvement district, a detailed report of the operation and impact of the district shall be

submitted by the board of the district to the departments and the legislature for an analysis and evaluation.

Sec. ~~207~~ 50114. Within 30 days after receipt of the certificate from the secretary of state pursuant to section ~~405~~ 50127, the western Upper Peninsula forest improvement district board shall record a notice pursuant to this ~~act~~ PART setting forth the names and addresses of the member landowners and the legal description of each member's forest lands in the office of the register of deeds for each county in which the ~~lands are~~ LAND IS situated. When forest lands are added or withdrawn, a like notice shall be recorded within 30 days thereafter, and copies of all notices shall be served upon the appropriate local taxing authorities. The notices shall be certified under oath.

Sec. ~~208~~ 50115. For the public benefit, the board shall mandate the continuous growing, improvement, and harvesting of forest trees to protect and maintain the forest soil, air, water resources, wildlife, and aquatic habitat within the district. The board of the western Upper Peninsula forest improvement district shall establish minimum standards for the conduct of forest practices on forest land within the district. These standards shall DO ALL OF THE FOLLOWING:

(a) Provide for the improvement and harvesting of forest trees in a manner that will increase the productivity of the forest land, reduce soil and debris entering streams, and protect wildlife and fish habitat.

(b) Provide for road construction that will ensure the maintenance of forest productivity and water quality during construction and maintenance.

(c) Provide for reforestation that will maintain the growing and harvesting of desirable forest tree species by describing the conditions under which reforestation will be required, specifying the minimum and maximum number of trees per acre and the maximum period of time allowed after harvesting for reforestation, and requiring stabilization of soils ~~which~~ THAT have become exposed as a result of harvesting. An acreage exemption from reforestation may be established, except that, on the land exempted, within 1 year after harvesting, some form of vegetative cover shall be required sufficient to provide continuing soil productivity and stabilization.

(d) Provide for management of slashings resulting from the harvesting, management, or improvement of forest tree species so as to protect reproduction and residual stands, to reduce the risk from fire, insects, and disease, to optimize the conditions for future regeneration of forest trees, and to maintain water quality and fish and wildlife habitat.

(e) Coordinate the notification requirement of this ~~article~~ SUBPART and all other submission requirements imposed upon members so as to minimize the requirements for submission of information.

(f) Require having specific forest fire fighting equipment readily available.

Sec. ~~209~~ 50116. (1) A member who has submitted and obtained approval of the member's forest management plan and desires to effect a change in the plan shall set forth the proposed change in writing and obtain the written approval of the supervisory forester of the working forest in which the member's lands are located.

(2) If the supervisory forester does not grant the approval, the member may appeal the denial to the forestry director, if any, or to the board, and the forestry director's ~~determination~~ and the board's determination shall be final.

(3) Changes in forestry management plans determined by the board shall be set forth in writing and served upon the members and shall take effect 30 days after the service is made.

Sec. ~~210~~ 50117. The security for the repayment of bonds issued by the district may be a pledge or mortgage on all lands owned by the district and all of the district's installations, buildings, and equipment, tools, furniture, fixtures, or other personal property owned by the district.

Sec. ~~211~~ 50118. (1) The western Upper Peninsula forest improvement district shall establish 1 or more special debt service reserve funds ~~,~~ to secure its bonds, referred to in this ~~act~~ PART as approved reserve funds. The district shall pay into an approved reserve fund the money appropriated and made available by the state for the purpose of the fund. The money held in an approved reserve fund and the income on that money shall be used as required by the resolution authorizing the issuance of bonds and creating the fund for their repayment.

(2) An approved reserve fund requirement in the resolution of the board authorizing the bonds with respect to which the fund is established shall not exceed the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds secured in whole or in part by the fund. The district shall not issue bonds secured in whole or in part by an approved reserve fund if, upon the issuance of the bonds, the amount in the fund would be less than the requirement for the fund, unless the district at the time of issuance of the bonds deposits in the fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in the fund, ~~shall be~~ IS not less than the approved reserve fund requirement for the fund.

Sec. ~~212~~ 50119. Except where expressly modified by ~~provisions contained in~~ this ~~article~~ SUBPART, this ~~act shall apply~~ PART APPLIES to the western Upper Peninsula forest restoration pilot project.

SUBPART 3 DEPARTMENT POWERS

Sec. ~~301~~ 50120. (1) The ~~commission~~ DEPARTMENT shall DO ALL OF THE FOLLOWING:

(a) Provide the technical assistance of the department to the board of directors of a forest improvement district and to agencies of the state and persons with respect to the development of forest practices guidelines, the development and implementation of forest management plans, and other matters as to which the department has special expertise.

(b) Secure the cooperation and assistance of the United States or an agency of the United States, and an agency of this state, or any combination of federal and state agencies, in the work of a district, and formulate policies and procedures as necessary to facilitate the extension of aid from an agency of the United States or an agency of this state to the district.

(c) Keep the board of each forest improvement district informed of the activities and experience of all other districts organized under this ~~act~~ PART and facilitate an interchange of advice, experience, and cooperation between them.

(d) Pay all the expenses for the serving of notice, the conduct of hearings, and elections held during the district formation procedures pursuant to ~~article~~ SUBPART 4. The ~~commission~~ DEPARTMENT shall make all determinations as to eligibility of persons to vote. A determination made by the ~~commission shall be~~ DEPARTMENT IS final without a right of appeal. A referendum or election shall be conducted by a district except for the first board of directors election. The ~~commission~~ DEPARTMENT shall supervise the conduct of any referendum or election required by this ~~act~~ PART. A referendum or election shall be conducted in a manner so as to preserve the purity of the ballot and to prevent fraud and corruption.

(e) Oversee the issuance of bonds by a district under this ~~act~~ PART and, if the ~~commission~~ DEPARTMENT determines that the forest improvement project to be funded from the proceeds of the bonds is economically feasible and desirable, that the terms and conditions of the bond issuance, including the required

reserve fund level, as specified in the resolution authorizing the issuance of bonds, are appropriate and acceptable, and that the bond issuance promotes the policy and purposes declared in this ~~act~~ PART and should be approved and supported by the ~~commission~~ DEPARTMENT, then the ~~commission~~ DEPARTMENT shall officially approve the bond issuance and designate the reserve fund established in connection with the bond issuance as an approved reserve fund.

(f) Receive the certification submitted by a district pursuant to section ~~703~~ 50158 concerning the amounts necessary to restore approved reserve funds to amounts equal to their reserve fund requirements, review that certification and the financial affairs of the district ~~in order~~ to determine the accuracy of the amounts required, and certify, before April 2 of each year, to the governor and the budget director the amount, if any, necessary to restore an approved reserve fund to an amount equal to the approved reserve fund requirement of the fund. The governor and the budget director shall include in the annual budget the amount ~~so~~ certified by the ~~director of the~~ department.

(g) Disseminate information throughout the state concerning the activities and programs of the forest improvement districts and encourage the formation of these districts in areas where their organization is desirable.

(h) Monitor financings by districts under this ~~act~~ PART and determine, for recommendation to the legislature, what additional steps, which may include a recommendation to the legislature for the issuance of faith and credit bonds for a vote

of the people, may be necessary in order to accomplish the policies and purposes declared in this ~~act~~ PART.

(2) Subsection (1)(c), (d), (e), (g), and (h) ~~shall~~ DO not apply to the western Upper Peninsula forest improvement district until 5 years after the district is established and activated.

Sec. ~~302~~ 50121. The ~~commission~~ DEPARTMENT shall promulgate rules, adopt guidelines, and issue publications under THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public Acts of 1969, ~~as amended,~~ being sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws, as may be necessary to implement and administer this ~~act~~ PART.

Sec. ~~303~~ 50122. (1) The ~~commission~~ DEPARTMENT, in promulgating its rules ~~,~~ and ~~the director of the department,~~ in disposing of the timber and other products from state forest land, shall give primary consideration to the purposes for the creation of a forest improvement district.

(2) In order to accomplish the purposes of this ~~act~~ PART, the ~~director of the~~ department may enter into a timber volume agreement with a district, or with a person specified by a district, which commits a portion of the timber from state land within a district to the use of that district or person.

(3) A forest improvement program is created. The program may be financed by annual appropriations made by the legislature. The program shall be used solely for the purpose of grants to districts for the purposes of this ~~act~~ PART and shall be administered by the ~~director of the~~ department.

SUBPART 4 FOREST IMPROVEMENT DISTRICT

Sec. ~~401~~ 50123. A forest improvement district may be established pursuant to this ~~act~~ PART, and when established ~~shall have~~ HAS the powers conferred by this ~~act~~ PART.

Sec. ~~402~~ 50124. (1) A district may be established by filing a petition, signed by 10 or more owners of forest land who control a total combined acreage of not less than 50,000 acres lying within the limits of the gross territorial boundary proposed to be organized into a district, with the ~~commission~~ DEPARTMENT asking that a district be organized in the territory described in the petition. The petition shall state all of the following:

(a) The proposed name of the district.

(b) A legal description of the forest land proposed to be organized as the district, including the proposed gross territorial boundary of the district.

(c) A tentative implementation schedule for the forest practices functions and services the district will perform.

(d) An analysis ~~which~~ THAT demonstrates the economic and administrative feasibility of a district within the defined boundaries.

(e) A request that the boundaries for the district be established.

(2) If more than 1 petition is filed covering parts of the same territory, the ~~commission~~ DEPARTMENT shall determine which of the districts shall encompass that territory.

Sec. ~~403~~ 50125. (1) Within 30 days after a petition has been filed, the ~~commission~~ DEPARTMENT shall give notice of a proposed hearing upon the question of the desirability, necessity, and feasibility of the creation of the district, upon the question of the appropriate boundaries to be assigned to the district, and upon all other relevant issues.

(2) If it appears at the hearing that it may be desirable to include territory outside of the area within which notice of the hearing was given, the hearing shall be adjourned and notice of the further hearing shall be given to forest owners or occupiers of land throughout the entire area considered for inclusion in the district, and a further hearing held. The gross territorial boundary of a district shall not include an area included within the gross territorial boundary of another district.

(3) If the ~~commission~~ DEPARTMENT concludes after a 30-day grace period following the hearing, upon the facts presented and upon other relevant information available, that need for a district exists, it shall make and record that determination, and shall define, by metes and bounds or by plat maps, the forest land of the district. The gross territorial boundary of the district shall be defined by metes and bounds or by plat maps.

(4) In making its determination and in defining the boundaries of a district, the ~~commission~~ DEPARTMENT shall consider the forest tree species in the proposed district, the condition of the forest land, the prevailing forest practices, the benefits forests may receive from being included within the district, the relation of the proposed area to other districts already

organized or proposed for organization, and other physical, geographical, and economic factors considered relevant.

(5) In making a determination as to district boundaries, if the ~~commission~~ DEPARTMENT determines that the forest improvement projects will impact upon the property value of nonparticipating landowners, the ~~commission~~ DEPARTMENT shall provide actual notice of hearings as provided for in this section.

Sec. ~~404~~ 50126. (1) If the ~~commission~~ DEPARTMENT makes and records a determination that the need for a district exists and defines its boundaries, the ~~commission~~ DEPARTMENT shall then consider the question of whether the operation of a district within those boundaries is administratively and economically feasible.

(2) If the ~~commission~~ DEPARTMENT determines that the operation of a district is feasible, it shall record that determination and shall proceed with the organization of that district.

(3) If the ~~commission~~ DEPARTMENT determines the operation of a district is not feasible, it shall record the reasons for its determination and deny the petition. After 6 months have expired from the date of the denial of a petition by the ~~commission~~ DEPARTMENT, subsequent petitions covering the same or substantially the same territory may be filed and a new hearing and determination made.

Sec. ~~405~~ 50127. (1) If the operation of a district is determined to be feasible, the ~~commission~~ DEPARTMENT shall appoint 2 directors who, with the 3 directors elected as provided in sections ~~409~~ 50131 and ~~410~~ 50132, ~~shall~~ constitute the

first board of directors of the district. The directors appointed shall be persons who are by training and experience qualified to perform the functions which are required of them by this ~~act~~ PART.

(2) The board shall present the secretary of state with an application ~~which shall state~~ THAT STATES all of the following:

(a) That a petition for the creation of a district was filed with the ~~commission~~ DEPARTMENT pursuant to this ~~act~~ PART; that the proceedings specified in this ~~act~~ PART were taken pursuant to the petition; and that the application is being filed in order to complete the organization of the district and that they are the directors.

(b) The name and official residence of each of the directors, together with a certification evidencing their right to office.

(c) The term of office of each of the directors.

(d) The proposed name of the district.

(e) The location of the principal office of the district.

(f) The date the district is to come into existence under this ~~act~~ PART. The application shall be subscribed and sworn to by each of the directors before an officer authorized by the laws of the state to take and certify oaths.

(3) The application shall be accompanied by a statement by the ~~commission, which shall certify~~ DEPARTMENT THAT CERTIFIES all of the following:

(a) That a petition was filed, notice given, and a hearing held as required.

(b) That the ~~commission~~ DEPARTMENT determined there is a need for a district to function in the proposed territory and defined its boundaries.

(c) That the ~~commission~~ DEPARTMENT subsequently determined that the operation of the proposed district is administratively and economically feasible.

(4) The secretary of state shall examine the application and statement and shall receive and record them in an appropriate book of record and shall issue a certificate to the board specifying the date of creation and the gross territorial boundary of the district.

Sec. ~~406~~ 50128. The district shall constitute a governmental subdivision of the state and a public body corporate and politic on the date specified in the directors' application or on the date the application and statement are filed and recorded, whichever is later.

Sec. ~~407~~ 50129. A petition for discontinuance of membership in, for deletion of member forest land within, and for including additional territory within an existing district shall be filed with the board. The board shall prescribe the form for the petition. The board annually shall notify the ~~commission~~ DEPARTMENT of any changes in membership or land ownership status changes.

Sec. ~~408~~ 50130. (1) Petitions signed by a majority of the members of each of the boards of adjoining districts may be filed

with the ~~commission~~ DEPARTMENT asking that the boundary line between the districts be changed. These petitions shall identify the existing boundary line between the districts and the proposed new gross territorial boundary.

(2) Within 30 days after a petition has been filed, the ~~commission~~ DEPARTMENT shall hold a public hearing upon the question of the proposed boundary change. All members of the affected districts, and all other interested persons, may attend the hearing and be heard.

(3) After the hearing, the ~~commission~~ DEPARTMENT shall determine, upon the facts presented at the hearing and upon other relevant information, whether the operation of the districts within the proposed new gross territorial boundaries would be administratively and economically feasible. If the ~~commission~~ DEPARTMENT determines the operation of the districts within the proposed new boundaries will be feasible, it shall record that determination and notify the boards of the districts of its determination.

(4) The boards of the affected districts shall present an application to the secretary of state, signed by them, for a certificate evidencing the change of boundary. The application shall be accompanied by a statement of the ~~commission~~ DEPARTMENT certifying that the boundary between the districts has been changed pursuant to the procedures prescribed ~~,~~ and identifying the new gross territorial boundary lines. When the application and statement ~~have been~~ ARE filed, the change of boundary ~~shall be considered~~ IS effective and the date of

filing shall be identified on the certificate which the secretary of state shall issue to the boards of the affected districts.

Sec. ~~409~~ 50131. (1) The governing body of a district shall be the board of directors which shall consist of 5 persons. The board may elect a chairperson and other officers which it considers necessary or convenient for ~~carrying out the purposes of~~ IMPLEMENTING this ~~act~~ PART. The term of office of a director shall be 3 years except for the first board. The board of directors of the western Upper Peninsula forest improvement district shall be determined pursuant to ~~article~~ SUBPART 2.

(2) The first board shall consist of 3 directors elected as provided in section ~~410~~ 50132 and the 2 directors appointed by the ~~commission~~ DEPARTMENT. The directors shall take office on the date specified by the secretary of state as the beginning of a district's existence or as soon as appointed, whichever is later. The term of office of the director first appointed shall be 1 year, the second director shall be appointed for 2 years, and the directors first elected at the time of the referendum shall serve as follows: the director receiving the highest number of votes shall serve for 3 years, the director receiving the next highest number of votes shall serve for 2 years, and the director receiving the next highest number of votes shall serve for 1 year. Thereafter, as the terms of the directors of the first board expire, the ~~director of the~~ department shall appoint a director to the board if the state land encompassed by the district's gross territorial boundary is greater than 5% of

the forest land which comprises the district and a timber volume agreement has been made. The other positions on the board shall be filled by elections at the annual meeting of the members of a district. If the state land encompassed by a district's gross territorial boundary is 5% or less of the forest land which comprises the district, all of the positions on the board shall be filled by those elections.

(3) All members who own forest land within a district, except for state lands, shall be eligible to vote for 1 or more candidates for the board, according to the amount of forest land owned within the district pursuant to the following schedule:

(a) An owner of less than 100 acres may cast 3 votes.

(b) An owner of at least 100 acres but less than 500 acres may cast 4 votes.

(c) An owner of at least 500 acres but less than 1,000 acres may cast 5 votes.

(d) An owner of at least 1,000 acres but less than 5,000 acres may cast 6 votes.

(e) An owner of at least 5,000 acres but less than 10,000 acres may cast 7 votes.

(f) An owner of at least 10,000 acres but less than 20,000 acres may cast 8 votes.

(g) An owner of at least 20,000 acres but less than 50,000 acres may cast 9 votes.

(h) An owner of 50,000 acres or more may cast 10 votes.

(4) A vacancy shall be filled by appointment by the board and a director appointed shall serve until the next annual

meeting when a director shall be elected to finish the unexpired term. The annual meeting shall be held within 30 days after the close of the fiscal year of a district. The fiscal year of a district shall be the same as the fiscal year of this state.

(5) A majority of the directors ~~shall constitute~~ CONSTITUTES a quorum, and the concurrence of a majority of the directors in any matter within their power shall be required for the board's determination. A quorum shall consist of 3 members of the board at least 2 of whom shall be elected members. A director shall not receive compensation for services rendered, but ~~shall be~~ IS entitled to expenses, including traveling expenses, necessarily incurred in the discharge of duties performed as a director. The directors may delegate to their chairperson, to 1 or more directors, or to 1 or more agents or employees, power and duties as they consider proper.

(6) A petition may be filed with the ~~commission~~ DEPARTMENT for an election to recall 1 or more directors if the petition is signed by members within a district whose forest land comprises 20% or more of the forest land within the district. Within 30 days after a petition has been filed, the board shall give notice in the manner provided by THE MICHIGAN ELECTION LAW, Act No. 116 of the Public Acts of 1954, ~~as amended,~~ being sections 168.1 to 168.992 of the Michigan Compiled Laws, of the holding of a recall election. The recall election shall be held within 45 days after the filing of a petition. All members who own forest land within the boundaries of a district, except for state land, ~~shall be~~ ARE eligible to vote in the recall election pursuant to the

schedule in subsection (3). A 2/3 majority of the votes cast ~~shall be~~ IS required to recall a director. The term of a director who is recalled shall cease on the date the results of the election are published by the ~~commission~~ DEPARTMENT.

(7) A board shall furnish the ~~commission~~ DEPARTMENT with copies of ordinances, rules, regulations, orders, contracts, forms, and other documents it adopts or employs, and with other information concerning its activities as the ~~commission~~ DEPARTMENT requires in the performance of its duties under this ~~act~~ PART.

(8) A board shall require the execution of surety bonds for each employee or officer who is entrusted with funds or property; shall provide for the keeping of a full and accurate record of each proceeding and each resolution, regulation, or order issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(9) The board shall invite the legislative body of each local unit of government or county located within, partially within, or near the territory comprising a district to designate a representative to advise and consult with the board on all questions which may affect the property or other interests of that local unit of government or county.

Sec. ~~410~~ 50132. (1) A candidate for the first board of directors shall file nominating petitions with the ~~commission~~ DEPARTMENT at or before the hearing on the need for a district. A candidate shall be a member of the proposed district. A nominating petition shall not be accepted by the ~~commission~~

DEPARTMENT unless it is subscribed by 6 or more members of a proposed district. A member may sign more than 1 nominating petition. The ~~commission~~ DEPARTMENT shall give notice of the initial election of 3 directors. Notice shall be posted at the business office of each governmental unit in the proposed district, published in each newspaper of record distributed in the proposed district, mailed to each individual elected governmental official within the proposed district and mailed to any individual requesting written notification of the initial election. The 3 candidates who receive the largest number of the votes cast shall be the elected directors for a district.

(2) All members within a district ~~shall be~~ ARE eligible to vote for 1 or more candidates for the first board of directors, according to the amount of forest land owned within a proposed district, pursuant to the schedule in section ~~409(3)~~ 50131(3).

Sec. ~~411~~ 50133. (1) Two or more districts may petition the ~~commission~~ DEPARTMENT for consolidation into a single district. The ~~commission~~ DEPARTMENT shall not act on the petition unless it is signed by a majority of the board of each of the districts involved. Within 30 days after receipt of a petition, the ~~commission~~ DEPARTMENT shall give notice of a hearing on the proposed consolidation. Notice shall be given to all members in the area proposed to be included in the consolidated district.

(2) Based on the facts presented at the hearing and other relevant facts, the ~~commission~~ DEPARTMENT shall determine if consolidation is desirable. If the ~~commission~~ DEPARTMENT

determines that consolidation is desirable, it shall issue an order which states that the districts are to be consolidated on a date specified, the name of the consolidated district, and its gross territorial boundaries.

(3) The board of the consolidated district shall consist of the chairperson of the board of each of those districts consolidated, who shall serve for a term of 2 years, and 3 other members appointed by the ~~commission~~ DEPARTMENT, who shall serve for a term of 1 year. Thereafter, directors shall be elected or appointed as provided in section ~~409~~ 50131.

(4) Upon receipt of the order of consolidation, the secretary of state shall issue a certificate of proper organization to the directors of the consolidated district. The consolidated district shall have the same powers and duties as other districts organized under this ~~act~~ PART.

(5) The assets, liabilities, records, documents, writings, or other property of the districts consolidated shall become the property of the consolidated district. All agreements made by, and obligations of the districts consolidated shall be binding upon and enforceable by the consolidated district.

Sec. ~~412~~ 50134. (1) The members within a district, whose total lands compose 25% or more of the private forest land which comprise the district, may file a petition with the ~~commission~~ DEPARTMENT requesting that the district be discontinued. The petition shall identify the provisions to be taken for the payment of outstanding debt and the disposition of district property.

(2) The ~~commission~~ DEPARTMENT may conduct public hearings to assist it in its consideration of the petition. Within 60 days after a petition has been filed, the board shall give notice for the holding of a referendum upon the issue of the discontinuance of a district. All members of the district shall be eligible to vote in the referendum pursuant to the schedule in section ~~409(3)~~ 50131(3).

(3) The board shall publish the results of the referendum. If a majority of the votes cast are in favor of discontinuing a district, the ~~commission~~ DEPARTMENT shall determine that the district will be discontinued. Even if a majority of the votes cast are not in favor of discontinuing a district, the ~~commission~~ DEPARTMENT may determine that the district not continue in existence. If the ~~commission shall determine~~ DEPARTMENT DETERMINES that the district shall continue, it shall record that determination and deny the petition. If the ~~commission~~ DEPARTMENT determines that a district shall be discontinued, it shall record its determination and certify its decision to the board of the district. In making its determination, the ~~commission~~ DEPARTMENT shall consider the economic and administrative feasibility of the continuation of a district, the extent of outstanding debt of the district, the attitudes of the members within the district, the number of members eligible to vote in the referendum who voted, the proportion of the votes cast in favor of the discontinuance of the district to the total number of votes cast, and other economic and social factors which may be relevant to the determination.

(4) Upon receipt from the ~~commission~~ DEPARTMENT of a certification of a determination that a district shall be discontinued, the board shall proceed to terminate the affairs of the district. The board shall provide for the payment of all outstanding debt and for the disposition of district property to the state. The board shall thereafter file an application with the secretary of state for the discontinuance of the district. The application shall identify the action taken to provide for the payment of all outstanding debt and for the disposition of district property. The secretary of state shall issue a certificate of dissolution to the board of the district which specifies the effective date of discontinuance and shall record the certificate in the appropriate book of record.

(5) Each contract, bond, or other obligation to which a district is a party shall remain in force and effect for the period provided in the contract, bond, or other indebtedness. If a district is discontinued, the ~~commission~~ DEPARTMENT shall be substituted for the district as a party to each contract entered into by the district, except the ~~commission shall~~ DEPARTMENT IS not ~~be~~ responsible for any coupon or bond issued by a district under this ~~act~~ PART. The ~~commission shall be~~ DEPARTMENT IS entitled to all benefits and subject to all responsibilities under each contract for which it is substituted as a party and ~~shall have~~ HAS the same right to perform, to require performance, to sue and be sued, and to modify or terminate the contract by mutual consent or otherwise, as the board of a district would have had.

(6) The ~~commission~~ DEPARTMENT shall not entertain a petition for the discontinuance of a district, ~~nor~~ OR make determination pursuant to a petition under this section, more often than once every 2 years.

Sec. ~~413~~ 50135. In addition to those powers granted elsewhere in this ~~act~~ PART, a district ~~shall have~~ HAS ALL OF the following powers, which ~~shall be~~ ARE subject to federal and state environmental laws:

(a) To obtain real property for purposes of industrial site development within the gross territorial boundary of a district, a municipality located within the gross territorial boundary may take private property under THE UNIFORM CONDEMNATION PROCEDURES ACT, Act No. 87 of the Public Acts of 1980, being sections 213.51 to ~~213.87~~ 213.77 of the Michigan Compiled Laws, for the purpose of transfer to the district and may transfer the property to the district for use in an industrial site. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public. For the purposes of this section, "industrial site development" means the location of industrial plant facilities for production, processing, handling, storage, marketing, manufacturing, or directly related transportation facilities of forest resources. Each district shall have only 1 industrial site not to exceed 150 acres.

(b) To act as the marketing agent for the members or an association of the members within a district after obtaining their consent, in order to facilitate cooperation among the members to increase their bargaining power, including the power

to make commitments of private timber in a manner, volume, and for periods prescribed by the board.

(c) To conduct business operations with the powers provided in section 261 of THE BUSINESS CORPORATION ACT, Act No. 284 of the Public Acts of 1972, being section 450.1261 of the Michigan Compiled Laws.

(d) To conduct and publish the results of surveys, investigations, and support research by research institutions relating to the need and nature of forest practices within a district.

(e) To develop comprehensive management plans for forest practices within the district which specify the procedures, performances, and resources necessary or desirable for the effectuation of the plans. If the state land encompassed by a district's gross territorial boundary is greater than 5% of the total forest land area, the department and the district administrators shall cooperate in the development of comprehensive management plans. The plans shall be published so as to bring them to the attention of the members within a district.

(f) To conduct projects to demonstrate the means and methods of forest practices within a district on forest land owned or controlled by the state or an agency of the state, with the cooperation of the agency administering and having jurisdiction, and on any other forest land within a district upon obtaining the consent of the owner or the necessary rights or interest in the land.

(g) To carry out and to assist members in carrying out forest practices within a district.

(h) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, property, real or personal, or rights or interests in real or personal property; to maintain, administer, and improve property acquired; to receive income from the property and to expend that income in ~~carrying out~~ IMPLEMENTING this ~~act~~ PART; and to sell, lease, or otherwise dispose of its property or interests.

(i) To make available to members within a district, on terms the board shall prescribe, foresters, forest managers, forest practice and harvesting machinery and equipment, seeds, and seedlings and other material, equipment, or personnel, as will be of assistance in carrying out forest practices.

(j) To construct, improve, operate, and maintain sawmills, hardboard mills, and other structures or facilities as may be necessary or convenient to carry out this ~~act~~ PART, and to cooperate with owners of existing structures and facilities.

(k) To assume by purchase, lease, or otherwise, and to administer, a forest improvement project undertaken within the boundaries of a district by the United States or an agency of the United States, or an agency of the state; to manage, as agent of the United States or an agency of the United States, or an agency of the state, a forest improvement project within its boundaries; to act as agent for the United States, or an agency of the United States, or for an agency of the state, in connection with the acquisition of real or personal property for, or in the construction, operation, or administration of, a forest improvement project within its boundaries; to accept donations, gifts, and

contributions in money, services, materials, or otherwise, from the United States or an agency of the United States, from an agency of the state, or from any other source, and to use or expend that money or those services, materials, or other contributions in carrying on its operations subject to policies and procedures as adopted by the ~~commission~~ DEPARTMENT; and to accept money, gifts, and donations from any source.

(*l*) To cooperate with industrial and trade development agencies in efforts to promote the expansion of industrial and manufacturing activities utilizing wood products.

(m) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless discontinued as provided in this ~~act~~ PART; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; and to promulgate rules consistent with this ~~act~~ PART and the rules of the ~~commission~~ DEPARTMENT in order to carry into effect the policy and purposes of this ~~act~~ PART.

(n) To extend benefits to members as considered desirable by the board and to require contributions in money, services, materials, or otherwise of members of forest land as a condition of extending benefits under this ~~act~~ PART.

(o) To defray all or part of the project costs of a forest improvement project, borrow money, and issue bonds as provided in this ~~act~~ PART. A bond or coupon issued under this ~~act~~ PART shall not be a general obligation of, or constitute a debt of the

state or a political subdivision of the state, other than the issuing district.

(p) To enter into lease, lease-purchase, installment sale, loan, or other agreements with a person ~~in order~~ to provide for the acquisition, construction, equipping, improving, or financing of a forest improvement project.

(q) To mortgage any of the following in favor of the holders of the bonds issued in conjunction with a project:

(*i*) The project.

(*ii*) The industrial site of the district.

(*iii*) Any building, equipment, or other personal property situated on the site.

(*iv*) District owned forest land.

(*v*) Member owned forest land, with the member's consent.

(r) To sell and convey any district owned property, including without limitation the sale and conveyance of the industrial site and its facilities subject to a mortgage, for a price and at a time the board determines. A sale or conveyance shall not be made in a manner as to impair the rights or interests of the holders of bonds.

(s) To employ a district manager, foresters, architects, attorneys, accountants, construction and financial experts, and other employees and agents as are necessary to ~~carry out~~ IMPLEMENT this ~~act~~ PART.

(t) To receive and accept from a public or private agency loans or grants for or in aid of a project or portion of a project undertaken, and receive and accept a loan, grant, aid, or

contribution from any source of money, property, labor, or any other thing of value, to be held, used, and applied only for the purposes for which the loan, grant, aid, or contribution is made.

(u) To issue bonds for purposes of funding a forest improvement district or forest practices.

Sec. ~~414~~ 50136. Each agency of this state ~~which~~ THAT has jurisdiction over, or is charged with the administration of, state owned land within the boundaries of a district shall cooperate to the fullest extent with the board of the district in ~~carrying out~~ IMPLEMENTING this ~~act~~ PART. The departments of agriculture and commerce and other industrial and trade development agencies of this state shall also cooperate to the fullest extent with the board of a district in ~~carrying out~~ IMPLEMENTING this ~~act~~ PART.

Sec. ~~415~~ 50137. (1) The expenses of a district may be paid from 1 or more of the following:

(a) An appropriation by the legislature.

(b) The revenues of the district's facilities and operations.

(c) The proceeds of the service fees authorized by this ~~act~~ PART.

(d) The proceeds of sales of state timber within the district except for the redemption of the bonds in case of default.

(e) Federal grants or from gifts or grants from private persons.

(f) The proceeds from the sale of the bonds of the district.

(g) Any other funds available to the district.

(2) When allocating available funds among proposed districts, the ~~commission~~ DEPARTMENT shall consider the proposed district or districts which in its judgment will produce the greatest public benefit, giving consideration to all of the following factors:

(a) The need for and potential commercial benefits of forest improvement if the district is formed within the proposed gross territorial boundaries.

(b) The need for and potential benefits to long-term production, maintenance, and enhancement of the total forest resource system.

Sec. ~~416~~ 50138. The boards of any 2 or more districts may cooperate in the exercise of powers conferred in this ~~act~~ PART.

Sec. ~~417~~ 50139. During the years of operation of a district, a detailed report of the operation and impact of the district shall be submitted by the board of the district to the departments and the legislature for analysis and evaluation.

SUBPART 5 FOREST PRACTICES

Sec. ~~501~~ 50140. For the public benefit, the board shall mandate the continuous growing, improvement, and harvesting of forest tree species so as to protect and maintain the forest soil, air, water resources, wildlife, and aquatic habitat within a district. The board of a district shall establish minimum

standards for the conduct of forest practices on forest land within a district. These standards shall DO ALL OF THE FOLLOWING:

(a) Provide for the improvement and harvesting of forest tree species in a manner that will increase the productivity of the forest land, reduce soil and debris entering streams, and protect wildlife and fish habitat.

(b) Provide for road construction that will ensure the maintenance of forest productivity, water quality, and fish and wildlife habitat during construction and maintenance.

(c) Provide for reforestation that will maintain the growing and harvesting of desirable forest tree species by describing the conditions under which reforestation will be required, specifying the minimum and maximum number of trees per acre and the maximum period of time allowed after harvesting for reforestation, and requiring stabilization of soils which have become exposed as a result of harvesting. An acreage exemption from reforestation may be established, except that on the land exempted, within 1 year after harvesting, some form of vegetative cover shall be required sufficient to provide continuing soil productivity and stabilization.

(d) Provide for management of slashings resulting from the harvesting, management, or improvement of forest tree species so as to protect reproduction and residual stands, to reduce the risk from fire, insects, and disease, to optimize the conditions for future regeneration of forest tree species, and to maintain air and water quality and fish and wildlife habitat.

(e) Coordinate the notification requirement of this ~~article~~ SUBPART, the application requirement of section ~~604~~ 50148, and all other submission requirements imposed upon members so as to minimize the requirements for submission of information.

(f) Provide for public uses of member forest land within the district, consistent with the purposes of this ~~act~~ PART.

Sec. ~~502~~ 50141. (1) A member shall notify the district of compliance with the forest practice rules by submitting a forest management plan on forms prescribed and provided by the board. The notification shall include the name and address of the member, the legal description of the area in which the forest management plan is to be implemented, the specific forest practices to be conducted during the plan, and other information the board considers necessary.

(2) The member shall notify the board of each subsequent change in the information provided in the notification within 30 days after the change.

(3) The notification shall be valid for not more than 5 years after the date of original notification.

Sec. ~~503~~ 50142. (1) If the board determines that a district forest practice rule was violated, it shall notify the member of the violation within 10 days after its determination. The notice shall specify the nature of the violation charged and identify the damage or unsatisfactory condition that has occurred as a result of the violation.

(2) When a notice of violation is served, the board:

(a) Shall issue and serve an order directing that further violations cease.

(b) May issue and serve an order directing the member to make reasonable efforts to repair the damage or correct the unsatisfactory condition.

(3) If the member requests a hearing within 10 days after the issuance of an order affecting the member's forest land, the board shall hold a hearing on its order within 30 days after the receipt of the request.

Sec. ~~504~~ 50143. (1) If an order directs the repair of damage or correction of an unsatisfactory condition ~~,~~ and ~~,~~ if the member fails to comply, the board shall estimate the cost to repair the damage or the unsatisfactory condition and shall notify the member in writing of the amount of the estimate. Upon written agreement with the member to pay the cost, the district may have the damage repaired or the unsatisfactory condition corrected.

(2) If the member does not agree to pay the cost within 30 days after being notified, the board shall review the matter and determine whether the district shall repair the damage or correct the unsatisfactory condition, and shall approve the amount to be expended. The expenditure approved may include reasonable administrative costs directly associated with repairing the damage or correcting the unsatisfactory condition. The member shall be afforded the opportunity to appear before the

board to present the facts pertaining to the alleged violation and the proposed expenditure.

(3) The board shall keep a complete account of expenditures incurred in repairing damage or correcting an unsatisfactory condition. Not more than 90 days after the completion of the work, the board shall prepare an itemized statement and deliver a copy to the member. An itemized certified statement of the expenditures incurred by the district shall be accepted as prima facie evidence of the expenditures in a proceeding authorized by this ~~article~~ SUBPART.

(4) Upon the initiation of the forest practice work, the expenditures of a district shall become a lien upon a member's forest land located within the district. A written notice of the lien, containing a statement of the demand, an itemization of expenditures incurred, the date incurred and where incurred, and the names of the parties against whom the lien is attached, shall be certified under oath by the district and filed in the office of the register of deeds in each county where the real and personal property of the member is located, if considered necessary to recover the expenditures incurred by the district. This written notice shall be filed within 6 months but not sooner than 30 days after the date of delivery of the itemized statement referred to in subsection (3). The prosecuting attorney of a county in which a lien is filed shall bring legal action on behalf of a district to recover the debt. An error or mistake in the notice of lien of the description of real or personal

property does not affect the validity of the lien, if the real or personal property can be identified by the description.

(5) A lien provided for in this section shall terminate 5 years after the date of filing of the notice of the lien unless legal action is instituted before that time.

Sec. ~~505~~ 50144. This ~~article shall~~ SUBPART DOES not prevent forest land from being converted to any other use. A board shall establish the procedures and criteria for excluding land being converted or to be converted from the requirements of this ~~article~~ SUBPART. The procedures and criteria shall conform with zoning ordinances and land use plans of any other political subdivision within which forest land of a district is located.

SUBPART 6 COST-SHARING AND LOANS FOR FOREST PRACTICES

Sec. ~~601~~ 50145. (1) A district may enter into agreements to share the cost of ~~carrying out~~ IMPLEMENTING forest practices on member forest land within the district. A district may pay not more than 90% of the lesser of either of the following:

(a) The member's actual cost per acre to accomplish the work.

(b) The prevailing per acre cost for the forest practice as determined by the board.

(2) The board shall prepare a schedule of cost share percentages applicable to forest practices undertaken under this section. The schedule shall set forth the percentage amount which the member shall contribute for various categories of forest practices. The ~~commission~~ DEPARTMENT shall provide

technical assistance to a board in the preparation of a schedule. A member's cost share contributions may be made in the form of material, services, or equipment as well as funds.

(3) The scheduled percentage contribution for members owning less than 500 acres may be less than for members owning 500 acres or more. The schedule may also provide for a reduced percentage contribution by a member if 1 or more of the following apply:

(a) The forest practices would provide relatively more employment opportunities than other proposed practices.

(b) The forest practices would increase recreational opportunities for the public.

(c) Forest land conservation measures or fish or wildlife habitat improvements are included in the project.

Sec. ~~602~~ 50146. (1) A district may make loans to a member for 1 or more of the following reasons:

(a) To cover all or part of the member's cost share contribution required under section ~~601~~ 50145.

(b) To cover all or a part of the cost of forest practices, up to 100% of the lesser of either of the following:

(*i*) The actual cost per acre to accomplish the work.

(*ii*) The prevailing cost per acre.

(2) A loan made under this section may be made for a term of not more than 20 years and shall bear interest at the average annual rate being earned by the state on money deposited in the investment account of the general fund of this state. A loan shall be secured by a mortgage or deed of trust upon the parcel of land or the timber rights on the parcel of land upon which the

forest practices were conducted. The board shall record the mortgage or deed of trust in the office of the register of deeds in each county in which the real property subject to the loan is located.

(3) An interest penalty shall not be charged to a member who repays a loan made under this section before its maturity date.

(4) The board may release a member's obligation to repay all or part of the principal and interest due under loans made under this section if the board finds that the parcel of land or the timber rights on the parcel of land SECURING THE LOAN AND upon which the forest practices ~~securing the loan has~~ WERE CONDUCTED HAVE been substantially damaged by fire, flood, insects, disease, or other natural causes and the damage was not caused by the negligence or ~~wilful~~ WILLFUL act of the member.

Sec. ~~603~~ 50147. (1) A district may make annual incentive payments to members to cover forest practice costs only, but not to cover ad valorem property taxes or the member's share of commercial forest act taxes levied pursuant to ~~Act No. 94 of the Public Acts of 1925, as amended, being sections 320.301 to 320.314 of the Michigan Compiled Laws~~ PART 511. This payment is made in anticipation of future timber receipts, and ~~in no case shall~~ the total principal and interest obligation SHALL NOT exceed 90% of the future expected market value of the timber as estimated in the management plan. Income received from the sale of timber covered by this agreement between the district and a member shall be applied to the outstanding obligation.

(2) An annual incentive payment made under this section may be made for a term of not more than 40 years and shall bear interest at the average annual rate being earned by the state on money deposited in the investment account of the general fund of this state. An annual payment shall not exceed $50,000.00 to any 1 member. A payment shall be secured by a mortgage or deed of trust upon the parcel of land or timber, or both, upon which the payment was based. The board shall record the mortgage or deed of trust in the office of the register of deeds in each county in which the real property subject to the loan is located.

(3) A voluntary withdrawal of a member within a district will require full repayment of the obligation plus interest at the current commercial rate.

(4) The board may release a member's obligation to repay all or part of the principal and interest due under payments made under this section if the board finds that the parcel of land or the timber rights on the parcel of land SECURING THE PAYMENT AND upon which the forest practices ~~securing the payment has~~ WERE CONDUCTED HAVE been substantially damaged by fire, flood, insects, disease, or other natural causes and the damage was not caused by the negligence or ~~wilful~~ WILLFUL act of the member.

Sec. ~~604~~ 50148. (1) The following conditions shall be met for a member to be eligible for cost-share payments, a loan, or an annual incentive payment:

(a) The member shall make application for financial assistance for forest practices to each federal program specified by the board. The board shall not make any determination as to

whether and how much assistance a member will receive until the application is approved or disapproved by the governmental agency administering the federal program.

(b) The member shall submit an application for financial assistance in a form prescribed by the board.

(c) Before receiving assistance under this ~~article~~ SUBPART, the member shall agree not to develop the land for a use incompatible with timber production within 10 years after the receipt of a cost-sharing payment agreement pursuant to section ~~601~~ 50145, the making of a loan under section ~~602~~ 50146, or the receipt of an annual incentive payment under section ~~603~~ 50147. A district shall record the agreement in the office of the register of deeds in each county in which the forest land is located. Once recorded, the contract shall be binding upon each person to whom the parcel of land is sold, assigned, devised, or otherwise transferred by agreement or operation of law.

(d) The member shall submit a forest management plan for approval by the board. This plan shall also fulfill the notification requirements of ~~article~~ SUBPART 5. If the proposed forest practices include preparation of a management plan, the plan need not be completed at the time of application. Assistance under this ~~article~~ SUBPART for other forest practices on forest land within the same ownership shall not be made until the management plan has been approved.

(2) The board shall prepare guidelines specifying the factors to be considered and information which should be included in

management plans submitted pursuant to this ~~article~~ SUBPART and ~~article~~ SUBPART 5.

Sec. ~~605~~ 50149. (1) When allocating available funds among applicants for assistance pursuant to this ~~article~~ SUBPART, the board shall select those programs of forest practices which in its judgment produce the greatest public benefit, giving consideration to the following factors:

(a) The need for and potential commercial benefits if the practices are undertaken.

(b) The financial resources of the applicant.

(c) The need for and potential benefits to long-term production, maintenance, and enhancement of the total forest resource system.

(2) The board shall give preference to applications covering forest land that has been substantially damaged by fire, flood, insects, disease, or other natural causes within 36 months before submission of an application under this ~~article~~ SUBPART.

(3) The board shall also give preference to applications with respect to which 1 or more of the following factors is present:

(a) The forest management plan involves reforesting forest land with a more commercially valuable forest tree species than it previously produced.

(b) The forest management plan would provide relatively more employment opportunities than other proposed plans.

(c) The forest land is located in a county with high unemployment.

(d) A small business entity will carry out the proposed plan.

(e) The forest management plan or other actions of the member would increase recreational opportunities for the public.

(4) The board shall establish the criteria for evaluation and approval of applications for financial assistance.

Sec. ~~606~~ 50150. Cost-share payments, loans, or annual incentive payments under this ~~article~~ SUBPART may be made for forest practices ~~which~~ THAT are also the subject of payments or other assistance provided under federal law. Payments or loans may be made to satisfy member cost shares or to repay loans received under federal programs. Combined state and federal payments and loans, and required member cost-share contributions, shall not together exceed the amount of the actual cost or the prevailing cost per acre of the forest practices as determined by the board, whichever is less.

Sec. ~~607~~ 50151. (1) All cost-share payments, loans, or annual incentive payments advanced to a member under this ~~article~~ SUBPART shall be refunded to the district if either of the following ~~apply~~ APPLIES:

(a) The member files an application for rezoning pursuant to local zoning laws permitting use of the land in a manner incompatible with timber production within 10 years after the date an agreement covering the land was signed under section ~~604~~ 50148.

(b) The board finds that a member has not complied with the forest management plan required under section ~~604~~ 50148.

(2) The refund shall bear interest from the date of occurrence of an activity described in subsection (1) until repayment, at the average annual rate being earned by the state on money deposited in the investment account of the general fund of this state.

(3) If the member fails to refund the payments or loans within 30 days after written demand by the district, the amount of the payments, together with interest due, shall become a lien upon the forest land upon which the forest practices were conducted as of the date of the event specified in subsection (1). The board shall file the lien in the office of the register of deeds in each county in which the forest land is located. The district may request the prosecuting attorney of a county in which a lien is filed to bring legal action on behalf of the district to recover the debt.

Sec. ~~608~~ 50152. In order to provide a source of funds for the cost-share payments, loans, annual incentive payments, and other services authorized to be offered to members within a district, a district may charge a severance fee pursuant to the procedure described in section ~~609~~ 50153 and collect fees for services provided to those members. The fees shall be deposited in a district forest management fund to be established by the board.

Sec. ~~609~~ 50153. (1) The board may establish a schedule of fees for the services provided directly to members within a district.

(2) After a referendum in which a majority of the members in a district approve the charging of a severance fee, the district may charge the fee, if a member harvests timber from forest land in the district. The issue of the charging of a severance fee may be placed before the members at the time of the formation of a district. The severance fee shall be uniform throughout a district and shall not exceed 10% of the stumpage value of the timber harvested.

Sec. ~~610~~ 50154. (1) The board shall develop the necessary administrative procedures to collect the fees and shall deposit the revenue collected in the district forest management fund.

(2) The person responsible for payment of the severance fee is the timber owner before harvest. The ~~commission~~ DEPARTMENT shall provide technical assistance to a district to develop appropriate methods of establishing stumpage values and units of proper measurement.

(3) The fees shall be remitted to a district, by check or money order, with reports as may be required by the board.

(4) The timber owner, for a period of 3 years, shall maintain and make available to the board the records the board may require to verify proper reporting and payment of the severance fee and service fees due a district.

Sec. ~~611~~ 50155. The board shall enforce collection of the fees pursuant to the procedure contained in section ~~504~~ 50143.

SUBPART 7 BOND ISSUANCE PROVISIONS

Sec. ~~701~~ 50156. A resolution authorizing bonds to be issued under the power granted in section ~~413~~ 50135 may contain

provisions, which shall be part of the contract with the holders of the bonds, as to:

(a) The use and disposition of the payments received under the agreement, including the creation and maintenance of reserves.

(b) The issuance of other or additional bonds of equal standing with bonds of a district already issued.

(c) The insurance to be carried on the forest improvement project and the use and disposition of insurance money.

(d) The terms and conditions upon which the holder of the bonds, or a portion of the bonds, or a trustee of the bonds, shall be entitled to the appointment of a receiver by a court which has jurisdiction in those proceedings, who may enter and take possession of the forest improvement project and lease and maintain it, prescribe rentals, and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as a district may do under this ~~act~~ PART.

Sec. ~~702~~ 50157. (1) The bonds shall be payable and secured as set forth in the resolution authorizing the issuance. The resolution may provide that the principal of and interest on any bonds issued shall be payable and secured by 1 or more of the following:

(a) The net revenues derived from a forest improvement project.

(b) Amounts derived from the disposition of projects and other property mortgaged or otherwise pledged as security for payment of the bonds.

(c) Gifts or grants by any person.

(d) Federal funds.

(e) Loan repayments.

(f) An assignment of a percentage of gross revenues received by the district.

(g) Any other source approved by the board.

(2) District debt may also be secured by the full faith and credit of the district but shall not be general obligations of the state of Michigan. The resolution may also provide for the appointment of 1 or more trustees for bondholders. A trustee may be a person domiciled or located within or outside the state and may be given appropriate powers.

Sec. ~~703~~ 50158. (1) A district, with the approval of the ~~commission~~ DEPARTMENT, may create and establish 1 or more special debt service reserve funds, to secure its bonds, referred to in this ~~act~~ PART as approved reserve funds. A district shall pay into an approved reserve fund the money appropriated and made available by the state for the purpose of the fund; proceeds of the sale of bonds, to the extent provided in the resolution of the district authorizing the issuance of bonds; and other money made available for the purpose of a fund from any other source. The money held in an approved reserve fund shall be used as required by the resolution authorizing the issuance of bonds and creating the fund. Income or interest earned by, or increment to an approved reserve fund due to the investment of money in the fund may be transferred by a district to other funds or accounts of the district to the extent the transfer does not reduce the

amount of an approved reserve fund below the required level for a fund, as specified in the bond authorizing resolution.

(2) An approved reserve fund requirement in the resolution of the board authorizing the bonds with respect to which the fund is established, shall not exceed the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds secured in whole or part by the fund. A district shall not issue bonds secured in whole or in part by an approved reserve fund if, upon the issuance of the bonds, the amount in the fund would be less than the requirement for the fund, unless the district at the time of issuance of the bonds, deposits in the fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in the fund, shall be not less than the approved reserve fund requirement for the fund.

Sec. ~~704~~ 50159. The state shall not be liable on bonds of a district, and the bonds shall not be a debt of the state. The bonds shall contain on their face a statement to that effect.

Sec. ~~705~~ 50160. (1) ~~The provisions of this act~~ THIS PART, and the resolution authorizing the issuance of bonds under this ~~act~~ PART shall remain applicable until the principal and interest on bonds issued by a district have been fully paid or provided for. The duties of a district and its board under this ~~act~~ PART and the resolution authorizing the issuance of bonds under this ~~act~~ PART shall be enforceable by a bondholder by mandamus or other appropriate action in a court of competent jurisdiction.

(2) The resolution authorizing the issuance of bonds shall provide that the bonds shall contain a recital that they are issued under this ~~act~~ PART, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(3) A resolution authorizing the issuance of bonds under this ~~act shall~~ PART IS not ~~be~~ effective until publication at least once in a newspaper of general circulation within the area comprised by a district or, if such a newspaper does not exist, within the nearest city or county having a newspaper of general circulation.

Sec. ~~706~~ 50161. A district may issue its bonds to refund in whole or part, at any time, bonds previously issued by the district under this ~~act~~ PART.

Sec. ~~707~~ 50162. The bonds of a district shall be authorized by resolution adopted by a majority of the board. The bonds shall be serial bonds, term bonds, or term and serial bonds and shall bear a date and mature at a time or times, not exceeding 40 years from the date of issue, as the resolution provides. The bonds shall be in the denominations, be in the form, either coupon or registered or both, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to terms of redemption as the resolution provides. The bonds of a district may be sold by the district, at public or private sale, at the price or prices as the board determines. The bonds may be sold at a discount not exceeding 10%. The ~~bond~~ BONDS shall not be sold at a price

which would make the interest costs on the money borrowed exceed 10% or the maximum rate of interest permitted by THE MUNICIPAL FINANCE ACT, Act No. 202 of the Public Acts of 1943, ~~as amended,~~ being sections 131.1 to ~~138.2~~ 139.3 of the Michigan Compiled Laws, whichever is greater.

Sec. ~~708~~ 50163. A pledge made by a district shall be valid and binding from the time the pledge is made. The money or property pledged and thereafter received by a district ~~shall~~ IS immediately ~~be~~ subject to the lien of the pledge without physical delivery or a further act. The lien of a pledge ~~shall be~~ IS valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against a district, irrespective of whether the parties have notice of the claim. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

Sec. ~~709~~ 50164. Neither the members of the board of a district nor a person executing the bonds ~~shall be~~ IS personally liable on the bonds or ~~be~~ subject to personal liability or accountability by reason of the board's issuance or the person's execution of the bonds.

Sec. ~~710~~ 50165. (1) The state pledges and agrees with the holders of bonds issued under this ~~act,~~ PART that the state will not limit or alter the rights vested in a district to fulfill the terms of agreements made with the holders of bonds ~~,~~ or in any way impair the rights and remedies of the holders until the bonds, together with the interest on the bonds, with interest on any unpaid installments of interest and all costs and expenses

in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. A district shall include this pledge and agreement of the state in each agreement with the holders of the bonds.

(2) The bonds authorized to be issued by this ~~act~~ PART are negotiable instruments within the meaning of and for all the purposes of THE UNIFORM COMMERCIAL CODE, Act No. 174 of the Public Acts of 1962, ~~as amended,~~ being sections 440.1101 to 440.11102 of the Michigan Compiled Laws, subject only to the provisions of the bonds for registration.

(3) The bonds of a district are securities in which each public officer or body of the state and each political subdivision of the state; each insurance company and association and any other person carrying on an insurance business; each bank, trust company, savings bank and savings association, savings and loan association, or investment company; each administrator, guardian, executor, trustee, or other fiduciary; and any other person who is authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, which are either owned or controlled by the person or other entity.

Sec. ~~711~~ 50166. The state covenants with the purchasers and all subsequent holders and transferees of bonds issued under this ~~act~~ PART, in consideration of the acceptance of and payment for the bonds, that the bonds issued under this ~~act~~ PART and the income from those bonds and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be

received, pledged to pay or secure the payment of the bonds at all times ~~shall be~~ ARE exempt from state or local income taxation provided by the laws of the state, except for estate, inheritance, and gift taxes and taxes on transfers.

~~Part 503. State Forest Product Industry Development Council~~

PART 503 STATE FOREST PRODUCTS INDUSTRY DEVELOPMENT

~~Sec. 1. As used in this act:~~

~~(a) "Council" means the state forest products industry development council created in section 2.~~

~~(b) "Department" means the department of natural resources.~~

~~Sec. 2. (1) A state forest products industry development council is established within the department. The council shall consist of the following members:~~

~~(a) The director of the department of agriculture, or a designated representative.~~

~~(b) The director of commerce, or a designated representative.~~

~~(c) The director of the department of natural resources, or a designated representative.~~

~~(d) Fifteen members appointed by the governor, by and with the consent of the senate. The term of office of each member in this subdivision shall be for 3 years except that of the members first appointed, 5 shall serve for 1 year, 5 shall serve for 2 years, and 5 shall serve for 3 years. In case of vacancy, appointment shall be made in the same manner as the original appointment for the unexpired term. Nine members shall be~~

~~engaged in forestry activity in the private sector, at least 3 of whom shall represent small forestry businesses with less than 100 employees, and the balance of the members shall be engaged in forestry activities through their work for universities, associations, agencies, the legislature or service organizations to the forest industry. A member shall not serve more than 2 successive terms.~~

~~(2) Eight members shall constitute a quorum for the conducting of business.~~

~~(3) Council members shall receive reimbursement of expenses.~~

~~(4) The council shall select a chairperson from the private sector representatives on the council. Other officers will be selected from its membership.~~

~~(5) The council shall be provided staff assistance by the department to carry out its functions and shall meet not less than 4 times per year.~~

~~Sec. 3. (1) The business which the council may perform shall be conducted at a public meeting of the council held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.~~

~~(2) A writing prepared, owned, used, in the possession of, or retained by the council or department in the performance of an official function shall be made available to the public in~~

~~compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.~~

Sec. ~~4~~ 50301. The ~~council~~ DEPARTMENT shall DO ALL OF THE FOLLOWING:

(a) Advise the ~~department, the~~ legislature ~~,~~ and the governor on forest management and development and other matters relevant to the development of the forest products industry in this state.

(b) ~~Advise the department by assisting in the development of~~ DEVELOP a forestry development plan to improve the state's business climate for forestry, assure a stable timber supply, and coordinate public and private forestry activities.

(c) Identify the needs of the forest products industry.

(d) Promote and encourage the development of the forest products industry in this state.

(e) Promote and encourage the expansion of existing forest products companies in this state and attract new forest products companies to locate in this state.

(f) Perform other functions the ~~council~~ DEPARTMENT considers necessary for the development of the forest products industry in this state.

(g) Promote and encourage the use of ~~Michigan~~ THIS STATE'S forest products by other states and for export.

Sec. ~~5~~ 50302. The ~~council~~ DEPARTMENT shall annually report to the governor and the legislature on its activities to

promote the development of the forest products industry in this state.

~~Part 505. Michigan Forest Finance Authority~~

PART 505 MICHIGAN FOREST FINANCE AUTHORITY

~~Sec. 1. This act shall be known and may be cited as the "Michigan forest finance authority act".~~

Sec. ~~1a~~ 50501. The purpose of this ~~act~~ PART and of the authority created by this ~~act~~ PART is to preserve existing jobs, create new jobs, and alleviate and prevent unemployment through the retention, promotion, and development of forestry and forest industries and to protect the health and vigor of ~~the~~ forest resources by doing all of the following:

(a) Funding practices prescribed and approved by the department that intensify management of certain highly productive portions of ~~the~~ THIS state's forest system.

(b) Implementing a system of forest management that is investment-oriented, economically efficient, and environmentally sound.

(c) Promoting a stable and continuing supply of timber for future economic expansion.

(d) Providing dependable funding of scheduled forest management operations.

(e) Promoting effective investment of revenues from timber sales for high future returns.

(f) Facilitating timely performance of forest management operations.

(g) Earning additional revenues for forest management from timber sales.

(h) Improving existing timber stands and establishing new stands of trees.

(i) Providing for reforestation, forest protection, and timber stand improvement.

(j) Providing an additional funding source for the purposes described in this section from indebtedness secured with revenues generated from future sale of timber harvested from state tax reverted lands and ~~on~~ other lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former Act No. 268 of the Public Acts of 1945.

Sec. ~~2~~ 50502. As used in this ~~act~~ PART:

(a) "Authority" means the Michigan forest finance authority created in section ~~3~~ 50503.

(b) "Board" means the board of directors of the Michigan forest finance authority, except where the context clearly requires a different definition.

(c) "Bonds" means bonds of the authority issued as provided in this ~~act~~ PART.

~~(d) "Department" means the director of the department of natural resources or his or her designee.~~

~~(e) "Director" means the director of the department of natural resources.~~

(D) ~~(f)~~ "Notes" means notes of the authority issued as provided in this ~~act~~ PART, including commercial paper.

~~(g) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan compiled laws.~~

Sec. ~~3~~ 50503. The Michigan forest finance authority is created as a body corporate within the department of natural resources and shall BE ADMINISTERED UNDER THE SUPERVISION OF THE DEPARTMENT BUT SHALL exercise its prescribed statutory power, ~~financial~~ duties, and ~~financial~~ functions independently of the ~~director~~ DEPARTMENT. THE BUDGETING, PROCUREMENT, AND RELATED FUNCTIONS OF THE AUTHORITY SHALL BE PERFORMED UNDER THE DIRECTION AND SUPERVISION OF THE DEPARTMENT. Funds of the authority shall be handled in the same manner and subject to the same provisions of law applicable to state funds or in a manner specified in a resolution of the authority authorizing the issuance of bonds and notes.

Sec. ~~4~~ 50504. (1) The authority shall be governed by a board of directors consisting of the director, the state treasurer, and 3 residents of the state appointed by the governor with the advice and consent of the senate. The 3 resident directors shall serve terms of 3 years. In appointing the initial 3 resident members of the board, the governor shall designate 1 to serve for 3 years, 1 to serve for 2 years, and 1 to serve for 1 year.

(2) Upon appointment to the board under subsection (1), and upon the taking and filing of the constitutional oath of office,

a member of the board shall enter the office and exercise the duties of the office.

(3) Regardless of the cause of a vacancy on the board, the governor shall fill a vacancy in the office of a member of the board by appointment with the advice and consent of the senate. A vacancy shall be filled for the balance of the unexpired term of the office. A member of the board shall hold office until a successor has been appointed and has qualified.

(4) Members of the board and officers and employees of the authority are subject to Act No. 317 of the Public Acts of 1968, being sections 15.321 to 15.330 of the Michigan Compiled Laws. A member of the board or an officer, employee, or agent of the authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the board or an officer, employee, or agent of the authority, when acting in good faith, may rely upon the opinion of counsel for the authority, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the authority represented to the member of the board, officer, employee, or agent to be correct by the officer of the authority having charge of its books or account, or stated in a written report by the auditor general or a certified public accountant or the firm of the accountants fairly to reflect the financial condition of the authority.

(5) The board shall organize and make its own policies and procedures. The board shall conduct all business at public meetings held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of each meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. Three members of the board constitute a quorum for the transaction of business. An action of the board requires a concurring vote by 3 members of the board. A state officer or director who is a member of the board may designate a representative from his or her department to serve instead of that state officer or director as a voting member of the board for 1 or more meetings.

Sec. ~~5~~ 50505. (1) The authority shall elect a chairperson and a vice-chairperson from among its members. The state forester shall serve as the executive director of the authority. The authority may employ legal and technical experts ~~,~~ and other officers, agents, or employees, permanent or temporary, paid from the funds of the authority. The authority shall determine the qualifications, duties, and compensation of those it employs, but an employee shall not be paid a higher salary than the director. The authority may delegate to 1 or more members, officers, agents, or employees any powers or duties it considers proper.

~~(2) The budgeting, procurement, and related functions of the authority shall be performed under the direction and supervision of the department.~~

(2) ~~(3)~~ The authority shall contract with the department for the purpose of maintaining and improving the rights and interests of the authority.

(3) ~~(4)~~ The authority shall annually file a written report on its activities of the last year with the legislature. This report shall be submitted not later than 270 days following the end of the fiscal year. This report shall specify the amount and source of revenues received, the status of investments made, and a description of the forest management practices undertaken by the department with proceeds of bonds sold under ~~the provisions of~~ this ~~act~~ PART.

(4) ~~(5)~~ The accounts of the authority shall be subject to annual audits by the state auditor general or a certified public accountant appointed by the auditor general. Records shall be maintained according to generally accepted auditing principles.

Sec. ~~6~~ 50506. Except as otherwise provided in this ~~act~~ PART, the board may do all things necessary or convenient to ~~carry out~~ IMPLEMENT the purposes, objectives, and provisions of this ~~act~~ PART, and the purposes, objectives, and powers delegated to the board by other laws or executive orders, including, but not limited to, all of the following:

(a) Adopt an official seal and bylaws for the regulation of its affairs and alter the seal or bylaws at its pleasure.

(b) Sue and be sued in its own name and plead and be impleaded.

(c) Borrow money and issue negotiable revenue bonds and notes pursuant to this ~~act~~ PART.

(d) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers.

(e) With the prior consent of the department, solicit and accept gifts, grants, loans, and other aid from any person, or the federal, state, or local government or any agency of the federal, state, or local government, or participate in any other way in a federal, state, or local government program.

(f) Acquire standing timber, timber cutting rights, and the state's interest in contracts granting cutting rights, on state tax reverted lands and on other lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former Act No. 268 of the Public Acts of 1945, to be used for any of the purposes provided in this ~~act~~ PART subject to the restrictions of section ~~9~~ 50509. However, the state shall not convey to the authority fee title to any state forest lands.

(g) Procure insurance against loss in connection with the property, assets, or activities of the authority.

(h) Invest money of the authority, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.

(i) Contract for goods and services and engage personnel as necessary and engage the services of private consultants, managers, legal counsel, and auditors for rendering professional

financial assistance and advice payable out of any money of the authority, subject to the restrictions of section ~~7~~ 50507.

(j) Indemnify and procure insurance indemnifying members of the board from personal loss or accountability from liability asserted by a person on bonds or notes of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or notes, or by reason of any other action taken or the failure to act by the authority.

(k) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this ~~act~~ PART, rules promulgated under this ~~act~~ PART, or other laws that relate to the purposes and responsibilities of the authority.

Sec. ~~7~~ 50507. (1) The authority shall finance only forest management operations and practices that follow the guidelines, rules, and objectives prescribed and approved by the department as these guidelines, rules, and objectives are amended by the department.

(2) Funds managed by the authority shall be applied in a manner consistent with the land management planning policies of the department on lands that have been identified for forest management practices. In the absence of an approved state forest management plan covering a candidate area, an interim procedure, as adopted by the department, shall be used to assure that all forest values have been considered in selecting sites for investment with funds of the authority. The department shall annually submit a list of activities and practices allocated from the funds generated under this ~~act~~ PART for the board's review and

determination of consistency with the purposes of this ~~act~~ PART.

(3) The executive director of the authority shall notify the department if the authority projects a probable default on any bonds or notes issued by the authority, and within 1 year of receipt of the notification, or within less than 1 year, if the notification indicates a shorter time period is necessary to avoid a default, the department shall identify and convey to the authority sufficient timber on tax reverted lands to enable the authority to avoid the projected default and to provide for timely payment of principal of and interest on the authority's bonds or notes. The authority may only issue contracts for the cutting and sale of timber ~~which~~ THAT has been conveyed to the authority under this section to avoid a default on any bonds or notes issued by the authority. The determination of the board as to the need to cut and sell timber is conclusive. Contracts for the cutting and sale of timber shall be consistent with the guidelines, rules, and objectives prescribed by the department.

(4) The authority shall establish a fund designated as the "forest development fund". Any money on hand or received in the future from bond proceeds and from contracts for the cutting and sale of timber on tax reverted lands shall be deposited in the forest development fund and utilized by the authority to provide for the payment of principal of and interest on any bonds or notes issued by the authority and for reforestation, forest protection, and timber stand improvement and any other purposes authorized by this ~~act~~ PART. All money in the special forest

management fund established pursuant to former Act No. 268 of the Public Acts of 1945 shall be transferred to the forest development fund.

Sec. ~~8~~ 50508. (1) Except as provided in section ~~7(3)~~ 50507(3), the department shall act as the agent for the authority in contracting for the cutting and sale of timber or other forest management operations and practices undertaken by the authority.

(2) The state's interest in all existing and future contracts granting timber cutting rights on state tax reverted lands are ~~hereby~~ conveyed to the authority to be used for any of the purposes of this ~~act~~ PART subject to the restrictions of this ~~act~~ PART. The money received by the state from existing or future contracts for the cutting and sale of timber on state tax reverted lands and on other lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former Act No. 268 of the Public Acts of 1945 shall be deposited in the forest development fund and utilized as provided in section ~~7(4)~~ 50507(4).

(3) In order to provide for additional security for indebtedness of the authority, the department may convey to the authority title to timber on all or any portion of tax reverted lands and on other lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former Act No. 268 of the Public Acts of 1945. The form of conveyance shall be approved by the attorney general and by resolution of the state

administrative board. If the authority receives title to any timber, it may release and reconvey timber on state tax reverted lands and on other lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former Act No. 268 of the Public Acts of 1945 if requested by the department, and the reconveyance from the authority to the department will not cause the authority to default on any obligation or covenant contained in any resolution of the authority authorizing issuance of bonds or notes.

Sec. ~~9~~ 50509. (1) The authority may authorize and issue its bonds or notes payable solely from the revenues or funds available to the authority. Bonds and notes of the authority are not a debt or liability of the state and do not create or constitute any indebtedness, liability, or obligations of the state or constitute a pledge of the faith and credit of the state. All authority bonds and notes shall be payable solely from revenues or funds pledged or available for their payment as authorized in this ~~act~~ PART. Each bond and note shall contain on its face a statement to the effect that the authority is obligated to pay the principal of and the interest on the bond or note only from revenues or funds of the authority pledged for the payment of principal and interest and that the state is not obligated to pay that principal or interest and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the bond or note.

(2) All expenses incurred in carrying out this ~~act~~ PART shall be payable solely from revenues or funds provided or to be provided under this ~~act~~ PART. This ~~act~~ PART does not authorize the authority to incur any indebtedness or liability on behalf of or payable by the state.

(3) Any revenues or funds available to the authority that are not necessary to pay principal of or interest on any outstanding bonds or notes of the authority or which are not required to be deposited in a fund created to secure the bonds or notes of the authority or required to provide for the funding of any other matters required by a resolution authorizing the issuance of bonds or notes of the authority shall be expended to fund forest management programs in a manner prescribed by the department. Any money derived from the proceeds of bonds or notes shall be expended by the authority in the manner prescribed in the ~~act~~ PART and the resolution authorizing such indebtedness.

Sec. ~~10~~ 50510. (1) The authority may issue from time to time bonds or notes in principal amounts the authority considers necessary to provide funds for any purpose, including, but not limited to, all of the following:

(a) The payment, funding, or refunding of the principal of, interest on, or redemption premiums on bonds or notes issued by the authority whether the bonds or notes or interest to be funded or refunded have or have not become due.

(b) The establishment or increase of reserves to secure or to pay authority bonds or notes or interest on those bonds or notes.

(c) The payment of interest on the bonds or notes for a period as the authority determines.

(d) The payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The bonds or notes of the authority shall not be a general obligation of the authority but shall be payable solely from the revenues or funds, or both, pledged to the payment of the principal of and interest on the bonds or notes as provided in the resolution authorizing the bond or note.

(3) The bonds or notes of the authority:

(a) Shall be authorized by resolution of the authority.

(b) Shall bear the date or dates of issuance.

(c) May be issued as either tax-exempt bonds or notes or taxable bonds or notes for federal income tax purposes.

(d) Shall be serial bonds, term bonds, or term and serial bonds.

(e) Shall mature at such time or times not exceeding 30 years from the date of issuance.

(f) May provide for sinking fund payments.

(g) May provide for redemption at the option of the authority for any reason or reasons.

(h) May provide for redemption at the option of the bondholder for any reason or reasons.

(i) Shall bear interest at a fixed or variable rate or rates of interest per annum or at no interest.

(j) Shall be registered bonds, coupon bonds, or both.

(k) May contain a conversion feature.

(*l*) May be transferable.

(m) Shall be in the form, denomination or denominations, and with such other provisions and terms as is determined necessary or beneficial by the authority.

(4) If a member of the board or any officer of the authority whose signature or facsimile of his or her signature appears on the note, bond, or coupon ceases to be a member or officer before the delivery of that note or bond, the signature shall continue to be valid and sufficient for all purposes, as if the member or officer had remained in office until the delivery.

(5) Bonds or notes of the authority may be sold at a public or private sale at the time or times, at the price or prices, and at a discount as the authority determines. An authority bond or note is not subject to the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws. The bond or note does not require the approval of the state treasurer under Act No. 202 of the Public Acts of 1943 and is not required to be registered. The bond or note of the authority is not required to be filed under the uniform securities act, Act No. 265 of the Public Acts of 1964, being sections 451.501 to 451.818 of the Michigan Compiled Laws.

Sec. ~~11~~ 50511. (1) The authority may provide for the issuance of bonds or notes in the amounts the authority considers

necessary for the purpose of refunding bonds or notes of the authority then outstanding, including the payment of any redemption premium and interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of these bonds or notes. The proceeds of bonds or notes issued for the purpose of refunding outstanding bonds or notes may be applied by the authority to the purchase or retirement at maturity or redemption of outstanding bonds or notes either on the earliest or subsequent redemption date, and pending such applications, may be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date or dates determined by the authority. Pending such application and subject to agreements with noteholders or bondholders, the escrowed proceeds may be invested and reinvested in the manner the authority determines, maturing at the date or times as appropriate to assure the prompt payment of the principal, interest, and redemption premium, if any, on the outstanding bonds or notes to be refunded. After the terms of the escrow have been fully satisfied and carried out, the balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment of the proceeds shall be returned to the authority for use by the authority in any lawful manner.

(2) In the resolution authorizing bonds or notes to refund bonds or notes, the authority may provide that the bonds or notes to be refunded shall be considered paid when there has been deposited in escrow, money or investment obligations that would provide payments of principal and interest adequate to pay the

principal and interest on the bonds to be refunded, as that principal and interest becomes due whether by maturity or prior redemption and that, upon the deposit of the money or investment obligations, the obligations of the authority to the holders of the bonds or notes to be refunded shall be terminated except as to the rights to the money or investment obligations deposited in trust.

(3) The authority shall not have outstanding at any time bonds or notes in an aggregate principal amount exceeding $20,000,000.00 excluding bonds or notes issued to refund outstanding bonds or notes.

Sec. ~~12~~ 50512. (1) The authority may authorize and approve an insurance contract, an agreement for a line of credit, a letter of credit, a commitment to purchase notes or bonds, an agreement to remarket bonds or notes, and any other transaction to provide security to assure timely payment of a bond or note.

(2) The authority may authorize payment from the proceeds of the notes or bonds, or other funds available, of the cost of issuance including, but not limited to, fees for placement, charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or agreements to provide security to assure timely payment of notes or bonds.

Sec. ~~13~~ 50513. Within limitations that shall be contained in the issuance or authorization resolution of the authority, the authority may authorize a member of the board, the executive

director, or other officer of the authority to do 1 or more of the following:

(a) Sell and deliver, and receive payment for notes or bonds.

(b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured or are subject to redemption.

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purpose.

(d) Buy notes or bonds so issued and resell those notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(f) Direct the investment of any and all funds of the authority.

(g) Approve the terms of a contract, including, but not limited to, a contract for the sale or cutting of timber, and execute and deliver the contract subject to the restrictions of this ~~act~~ PART.

(h) Approve terms of any insurance contract, agreement for a line of credit, a letter of credit, a commitment to purchase notes or bonds, an agreement to remarket bonds or notes, an agreement to manage payment, revenue, or interest rate exposure,

or any other transaction to provide security to assure timely payment of a bond or note.

(i) Perform any power, duty, function, or responsibility of the authority.

Sec. ~~14~~ 50514. A resolution authorizing bonds or notes may provide for all of the following that shall be part of the contract with the holders of the bonds or notes:

(a) A pledge to any payment or purpose all or any part of authority revenues or assets to which its right then exists or may later come to exist, and of money derived from the revenues or assets, and of the proceeds of bonds or notes or of an issue of bonds or notes, subject to any existing agreements with bondholders or noteholders. The authority shall not mortgage or grant a security interest in or otherwise pledge its ownership rights in standing timber. This subdivision does not prohibit the authority from pledging any revenues derived from the sale of timber or any contracts for the cutting of timber.

(b) A pledge of a loan, grant, or contribution from the federal or state government.

(c) The establishment and setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds subject to this ~~act~~ PART.

(d) Authority for and limitations on the issuance of additional bonds or notes for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured.

(e) The procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent to the amendment or abrogation, and the manner in which the consent may be given.

(f) A contract with the bondholders as to the custody, collection, securing, investment, and payment of any money of the authority. Money of the authority and deposits of money may be secured in the manner determined by the authority. Banks and trust companies may give security for such deposits.

(g) Vest in a trustee, or a secured party, such property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the authority determines necessary or appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the right of the holders of bonds or notes of the authority to appoint a trustee under this ~~act~~ PART or to limit the rights, powers, and duties of the trustee.

(h) Provide to a trustee or the noteholders or bondholders remedies that may be exercised ~~in the event that~~ IF the authority fails or refuses to comply with this ~~act~~ PART or defaults in an agreement made with the holders of an issue of bonds or notes, which may include any of the following:

(*i*) By mandamus or other suit, action, or proceeding at law or in equity, to enforce the rights of the bondholders or noteholders, and require the authority to carry out any other

agreements with the holders of those notes or bonds and to perform the authority's duties under this ~~act~~ PART.

(*ii*) Bring suit upon the notes or bonds.

(*iii*) By action or suit, require the authority to account as if it were the trustee of an express trust for the holders of the notes or bonds.

(*iv*) By action or suit in equity, enjoin any acts or things ~~which~~ THAT may be unlawful or in violation of the rights of the holders of the notes or bonds.

(*v*) Declare the notes or bonds due and payable ~~,~~ and, if all defaults shall be made good, then, as permitted by such resolution, ~~to~~ annul that declaration and its consequences.

(i) Any other matters of like or different character ~~,~~ ~~which~~ THAT in any way affect the security of protection of the bonds or notes.

Sec. ~~15~~ 50515. A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged and then received by the authority immediately ~~shall be~~ IS subject to the lien of the pledge without a physical delivery or further act. The lien of a pledge ~~shall be~~ IS valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the authority, and ~~shall be~~ IS valid and binding as against the transfers of the money or property pledged, irrespective of whether parties have notice. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be recorded in order

to establish and perfect a lien or security interest in the property so pledged.

Sec. ~~16~~ 50516. Neither the members of the authority nor any person executing bonds or notes issued under this ~~act~~ PART or any person executing any agreement on behalf of the authority ~~shall be~~ IS liable personally on the bonds or notes by reason of their issuance.

Sec. ~~17~~ 50517. The authority may purchase bonds or notes of the authority out of funds or money of the authority available for that purpose. The authority may hold, cancel, or resell authority bonds or notes subject to or in accordance with an agreement with holders of authority bonds or notes.

Sec. ~~18~~ 50518. The state pledges to and agrees with the holders of bonds or notes issued under this ~~act~~ PART that the state shall not limit or restrict the rights vested in the authority by this ~~act~~ PART to fulfill the terms of an agreement made with the holders of authority bonds or notes, or in any way impair the rights or remedies of the holders of the bonds or notes of the authority until the bonds and notes, together with interest on the bonds or notes and interest on any unpaid installments of interest, and all costs and expenses in connection with an action or proceedings by or on behalf of those holders are fully met, paid, and discharged.

Sec. ~~19~~ 50519. Notwithstanding any restriction contained in any other law, the state and a public officer, local unit of government, or agency of the state or a local unit of government; a bank, trust company, savings bank and institution, savings and

loan association, investment company, or other person carrying on a banking business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, guardian, trustee, or other fiduciary may legally invest funds belonging to them or within their control in bonds or notes issued under this ~~act~~ PART, and authority bonds or notes shall be authorized security for public deposits.

Sec. ~~20~~ 50520. Property of the authority is public property devoted to an essential public and governmental function and purpose. Income of the authority is considered to be for a public purpose. The property of the authority and its income and operation are exempt from all taxes and special assessments of the state or a political subdivision of the state. Bonds or notes issued by the authority, and the interest on and income from those bonds and notes, are exempt from all taxation of the state or a political subdivision of the state.

Sec. ~~21~~ 50521. This ~~act~~ PART shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authority for the performance of each and every act and thing authorized by this ~~act~~ PART, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

Sec. ~~22~~ 50522. The authority may promulgate rules as necessary to implement this ~~act~~ PART.

~~Sec. 23. Section 1 of Act No. 268 of the Public Acts of 1945, being section 320.71 of the Michigan Compiled Laws, is repealed.~~

~~Part 507. Forest Management Demonstration Program~~

PART 507 FOREST MANAGEMENT DEMONSTRATION PROGRAM

Sec. ~~1~~ 50701. (1) In a county in which more than 50% of the land is owned by the state and in which the county annual average unemployment rate exceeds the state annual average unemployment rate, as determined by the Michigan employment security commission, due to reductions in staff at a state facility located in the county, the department ~~of natural resources~~ is authorized to convey a leasehold interest, without monetary consideration, to the county in not more than 1% of the state owned property located in the county and ~~now~~ under the control of the department. ~~of natural resources.~~ The county forestry committee created pursuant to section ~~3~~ 50703, in cooperation with the department, ~~of natural resources,~~ shall designate the specific sections of property to be leased. The property designated pursuant to this subsection shall not include forest lands located in state parks or lands useful for forest preserves, game areas, and recreational purposes, including wilderness areas, quiet areas, or other special use areas. The property designated pursuant to this subsection shall consist of forest lands previously designated by the department ~~of natural resources~~ for timber production and suitable for use in the forest management demonstration program established pursuant to this ~~act~~ PART.

(2) The term of a leasehold interest authorized by this ~~act~~ PART shall not exceed 15 years, but the leasehold interest shall be renewable for an additional 15 years if the primary objectives of the forest management demonstration program

established pursuant to this ~~act~~ PART are met, as determined by the department. ~~of natural resources.~~

(3) During the term of the leasehold interest authorized by this ~~act~~ PART, the leased property shall be open to the public for hunting, fishing, and other recreational uses as considered appropriate by the department. ~~of natural resources.~~

Sec. ~~2~~ 50702. (1) The property leased pursuant to this ~~act~~ PART shall be used by the county only for the following purposes:

(a) To establish a forest management demonstration program to produce forest products for the purpose of economic development in the county.

(b) To make forest land available to the local school districts for educational purposes.

(2) The proceeds from the forest management demonstration program shall be used exclusively for economic development in the county and, if the county has established an economic development corporation under THE ECONOMIC DEVELOPMENT CORPORATIONS ACT, Act No. 338 of the Public Acts of 1974, ~~as amended,~~ being sections 125.1601 to 125.1636 of the Michigan Compiled Laws, shall be deposited in the fund of the county established pursuant to section 27 of Act No. 338 of the Public Acts of 1974, ~~as amended,~~ being section 125.1627 of the Michigan Compiled Laws. If the county economic development corporation is dissolved, the proceeds from the forest management demonstration program shall be transferred to and deposited in the general fund of the county. If the county has not established an economic development

corporation, the proceeds from the forest management demonstration project shall be deposited in the general fund of the county. The forest management demonstration program shall be implemented by the county forestry committee created pursuant to section ~~3~~ 50703. In implementing the forest management demonstration program, the county forestry committee shall cooperate with the department ~~of natural resources~~ in all matters pertaining to forest management.

Sec. ~~3~~ 50703. A county forestry committee is created for purposes of this ~~act~~ PART and shall consist of 5 members who shall be appointed by the county board of commissioners. Two members of the county forestry committee shall be foresters registered under article 21 of THE OCCUPATIONAL CODE, Act No. 299 of the Public Acts of 1980, ~~as amended,~~ being sections 339.2101 to 339.2108 of the Michigan Compiled Laws, 1 member shall be a member of the county economic development corporation, 1 member shall be a member of the county board of commissioners, and 1 member shall be a resident of the county who is not a county official or employee. If the county has not established an economic development corporation under THE ECONOMIC DEVELOPMENT CORPORATIONS ACT, Act No. 338 of the Public Acts of 1974, ~~as amended~~ BEING SECTIONS 125.1601 TO 125.1636 OF THE MICHIGAN COMPILED LAWS, 2 members shall be residents of the county who are not county officials or employees. The members of the county forestry committee shall be appointed for a term of 4 years, except that of the first appointments, 2 shall be for a term of 4 years, 1 shall be for a term of 3 years, 1 shall be for a term of

2 years, and 1 shall be for a term of 1 year. All actions of the county forestry committee shall be approved by the county board of commissioners. A vacancy on the county forestry committee shall be filled by the county board of commissioners for the remainder of the unexpired term.

Sec. ~~4~~ 50704. An instrument conveying a leasehold interest in real property authorized by this ~~act~~ PART shall be approved by the attorney general.

Sec. ~~5~~ 50705. The conveyance authorized by this ~~act~~ PART shall provide that the property be used exclusively for the purposes set forth in section ~~2(1)~~ 50702(1), and that termination of either or both of those purposes or the use of the property for any other purpose ~~shall constitute~~ CONSTITUTES grounds for termination of the lease.

Sec. ~~6~~ 50706. Within 30 days after the execution of a lease authorized by this ~~act~~ PART, the county forestry committee shall submit to the department ~~of natural resources~~ for approval a forest management plan prepared by a forester registered under article 21 of THE OCCUPATIONAL CODE, Act No. 299 of the Public Acts of 1980, ~~as amended,~~ being sections 339.2101 to 339.2108 of the Michigan Compiled Laws.

Sec. ~~7~~ 50707. A leasehold interest authorized by this ~~act~~ PART shall be conveyed by the department ~~of natural resources within 90 days after the effective date of this act~~ BY OCTOBER 8, 1982.

~~TAX INCENTIVES~~

~~Part 511. Commercial Forests~~

TAX INCENTIVES

PART 511 COMMERCIAL FORESTS

Sec. ~~2~~ 51101. As used in this ~~act~~ PART:

(a) "Ad valorem general property tax" means taxes levied under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(b) "Commercial forest" or "commercial forestland" means forestland that is determined to be a commercial forest under section ~~3~~ 51103.

(c) "Declassify" or "declassification" means the removal of the commercial forest designation pursuant to section ~~13~~ 51116.

~~(d) "Department" means the department of natural resources.~~

~~(e) "Director" means the director of the department.~~

(D) ~~(f)~~ "Forestland" means a tract of land that may include nonproductive land that is intermixed with productive land that is an integral part of a managed forest and that meets all the following:

(*i*) Does not have material natural resources other than those resources suitable for forest growth or the potential for forest growth.

(*ii*) Is not used for agricultural, mineral extraction except as provided in section ~~10~~ 51113, grazing, industrial, developed

recreational, residential, resort, commercial, or developmental purposes.

(*iii*) The owner agrees to develop, maintain, and actively manage the land as a commercial forest through planting, natural reproduction, or other silvicultural practices.

(E) ~~(g)~~ "Forest management plan" means a written plan prepared and signed by a registered forester or a natural resources professional that prescribes measures to optimize production, utilization, and regeneration of forest resources. The forest management plan shall include schedules and timetables for the various silvicultural practices used on commercial forestlands, including, but not limited to, timber harvesting and regeneration.

(F) ~~(h)~~ "Fund" means the commercial forest fund created pursuant to section ~~9a~~ 51112.

(G) ~~(i)~~ "Natural resources professional" means a person who is acknowledged by the department as having the education, knowledge, experience, and skills to identify, schedule, and implement appropriate forest management practices needed to achieve the purposes of this ~~act~~ PART on land subject to or to be subject to this ~~act~~ PART.

(H) ~~(j)~~ "Owner" means a person who holds title to the surface estate of forestland subject to this ~~act~~ PART. However, if land is purchased on a land contract, the owner includes the person who holds the land contract vendee's interest and does not include the person who holds the land contract vendor's interest.

~~(k) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.~~

(I) ~~(l)~~ "Personal use" means use for any noncommercial purpose.

(J) ~~(m)~~ "Registered forester" means a person registered under article 21 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.2101 to 339.2108 of the Michigan Compiled Laws.

~~(n) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.~~

(K) ~~(o)~~ "Silvicultural practices" means the management and manipulation of forest vegetation for the protection, growth, and enhancement of forest products.

Sec. ~~1~~ 51102. ~~(1) This act shall be known and may be cited as the "commercial forest act". (2)~~ The department ~~of natural resources~~ shall establish and maintain commercial forests and may promulgate and enforce rules as necessary to accomplish the intent and purpose of this ~~act~~ PART. All expenses incurred and staff employed to implement this ~~act~~ PART shall be with the approval of the state administrative board.

Sec. ~~3~~ 51103. (1) The owner of forestland located within this state may apply to the department to have that forestland determined to be a commercial forest under this ~~act~~ PART.

(2) To be eligible for determination as a commercial forest, forestland shall be capable of all of the following:

(a) Producing not less than 20 cubic feet per acre per year of forest growth upon maturity.

(b) Producing tree species that have economic or commercial value.

(c) Producing a commercial stand of timber within a reasonable period of time.

(3) ~~Application~~ AN APPLICATION shall be SUBMITTED on a form prescribed by the department. In addition to any information that the department may reasonably require by rule, the applicant shall provide all of the following to the department:

(a) A nonrefundable application fee in the amount of $1.00 per acre or fraction of an acre, not to exceed $1,000.00. The department shall remit the application fee to the state treasurer for deposit into the fund.

(b) A legal description and the amount of acreage considered for determination as a commercial forest.

(c) A statement certifying that a forest management plan covering the forestland has been prepared and is in effect.

(d) A statement certifying that the owner of the forestland owns the timber rights to the timber standing on the forestland.

(4) The department shall prepare and distribute to any person desiring to make application under this ~~act~~ PART a brochure that lists and explains, in simple, nontechnical terms, all of the following:

(a) The application, hearing, determination, declassification, and prosecution process.

(b) The requirements of the forest management plan.

(5) If an applicant is unable to secure the services of a registered forester or a natural resources professional to prepare a forest management plan, the department upon request shall prepare the forest management plan on behalf of the owner of the forestland and charge the owner a forest management plan fee not to exceed the actual cost of preparing the forest management plan.

(6) Before January 1, 1997, an owner of a commercial forest that was designated a commercial forest before ~~the effective date of the amendatory act that added this subsection~~ JANUARY 1, 1994, shall prepare a forest management plan and file a statement with the department certifying that a forest management plan has been prepared and is in effect. If an owner of a commercial forest fails to comply with this subsection, the department shall declassify the owner's commercial forest pursuant to section ~~13~~ 51116.

(7) After an owner certifies to the department that a forest management plan has been prepared and is in effect, a violation of that forest management plan is a violation of this ~~act~~ PART.

Sec. ~~4~~ 51104. (1) Upon receipt of the application, the forest management plan certification, the timber rights certification, and the application fee described in section ~~3~~ 51103, the department shall evaluate the forestland offered and fix a date for a public hearing upon the eligibility of the forestland for determination as a commercial forest. The hearing shall be

held in the county where the land is located not later than November 1 following receipt of the application. Applications offering lands in the same county may be heard on the same day and at the same place. The department shall publish a notice of hearing and a list of the legal descriptions of lands being considered for determination as commercial forests in a newspaper of general circulation in the county in which the land is located. The notice of hearing shall be published at least 20 days before the date of the hearing. At the time of publication, the department shall provide a copy of the notice of hearing and a list of descriptions of land in each township to be considered for determination as a commercial forest to each township supervisor in whose township the lands are located. Any person who wishes may testify as to eligibility for determination as a commercial forest of any of the described lands. The hearing shall be conducted by the ~~director of the department or an employee designated by the director~~ DEPARTMENT.

(2) After the hearing, if the department determines that the applicant and forestland meet the requirements of this ~~act~~ PART and determines that all valid taxes assessed against that forestland have been paid, the department shall approve the application. Upon approval of the application, the department shall immediately record a listing certificate in the register of deeds office in the county in which the land is located with the department approval endorsed on the listing certificate and forward a copy of the listing certificate to the applicant and to

the township supervisor of the township in which the land is located.

Sec. ~~5~~ 51105. (1) Commercial forests are not subject to the ad valorem general property tax after the date the township supervisor is notified by the department that the land is a commercial forest, except taxes as previously levied. Commercial forests are subject to an annual specific tax as follows:

(a) Through October 1, 1981, 15 cents per acre.

(b) After October 1, 1981 and through December 31, 1989, 30 cents per acre.

(c) After December 31, 1989 and through December 31, 1993, 38 cents per acre.

(d) Beginning January 1, 1994, $1.10 per acre as adjusted pursuant to section ~~6a~~ 51107.

(2) The supervisor of the township shall remove from the list of land descriptions assessed and taxed under the ad valorem general property tax the land descriptions certified to him or her by the department as being commercial forests and shall enter those land descriptions on a roll separate from lands assessed and taxed by the ad valorem general property tax and shall spread against these commercial forests the specific tax provided by this section.

(3) The township treasurer shall collect the specific tax at the same time and in the same manner as ad valorem general property taxes are collected and this tax is subject to the same collection charges levied for the collection of ad valorem property taxes. Commercial forests are subject to return and sale for

nonpayment of taxes in the same manner, at the same time, and under the same penalties as lands returned and sold for nonpayment of taxes levied under the ad valorem general property tax laws. A valuation shall not be determined for descriptions listed as commercial forests and these lands shall not be considered by the county board of commissioners or by the state board of equalization in connection with county or state equalization for ad valorem property taxation purposes.

(4) Except as provided in section ~~7a(2)~~ 51109(2), all sums collected pursuant to this section shall be distributed by the township treasurer in the same proportions to the various funds as the ad valorem general property tax is allocated in the township.

Sec. ~~6~~ 51106. On December 1 of each year, the department shall certify to the state treasurer the number of acres that are commercial forestlands in each county and the state treasurer shall transmit to the treasurer of each county in which these commercial forests are located a warrant on the state treasurer for an amount equal to $1.20 per acre, as adjusted by section ~~6a~~ 51107, upon each acre of commercial forest in the county. The county treasurer of each county shall distribute an amount equal to 25 cents per acre for each acre of commercial forest in the county in the same proportions between the various funds as the ad valorem general property tax is distributed by the township treasurers in each township. Except as provided by section ~~7a(2)~~ 51109(2), the county treasurer of each county shall distribute the remainder of the funds transmitted pursuant to

this section pursuant to the manner in which ad valorem property taxes are distributed.

Sec. ~~6a~~ 51107. The annual specific tax and the state payment described in section ~~6~~ 51106, per acre, shall be adjusted in 2004 and every tenth year after 2004 to the nearest cent by the use of a ratio computed by the revenue division of the department of treasury. The ratio shall be computed by using the state equalized value per acre of the timber cutover lands within the state in 1990 as the denominator and using the state equalized value per acre for timber cutover lands in 2004 and every tenth year after 2004 as the numerator.

Sec. ~~7~~ 51108. (1) An owner of a commercial forest may withdraw his or her land, in whole or in part, from the operation of this ~~act~~ PART upon application to the department and payment of the withdrawal application fee and penalty, as provided in this section.

(2) Except as otherwise provided by this section, upon application to the department to withdraw commercial forestland from the operation of this ~~act~~ PART, the applicant shall forward to the department a withdrawal application fee in the amount of $1.00 per acre with a minimum withdrawal application fee of $200.00 per application and a maximum withdrawal application fee of $1,000.00 per application.

(3) Except as otherwise provided in this section, an application to withdraw commercial forestland from the operation of this ~~act~~ PART shall be granted upon the payment to the township treasurer in which the commercial forestland is located of a

penalty per acre equal to the product of the current average ad valorem property tax per acre on timber cutover real property within the township in which the commercial forestland is located, as determined by the township assessor, multiplied by 1 of the following:

(a) For forestland determined to be a commercial forest before January 1, 1994, the number of years, to a maximum of 7 years, that the land was subject to this ~~act~~ PART.

(b) For forestland determined to be a commercial forest after December 31, 1993, the number of years, to a maximum of 15 years, that the land was subject to this ~~act~~ PART.

(4) For purposes of calculating the penalty in subsection (3), if the township in which the commercial forestland is located does not contain any real property classified as timber cutover real property under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, then 1 of the following applies:

(a) If there is timber cutover real property located within the county in which the commercial forestland is located, the per acre average of the ad valorem property tax for all timber cutover real property located in the county in which the commercial forestland is located shall be used in calculating the penalty under subsection (3).

(b) If there is no timber cutover real property located within the county in which the commercial forestland is located, the per acre average of the ad valorem property tax for all

timber cutover real property in townships contiguous to the county in which the commercial forestland is located shall be used in calculating the penalty under subsection (3).

(5) An application to withdraw commercial forestland from the operation of this ~~act~~ PART that meets 1 or more of the following requirements shall be granted without payment of the withdrawal application fee or penalty under this section:

(a) Commercial forestland that has been donated to a public body for public use prior to withdrawal.

(b) Commercial forestland that has been exchanged for property belonging to a public body if the property received is designated as a commercial forest as determined by the department.

(c) Commercial forestland that has been condemned for public use.

(6) The department shall remit the withdrawal application fee paid pursuant to subsection (2) to the state treasurer for deposit into the fund. The penalty received by the township treasurer under subsection (3) shall be distributed by the township treasurer in the same proportions to the various funds as the ad valorem general property tax is allocated in the township, except as provided by section ~~7a(2)~~ 51109(2).

(7) If an application to withdraw commercial forestland is granted, the department shall immediately notify the applicant, the supervisor of the township, and the register of deeds of the county in which the lands are located of the action and shall file with those officials a list of the lands withdrawn.

Sec. ~~7a~~ 51109. (1) For revenues disbursed after June 30, 1994, to determine the proportion for the disbursement of revenues under this ~~act~~ PART and for attribution of revenues under subsection (2)(b) for revenues collected under this ~~act~~ PART, the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, for the year for which the disbursement is calculated.

(2) Except as provided in subdivision (b), for revenues disbursed after June 30, 1994, the revenues collected under this ~~act~~ PART shall be distributed as follows:

(a) In the case of intermediate school districts receiving state aid under sections 56, 62, and 81 of THE STATE SCHOOL AID ACT OF 1979, Act No. 94 of the Public Acts of 1979, ~~as amended,~~ being sections 388.1656, 388.1662, and 388.1681 of the Michigan Compiled Laws, all or a portion of the amount that would otherwise be disbursed to these intermediate school districts from the following revenue sources, as determined ~~pursuant to~~ UNDER a formula prescribed by the department of management and budget on the basis of the tax rate utilized to compute the amount of state aid for the intermediate school district, shall be paid instead to the state treasury to the credit of the state school aid fund established by section 11 of article ~~9~~ IX of the state constitution of 1963:

(*i*) Revenues from that portion of the levy of a specific tax over 15 cents per acre pursuant to section ~~5~~ 51105.

(*ii*) Revenues from that portion of state payments in excess of 25 cents per acre which are made pursuant to section ~~6~~ 51106.

(*iii*) Revenues from remitted withdrawal penalties and fees imposed pursuant to section ~~7~~ 51108.

~~(*iv*) Revenues from remitted stumpage or yield tax collections made pursuant to section 9.~~

(b) For revenues disbursed after June 30, 1994, the amount that would otherwise be disbursed to a local school district for school operating purposes shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(3) Except as provided in subsection (2)(a), as used in this section "revenues" means all of the following:

(a) The specific tax levied pursuant to section ~~5~~ 51105.

(b) State payments made pursuant to section ~~6~~ 51106.

(c) Withdrawal penalties and fees imposed pursuant to section ~~7~~ 51108.

(d) Declassification penalties and fees pursuant to section ~~13~~ 51116.

~~Sec. 7b. If the constitutional amendment submitted to the electors on June 2, 1993, becomes part of the state constitution of 1963, as provided in section 1 of article XII of the state constitution of 1963, in determining the distributions under sections 5(4), 6, and 7(6) that provide for distributions in the~~

~~same manner as the ad valorem general property taxes are distributed, the number of mills used to determine the amount of revenue distributed to local school districts shall be the same number of mills used to determine the distribution in 1992 or the number of mills levied in the year of distribution, whichever is greater.~~

Sec. ~~8~~ 51110. (1) Except as provided in subsection (2), a person shall not cut, harvest, or remove forest products from a commercial forest.

(2) The owner of a commercial forest is entitled to cut or remove merchantable forest products on his or her commercial forest without withdrawing it or affecting its status as a commercial forest and without payment of a fee or penalty if the owner complies with all of the following:

(a) After an owner certifies to the department that a forest management plan has been prepared and is in effect under section ~~3~~ 51103 and cuts, harvests, or removes forest products in compliance with his or her forest management plan.

(b) All other requirements of this ~~act~~ PART.

Sec. ~~9~~ 51111. The owner shall report to the department prior to the cutting, harvesting, or removal of forest products from the commercial forest.

Sec. ~~9a~~ 51112. (1) The commercial forest fund is created within the state treasury.

(2) The state treasurer shall deposit the money collected from the following sources into the fund:

(a) The application fee and forest management plan fee pursuant to section ~~3~~ 51103.

(b) The withdrawal application fee pursuant to section ~~7~~ 51108.

(c) The fee described in section ~~13(1)(a)~~ 51116(1)(A).

(d) An amount equal to 10 cents for each acre of land enrolled under this ~~act~~ PART as certified by the department to be appropriated each fiscal year from the general fund.

(e) Any restitution ordered by a court payable to this state for a violation of this ~~act~~ PART.

(3) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) Money in the fund appropriated from the general fund shall remain in the fund at the close of the fiscal year and shall not lapse to the general fund.

(5) The department shall expend the money from the fund, upon appropriation, for enforcement, administration, and monitoring of compliance with this ~~act~~ PART and rules promulgated under this ~~act~~ PART.

Sec. ~~10~~ 51113. (1) Except as provided in this section, the owner of a commercial forest shall not use that land in a manner that is prejudicial to its development as a commercial forest, use the land for agricultural, mineral extraction except as provided in this section, grazing, industrial, developed

recreational, residential, resort, commercial, or developmental purposes, or deny the general public the privilege of hunting and fishing on commercial forestland unless the land is closed to hunting or fishing, or both, by order of the ~~commission of natural resources~~ DEPARTMENT or by an act of the legislature.

(2) Exploration for minerals shall be permitted on land listed under this ~~act~~ PART. Except as provided in subsections (3) and (4), before the removal of any commercial mineral deposits, the owner shall withdraw the portion of the commercial forestland directly affected by the removal pursuant to section ~~7~~ 51108. The withdrawal of commercial forestland due to mineral removal as provided in this section and section ~~7~~ 51108 shall not cause the remaining portion of the commercial forestland to be withdrawn due to insufficient acreage of the remaining commercial forestland.

(3) Upon application to and approval by the department, sand and gravel may be removed from the commercial forest without affecting the land's status as a commercial forest. The department shall approve an application to remove sand and gravel deposits only if the removal site is not greater than 5 acres, excluding access to the removal site, and the sand and gravel are to be utilized by 1 or more of the following:

(a) The owner of a commercial forest for personal use if the owner of the commercial forest is also the owner of the sand and gravel deposits.

(b) The owner of the sand and gravel deposits for his or her personal use or for sale to the owner of the commercial forest

for personal use, if the owner of the commercial forest is not also the owner of the sand and gravel deposits.

(c) This state, a local unit of government, or a county road commission, for governmental use.

(4) Upon application to and approval by the department, deposits of oil and gas owned by this state may be removed from the commercial forest without affecting the land's status as a commercial forest.

Sec. ~~11~~ 51114. All applications, statements, reports, and information required by the department in the administration of this ~~act~~ PART shall be on forms prescribed by the department and shall be under oath.

Sec. ~~12a~~ 51115. (1) The transfer of title of forestland subject to this ~~act~~ PART shall not affect that forestland's status as a commercial forest if the forestland continues to meet all of the eligibility requirements under this ~~act~~ PART. If the purchaser desires to withdraw his or her forestland from this ~~act~~ PART, the purchaser shall withdraw that forestland pursuant to section ~~7~~ 51108. If the forestland's eligibility to be a commercial forest is affected by the transfer of title, the department shall determine which forestlands may remain under this ~~act~~ PART and which forestlands must be withdrawn or declassified.

(2) A document that transfers any interest in commercial forestlands shall state on the face of the document that "this property is subject to PART 511, the commercial forest ~~act~~ PART OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT".

Failure to comply with this subsection does not affect the status of the land as commercial forestland.

(3) Not later than 30 days after the transfer of title or the transfer of any interest in land contract concerning the commercial forestland, the owner shall notify the department in writing of the transfer or ownership change.

Sec. ~~13~~ 51116. ~~(1)~~ If an owner of a commercial forestland uses his or her commercial forest in violation of this ~~act~~ PART, fails to pay any specific tax under section ~~5~~ 51105, fails to report to the department pursuant to section ~~9~~ 51111, removes minerals in violation of section ~~10~~ 51113, or, after an owner certifies to the department that a forest management plan has been prepared and is in effect, fails to plant, harvest, or remove forest products in compliance with the owner's forest management plan, the department may upon notice to the owner and hearing declassify all or a portion of the commercial forest. If, at the hearing, the department determines that the commercial forests were used in violation of this ~~act~~ PART, that the owner failed to pay the specific tax pursuant to section ~~5~~ 51105, that the owner failed to report to the department pursuant to section ~~9~~ 51111, that minerals were removed in violation of section ~~10~~ 51113, or, after an owner certifies to the department that a forest management plan has been prepared and is in effect, that the owner failed to plant, harvest, or remove forest products in compliance with the owner's forest management plan, then the department shall declassify the commercial forest, serve a notice of declassification of the lands upon the owner, and

record a copy of the declassification in the office of the register of deeds of the county in which the lands are located. Upon declassification, the land ~~shall be~~ IS subject to the ad valorem general property tax. Within 30 days after the service of the declassification notice on the owner, the owner shall pay both of the following:

(a) A fee equal to the withdrawal application fee described in section ~~7~~ 51108 to the department for deposit into the fund.

(b) An amount equal to the penalty described in section ~~7~~ 51108 to the township treasurer of the township in which the land is located to be distributed, except as provided in section ~~7a(2)~~ 51109(2), in the same proportions to the various funds as the ad valorem general property tax is allocated in the township.

Sec. ~~13a~~ 51118. (1) Except as provided in this section, changes in the terms, fees, taxes, or other provisions of this ~~act~~ PART apply to all forestlands that are commercial forests when the changes take effect.

(2) An owner, without penalty or payment of the withdrawal application fee pursuant to section ~~7~~ 51108, may withdraw commercial forestland from the operation of this ~~act~~ PART if any change in the terms, fees, taxes, or other provisions of this ~~act~~ PART materially increases the burden on the owner. However, if an owner elects to withdraw his or her commercial forestlands under this subsection, the owner shall pay a fee for each acre withdrawn equal to the product of the current average

ad valorem property tax per acre on timber cutover real property within the township in which the commercial forestland is located, as determined by the township assessor, multiplied by 5. If the township in which the commercial forestland is located does not contain any real property classified as timber cutover real property under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, then 1 of the following applies:

(a) If there is timber cutover real property located within the county in which the commercial forestland is located, the per acre average of the ad valorem property tax for all timber cutover real property located in the county in which the commercial forestland is located shall be used in calculating the penalty under this subsection.

(b) If there is no timber cutover real property located within the county in which the commercial forestland is located, the per acre average of the ad valorem property tax for all timber cutover real property in townships contiguous to the county in which the commercial forestland is located shall be used in calculating the penalty under this subsection.

(3) The fee described in subsection (2) shall not exceed $100,000.00. The owner shall pay the fee described in subsection (2) before withdrawal.

(4) The owner may not withdraw commercial forestland under this section unless he or she makes application to do so within 1 year after the changes take effect. If an owner elects to withdraw commercial forestlands under this section, he or she

shall withdraw all the commercial forestlands owned by him or her at the time of withdrawal.

(5) If an application to withdraw commercial forestlands under subsection (2) is initiated by an owner or by the department ~~of natural resources~~ before changes in terms, fees, taxes, or other provisions of this ~~act~~ PART OR FORMER ACT NO. 94 OF THE PUBLIC ACTS OF 1925 become effective, the owner shall pay the stumpage fees, other fees, taxes, and penalties, if any, in the same manner and at the same rates as were in effect when the application was filed.

(6) The department shall remit the fees paid pursuant to this section to the township treasurer. Except as provided in section ~~7a(2)~~ 51109(2), all fees remitted to the township treasurer under this section shall be distributed by the township treasurer in the same proportions to the various funds as the ad valorem general property tax is allocated in the township.

Sec. ~~13c~~ 51119. A duly authorized representative of the department may at any time go upon commercial forestlands to ascertain the validity of any report made pursuant to this ~~act~~ PART or otherwise determine compliance with this ~~act~~ PART. The duly authorized representative of the department may examine or cause to be examined any books, papers, records, or memorandum bearing upon the amounts of timber products cut from the commercial forestland or the owner's forest management plan.

Sec. ~~14~~ 51120. (1) Except as provided in subsection (2), a person who violates this ~~act~~ PART is guilty of a misdemeanor

punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

(2) A person who harvests, cuts, or removes forest products having a value of more than $2,500.00 in violation of this ~~act~~ PART is guilty of a felony punishable by imprisonment for not more than 3 years or a fine of not more than $10,000.00, or both.

(3) Upon conviction for a violation of this ~~act~~ PART, the court may declassify all or a portion of the commercial forest pursuant to section ~~13~~ 51116.

~~Part 513. Private Forestry~~

PART 513 PRIVATE FORESTRY

Sec. ~~1~~ 51301. ~~Upon any~~ THE OWNER OR OPERATOR OF A tract of land not exceeding 160 acres, where at least 1/2 OF THE LAND is improved and devoted to agricultural purposes, ~~in this state,~~ ~~there~~ may ~~be selected by the owner or owners thereof, as a private forest reservation,~~ DESIGNATE a portion ~~thereof~~ OF THAT LAND, not exceeding 1/4 of the total area of ~~said~~ THE tract, AS A PRIVATE FOREST RESERVATION upon filing with the treasurer of the county in which it is located a description of ~~such~~ THE forest reservation as ~~is hereinafter~~ provided IN THIS PART.

Sec. ~~2~~ 51302. If any ~~land owner shall plant not less than~~ LANDOWNER PLANTS AT LEAST 1,200 trees on each acre of selected private forest reservation, then ~~it shall become~~ THAT LAND IS subject to this ~~act~~ PART as ~~herein~~ provided IN THIS PART.

Sec. ~~3~~ 51303. Upon any tract selected as a private forest reservation ~~which~~ THAT is partially stocked with forest trees, the owner may plant a sufficient number of forest trees to assure a spacing of approximately ~~6x6~~ 6 FEET BY 6 feet on the open areas. ~~, when~~ WHEN THIS OCCURS, the ~~same shall become~~ LAND IS subject to this ~~act~~ PART as PROVIDED in section ~~2~~ 51302.

Sec. ~~4~~ 51304. ~~No land owner~~ A LANDOWNER shall NOT receive the benefit of this ~~act who shall permit~~ PART IF THE LANDOWNER PERMITS cattle, horses, sheep, hogs, or goats to pasture upon ~~such~~ PRIVATE FOREST reservation ~~until~~ BEFORE at least 90% of the trees are 2 inches in diameter, and then only under ~~such~~ rules ~~and regulations as may be made~~ PROMULGATED by the ~~state conservation commission~~ DEPARTMENT.

Sec. ~~5~~ 51305. ~~The~~ A PRIVATE forest reservation shall ~~at all times~~ be kept fully stocked with forest trees under ~~such~~ THE rules ~~and regulations as may be made from time to time~~ PROMULGATED by the ~~conservation commission,~~ DEPARTMENT and shall ~~at all times~~ be maintained as a woodlot.

Sec. ~~6~~ 51306. ~~Whenever~~ IF any trees are removed from ~~such~~ A private forest reservation, provision shall be made for complete restocking with forest trees under ~~such~~ THE rules ~~and regulations as may be made by~~ OF the ~~conservation commission~~ DEPARTMENT.

Sec. ~~7~~ 51307. The varieties of ash, hemlock, beech, maple, pine, oak, hickory, basswood, elm, locust, walnut, butternut, ironwood, cedar, larch, tulip-tree, mulberry, osage orange, sassafras, catalpa, and such other trees as the ~~conservation~~

~~commission~~ DEPARTMENT may recommend ~~shall be considered~~ ARE forest trees ~~within the meaning of~~ UNDER this ~~act~~ PART.

Sec. ~~8~~ 51308. The treasurer of each county shall keep a record of all private forest reservations within the county as the private forest reservations are selected by the owners of those reservations under this ~~act~~ PART. The treasurer on December 31 in each year ~~,~~ shall certify to the supervisor or assessor of each township a description of the selected private forest reservations in the township, and the name of the owners of those reservations.

Sec. ~~9~~ 51309. ~~It shall be the duty of the~~ THE supervisor or assessor in each township ~~to~~ SHALL keep a record of all private forest reservations within ~~his~~ THE township as certified ~~to him~~ by the treasurer of ~~said~~ THE county, and he OR SHE shall require the owner or his OR HER agent to subscribe under oath the extent and description of the land selected as private forest reservation and that the number of trees is as required by this ~~act~~ PART and that ~~he~~ THE OWNER OR HIS OR HER AGENT will maintain the same according to the intent of this ~~act~~ PART.

Sec. ~~10~~ 51310. The ~~conservation commission~~ DEPARTMENT shall also prescribe the form of application and contract to be filed with the treasurer of the county ~~wherein such~~ IN WHICH THE application ~~shall be~~ IS made ~~,~~ and THE form of notice by THE treasurer to THE supervisor or other assessing officer.

Sec. ~~11~~ 51311. ~~It shall be the duty of the~~ THE supervisor or assessor ~~to~~ SHALL personally examine the various

private FOREST reservations when the real estate is assessed for taxation, and ~~to~~ note upon ~~his~~ return ~~,~~ the condition of the trees ~~,~~ and ~~that same~~ WHETHER THE TREES are properly planted and continuously cared for, ~~in order~~ SO that the intent of this ~~act~~ PART may be complied with. If the ~~said~~ private reservation is properly planted and continuously cared for in accordance with ~~the provisions of~~ this ~~act~~ PART, ~~such~~ THE part of its value, ~~as is~~ over and above ~~1 dollar~~ $1.00 per acre, ~~shall be~~ IS exempt from all taxation. ~~: Provided, When any~~ IF THE owner of a PRIVATE forest reservation provided for in this ~~act shall desire~~ PART WISHES to cut and harvest trees in ~~said~~ THE reservation, except for firewood or building material for the domestic use of ~~said~~ THE owner or his OR HER tenant, ~~he~~ THE OWNER shall notify the tax assessor of his OR HER district of ~~his said~~ THE intention and after ~~such~~ THE trees are cut, and before their removal from the land, the owner shall make an accurate measurement or count of all the trees cut, and file with the assessor a true and accurate return of ~~such~~ THE measurement or count and of the variety and value of the trees so cut. The assessor shall forthwith assess the stumpage value of the CUT timber ~~so cut~~ and ~~shall~~ issue a license to remove ~~said~~ THE timber. ~~, which~~ THE license ~~shall be~~ IS in effect upon payment to the collector of taxes of the district of a fee of ~~5 per cent~~ 5% of ~~such~~ THE appraised valuation. The assessor shall notify the clerk and the tax collector of his OR HER district of the issuance of ~~such~~ THE license. If any ~~such~~ timber is removed without payment of ~~such~~ THE license fee, it

~~shall be~~ IS the duty of the tax collector to levy upon ~~such~~ THE timber for collection of ~~such~~ THE license fee in the manner provided by law for the collection of personal taxes. If the owner of ~~any such~~ A PRIVATE forest reservation ~~desires at any time~~ WISHES to withdraw ~~his~~ land from ~~such~~ THE classification OF A PRIVATE FOREST RESERVE, or fails to comply with ~~the provisions of~~ this ~~act~~ PART, the tax assessor of ~~his~~ THE district shall estimate the cash value of the timber on the stump and the owner shall pay a fee of ~~5 per cent~~ 5% of ~~such~~ THE appraised valuation; and, ~~on his refusal~~ UPON REFUSING or ~~neglect~~ NEGLECTING to make ~~such~~ THE payment, the tax collector shall levy upon ~~such~~ THE timber for collection ~~in such~~ OF THE fee in the manner provided by law for the collection of personal taxes.

Sec. ~~12~~ 51312. For ad valorem property taxes levied after 1993 and fees collected after 1993, the amount of ad valorem property taxes and fees collected under this ~~act~~ PART that are allocated to the local school district in which the property is located for school operating purposes shall be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

~~FOREST FIRES~~

~~Part 515. Prevention and Suppression of Forest Fires~~

FOREST FIRES

PART 515 PREVENTION AND SUPPRESSION OF FOREST FIRES

Sec. ~~1~~ 51501. As used in this ~~act~~ PART:

~~(a) "Person" means an individual, corporation, partnership, association, municipality or other public body or legal entity, or any officer, employee or agent of the foregoing.~~

(A) ~~(b)~~ "Forest land" means timbered land, potential timber-producing land, cutover or burned timber land or grass lands not including lands devoted to agriculture.

(B) ~~(c)~~ "Flammable material" means any substance that will burn, including, but not limited to, refuse, debris, waste forest material, brush, stumps, logs, rubbish, fallen timber, grass, stubble, leaves, fallow land, slash, crops, or crop residue.

(C) ~~(d)~~ "Domestic purposes" means any fire within the curtilage of a dwelling where the material being burned has been properly placed in a debris burner constructed of metal or masonry with metal covering device with openings no larger than 3/4 of an inch, or a campfire, or any fire within a building.

~~(e) "Director" means the director of the department of natural resources.~~

Sec. ~~3~~ 51502. The ~~director~~ DEPARTMENT shall have charge of the prevention and suppression of forest fires and shall appoint ~~such~~ assistants as needed to ~~carry out the provisions of~~ IMPLEMENT this ~~act~~ PART.

Sec. ~~4~~ 51503. (1) At any time the ground is not snow-covered, a person shall not burn any flammable material on or adjacent to forest land, except for domestic purposes, without a permit from the ~~director or his authorized representative~~ DEPARTMENT.

(2) The ~~director or his representative~~ DEPARTMENT shall set the times of day and, consistent with ~~the provisions of~~ this ~~act~~ PART, the conditions under which burning for other than domestic purposes on or adjacent to forest land ~~shall be~~ IS permitted.

(3) Any person doing any burning on or adjacent to forest land for other than domestic purposes, prior to such burning operations, and at all times ~~during~~ WHILE the ~~continuance thereof~~ BURNING CONTINUES, shall ~~do such work~~ TAKE SUCH ACTION in and around the area in which the burning is done so as to prevent the spread of fire ~~therefrom~~ as may be required by the ~~director or his representative~~ DEPARTMENT.

Sec. ~~5~~ 51504. A person shall not DO ANY OF THE FOLLOWING:

(a) Dispose of a lighted match, cigarette, cigar, ashes or other flaming or glowing substances, or any other substance or thing that is likely to ignite a forest, brush, grass, or woods fire; or throw or drop from a moving vehicle any such ~~objects~~ OBJECT or ~~substances~~ SUBSTANCE.

(b) Set fire TO, or cause ~~,~~ or procure the setting on fire of, any flammable material on or adjacent to forest land without taking reasonable precautions ~~,~~ both before and ~~after~~ WHILE lighting the fire ~~,~~ and at all times ~~thereafter~~ AFTER THE LIGHTING OF THE FIRE to prevent THE escape ~~thereof~~ OF THE FIRE; or leave the fire before it is extinguished.

(c) Set a backfire or cause a backfire to be set, except under the direct supervision of an established fire control

agency or unless it can be established that the setting of ~~such~~ THE backfire is necessary for the purpose of saving life or valuable property.

(d) Destroy, break down, mutilate, or remove any fire control sign or poster erected by an established fire control agency in the administration of its lawful duties and authorities.

(e) Use or operate on or adjacent to forest land, a welding torch, tar pot, or other device ~~which~~ THAT may cause a fire, without clearing flammable material surrounding the operation or without taking ~~such~~ other reasonable precautions necessary to ensure against the starting and spreading of fire.

(f) Operate or cause to be operated any engine, other machinery, or powered vehicle not equipped with spark arresters ~~,~~ or other suitable devices to prevent the escape of fire or sparks.

(g) Discharge or cause to be discharged a gun firing incendiary or tracer bullets or tracer charge onto or across any forest land.

Sec. ~~6~~ 51505. Any ~~municipality, public institution or agency or other entity~~ PERSON maintaining or operating a refuse disposal facility shall provide ~~such~~ devices and conditions ~~as~~ THAT will promote the safe operation and guard against the escape of fire. The ~~director~~ DEPARTMENT may ~~make~~ PROMULGATE rules for the implementation of this section. ~~Nothing in this act shall be construed as giving~~ THIS PART DOES NOT GIVE the ~~director~~ DEPARTMENT THE authority to allow burning of garbage ~~and~~ AT refuse disposal facilities contrary to ~~Act No. 87 of~~

~~the Public Acts of 1965, being sections 325.291 to 325.298 of the Compiled Laws of 1948~~ PART 115.

Sec. ~~8~~ 51506. Any person ~~,~~ who, in violating ~~any provision of~~ this ~~act~~ PART, causes a forest or grass fire ~~,~~ is liable for all damages resulting ~~therefrom~~ FROM THAT FIRE, including the cost of any governmental unit fighting the fire. ~~Nothing in this act shall be construed as affecting~~ THIS PART DOES NOT AFFECT any other right of action for damages.

Sec. ~~9~~ 51507. (1) Whenever the governor finds that conditions of extreme fire hazard exist and that it is necessary in the public interest and for the preservation of the public peace, health, and safety, he OR SHE may forbid, by proclamation, the use of fire by any person entering forest lands or lands adjacent to forest lands in ~~such~~ parts of the state as he ~~deems~~ OR SHE CONSIDERS the public interest requires. The proclamation shall be in full force and effect 24 hours after notice is given by the governor.

(2) During ~~such~~ periods DESCRIBED IN SUBSECTION (1), and in such areas as the governor ~~shall proclaim~~ PROCLAIMS, a person shall not DO ANY OF THE FOLLOWING:

(a) Build a campfire of any nature, except within containers at authorized campgrounds or places of habitation.

(b) Smoke a pipe, cigarette, or cigar, except at places of habitation, authorized improved campgrounds, or in any automobile or truck.

(c) Burn or cause to be burned any flammable material unless he OR SHE first obtains a permit, in writing, to do so as provided in this ~~act~~ PART.

Sec. ~~10~~ 51508. The ~~director or anyone appointed by him~~ DEPARTMENT may call to ~~his~~ ITS assistance in emergencies any able-bodied male person who has reached his eighteenth birthday who, unless the person is an inmate of a state or county correctional institution, shall be paid for his services in accordance with the minimum wage law of this state and if the person refuses to assist without reasonable justification, he is guilty of a misdemeanor.

Sec. ~~11~~ 51509. Any person ~~,~~ who sets fire on any land and negligently allows the fire to escape and become a forest or grass fire ~~,~~ is liable for all expenses incurred by the state in the suppression of the fire. The ~~director~~ DEPARTMENT shall certify, in writing, to the person the claim of the state and shall list the items of expense incurred in the suppression of the fire. The claim shall be paid within 60 days and, if not paid within that time, the ~~director~~ DEPARTMENT may bring suit against the person in a court of competent jurisdiction in the county of the residence of the defendant or of any defendant if there is more than 1, for the collection of the claim at any time within 2 years ~~thereafter~~ OF THE CLAIM. ~~Where~~ IF the amount of ~~such~~ THE claim is cognizable by a circuit court, the ~~director~~ DEPARTMENT may file the suit in the circuit court of Ingham county, or in the circuit court of the county of the

residence of the defendant or any defendant if there is more than 1.

Sec. ~~12~~ 51510. A person shall not DO ANY OF THE FOLLOWING:

(a) ~~Wilfully~~ WILLFULLY, maliciously, or wantonly set fire or cause or procure to be set on fire any forest land, lands adjacent ~~thereto~~ TO FOREST LAND, or flammable material on such FOREST land.

(b) ~~Wilfully~~ WILLFULLY, maliciously, or wantonly set, throw, or place any device, instrument, paraphernalia, or substance ~~,~~ in or adjacent to any forest land with intent to set fire to the land or which in the natural course of events would result in fire being set to the forest land.

Sec. ~~13~~ 51511. Any duly authorized officer, employee, or agent of the department, ~~of natural resources,~~ in the performance of his OR HER duty, may enter upon or enter into any premises on or in which he OR SHE has reasonable cause to believe a violation of this ~~act~~ PART is occurring. For purposes of this section, premises shall not include buildings or dwellings.

Sec. ~~14~~ 51512. Any person who violates ~~any provision of~~ this ~~act~~ PART or any rule ~~adopted hereunder~~ PROMULGATED UNDER THIS PART is guilty of a misdemeanor. Any person convicted of violating ~~any provision of~~ section ~~12~~ 51510 is guilty of a felony and upon conviction shall be ~~fined not more than $10,000.00 or~~ imprisoned for ~~a term of~~ not more than 10 years OR FINED NOT MORE THAN $10,000.00, or both.

Sec. ~~15~~ 51513. The ~~director~~ DEPARTMENT shall administer this ~~act~~ PART and shall ~~adopt~~ PROMULGATE rules necessary to implement this ~~act~~ PART. The ~~director~~ DEPARTMENT may make, conduct, or participate in ~~any~~ investigations and surveys designed to establish the cause of a responsibility for a particular forest fire or forest fire conditions generally. ~~Nothing in this act shall be construed to~~ THIS PART DOES NOT limit or otherwise impair the jurisdiction or powers of any other department, agency, or officer of this state ~~,~~ to investigate, apprehend, and prosecute violators of this ~~law nor to~~ PART OR obviate local ordinances or ~~to~~ prevent enactment of local regulations ~~which~~ THAT are as restrictive or more restrictive than this ~~act~~ PART.

Sec. ~~17~~ 51514. The ~~director~~ DEPARTMENT may enter into agreements with other states and the federal government to provide assistance and to accept assistance in the control of forest fires, ~~which may include~~ INCLUDING THE training of personnel. Any employee of the department ~~of natural resources~~ assigned to fire control duties or training programs outside this state shall be considered the same as working inside this state for purposes of compensation and any other employee benefits.

~~Sec. 18. Act No. 143 of the Public Acts of 1923, as amended, being sections 320.1 to 320.13a of the Compiled Laws of 1948, is repealed.~~

~~Part 517. Prevention of Forest Fires~~

PART 517 PREVENTION OF FOREST FIRES

Sec. ~~1~~ 51701. The state or a department, bureau, board, commission, or other agency of the state or a political subdivision ~~thereof~~ OF THE STATE shall not enact, adopt, promulgate, enforce, or practice any law, rule, policy, or concept ~~which~~ THAT creates or tends to create a condition ~~which~~ THAT promotes, fosters, or leads or may tend to promote, foster, or lead to the beginning or spreading of a forest fire ~~which~~ THAT could jeopardize the public trust in the forests of the state or any private land contiguous ~~thereto~~ TO THE FORESTS OF THE STATE, except ~~under circumstances~~ as ~~might~~ MAY be required for the protection of the public health, safety, and welfare, or as prescribed for forest management or wildlife management programs under the authority of the department. ~~of natural resources.~~

Sec. ~~2~~ 51702. ~~All~~ TO THE EXTENT AUTHORIZED BY LAW, ALL acts and parts of acts or rules promulgated pursuant ~~thereto which~~ TO ACTS OR PARTS THAT are inconsistent with this ~~act~~ PART are ~~hereby~~ repealed.

~~Part 519. Slash Disposal~~

PART 519 SLASH DISPOSAL

~~Sec. 1. This act shall be known and may be cited as "the slash disposal law."~~

Sec. ~~2~~ 51901. Any person ~~, firm, association or corporation or any agent or employee thereof~~ who ~~shall cut~~ CUTS any forest growth within any public road or highway, or on land bordering on any public road or highway in ~~the~~ THIS state, ~~of Michigan,~~ shall dispose of all cutting, slash, and debris

resulting ~~therefrom~~ FROM THE CUTTING, and dead stubs and windfalls from the area cut over ~~in such manner~~ SO that ~~such~~ inflammable material ~~shall~~ DOES not constitute a fire hazard within the limits of ~~such~~ THE road or highway ~~nor~~ OR within 50 feet of the edge of the cleared portion ~~thereof~~ OF THE LIMITS OF THE ROAD OR HIGHWAY. The ~~director of conservation or his authorized representative shall approve the type~~ METHOD of disposal, ~~and~~ the DISPOSAL SPECIFICATIONS, AND THE elimination of fire hazards ~~and~~ shall ~~prescribe disposal specifications~~ BE APPROVED BY THE DEPARTMENT.

Sec. ~~3~~ 51902. All cuttings of forest growth, slash, and debris resulting from the construction and maintenance of any railroad, that is a common carrier, telephone, telegraph, power, oil and gas line, or other public utility shall be disposed of by the person ~~, firm, association or corporation~~ either directly or indirectly responsible for creating ~~such~~ THE cuttings, slash, and debris, in a manner approved by the ~~director of conservation or his authorized representative~~ DEPARTMENT.

Sec. ~~4~~ 51903. All cuttings of forest growth, slash, and debris referred to in sections ~~2~~ 51901 and ~~3 of this act~~ 51902 shall be disposed of within 30 days after cutting the same in ~~such~~ THE manner ~~as~~ prescribed by the ~~director of conservation or his authorized representative~~ DEPARTMENT. ~~Such~~ THE disposal shall not be injurious tc or endanger public or private property. Any burning of ~~such~~ cuttings of forest growth, slash, and debris shall be done ONLY under permit ~~only~~ and at a

time when forest and grass lands ~~shall~~ ARE not ~~be~~ endangered by ~~such~~ THE fire.

Sec. ~~5~~ 51904. ~~In case such~~ IF cuttings of forest growth, slash, and debris ~~shall~~ ARE not ~~be~~ disposed of as provided under section ~~4~~ 51903, the ~~director of conservation or his authorized representative~~ DEPARTMENT shall notify, by registered mail, the person ~~, firm, association, corporation, or their agent, agents or employees~~ responsible for ~~such~~ THE cuttings of the requirements imposed for ~~such~~ THE removal or elimination of fire hazards. If ~~such~~ THE responsible party or parties ~~shall~~ fail to comply with the provisions ~~made~~ in the notification, the ~~Michigan~~ department ~~of conservation~~ may ~~cause the same to be eliminated~~ REMOVE OR ELIMINATE THE FIRE HAZARDS, and ~~it shall~~ THE DEPARTMENT IS not ~~be~~ liable in any action or trespass ~~therefor~~ FOR THAT ACTION. The ~~Michigan~~ department ~~of conservation~~ shall pay for the disposal or elimination of fire hazards resulting from cuttings of forest growth, slash, and debris from the forest fire control appropriation, and ~~said Michigan~~ THE department ~~of conservation~~ shall keep an accurate account of the expenditures incurred by it in ~~carrying out the provisions made under authority of~~ IMPLEMENTING this ~~act and~~ PART. THE DEPARTMENT shall present a full and complete statement ~~thereof~~ OF ITS EXPENDITURES, verified by oath, requiring ~~said~~ THE person ~~, firm, association or corporation~~ to pay to the state the amount ~~therein~~ set forth. ~~; in case~~ IF the offender ~~shall refuse~~ REFUSES or ~~neglect~~ NEGLECTS to pay ~~same~~ THAT AMOUNT within 30 days after ~~such~~ THE notice and

demand, the ~~said Michigan~~ department ~~of conservation, as represented by the director acting for and in behalf of the state,~~ may bring suit against ~~such~~ THE person ~~, firm, association or corporation~~ in a court of competent jurisdiction in the county where ~~such~~ THE forest growth cuttings, slash, and debris were not disposed of as required by the ~~Michigan~~ department, ~~of conservation,~~ or in the county of the residence of the defendant or of any defendant if there ~~be~~ IS more than ~~one~~

1. All ~~moneys~~ MONEY collected as result of action under this section shall be paid to the state treasurer and credited to the forest fire control appropriation from which the expenditures were made.

Sec. ~~6~~ 51905. Any person ~~, firm, association, or corporation or any agent, agents or employee thereof violating any of the provisions of~~ WHO VIOLATES this ~~act shall be deemed~~ PART IS guilty of a misdemeanor, ~~and on conviction thereof shall be punished by a fine of not to exceed $100.00 or~~ PUNISHABLE by imprisonment ~~in the county jail~~ for ~~a period~~ not ~~to exceed~~ MORE THAN 90 days or ~~by~~ A FINE OF NOT MORE THAN $100.00, OR both. ~~such fine and imprisonment at the discretion of the court.~~ If through the violation of this ~~act~~ PART any damage or injury is suffered by the owner of any property, the person ~~, firm, association, or corporation or their agent or employee~~ WHO IS guilty of ~~such~~ THE violation ~~shall be~~ IS liable in an action for damages to be recovered in an action of trespass on the case for the benefit of the owner ~~suffering such~~ WHO SUFFERED THE damage.

Sec. ~~7~~ 51906. All rules, regulations, and specifications prescribed under this ~~act~~ PART shall be prescribed in accordance with ~~Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948~~ THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

~~Sec. 8. Act No. 26 of the Public Acts of 1927, being sections 320.51 to 320.55 of the Compiled Laws of 1948, is hereby repealed.~~

~~MISCELLANEOUS TOPICS~~

~~Part 525. Disposal of Timber from State Lands~~

MISCELLANEOUS TOPICS

PART 525 DISPOSAL OF TIMBER FROM STATE LANDS

Sec. ~~1~~ 52501. The ~~director of conservation~~ DEPARTMENT is ~~hereby~~ authorized to dispose of timber from any of the state lands under the control of the department ~~of conservation~~ under such rules and regulations as may be prescribed by the ~~conservation commission~~ DEPARTMENT.

~~Part 527. Municipal Forests~~

PART 527 MUNICIPAL FORESTS

Sec. ~~1~~ 52701. As used in this ~~act~~ PART:

(A) "FORESTRY COMMISSION" MEANS A FORESTRY COMMISSION APPOINTED BY A MUNICIPALITY PURSUANT TO THIS PART.

(B) "Legislative body" ~~shall mean~~ MEANS any board of supervisors, township board, city or village legislative body, or school district board.

(C) "Municipality" ~~shall mean any~~ MEANS A county, township, city, village, or school district.

Sec. ~~2~~ 52702. Any municipality may acquire by purchase, gift, or devise, or may provide ~~lands~~ LAND already in its possession, and use ~~such lands~~ THE LAND for forestry purposes, either within or ~~without~~ OUTSIDE OF the territorial limits of ~~such~~ THE municipality, and may carry on forestry on ~~such lands~~ THE LAND. Any municipality may also receive and expend or hold in trust gifts of money or personalty for forestry purposes.

Sec. ~~3~~ 52703. The legislative body of any municipality desiring to proceed under this ~~act~~ PART may appoint a forestry commission for the municipality to consist of 3 members, only 1 of whom shall be a member of the legislative body making ~~such~~ THE appointment. The members of ~~such~~ A FORESTRY commission shall hold office for a term of 4 years and until their successors are appointed and have qualified, except that when first appointed 1 shall be appointed for a term of 4 years, 1 for a term of 3 years, and 1 for a term of 2 years. Any vacancy shall be filled by appointment by the legislative body at any regular session.

Sec. ~~4~~ 52704. ~~It shall be the duty of such~~ A FORESTRY commission ~~to~~ SHALL supervise and manage all ~~lands~~ LAND of the municipality devoted to forestry and ~~to~~ provide ~~for the~~

~~performance of such~~ labor ~~therein~~ ON FOREST LAND by foresters and others as may be necessary for the proper care and maintenance of ~~such lands~~ THE LAND as A forest producing ~~areas~~ AREA, to make reasonable rules and regulations concerning ~~such lands~~ THE LAND, and to expend ~~such moneys~~ MONEY as may be appropriated or received for ~~such purposes~~ THIS PURPOSE.

Sec. ~~5~~ 52705. Every forestry commission ~~created hereunder~~ shall annually at a time to be designated by the legislative body make a report to ~~such~~ THE LEGISLATIVE body showing the activities of the FORESTRY commission and embracing a detailed statement of its receipts and expenditures during the preceding year. The FORESTRY commission shall also file a copy of ~~such~~ THE report with the board of supervisors ~~in case~~ IF it is not a county commission and a copy with the department. ~~of conservation.~~

Sec. ~~6~~ 52706. The ~~director of conservation with the approval of the conservation commission~~ DEPARTMENT, the auditor general, or other state officer having charge of state ~~lands~~ LAND, ~~is hereby authorized to~~ MAY sell homestead, tax, swamp, or primary school ~~lands~~ LAND to municipalities for forestry purposes, at ~~such~~ A price ~~as shall be~~ fixed by ~~said director with the approval of the conservation commission~~ THE DEPARTMENT, auditor general, or other state officer. ~~: Provided, That the said officers shall not sell for any such purpose any land~~ HOWEVER, LAND SHALL NOT BE SOLD in excess of the amount ~~which~~ THAT may be necessary for ~~any such~~ THE municipality, ~~: Provided further, That~~ AND any land ~~so~~ THAT IS sold shall be

suitable for ~~,~~ and used solely for ~~the above~~ A FORESTRY purpose. ~~, and when~~ WHEN the ~~same ceases to be~~ LAND DESCRIBED IN THIS SECTION IS NO LONGER used for ~~such~~ A FORESTRY purpose, ~~it~~ THE LAND shall revert to the state.

Sec. ~~7~~ 52707. ~~It shall be the duty of municipal~~ A forestry ~~commissions~~ COMMISSION and the department ~~of conservation to~~ SHALL cooperate with each other in all matters pertaining to the establishment and maintenance of public forests. The department ~~of conservation~~ may inspect municipal forests as often as it ~~deems~~ CONSIDERS necessary.

Sec. ~~8~~ 52708. The legislative body of any county, city, or village or the electors of any township or school district in which a forestry commission has been ~~created~~ APPOINTED may appropriate money to be used by ~~said~~ THE FORESTRY commission to carry out the purposes of this ~~act. Provided, That where such~~ PART. HOWEVER, IF THE legislative body desires to spend an amount in excess of 1/10 mill per dollar assessed valuation ~~and/or~~ OR in excess of ~~5,000 dollars~~ $5,000.00, OR BOTH, in any 1 year for the purposes of this ~~act~~ PART, ~~such~~ THE sum shall not be appropriated unless the electors of the county, city, or village ~~shall~~ agree ~~thereto~~ TO THE EXPENDITURE at any general or special election ~~,~~ by a 3/5 vote.

Sec. ~~9~~ 52709. A separate account of all revenue and expense of all funds appropriated ~~and/or~~ OR invested, OR BOTH, to the forestry commission shall be kept by the financial officer of the municipality and ~~such~~ THE funds may be expended upon the warrant of 2 members of the FORESTRY commission.

Sec. ~~10~~ 52710. Any income from forest ~~lands~~ LAND shall be paid into the general fund of the municipality and may be set up in a special forestry fund by ~~such~~ THE municipality. A forestry commission and the townships and school districts in which its municipal forest lies by agreement shall determine a formula under which the FORESTRY commission shall make payments to the townships and school districts in lieu of general property taxes which would otherwise be levied against ~~such lands~~ THE LAND and forests comprising the municipal forest.

~~Part 529. Christmas Trees, Boughs, Plants, and Other Trees~~

PART 529 CHRISTMAS TREES, BOUGHS, PLANTS, AND OTHER TREES

Sec. ~~1~~ 52901. (1) A person shall not cut, remove, or transport, without having in possession a bill of sale from the owner ~~,~~ or other evidence of title on a form prescribed by and available from THE DEPARTMENT OR the department of agriculture ~~or the department of natural resources~~ or the federal agency that has jurisdiction, any of the following:

(a) Christmas trees.

(b) Evergreen boughs.

(c) Any other trees, shrubs, or vines.

(d) Trailing arbutus..... Epigaea.

(e) Bird's foot violet..... Viola pedata.

(f) Climbing bittersweet..... Celastrus scandens.

(g) Club mosses..... Lycopodiaceae.

(h) Flowering dogwood..... Cornus florida.

(i) All Michigan holly..... Ilex sp. and nemopanthus sp.

(j) North American lotus..... Nelumbo sp.

(k) Pipsissewa..... Chimaphila umbellata.

(*l*) All native orchids..... Orchidaceae.

(m) Trilliums..... Trillium sp.

(n) Gentians..... Eustoma sp.

(o) Parts of any plant listed in this subsection.

(2) As used in this ~~act~~ PART, "plant" means a tree, bough, shrub, vine, or other native plant, or a part ~~thereof~~ OF A TREE, BOUGH, SHRUB, VINE, OR OTHER NATIVE PLANT, listed in subsection (1).

(3) A person shall produce a bill of sale for a plant listed in subsection (1) or other evidence of title upon demand of a law enforcement officer.

Sec. ~~2~~ 52902. A person shall not transport within this state any plant in either of the following circumstances:

(a) If the plant has been removed from property owned by the person, unless he or she has in possession a current tax receipt or deed with respect to the property or a copy of the receipt or deed.

(b) If the plant has been removed from property not owned by the person, unless either of the following ~~have~~ HAS been met:

(*i*) Each plant bears a tag placed on the plant by and identifying the person and his or her address and stating from whom the plant was acquired.

(*ii*) The person has in his or her possession a bill of sale or other evidence of title acquisition in A form prescribed by and available from THE DEPARTMENT OR the department of agriculture ~~or the department of natural resources~~ or the federal agency that has jurisdiction. The person shall display the bill of sale or other evidence of title upon demand of a law enforcement officer.

Sec. ~~3~~ 52903. A person shall not sell or offer for sale any plant without having in his or her possession the evidence of title prescribed by section ~~2,~~ 52902 or without furnishing the purchaser WITH a bill of sale or other evidence of title acquisition in a form prescribed by THE DEPARTMENT OR the department of agriculture ~~or the department of natural resources~~ or the federal agency that has jurisdiction. Vendors shall maintain and keep records of their transactions for the period of time that THE DEPARTMENT OR the department of agriculture ~~or the department of natural resources~~ or the federal agency that has jurisdiction prescribes by rule or regulation.

Sec. ~~4~~ 52904. ~~No~~ A common carrier shall NOT accept for shipment any of the trees, boughs, shrubs, vines, or plants listed in section ~~1~~ 52901 unless the consignor ~~,~~ whose name and address ~~shall be~~ IS recorded ~~, shall~~ at the time of consignment ~~exhibit~~ EXHIBITS the evidence of title prescribed by section ~~2~~ 52902.

Sec. ~~5~~ 52905. ~~Any~~ A law enforcement officer having probable cause to believe that this ~~act~~ PART is being violated, including authorized employees of the department of agriculture

or the department, ~~of natural resources,~~ may make inspections to determine whether this ~~act~~ PART has been violated, including the right to stop any vehicle that is transporting a plant at any time, to inspect and make copies of bills of sale or other evidence of title prescribed by THE DEPARTMENT OR the department of agriculture ~~or the department of natural resources~~ or the federal agency that has jurisdiction, to arrest persons found to have any plants in possession in violation of this ~~act,~~ PART and to impound any plants or equipment used to remove or transport the plants. Pursuant to court order, any plants or equipment impounded pursuant to this section shall be permanently seized and disposed of as required under sections ~~3 and 4 of Act No. 192 of the Public Acts of 1929, being sections 300.13 and 300.14 of the Michigan Compiled Laws~~ 1603 AND 1604. Failure to exhibit a bill of sale or other evidence of title prescribed by THE DEPARTMENT OR the department of agriculture ~~or the department of natural resources~~ or the federal agency that has jurisdiction is prima facie evidence that a bill of sale or other evidence of title does not exist.

Sec. ~~6~~ 52906. Nothing in this ~~act~~ PART shall be construed to interfere with ~~the provisions of~~ THE INSECT PEST AND PLANT DISEASE ACT, Act No. 189 of the Public Acts of 1931, ~~as amended,~~ being sections 286.201 to 286.226 of the MICHIGAN Compiled Laws. ~~of 1948.~~

Sec. ~~7~~ 52907. The director of agriculture and the department, ~~of natural resources,~~ in cooperation with law enforcement agencies, shall enforce this ~~act~~ PART. The

director of agriculture, after consultation with the ~~director of the~~ department, ~~of natural resources,~~ shall promulgate rules ~~pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws,~~ as he or she considers necessary for the enforcement of this ~~act~~ PART.

Sec. ~~8~~ 52908. (1) If the damages are $100.00 or less, for a first violation of this ~~act~~ PART, a person is responsible for a civil fine of not more than $500.00. If the damages are $100.00 or less, for a second or subsequent violation of this ~~act~~ PART, a person is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than $50.00 or more than $500.00, or both, and the costs of prosecution.

(2) If the damages are more than $100.00 but less than $1,000.00, a person who violates this ~~act~~ PART is guilty of a misdemeanor, punishable by imprisonment for not more than 180 days, or a fine of not less than $500.00 or more than $5,000.00, or both, and the costs of prosecution.

(3) If the damages are $1,000.00 or more, a person who willfully violates this ~~act~~ PART is guilty of a felony, punishable by imprisonment for not more than 180 days or a fine of not less than $1,000.00 or more than $10,000.00, and the costs of prosecution.

(4) A person who forges a bill of sale or other evidence of title prescribed by THE DEPARTMENT OR the department of agriculture ~~or the department of natural resources~~ or the

federal agency that has jurisdiction is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

(5) In addition to the penalties provided for in this section, a person who violates this ~~act~~ PART by illegally removing or cutting a plant is liable in a civil action filed by the state or the property owner for up to 3 times the fair market value of the damage caused by the unlawful act or the sum of $100.00, whichever is greater, and the court costs and attorney fees. Damages collected pursuant to this subsection shall be paid to the owner of the lands from which the plants were illegally removed ~~,~~ or, if removed from state owned lands, to the state treasurer, who shall credit the deposit to the fund that was used to purchase the land on which the violation occurred.

(6) A person who violates this ~~act~~ PART by not having in his or her possession a current tax receipt or deed with respect to property, or a copy of the receipt or deed, indicating that the person owned the land from which the plants were taken shall not be prosecuted under this ~~act~~ PART for that violation if he or she subsequently produces a current tax receipt or deed showing that person's ownership of the property from which the plants were taken.

Sec. ~~9~~ 52909. ~~The provisions of this act shall~~ THIS PART DOES not apply to the sale of or the transportation by any ~~one~~ 1 person of not more than 2 Christmas trees between November 30 and December 31 of the same year.

~~Sec. 10. Act No. 124 of the Public Acts of 1933, as amended, being sections 320.401 to 320.407 of the Compiled Laws of 1948, is hereby repealed.~~

~~CHAPTER 3: MANAGEMENT OF NONRENEWABLE RESOURCES~~

~~SUBCHAPTER 1: GEOLOGICAL SURVEY DIVISION~~

~~Part 601. Geological Survey of the State~~

CHAPTER 3: MANAGEMENT OF NONRENEWABLE RESOURCES

SUBCHAPTER 1: GEOLOGICAL SURVEY DIVISION

PART 601 GEOLOGICAL SURVEY

SEC. 60101. AS USED IN THIS PART, "STATE GEOLOGIST" MEANS THE CHIEF OF THE GEOLOGICAL SURVEY DIVISION OF THE DEPARTMENT.

Sec. ~~1~~ 60102. ~~That the governor, superintendent of public instruction, and the president of the state board of education shall constitute a board of geological survey. They~~ THE DEPARTMENT shall control and supervise the continuance and completion of the geological survey of the state ~~,~~ and for that purpose ~~they~~ may from time to time appoint ~~such~~ OR EMPLOY A STATE GEOLOGIST AND A person or persons to assist in making ~~said~~ THE GEOLOGICAL survey as ~~may be deemed~~ THE DEPARTMENT CONSIDERS necessary. ~~,~~ THE DEPARTMENT SHALL DETERMINE the length of time ~~,~~ and the location ~~and locations~~ where ~~said~~ THESE persons shall be employed. ~~, shall be determined by said board.~~

Sec. ~~3~~ 60103. The salary of the persons employed in the GEOLOGICAL survey ~~,~~ shall be ~~fixed~~ ESTABLISHED by the ~~board~~ DEPARTMENT, and shall be payable only for services actually rendered. ~~Such board~~ THE DEPARTMENT shall regulate all

expenses incident to the GEOLOGICAL survey ~~,~~ and may require ~~such frequent~~ reports as ~~they may think~~ THE DEPARTMENT CONSIDERS useful.

Sec. ~~4~~ 60104. ~~It shall be the duty of said board to~~ THE DEPARTMENT SHALL make or cause to be made ~~,~~ a thorough geological and mineralogical survey of the state, ~~embracing~~ WHICH SHALL INCLUDE a determination of the succession and arrangement, thickness, and position of all strata and rocks; their mineral character and contents ~~,~~ and their economical uses; an investigation of soils and subsoils ~~,~~ and the determination of their character and agricultural adaptation; AND the investigation of all deposits of brines, coal, marl, clay, gypsum, lime, petroleum, ~~and~~ metals and metallic ores, building stone, marble, gritstone, materials for mortar and cement, mineral paint, and all other productions of the geological world within the limits of this state capable of being converted to the uses of ~~man~~ HUMANS.

Sec. ~~5~~ 60105. ~~It shall be the duty of said board to~~ THE DEPARTMENT SHALL cause ample materials to be collected for the illustration of every ~~department~~ DIVISION of the geology and mineralogy of the state ~~,~~ and ~~to~~ SHALL label, arrange, and prepare the ~~same~~ MATERIALS for exhibition in suitable cases in the museums of the ~~state university, agricultural college, and state normal school and in each of the incorporated~~ PUBLIC colleges AND UNIVERSITIES of the state ~~,~~ and in a room in connection with the state library.

Sec. ~~6~~ 60106. ~~It shall be the duty of said board to~~ ~~furnish~~ THE DEPARTMENT SHALL PREPARE an annual report of the progress of the GEOLOGICAL survey ~~,~~ and, as often as possible, a condensed statement of important and interesting facts for general circulation. ~~; and, as soon as the progress of the work will permit, to begin, and on the~~ UPON completion of the GEOLOGICAL survey, ~~to furnish [finish]~~ THE DEPARTMENT SHALL PREPARE a complete memoir ~~upon~~ OF the geology of the state, ~~embracing such~~ INCLUDING an account of all its mineral and agricultural resources as is usual in works of that character, ~~and~~ a delineation of its geology on the map of the state, and ~~such~~ other diagrams and illustrations as ~~may be needed~~ NECESSARY to set forth in a creditable, intelligible, and, as far as possible, popular manner ~~,~~ the nature, location, and extent of the geological and agricultural resources of the state. ~~:~~ ~~Provided, That said~~ HOWEVER, THIS report shall not contain ~~in~~ TO any considerable extent ~~,~~ compilations OF and extracts ~~of or~~ from books ~~heretofore~~ PREVIOUSLY published.

Sec. ~~8~~ 60107. All notes, memoranda, compilations, collections, specimens, diagrams, and illustrations that may be made in the progress of ~~such~~ THE GEOLOGICAL survey by the person or persons engaged ~~therein, shall be~~ IN CONDUCTING THE GEOLOGICAL SURVEY ARE the property of the state ~~,~~ AND shall be under the control of the DEPARTMENT. ~~board, and in case of the death, or termination of connection with such survey of any such person or persons, shall be deposited in the office of the superintendent of public instruction, subject to the order of the board.~~

Sec. ~~9~~ 60108. To ~~carry into effect the provisions of~~ IMPLEMENT this ~~act~~ PART, the sum of ~~8,000 dollars~~ $8,000.00 for each year until the completion of ~~said~~ THE GEOLOGICAL survey is hereby appropriated to be drawn from the STATE treasury as needed. ~~The accounts of the members of the board for official services and all other~~ ALL expenses OF THE DEPARTMENT IN IMPLEMENTING THIS PART authorized by law shall first be certified to be correct by ~~said board~~ THE DEPARTMENT, and shall be paid out of the state treasury upon the warrant of the ~~auditor general~~ STATE TREASURER from the fund appropriated for that purpose. ~~: Provided, No part of said~~ HOWEVER, THIS appropriation shall NOT be used for printing reports.

~~Part 603. Soil and Economic Survey~~

PART 603 SOIL AND ECONOMIC SURVEY

Sec. ~~1~~ 60301. ~~As soon as the appropriation hereinafter provided shall become available, it shall be the duty of the board of geological survey of the state to proceed with the work of causing~~ THE DEPARTMENT SHALL CONDUCT a soil and economic survey ~~to be made~~ of all lands in the state. ~~Such work shall be carried on as herein prescribed and for the purposes herein designated.~~

Sec. ~~2~~ 60302. The SOIL AND ECONOMIC survey ~~hereby contemplated~~ PROVIDED FOR IN THIS PART shall be conducted by counties; and the order ~~thereof~~ IN WHICH THE SOIL AND ECONOMIC SURVEY IS CONDUCTED shall be determined by ~~said board~~ THE DEPARTMENT. The purpose of the work ~~shall be~~ IS to procure and ~~render~~ MAKE available for public use information and data as to

the character of the lands surveyed; their adaptability to agricultural purposes ~~,~~ or ~~to~~ similar uses; ~~their~~ THE various crops, if any, that may be profitably raised ~~thereon~~ ON THOSE LANDS; and such other ~~and kindred~~ matters as ~~may be deemed~~ ARE CONSIDERED desirable and advantageous. The details of the work shall be ~~, in all respects, subject to~~ UNDER the direction and control of the ~~board of geological survey~~ DEPARTMENT, which ~~is hereby empowered and directed to~~ SHALL employ ~~such~~ assistants as ~~may be found~~ THE DEPARTMENT CONSIDERS necessary. The compensation of ~~all~~ THESE persons ~~so employed~~ shall be ~~fixed by the board~~ ESTABLISHED BY THE DEPARTMENT, and paid as ~~hereinafter~~ provided IN THIS PART. ~~No member of the board of geological survey shall be entitled to compensation for any services performed under this act; but such members and the employes~~ THE EMPLOYEES of the ~~board~~ DEPARTMENT may be reimbursed ONLY for money actually and necessarily expended in the performance of their duties ~~hereunder~~ UNDER THIS PART, such reimbursement to be made out of the fund created by this ~~act~~ PART.

Sec. ~~3~~ 60303. ~~As soon as may be after the~~ UPON completion of the SOIL AND ECONOMIC survey in any county, the ~~said board~~ DEPARTMENT shall cause a full and detailed report ~~thereof~~ OF THE SOIL AND ECONOMIC SURVEY to be made. ~~It shall be the duty of the board of state auditors to~~ THE DEPARTMENT SHALL cause as many copies of ~~said~~ THE report to be printed as the ~~said board of geological survey may certify to be~~ DEPARTMENT DETERMINES ARE necessary. The expense of ~~such~~ THE

printing shall be paid out of the general fund in the same way that other state printing is, by law, required to be paid for.

Sec. ~~4~~ 60304. The report required ~~by the preceding section~~ UNDER SECTION 60303 to be made upon the SOIL AND ECONOMIC survey in each county, subject to ~~the provisions of~~ this ~~act~~ PART, shall set forth such information and data as will fulfill the general purpose defined in section ~~2 hereof: Provided, That said~~ 60302. HOWEVER, THE report shall ~~in no wise~~ NOT state or represent the money value of ~~lands so~~ LAND surveyed. Insofar as is possible and expedient, the ~~lands~~ LAND surveyed shall be classified as to ~~their~~ ITS agricultural adaptability ~~,~~ AND general character and AS TO THE uses to which ~~they~~ IT may be put. ~~Such maps~~ MAPS shall be prepared and incorporated ~~therein~~ IN THE REPORT as may be ~~deemed~~ CONSIDERED necessary for ~~the~~ public information and convenience. A copy of ~~such~~ THE report shall be sent to every public library in the state, and the remainder OF THE COPIES shall be kept for distribution, subject to ~~such~~ THE rules and regulations pertaining ~~thereto as~~ TO THE REPORT THAT the ~~board of geological survey~~ DEPARTMENT may, from time to time, adopt.

Sec. ~~5~~ 60305. Payments shall be made out of the fund ~~hereby~~ created ~~,~~ BY THIS PART only on the warrant of the ~~auditor general~~ STATE TREASURER. ~~In no case, however, shall any such payment~~ HOWEVER, PAYMENTS SHALL NOT be made until the ~~board of geological survey~~ DEPARTMENT has approved the claim or account ~~,~~ and has certified ~~to~~ the correctness ~~thereof~~ OF THE CLAIM OR ACCOUNT. At the request of ~~said board~~ THE

DEPARTMENT, ~~it shall be the duty of~~ the ~~auditor general to~~ STATE TREASURER SHALL furnish a statement at any time ~~,~~ as to the amount of money remaining in the fund to be expended for the purposes of this ~~act~~ PART.

Sec. ~~6~~ 60306. In ~~carrying on~~ IMPLEMENTING the work ~~hereby~~ contemplated IN THIS PART, the ~~said board is hereby empowered to~~ DEPARTMENT MAY cooperate with the various counties of the state, with development bureaus, with any department, officer, bureau, or institution established and maintained by the United States government, and with any other institution, board, society, or association, either within or ~~without~~ OUTSIDE OF this state. ~~No such~~ AN agreement for cooperation ~~, however,~~ shall ~~be permitted to have the effect of changing or modifying~~ NOT CHANGE OR MODIFY, in any way, the purpose of this ~~act~~ PART, as defined in section ~~2~~ 60302.

Sec. ~~7~~ 60307. For the ~~purpose~~ PURPOSES of performing their respective duties ~~hereunder,~~ UNDER THIS PART and carrying on the work of the SOIL AND ECONOMIC survey, the ~~members of the said board, their assistants and employes, shall have the right to~~ DEPARTMENT AND ITS EMPLOYEES MAY enter ONTO and be on private property. ~~Such~~ THAT property shall, however, not be injured or damaged in any way.

Sec. ~~10~~ 60308. Any portion of the annual appropriation ~~herein,~~ provided for ~~remaining~~ IN THIS PART THAT REMAINS unexpended at the close of any fiscal year ~~,~~ shall be carried forward into the next fiscal year, to the credit of the ~~board of geological survey~~ DEPARTMENT, for the purposes ~~hereof~~ PROVIDED

UNDER THIS PART, and ~~shall be~~ IS subject to expenditure accordingly, it being the intention to make the entire amount ~~hereby~~ appropriated available for the purposes of this ~~act~~ PART. Any sum remaining in the appropriation on the completion of the SOIL AND ECONOMIC survey ~~, herein~~ provided for IN THIS PART, and after the making of the final report ~~thereon~~ REQUIRED IN THIS PART, IS AND shall ~~be and~~ remain a part of the general fund of the state and subject to the incidents pertaining ~~thereto: Provided, That in case~~ TO THE GENERAL FUND. HOWEVER, IF the federal government or any department ~~thereof~~ OF THE FEDERAL GOVERNMENT renders aid to this state for the general purposes covered by this ~~act~~ PART, the appropriation ~~hereby~~ made PURSUANT TO THIS PART shall be reduced by ~~a like~~ THE SAME amount, which amount shall revert to the general fund of this state.

Sec. ~~11~~ 60309. The ~~said board of geological survey~~ DEPARTMENT shall ~~make a report~~ PREPARE AND SUBMIT to each legislature ~~,~~ A REPORT covering the work of the preceding 2 years. ~~Such~~ THE report shall indicate specifically the lands that have been surveyed, the general progress and condition of the work, the expenditures that have been made, and the cooperative agreements, if any, that have been entered into. On the completion of the work, a detailed financial report shall be made to the legislature, together with ~~such~~ THE recommendations and suggestions ~~as~~ THAT the ~~said board of geological survey shall deem expedient~~ DEPARTMENT CONSIDERS NECESSARY.

~~Part 605. Aerial Photos, Maps~~

PART 605 AERIAL PHOTOS, SURVEYS, AND MAPS

Sec. ~~1~~ 60501. ~~Base maps; authorization, federal cooperation. That the state~~ THE department, ~~of conservation or its duly authorized representative,~~ on behalf of the state, ~~of Michigan, is hereby authorized to~~ MAY confer with the director of the UNITED STATES geological survey ~~of the United States~~ or his OR HER representatives ~~,~~ and ~~to~~ accept the cooperation of the federal government with this state in making aerial photographs and necessary ground control surveys of ~~such~~ THOSE portions of the state ~~of Michigan~~ as may be mutually agreed upon by the cooperating governments, for the preparation of (utility) base maps of ~~such~~ THOSE portions of the state. ~~, which work is hereby authorized to be made.~~

Sec. ~~2~~ 60502. ~~Same; features shown; share of expense, right of entry on private lands.~~ The ~~state~~ department ~~of conservation (or its representative) shall have power~~ MAY, on behalf of the state, ~~of Michigan, to~~ contract with the United States government ~~acting by its duly authorized agency therefor,~~ for the aerial photographing and mapping, scale of photographs and maps, determining the method, form, and execution of maps, and all other details of the work necessary to prepare ~~such~~ base maps of ~~such~~ THOSE portions of the state as may be agreed upon. The state ~~of Michigan~~ shall receive negatives of all aerial photographs and copies of all base maps prepared. ~~, which~~ THE maps shall be ~~so~~ prepared SO as to show the location of roads, railroads, streams, canals, lakes, ~~and~~ rivers,

timbered areas, and all other natural and artificial features capable of being mapped by the methods to be mutually agreed upon by the geological surveys of the state ~~of Michigan~~ and the federal government. The state ~~of Michigan~~ shall not contract to pay more than the ~~sums~~ AMOUNTS paid by the federal government for these purposes. For the purpose of making these surveys, ~~herein provided for, it shall be lawful for the~~ persons employed in making the ~~same to~~ SURVEYS MAY enter at reasonable times upon all parts of all lands within the boundaries of this state, but this ~~act shall~~ PART DOES not ~~be construed as authorizing~~ AUTHORIZE any unnecessary interference with private rights ~~, nor~~ OR the ~~doing~~ PERFORMANCE of any act not necessary for the preparation of ~~such~~ THE base maps.

Sec. ~~4~~ 60503. ~~Payment.~~ The ~~sums~~ AMOUNTS authorized to be paid ~~by the provisions of~~ UNDER this ~~act~~ PART shall FIRST be ~~first~~ certified to be correct by the ~~state~~ department ~~of conservation~~ and shall be paid out of the state treasury upon warrant of the ~~auditor general~~ STATE TREASURER.

~~Part 607. State Soil Survey~~

PART 607 STATE SOIL SURVEY

~~Sec. 1. This act shall be known and may be cited as the "state soil survey act".~~

Sec. ~~2~~ 60701. As used in this ~~act~~ PART:

(a) "Soil survey" means the identification and description of kinds of soil, the plotting of boundaries on aerial photographs between kinds of soils, and ~~describing and evaluating~~

THE DESCRIPTION AND EVALUATION OF their importance and response under various uses and management practices.

~~(b) "Department" means the department of agriculture.~~

(B) ~~(c)~~ "Soil scientist" means a person who meets the qualification standards of the GS-470 soil scientist series established by the United States civil service commission.

Sec. ~~3~~ 60702. (1) The department OF AGRICULTURE shall provide an inventory of the soil resources of the state by a 10-year program for the acceleration of the soil survey on non-federal lands. Soil surveys will be made on a minimum of 3,000,000 acres over the ~~next~~ 10 years FOLLOWING DECEMBER 14, 1977 under ~~this act~~ FORMER ACT NO. 268 OF THE PUBLIC ACTS OF 1977.

(2) Soil surveys shall be conducted on a proportional basis of not more than ~~two~~ 2 counties in the Lower Peninsula being surveyed for each county in the Upper Peninsula until all counties in the Upper Peninsula have been surveyed. If the soil surveys cannot be conducted on a proportional basis due to the lack of funding from any of the counties, then the department OF AGRICULTURE shall establish an alternative proportional basis to promote the conducting of the surveys in the time period established in subsection (1).

Sec. ~~4~~ 60703. The department OF AGRICULTURE shall ~~carry out~~ IMPLEMENT this ~~act~~ PART by employing, subject to civil service rules, and equipping soil scientists, within appropriations ~~therefor~~ FOR THAT PURPOSE, to make soil surveys through cooperative arrangements with the United States department of

agriculture soil conservation service and the Michigan agricultural experiment station. The soil survey shall be conducted under national standards and guidelines for naming, classifying, and interpreting soils and for publishing soil surveys in the United States department of agriculture series. The department OF AGRICULTURE shall ~~further~~ ALSO, in conjunction with the department, ~~of natural resources,~~ design and implement standards and guidelines for use in primarily forested areas. The standards and guidelines may include the additional soil characteristics which must be measured to determine forest growth and continued protection, and the modification of soil body grouping methods to allow interpretation and inventory of soils for forest management purposes. Michigan ~~Technological University (Ford Forestry Center) will~~ TECHNOLOGICAL UNIVERSITY, FORD FORESTRY CENTER SHALL provide technical backup with respect to soil survey in forestry areas.

Sec. ~~5~~ 60704. The department OF AGRICULTURE shall make yearly budget requests and the legislature shall annually appropriate funds to ~~carry out~~ IMPLEMENT this ~~act~~ PART.

~~Part 609. Resource Inventory~~

PART 609 RESOURCE INVENTORY

~~Sec. 1. This act shall be known and may be cited as the "Michigan resource inventory act".~~

Sec. ~~2~~ 60901. As used in this ~~act~~ PART:

(a) "Classification system" means a mechanism to identify the current use of land and any structures on the land.

(b) "Data management system" means a mechanism which relies on a computer to manipulate, store, and retrieve information collected and updated during a resource inventory.

~~(c) "Department" means the department of natural resources.~~

(C) ~~(d)~~ "Inventory" means the land resource and current use inventory.

~~(e) "Municipality" means a city, village, or township.~~

(D) ~~(f)~~ "Regional planning commission" means a regional planning commission designated by the governor pursuant to executive directive to carry out planning in a multicounty region of the state.

(E) ~~(g)~~ "Technical assistance" means the aid ~~which~~ THAT the department shall provide to municipalities, counties, and other interested groups and individuals, on the use of the land resource and current use inventory and related information for planning and resource management decisions.

Sec. ~~3~~ 60902. (1) The department shall make or ~~cause to be~~ HAVE made a project design study. The study shall determine the appropriate operational criteria, computer software and hardware, staffing, available information resources, data updating methodology, most economical inventory resources, location of data management operations, linkages with other data management systems in the state, data geographic base configuration, data delivery system, and other information necessary to complete the inventory and development of a data management system.

(2) The department shall make or ~~cause to be~~ HAVE made a land resource and current use inventory, as provided in sections ~~6~~ 60904 and ~~7~~ 60905, of all land, public or private, in this state. The land resource and current use inventory SHALL, if appropriate, ~~shall~~ rely on any other information and surveys.

(3) The department shall create a technical assistance program for the purpose of providing services to municipalities and counties as provided in section ~~5~~ 60903.

(4) The department shall prepare recommendations ~~for consideration by the inventory advisory committee~~ regarding means to address problems or issues indicated by the inventory.

~~Sec. 4. (1) There is created an inventory advisory committee in the department. The governor shall appoint members of the inventory advisory committee with the advice and consent of the senate. The committee shall be composed of representatives from municipalities, counties, regional planning commissions, soil conservation districts, the major state agencies affected by the inventory, federal agencies, major land resource based industries, environmental groups, and the general public from various areas of the state. The committee shall consist of 20 members. Not less than 4 of the members shall be from the Upper Peninsula, not less than 4 of the members shall be from the Lower Peninsula north of townline 16, and not less than 4 of the members shall be from the Lower Peninsula south of townline 16. The term of each member shall be 4 years, except that of those first appointed, 5 shall be appointed for 1 year, 5 for 2 years, 5 for 3 years, and~~

~~5 for 4 years. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.~~

~~(2) A minimum of 5 subcommittees of the inventory advisory committee shall be created. The subcommittees shall be composed of members of the inventory advisory committee and other individuals. The subcommittees shall study the inventory requirements in the areas of agriculture, forestry, minerals, unique and special environments, and developed land. Each subcommittee shall include members of the inventory advisory committee whose particular interests are affected by those portions of the inventory dealing with 1 of those areas.~~

~~(3) The inventory advisory committee shall be responsible for reviewing and assisting the department's efforts in completing the inventory and providing for its use. The committee's review and assistance shall include the development of:~~

~~(a) The definitions of the features to be inventoried in the land resource inventory as provided in section 6.~~

~~(b) The technical assistance program to help municipalities and counties effectively use the inventory as provided in section 5.~~

~~(c) Final recommendations to be sent to the legislature and the governor regarding the manner of addressing the problems or issues indicated by the inventory as provided in section 3(4).~~

~~(4) The inventory advisory committee shall approve or disapprove the criteria for participation in the current use portion of inventory process as provided in section 8.~~

~~(5) The inventory advisory committee shall meet not less than 3 times each year.~~

~~(6) The legislature annually shall establish a schedule for reimbursement of expenses of the inventory advisory committee members.~~

Sec. ~~5~~ 60903. (1) The department shall create a technical assistance program designed to help municipalities and counties effectively use the inventory. The technical assistance program SHALL, when feasible, ~~shall~~ utilize the technical assistance programs of regional planning commissions. The technical assistance shall include ALL OF THE FOLLOWING:

(a) The publication and distribution of the inventory as applicable to each municipality and county in the state.

(b) The preparation and distribution of land resource management manuals to assist municipalities and counties, planning and resource management entities, and other federal, state, and local agencies in updating their planning and resource management programs to incorporate the inventory. Land resource management manuals may also be prepared to assist municipalities and counties in solving problems ~~which~~ THAT confront their planning resource management programs.

(c) The conducting of workshops, in conjunction with local government associations, regarding the inventory.

(d) The provision of a team of experts on the inventory to assist in problem solving by municipalities and counties.

(e) The provision of an inventory information center and library function ~~which~~ THAT municipalities and counties may utilize in their own programs.

Sec. ~~6~~ 60904. (1) The land resource portion of the inventory shall be completed in a format that may be readily integrated into the data management system, and shall provide a base of information to analyze the existing and future productivity of the state's natural resources and provide information to assist in the analysis of the timing, location, and intensity of future development in the state. The format should also include information that will be readily usable and available to assist local governmental units in their land use planning. The inventory may include any of the following:

(a) Geological features, including groundwater features such as depth to groundwater, groundwater recharge zones, and potable aquifers.

(b) Land area with characteristics ~~which~~ THAT pose problems to development, such as an area subject to reasonably predictable hazardous natural phenomenon, which may include flooding, high-risk erosion, or subsidence.

(c) Land area with characteristics ~~which~~ THAT make it suited for agricultural use.

(d) Land area with characteristics ~~which~~ THAT make it suited for silvicultural use.

(e) Metallic and nonmetallic mineral deposits.

(f) Hydrological features, including lakes, rivers and creeks, impoundments, drainage basins, and wetlands.

(g) Land area of wildlife habitat, including each significant breeding area or area used by migratory wildlife.

(h) Topographic contours.

(2) If the department designates an area as wetland, the state may negotiate and contract for an option to purchase or exchange the wetland in order to protect the wetland. The option to purchase or exchange the wetland shall be valid for 5 years. After an option to purchase is negotiated, a person may apply for and receive consideration for an exemption from property taxes levied pursuant to THE GENERAL PROPERTY TAX ACT, Act No. 206 of the Public Acts of 1893, ~~as amended,~~ being sections 211.1 to 211.157 of the Michigan Compiled Laws, for the duration of the option to purchase.

Sec. ~~7~~ 60905. The current use portion of the inventory shall be completed using a consistent classification system that can be readily integrated into the data management system, and shall provide the base to analyze the existing use and cover in the state. The current use inventory may include any of the following:

(a) Substantially undeveloped land devoted to the production of plants and animals useful to humanity, including forages and sod crops; grain and feed crops; dairy and dairy products; livestock, including the breeding and grazing of those animals; fruits of all kinds; vegetables; and other similar uses and activities.

(b) Land USED in the production of fiber and other woodland products ~~,~~ or ~~supporting~~ THAT SUPPORTS trees ~~for the~~

~~protection~~ THAT ARE PROTECTIVE of water resources, soils, recreation, or wildlife habitat.

(c) Land ~~which~~ THAT is being mined, drilled, or excavated for metallic and nonmetallic mineral, rock, stone, gravel, clay, soil, or other earth, petroleum, or natural gas resources.

(d) A site, structure, district, or archaeological landmark ~~which~~ THAT is officially included in the national register of historic places or designated as ~~an~~ A historic site pursuant to state or federal law.

(e) Urban and developed land, including residential, commercial, industrial, transportation, communication, utilities, and open space uses ~~,~~ AND including recreational land.

(f) Land owned on behalf of the public, including land managed by federal, state, or local government or school districts.

(g) Land enrolled in ~~Act No. 116 of the Public Acts of 1974, as amended, being sections 554.701 to 554.719 of the Michigan Compiled Laws~~ PART 361.

(h) Land enrolled in ~~Act No. 94 of the Public Acts of 1925, as amended, being sections 320.301 to 320.314 of the Michigan Compiled Laws~~ PART 511.

(i) Land designated for tax abatements, restricted use, or specific use under a public act of ~~the~~ THIS state. ~~of Michigan.~~

Sec. ~~8~~ 60906. (1) The current use portion of the inventory may be conducted by municipalities, counties, or regional planning commissions as provided in subsection (4). A municipality, county, or regional planning commission conducting

a portion of the current use inventory shall conduct that portion on a scale, level of detail, format, and classification system prepared by the department.

(2) By December 27, 1980, the department shall prepare criteria for municipality, county, and regional planning commission participation in the current use inventory process. The criteria shall specify the scale, level of detail, format, and classification system to be used in the current use portion of the inventory ~~,~~ and shall contain forms and information on the financial reimbursement provisions provided in section ~~9~~ 60907.

~~(3) The inventory advisory committee shall approve or disapprove the criteria for participation in the current use portion of the inventory as prepared by the department under subsection (2). If the committee disapproves the criteria, the department shall again prepare the criteria, taking into consideration any comments made by the committee.~~

(3) ~~(4)~~ The criteria prepared under subsection (2) shall be circulated by the department to local government associations and to a municipality, county, or regional planning commission, upon request. By March 27, 1982, a municipality with an established planning commission may submit to the department and to the county board of commissioners of the county in which the municipality is primarily located a notice of intent to perform or cause to be performed the work necessary to complete the current use portion of the inventory. By June 27, 1982, a county with an established planning commission may submit to the department a notice of intent to perform or cause to be performed

the work necessary to complete the current use portion of the inventory for each area for which a municipality is not performing the work necessary to complete the current use portion of the inventory. By September 27, 1982, a regional planning commission may submit a notice of intent to the department to perform the work necessary to complete the current use inventory for each area not covered by a municipality or county notice of intent. For each area not covered by a notice of intent under this subsection, the department shall make or cause to be made the current use portion of the inventory.

(4) ~~(5)~~ A municipality, county, or regional planning commission engaged in the preparation of the current use portion of the inventory may make use of assistance, data, and information made available to ~~them~~ IT by public or private organizations.

Sec. ~~9~~ 60907. The state shall reimburse each municipality, county, or regional planning commission engaged in the preparation of the current use portion of the inventory for 75% of the expenditures certified by the department. Certification shall be based upon conformance to the format, scale, and classification system provisions of the contract between the municipality, county, or regional planning commission and the department. If the amount appropriated during any fiscal year is not sufficient to provide the 75% reimbursement, the director of the department of management and budget shall prorate an amount among the eligible municipalities, counties, and regional planning commissions.

~~Sec. 10. (1) The project design study required under section 3(1) shall be completed by September 27, 1980.~~

~~(2) The first land resource and current use inventory of this state shall be completed by March 27, 1985.~~

Sec. ~~11~~ 60908. (1) The land resource portion of the inventory shall be reviewed and updated when necessary, but not less than once every 10 years.

(2) The current use portion of the inventory shall be reviewed and updated when necessary, but not less than once each 5 years.

Sec. ~~11a~~ 60909. The department may charge fees for generating products or rendering services based on the information in the inventory. The fees shall not exceed the costs to the department of generating the products or rendering the services. The amount of money expended by the department for generating products or rendering services in a fiscal year shall not exceed the amount appropriated for that fiscal year or the amount of the fees actually received during that fiscal year, whichever is less.

Sec. ~~12~~ 60910. (1) This ~~act~~ PART shall not be construed to permit the state, the department, or a person to exercise control over private property or to curtail development of private property.

(2) This ~~act~~ PART shall not:

(a) Constitute a state land use plan.

(b) Be used by any state agency to control the existing and future productivity of the state's natural resources or the timing, location, or intensity of future development in the state.

~~Sec. 13. (1) There is hereby appropriated from the general fund for the fiscal year ending September 30, 1980 the sum of $250,000.00 for the department of natural resources for the purpose of carrying out the project design study described in section 3(1) of this act.~~

~~(2) To further carry out the requirements of this act it is anticipated that a minimum of approximately $1,000,000.00 for each year for the next 3 years will be required.~~

~~Part 611. Mineral Statistics~~

~~SUBCHAPTER 2. REGULATION OF OIL AND GAS WELLS~~

~~Part 615. Supervisor of Wells~~

SUBCHAPTER 2: REGULATION OF OIL AND GAS WELLS

PART 615 SUPERVISOR OF WELLS

Sec. ~~2~~ 61501. Unless the context requires a different meaning, the words defined in this section ~~shall~~ have the following ~~meaning when found in this act, to wit~~ MEANINGS WHEN USED IN THIS PART:

(A) ~~(e)~~ "Field" means AN UNDERGROUND RESERVOIR OR RESERVOIRS CONTAINING OIL OR GAS, OR BOTH. FIELD ALSO INCLUDES the SAME general SURFACE area ~~which~~ THAT is ~~underlain~~ UNDERLAID or appears to be ~~underlain~~ UNDERLAID by at least 1 pool. ~~; and "field" also includes the underground reservoir or reservoirs containing such oil or gas, or both. The words "field"~~ FIELD and ~~"~~ pool ~~" mean~~ HAVE the same ~~thing when~~ MEANING IF only ~~one~~ 1 underground reservoir is involved. ~~; however, "~~ HOWEVER, field, ~~"~~ unlike ~~"~~ pool, ~~"~~ may relate to 2 or more pools.

(B) ~~(c)~~ "Gas" means a mixture of hydrocarbons and varying quantities of nonhydrocarbons in a gaseous state which may or may not be associated with oil, and ~~including~~ INCLUDES those liquids resulting from condensation.

(C) ~~(q)~~ "Illegal container" means ~~any~~ A receptacle ~~which~~ THAT contains illegal oil or gas or illegal products.

(D) ~~(p)~~ "Illegal conveyance" means ~~any~~ A conveyance by or through which illegal oil or gas or illegal products are being transported.

(E) ~~(n)~~ "Illegal oil or gas" means oil or gas ~~which~~ THAT has been produced by ~~any~~ AN owner or producer in violation of this ~~act~~ PART, ~~rules~~ A RULE promulgated ~~pursuant to~~ UNDER this ~~act~~ PART, or ~~orders~~ AN ORDER of the supervisor ISSUED UNDER THIS PART.

(F) ~~(o)~~ "Illegal product" means ~~any~~ A product of oil or gas or any part of ~~which~~ A PRODUCT OF OIL OR GAS THAT was KNOWINGLY processed or derived in whole or IN part ~~knowingly~~ from illegal oil or gas.

(G) ~~(m) The words "market demand" as used herein shall be construed to mean~~ "MARKET DEMAND" MEANS the actual demand for oil or gas from any particular pool or field for current requirements for current consumption and use within or outside the state, together with the demand for such amounts as are necessary for building up or maintaining reasonable storage reserves of oil or gas or the products ~~thereof~~ OF OIL OR GAS.

(H) ~~(b)~~ "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, ~~which~~ THAT are

produced at the well in liquid form by ordinary production methods and ~~which~~ THAT are not the result of condensation of gas after it leaves the underground reservoir.

(I) ~~(g)~~ "Owner" means the person who has the right to drill A WELL into ~~and produce from any~~ A pool, TO PRODUCE FROM A POOL, and to ~~appropriate~~ RECEIVE AND DISTRIBUTE the VALUE OF THE production ~~either for himself or for himself and another or~~ FROM THE POOL FOR HIMSELF OR HERSELF EITHER INDIVIDUALLY OR IN COMBINATION WITH others.

(J) ~~(a)~~ "Person" means any natural person, corporation, association, partnership, receiver, trustee, so-called common law or statutory trust, guardian, executor, administrator, and a fiduciary of any kind.

(K) ~~(d)~~ "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both. ~~Each~~ POOL INCLUDES A productive zone of a general structure ~~which~~ THAT is completely separated from any other zone in the structure, or ~~for the purposes of this act may be so~~ IS declared TO BE A POOL by the supervisor of wells. ~~, is covered by the word "pool" as used herein.~~

(L) ~~(h)~~ "Producer" means the operator, whether owner or not, of a well or wells capable of producing oil or gas or both in paying quantities.

(M) ~~(f)~~ "Product" means any commodity or thing made or manufactured from oil or gas, and all derivatives of oil or gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock,

uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, naphtha, distillate, gasoline, casing-head gasoline, natural gas gasoline, kerosene, benzine, wash oil, waste oil, lubricating oil, and blends or mixtures of oil or gas or any derivatives ~~thereof~~ OF OIL OR GAS whether enumerated or not.

~~(i) "Commission" means the commission of natural resources for the state of Michigan.~~

(N) ~~(j)~~ "Supervisor" OR "SUPERVISOR OF WELLS" means the ~~supervisor of wells as provided by this act~~ DEPARTMENT.

~~(k) "Board" means the advisory board appointed, as provided in this act, by the supervisor of wells.~~

(O) ~~(r)~~ "Tender" means a permit or certificate of clearance, APPROVED AND ISSUED OR REGISTERED UNDER THE AUTHORITY OF THE SUPERVISOR, for the transportation of oil or gas or products. ~~, approved and issued or registered under the authority of the supervisor.~~

(P) ~~(t)~~ "Waste" in addition to its ordinary meaning includes ALL OF THE FOLLOWING:

(*i*) ~~(1)~~ "Underground waste", as those words are generally understood in the oil business, and ~~in any event to embrace (1) the~~ INCLUDING ALL OF THE FOLLOWING:

(A) THE inefficient, excessive, or improper use or dissipation of the reservoir energy, including gas energy and water drive, of any pool, and the locating, spacing, drilling, equipping, operating, or producing of ~~any~~ A well or wells in a manner to reduce or tend to reduce the total quantity of oil or

gas ultimately recoverable from any pool. ~~, and (2) unreasonable~~

(B) UNREASONABLE damage to underground fresh or mineral waters, natural brines, or other mineral deposits from operations for the discovery, development, and production and handling of oil or gas.

(*ii*) ~~(2)~~ "Surface waste", ~~,"~~ as those words are generally understood in the oil business, and ~~in any event to embrace (1) the~~ INCLUDING ALL OF THE FOLLOWING:

(A) THE unnecessary or excessive surface loss or destruction without beneficial use, however caused, of gas, oil, or other product, ~~thereof,~~ but including the loss or destruction, without beneficial use, resulting from evaporation, seepage, leakage, or fire, especially ~~such~~ A loss or destruction incident to or resulting from the manner of spacing, equipping, operating, or producing A well or wells, or incident to or resulting from inefficient storage or handling of oil. ~~, (2) the~~

(B) THE unnecessary damage to or destruction of the surface; ~~,~~ soils; ~~,~~ animal, fish, or aquatic life; ~~or~~ property; ~~,~~ or other environmental values from or by oil and gas operations. ~~; and (3) the~~

(C) THE drilling of unnecessary wells.

(*iii*) ~~(3)~~ "Market waste", ~~,"~~ which ~~shall embrace~~ INCLUDES the production of oil or gas in any field or pool in excess of the market demand as defined ~~herein~~ IN THIS PART.

Sec. ~~1~~ 61502. It has long been the declared policy of this state to foster conservation of natural resources ~~to the~~

~~end~~ SO that our citizens may continue to enjoy the fruits and profits ~~thereof~~ OF THOSE RESOURCES. Failure to adopt such a policy in the pioneer days of the state permitted the unwarranted slaughter and removal of magnificent timber abounding in the state, which resulted in an immeasurable loss and waste. In an effort to replace some of this loss, millions of dollars have been spent in reforestation, which could have been saved had the original timber been removed under proper conditions. ~~Within the~~ IN past ~~few~~ years extensive deposits of oil and gas have been discovered ~~which~~ THAT have added greatly to the natural wealth of the state ~~,~~ and if properly conserved can bring added prosperity for many years in the future to our farmers and ~~land owners~~ LANDOWNERS, as well as to those engaged in the exploration and development of this great natural resource. The interests of the people demand that exploitation and waste of oil and gas be prevented so that the history of the loss of timber may not be repeated. It is accordingly the declared policy of the state to protect the interests of its citizens and ~~land owners~~ LANDOWNERS from unwarranted waste of gas and oil and TO foster the development of the industry along the most favorable conditions and with a view to the ultimate recovery of the maximum production of these natural products. To that end, this ~~act~~ PART is to be construed liberally ~~in order that~~ TO GIVE effect ~~may be given~~ to sound policies of conservation and the prevention of waste and exploitation.

Sec. ~~3~~ 61503. (1) The ~~director of the department of natural resources shall act as the supervisor of wells. The~~

~~director~~ SUPERVISOR OF WELLS shall designate ~~, with the approval of the commission,~~ suitable assistants as are required to ~~carry out~~ IMPLEMENT this ~~act~~ PART. ~~, and after conference with and recommendations by oil or gas producers or operators or their representatives, and subject to approval by the commission, shall appoint 8 persons who shall constitute the advisory board. Six members of the board shall be chosen from oil or gas producers or operators, or their managing agents or representatives, having ownership, production, or operations within this state. However, not less than 3 members of the board shall be independent oil or gas producers or operators whose ownership, production, or operations are chiefly within this state. A company or its subsidiaries or affiliates shall not have more than 1 representative. Two persons shall be chosen from the general public.~~

~~(2) The 6 members of the advisory board chosen from the oil and gas industry shall be selected with special reference to their training, experience, and standing as oil or gas producers or operators, or as managing agents or representatives of oil or gas producers or operators. Each member of the board shall have at least 5 years of practical or technical experience as a producer or operator or as managing agent or representative of oil producers or operators and shall be a resident of the state at the time of appointment and throughout the period of the member's membership on the board.~~

~~(3) The term of a member of the advisory board shall be for 3 years. Of the first 6 members selected, 2 shall serve for 1~~

~~year, 2 for 2 years, and 2 for 3 years. At the initial selection of the 2 public members, 1 shall be appointed for a 1 year term and 1 shall be appointed for a 2 year term. The supervisor, after conference with and recommendations by oil and gas producers, and operators or their managing agents or representatives, shall fill a vacancy occurring in the membership of the advisory board subject to the approval of the commission, and may remove a member of the advisory board for good cause, except for political reasons or causes, after a full public hearing and approval by the commission. A member of the board, unless removed in the manner provided for in this subsection, shall serve until the appointment and qualification of a successor.~~

~~(4) A member of the board shall qualify by taking and subscribing to the constitutional oath of office and by filing the oath in the office of the secretary of state. The board, after having qualified, shall immediately, and annually thereafter, meet at the office of the supervisor of wells in Lansing and organize by electing a chairperson and a vice chairperson. Four members of the board shall constitute a quorum for the transaction of business. The board shall hold at least 1 meeting each month, and other meetings as it may consider necessary upon notice as required under this act. Meetings shall be held at the office of the supervisor of wells at Lansing, or at another place in this state as fixed by the board or the supervisor. Meetings shall be called by the chairperson, or in the chairperson's absence by the vice chairperson, by a majority of the members of the board, or by the supervisor.~~

~~(5) The business which the advisory board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of a meeting of the board shall be given in the manner required by Act No. 267 of the Public Acts of 1976.~~

~~(6) In addition to the powers and duties of the board which are specifically in this act when requested by the commission or the supervisor, the board shall consult and advise with the commission or the supervisor, and shall perform other duties as may be lawfully delegated to it by the supervisor, in the administration of this act. The board may participate officially in all public hearings provided for in this act, and, upon request being made by the board, may consult promptly with the supervisor with respect to the rule or order, which should be made in view of the hearing.~~

~~(7) The board, at all reasonable times, shall have access to office records, documents, and orders of the supervisor excepting records as are provided for in section 6(d) and shall be kept informed by bulletins or otherwise agreed plan as to the conduct of the supervisor relative to the enforcement of this act. A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.~~

(2) ~~(8)~~ The commission ~~of natural resources~~ shall act as an appeal board REGARDING THE ISSUANCE, DENIAL, SUSPENSION, REVOCATION, ANNULMENT, WITHDRAWAL, RECALL, CANCELLATION, OR AMENDMENT OF A PERMIT UNDER THIS PART. When ~~the advisory board or~~ a producer or owner considers ~~a rule,~~ AN order, action, inaction, or procedure as proposed, initiated, or made by the supervisor to be burdensome, inequitable, unreasonable, or unwarranted, the ~~board,~~ producer ~~,~~ or owner may appeal to the ~~appeal board~~ COMMISSION OR THE COURT for relief from the ~~rule,~~ order, action, inaction, or procedure ~~, while giving notice to the supervisor~~ AS PROVIDED IN THIS ACT. The chairperson of the commission shall set a date and place to hear the appeal, which may be at a regular MEETING OF THE COMMISSION or A special meeting of the commission called for ~~the~~ THAT purpose.

~~(9) The action of the appeal board shall be final with respect to an appeal by the advisory board. A person may seek relief in the courts as provided elsewhere in this act, and the taking of an appeal as provided in this act shall not be a prerequisite to seeking relief in the courts.~~

(3) ~~(10)~~ The supervisor and employees, in addition to their salaries, shall receive their reasonable expenses while away from their homes traveling on business connected with their duties. A member of the ~~board and of the appeal board~~ COMMISSION shall not receive compensation ~~,~~ FOR DISCHARGING DUTIES UNDER THIS PART; however, a member ~~shall be~~ IS entitled to reasonable expenses while traveling in the performance of a duty imposed by this ~~act~~ PART. Salaries and expenses

authorized in this ~~act~~ PART shall be paid out of the state treasury in the same manner as the salaries and expenses of other officers and employees of the department ~~of natural resources~~ are paid.

(4) ~~(H)~~ The department of management and budget shall furnish suitable offices for the use of the supervisor ~~, the board,~~ and ~~the~~ HIS OR HER employees.

Sec. ~~4~~ 61504. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT commit waste in the exploration for or in the development, production, ~~or~~ handling, or use of oil or gas, ~~,~~ or in the handling of any product ~~thereof~~ OF OIL OR GAS.

Sec. ~~5~~ 61505. The supervisor ~~shall have, and he is hereby given (a)~~ HAS jurisdiction and authority over the administration and enforcement of ~~the provisions of~~ this ~~act~~ PART and all matters relating to the prevention of waste ~~as defined herein,~~ and to the conservation of oil and gas in this state. ~~,~~ ~~and (b)~~ THE SUPERVISOR ALSO HAS jurisdiction and control of and over all persons and things necessary or proper to enforce effectively ~~the provisions of~~ this ~~act~~ PART and all matters relating to the prevention of waste and the conservation of oil and gas.

Sec. ~~6~~ 61506. The supervisor shall prevent the waste prohibited by this ~~act~~ PART. To that end, acting directly or through his OR HER authorized representatives, the supervisor ~~, after consulting with the board,~~ is specifically empowered TO DO ALL OF THE FOLLOWING:

(a) To ~~make~~ PROMULGATE and enforce rules, ~~subject to the approval of the commission,~~ issue orders and instructions necessary to enforce ~~such~~ THE rules, and ~~to~~ do whatever may be necessary with respect to the subject matter stated ~~herein~~ IN THIS PART to ~~carry out the purposes of~~ IMPLEMENT this ~~act~~ PART, whether or not indicated, specified, or enumerated in this or any other section ~~hereof~~ OF THIS PART.

(b) To collect data to make inspections, studies, and investigations; ~~,~~ to examine ~~such~~ properties, leases, papers, books, and records as ~~are~~ necessary to the purposes of this ~~act~~ PART; to examine, check, and test and gauge oil and gas wells and tanks, plants, refineries, and all means and modes of transportation and equipment; ~~,~~ to hold hearings; ~~,~~ AND to provide for the keeping of records and making of reports, and for the checking of the accuracy ~~thereof~~ OF THE RECORDS AND REPORTS.

(c) To require the locating, drilling, deepening, redrilling or reopening, casing, sealing, operating, and plugging of wells drilled for oil and gas or for secondary recovery projects, or wells for the disposal of salt water, brine, or other oil field wastes, to be done in such manner and by such means as to prevent the escape of oil or gas out of 1 stratum into another, or of water or brines into oil or gas strata; to prevent pollution OF, damage to, or destruction of fresh water supplies, including inland lakes and streams and the Great Lakes and connecting waters, and valuable brines by oil, gas, or other waters, to prevent the escape of oil, gas, or water into workable coal or

other mineral deposits; to require the disposal of salt water and brines and oily wastes produced incidental to oil and gas operations ~~,~~ in ~~such~~ A manner and by ~~such~~ methods and means SO that ~~no~~ unnecessary damage or danger to or destruction of surface or underground resources, to neighboring properties or rights, or to life ~~, shall~~ DOES NOT result.

(d) To require reports and maps showing locations of all wells subject to this ~~act~~ PART, and the keeping and filing of logs, well samples, and drilling, testing, and operating records or reports. All well data and samples furnished TO the supervisor as required ~~herein shall~~ IN THIS PART, upon written request of THE owner of THE well, SHALL be held confidential for 90 days after the completion of drilling and shall not be open to public inspection except by written consent of the owner.

(e) To prevent the drowning by water of any stratum or part ~~thereof~~ OF THE STRATUM capable of producing oil or gas, or both oil and gas, and to prevent the premature and irregular encroachment of water, or any other kind of water encroachment, ~~which~~ THAT reduces or tends to reduce the total ultimate recovery of oil or gas, or both ~~such~~ oil or gas, from any pool.

(f) To prevent fires or explosions.

(g) To prevent ~~"~~ blow-outs, ~~",~~ seepage, ~~",~~ and ~~"~~ caving ~~"~~ in the sense that the conditions indicated by such terms are generally understood in the oil business.

(h) To regulate the mechanical, physical, and chemical treatment of wells.

(i) To regulate the secondary recovery methods of oil and gas, including ~~the~~ pulling or creating a vacuum ~~,~~ AND the introduction of gas, air, water, and other substances into the producing formations.

(j) To fix the spacing of wells and to regulate the production ~~therefrom~~ FROM THE WELLS.

(k) To require the operation of wells with efficient gas-oil ratios and to ~~fix such~~ ESTABLISH THE ratios.

(*l*) To require by written notice or citation immediate suspension of any operation or practice and the prompt correction of any condition found to exist ~~which is causing~~ THAT CAUSES or ~~resulting~~ RESULTS or ~~threatening~~ THREATENS to cause or result in waste.

(m) To require, either generally ~~,~~ or in ~~,~~ or from ~~,~~ particular areas, certificates of clearance or tenders in connection with the transportation of oil, gas, or any product ~~thereof~~ OF OIL OR GAS.

(n) To require identification of the ownership of oil and gas producing leases, properties, and wells.

(o) To ~~make~~ PROMULGATE rules or ISSUE orders for the classifications of wells as oil wells or gas wells; or wells drilled, or to be drilled, for secondary recovery projects, or for the disposal of salt water, brine, or other oil or gas field wastes; or for the development of reservoirs for the storage of liquid or gaseous hydrocarbons, or for other means of development, extraction, or production of hydrocarbons.

(p) ~~The~~ TO REQUIRE THE filing of an adequate surety, security, or cash bonds of owners, producers, operators, or their authorized representatives in such reasonable form, condition, term, and amount as will ~~insure~~ ENSURE compliance with this ~~act~~ PART and with the rules PROMULGATED or orders issued ~~thereunder~~ UNDER THIS PART and to provide for the release ~~thereof~~ OF THE SURETY, SECURITY, OR CASH BONDS.

Sec. ~~7~~ 61507. Upon the initiative of the supervisor ~~or the board,~~ or upon verified complaint of any person interested in the subject matter alleging that waste is taking place or is reasonably imminent, the supervisor shall call a hearing ~~, or direct the board to call a hearing,~~ to determine whether or not waste is taking place or is reasonably imminent, and what action should be taken to prevent ~~such~~ THAT waste. ~~Whenever~~ IF the supervisor ~~so directs, the board~~ DETERMINES IT APPROPRIATE, THE SUPERVISOR shall hold a hearing and shall promptly make ~~its~~ findings and recommendations. ~~, and the~~ THE supervisor shall ~~promptly~~ consider ~~the same, promulgating such~~ THOSE FINDINGS AND RECOMMENDATIONS AND SHALL PROMULGATE rules ~~, regulations,~~ or ISSUE orders as he ~~may deem~~ OR SHE CONSIDERS necessary to prevent waste ~~as defined herein,~~ which he OR SHE finds to exist or to be reasonably imminent.

Sec. ~~8~~ 61508. (1) The supervisor ~~, after consulting with the board and considering its recommendations,~~ shall prescribe rules of order or procedure in hearings or other proceedings before the supervisor ~~or the board~~ under this ~~act~~ PART. Rules PROMULGATED or orders ~~made~~ ISSUED by the supervisor shall

be entered in full in a book to be kept for that purpose by the supervisor. A copy of a rule or order, certified by the supervisor, shall be received in evidence in the courts of this state with the same effect as the original.

(2) A writing prepared, owned, used, in the possession of, or retained by the supervisor in the performance of an official function shall be made available to the public in compliance with THE FREEDOM OF INFORMATION ACT, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. ~~9~~ 61509. The supervisor may ~~, and is hereby authorized, to~~ compel by subpoena ~~,~~ the attendance of witnesses ~~,~~ AND the production of books, papers, records, or articles necessary in any proceeding before ~~him, the board,~~ THE SUPERVISOR or the commission. ~~No~~ A person shall NOT be excused from obeying ~~the command of any~~ A subpoena issued in ~~any~~ A hearing or proceeding brought under ~~the authority of~~ this ~~act~~ PART on the ground or for the reason that the testimony or evidence, documentary or otherwise, may tend to incriminate ~~him~~ or subject ~~him~~ THAT PERSON to a penalty or forfeiture. ~~: Provided, That nothing herein contained shall be construed as requiring any~~ HOWEVER, THIS SECTION DOES NOT REQUIRE A person to produce books, papers, or records or to testify in response to any inquiry THAT IS not pertinent to ~~some~~ A question lawfully before ~~such board or~~ THE supervisor, ~~or~~ commission, or court for determination ~~within the purposes of~~ UNDER this ~~act: Provided further, That any incriminating~~ PART. INCRIMINATING evidence, documentary or

otherwise, shall not ~~thereafter~~ be used against ~~such~~ A witness WHO TESTIFIES AS REQUIRED IN THIS SECTION in a prosecution or action for forfeiture. ~~: Provided further, That no~~ A person ~~testifying shall be exempted~~ WHO TESTIFIES AS REQUIRED IN THIS SECTION IS NOT EXEMPT from prosecution and punishment for perjury in so testifying.

Sec. ~~10~~ 61510. (1) ~~In case of failure or refusal on the part of any~~ IF A person FAILS OR REFUSES to comply with ~~any~~ A subpoena issued by the supervisor, or ~~on the refusal of any~~ IF A witness REFUSES to testify ~~or answer~~ as to any matters regarding which he OR SHE may be lawfully interrogated, any circuit court in this state, or any CIRCUIT COURT judge, ~~thereof,~~ on application of ~~said~~ THE supervisor, may issue an attachment for ~~such~~ THE person and compel ~~him~~ THAT PERSON to comply with ~~such~~ THE subpoena and to attend A HEARING before the ~~board or~~ supervisor and produce ~~such~~ documents, and ~~give his testimony~~ TESTIFY upon ~~such~~ matters, as may be lawfully required, and ~~such~~ THE court or judge ~~shall have~~ HAS the power to punish THAT PERSON for contempt ~~as~~ in ~~case of disobedience of a like subpoena issued by or from such court, or a refusal~~ THE SAME MANNER AS IF THE PERSON HAD DISOBEYED THE SUBPOENA OF THE COURT OR REFUSED to testify ~~therein~~ IN THAT COURT.

(2) ~~Any~~ A witness summoned by subpoena or by written request of the supervisor and attending ~~any~~ A hearing called by the supervisor ~~shall be~~ IS entitled to the same fees and mileage as are or may be provided by law for attending the circuit court in ~~any~~ A civil matter or proceeding. The fees and

mileage of witnesses subpoenaed at the instance of the supervisor ~~or the board~~ shall be paid out of the general funds of the state treasury upon proper voucher approved by the supervisor. The fees and mileage of witnesses subpoenaed at the instance of any other interested ~~parties~~ PARTY shall be paid by ~~such other parties~~ THAT PARTY.

Sec. ~~11~~ 61511. If ~~any~~ A person ~~of whom~~ WHO IS REQUIRED TO GIVE an oath ~~shall be required~~ under ~~the provisions of~~ this ~~act~~ PART, or by any rule ~~, regulation~~ PROMULGATED or order ~~of~~ ISSUED BY the supervisor, ~~shall wilfully swear~~ WILLFULLY SWEARS falsely in regard to any matter or thing respecting which ~~such~~ THE oath is required, or ~~shall wilfully make~~ WILLFULLY MAKES any false affidavit required or authorized by ~~the provisions of~~ this ~~act~~ PART, or by any rule ~~, regulation~~ PROMULGATED or order ~~of~~ ISSUED BY the ~~supervisors, such~~ SUPERVISOR, THAT person ~~shall be deemed~~ IS guilty of perjury, ~~and shall be punished~~ PUNISHABLE by imprisonment ~~in the state penitentiary~~ for not more than 5 years ~~nor~~ OR less than 6 months.

Sec. ~~12~~ 61512. ~~When~~ IF, to prevent waste, the supervisor limits the amount of oil or gas to be produced from any well, pool, or field in this state, ~~he~~ THE SUPERVISOR shall ~~, after consulting with the board and considering its recommendations,~~ allocate or distribute the allowable production in ~~any such~~ THE field or pool. ~~Such~~ THE SUPERVISOR SHALL MAKE SUCH A determination or distribution in ~~such~~ THE field or pool ~~shall be made~~ on a reasonable basis, giving, if reasonable, under all

circumstances, to each small well of settled production in ~~such~~ THE pool or field ~~,~~ an allowable production ~~which~~ THAT will prevent a general or premature abandonment of the wells in ~~such~~ THE pool or field.

Sec. ~~13~~ 61513. (1) When, to prevent waste, the total allowable production for any oil or gas field or pool in the state is fixed in an amount less than that which the field or pool could produce if no restriction were imposed, the supervisor ~~, after consulting with the board and considering its recommendations,~~ shall prorate or distribute on a reasonable basis the allowable production among the producing wells in the field or pool, ~~so as~~ to prevent or minimize reasonably avoidable drainage from each developed area which is not equalized by counter drainage. The rules or orders of the supervisor, ~~shall,~~ so far as it is practicable to do so, SHALL afford the owner of each property in a pool the opportunity to produce his OR HER just and equitable share of the oil or gas in the pool, being an amount, so far as can be practicably determined and obtained without waste, and without reducing the bottom hole pressure materially below the average for the pool, substantially in the proportion that the quantity of the recoverable oil or gas under ~~such~~ THE property bears to the total recoverable oil or gas in the pool, and for this purpose to use his OR HER just and equitable share of the reservoir energy. ~~: Provided, That a~~ A well in a pool producing from an average depth of 1,000 feet or less, ~~shall,~~ on the basis of a full drilling unit as may be established under this section, SHALL be given a base allowable

production of at least 100 barrels of oil per well per week; for a well in a pool producing from an average depth greater than 1,000 feet, the basic allowable production shall be increased 10 barrels per well per week for each addition 100 feet of depth greater than 1,000 feet, ~~: Provided further, That such~~ IF THE allowable production is or can be made without surface or underground waste.

(2) To prevent the drilling of unnecessary wells, the supervisor ~~, after conference with and recommendation by the board,~~ may ~~fix~~ ESTABLISH a drilling unit for each pool. A drilling unit, as ~~contemplated herein, means~~ DESCRIBED IN THIS SUBSECTION, IS the maximum area ~~which~~ THAT may be efficiently and economically drained by 1 well. ~~and such~~ A DRILLING unit ~~shall constitute~~ CONSTITUTES a developed area ~~as long as~~ IF a well is located ~~thereon which~~ ON THE DRILLING UNIT THAT is capable of producing the economically recoverable oil or gas ~~thereunder~~ UNDER THE UNIT. Each well permitted to be drilled upon any drilling unit shall be located in the approximate center ~~thereof~~ OF THE DRILLING UNIT, or at such other location ~~thereon~~ ON THE DRILLING UNIT as may be necessary to conform to a uniform well spacing pattern as adopted and promulgated by the supervisor after due notice and public hearing, as provided in this ~~act~~ PART.

(3) The drilling of unnecessary wells is hereby declared waste ~~as such~~ BECAUSE UNNECESSARY wells create fire and other hazards conducive to waste, and unnecessarily increase the production cost of oil and gas to the operator, and ~~thus~~

THEREFORE also unnecessarily increase the cost of the products to the ultimate consumer.

(4) The pooling of properties or parts ~~thereof shall be~~ OF PROPERTIES IS permitted, and, if not agreed upon, the supervisor ~~after conference with and recommendations by the board,~~ may require ~~such~~ pooling OF PROPERTIES OR PARTS OF PROPERTIES in any case when and to the extent that the smallness or shape of a separately owned tract or tracts would, under the enforcement of a uniform spacing plan or proration or drilling unit, otherwise deprive or tend to deprive the owner of such A tract of the opportunity to recover or receive his OR HER just and equitable share of the oil or gas and gas energy in the pool. The owner of any tract that is smaller than the drilling unit established for the field ~~,~~ shall not be deprived of the right to drill on and produce from ~~such~~ THAT tract, if ~~same~~ THE DRILLING AND PRODUCTION can be done without waste. ~~, but in such~~ IN THIS case, the allowable production ~~therefrom~~ FROM THAT TRACT, as compared with the allowable production if ~~such~~ THAT tract were a full unit, shall be in the ratio of the area of ~~such~~ THE tract to the area of a full unit, except as a smaller ratio may be required to maintain average bottom hole pressures in the pool, to reduce the production of salt water, or to reduce an excessive gas-oil ratio. All orders requiring ~~such~~ pooling DESCRIBED IN THIS SUBSECTION shall be upon terms and conditions that are just and reasonable, and will afford to the owner of each tract in the pooling plan the opportunity to recover or receive his OR HER just and equitable share of the oil or gas and

gas energy in the pool as ~~above~~ provided IN THIS SUBSECTION, and without unnecessary expense, and will prevent or minimize reasonably avoidable drainage from each developed tract ~~which~~ THAT is not equalized by counter drainage. The portion of the production allocated to the owner of each tract included in a drilling unit formed by voluntary agreement or by a pooling order shall ~~, when produced,~~ be considered as if it had been produced from ~~such~~ THE tract by a well drilled ~~thereon~~ ON THE TRACT.

(5) Each well permitted to be drilled upon ~~any~~ A drilling unit or tract shall be drilled at a location ~~which~~ THAT conforms to the uniform well spacing pattern, ~~with such exception~~ EXCEPT as may be reasonably necessary where ~~it is shown,~~ after notice and ~~upon~~ hearing ~~and~~ the supervisor finds ~~that~~ ANY OF THE FOLLOWING:

(A) THAT the unit is partly outside the pool ~~,~~ or THAT, for some other reason, a well at ~~such~~ THE location would be unproductive. ~~, or that~~

(B) THAT the owner or owners of a tract or tracts covering that part of the drilling unit or tract on which ~~said~~ THE well would be located if it conformed to the uniform well spacing pattern refuses to permit drilling at the regular location. ~~, or where~~

(C) THAT topographical or other conditions are such as to make drilling at the regular location unduly burdensome or imminently threatening to water or other natural resources, ~~or~~ TO property, or TO life.

(6) ~~When any~~ IF AN exception UNDER SUBSECTION (5) is granted, the supervisor shall take such action as will offset any advantage ~~which~~ THAT the person securing the exception may have over other producers in the pool by reason of the drilling of the well as an exception, and so that drainage from the developed areas to the tract with respect to the exception granted will be prevented or minimized and the producer of the well drilled as an exception will be allowed to produce no more than his OR HER just and equitable share of the oil or gas in the pool as ~~such~~ THE share is set forth ~~herein~~ IN THIS PART, and to that end the rules and orders of the supervisor shall be such as will prevent or minimize reasonably avoidable drainage from each developed area ~~which~~ THAT is not equalized by counter drainage and will give to each producer the opportunity to use his OR HER just and equitable share of the reservoir energy.

(7) Minimum allowable PRODUCTION for some wells and pools may be advisable from time to time, especially with respect to wells and pools already drilled ~~when this act takes~~ ON MAY 3, 1939, WHEN FORMER ACT NO. 61 OF THE PUBLIC ACTS OF 1939 TOOK effect, ~~to the end~~ SO that the production will repay reasonable lifting costs and thus prevent premature abandonment of wells and resulting wastes.

(8) After the effective date of any rule PROMULGATED or order ~~made~~ ISSUED by the supervisor ~~in accordance with and under the provisions of~~ AS PROVIDED IN this ~~act fixing~~ PART ESTABLISHING the allowable production, ~~no~~ A person shall NOT produce more than the allowable production applicable to ~~him~~

THAT PERSON, his OR HER wells, leases, or properties, and the allowable production shall be produced ~~in accordance with such~~ PURSUANT TO THE applicable rules or orders.

Sec. ~~14~~ 61514. The supervisor ~~shall have authority to~~ MAY issue certificates of clearance or tenders ~~whenever the same may be~~ IF required to ~~effectuate the purposes of~~ IMPLEMENT this ~~act~~ PART.

Sec. ~~15~~ 61515. ~~It shall be unlawful for any~~ A person ~~to~~ SHALL NOT sell, purchase, acquire, transport, refine, process, or otherwise handle or dispose of any illegal oil or gas ~~in whole or in part,~~ or any illegal product of oil or gas. A penalty or forfeiture shall not be imposed ~~on account of any such~~ AS A RESULT OF AN act DESCRIBED IN THIS SECTION until certificates of clearance or tenders ~~have been~~ ARE required by the supervisor as provided in section ~~14~~ 61514.

Sec. ~~16~~ 61516. ~~No rules, regulations~~ A RULE or ~~orders~~ ORDER shall NOT be made, promulgated, put into effect, revoked, changed, renewed, or extended, except emergency orders, ~~hereinafter provided for until and~~ unless public hearings ~~shall be~~ ARE held. ~~thereon.~~ Public hearings shall be held at such time, place, and manner and upon such notice, not less than 10 days, as shall be prescribed by general order and rules adopted in conformity with this ~~act~~ PART. The supervisor ~~shall have authority to~~ MAY promulgate ~~and put in effect~~ emergency rules ~~, regulations~~ or ISSUE orders without a public hearing ~~that~~ AS may be necessary to ~~carry out the provisions of this act. Provided, That such~~ IMPLEMENT THIS PART. THE

emergency rules ~~, regulations~~ and orders shall ~~in no event~~ remain in force and effect ~~more~~ FOR NO LONGER than 21 days, EXCEPT AS OTHERWISE PROVIDED FOR RULES UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

Sec. ~~17~~ 61517. The circuit court of Ingham county ~~shall have~~ HAS exclusive jurisdiction ~~of~~ OVER all suits brought against the commission, the supervisor, ~~the board~~ or any agent or employee ~~thereof~~ OF THE COMMISSION OR SUPERVISOR, by or on account of any matter or thing arising under ~~the provisions of~~ this ~~act~~ PART. ~~No~~ A temporary restraining order or injunction shall NOT be granted in any ~~such~~ suit DESCRIBED IN THIS SECTION except after due notice and for good cause shown.

Sec. ~~18~~ 61518. (1) The supervisor may proceed at law or for the enforcement of this ~~act~~ PART and a rule promulgated under this ~~act~~ PART or for the prevention of the violation of this ~~act~~ PART or a rule promulgated ~~pursuant to~~ UNDER this ~~act~~ PART, and the attorney general shall represent the supervisor in an action brought under this ~~act~~ PART. The supervisor or an assistant appointed by the supervisor may ~~make~~ FILE A complaint and cause proceedings to be commenced against a person for a violation of this ~~act~~ PART without the sanction of the prosecuting attorney of the county in which the proceeding is commenced. The supervisor or an assistant of the supervisor may appear for the people in a court of competent jurisdiction in a case for a violation of this ~~act~~ PART or a rule promulgated ~~pursuant to~~ UNDER this ~~act~~ PART, and prosecute the violation

in the same manner and with the same authority as the prosecuting attorney of a county in which the proceeding is commenced, and may sign vouchers for the payment of fees and do all other things required in the same manner and with the same authority as the prosecuting attorney.

(2) Subsection (1) ~~shall~~ DOES not apply to a violation of this ~~act which~~ PART THAT is subject to the penalty prescribed pursuant to section ~~20(3)~~ 61522(3) or (4).

Sec. ~~18a~~ 61519. ~~When~~ IF the supervisor determines that the owner or operator of a well subject to this ~~act~~ PART has failed or neglected to properly obtain a permit, construct, operate, maintain, case, plug, or repair the ~~same~~ WELL in accordance with ~~the provisions of~~ this ~~act~~ PART or the rules promulgated ~~thereunder~~ UNDER THIS PART, the supervisor shall give notice of ~~such~~ THIS determination, in writing, to the owner ~~,~~ AND operator and to the surety executing the bond filed with the supervisor by the owner or operator in connection with the issuance of the permit authorizing the drilling of a well. This notice of determination may be served upon the owner or operator and surety in person or by registered mail. If the owner or operator cannot be found in the state, the mailing of the notice of determination to the owner or operator at his OR HER last known post office address by registered mail ~~shall constitute~~ CONSTITUTES service of ~~same~~ THE NOTICE OF DETERMINATION. If the owner or operator, or surety, fails or neglects to properly case, plug, or repair the well described in the notice of determination ~~herein provided for~~ within 30 days

of the date of service or mailing of the notice, the supervisor may enter into and upon any private or public property on which the well is located and upon and across any private or public property necessary to reach the well, and case, plug, or repair the well, and the owner or operator and surety ~~shall be~~ ARE jointly and severally liable for all expenses incurred by the supervisor. ~~in doing same.~~ The supervisor, acting for and in behalf of the state, shall certify in writing to the owner or operator and surety the claim of the state in the same manner ~~herein~~ provided IN THIS SECTION for the service of the notice of determination, and shall list thereon the items of expense incurred in casing, plugging, or repairing the well. The claim shall be paid by the owner or operator, or surety, within 30 days, and if not paid within that time the supervisor, acting for and in behalf of the state, may bring suit against the owner or operator, or surety, jointly or severally, for the collection of ~~same~~ THE CLAIM in any court of competent jurisdiction in the county of Ingham.

Sec. ~~18b~~ 61520. (1) A person who abandons a well without properly plugging the well ~~in accordance with this act~~ AS PROVIDED IN THIS PART or the rules promulgated under this ~~act~~ PART, or, except as provided in section ~~20(3)~~ 61522(3) or (4), who violates this ~~act~~ PART or a rule promulgated under this ~~act~~ PART, whether as principal, agent, servant, or employee, is guilty of a misdemeanor, punishable by ~~a fine of not more than $1,000.00 and costs of prosecution, or~~ imprisonment for not more than 90 days, OR A FINE OF NOT MORE THAN $1,000.00 AND COSTS OF

PROSECUTION, or both. This ~~shall~~ SECTION DOES not impose liability upon the owner of land upon which a well is located, unless the property owner is the owner or part owner of the well.

(2) The words "owner" ~~or~~ AND "operator", as used in THIS SECTION AND section ~~18a~~ 61519 mean a person who, by the terms of this ~~act~~ PART and the rules promulgated under this ~~act~~ PART, is responsible for the plugging of a well.

Sec. ~~19~~ 61521. (1) A person who, for the purpose of evading this ~~act,~~ PART or of evading a rule PROMULGATED or AN order ~~made~~ ISSUED under this ~~act~~ PART, intentionally makes or causes to be made ~~,~~ false entry or statement of fact in a report required by this ~~act~~ PART or by a rule PROMULGATED or AN order ~~made~~ ISSUED under this ~~act~~ PART, or who, for that purpose, makes or causes to be made false entry in an account, record, or memorandum kept by a person in connection with this ~~act~~ PART, or of a rule PROMULGATED or AN order ~~made~~ ISSUED under this ~~act~~ PART; or who, for that purpose, omits to make, or causes to be omitted, full, true, and correct entries in the accounts, records, or memoranda, of all facts and transactions pertaining to the interest or activities in the petroleum industry of that person as may be required by the supervisor under authority given in this ~~act~~ PART or by any rule PROMULGATED or ANY order ~~made~~ ISSUED under this ~~act~~ PART; is guilty of a felony, punishable by ~~a fine of not more than $3,000.00, or~~ imprisonment for not more than 3 years, OR A FINE OF NOT MORE THAN $3,000.00, or both.

(2) A person who for the purpose of evading this ~~act~~ PART or a rule PROMULGATED or AN order ~~made pursuant to~~ ISSUED UNDER this ~~act~~ PART removes from the jurisdiction of the state, or mutilates, alters, or by other means falsifies a book, record, or other paper pertaining to transactions regulated by this ~~act shall be~~ PART IS subject to the penalties prescribed in THE FREEDOM OF INFORMATION ACT, Act No. 442 of the Public Acts of 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED LAWS.

Sec. ~~20~~ 61522. (1) ~~Except when~~ UNLESS a penalty is otherwise provided for in this ~~act~~ PART, a person who violates this ~~act~~ PART or a rule or order promulgated or issued under this ~~act shall be~~ PART IS subject to a penalty of not more than $1,000.00. Each day the violation continues ~~shall constitute~~ CONSTITUTES a separate offense. The penalty shall be recovered by an action brought by the supervisor.

(2) A person aiding in the violation of this ~~act,~~ PART or a rule or order promulgated or issued under this ~~act, shall be~~ PART IS subject to the same penalties as are prescribed in this section for the person who committed the violation.

~~(3) A member of the advisory board created in section 3 who intentionally violates section 3(5) shall be subject to the penalties prescribed in Act No. 267 of the Public Acts of 1976.~~

(3) ~~(4)~~ If ~~the advisory board created in section 3 arbitrarily and capriciously violates section 3(7) or if~~ the supervisor arbitrarily and capriciously violates section ~~8(2)~~ 61508(2), the ~~advisory board or~~ supervisor ~~shall be~~ IS

subject to the penalties prescribed in THE FREEDOM OF INFORMATION ACT, Act No. 442 of the Public Acts of 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED LAWS.

Sec. ~~21~~ 61523. All illegal oil or gas, ~~and~~ products derived from illegal oil or gas, ~~and~~ conveyances used in the transportation ~~thereof~~ OF ILLEGAL OIL OR GAS OR OIL OR GAS PRODUCTS, and containers used in ~~the~~ THEIR storage, ~~thereof~~ except railroad tank cars and ~~pipe lines shall be~~ PIPELINES, ARE subject to confiscation, and the supervisor ~~is hereby empowered and authorized to~~ MAY seize such illegal oil or gas, oil or gas products, conveyances, and containers. The supervisor shall immediately upon such seizure institute a proceeding in rem to confiscate the oil or gas, oil or gas products, conveyances, and containers in the circuit court of the county in which the seizure was made or in the circuit court of Ingham county. Upon commencement of ~~such~~ THESE proceedings, ~~the~~ notice shall be given to all known interested persons in the manner as DIRECTED BY the court. ~~shall direct.~~ The court, upon finding that the oil or gas, ~~or the~~ OIL OR GAS products, ~~or the~~ conveyances, or containers ~~so~~ seized are illegal, ~~as herein defined,~~ shall order ~~the same~~ THOSE ITEMS to be sold under ~~such~~ THE terms and conditions as it ~~may direct~~ DIRECTS. Any person claiming an interest in any oil or gas, ~~or~~ OIL OR GAS product, ~~or~~ conveyance, or container ~~so~~ THAT IS seized ~~shall have~~ HAS the right to intervene in the proceedings, and the rights of ~~such~~ THAT person shall be determined by the court as justice may require.

Sec. ~~22~~ 61524. (1) For the purposes of monitoring, surveillance, enforcement, and administration of this ~~act~~ PART, a fee not in excess of 1%, based upon the gross cash market value, is levied upon oil and gas produced in this state. The fee shall be collected by the revenue division of the department of treasury in the same manner, at the same time, and subject to the provisions of the tax levied by Act No. 48 of the Public Acts of 1929, being sections 205.301 to 205.317 of the Michigan Compiled Laws.

(2) The fee shall be computed as follows:

(a) The director of the department of management and budget, on or before November 1, shall certify to the department of treasury the amount appropriated for the fiscal year for the purposes of monitoring, surveillance, enforcement, and administration of this ~~act~~ PART.

(b) The department ~~of natural resources, after consultation with the advisory board created in section 3,~~ shall estimate the total production and gross cash market value of all oil and gas that will be produced in this state during the fiscal year ending September 30, and shall certify its estimate to the department of treasury on or before November 1.

(c) The department of treasury shall determine, on or before December 1 of the year, the percentage, to the nearest 1/100 of 1%, the ratio that the appropriation bears to the total gross cash market value of the oil and gas that will be produced in this state as estimated by the department ~~of natural resources~~ as provided in subdivision (b).

(d) The percentage determined pursuant to subdivision (c) shall not exceed 1% ~~,~~ and ~~except as provided in subdivision (e),~~ shall be the fee beginning the first of the following month and will continue to be the fee for the next 12 months and until a different fee is determined.

~~(e) The department of treasury shall make an interim adjustment of the fee to 7/10 of 1%, to be effective April 1, 1987. The interim fee as adjusted shall remain in effect until August 31, 1987. During the period beginning September 1, 1987 and ending December 31, 1987 the fee shall be 5/10 of 1%.~~

(3) The proceeds of the fee provided for in this section shall be credited to the general fund and appropriated by the legislature toward the cost of monitoring, surveillance, enforcement, and administration of this ~~act~~ PART.

(4) An unexpended fee collected during the current or any previous fiscal year, or an unexpended appropriation, shall be carried over and deducted from the following year's appropriation in determining an amount to be certified by the director of the department of management and budget to the department of treasury for computing the annual fee provided for in this ~~act~~ PART.

Sec. ~~23~~ 61525. (1) A person shall not drill or begin the drilling of any well for oil or gas, for secondary recovery, or a well for the disposal of salt water, or brine produced in association with oil or gas operations or other oil field wastes, or wells for the development of reservoirs for the storage of liquid or gaseous hydrocarbons, until the owner directly or through his OR HER authorized representatives ~~shall have first made a~~

~~written application~~ APPLIES to drill any such well, ~~and filed~~ FILES with the supervisor a bond as provided in section ~~6~~ 61506, and ~~received~~ RECEIVES and ~~posted~~ POSTS in a conspicuous place at the location of the well a permit AS PROVIDED in ~~accordance with~~ the rules and requirements or orders ~~made and~~ ISSUED OR promulgated by the supervisor. A fee of $100.00 shall be charged for a permit to drill a well subject to this ~~act~~ PART. Upon receiving and accepting a written application and payment of the fee required, the supervisor shall within 10 days ~~thereafter~~ AFTER THAT DATE issue to ~~any~~ AN owner or his OR HER authorized representative ~~,~~ a permit to drill. A permit to drill shall not be issued to ~~any~~ AN owner or his OR HER authorized representative who does not comply with the rules and requirements or orders ~~made and~~ ISSUED OR promulgated by the supervisor. A permit shall not be issued to ~~any~~ AN owner or his OR HER authorized representative who has not complied with or is in violation of this ~~act,~~ PART or any of the rules, requirements, or orders issued OR PROMULGATED by the supervisor ~~,~~ or the department. ~~of natural resources.~~

(2) The supervisor shall ~~thereupon pay such permit fee into the state treasury and it shall there be credited to~~ FORWARD ALL FEES RECEIVED UNDER THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN the general fund of the state.

Sec. ~~24~~ 61526. This ~~act shall be~~ PART IS cumulative of all existing laws on the subject matter, but, in case of conflict, this ~~act~~ PART shall control and shall repeal ~~such~~ THE conflicting provisions, except for the authority given the public

service commission in sections 7 and 8 of Act No. 9 of the Public Acts of 1929, ~~as amended,~~ being sections 483.107 and 483.108 of the Michigan Compiled Laws, AS AUTHORIZED BY LAW.

Sec. ~~27~~ 61527. ~~The provisions of this act shall~~ THIS PART DOES not apply to drill holes for the exploration FOR and the extraction of iron, copper, or brine; ~~,~~ to water wells; ~~,~~ to mine and quarry drill and blast holes; ~~, nor~~ to coal test holes; ~~, nor~~ OR to seismograph or other geophysical exploration test holes.

PART 616 ORPHAN WELL FUND

~~Sec. 1. This act shall be known and may be cited as the "orphan well fund act".~~

Sec. ~~2~~ 61601. As used in this ~~act~~ PART:

(a) "Abandoned oil or gas well" means an oil or gas well that has not been plugged promptly after having been drilled as a dry hole or has not been used for its intended purpose during 12 consecutive months, unless the supervisor has authorized it to remain idle.

(b) "Fund" means the orphan well fund created in section ~~3~~ 61602.

(c) "Oil or gas well" means a well drilled pursuant to ~~Act No. 61 of the Public Acts of 1939, being sections 319.1 to 319.27 of the Michigan Compiled Laws~~ PART 615, or its predecessor acts, or a well drilled prior to the effective dates of ~~these acts~~ PART 615 OR ITS PREDECESSOR ACTS as determined by the supervisor, for oil or gas exploration or development or storage, or associated production or disposal activities.

(d) "Operator" means the person authorized by contract or agreement by the owner to drill, operate, maintain, or plug a well. Operator does not include the operator of a natural gas storage field within the boundary of the natural gas storage field unless the natural gas storage field operator has either drilled, plugged, or replugged the well in question or has utilized the well for the injection or withdrawal of natural gas into or from the natural gas storage field.

(e) "Owner" means the person ~~or persons~~ who ~~have~~ HAS the right to drill a well into ~~and~~ A POOL, TO produce from a pool, and to receive and distribute the value of the production ~~either~~ FROM THE POOL for himself or herself EITHER individually or in combination with others.

~~(f) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.~~

(F) ~~(g)~~ "Response activity" has the same meaning as in ~~the environmental response act, Act No. 307 of the Public Acts of 1982, being sections 299.601 to 299.618 of the Michigan Compiled Laws~~ PART 201.

(G) ~~(h)~~ "Site restoration" means the filling and leveling of all cellars, pits, and excavations; the removal or elimination of all debris; the elimination of conditions that may create a fire or pollution hazard; the minimization of erosion; and the restoration of the well site as nearly as practicable to the original land contour or to a condition approved by the supervisor after consulting with the surface owner of the land and WITH

the operator of a natural gas storage field if the well site is within the boundary of a natural gas storage field.

(H) ~~(i)~~ "Supervisor" means the supervisor of wells as provided by ~~Act No. 61 of the Public Acts of 1939~~ PART 615 or his or her designee.

Sec. ~~3~~ 61602. (1) The orphan well fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

Sec. ~~4~~ 61603. (1) The supervisor shall expend money from the fund, upon appropriation, only for the following purposes:

(a) For plugging of abandoned or improperly closed oil or gas wells or response activity or site restoration at oil or gas wells for which no owner or operator is known, for which all owners or operators are insolvent, or at which the supervisor determines there exists an imminent threat to the public health and safety.

(b) For the reasonable cost of the supervisor for internal administration in connection with the activities included in subdivision (a).

(2) The supervisor shall consult with the operator of a natural gas storage field prior to plugging any abandoned or

improperly closed oil or gas wells within the boundary of the storage field operator's natural gas storage field.

Sec. ~~5~~ 61604. (1) By January 1 of each year, the supervisor shall prepare and submit to the legislature a list of the oil or gas wells that should be plugged and those at which response activities or site restoration should be performed with money in the fund. The list shall be compiled in order of priority. The list shall be accompanied by estimates of total project costs for the proposed plugging, response activity, site restoration, internal administration, and potential emergency contingencies. Additionally, the supervisor shall include with the list a statement of the criteria used in listing and assigning the priority of these proposed actions.

(2) The legislature shall annually appropriate money from the fund for projects on the list prepared under subsection (1) and for sites where there exists an imminent threat to public health and safety. Except for sites where there exists an imminent threat to public health and safety, projects shall be funded in the order of their priority on the list.

Sec. ~~6~~ 61605. Following the expenditure of money from the fund pursuant to section ~~4(a)~~ 61603(1)(A), the attorney general may bring an action against a person who was the owner or operator of the well at the time that the condition arose requiring expenditure of money from the fund, to recover from that owner or operator the amount of money expended from the fund for which the owner or operator is liable. Money recovered under this section shall be deposited into the fund.

Sec. ~~7~~ 61606. The supervisor may sell the well pipe and any other equipment related to an abandoned or improperly closed well as to which there is an expenditure of money from the fund. The proceeds of sale shall be credited to the fund.

Sec. ~~8~~ 61607. By December 31 of each year, the supervisor shall prepare and submit to the legislature a report that details expenditures from the fund for the preceding fiscal year.

~~Sec. 9. This act shall take effect October 1, 1994.~~

~~Part 617. Unitization~~

PART 617 UNITIZATION

~~Sec. 1. This act shall be known and may be cited as the "Michigan unitization law".~~

Sec. ~~2~~ 61701. As used in this ~~act~~ PART, unless the context otherwise requires:

(A) ~~(c)~~ "Field" means AN UNDERGROUND RESERVOIR OR RESERVOIRS CONTAINING OIL OR GAS, OR BOTH. FIELD ALSO INCLUDES the same general surface area ~~which~~ THAT is underlaid or appears to be underlaid by AT LEAST 1 ~~or more pools, and includes underground reservoirs containing oil and gas~~ POOL. ~~"~~ Field ~~"~~ and ~~"~~ pool ~~" mean~~ HAVE the same ~~thing when~~ MEANING IF only 1 underground reservoir is involved. ~~; however~~ HOWEVER, ~~"~~ field, ~~",~~ unlike ~~"~~ pool, ~~",~~ may relate to 2 or more ~~"~~ pools. ~~".~~

(B) ~~(e)~~ "Lessee" means ~~not only~~ lessees under oil and gas leases ~~but~~ AND also the owners of unleased lands or mineral rights having the right to develop them for oil and gas.

(C) ~~(a)~~ "Oil and gas" means ~~not only~~ oil and gas as such in combination one with the other ~~, but~~ AND also MEANS oil, gas, casinghead gas, casinghead gasoline, gas distillate, or other hydrocarbons, or any combination or combinations ~~thereof~~ OF THESE SUBSTANCES, which may be found in or produced from a common source of supply of oil, gas, oil and gas, or gas distillate.

(D) ~~(b)~~ "Pool" or "common source of supply" means a natural underground reservoir containing or appearing to contain a common accumulation of oil and gas. Each productive zone of a general structure ~~, which~~ THAT is completely separate from any other zone in the structure, or THAT MAY for the purposes of this ~~act may~~ PART be ~~so~~ declared by the supervisor TO BE COMPLETELY SEPARATE, is included in the term ~~"~~ pool ~~"~~ or ~~"~~ common source of supply. ~~".~~ Any reference to a separately owned tract, although in general terms broad enough to include the surface and all underlying common sources of supply of oil and gas, shall have reference thereto only in relation to the common source of supply or portion thereof ~~embraced~~ INCLUDED within the unit area of a particular unit.

(E) ~~(g)~~ "Supervisor" or "supervisor of wells" means the ~~director of the~~ department ~~of natural resources or his or her authorized representative~~ as provided in ~~Act No. 61 of the Public Acts of 1939, as amended, being sections 319.1 to 319.27 of the Michigan Compiled Laws~~ PART 615.

~~(h) "Board" means the advisory board appointed by the director of the department of natural resources as provided for in Act No. 61 of the Public Acts of 1939, as amended.~~

(F) ~~(j)~~ "Unit area" means the formation or formations ~~which~~ THAT are unitized and surface acreage ~~which~~ THAT is a part of the unitized lands, as described in the plan for unit operations ~~which~~ THAT is the subject of the supervisor's order as provided in section ~~7~~ 61706.

(G) ~~(d)~~ "Unit expense" means any and all cost, expense, or indebtedness incurred by the unit in the establishment of its organization ~~,~~ or incurred in the conduct and management of its affairs or the operations ~~carried on~~ CONDUCTED by it.

(H) ~~(f)~~ "Unit production" means all indigenous oil and gas produced and saved from a unit area after the effective date of the order of the supervisor creating the unit, regardless of the well or tract within the unit area from which ~~it~~ THAT OIL AND GAS is produced.

(i) "Waste", in addition to its ordinary meaning, means physical waste as that term is generally understood in the oil and gas industry. ~~"~~ Waste ~~"~~ includes ~~(i) the~~ ALL OF THE FOLLOWING:

(*i*) THE inefficient, excessive, or improper use or dissipation of reservoir energy ~~,~~ and the locating, spacing, drilling, equipping, operating, producing, or plugging of any oil and gas well or wells in a manner ~~which~~ THAT results or tends to result in reducing the quantity of oil and gas ultimately recoverable

from any pool in the state under good oil and gas field practice. ~~; (2) the~~

(*ii*) THE inefficient production of oil and gas in a manner ~~causing or tending~~ THAT CAUSES OR TENDS to cause unnecessary or excessive surface loss or destruction of oil and gas. ~~; and (3) the~~

(*iii*) THE locating, spacing, drilling, equipping, operating, producing, or plugging of a well or wells in a manner ~~causing or tending~~ THAT CAUSES OR TENDS to cause unnecessary or excessive loss or destruction of oil and gas.

~~(k) "Person" means an individual, corporation, association, partnership, the state, trust, firm, joint stock company, federal agency including a government corporation, association, municipality, commission, political subdivision, or other entity.~~

Sec. ~~3~~ 61702. Subject to the limitations of this ~~act~~ PART, the supervisor shall make and enforce such orders, rules, and regulations and do such things as may be necessary or proper to carry out and effectuate the purposes of this ~~act~~ PART, including adoption of a schedule of fees to be paid upon the filing of petitions, amendments ~~thereto~~ TO PETITIONS, and other instruments in connection ~~therewith which shall~~ WITH PETITIONS THAT bear reasonable relation to the cost of examining, inspectional, and supervisory services required under this ~~act~~ PART.

Sec. ~~4~~ 61703. Any interested lessee may file a verified petition with the supervisor requesting an order for the unit

operation of a pool, pools, or parts ~~thereof~~ OF 1 OR MORE POOLS. The petition shall contain ALL OF THE FOLLOWING:

(a) A description of the pool, pools, or parts ~~thereof~~ OF 1 OR MORE POOLS to be so operated, termed the unit area.

(b) The names of all persons owning or having an interest in oil and gas in the proposed unit area and the names of all surface owners in the proposed unit area, as disclosed by the records in the office of the register of deeds for the county in which the unit area is situated, and their addresses, if known. If the address of any person is unknown, the petition shall so indicate.

(c) A statement of the type of the operations contemplated in order to effectuate the purposes of this ~~act~~ PART.

(d) A recommended plan of unitization applicable to the proposed unit area which the petitioner considers fair, reasonable, and equitable.

(e) A verified statement indicating in detail what action the petitioner has taken to contact and obtain the approval of all persons of record owning or having an interest in oil and gas in the proposed unit area who have not approved the proposed plan of unitization. If the question of whether the plan for unit operations has been approved as set forth in section ~~7~~ 61706 is to be considered at a supplemental hearing pursuant to section ~~8~~ 61707, this verified statement need not be part of the petition and may be filed separately prior to the supplemental hearing.

Sec. ~~5~~ 61704. (1) Upon the filing of a petition as provided in section ~~4~~ 61703, the petitioner shall give notice to interested persons as set forth in section ~~28~~ 61727. A person protesting the petition shall have 15 days after the completion of the publication of notice as provided in section ~~27~~ 61726 to provide the supervisor with written notice of protest and the reason or reasons for the protest.

(2) The notice to interested persons required by subsection (1) shall set forth the procedure required to file a protest and the name, address, and phone number of a representative of the petitioner who is available to discuss the petition, and shall state that the supervisor may issue an order approving the petition without a hearing if no protests are received in the time period provided in subsection (1). The notice to all mineral owners who have not approved the plan of unitization shall include a copy of the petition provided for in section ~~4~~ 61703, except that the petitioner may omit from the notice those parts of the petition referred to in ~~sections 4(b) and 4(e)~~ SECTION 61703(B) AND (E).

(3) If no protests are filed, the supervisor may issue an order as provided in subsection (4) without holding a hearing.

(4) The supervisor shall ~~make~~ ISSUE an order providing for the unit operation of a unit area if he or she finds ~~after consulting with the board and considering its recommendations that~~ ALL OF THE FOLLOWING:

(a) ~~The~~ THAT THE unitization requested is reasonably necessary to substantially increase the ultimate recovery of oil and gas from the unit area.

(b) ~~The~~ THAT THE type of operations contemplated by the plan are feasible, will prevent waste, and will protect correlative rights.

(c) ~~The~~ THAT THE estimated additional cost of conducting such operations will not exceed the value of the additional oil and gas so recovered.

Sec. ~~6~~ 61705. The order of the supervisor shall be upon terms and conditions that are fair, reasonable, and equitable and shall prescribe a plan for unit operations that includes ALL OF THE FOLLOWING:

(a) A description of the unit area.

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

(c) An allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, excepting that production ~~which~~ THAT is used in the conduct of operations on the unit area or unavoidably lost. A separately owned tract's fair, reasonable, and equitable share of production shall be measured by the value of ~~each such~~ THE tract for oil and gas purposes and its contributing value to the unit in relation to like values of all tracts in the unit.

(d) The manner in which the unit and the further development and operation of the unit area shall or may be financed and the basis, terms, and conditions on which the cost and expense

~~thereof~~ shall be apportioned among and assessed against the tracts and interests made chargeable therewith, including a detailed accounting procedure governing all charges and credits incident to ~~such~~ THE operations.

(e) Provisions for carrying or otherwise financing ~~any~~ A person who elects to be carried or otherwise financed, allowing a reasonable interest and service charge payable out of the person's share of production.

(f) The procedure and basis upon which wells, equipment, and other properties of the several lessees within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor.

(g) Provisions for supervision and conduct of the unit operations, in respect to which each person shall have a vote with a value corresponding to the percentage of the costs of unit operations chargeable against the interest of the person.

(h) The time when the plan of unitization ~~shall become~~ BECOMES effective and when unit operations ~~shall~~ commence.

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

(j) ~~Such additional~~ ADDITIONAL provisions that are found to be appropriate for carrying on the unit operations and for the protection and adjustment of correlative rights.

Sec. ~~7~~ 61706. ~~No~~ AN order of the supervisor providing for unit operations shall NOT be declared or become effective until the supervisor makes a finding, either in the order

providing for unit operations or in a supplemental order as provided in section ~~8~~ 61707, that the plan for unit operations has been approved in writing in 1 of the following ways:

(a) By those persons who under the supervisor's order will be required to pay at least 75% of the costs of unit operation, and also by those persons who under the supervisor's order will be entitled to at least 75% of the production from the unit area or THE proceeds ~~thereof~~ OF that PRODUCTION THAT will be credited to interests ~~which~~ THAT are free of cost, ~~such as~~ INCLUDING, but not limited to, royalties, overriding royalties, and production payments.

(b) By those persons who under the supervisor's order will be entitled to at least 75% of all production from the unit area or THE proceeds ~~thereof~~ OF THAT PRODUCTION, provided that among ~~such~~ THOSE persons there must be persons who under the supervisor's order will be entitled to at least 50% of the production from the unit area or THE proceeds ~~thereof~~ OF THAT PRODUCTION that will be credited to interests ~~which~~ THAT are free of cost, ~~such as~~ INCLUDING, but not limited to, royalties, overriding royalties, and production payments.

(c) By those persons who under the supervisor's order will be entitled to at least 90% of all production from the unit area or THE proceeds ~~thereof~~ OF THAT PRODUCTION.

Sec. ~~8~~ 61707. If ~~no~~ A finding is NOT made as set forth in section ~~7~~ 61706 at the time the order for unit operations is made, the supervisor on ~~his own~~ THE SUPERVISOR'S motion or the motion of any interested person after notice shall hold

supplemental hearings to determine if the plan for unit operations has been ~~so~~ approved. If the written approval is found, then the supervisor shall make a supplemental order declaring the plan effective and setting forth the date for the commencement of unit operations. If the written approval is not found within a period of 6 months from the date on which the order providing for unit operations is made, the order shall be ineffective and shall be revoked by the supervisor unless for good cause shown the supervisor ~~after consulting with the board and considering its recommendations shall extend~~ EXTENDS the time for an additional period not to exceed 1 year.

Sec. ~~9~~ 61708. An order providing for unit operations may be amended by an order made by the supervisor in the same manner and subject to the same conditions as an original order for unit operations. If an amendment affects only the rights and interests of those persons responsible for the payment of the costs of unit operations, only 75% of these persons shall be required to effectuate amendment. If an amendment in whole or in part changes the percentage of allocation of cost, then the consent of all these persons is required. ~~No~~ AN amendment shall NOT change the percentage for the allocation of oil and gas as established for any separately owned tract without the consent of all persons entitled to receive the allocation.

Sec. ~~10~~ 61709. Writings containing signatures ~~which~~ THAT are witnessed and acknowledged in a form acceptable for recording under the laws of this state shall be admissible under this ~~act~~ PART and shall be ~~deemed~~ CONSIDERED prima facie

evidence in fulfillment of requirements of this ~~act calling~~ PART THAT CALL for written approval.

Sec. ~~11~~ 61710. The supervisor by order may provide for the unit operation of a unit area ~~which~~ THAT embraces a unit area established by a previous order. The order in providing for the allocation of unit production first shall treat the unit area previously established as a single tract, and the portion of the unit production so allocated thereto shall then be allocated among the separately owned tracts included in the previously established unit area in the same proportions as those specified in the previous order.

Sec. ~~12~~ 61711. An order may provide for a unit area less than the whole of a pool ~~where~~ IF the unit area is of such size or shape as may be reasonably adaptable to unit operation and ~~where~~ IF the conduct ~~thereof~~ OF THAT UNIT AREA will NOT have ~~no~~ A substantially adverse effect upon other portions of the pool, whether unitized or not.

Sec. ~~13~~ 61712. All operations, including, but not limited to, the commencement, drilling, or operation of a well upon any portion of the unit area, shall be ~~deemed~~ CONSIDERED for all purposes the conduct of ~~such~~ THOSE operations upon each separately owned tract itself, and the portion of the unit production allocated to a separately owned tract shall be ~~deemed~~ CONSIDERED for all purposes to have been actually produced from the tract by a well drilled ~~thereon~~ ON THAT TRACT.

Sec. ~~14~~ 61713. Operations conducted pursuant to an order of the supervisor for unit operations ~~shall~~ constitute a

fulfillment of all the express and implied obligations of each lease or contract covering lands in the unit area to the extent that compliance with the obligations cannot be had because of the order of the supervisor.

Sec. ~~15~~ 61714. Except to the extent that the parties specifically ~~so~~ agree OTHERWISE, ~~no~~ AN order for unit operations shall NOT be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired in the conduct of unit operations shall be acquired for the account of the persons to whom its cost is allocated, and in that proportion subject to any lien the unit may have thereon to secure payment of unit expense.

Sec. ~~16~~ 61715. Each unit created under ~~the provisions of~~ this ~~act~~ PART, IF THE PLAN PROVIDES, shall, through its operator, be capable of suing, being sued, and contracting as such in its own right. ~~if the plan so provides.~~ The operator of the unit, on behalf and for the account of all owners of interest within the unit area, without profit to the unit, may supervise, manage, and conduct further development and operations for the production of oil and gas from the unit area under the authority and limitations of the order creating it.

Sec. ~~17~~ 61716. After the effective date of the order of the supervisor creating ~~at~~ A unit, the operation of any well within the unit area except by authority of and ~~in accordance with~~ PURSUANT TO the order of the supervisor ~~shall be~~ IS unlawful and ~~is hereby~~ prohibited.

Sec. ~~10~~ 61717. Property rights, leases, contracts, and all other rights and obligations shall be regarded as amended and modified to the extent necessary to conform to the provisions and requirements of ~~the act~~ THIS PART and to any valid and applicable plan of unitization or order of the supervisor made pursuant to this ~~act~~ PART.

Sec. ~~19~~ 61718. Subject to reasonable limitations as set out in the plan of unitization, the unit shall have a first and prior lien for costs incurred pursuant to the plan of unitization upon the leasehold estate and other oil and gas rights, exclusive of a 1/8 share of gross production ~~which~~ THAT is attributable to a lessor's royalty interest, in and to each separately owned tract, and the interest of the owners thereof in and to the unit production and equipment in possession of the unit, in the form and manner as provided in Act No. 146 of the Public Acts of 1937, ~~as amended,~~ being sections 570.251 to 570.266 of the Michigan Compiled Laws. The interest of the person who by lease, contract, or otherwise ~~would be~~ IS responsible for the cost of developing and operating a given portion of the unit area in the absence of unitization ~~shall be~~ IS primarily responsible for costs as allocated by the plan of unitization, and resort may be had to the entire 7/8 of gross production, including, but not ~~by limitation~~ LIMITED TO, overriding royalties, oil and gas payments, and royalty interests in excess of 1/8 of gross production but which would not otherwise be responsible for allocated costs, only if the person primarily responsible fails to pay the allocated costs ~~in accordance with~~ PURSUANT TO the unit plan.

Persons whose allowable share of production is made secondarily responsible under ~~the provisions of~~ this section to the extent that their interest is foreclosed ~~shall become~~ ARE subrogated to all of the rights of the unit to the interest or interests primarily responsible.

Sec. ~~20~~ 61719. The obligation or liability of each lessee in the several separately owned tracts for the payment of unit expense at all times ~~shall be~~ IS several and not joint or collective and a lessee of the oil or gas rights in the separately owned tract ~~shall~~ IS not ~~be~~ chargeable with, obligated, or liable, directly or indirectly, for more than the amount apportioned, assessed, or otherwise charged to his OR HER interest in the separately owned tract pursuant to the plan of unitization.

Sec. ~~21~~ 61720. The portion of the unit production allocated to any tract and the proceeds from the sale ~~thereof shall be~~ OF THAT UNIT PRODUCTION ARE the property and income of the several persons to whom or to whose credit the same are allocated or payable under the order for unit operations.

Sec. ~~22~~ 61721. ~~No~~ A division order or other contract relating to the sale or purchase of production from a separately owned tract shall NOT be terminated by the order for unit operations, but shall remain in force and apply to oil and gas allocated to the tract until terminated ~~in accordance with~~ PURSUANT TO the provisions of ~~such~~ THE division order or contract.

Sec. ~~23~~ 61722. ~~Neither the~~ THE unit production, ~~or~~ proceeds from the sale ~~thereof nor~~ OF THE UNIT PRODUCTION, OR other receipts shall NOT be treated, regarded, or taxed as income

or profits of the unit; but instead all receipts shall be the income of the several persons to whom or to whose credit the ~~same~~ RECEIPTS are payable under the plan of unitization. To the extent the unit may receive or disburse the receipts, it shall do so only as a common administrative agent of the person to whom the ~~same~~ RECEIPTS are payable.

Sec. ~~24~~ 61723. ~~No~~ AN agreement between or among lessees or other owners of oil and gas rights in oil and gas properties entered into pursuant to this ~~act~~ PART, or with a view TO or for the purpose of bringing about the unitized development or operation of the properties, shall NOT violate any of the statutes of this state prohibiting monopolies or acts, arrangements, contracts, combinations, or conspiracies in restraint of trade or commerce.

Sec. ~~25~~ 61724. The ~~commission of natural resources~~ DEPARTMENT or other proper board or officer of the state having the control and management of state land and the proper board or officer of any political, municipal, or other subdivision or agency of the state, on behalf of the state or of ~~such~~ THE political, municipal, or other subdivision or agency ~~thereof~~ OF THE STATE, with respect to land or oil and gas rights subject to the control and management of ~~such~~ THAT respective board, body, or officer, may consent to or participate in any plan or program of unitization initiated or adopted ~~pursuant to~~ UNDER this ~~act~~ PART.

Sec. ~~26~~ 61725. Except as provided in section ~~5~~ 61704, ~~no~~ rules, regulations, or orders shall NOT be made,

promulgated, put into effect, revoked, changed, renewed, or extended, unless public hearings are held thereon. Public hearings shall be held at such time, place, and manner and upon notice, not less than 20 days, as provided for in this ~~act~~ PART or by rules promulgated ~~pursuant to Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws~~ UNDER THIS PART.

Sec. ~~27~~ 61726. Jurisdictional requirements of notice of time, place, and issues involved for all hearings required by this ~~act~~ PART, except proceedings for criminal or civil enforcement of ~~same~~ THIS PART, ~~shall be deemed~~ ARE satisfied by:

(a) Publication once each week for 2 weeks consecutively in a newspaper of general circulation in the county ~~wherein~~ IN WHICH the unit area or any portion ~~thereof~~ OF THE UNIT AREA is ~~situated~~ LOCATED if the date of last publication is at least 20 days prior to the date set for the hearing.

(b) Publication at least 20 days prior to the date set for the hearing in a trade journal, periodical, or newsletter or paper, or commercially available scout report, in general circulation in exploratory and developmental branches of the oil and gas industry in ~~Michigan~~ THIS STATE.

Sec. ~~28~~ 61727. (1) Service of the notice described in section ~~5(2)~~ 61704(2), which is provided as a matter of public policy and not as a requirement of jurisdiction, before the date of the first publication of notice provided for in section ~~27~~ 61726 by personal service or by certified mail, with return

receipts requested, SHALL BE PROVIDED to the last known address of the following interested persons:

(a) The last owner of record of the oil and gas mineral interests underlying the lands or areas directly affected by the proposed action, and of the surface owners.

(b) The last owner of record of the oil and gas mineral interests underlying the lands or areas immediately adjacent to, and contiguous to, the lands or areas directly affected by the proposed action, and of the surface owners.

(c) The last owner of record of oil and gas leases from 1 or more owners described in subdivision (a) or (b).

(2) Receipts returned following delivery by certified mail shall be filed with the supervisor on or before the date of the hearing, or before the supervisor's order is issued if there is no hearing.

(3) Undelivered notices ~~which have been~~ THAT ARE returned to the petitioner shall be filed with the supervisor on or before the date of the hearing, or before the supervisor's order is issued if there is no hearing.

(4) If notice is given by personal service, an affidavit of service shall be filed with the supervisor on or before the date of the hearing, or before the supervisor's order is issued if there is no hearing.

Sec. ~~29~~ 61728. Except as otherwise expressly provided in this ~~act~~ PART, all proceedings under this ~~act~~ PART, including the filing of petitions, the giving of notices, the conduct of hearings, and other action taken by the supervisor ~~, the appeal~~

~~board,~~ or ~~their~~ THE SUPERVISOR'S agents shall be ~~in accordance with~~ PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws. All hearings and other actions in connection with ~~said~~ THE hearings may be conducted by the supervisor, or by the supervisor's deputy or by any authorized representative duly designated by the supervisor, and all acts of his or her deputy or authorized representative ~~shall~~ have the same force and effect as if done by the supervisor.

~~Sec. 30. An appeal board is hereby created consisting of the supervisor and the advisory board. Any member of the board interested in, or who is an officer, employee or agent of any person interested in, the oil and gas rights of the field or pool, of which the unit area concerned in the appeal is a part, may sit with the appeal board during hearings before it, but shall not otherwise take part in its decision. The appeal board shall not be deemed to lack a quorum by reason of the inability of members of the board to take part in a decision by reason of interest.~~

~~Sec. 31. All persons aggrieved by any order, rule, regulation, or requirement by the supervisor under this act within 20 days after the making of the order may serve a written notice of appeal upon the supervisor briefly setting forth the specific grounds for the appeal.~~

~~Sec. 32. The supervisor shall set a day for hearing which shall be not later than 15 days after receipt of the notice of~~

~~appeal and immediately notify the appeal board, the appealing party and the persons who initiated the petition for the order subject to the appeal, of the date, time and place of hearing.~~

~~Sec. 33. (1) Except as provided in subsections (2) and (3), the hearing provided for in section 32 shall be based on the supervisor's file and the record made at proceedings conducted before the supervisor.~~

~~(2) At the hearing, the appealing party, the supervisor, and any other person who may be affected by the decision of the appeal board shall be given the opportunity to present to the appeal board oral and written arguments on issues of law, fact, and policy.~~

~~(3) The appeal board shall have the right to receive oral testimony and written evidence on such matters as the appeal board determines.~~

Sec. ~~34~~ 61729. During the pendency of the appeal, the appealing party shall obey the order, rule, or regulation appealed unless the interests sought to be protected by the order, rule, or regulation can be adequately protected by a bond, in which case the supervisor may accept a bond in the amount and on the conditions he OR SHE may prescribe in lieu of immediate performance of the order, rule, or regulation by the appealing party.

~~Sec. 35. The appeal board may affirm or reverse the order of the supervisor or remand the same with recommendations. If the opinion of the voting members of the appeal board is evenly~~

~~divided, the appeal board shall be deemed to have affirmed the order of the supervisor as made.~~

Sec. ~~36~~ 61730. The action of the ~~appeal board~~ SUPERVISOR shall be final with respect to jurisdiction for an appeal before any regulatory agency of this state, but any person may seek relief BEFORE THE COMMISSION OR in the courts as provided under the laws of the state, and the taking of an appeal as provided in this ~~act shall~~ PART IS not ~~be~~ a prerequisite to seeking relief in the courts. The place of initiation of proceedings for review shall be limited to the circuit court of the county of Ingham, which shall have exclusive jurisdiction of all suits brought against the supervisor ~~, the board,~~ or any agent or employee ~~thereof~~ OF THE SUPERVISOR, on account of any matter arising under ~~the provisions of~~ this ~~act~~ PART. ~~No~~ A temporary restraining order or injunction shall NOT be granted in any such suit except after due notice and upon a showing of irreparable harm by the appealing party.

Sec. ~~37~~ 61731. The supervisor ~~and the appeal board~~ may compel by subpoena the attendance of witnesses ~~,~~ OR the production of books, papers, records, or articles necessary in any proceeding before the supervisor. ~~or the appeal board. No~~ A person shall NOT be excused from obeying any subpoena for the reason that the testimony or evidence, documentary or otherwise, may tend to incriminate him or her or subject him or her to a penalty or forfeiture. Nothing in this ~~act~~ PART shall be construed as requiring any person to produce anything or to testify in response to inquiry not pertinent to some question lawfully

before the supervisor ~~, the appeal board,~~ or any court for determination within the purposes of this ~~act~~ PART. Any incriminating evidence, documentary or otherwise, shall not thereafter be used against ~~such~~ THE witness in a prosecution or action for forfeiture. ~~No~~ A person testifying ~~shall be exempted~~ IS NOT EXEMPT from prosecution and punishment for perjury in so testifying.

Sec. ~~38~~ 61732. In case of failure or refusal on the part of any person to comply with any subpoena issued by the supervisor, or the refusal of any witness to testify or answer as to any matters regarding which he or she may be lawfully interrogated, any circuit court in this state or any CIRCUIT COURT judge ~~thereof~~ on application of the supervisor may issue an attachment for the person and compel him or her to comply with such subpoena and to attend before the supervisor ~~, the appeal board,~~ or any court and produce such documents and give his or her testimony upon such matters as may be lawfully required, and the court or judge may punish for contempt as in case of disobedience of a like subpoena issued by or from such court or a refusal to testify ~~therein~~ BEFORE THAT COURT.

Sec. ~~39~~ 61733. Any witness summoned by subpoena or by written request of the supervisor and attending any hearing called by the supervisor ~~shall be~~ IS entitled to the same fees and travel expense as provided by law for attending the circuit court in any civil matter or proceeding. The fees and travel expense of witnesses subpoenaed at the instance of the supervisor

~~or the appeal board~~ shall be paid by the persons filing the petition.

Sec. ~~40~~ 61734. If any person of whom an oath is required under ~~the provisions of~~ this ~~act~~ PART, or by any rule, regulation, or order of the supervisor, ~~wilfully~~ WILLFULLY swears falsely in regard to any matter or thing respecting which the oath is required, or ~~wilfully~~ WILLFULLY makes any false affidavit required or authorized by ~~the provisions of~~ this ~~act~~ PART, or by any rule, regulation, or order of the supervisor, the person is guilty of perjury.

Sec. ~~41~~ 61735. The supervisor may bring proceedings ~~at law or in equity~~ for the enforcement of ~~the provisions of~~ this ~~act~~ PART and all rules and regulations promulgated ~~thereunder~~ UNDER THIS PART or for the prevention of the violation thereof, and the attorney general shall represent the supervisor in all actions brought under this ~~act~~ PART. The circuit court of Ingham county shall have concurrent jurisdiction ~~thereof~~ OVER SUCH MATTERS.

Sec. ~~42~~ 61736. ~~Any~~ A person who violates ~~any provision of~~ this ~~act~~ PART or any rule, regulation, or order promulgated ~~hereunder shall be~~ UNDER THIS PART IS subject to a penalty of not more than $1,000.00, and each day a violation continues after notice by the supervisor constitutes a separate offense. The penalty shall be recovered by suit brought by the supervisor. Any penalty assessed ~~hereunder~~ UNDER THIS SECTION shall be credited to the general fund.

Sec. ~~43~~ 61737. ~~Any~~ A person aiding or abetting in the violation of ~~any provision of~~ this ~~act~~ PART, or any rule, regulation, or order made ~~thereunder~~ UNDER THIS PART, ~~shall be~~ IS subject to the same penalties as are prescribed ~~herein~~ IN THIS PART.

Sec. ~~44~~ 61738. A certified copy of any order of the supervisor issued under ~~any provisions of~~ this ~~act shall be~~ PART IS entitled to be recorded in the office of the register of deeds for the counties where all or any portion of the unit area is located, and such recordation shall constitute notice to all persons in interest, their heirs, successors, and assigns.

~~Part 619. Drilling in the Pigeon River State Forest~~

PART 619 DRILLING IN THE PIGEON RIVER STATE FOREST

~~Sec. 1. This act shall be known and may be cited as the "Pigeon river country state forest hydrocarbon development act of 1980".~~

Sec. ~~2~~ 61901. (1) The legislature finds that it is in the public interest to encourage and promote safe, effective, efficient, and environmentally prudent extraction of hydrocarbon resources in the Pigeon river country state forest; and that economic benefits to the state will result from the exploration for the production of energy resources due to the taxation of production of hydrocarbon deposits and the payment of royalties to the state from production of hydrocarbon deposits, which royalties among other things enable the state to acquire and develop property for the enjoyment of the outdoor recreationists of the state.

(2) The legislature further finds that wise use of our natural resources essential for future energy needs requires that energy resource development must occur in harmony with environmental standards; and that the development of new industry and the expansion of existing industry to obtain the optimum safe production of the state's energy resources is an important concern to the economic stability of this state.

Sec. ~~3~~ 61902. The Pigeon river country state forest as dedicated by the commission ~~of natural resources~~ on December 7, 1973, is a valuable public resource. It is in the public interest to produce oil and gas as quickly as possible to minimize the duration of activities associated with hydrocarbon development in the Pigeon river country state forest. To expedite the development of oil and gas resources on certain lands presently under lease but undeveloped as of ~~the effective date of this act~~ MARCH 31, 1981 and for which the amended stipulation and consent order has been adopted and approved by the commission ~~of natural resources~~ on November 24, 1980, and in consideration of the protracted nature of the controversy, the legislature finds that this amended stipulation and consent order constitutes an appropriate hydrocarbon development plan for the purposes and within the intent expressed in section ~~2~~ 61901.

Sec. ~~4~~ 61903. The hydrocarbon activities within the Pigeon river country state forest authorized by the plan referred to in section ~~3,~~ 61902 can be carried out without violation of law under terms of the amended stipulation and consent order referred to in section ~~3~~ 61902.

Sec. ~~5~~ 61904. In light of the legislative findings in section ~~2~~ 61901, the declaration of public interest in section ~~3~~ 61902, and the determination that hydrocarbons can be developed in concert with law in section ~~4~~ 61903, the ~~commission of natural resources~~ DEPARTMENT shall ~~begin implementing~~ IMPLEMENT the approved hydrocarbon development plan for the Pigeon river country state forest not later than January 1, 1981.

~~Part 621. Interstate Oil and Gas Compact~~

PART 621 INTERSTATE OIL AND GAS COMPACT

Sec. ~~1~~ 62101. So that the state of Michigan can cooperate with other states in fostering and encouraging the production of oil and gas without waste, the governor of the state of Michigan is hereby authorized and empowered, for and in the name of the state of Michigan, now a member of the interstate oil AND GAS compact commission, to execute agreements for the extension of the interstate compact to conserve oil and gas, originally executed at Dallas, Texas, on the ~~16th~~ SIXTEENTH day of February 1935, and now deposited with the department of state of the United States, and which expires by its terms on September 1, 1947. The governor is further authorized and empowered to execute any necessary agreements for the further extension of the expiration date of said interstate compact to conserve oil and gas, and to determine if and when it shall be for the best interest of the state of Michigan to withdraw from ~~said~~ THE compact upon 60 days' notice as provided by its terms. In the event he OR SHE shall determine that the state should withdraw, he OR SHE

shall have full power and authority to give notice and take any and all steps necessary and proper to effect the withdrawal of the state of Michigan from ~~said~~ THE compact.

Sec. ~~2~~ 62102. The interstate compact to conserve oil and gas referred to in the above section, and which it is hereby proposed to extend by agreement reads as follows:

"AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS"

"ARTICLE I.

~~"~~ This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any 3 of the states of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

~~"~~ ARTICLE II.

~~"~~ The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

~~"~~ ARTICLE III.

~~"~~ Each state bound hereby agrees that within a reasonable time it will enact laws, or if laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

" (a) The operation of any oil well with an inefficient gas-oil ratio.

" (b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas in paying quantities.

" (c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

" (d) The creation of unnecessary fire hazards.

" (e) The drilling, equipping, locating, spacing, or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

" (f) The inefficient, excessive, or improper use of the reservoir energy in producing any well.

" The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

" ARTICLE IV.

" Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted, then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order, or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

" ARTICLE V.

It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

ARTICLE VI.

Each state joining herein shall appoint 1 representative to a commission hereby constituted and designated as the interstate oil compact commission, the duty of which said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said commission deems beneficial, it shall report its findings and recommendations to the several states for adoption or rejection.

The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states ~~,~~ and to recommend measures for the maximum ultimate recovery of oil and gas. Said commission shall organize and adopt suitable rules and regulations for the conduct of its business.

No action shall be taken by the commission except: (1) By the affirmative votes of the majority of the whole number of the compacting states, represented at any meeting, and (2) by a

concurring vote of majority in interest of the compacting states at said meeting, such interest to be determined as follows: Such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

ARTICLE VII.

No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

ARTICLE VIII.

This compact shall expire September 1, 1947, but any state joining herein may, upon 60 days' notice, withdraw herefrom.

The representatives of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the department of state of the United States, and a duly certified copy shall be forwarded to the governor of each of the signatory states.

This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

~~"~~ Done in the city of Dallas, Texas, this sixteenth day of February, 1935.

(Originally signed by the representatives of the following states: Oklahoma, Texas, New Mexico, Colorado, Illinois, Michigan, California, Arkansas, and Kansas.)"

Sec. ~~3~~ 62103. The governor shall be the official representative of the state of Michigan on "the interstate oil AND GAS compact commission," provided for in the compact to conserve oil and gas, and shall exercise and perform for the state of Michigan all the powers and duties as a member of "the interstate oil AND GAS compact commission": ~~Provided, That~~ HOWEVER, he ~~shall have the authority to~~ OR SHE MAY appoint assistant representatives who shall act in his OR HER stead as the official representatives of the state of Michigan as a member of ~~said~~ THE commission. ~~Said~~ THE assistant representatives shall take the oath of office prescribed by the constitution, which shall be filed with the secretary of state.

~~SUBCHAPTER 3. MINERAL WELLS~~

~~Part 625. Mineral Wells~~

SUBCHAPTER 3: MINERAL WELLS

PART 625 MINERAL WELLS

~~Sec. 1. This act shall be known and may be cited as the "mineral well act".~~

Sec. ~~2~~ 62501. As used in this ~~act~~ PART:

(A) ~~(i)~~ "Artificial brine" means mineralized water formed by dissolving rock salt or other readily soluble rocks or minerals.

(B) ~~(n)~~ "Brine well" means a well drilled or converted for the purpose of producing natural or artificial brine.

(C) ~~(q)~~ "Disposal well" means a well drilled or converted for subsurface disposal of waste products or processed brine and its related surface facilities.

(D) ~~(r)~~ "Exploratory purposes" means test well drilling for the specific purpose of discovering or outlining an orebody or mineable mineral resource.

(E) ~~(m)~~ "Mineral well" means any well subject to ~~the provisions of~~ this ~~act~~ PART.

(F) ~~(h)~~ "Natural brine" means naturally occurring mineralized water other than potable or fresh water.

(G) ~~(c)~~ "Operator" means the person, whether owner or not, supervising or responsible for THE drilling, operating, repairing, abandoning, or plugging of wells subject to this ~~act~~ PART.

(H) ~~(b)~~ "Owner" means the person who has the right to drill, convert, or operate any well subject to this ~~act~~ PART.

(I) ~~(a)~~ "Person" means any individual, corporation, company, association, joint venture, partnership, receiver, trustee, guardian, executor, administrator, personal representative, or private organization of any kind.

(J) ~~(k)~~ "Pollution" means damage or injury from the loss, escape, or unapproved disposal of any substance at any well subject to this ~~act~~ PART.

(K) ~~(p)~~ "Storage well" means a well drilled into a subsurface formation to develop an underground storage cavity for subsequent use in storage operations.

(*l*) ~~(d)~~ "Supervisor OF MINERAL WELLS" means the ~~supervisor of mineral wells~~ STATE GEOLOGIST.

~~(e) "Board" means the advisory board appointed by the supervisor and approved by the director and commission.~~

~~(f) "Director" means the director of natural resources.~~

~~(g) "Commission" means the commission of natural resources.~~

(M) ~~(t)~~ "Surface waste" means damage to, injury to, or destruction of surface waters, soils, animal, fish, and aquatic life, or surface property from unnecessary seepage or loss incidental to or resulting from drilling, equipping, or operating a well or wells subject to this ~~act~~ PART.

(N) ~~(o)~~ "Test well" means a well, core hole, core test, observation well, or other well drilled from the surface to determine the presence of a mineral, mineral resource, ore, or rock unit, or to obtain geological or geophysical information or other subsurface data. ~~, but shall~~ TEST WELL DOES not include holes drilled in the operation of a quarry, open pit, or underground mine.

(O) ~~(j)~~ "Underground storage cavity" means a cavity formed by dissolving rock salt or other readily soluble rock or mineral, by nuclear explosion, or by any other method for the purpose of storage or disposal.

(P) ~~(s)~~ "Underground waste" means damage or injury to potable water, mineralized water, or other subsurface resources.

(Q) ~~(t)~~ "Waste product" means waste or byproduct resulting from municipal or industrial operations or waste from any trade, manufacture, business, or private pursuit ~~which~~ THAT could cause pollution and for which underground disposal may be feasible or practical.

Sec. ~~3~~ 62502. A person shall not cause surface or underground waste in the drilling, development, production, operation, or plugging of wells subject to this ~~act~~ PART.

Sec. ~~4~~ 62503. ~~The state geologist shall serve as the supervisor of mineral wells. He~~ THE SUPERVISOR OF MINERAL WELLS shall appoint, with the approval of the ~~director~~ DEPARTMENT, ~~such~~ assistants as necessary to ~~carry out the provisions of~~ IMPLEMENT this ~~act~~ PART. The supervisor OF MINERAL WELLS and assistants, in addition to salaries, shall receive reasonable traveling expenses while on business connected with their duties ~~in accordance with~~ PURSUANT TO standard travel regulations of the department of ~~administration~~ MANAGEMENT AND BUDGET.

~~Sec. 5. The supervisor, after conferring with and receiving recommendations from owners and operators subject to this act, shall appoint 7 persons, subject to the approval of the director and commission, who shall constitute a board known as the mineral well advisory board which shall be representative of the industries subject to this act. The members of the board shall be chosen from owners and operators, or their managing agents or representatives, having ownership, production or operations which are subject to the provisions of this act. There~~

~~shall be only 1 representative of 1 company or its subsidiaries or affiliates.~~

~~Sec. 6. The term of each member shall be 3 years. Of the first appointed board, 2 members shall serve for 1 year; 2 for 2 years; and 3 for 3 years. The supervisor, after conference with and receiving recommendations by owners and operators subject to this act, shall fill any vacancy in the membership subject to approval by the director and the commission. The supervisor may remove any member for good cause, after public hearing and approval by the commission. Each member of the board, unless removed as provided, shall serve until the appointment and qualification of his successor.~~

~~Sec. 7. The board, after approval by the commission, shall immediately and annually thereafter meet with the supervisor and organize by electing a chairman and vice chairman. Four members of the board constitute a quorum for the transaction of business. A member of the staff of the supervisor shall be appointed by the board to serve as its secretary.~~

~~Sec. 8. (1) The board shall meet semiannually and hold other meetings as the board and the supervisor consider necessary. Meetings shall be held at the office of the supervisor or at any other designated place in the state as fixed by the board and the supervisor. Meetings may be called by the chairperson or in the chairperson's absence by the vice chairperson, by a majority of the members, or by the supervisor.~~

~~(2) The business which the board may perform shall be conducted at a public meeting of the board held in compliance~~

~~with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.~~

~~Sec. 9. The board may consult with the supervisor or commission and perform such other duties as may be designated to it. The board shall participate in all public hearings provided by this act, shall meet promptly thereafter with the supervisor and shall advise and make recommendations with respect to any rules or orders which may be considered for adoption pursuant to the evidence and testimony submitted.~~

~~Sec. 10. The supervisor shall keep the board informed of his activities by minutes of meetings and other agreed means.~~

~~Sec. 11. The members of the board shall receive no compensation but shall be reimbursed for expenses in connection with their duties in accordance with the standard travel regulations of the department of administration.~~

Sec. ~~12~~ 62504. ~~(1)~~ The commission shall act as an appeal board REGARDING THE ISSUANCE, DENIAL, SUSPENSION, REVOCATION, ANNULMENT, WITHDRAWAL, RECALL, CANCELLATION, OR AMENDMENT OF A PERMIT UNDER THIS PART. ~~Whenever the advisory board or any~~ IF AN owner or operator ~~deems any rule or~~ CONSIDERS AN order made by the supervisor OF MINERAL WELLS to be unduly burdensome, inequitable, or unwarranted, the ~~board,~~ owner or operator may appeal to the ~~appeal board~~ COMMISSION OR THE COURT for relief AS PROVIDED IN THIS ACT, ~~giving~~ AND SHALL GIVE notice to the supervisor OF MINERAL WELLS. The ~~chairman~~ CHAIRPERSON of

the commission shall set a date and place to hear ~~such~~ THE appeal, which may be at any regular meeting or at any special meeting of the commission duly called for that purpose. The supervisor ~~, members of the board,~~ OF MINERAL WELLS or any person interested in the matter ~~shall have~~ HAS the right to be heard at such hearing.

~~(2) The action of the appeal board shall be final with respect to an appeal by the advisory board, but any person may seek relief in the courts and the filing of an appeal as provided in this section shall not be a prerequisite to seeking relief in the courts.~~

Sec. ~~13~~ 62505. The supervisor OF MINERAL WELLS shall have jurisdiction over the administration and enforcement of this ~~act~~ PART.

Sec. ~~14~~ 62506. The supervisor OF MINERAL WELLS shall prevent the wastes defined in and prohibited by this ~~act~~ PART. Acting directly or through his OR HER deputy or authorized representative, and ~~with the advice and recommendations of the board~~ following public hearing, the supervisor OF MINERAL WELLS shall promulgate rules subject to the approval of the ~~commission~~ DEPARTMENT and issue orders and instructions necessary to enforce these rules. ~~Rules shall be adopted in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.~~

Sec. ~~15~~ 62507. The supervisor OF MINERAL WELLS, acting directly or through his OR HER deputy or authorized representative, may ~~promulgate~~ ISSUE emergency orders without a public hearing to ~~carry out the provisions of~~ IMPLEMENT this ~~act~~ PART. ~~Such emergency~~ EMERGENCY orders ~~shall~~ remain in force and effect FOR not more than 21 days.

Sec. ~~16~~ 62508. The supervisor OF MINERAL WELLS, acting directly or through his OR HER deputy or authorized representative, ~~is specifically empowered to~~ MAY DO ANY OF THE FOLLOWING:

(a) Make inspections and provide for the keeping of records and checking on the accuracy thereof.

(b) Require the locating, drilling, deepening, reworking, reopening, casing, sealing, injecting, mechanical and chemical treating, and plugging of wells subject to this ~~act~~ PART to be accomplished in a manner ~~which~~ THAT is designed to prevent surface and underground waste.

(c) Designate after public hearing ~~, and with the advice and recommendations of the board,~~ those areas of the state in which there is no known or potential danger of surface or underground waste from test well drilling and in which permits to drill test wells ~~will~~ ARE not ~~be~~ required.

(d) Require on all wells the keeping and filing of logs containing data ~~which~~ THAT are appropriate to the purposes of this ~~act~~ PART. Logs on brine and test wells shall be held confidential for 10 years after completion and shall not be open to public inspection during that time except by written consent of

the owner or operator. Logs for test wells drilled for exploratory purposes shall be held confidential until released by the owner or operator. The logs on all brine and test wells for exploratory purposes shall be opened to public inspection when the owner is no longer an active mineral producer, mineral lease holder, or owner of mineral lands in ~~the~~ THIS state. ~~of Michigan.~~

(e) Require on storage and waste disposal wells, when specified by the supervisor OF MINERAL WELLS, the keeping and filing of drillers' logs and sample logs, the running and filing of electrical and radioactivity logs, AND the keeping and filing of drill cuttings, cores, water samples, pilot injection test records, operating records, and other reports.

(f) Release to the ~~board~~ DEPARTMENT or THE commission, for meetings and hearings, only data described in this section ~~which~~ THAT are necessary to the administration of this ~~act~~ PART in the prevention or correction of surface or underground waste.

(g) Order through written notice the immediate suspension or prompt correction of any operation, condition, or practice found to exist ~~which~~ THAT is causing, ~~or~~ resulting IN, or threatening to cause or result ~~,~~ in surface or underground waste.

(h) Require the filing of an adequate surety or security bond and provide for the release ~~thereof~~ OF THAT SURETY OR SECURITY BOND.

(i) Qualify persons for blanket permits.

Sec. ~~17~~ 62509. (1) A person shall not drill ~~,~~ or begin the drilling ~~,~~ of any brine, storage, or waste disposal well, or convert any well for these uses, until the owner directly or through his OR HER authorized representative files a written application for a permit to drill or convert a well, files a survey of the well site, files an approved surety or security bond, and receives a permit ~~in accordance with~~ PURSUANT TO the rules of the supervisor OF MINERAL WELLS. A fee of $50.00 shall be charged for a brine, storage, or waste disposal well permit. Within 10 days after receiving the prescribed application and fee, and following investigation, inspection, and approval, the supervisor OF MINERAL WELLS shall issue the well permit. ~~No~~ A permit shall NOT be issued to any owner or his OR HER authorized representative who does not comply with the rules of the supervisor OF MINERAL WELLS or who is in violation of this ~~act~~ PART or any rule of the supervisor OF MINERAL WELLS. Upon completion of the drilling or converting of a well for storage or waste disposal and after necessary testing by the owner to determine that the well can be used for these purposes and in a manner that will not cause surface or underground waste, the supervisor OF MINERAL WELLS, upon receipt of appropriate evidence, shall approve and regulate the use of the well for storage or waste disposal. These operations shall be ~~in accordance with the provisions of Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948~~ PURSUANT TO PART 31. The supervisor OF MINERAL WELLS may schedule a public hearing to consider the need or advisability of permitting

the drilling or operating of a storage or waste disposal well, or converting a well for these uses, if the public safety or other interests are involved.

(2) A person shall not drill a test well, except as provided in ~~subdivision (c) of~~ section ~~16~~ 62508(C), until the owner directly or through his OR HER authorized representative files a written application for a permit to drill, files an approved surety or security bond, and receives a permit ~~in accordance with~~ PURSUANT TO the rules of the supervisor OF MINERAL WELLS. A fee of $1.00 shall be charged for a permit to drill a test well. Within 10 days after receiving the prescribed application and fee, and following necessary investigation, inspection, and approval, the supervisor OF MINERAL WELLS shall issue the permit. ~~No~~ A permit shall NOT be issued to any owner or his OR HER authorized representative who does not comply with the rules of the supervisor OF MINERAL WELLS or who is in violation of this ~~act~~ PART or any rule of the supervisor OF MINERAL WELLS.

(3) ~~No~~ A permit ~~shall be~~ IS NOT required to drill a test well in those areas of the state where rocks of Precambrian age directly underlie unconsolidated surface deposits or in those areas ~~which~~ THAT have been designated ~~in accordance with the provisions of subdivision (c) of~~ PURSUANT TO section ~~16~~ 62508(C). However, within 2 years after completion of the drilling of the well, the owner shall advise the supervisor OF MINERAL WELLS of the location of the well and file with the supervisor OF MINERAL WELLS the log required under ~~subdivision (d) of~~ section ~~16~~ 62508(D). The provisions of this ~~act~~ PART

pertaining to the prevention and correction of surface and underground waste ~~shall~~ have the same application to these test wells as to other wells defined ~~herein~~ IN THIS PART.

(4) Upon request, the supervisor OF MINERAL WELLS may issue a blanket permit to drill test wells within a limited or local area where a geological test program is intended, and issue a blanket permit to drill test wells to qualified persons.

(5) All information and records pertaining to the application for and issuance of permits for wells subject to this ~~act~~ PART shall be held confidential in the same manner as provided for logs and reports on these wells.

(6) The supervisor OF MINERAL WELLS shall deposit all fees in the state treasury to be credited to the general fund.

Sec. ~~18~~ 62510. The supervisor OF MINERAL WELLS may bring proceedings ~~at law or in equity~~ for the enforcement of this ~~act~~ PART and rules promulgated ~~thereunder~~ UNDER THIS PART in the circuit court of Ingham county or in the circuit court of the county in which a violation ~~shall~~ IS ALLEGED TO have occurred. The attorney general shall represent the supervisor OF MINERAL WELLS in all actions brought under this ~~act~~ PART.

Sec. ~~19~~ 62511. The circuit court of Ingham county ~~shall have~~ HAS exclusive jurisdiction of all suits brought against the supervisor ~~, board~~ OF MINERAL WELLS or commission, or ~~any agent~~ THEIR AGENTS or ~~employee thereof~~ EMPLOYEES, by or on account of any matter or thing arising under ~~the provisions of~~ this ~~act~~ PART.

Sec. ~~20~~ 62512. (1) The jurisdictional requirement of notice of time, place, and issues involved in a hearing required by this ~~act~~ PART shall be given in the manner prescribed by THE OPEN MEETINGS ACT, Act No. 267 of the Public Acts of 1976, ~~as amended~~ BEING SECTIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS, and by publication once each week for 2 weeks consecutively in a newspaper of general circulation in the area where a specific matter of concern is located, with the last date of publication at least 3 days before the date set for hearing.

(2) If a list of interested persons is a part of the petition for hearing, or if the name of an interested person is on record with the supervisor OF MINERAL WELLS, service in the form of notice by registered mail shall be made by the petitioner to the interested person.

(3) The publishing of a notice of hearing and payment for the publishing ~~shall be~~ ARE the responsibility of the petitioner. The supervisor ~~shall be~~ OF MINERAL WELLS IS responsible for the publishing ~~,~~ and payment for the publishing on a hearing initiated by the supervisor OF MINERAL WELLS.

Sec. ~~21~~ 62513. All hearings and other actions pertaining to these hearings or investigations may be conducted by the supervisor ~~, his~~ OF MINERAL WELLS OR THE SUPERVISOR'S deputy or authorized representative, and all acts of ~~his~~ THE deputy or authorized representative ~~shall~~ have the same force and effect as if done by the supervisor OF MINERAL WELLS.

Sec. ~~22~~ 62514. (1) The supervisor OF MINERAL WELLS may summon witnesses, administer oaths, and, when necessary to carry

out the provisions of this ~~act~~ PART, ~~may~~ require the production of appropriate records, books, and documents.

(2) Upon failure or refusal of any person to comply with a subpoena issued by the supervisor OF MINERAL WELLS, or upon the refusal of any witness to testify as to any matter on which he OR SHE may be interrogated as being pertinent to the hearing or investigation, the person or witness may be subject to a court order compelling him OR HER to comply with such subpoena, and to appear before the supervisor OF MINERAL WELLS and produce ~~such~~ THE records, books, and documents for examination and to ~~give his testimony~~ TESTIFY. The court ~~shall have the power to~~ MAY punish for contempt or for refusal to testify.

Sec. ~~23~~ 62515. Whenever the supervisor ~~, his~~ OF MINERAL WELLS OR THE SUPERVISOR'S deputy or ~~his~~ authorized representative ~~has determined~~ DETERMINES that an owner or operator has failed or neglected to case, seal, operate, repair, or plug a well ~~in accordance with the provisions of~~ PURSUANT TO this ~~act~~ PART or the rules PROMULGATED or orders ~~adopted hereunder~~ ISSUED UNDER THIS PART, notice of the determination shall be given to the owner or operator and to the surety executing the bond filed by ~~such~~ THE owner or operator. If the owner or operator, or surety, fails to correct the specified conditions ~~in accordance with~~ PURSUANT TO the rule or order of the supervisor OF MINERAL WELLS within 60 days after service of notice, the supervisor OF MINERAL WELLS may enter into or upon any private or public property on which the well is located, and across any private or public property to reach the well, and repair or

correct the specified condition, and the owner, operator, and surety ~~shall be~~ ARE jointly and severally liable for all expenses incurred. The supervisor OF MINERAL WELLS shall certify to the owner, operator, and surety the claim of the state, listing ~~therein~~ IN THE CLAIM the items of expense in making the repair or correction. The claims shall be paid by the owner or operator, or surety, within 30 days, and if not paid within that time, the supervisor OF MINERAL WELLS may bring suit in the circuit court of Ingham county against the owner, operator, and surety, jointly and severally, for the collection.

Sec. ~~24~~ 62516. ~~It is unlawful for any~~ A person SHALL NOT DO ANY OF THE FOLLOWING:

(a) ~~To wilfully~~ WILLFULLY violate any provision of this ~~act~~ PART or any rule or order of the supervisor OF MINERAL WELLS.

(b) ~~To drill~~ DRILL or convert any well subject to this ~~act~~ PART without first obtaining a permit or ~~to~~ operate a storage or waste disposal well without approval as provided ~~herein~~ IN THIS PART.

(c) ~~To do~~ DO any of the following for the purpose of evading or violating this ~~act~~ PART or any rule PROMULGATED or order ~~adopted hereunder~~ ISSUED UNDER THIS PART:

(*i*) Make false entry or statement in any required report or record.

(*ii*) Omit or cause to be omitted from any required report or record full, true, and correct entries as required by this ~~act~~ PART.

(*iii*) Remove from this state or destroy, mutilate, alter, or falsify any ~~required~~ report or record REQUIRED BY THIS PART.

Sec. ~~25~~ 62517. ~~(1) Except as provided in subsection (2)~~ ~~a~~ A person who violates this ~~act shall be~~ PART IS subject to a fine of not more than $1,000.00, and each day that the violation continues ~~shall constitute~~ CONSTITUTES a separate offense. The penalty shall be recovered by suit brought by the supervisor OF MINERAL WELLS. A person aiding in a violation of this ~~act~~ PART or a rule promulgated ~~pursuant to~~ UNDER this ~~act shall be~~ PART IS subject to the same penalties as prescribed in this ~~subsection, except for a person aiding in a violation of section 8(2)~~ SECTION.

~~(2) A member of the board who intentionally violates section 8(2) shall be subject to the penalties prescribed in Act No. 267 of the Public Acts of 1976.~~

Sec. ~~26~~ 62518. ~~The provisions of this act shall~~ THIS PART DOES not apply to wells drilled under the authority of ~~Act No. 61 of the Public Acts of 1939, as amended, being sections 319.1 to 319.27 of the Compiled Laws of 1948; Act No. 326 of the Public Acts of 1937, as amended, being sections 319.51 to 319.82 of the Compiled Laws of 1948; Act No. 294 of the Public Acts of 1965, being sections 325.221 to 325.240 of the Compiled Laws of 1948; or Act No. 98 of the Public Acts of 1913, as amended, being sections 325.201 to 325.214 of the Compiled Laws of 1948~~ PART 41 OR PART 615. This ~~act shall~~ PART DOES not ~~be construed to~~ supersede or contravene any of the provisions of ~~Act No. 245 of the Public Acts of 1929, as amended~~ PART 81.

~~Part 627. Plugging Abandoned Salt Wells~~

~~SUBCHAPTER 4: MINERAL MINING~~

~~Part 631. Reclamation of Mining Lands~~

SUBCHAPTER 4: MINERAL MINING

PART 631 RECLAMATION OF MINING LANDS

Sec. ~~1~~ 63101. As used in this ~~act~~ PART:

~~(a) "Department" means the department of natural resources.~~

(A) ~~(h)~~ "Mineral" means coal, gypsum, stone, metallic ore, or material mined for its metallic content and other similar solid material or substance to be excavated from natural deposits on or in the earth for commercial, industrial, or construction uses. ~~It~~ MINERAL does not include clay, gravel, marl, peat, or sand.

(b) "Mining area" or "area subjected to mining" means an area of land from which material is ~~hereafter~~ removed in connection with the production or extraction of minerals by open pit mining methods, the lands on which material from ~~such~~ THAT mining is ~~hereafter~~ deposited, the lands on which beneficiating or treatment plants and auxiliary facilities are ~~hereafter~~ located, the lands on which the water reservoirs used in the mining process are ~~hereafter~~ located, and auxiliary lands which are ~~hereafter~~ used.

(C) ~~(i)~~ "Open pit mining" means the mining of a mineral in the regular operation of a business by removing the overburden lying above natural deposits ~~thereof~~ OF THE MINERAL and mining directly from the natural deposits ~~thereby~~ THUS exposed or by

mining directly from deposits lying exposed in their natural state. ~~It~~ OPEN PIT MINING does not include excavation or grading preliminary to a construction project ~~nor~~ OR borrow operations for highway constructions.

(D) ~~(c)~~ "Operator" means an owner or lessee of mineral rights engaged in or preparing to engage in mining operations with respect thereto for the production of mineral products.

(E) ~~(d)~~ "Person" means an individual, corporation, company, association, joint venture, partnership, receiver, trustee, guardian, executor, administrator, personal representative, or private organization.

(F) ~~(e)~~ "Stockpile" means material, including, but not limited to, surface overburden, rock, or lean ore, which in the process of mining and beneficiation or treatment has been removed from the earth and stored on the surface, ~~thereof,~~ but excluding ~~therefrom~~ materials ~~which~~ THAT are ~~in the course of~~ being treated in the production of mineral products and the mineral product ~~which~~ THAT has been produced by ~~such~~ THAT operation.

(G) ~~(f)~~ "Supervisor OF RECLAMATION" means the ~~chief of the geological survey division of the department of natural resources~~ STATE GEOLOGIST.

(H) ~~(g)~~ "Tailings basin" means land on which is ~~hereafter~~ deposited by hydraulic means the material ~~which~~ THAT is separated from the mineral product in the beneficiation or treatment of minerals including any surrounding dikes constructed to contain the material.

Sec. ~~2~~ 63102. The supervisor OF RECLAMATION shall conduct a comprehensive study and survey ~~in order~~ to determine, consistent with the intent of this ~~act~~ PART, the extent and type of regulation of mining areas necessary in the public interest. The supervisor OF RECLAMATION shall consider ~~the effects of mining upon~~ ALL OF THE FOLLOWING:

(a) THE EFFECTS OF MINING UPON THE environment. ~~,~~

(b) THE EFFECTS OF MINING UPON future use of the land upon completion of mining. ~~, and~~

(c) THE EFFECTS OF MINING UPON wise use and protection of the natural resources, including, but not limited to, the control of erosion, the prevention of land or rock slides, and air and water pollution. ~~The supervisor also shall consider (a)~~

(D) THE future and economic ~~effect~~ IMPACT of ~~such~~ THE regulations upon mine operators and landowners, the surrounding communities, and this state. ~~, (b)~~

(E) THE effect OF REGULATION on employment in this state. ~~, (c)~~

(F) THE effect OF REGULATION on the future mining and development of metallic minerals. ~~, and (d)~~

(G) THE practical problems of mine operators and mineral owners.

Sec. ~~3~~ 63103. On completion of the study and survey PROVIDED FOR IN SECTION 63102, the ~~supervisor~~ DEPARTMENT may promulgate rules pertaining to mining operations conducted subsequent to their effective date and subject to the provisions of any rights existing pursuant to any permit, license, lease, or

other valid existing authorization issued by a governmental entity, and subject to applicable mine safety laws or rules for the following purposes:

(a) The sloping, terracing, or other practical treatment of stockpiles and tailings basins where erosion is occurring or is likely to occur ~~which~~ THAT results or may result in injury or damage to fish and wildlife ~~,~~ OR the pollution of public waters ~~,~~ or ~~which~~ THAT is causing or might cause injury to the property or person of others.

(b) The vegetation or other practical treatment of tailings basins and stockpiles upon becoming permanently inactive where substantial natural vegetation is not expected within 5 years and where research reveals that vegetation can reasonably be accomplished within practical limitations.

(c) The stabilization of the surface overburden banks of open pits in rock and the entire bank of open pits in unconsolidated materials upon their abandonment.

(d) The cleanup of plantsite and mining areas and the removal of debris ~~therefrom~~ FROM THOSE AREAS on termination of the mining operation.

Sec. ~~4~~ 63104. ~~(1) The rules shall be promulgated in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948. (2)~~ The supervisor OF RECLAMATION, on application by the landowner or operator, may modify or permit variance from the rules promulgated ~~hereunder~~ UNDER THIS PART

if ~~he~~ THE SUPERVISOR OF RECLAMATION determines that ~~such~~ THE modification or variance is not contrary to the public interest.

Sec. ~~5~~ 63105. The supervisor OF RECLAMATION shall administer and enforce this ~~act~~ PART and the rules promulgated ~~pursuant hereto~~ UNDER THIS PART. ~~He~~ THE SUPERVISOR OF RECLAMATION may DO ANY OF THE FOLLOWING:

(a) ~~consult~~ CONSULT with and obtain the assistance of the other divisions of the department. ~~,~~

(b) ~~enter~~ ENTER on the mining areas in connection with any investigation and inspection without liability to the operator or landowner if reasonable prior notice of ~~his~~ THE intention to do so has been given TO the operator or landowner. ~~, and~~

(c) ~~conduct such~~ CONDUCT research or enter into contracts related to mining areas and the reclamation ~~thereof~~ OF MINING AREAS as may be necessary to ~~carry out the provisions of section 2 to section 5~~ IMPLEMENT THIS PART.

Sec. ~~6~~ 63106. For the purpose of information and to assist the supervisor OF RECLAMATION in proper enforcement of ~~such~~ rules PROMULGATED UNDER THIS PART, an operator ~~, within 120 days after the effective date of the act,~~ shall file with the supervisor OF RECLAMATION a plan map in the form determined by the supervisor OF RECLAMATION showing all existing mining areas or areas subjected to mining by the operator. Annually thereafter, on or before March 15, the operator shall file a plan map in similar form showing any changes made during the preceding calendar year and the mining area ~~which he~~ THAT THE OPERATOR anticipates will be subjected to mining during the current

calendar year. The supervisor OF RECLAMATION periodically shall ascertain the long-range land environment plans of the operator.

Sec. ~~7~~ 63107. The supervisor OF RECLAMATION, if he OR SHE has reasonable doubts as to an operator's financial ability to comply with the rules PROMULGATED UNDER THIS PART as to actions to be taken after completion of mining operations or any phase ~~thereof~~ OF MINING OPERATIONS, may require an operator to furnish a performance bond or other security or assurance satisfactory to the supervisor OF RECLAMATION. The supervisor OF RECLAMATION may postpone furnishing of the bond, security, or assurance depending upon the life of the mining operation.

Sec. ~~8~~ 63108. At the request of the supervisor OF RECLAMATION, the attorney general may institute an action in a circuit court of the county in which the mining operation affected is conducted for a restraining order or injunction or other appropriate remedy to prevent or preclude a violation of the terms and conditions of any rule promulgated ~~hereunder~~ UNDER THIS PART.

~~Part 633. Mineral Mining~~

PART 633 MINERAL MINING

Sec. ~~2~~ 63301. The following words and terms as used in this ~~act shall each~~ PART have the meaning ascribed to them in this section:

(A) ~~(b)~~ "Mineral", ~~the term mineral,~~ when employed in a conveyance, ~~is understood to include~~ INCLUDES every inorganic substance that can be extracted from the earth for profit whether it ~~be~~ IS solid, as rock, fire clay, the various metals, and

coal, or fluid, as mineral waters. ~~except oil and gas.~~ MINERAL DOES NOT INCLUDE OIL OR GAS.

(B) ~~(a)~~ "Person" means any natural person, corporation, association, partnership, receiver, trustee, judiciary or common law trust, guardian, executor, administrator, or fiduciary of any kind.

(c) ~~The term "royalty~~ "ROYALTY interest" means that share of the product or profit ~~which~~ THAT the owner of the land or mineral rights in ~~such~~ THE land ~~,~~ reserves or is entitled to, whether under a lease or under ~~the provisions of~~ this ~~act~~ PART, in consideration of permitting the development of the mineral rights. ~~except oil and gas.~~ ROYALTY INTEREST DOES NOT INCLUDE OIL OR GAS OR INTERESTS IN OIL OR GAS.

~~(d) The singular shall include the plural and the plural shall include the singular. Each of the genders shall include each of the other genders.~~

Sec. ~~1~~ 63302. Whenever lands or mineral rights in lands in this state are owned by tenants in common, joint owners, co-tenants, or co-parceners, whether ~~such~~ title is derived by purchase, devise, ~~or~~ descent, or otherwise, or whether OR NOT any or all of the owners are minors, ~~or of full age, such~~ THE tenants in common, joint owners, co-tenants, or co-parceners ~~as~~ WHO hold not less than 3/4 interest in the title to ~~such~~ THE lands or mineral rights in ~~such~~ THE lands ~~, shall be authorized to~~ MAY explore, drill, mine, develop, and operate ~~such~~ THE lands for mining purposes, except FOR oil and gas, and MAY remove and transport the minerals or mineral products from ~~such~~

THE lands or store the ~~same~~ MINERALS OR MINERAL PRODUCTS on ~~said~~ THE lands and sell and dispose of the ~~same~~ MINERALS AND MINERAL PRODUCTS in the manner ~~hereinafter~~ provided FOR IN THIS PART.

Sec. ~~3~~ 63303. The owner or owners of not less than 3/4 in interest desiring to lease ~~said lands~~ LAND or ~~their~~ THE mineral rights ~~therein~~ IN THE LAND for mining purposes, ~~other than~~ EXCEPT FOR oil and gas, or desiring to explore, drill, develop, or operate ~~said lands~~ THE LAND for minerals or mineral products and to remove ~~such~~ THE minerals or mineral products ~~therefrom~~ FROM THE LAND, may file a ~~bill of~~ complaint in a circuit court ~~in chancery of~~ FOR the county in which ~~such lands,~~ THE LAND or ~~some~~ A part ~~thereof are~~ OF THE LAND IS located, to obtain a decree of the court authorizing ~~them~~ THE OWNER OR OWNERS to lease ~~said lands~~ THE LAND or ~~their~~ THE mineral rights or TO explore, drill, mine, develop, and operate ~~said lands~~ THE LAND for mining purposes, except FOR oil and gas, and remove and transport minerals or mineral products ~~therefrom~~ FROM THE LAND or store the ~~same thereon~~ MINERALS OR MINERAL PRODUCTS ON THE LAND

~~Part 637. Sand Dune Mining~~ of all owners ~~thereof~~ OF THE LAND. ~~Such bill of~~ THE complaint shall set forth the relevant facts and the interests ~~therein~~ of all persons ~~, so far as the same~~ TO THE EXTENT THESE are known to ~~such~~ THE plaintiffs.

Sec. ~~4~~ 63304. If the court ~~shall find~~ FINDS that the material ~~averments~~ ASSERTIONS of the ~~bill of~~ complaint are true ~~,~~ and that the plaintiffs do ~~in fact~~ own the required

interest in ~~such lands~~ THE LAND or mineral rights as joint tenants, tenants in common, co-tenants, or co-parceners, or that the required proportion in interest of such owners consent to the granting of the relief prayed in ~~such bill of~~ THE complaint, ~~then~~ the court shall enter a decree authorizing the plaintiffs to lease for exploring, drilling, mining, and operating ~~said lands~~ THE LAND for mining purposes, except FOR oil and gas, and to remove ~~such~~ THE minerals or mineral products from ~~such lands~~ THE LAND and sell or dispose of ~~same~~ THE MINERALS OR MINERAL PRODUCTS so as to realize the full value ~~thereof~~ OF THE MINERALS OR MINERAL PRODUCTS for the benefit of all ENTITLED parties. ~~entitled thereto.~~ The defendants and minority interest holders, whether owner of fee or royalty interests or their lessees, shall participate in their proportionate share of the proceeds derived from the sale of minerals or mineral products produced from ~~said lands~~ THE LAND. ~~In case~~ IF the court finds that a lease of ~~such~~ A royalty interest should be granted, the terms and conditions of ~~such~~ THE lease shall be fixed by the court in its decree, but the royalty payable to ~~such~~ THE royalty interest shall not be less than 1/10 of the ~~mineral~~ MINERALS or mineral products or the value ~~thereof~~ OF THE MINERALS OR MINERAL PRODUCTS as produced and severed from ~~such lands~~ THE LAND at the point of production. The court shall provide by decree for the disposition by the plaintiffs of the proportionate part of the proceeds from the sale of the defendants' portion of the minerals or mineral products produced and SHALL provide for the payment and distribution of the proceeds ~~thereof~~ to the

defendants as their respective interests may appear, after deduction of the proportionate costs of ~~such~~ THE proceedings and those other expenses incurred by the plaintiffs ~~which~~ THAT are approved by the court.

Sec. ~~5~~ 63305. If the whereabouts of any of the defendants is unknown, the court may require the plaintiffs to deposit ~~such~~ THOSE defendants' share of the net proceeds from minerals or mineral products with the clerk of the court, to be held for ~~said~~ THE defendants, as the court may direct.

Sec. ~~6~~ 63306. ~~In case~~ IF a person or persons ~~,~~ holding not less than a 3/4 interest in ~~such lands,~~ THE LAND has or have executed a mineral lease or leases to any person, ~~firm or corporation, such~~ THE lessee or lessees may institute and maintain or defend any suit provided for by this ~~act~~ PART, either in the name of ~~such~~ THE lessee or in the name of his OR HER lessor.

~~Part 635. Surface and Underground Coal Mine Reclamation~~

PART 635 SURFACE AND UNDERGROUND COAL MINE RECLAMATION

~~ARTICLE~~ SUBPART 1. GENERAL PROVISIONS

~~Sec. 101. This act shall be known and may be cited as the "Michigan surface and underground mine reclamation act".~~

Sec. ~~103~~ 63501. For the purposes of this ~~act~~ PART, the words and phrases defined in sections ~~104~~ 63502 and ~~105~~ 63503 have the meanings ascribed to them in those sections.

Sec. ~~104~~ 63502. (1) "Agricultural land" includes any of the following as ~~defined~~ DETERMINED by the ~~inventory advisory committee created by the Michigan resource inventory act, Act~~

~~No. 204 of the Public Acts of 1979, being sections 321.201 to 321.213 of the Michigan Compiled Laws~~ DEPARTMENT UNDER PART 609:

(a) Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, and fiber crops ~~,~~ and is also available for these uses, including cropland, pastureland, rangeland, ~~forest land~~ FORESTLAND, or other land, but not urban built-up land or water. Prime farmland has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. Prime farmland is permeable to water and air. Prime farmland is not excessively erodible or ~~not~~ saturated with water for a long period of time, and it either does not flood frequently or is protected from flooding.

(b) Unique farmland is land other than prime farmland that is used for the production of specific high-value food and fiber crops. Unique farmland has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields or both high quality and high yields of a specific crop when treated and managed according to acceptable farming methods. Areas ~~which~~ THAT can be classified as unique farmland include organic soils

producing vegetables and specialty crops; high-lying and relatively frost-free fruit sites; and areas of high water table acid soils especially suited to highbush blueberry culture as well as the small areas in the Upper Peninsula copper country ~~which~~ THAT are producing strawberries.

(c) Other farmland is land in addition to prime farmland and unique farmland that has a combination of soils, location, and management characteristics which is PRODUCING or can produce in or for a region food, feed, forage, and fiber crops and is land on which agriculture represents the greatest current economic return from the land. Other farmland includes beef cow-calf operations ~~which~~ THAT occur on generally fine-textured, somewhat poorly drained soils well-suited to forage production and grazing. Cropland areas that by their location are especially suited for the production of disease-free seed crops or ~~which~~ THAT offer special opportunities for integrated best management programs could also be considered other farmland. The determination of whether agricultural land is prime farmland, unique farmland, or other farmland shall be made by the ~~inventory advisory committee created by the Michigan resource inventory act, Act No. 204 of the Public Acts of 1979~~ DEPARTMENT UNDER PART 609 OR THIS PART, with the concurrence of the department of agriculture and the United States department of agriculture.

(2) "Applicant" means a person applying for a permit from the department to conduct surface coal mining activities or underground coal mining activities pursuant to this ~~act~~ PART.

(3) "Approximate original contour" means that surface configuration achieved by THE backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated.

(4) "Coal" means all forms of coal including lignite. Coal does not include clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substance of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal, and those minerals that occur naturally in liquid or gaseous form.

(5) "Coal exploration operation" means the substantial disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of a coal deposit.

~~(6) "Department" means the department of natural resources or an authorized representative of the department of natural resources.~~

(6) ~~(7)~~ "Eligible land and water" means all land that was mined for coal or was affected by that mining, wastebanks, coal processing, or other coal mining processing, and abandoned or left in an inadequate reclamation status under the standards provided in ~~articles~~ SUBPARTS 3 and 4 prior to August 3, 1977, and for which there is ~~no~~ NOT A continuing reclamation responsibility under state or federal law.

(7) ~~(8)~~ "Historic resource" means a district, site, building, structure, or object of historical, architectural, archeological, or cultural significance ~~which~~ THAT meets any of the following requirements:

(a) ~~Designated~~ IS DESIGNATED as a national historic landmark pursuant to the historic sites, buildings, and antiquities act, CHAPTER 593, 49 STAT. 666, 16 U.S.C. 461 to 467.

(b) ~~Listed~~ IS LISTED on the national register of historic places pursuant to the national historic preservation act, ~~16 U.S.C. 470 to 470w-6~~ PUBLIC LAW 89-665, 16 U.S.C. 470 TO 470a, 470b, AND 470c TO 470x-6; or the state register of historic sites pursuant to Act No. 10 of the Public Acts of 1955, being sections 399.151 to 399.152 of the Michigan Compiled Laws.

(c) ~~Recognized~~ IS RECOGNIZED under a locally established historic district created pursuant to THE LOCAL HISTORIC DISTRICTS ACT, Act No. 169 of the Public Acts of 1970, being sections 399.201 to 399.212 of the Michigan Compiled Laws.

(d) ~~Eligible~~ IS ELIGIBLE for listing, designation, or recognition under subdivisions (a) to (c).

(8) ~~(9)~~ "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this ~~act~~ PART in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before

abatement exists if a reasonable person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(9) ~~(10)~~ "Local unit of government" means a county, city, township, or village; a board, commission, or authority of a county, city, township, or village; or a soil conservation district.

(10) ~~(11)~~ "Operator" means a person engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth by coal mining within 12 consecutive calendar months in any 1 location.

Sec. ~~105~~ 63503. (1) "Permit" means a permit ~~,~~ issued by the department ~~,~~ to conduct surface coal mining and reclamation operations.

(2) "Permit area" means the area of land indicated on the approved map submitted by the operator with the operator's application, which area of land ~~shall be~~ IS covered by the operator's bond required by section ~~502~~ 63529 and ~~shall be~~ IS readily identifiable by appropriate markers on the site.

(3) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations or underground mining activities pursuant to this ~~act~~ PART.

~~(4) "Person" means an individual, partnership, corporation, business, governmental agency, or other legal entity.~~

(4) ~~(5)~~ "Reclamation plan" means a plan submitted by an applicant which provides a plan for reclamation of the proposed surface coal mining operations pursuant to section ~~305~~ 63518.

(5) ~~(6)~~ "Soil conservation district" means a soil conservation district established and operating pursuant to ~~Act No. 297 of the Public Acts of 1937, being sections 282.1 to 282.16 of the Michigan Compiled Laws~~ PART 93.

(6) ~~(7)~~ "Surface coal mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of those operations conducted in this state after August 3, 1977.

(7) ~~(8)~~ "Surface coal mining operations" means:

(a) Activities conducted in this state on the surface of any land in connection with a surface coal mine or subject to the requirements of section ~~601~~ 63532 incident to an underground coal mine. These activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area and any other areas impacted by the surface coal mining operation mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site.

(b) The areas on which ~~such~~ activities DESCRIBED IN SUBDIVISION (A) occur or where ~~such~~ THOSE activities disturb the natural land surface, including adjacent land the use of which is incidental to those activities; all land affected by the

construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage; and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas on which are sited structures ~~,~~ OR facilities; or other property or materials on the surface, resulting from or incident to those activities.

(8) "SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977" MEANS PUBLIC LAW 95-87, 91 STAT. 445.

(9) "TITLE IV OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977" MEANS TITLE IV OF PUBLIC LAW 95-87, 30 U.S.C. 1231 TO 1243.

(10) ~~(9)~~ "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his or her permit or any requirement of this ~~act~~ PART due to indifference, lack of diligence, OR lack of reasonable care ~~,~~ or the failure to abate any violation of his or her permit or this ~~act~~ PART due to indifference, lack of diligence, or lack of reasonable care.

Sec. ~~102~~ 63504. Pursuant to the authority granted in section 503 of TITLE V OF the surface mining control and reclamation act of 1977, PUBLIC LAW 95-87, 30 U.S.C. 1253, that allows a state to assume and retain exclusive jurisdiction over the regulation of surface coal mining and reclamation operations within that state by obtaining approval of a state program that has the

capability of implementing and enforcing the provisions and purposes of the surface mining control and reclamation act of 1977, ~~Public Law 95-87,~~ this state wishes to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations in this state. It is the purpose of this ~~act~~ PART to provide a state plan to implement and enforce the purposes provided in section 102 of TITLE I OF the surface mining control and reclamation act of 1977, PUBLIC LAW 95-87, 30 U.S.C. 1202.

Sec. ~~106~~ 63505. The department has exclusive jurisdiction over all surface coal mining and reclamation operations in this state. This ~~act~~ PART shall not be construed as preempting a zoning ordinance enacted by a local unit of government or impairing a land use plan adopted pursuant to a law of this state by a local unit of government.

Sec. ~~107~~ 63506. To implement this ~~act~~ PART, the department has the following powers:

(a) To promulgate and enforce rules pertaining to surface coal mining and reclamation operations consistent with the general intent and purposes of this ~~act~~ PART.

(b) To issue permits pursuant to this ~~act~~ PART.

(c) To conduct hearings pursuant to this ~~act~~ PART and the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws.

(d) To issue orders requiring an operator to take actions that are necessary to comply with this ~~act~~ PART and with rules promulgated ~~pursuant to~~ UNDER this ~~act~~ PART.

(e) To issue orders modifying previous orders.

(f) To issue a final order revoking the permit of an operator who has failed to comply with an order of the department requiring the operator to take action required by this ~~act~~ PART or rules promulgated ~~pursuant to~~ UNDER this ~~act~~ PART.

(g) To order the immediate cessation of an ongoing surface mining operation or part of an ongoing surface mining operation if the department finds that the operation or part of the operation creates an imminent danger to the health ~~or~~ AND safety of the public, or is causing or can reasonably be expected to cause significant imminent harm to land, air, or water resources, and to take other action or make changes in a permit that are reasonably necessary to avoid or alleviate these conditions.

(h) To enter on and inspect a surface mining operation that is subject to this ~~act~~ PART to assure compliance with this ~~act~~ PART.

(i) To conduct, encourage, request, and participate in studies, surveys, investigations, research, experiments, training, and demonstrations by contract, grant, or otherwise.

(j) To prepare and require permittees to prepare reports.

(k) To accept, receive, and administer grants pursuant to section 407(e) of TITLE IV OF the surface mining control and reclamation act of 1977 ~~, 30 U.S.C. 1237,~~ AND accept, receive, and

administer grants, gifts, loans, or other funds made available from any other source for the purposes of this ~~act~~ PART.

(*l*) To take those steps necessary to ensure that the state may participate to the fullest extent practicable in the abandoned land program provided in title IV of the surface mining control and reclamation act of 1977. ~~, 30 U.S.C. 1231 to 1243.~~

(m) To take those actions necessary to establish exclusive jurisdiction over surface coal mining and reclamation in this state under the provisions of this ~~act~~ PART and the surface mining control and reclamation act of 1977, ~~Public Law 95-87, 91 Stat. 445,~~ including, in the event the federal administrative agency disapproves this state's program as submitted, making recommendations for remedial legislation to clarify, alter, or amend the program to meet the terms of the surface mining control and reclamation act of 1977. ~~, Public Law 95-87, 91 Stat. 445.~~

(n) To enter into contracts with other state agencies that have pertinent expertise to obtain the professional and technical services necessary to ~~carry out the provisions of~~ IMPLEMENT this ~~act~~ PART.

(o) To establish a process, in order to avoid duplication, for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any other federal or state permit process applicable to the proposed operations.

(p) To enter into cooperative agreements with the secretary of the United States department of the interior for the regulation of surface coal mining operations on federal land in

accordance with the surface mining control and reclamation act of 1977. ~~, Public Law 95-87, 91 Stat. 445.~~

(q) To perform any other duties and acts required by and provided for in this ~~act~~ PART.

Sec. ~~108~~ 63507. (1) The department shall promulgate rules pertaining to surface coal mining and reclamation operations that are required by this ~~act~~ PART.

~~(2) The promulgation of rules and the issuance of permits provided for in this act shall be pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws.~~

(2) ~~(3)~~ A rule promulgated or a permit issued by the department may differ in its terms and provisions as to particular permit conditions, types of coal being extracted, particular areas of the state, or any other conditions that appear relevant and necessary if the action taken is consistent with attainment of the general intent and purposes of this ~~act~~ PART.

Sec. ~~109~~ 63508. Except when confidentiality is provided in this ~~act~~ PART, information submitted to the department, other state agency, or local unit of government pursuant to this ~~act~~ PART shall be a public record as provided in the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. Information ~~which~~ THAT pertains only to the analysis of the chemical and physical properties of coal, excepting information regarding such mineral or elemental content ~~which~~ THAT is potentially toxic in the environment, or information ~~which~~ THAT

pertains to the exact location of archeological sites shall be kept confidential and ~~shall~~ IS not ~~be~~ a public record. The department shall promulgate rules establishing a procedure to determine whether information ~~which~~ THAT pertains only to the analysis of the chemical and physical properties of the coal shall be kept confidential.

~~ARTICLE~~ SUBPART 2. ABANDONED MINE RECLAMATION

Sec. ~~201~~ 63509. The department is authorized to take all action necessary to ensure participation to the fullest extent practicable in the abandoned mines reclamation fund established by title IV of the surface mining control and reclamation act of 1977, ~~30 U.S.C. 1231 to 1243,~~ and to function as the state's agency for that participation relative to coal mining. Pursuant to this ~~act~~ PART and title IV of the surface mining control and reclamation act of 1977, ~~30 U.S.C. 1231 to 1243,~~ the department shall establish procedures for the designation of the land and water eligible for reclamation or abatement expenditures; for the submission of reclamation plans, annual projects, and applications to the appropriate authorities pursuant to the terms of this ~~act~~ PART and title IV of the surface mining control and reclamation act of 1977; ~~, 30 U.S.C. 1231 to 1243;~~ and for the administration of all money received for abandoned mine reclamation or related purposes.

Sec. ~~202~~ 63510. (1) The state abandoned mine reclamation fund is created in the state treasury and shall be administered by the department. The state treasurer shall direct the investment of money in the fund. The interest and earnings of

the fund shall be used exclusively for the purposes specified in subsection (4).

(2) The following money shall be deposited in the fund:

(a) All funds from the application fees imposed under ~~article~~ SUBPART 3, the inspection and reclamation fees imposed under ~~article~~ SUBPART 9, and the civil fines imposed under ~~article~~ SUBPART 8.

(b) All funds made available to the department for the purposes specified in subsection (4) pursuant to title IV of the surface mining control and reclamation act of 1977. ~~, 30 U.S.C. 1231 to 1243.~~

(c) All funds which may be donated to the department for the purposes specified in subsection (4) by ~~an individual, association, corporation, charitable organization, or private foundation or trust~~ ANY PERSON.

(3) Any money remaining in the fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years and shall only be used for the purposes specified in subsection ~~4~~ (4). ~~Pursuant to section 10 of Act No. 98 of the Public Acts of 1919, being section 21.10 of the Michigan Compiled Laws, money in the fund shall not be credited to or revert to the general fund.~~

(4) Expenditure of money from the state abandoned mine reclamation fund shall be made as follows:

(a) Money that is deposited in the fund under subsection (2)(b) shall reflect the following priorities in the order stated:

(*i*) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices.

(*ii*) The protection of public health, safety, and general welfare from adverse effects of coal mining practices.

(*iii*) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil; water, excluding channelization; woodland, fish, and wildlife; recreation resources; and agricultural productivity.

(*iv*) Research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques.

(*v*) The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices.

(*vi*) The development of publicly owned land adversely affected by coal mining practices including land acquired as provided in this ~~title~~ PART for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.

(b) Money that is deposited in the fund under subsection (2)(a) or (c) for any of the expenditures authorized in subdivision (a) and for any other purpose of this ~~act~~ PART including the cost of administering this ~~act~~ PART.

Sec. ~~203~~ 63511. (1) The department may, in the manner provided in this section, enter on private property for the

purposes of conducting an investigation, inspection, study, or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of those adverse effects.

(2) The department may enter on property as provided in subsection (3) if all of the following conditions exist:

(a) The land or water resources on the property have been adversely affected by past coal mining practices.

(b) The adverse effects to land or water resources on the property are at a stage where, in the public interest, action should be taken to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

(c) The department gives notice by certified mail, return receipt requested, to the record owner or owners of the property requesting permission to enter on the property.

(d) The owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known, or readily identifiable; or the owners of the property will not give permission, after receiving notice under subdivision (c), for the state or local unit of government to enter on the property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

(3) After giving notice by certified mail, return receipt requested, to the record owner or owners of the property; posting notice on the property; and advertising for 4 consecutive weeks

in a newspaper of general circulation in the county in which the property is located, the department may enter on property adversely affected by the past coal mining practices and any other property necessary to have access to the property to take those actions necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. The money expended to restore, reclaim, abate, control, or prevent the adverse effects and the benefits accruing to the property entered on ~~shall be~~ IS chargeable against the land and shall mitigate or offset any claim in an action brought by the owner of any interest in the property for damages by virtue of the entry. This subsection is not intended to create new rights of action or eliminate existing immunities.

(4) The department may acquire land by purchase, donation, or condemnation that is adversely affected by past coal mining practices if the department determines that acquisition of the land is in the public interest, is necessary to successful reclamation, and ~~any of the following apply~~ EITHER SUBDIVISION (A) OR (B) APPLIES:

(a) The acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, conservation and reclamation purposes, or provide open space benefits; and ~~(b) Permanent~~ PERMANENT facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement,

control, or prevention of the adverse effects of past coal mining practices. ~~; or~~

(B) ~~(c)~~ Acquisition of coal refuse disposal sites and all coal refuse on the acquired land will serve the purposes of this section or is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

(5) The price paid for land acquired pursuant to this section shall reflect the market value of the land taking into consideration its current use and its condition as adversely affected by past coal mining practices.

(6) ~~(5)~~ If land acquired pursuant to this section is considered suitable for agricultural, industrial, commercial, residential, or recreational development, the state may sell or transfer the land pursuant to rules promulgated by the department and procedures provided by law to ensure that the land is put to proper use consistent with the land use plans of local units of government. If a grant accepted pursuant to section ~~107(k)~~ 63506(K) is involved in the acquisition of the land to be sold, the land may be sold only when authorized by the secretary of the United States department of the interior. The department shall hold a public hearing in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws, in the county or counties of the state in which land acquired pursuant to this section is located. The hearings shall afford local citizens and local units of government an opportunity to participate in the decision

concerning the use or disposition of the land after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

Sec. ~~204~~ 63512. (1) Within 6 months after the completion of a project to restore, reclaim, abate, control, or prevent the adverse effects of past mining practices on privately owned property, the department shall itemize the money expended to complete the project and shall file an account of the money expended with the clerk of the county in which the property is located, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention ~~,~~ of the adverse effects of past mining practices if the money so expended will result in a significant increase in property value. The filing of lis pendens with a copy of the statement of account and the appraisal ~~shall constitute~~ CONSTITUTES a lien on the land second in priority only to a lien for delinquent property taxes placed on the property pursuant to section 40 of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.40 of the Michigan Compiled Laws. The lien shall not exceed the amount of the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past mining practices. A lien shall not be filed against the property of a person who was a record owner of the surface rights in the property prior to May 2, 1977, and who did not consent to, participate in, or exercise control over the mining operation that necessitated the restoration,

reclamation, abatement, control, or prevention of the adverse effects of past mining practices.

(2) An affected landowner may petition the department within 60 days of the filing of the lien for a hearing concerning the amount of the lien. That hearing and any appeal shall be conducted under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

Sec. ~~205~~ 63513. (1) The department ~~is authorized to spend~~ MAY EXPEND money from the state abandoned mine reclamation fund created by section ~~202~~ 63510 for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices on eligible land, if the department finds that all the following conditions exist:

(a) An emergency exists constituting a danger to the public health, safety, or general welfare.

(b) No other person, state agency, or local unit of government has commenced actions or operations on the eligible land to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

(2) The department may enter on any land where the emergency exists and any other land necessary to have access to the land where the emergency exists to take those actions necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices and to do all things necessary or expedient to protect the public health, safety, or general welfare, if the department has obtained a warrant

authorizing that entry. Entry pursuant to this subsection is an exercise of the police power and not an act of condemnation or trespass. If the owner of any interest in the property brings an action for damages because of an entry made pursuant to this subsection, the money expended to restore, reclaim, abate, control, or prevent the adverse effects and the benefits accruing to the property entered on ~~shall be~~ IS chargeable against the land and shall mitigate or offset any claim in that action. This subsection ~~is~~ DOES not ~~intended to~~ create new rights of action or eliminate existing immunities.

~~ARTICLE~~ SUBPART 3. PERMITS

Sec. ~~301~~ 63514. (1) A person shall not conduct a surface coal mining operation in this state without a permit for that operation issued by the department pursuant to this ~~act~~ PART.

(2) Not later than 2 months following approval by the federal government of this state's program under ~~the terms of~~ the surface mining control and reclamation act of 1977, ~~Public Law 95-87, 91 Stat. 445,~~ regardless of litigation contesting that approval or implementation, all operators of surface coal mines engaged in surface coal mining operations before ~~the effective date of this act~~ OCTOBER 12, 1982, shall file an application for a permit with the department. The application shall cover all land to be mined.

(3) ~~In the event of disapproval of this state's program by~~ IF the federal government DISAPPROVES OF THIS STATE'S PROGRAM and prior to promulgation of a federal program or a federal land program for this state, permits shall not be issued by the

department, but the existing surface coal mining operations may continue. Permits that lapse during the period may continue in full force and effect until promulgation of a federal program or a federal land program.

Sec. ~~302~~ 63515. (1) Permits issued pursuant to this ~~act shall be~~ PART ARE for a term not to exceed 3 years, except that if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and to open the operation, and if the application is full and complete for the specified longer term, the department may grant a permit for that longer term. A successor in interest to a permittee who applies for a new permit within 30 days of succeeding to that interest and who is able to obtain the same bond coverage pursuant to ~~article~~ SUBPART 5 as the original permittee may continue the surface coal mining and reclamation plan of the original permittee until the successor's application is granted or denied.

(2) A permit shall terminate if the permittee has not commenced the surface coal mining operation covered by the permit within 2 years after commencement of the period for which the permit is issued. However, upon application by the permittee, the department may grant reasonable extensions of time, not to exceed 6 months each, to commence a surface coal mining operation if the permittee demonstrates either of the following:

(a) The extension is necessary because the commencement of the operation has been enjoined by a court of competent jurisdiction.

(b) The extension is necessary because of conditions beyond the control and without the fault or negligence of the permittee.

~~In the case of~~ FOR a coal lease issued under ~~the mineral lands leasing act,~~ chapter 85, 41 Stat. 437, 30 U.S.C. 181 TO 184, 185 TO 188, 189 TO 191, 192, 193, 195, 201, 202 TO 203, 205 TO 208-2, 209, 211 TO 214, 223, 224 TO 226, 226-2 TO 226-3, 228 TO 229a, 241, 251, AND 261 TO 263, COMMONLY KNOWN AS THE MINERAL LANDS LEASING ACT OF 1920, the department shall not grant extensions of time that extend beyond the period allowed for diligent development under section 7 of CHAPTER 85, 41 STAT. 439, COMMONLY KNOWN AS the mineral lands leasing act OF 1920, 30 U.S.C. 207.

Sec. ~~303~~ 63516. (1) The permit application shall be submitted to the department and shall contain all of the following:

(a) The names and addresses of the following persons:

(*i*) The applicant.

(*ii*) All legal owners of record of the property, surface or mineral, to be mined.

(*iii*) The holders of record of any leasehold interest in the property to be mined.

(*iv*) The purchasers of record under a land contract of the property to be mined.

(*v*) The operator if the operator is a person other than the applicant.

(*vi*) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or

person performing a function similar to a director, of the applicant; the name and address of any person owning ~~of~~ of record 10% or more of any class of voting stock of the applicant; and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States within the 5-year period preceding the date of submission of the application.

(b) The names and addresses of the owners of record of all surface and subsurface areas adjacent to the permit area.

(c) A statement of any current or previous surface coal mining permits held by the applicant including permit identification, and any pending application.

(d) Information concerning ownership and management of the applicant or operator required by the department by rule.

(e) A statement of whether the applicant or any subsidiary, affiliate, or other person controlled by or under common control with the applicant has ever held a federal, state, or local mining permit which in the 5-year period prior to the date of submission of the application has been suspended or revoked or whether that person has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved.

(f) A copy of an advertisement to be published in a newspaper of general circulation in the locality of the proposed site for 4 consecutive weeks, that indicates the ownership and a description of the location and boundaries of the proposed site sufficiently so that the proposed operation may be readily

located, and a statement that the application is available for public inspection at the office of the county clerk of each county in which the proposed permit area is located.

(g) A description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used in the mining operation.

(h) The anticipated or actual starting and termination dates of each phase of the mining operation and THE number of acres of land to be affected by each phase of the mining operation.

(i) An accurate map or plan, to scale determined by the department by rule, filed by the applicant with the department clearly showing the land to be affected as of the date of the application, the area of land within the permit area on which the applicant has the legal right to enter and commence surface mining operations, and those documents on which the applicant bases his or her legal right to enter and commence surface mining operations on the area affected, and whether that right is the subject of pending court litigation.

(j) Identification of the watershed and location of the surface streams, tributaries, groundwaters, and county and intercounty drains into which surface, pit drainage, or other waters from the mining operation will be discharged.

(k) A determination of the probable hydrologic consequences of the mining and reclamation operation, if any, both on and off the mine site, with respect to the hydrologic regime; quantity and quality of water in surface and groundwater systems,

including the dissolved and suspended solids under seasonal flow conditions; and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the department of the probable cumulative impacts of all anticipated mining in the area on the hydrology of the area and particularly on water availability. However, the determination of hydrologic consequences ~~shall~~ IS not ~~be~~ required until existing hydrologic information regarding the general area prior to mining is made available from the appropriate federal or state agency, except that the permit shall not be approved until the information is available and is incorporated into the permit application.

(*l*) The climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, average direction and velocity of prevailing winds, and seasonal temperature ranges.

(m) A statement of the result of test borings or core samplings from the proposed permit area, including logs of the drill holes; the thickness of the coal seam found, and an analysis of the chemical properties of the coal; the sulfur content of any coal seam; a chemical analysis of any potentially acid or toxic-forming sections of the overburden; and a chemical analysis of the stratum lying immediately underneath the coal to be mined. The provisions of this subdivision may be waived by the department with respect to any particular application by a written determination by the department that the information is unnecessary.

(n) A soil survey made or obtained according to standards established by the department of agriculture in order to confirm the exact location of agricultural land, if any, within the proposed permit area. The soil survey shall include the exact location of agricultural land enrolled under ~~the farmland and open space preservation act, Act No. 116 of the Public Acts of 1974, being sections 554.701 to 554.719 of the Michigan Compiled Laws~~ PART 361.

(o) Accurate maps to scale determined by the department by rule clearly showing both of the following:

(*i*) The land to be affected as of the date of application.

(*ii*) All types of information set forth on topographical maps of the United States geological survey of a scale of 1:24,000 or 1:25,000 or larger, including all ~~man made~~ HUMAN-MADE features and significant known archeological sites existing on the date of application.

The map or plan shall, among other things specified by the department, show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas adjacent to the permit area, and the location of all buildings within 1,000 feet of the permit area.

(p) Cross-section maps or plans of the land to be affected to a scale determined by the department by rule, including the actual area to be mined, prepared by or under the direction of and certified by a qualified registered professional engineer, or professional geologist with assistance from experts in related fields such as land surveying and landscape architecture, showing

pertinent elevation and location of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the location of subsurface water, if encountered, and its quality; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined, within the area of land to be affected; existing or previous surface mining limits; the location and extent of any underground mines, including mine openings to the surface; the location of aquifers; the estimated elevation of the water table; the location of spoil, waste, or refuse areas and topsoil preservation areas; the location of all impoundments for waste or erosion control; any settling or water treatment facility; constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; profiles at appropriate cross-sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan; and other information required by the department by rule that is consistent with the purposes of this ~~act~~ PART.

(q) A reclamation plan that meets the requirements of this ~~act~~ PART and the requirements of the zoning ordinances enacted by a local unit of government.

(r) A determination of the impact on historic preservation concerns including all of the following:

(*i*) A statement of available information on whether the proposed permit area is within an area designated unsuitable for surface mining activities due to the potential effect of mining on historic resources ~~,~~ or whether the area is under study for a designation of unsuitability in an administrative proceeding.

(*ii*) A description of the historic resources located within the proposed permit area and adjacent areas. The description shall be based on available information, including data in the possession of state and local archeological, historical, and cultural preservation agencies.

(*iii*) A map showing the boundaries of each historic resource within the permit area and adjacent areas.

(*iv*) An evaluation of the potential adverse ~~affect~~ EFFECT that the proposed surface mining operation will have on historic resources within the proposed permit area and adjacent areas.

A statement indicating whether there are feasible and practicable alternatives to the potential adverse ~~affects~~ EFFECTS on historic resources.

(*vi*) A statement of the measures proposed to prevent, minimize, or mitigate potential adverse ~~affects~~ EFFECTS upon historic resources located within the proposed permit area, including a proposal for recording or salvaging the resources ~~in the event that~~ IF adverse ~~affects~~ EFFECTS cannot be avoided.

The determination required by this subdivision shall include the name, address, and employment position of each person that the applicant consulted in collecting information on historic resources.

(s) An agricultural impact statement ~~which~~ THAT includes all the following:

(*i*) The location and boundaries of the proposed mining operation.

(*ii*) The number of acres to be affected by the proposed mining operation.

(*iii*) The nature and type of agricultural operations to be affected by the proposed mining operation.

(*iv*) The nature and extent of the effect of the proposed mining operation on the agricultural operations, including the number and types of buildings and other facilities ~~which~~ THAT will be affected by the mining operation.

(*v*) The anticipated future effect of the proposed mining operation on adjacent agricultural land ~~which~~ THAT will not be immediately affected by the proposed mining operation.

(*vi*) The anticipated amount of time, in years and months, during which the area affected by the proposed mining operation will be unsuitable for normal agricultural production.

(*vii*) The anticipated amount of time, in years and months, required to restore the area affected by the proposed mining operation to the level of productivity IT HAD before it was affected by the mining operation.

(*viii*) The impact of the proposed mining operation on agriculture generally.

(t) Other data and maps as the department may require by rule that are consistent with the purposes of this ~~act~~ PART.

(2) An applicant for a surface mining and reclamation permit shall submit to the department as part of its application a certificate issued by an insurance company authorized to do business in this state certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which the permit is sought. The policy shall provide for personal injury and property damage protection consistent with the standards established in section ~~501~~ 63528 in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations, including the use of explosives, and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

Sec. ~~304~~ 63517. (1) A permit issued pursuant to this ~~act shall carry with it~~ PART INCLUDES the right of successive renewal on expiration with respect to areas within the boundaries of the existing permit. The permittee may apply for renewal and except as provided in subsection (2) the renewal shall be issued.

(2) ~~Renewal shall not be issued~~ A PERMIT SHALL NOT BE RENEWED if, after a hearing conducted pursuant to section ~~310~~ 63523, it is established and the department makes written findings that any of the following conditions exist:

(a) The terms and conditions of the existing permit are not being satisfactorily met by the permittee.

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this ~~act~~ PART and the approved state plan or federal program pursuant to the surface coal mining and reclamation act of 1977. ~~, Public Law 95-87.~~

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility for reclamation established under this ~~act~~ PART on existing permit areas.

(d) The operator has not provided evidence that the performance bond in effect for the operation or any additional bond the department might require pursuant to section ~~502~~ 63529 will continue in full force and effect for the renewal requested in the application.

(e) Additional revised or updated information required by the department by rule has not been provided by the permittee.

(3) Before the renewal of a permit, the department shall provide notice to the appropriate persons, local units of government, and interested parties.

(4) If an application for renewal of an existing permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application that addresses new land areas ~~shall be~~ IS subject to the full standards applicable to a new application under this ~~act~~ PART.

(5) A permit renewal shall be for a term not to exceed the period of the existing permit established by this ~~act~~ PART.

Application for permit renewal shall be made at least 120 days before the expiration of the existing permit.

Sec. ~~305~~ 63518. The reclamation plan required to be submitted pursuant to this ~~act~~ PART as part of a permit application shall include details necessary to demonstrate that reclamation required by this ~~act~~ PART can be accomplished, and shall include all of the following:

(a) Identification of land subject to the surface coal mining operation over the estimated life of that operation and the size, sequence, and timing of any subareas for which it is anticipated that individual permits for surface coal mining will be sought.

(b) The condition of the land to be covered by the permit prior to any surface coal mining, including:

(*i*) The uses existing at the time of the application ~~,~~ and, if the land has a history of previous mining, the uses that preceded any mining.

(*ii*) The capability of the land, prior to any surface coal mining, to support a variety of uses, giving consideration to soil and foundation characteristics, topography, and vegetative cover and, if applicable, a soil survey prepared pursuant to section ~~303(1)(n)~~ 63516(1)(N).

(*iii*) The productivity of the land prior to mining, based on the average yield of food, fiber, forage, or wood products consistent with productivity of similar lands in this state under best management practices.

(c) The use proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of those uses to applicable land use policies and plans. However, if the use made of the land before mining is agricultural and the use proposed to be made of the land following reclamation is other than that agricultural use, ~~a copy of the permit application shall be transmitted to the Michigan environmental review board created by Executive Order No. 1974-4 for study and recommendation and~~ the permit shall not be approved by the department without the approval of the legislative body of each local unit of government in which land to be reclaimed is located.

(d) A detailed description of how the proposed postmining land use is to be achieved and the necessary support activities that may be needed to achieve that use.

(e) The engineering techniques proposed to be used in mining and reclamation and a description of the major equipment to be used. A plan for the control of surface water drainage and of water accumulation; a plan, ~~where~~ IF appropriate, for backfilling, soil stabilization and compacting, grading, and appropriate revegetation; and a plan for soil reconstruction, replacement, and stabilization, pursuant to the performance standards in section ~~401(2)(g)~~ 63527(2)(G) for food, forage, and forest land identified in that section, and an estimate of the cost per acre of the reclamation, including a statement as to how the permittee

plans to comply with each of the requirements set out in that section.

(f) The actions to be taken to maximize the utilization and conservation of the solid fuel resource being recovered so that mining and any activities related to mining of the land in the future can be minimized.

(g) An estimated timetable for the accomplishment of each major step in the reclamation plan.

(h) The actions to be taken to ~~making~~ MAKE the surface mining and reclamation operations consistent with surface owner plans and applicable land use plans and programs of local units of government.

(i) The actions to be taken to comply with applicable air and water quality laws of this state or the United States, rules and regulations of this state or the United States, or local ordinances ~~,~~ and WITH applicable health and safety standards.

(j) The action to be taken to develop the reclamation plan in a manner consistent with local physical, environmental, and climatological conditions.

(k) The results of test borings that the applicant has made at the proposed permit area or other equivalent information and data in a form satisfactory to the department, including the location of subsurface water, and an analysis of those chemical properties of the coal and overburden that can be expected to have an adverse effect on the environment.

(*l*) An itemized list of land, interests in land, or options on those interests held by the applicant or pending bids BY THE

APPLICANT on interests in land ~~by the applicant, which land is~~ adjacent to the proposed permit area.

(m) A detailed description of the actions to be taken during the mining and reclamation process to assure the protection of ALL OF THE FOLLOWING:

(*i*) The quality of surface and groundwater systems, both on-site and off-site, from adverse effects of the mining and reclamation process and the rights of present users to that water.

(*ii*) The quantity of surface and groundwater systems, both on-site and off-site, from adverse effects of the mining and reclamation process or to provide alternative sources of water where the protection of quantity cannot be assured.

Sec. ~~306~~ 63519. Each applicant for a surface coal mining and reclamation permit shall submit to the department as a part of its application a blasting plan ~~which shall outline~~ THAT OUTLINES the procedures and standards by which the operator will meet the requirements of section ~~401(2)(c)~~ 63527(2)(O).

Sec. ~~307~~ 63520. (1) An applicant for a surface coal mining and reclamation permit shall file a copy of the application with the county clerk of each county in which the mining is proposed to occur and with the township clerk of each township in which the mining is proposed to occur, except for that information in the application pertaining to the coal seam.

(2) Except when confidentiality is provided for in this ~~act~~ PART, a record, report, inspection materials, or other information obtained by the department shall be available to the public with the county clerk of each county in which the mining

is proposed to occur. The department shall transmit a record, report, inspection material, or other information to each county clerk within 10 days after it is received by the department.

Sec. ~~308~~ 63521. An application for a surface coal mining and reclamation permit shall be accompanied by an initial application fee. The initial application fee ~~shall be~~ IS $100.00.

Sec. ~~309~~ 63522. If the department finds that the probable total annual production at all locations of a surface coal mining operator will not exceed 100,000 tons, the determination of probable hydrologic consequences and statement of the results of test borings or core samplings required by section ~~303 shall~~ 63516, on the written request of the operator, SHALL be performed by a qualified governmental agency or private consultant designated by the department, and the cost of the preparation of the determination and statement shall be assumed by the department.

Sec. ~~310~~ 63523. (1) When an application for a surface coal mining and reclamation permit ~~,~~ or renewal of an existing permit is submitted, the applicant's advertisement of ownership, location, and boundaries of the land to be affected shall be placed in a local newspaper of general circulation in the locality of the proposed surface coal mining operation for 4 consecutive weeks. The department shall notify local units of government in the vicinity of the proposed mining and reclamation area of the operator's intention to conduct a surface mining operation indicating the application's number and the county courthouse or township office in which a copy of the proposed surface coal mining and reclamation plan may be inspected. A local unit of

government may submit written comments within a period established by the department on the mining applications with respect to the effect of the operation proposed by the applicant on the environment that is within ~~their~~ ITS area of responsibility. The comments shall immediately be transmitted t the applicant by the department and shall be made available to the public at the same location as the mining application.

(2) In addition to the notice required in subsection (1), the department shall notify the department of state of the operator's intention to conduct a surface mining operation and shall provide the department of state with a copy of the permit application. Based on the information required pursuant to section ~~303(1)(r)~~ 63516(1)(R), the department of state shall determine whether or not the proposed surface mining operation will adversely affect ~~an~~ A historic resource. The department of state may file written objection to the proposed surface mining operation pursuant to subsection (3).

(3) A person having an interest that is or may be adversely affected by the operation proposed in the application and any federal or state government agency or ~~any~~ local unit of government is entitled to file written objections to the proposed initial or revised application for a permit for surface coal mining and reclamation operation with the department not later than 30 days after the last publication of the notice required by subsection (1). Those objections shall immediately be transmitted to the applicant by the department and shall be made available to the public.

(4) Within 45 days after the last publication of the notice provided in subsection (1), the applicant or any person with an interest ~~which~~ THAT is or may be adversely affected may request a hearing on the application. The hearing shall be held within 30 days after the expiration of the time allowed for submitting the request.

(5) An action taken by the department with respect to a permit application shall be conducted pursuant to chapters 4 and 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.292 of the Michigan Compiled Laws.

Sec. ~~311~~ 63524. (1) On the basis of a complete application for a surface coal mining and reclamation permit or a revision or renewal of a permit, the department shall grant, require modification of, or deny the application for a permit within 120 days after the application is submitted to the department, except that an application submitted pursuant to section ~~301(2)~~ 63514(2) shall be granted, modified, or denied within 120 days after the approval of this state's program. The department shall notify the applicant in writing of its decision regarding granting, modifying, or denying the application for a permit. The applicant for a permit or revision of a permit ~~shall have~~ HAS the burden of establishing that his or her application is in compliance with all the requirements of this ~~act~~ PART. Within 3 days after the granting of a permit, but before the permit is issued, the department shall notify the county clerk in each

county in which the land to be affected is located that a permit has been issued and shall describe the location of the land.

(2) An application for a permit or revision of a permit shall not be approved unless the department finds, in writing, that all the following requirements have been met:

(a) The application is accurate and complete and ~~that it~~ complies with all OF the requirements of this ~~act~~ PART.

(b) The applicant has demonstrated that reclamation as required by this ~~act~~ PART can be accomplished under the reclamation plan contained in the application.

(c) An assessment of the probable cumulative impact of all anticipated surface coal mining inside and outside the permit area on the hydrologic balance, including quantitative and qualitative analyses, has been made by the department, and the proposed operation has been designed to prevent material damage to the hydrologic balance inside and outside the permit area.

(d) The area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to this ~~act nor~~ PART AND is ~~it~~ NOT within an area under study for this designation in an administrative proceeding commenced pursuant to this ~~act~~ PART, unless in the area as to which an administrative proceeding has commenced, the applicant demonstrates that, prior to January 1, 1977, the applicant has made substantial legal and financial commitments in relation to the operation for which the applicant is applying for a permit.

(e) If the ownership of the coal has been severed from the private surface estate, the applicant has submitted to the

department either the written consent of the surface owner to the extraction of coal by surface mining methods or a conveyance that expressly grants or reserves the right to extract the coal by surface mining methods. However, if the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship shall be determined in accordance with state law, except that ~~nothing in this act shall be construed to~~ PART DOES NOT authorize the department to adjudicate property rights disputes.

(f) If the department of state determines that the proposed surface mining operation will adversely affect ~~an~~ A historic resource, the application is approved jointly by the department, by the federal, state, or local agency with jurisdiction over the historic resource, and by the department of state.

(3) The applicant shall file, with the application, a schedule listing all notices of violations of this ~~act~~ PART or other law of this state and any law, rule, or regulation of the United States ~~,~~ or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with a surface coal mining operation during the 3-year period prior to the date of application. The schedule shall include the final resolution of notice of the violation. If the schedule or other information available to the department indicates that a surface coal mining operation owned or controlled by the applicant is currently in violation of this ~~act~~ PART or other laws referred to in this subsection, the permit shall not be issued until the applicant submits affidavits

that the violation has been corrected or is in the process of being corrected to the satisfaction of the department or the agency that has jurisdiction over the violation or that the notice of violation is being contested by the applicant. A permit shall not be issued to an applicant after a finding by the department, after opportunity for hearing, that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of violations of this ~~act~~ PART of such nature and duration with such resulting pollution, impairment, or destruction to the environment as to indicate an intent not to comply with this ~~act~~ PART.

(4) If the area proposed to be mined contains agricultural land, the department shall consult with the director of the department of agriculture and the secretary of the United States department of agriculture and shall not grant a permit to mine on agricultural land unless the department finds in writing that the operator has the technological capability to restore the mined area and any other areas impacted by the surface coal mining operation within a reasonable time to equivalent or higher levels of yield as nonmined agricultural land in the surrounding area under equivalent levels of management, and also finds that the applicant can meet the soil reconstruction standards of this ~~act~~ PART.

Sec. ~~312~~ 63525. (1) During the term of a permit, the permittee may submit TO THE DEPARTMENT an application for a revision of the permit, including a revised reclamation plan. ~~, to the~~

~~department.~~ An application for a revision of a permit shall not be approved unless the department finds that reclamation as required by this ~~act~~ PART can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within 90 days after it is submitted to the department. The department shall establish standards for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures shall apply.

(2) A transfer, assignment, or sale of the rights granted under a permit issued pursuant to this ~~act~~ PART shall not be made without the written approval of the department.

(3) The department shall, within a time limit prescribed by rule, review outstanding permits. The department may require revision or modification of the permit provisions during the terms of the permit based on a change in technology or a change in circumstances.

(4) All action taken by the department under this section regarding the granting, modification, denial, or revision of a permit shall be conducted pursuant to chapters 4 and 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.292 of the Michigan Compiled Laws.

Sec. ~~313~~ 63526. This ~~article shall~~ SUBPART DOES not ~~be construed as exempting~~ EXEMPT a permittee from obtaining any other permit, license, or permission to engage in any activity regulated by this ~~act~~ PART that is required by any other law of this state, ~~or~~ any rule promulgated ~~pursuant to~~ UNDER a law

of this state, or a zoning ordinance enacted by a local unit of government.

~~ARTICLE~~ SUBPART 4. ENVIRONMENTAL PERFORMANCE STANDARDS

Sec. ~~401~~ 63527. (1) A permit issued under this ~~act~~ PART to conduct surface coal mining operations shall require that the operations meet the performance standards provided in subsection (2).

(2) Except as otherwise provided in this ~~act~~ PART, all surface coal mining and reclamation operations shall require the operator to do all of the following:

(a) ~~To conduct~~ CONDUCT surface coal mining operations in a manner that maximizes the utilization and conservation of the solid fuel resource being recovered to prevent reaffecting the land in the future through subsequent surface coal mining.

(b) ~~To restore~~ RESTORE the land affected to a condition capable of supporting the uses ~~which~~ THAT it was capable of supporting prior to any mining, or higher or better uses if priority is given to restoration of agricultural land to agricultural uses, ~~so long as~~ IF that use does not present an actual or probable hazard to public health or safety or pose an actual or probable threat of water diminution or pollution, and IF the declared proposed land use in the permit application following reclamation is not inconsistent with applicable land use policies and plans, ~~involves~~ DOES NOT INVOLVE unreasonable delay in implementation, ~~or~~ AND IS NOT in violation of a law of this state or the United States or a local ordinance.

(c) ~~To backfill; to~~ BACKFILL; compact, where advisable to ensure stability or to prevent leaching of toxic materials; and ~~to~~ grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated, unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this ~~act~~ PART. However, for surface coal mining that is carried out at the same location over a substantial period of time where the operation transects the coal deposit and the thickness of the coal deposits is large relative to the volume of the overburden and ~~where~~ IF the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region. ~~Further~~ IN ADDITION, ~~that~~ in surface coal mining, where the volume of overburden is large relative to the thickness of the coal deposit and ~~where~~ IF the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate

original contour, the operator shall, after restoring the approximate contour, backfill, grade, and compact the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose ~~,~~ and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region. In all cases, the overburden or spoil shall be shaped and graded to prevent slides, erosion, and water pollution and SHALL BE revegetated in accordance with a plan for revegetation developed in cooperation with each soil conservation district affected by the surface coal mining operation and the requirements of this ~~act~~ PART.

(d) ~~To stabilize~~ STABILIZE and protect all surface areas, including spoil piles, affected by the surface coal mining and reclamation operation and ~~to~~ effectively control erosion and attendant air and water pollution.

(e) ~~To remove~~ REMOVE the topsoil from the land in a separate layer and replace it on the backfill area. Except that, if the topsoil is not utilized immediately, THE OPERATOR SHALL BE REQUIRED to segregate it in a separate pile from other spoil and, when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick-growing plant or other means so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic materials, and is in a usable condition for sustaining vegetation when restored during reclamation. However, if topsoil is of insufficient

quantity or of poor quality for sustaining vegetation requirements imposed in this ~~article~~ SUBPART and ~~article~~ SUBPART 3, or if other strata can be shown to be more suitable for vegetation requirements imposed in this ~~article~~ SUBPART and ~~article~~ SUBPART 3, then the operator shall remove, segregate, and preserve in a like manner the other strata that are best able to support vegetation.

(f) ~~To restore~~ RESTORE the topsoil or the available subsoil ~~which~~ THAT is best able to support vegetation.

(g) If agricultural land is to be mined and reclaimed, the specifications for soil removal, storage, replacement, and reconstruction shall be established by the department of agriculture in consultation with the secretary of the United States department of agriculture, and the operator ~~shall~~ IS, ~~as~~ AT a minimum, ~~be~~ required to do all of the following:

(*i*) Segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity. If the A horizon of the natural soil is not utilized immediately, it shall be stockpiled separately from other spoil ~~,~~ and provided protection from wind and water erosion or contamination by other acid or toxic ~~materials~~ MATERIAL.

(*ii*) Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of those horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in

sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil. If the B and C horizons of the natural soil are not utilized immediately, they shall be stockpiled separately from other spoil ~~,~~ and provided protection from wind and water erosion or contamination by other acid or toxic material.

(*iii*) Replace and regrade the root zone material described in subparagraph (*ii*) with proper compaction and uniform depth over the regraded spoil material.

(*iv*) ~~To redistribute~~ REDISTRIBUTE and grade in a uniform manner the surface soil horizon described in ~~subdivision (g)(*i*)~~ SUBPARAGRAPH (*i*).

(h) ~~To create~~ CREATE, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities but only when ~~it adequately demonstrates~~ all of the following ARE ADEQUATELY DEMONSTRATED:

(*i*) The size of the impoundment is adequate for its intended purposes.

(*ii*) The impoundment dam construction will be designed to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under the watershed protection and flood prevention act, ~~16 U.S.C. 1006~~ CHAPTER 656, 68 STAT. 666.

(*iii*) The quality of impounded water will be suitable on a permanent basis for its intended use, and discharges from the impoundment will not degrade the water quality IN THE RECEIVING

STREAM below water quality standards established pursuant to applicable federal and state law. ~~in the receiving stream.~~

(*iv*) The level of water will be stable.

(*v*) Final grading will provide safety and access for proposed water users.

(*vi*) The water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(*vii*) The impoundment is consistent with the laws of this state or the United States; rules and regulations of this state or the United States; or local ordinance.

(i) ~~To conduct~~ CONDUCT an augering operation associated with surface mining in a manner to maximize recoverability of coal reserves remaining after the operation and reclamation are complete, and seal all auger holes with an impervious and noncombustible material in order to prevent drainage, except where the department determines that the resulting impoundment of water in the auger holes may create a hazard to the environment or the public health or safety. The department may prohibit augering under standards established by rule if necessary to maximize the utilization, recoverability, or conservation of solid fuel resources or to protect against adverse water quality impacts.

(j) ~~To minimize~~ MINIMIZE disturbances to the prevailing hydrologic balance at the mine site and in associated off-site areas and to the quality and quantity of water in surface and

groundwater systems both during and after surface coal mining operations and during reclamation by:

(*i*) Avoiding acid or other toxic mine drainage by preventing or removing water from contact with toxic-producing deposits; treating drainage to reduce toxic content that adversely affects downstream water on being released to water courses; or casing, sealing, or otherwise managing bore holes, shafts, and wells and keeping acid or other toxic drainage from entering surface water and groundwater.

(*ii*) Conducting surface coal mining operations to prevent, to the extent possible using technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, except that contributions shall not be in excess of requirements set by applicable state or federal law.

(*iii*) Constructing any siltation structures pursuant to subparagraph (*ii*) prior to commencement of surface coal mining operations. A siltation structure shall be certified by a qualified registered engineer and shall be constructed as designed and approved in the reclamation plan.

(*iv*) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized and depositing the silt and debris at a site in a manner approved by the department.

(*v*) Restoring recharge capacity of the mined area to approximate premining conditions.

(*vi*) Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.

(*vii*) Other actions as the department may prescribe.

(k) ~~To stabilize~~ STABILIZE all waste piles in designated areas with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavation through construction in compacted layers including the use of incombustible and impervious materials, if necessary, and ~~to~~ assure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to this ~~act~~ PART.

(*l*) ~~To refrain~~ REFRAIN from surface coal mining within 500 feet of an active or abandoned underground mine ~~in order~~ to prevent breakthroughs and to protect the health and safety of miners and other persons. However, the department shall allow an operator to mine near, through, or partially through an abandoned underground mine or closer than 500 feet of an active underground mine if the nature, timing, and sequencing of specific surface mine activities with specific underground mine activities are jointly approved by the federal and state agencies and local units of government concerned with surface mine regulation and the health and safety of underground miners, and the operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.

(m) ~~To design~~ DESIGN, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to rules promulgated by the department, all existing and new coal mine waste piles, consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as a dam or embankment.

(n) ~~To ensure~~ ENSURE that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated, buried, compacted, or otherwise disposed of to prevent contamination of surface water or groundwater and that contingency plans are developed to prevent sustained combustion of those materials.

(o) ~~To ensure~~ ENSURE that explosives are used only in accordance with existing state and federal law and the rules promulgated by the department. Rules promulgated by the department shall require the permittee to do all of the following:

(*i*) Publish the schedule of the planned blasting in a newspaper of general circulation in the vicinity, mailing a copy of the proposed blasting schedule to every resident living within 1/2 mile of the proposed blasting site, and providing daily notice in the vicinity prior to any blasting.

(*ii*) Maintain for a period of at least 3 years and make available for public inspection on request during normal business hours ~~,~~ a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts.

(*iii*) Limit the type of explosives and detonating equipment and the size, timing, and frequency of blasts based upon the physical conditions of the site to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area.

(*iv*) Have all blasting operations conducted pursuant to this ~~act~~ PART conducted by trained and competent individuals certified by the department.

(*v*) Require the applicant or permittee to conduct a preblasting survey of a structure or dwelling upon the request of a resident or owner of a structure or dwelling within 1/2 mile of the permit area and to submit the survey to the department and a copy of the survey to the resident or owner making the request. The area covered by the survey shall be determined by the department and the survey shall include provisions and shall be conducted pursuant to standards established by rules promulgated by the department.

(p) ~~To ensure~~ ENSURE that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations. However, if the applicant proposes to combine surface mining operations with underground mining operations to assure maximum practical recovery of the coal resources, the department may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously

as practicable to permit underground mining operations prior to reclamation if all the following conditions are met:

(*i*) The department finds in writing that:

(A) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations.

(B) The proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the coal resource and will avoid multiple disturbance of the surface.

(C) The plan for the underground mining operations conforms to requirements for underground mining in the jurisdiction and ~~that~~ permits necessary for the underground mining operations have been issued by the appropriate authority.

(D) The areas proposed for the variance have been shown by the applicant to be necessary for implementing the proposed underground mining operations.

(E) ~~No significant~~ SIGNIFICANT adverse environmental damage, either on site or off site, will NOT result from the delay in completion of reclamation as required by this ~~act~~ PART.

(F) Provisions for the off-site storage of spoil will comply with subdivision (v).

(*ii*) The department has promulgated specific rules to govern the granting of the variances in accordance with ~~the provisions of~~ this subsection.

(*iii*) The variance granted will be reviewed annually by the department.

(*iv*) The liability under the bond filed by the applicant with the department pursuant to section ~~502(2)~~ 63529(2) is for the duration of the underground mining operations and until the requirements of sections ~~401(2)~~ 63527(2) and ~~501~~ 63528 have been fully complied with.

(q) ~~To ensure~~ ENSURE that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion, siltation, pollution of water, AND damage to fish or wildlife, ~~or their~~ THE habitat OF FISH OR WILDLIFE, or public or private property.

(r) ~~To refrain~~ REFRAIN from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to the channel as to significantly alter or degrade the normal flow of water.

(s) ~~To establish~~ ESTABLISH on regraded areas and all other land affected, in cooperation with each soil conservation district affected by the surface coal mining operation, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in the extent of cover to the natural vegetation of the area. However, introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan.

(t) ~~To assume~~ ASSUME the responsibility for successful revegetation as required by subdivision (s) for a period of 5 years after the last year of augmented seeding, fertilizing,

irrigation, or other work in order to assure compliance with subdivision (s). However, in those areas or regions of the state where the annual average precipitation is 26 inches or less, the operator's assumption of responsibility and liability will extend for a period of 10 years after the last year of augmented seeding, fertilizing, irrigation, or other work. If the department approves long-term intensive agricultural postmining land use, the applicable 5- or 10-year period of responsibility for revegetation ~~shall commence~~ COMMENCES at the date of initial planting for the long-term intensive agricultural postmining land use, except that if the department issues a written finding approving a long-term intensive agricultural postmining land use as part of the mining and reclamation plan, the department may grant exception to the provisions of subdivision (s).

(u) ~~To protect~~ PROTECT off-site areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area.

(v) ~~To place~~ PLACE all excess spoil material resulting from coal surface mining and reclamation activities in such a manner that:

(*i*) Spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way AS to assure mass stability and to prevent mass movement.

(*ii*) The areas of disposal are within the bonded permit areas and all organic matter is removed immediately prior to spoil placement.

(*iii*) Appropriate surface and internal drainage systems and diversion ditches are used to prevent spoil erosion and movement.

(*iv*) The disposal area does not contain springs, natural watercourses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains ~~in such a manner that~~ TO PREVENT filtration of the water into the spoil pile. ~~will be prevented.~~

(*v*) If placed on a slope, the spoil is placed on the most moderate slope and is placed, where possible, on or above a natural terrace, bench, or berm, if the placement provides additional stability and prevents mass movement.

(*vi*) If the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed.

(*vii*) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses.

(*viii*) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards.

(*ix*) All other provisions of this ~~act~~ PART are met.

(w) ~~To meet~~ MEET other criteria necessary to achieve reclamation in accordance with the purposes of this ~~act~~ PART, taking into consideration the phvsical, climatological, and other characteristics of the site.

(x) To the extent possible, using the best technology currently available, minimize disturbance and adverse impacts of the operation on fish, wildlife, and related environmental values and, ~~where~~ IF practicable, ~~to~~ achieve enhancement of those resources.

(y) ~~To provide~~ PROVIDE for an undisturbed natural barrier to be retained in place as a barrier to slides and erosion beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for the distance the department determines necessary.

~~ARTICLE~~ SUBPART 5. BONDING

Sec. ~~501~~ 63528. (1) An applicant for a permit shall submit to the department, as part of each permit application, a certificate that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation for which the permit is sought. The policy shall be maintained in full force and effect during the terms of the permit or any renewal, including all reclamation operations.

(2) The department shall promulgate rules establishing standards for adequate public liability insurance coverage consistent with section ~~303(2)~~ 63516(2).

Sec. ~~502~~ 63529. (1) After a surface coal mining and reclamation permit application has been approved, but before the permit is issued, the applicant shall file with the department, on a form prescribed and furnished by the department, a bond for performance payable to the state ~~of Michigan~~ and conditioned on faithful performance of all requirements of this ~~act~~ PART and

the permit. The bond shall cover that area of land within the permit area on which the applicant will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. Before succeeding increments of surface coal mining and reclamation operations are initiated and conducted within the permit area, the permittee shall provide an additional bond or bonds to cover those increments. The amount of the bond required for each bonded area SHALL BE DETERMINED BY THE DEPARTMENT AND shall reflect the reclamation requirements of the approved permit and the probable difficulty of the reclamation, giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential. ~~; and shall be determined by the department.~~ The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the reclamation had to be performed by the department in the event of forfeiture, and the bond for the entire area under 1 permit shall not be less than $10,000.00.

(2) Liability under the bond ~~shall be~~ IS for the duration of the surface coal mining and reclamation operation and for a period coincident with applicant's responsibility for revegetation. Except as provided in subsection (3), the bond shall be executed by the applicant and a corporate surety licensed to do business in this state.

(3) The applicant may elect to deposit cash or the following types of assets as security for the performance of the applicant's obligation under the bond:

(a) Obligations or securities of, or fully guaranteed as to principal and interest by, the United States or any of the agencies of the United States, or for which the full faith and credit of the United States is pledged to provide for the payment of principal and interest.

(b) Obligations of a state of the United States, or an agency or authority of a state for which the full faith and credit of the state is pledged to provide payment of principal and interest.

(c) Obligations of this state or an agency or authority of this state for which specific revenues are pledged to provide payment of principal and interest.

(d) Negotiable certificates of deposit of a state or national bank.

(4) The cash deposit or market value of the assets shall be equal to or greater than the amount of the bond required for the bonded area.

(5) ~~(4)~~ The department may accept the bond of the applicant without separate surety if the applicant demonstrates to the satisfaction of the department the existence of a suitable agent to receive service of process ~~,~~ and a history of financial solvency ~~,~~ and continuous operation sufficient for authorization to bond ~~such~~ THE amount.

(6) ~~(5)~~ The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the department from time to time as affected land

acreages are increased or decreased or where the cost of future reclamation changes.

(7) ~~(6)~~ The department shall promulgate rules establishing standards for adequate bond coverage consistent with this section.

Sec. ~~503~~ 63530. (1) The permittee may file a request with the department for the release of all or part of a performance bond or deposit. Within 30 days after submission of an application for bond or deposit release to the department, the permittee shall submit a copy of the notice to be published by the department for 4 consecutive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. The notice ~~shall be considered~~ IS part of the bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit and the date approved, the amount of the bond filed and the portion sought to be released, AND the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the permittee's reclamation plan. In addition, as part of any bond release application, the applicant shall submit copies of letters ~~which~~ THAT the applicant has sent to adjacent property owners and local units of government notifying them of the application to seek release from the bond.

(2) Within 30 days after the applicant complies with subsection (1), the department shall conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other things, the degree of difficulty to

complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance of future occurrence of the pollution, and the estimated cost of abating the pollution. The department shall notify the permittee, in writing, of its decision to release or not to release all or part of the performance bond or deposit based on the criteria in subsection (3) within 60 days from the filing of the request, if ~~no~~ A public hearing is NOT held, and, if ~~there has been~~ a public hearing IS HELD, within 30 days after the hearing.

(3) The department may release the bond or deposit in whole or in part if the reclamation covered by the bond or deposit or portion of the reclamation has been accomplished as required by this ~~act~~ PART according to the following schedule:

(a) If the permittee completes the backfilling, regrading, and drainage control of a bonded area in accordance with the reclamation plan, the release of 60% of the bond or collateral for the applicable permit area.

(b) If revegetation has been established on the regraded mined lands in accordance with the reclamation plan, the department may release an additional portion of the bond or deposit. In determining the amount of the bond or deposit to be released after successful revegetation has been established, the department shall retain the amount of the bond or deposit that is sufficient for a third party to establish revegetation and for the period specified for permittee responsibility in section ~~401(2)(t)~~ 63527(2)(T). No part of the bond or deposit shall be released under this subdivision if the land to which the release

would be applicable is contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements of section ~~40+(2)(j)~~ 63527(2)(J) or until soil productivity for agricultural land has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section ~~303(1)(n)~~ 63516(1)(N). If a silt dam is to be retained as a permanent impoundment pursuant to section ~~40+(2)(h)~~ 63527(2)(H), the portion of bond may be released under this subdivision if provisions for sound future maintenance have been made with the department.

(c) If the permittee has successfully completed all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for permittee responsibility in section ~~40+(2)(t)~~ 63527(2)(T). However, at least 25% of the bond or deposit shall be retained by the department until all reclamation requirements of this ~~act~~ PART are fully met.

(4) If the department disapproves the application for release of the bond or deposit or a portion of the bond or deposit, it shall notify the permittee, in writing, stating the reasons for disapproval, ~~and~~ recommending corrective actions necessary to secure the release, and allowing opportunity for a public hearing.

(5) When an application for total or partial bond or deposit release is filed with the department, the department shall notify

the county clerk of each county in which the surface coal mining operation is located by certified mail within 10 days after the application for the release of all or a portion of the bond or deposit is filed.

(6) A person with a legal interest or other interest that might be adversely affected by release of the bond or deposit or a federal or state agency or local unit of government ~~shall be~~ IS entitled to file written objections to the proposed release from bond or deposit with the department within 30 days after the last publication of the notice provided in subsection (1). If written objections are filed, the department shall conduct a public hearing on the objections and inform all the interested parties of the time and place of the hearing and hold the hearing in the locality of the surface coal mining operation within 30 days. Notice of the date, time, and location of the public hearings shall be published by the department in a newspaper of general circulation in the locality for 2 consecutive weeks.

Sec. ~~504~~ 63531. (1) Coal exploration operations that significantly disturb the natural land surface shall be conducted in accordance with rules promulgated by the department. The rules shall include, at a minimum, the requirement that prior to conducting the exploration a person must file with the department notice of intent to explore. The notice of the intent to explore shall include a description of the exploration area; the period of proposed exploration; provisions for reclamation in accordance with the performance standards in section ~~401~~ 63527 of all lands disturbed in exploration, including excavations, roads, and

drill holes; and the removal of necessary facilities and equipment.

(2) A person who conducts any coal exploration operations that substantially disturb the natural land surface in violation of this section or the rules promulgated ~~pursuant to~~ UNDER this section ~~shall be~~ IS subject to the penalties provided in section ~~801~~ 63537.

(3) An operator shall not remove more than 250 tons of coal pursuant to an exploration permit without the specific written approval of the department.

~~ARTICLE~~ SUBPART 6. UNDERGROUND MINING

Sec. ~~601~~ 63532. The department shall promulgate rules applicable to the surface effects of underground mining that are consistent with the requirements of the surface mining control and reclamation act of 1977, ~~Public Law 95-87, 91 Stat. 445,~~ and regulations adopted pursuant to that act by the secretary of interior of the United States relative to coal mining.

Sec. ~~602~~ 63533. (1) A permit issued pursuant to this ~~act~~ PART relating to underground coal mining shall require the operator to do all of the following:

(a) Adopt measures consistent with technology currently available ~~in order~~ to prevent subsidence causing material damage to the extent technologically and economically feasible; maximize mine stability; and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner. This subsection ~~shall~~ DOES

not ~~be construed to~~ prohibit the standard method of room and pillar mining.

(b) Seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of the mining operations.

(c) Fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations.

(d) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers, including the use of incombustible and impervious materials if necessary; assure that the leachate will not degrade SURFACE OR GROUNDWATERS below water quality standards established pursuant to applicable federal and state law; ~~surface or groundwaters;~~ and assure that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to ~~the provisions of~~ this section.

(e) Design, locate, construct, operate, maintain, enlarge, modify, and remove ~~,~~ or abandon all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments.

(f) Establish, on regraded areas and all other lands affected, a diverse and permanent vegetative cover THAT IS capable of self-regeneration and plant succession and THAT IS at least equal in extent of cover to the natural vegetation of the area.

(g) Protect off-site areas from damages ~~which~~ THAT may result from underground mining operations.

(h) Eliminate fire hazards and eliminate conditions ~~which~~ THAT constitute a hazard to health and safety of the public.

(i) Minimize the disturbances of the prevailing hydrologic balance at the mine site and in associated off-site areas and to the quantity of water in surface groundwater systems both during and after coal mining operations and during reclamation by meeting both of the following requirements:

(*i*) Avoiding acid or other toxic mine drainage by such measures as THE FOLLOWING:

(A) Preventing or removing water from contact with toxic producing deposits.

(B) Treating drainage to reduce toxic content ~~which~~ THAT adversely affects downstream water upon being released to watercourses.

(C) Casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering surface and groundwaters.

(*ii*) Conducting surface coal mining operations so as to prevent, to the extent possible using technology currently available, additional contributions of suspended solids to

streamflow or runoff outside the permit area, but in no event shall such contributions be in excess of requirements set by applicable state or federal law; and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.

(j) With respect to other surface impacts not specified in this subsection, including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section ~~401~~ 63527 for those effects ~~which~~ THAT result from surface coal mining operations, except that the department shall make modifications in the requirements imposed by this ~~subparagraph~~ SUBDIVISION as are necessary to accommodate the distinct difference between surface and underground coal mining.

(k) To the extent possible using technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of those resources where practicable.

(*l*) Locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner as to prevent a gravity discharge of water from the mine.

(2) To protect the stability of the land, the department shall suspend underground coal mining under urbanized areas,

cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if the department finds imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

(3) ~~Articles~~ SUBPARTS 3, 4, 5, 7, and 8 ~~shall be~~ ARE applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining. The department shall promulgate rules to make those modifications.

~~ARTICLE~~ SUBPART 7. INSPECTIONS AND MONITORING

Sec. ~~701~~ 63534. (1) The department shall conduct inspections and require monitoring and reporting of surface coal mining and reclamation operations, and shall take all actions necessary to administer, enforce, and evaluate the administration of this ~~act~~ PART and to meet the state program requirements of the surface mining control and reclamation act of 1977, ~~Public Law 95-87, 91 Stat. 445,~~ and for those purposes, the department or an authorized representative of the department, ~~shall,~~ without advance notice and on presentation of appropriate credentials, ~~have~~ HAS a right of entry to any surface coal mining and reclamation operation or any premises in which any records required to be maintained are located, and may at reasonable times, without delay, have access to and copy any records and inspect any monitoring equipment and method of operation required under this

~~act~~ PART or the rules promulgated ~~pursuant to~~ UNDER this ~~act~~ PART.

(2) Each inspector, on detection of each alleged violation of any requirement of this ~~act~~ PART, shall give written notice to the operator of the violation and shall report the violation, in writing, to the department. The notice of violation shall include a warning that the violation may result in a fine or penalty under ~~article~~ SUBPART 8.

(3) If a surface coal mining and reclamation operation removes or disturbs strata that ~~serves~~ SERVE as an aquifer ~~which~~ THAT significantly ensures the hydrologic balance of water use either on or off the mining site, the department shall specify:

(a) Monitoring sites to record the quantity and quality of surface drainage above and below the mine site as well as in the potential zone of influence.

(b) Monitoring sites to record level, amount, and samples of groundwater and aquifers ~~which~~ THAT are affected or potentially affected by the mining and also directly below the lowermost, deepest coal seam to be mined.

(c) Records of well logs and boreholes data to be maintained.

(d) Monitoring sites to record precipitation.

(4) The department shall promulgate rules that provide for informing the operator of an alleged violation detected by an inspector and for making public all inspection and monitoring reports and other records and reports required to be kept

pursuant to this ~~act~~ PART and the rules promulgated ~~pursuant to~~ UNDER this ~~act~~ PART.

(5) Inspections by the department shall comply with all OF the following requirements:

(a) Occur on an irregular basis averaging not less than 1 partial inspection per month and 1 complete inspection per calendar quarter for the surface coal mining and reclamation operation covered by each permit.

(b) Occur without prior notice to the permittee or agents or employees of the permittee except for necessary on-site meetings with the permittee.

(c) Include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this ~~act~~ PART.

Sec. ~~702~~ 63535. Each permittee shall conspicuously maintain at the entrances or visible areas of access to the surface coal mining and reclamation operations a clearly visible sign ~~which~~ THAT sets forth the name, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operations.

Sec. ~~703~~ 63536. Copies of any records, reports, inspection materials, or information obtained under this ~~article~~ SUBPART by the department shall be made available to the public with the county clerk of each county in the area of mining within 10 days after they are received by the department so that they are conveniently available to residents in the areas of mining.

~~ARTICLE~~ SUBPART 8. FINES AND PENALTIES

Sec. ~~801~~ 63537. (1) The department may impose ~~a civil~~ AN ADMINISTRATIVE fine against a permittee or other person who violates a permit condition or a provision of this ~~act~~ PART. If the department issues a cease and desist order with respect to a violation, ~~a civil~~ AN ADMINISTRATIVE fine ~~must~~ SHALL be assessed. ~~A civil~~ AN ADMINISTRATIVE fine shall not exceed $5,000.00 for each violation, except that each day a violation continues may be ~~deemed~~ CONSIDERED a separate violation. In determining the amount of the ~~civil~~ ADMINISTRATIVE fine, the department shall consider the permittee's history of previous violations at the particular surface coal mining operation; the seriousness of the violation, including any pollution, impairment, or destruction to the environment and any hazard to the health or safety of the public; whether the permittee or person was indifferent ~~,~~ or lacked diligence or reasonable care; and the demonstrated good faith of the permittee or person charged in attempting to achieve compliance after notification of the violation.

(2) ~~A civil~~ AN ADMINISTRATIVE fine shall be assessed only after the person charged with a violation described under subsection (1) has been given an opportunity for a public hearing. A hearing conducted under this section shall be conducted pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws.

(3) The department shall inform the permittee and any other person charged within 30 days after the issuance of a notice or order charging that a violation of ~~the act~~ THIS PART has occurred of the proposed amount of the ~~civil~~ ADMINISTRATIVE fine. The person charged with the ~~penalty shall~~ VIOLATION then ~~have~~ HAS 30 days to pay the proposed fine in full or, if the person wishes to contest either the amount of the fine or the fact of the violation, forward the proposed amount to the department for placement in an escrow account. If, through administrative or judicial review of the proposed fine, it is determined that ~~no~~ A violation ~~occurred~~ DID NOT OCCUR or that the amount of the fine should be reduced, the department, ~~shall,~~ within 30 days, SHALL remit the appropriate amount to the person with interest at 12% per year. Failure to forward the money to the department within 30 days after the issuance of the notice or order ~~shall~~ WILL result in a waiver of all legal rights to contest the violation or the amount of the fine.

(4) ~~A civil~~ AN ADMINISTRATIVE fine imposed under this ~~act~~ PART may be recovered in a civil action brought by the attorney general at the request of the department.

(5) A person who ~~wilfully~~ WILLFULLY and knowingly violates a condition of a permit issued pursuant to this ~~act~~ PART or fails or refuses to comply with an order issued under this ~~act~~ PART, or an order incorporated in a final decision issued by the department under this ~~act~~ PART, except an order incorporated in a decision issued under subsection (2) or section ~~805~~ 63541, shall be punished by IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR a

fine of not more than $10,000.00, ~~or by imprisonment for not more than 1 year,~~ or both.

(6) A permittee or person who fails to correct a violation for which a notice or order has been issued under subsection (1) within the period permitted for its correction, which period shall not end until the entry of a final order by the department, in the case of any review proceedings initiated by the permittee in which the department orders the suspension of the abatement requirements of the notice or order after determining that the permittee will suffer irreparable loss or damage from the application of those requirements, or until the entry of an order of the court, in the case of any review proceedings initiated by the permittee in which the court orders the suspension of an abatement requirement of the citation, shall be assessed a civil fine of not less than $750.00 for each day during which the failure or violation continues.

(7) If a corporate permittee or person violates a condition of a permit issued pursuant to a state program under section ~~311~~ 63524 or fails or refuses to comply with any order issued under section ~~803~~ 63539, or any order incorporated in a final decision issued by the department under this ~~act~~ PART, except an order incorporated in a decision issued under subsection (2), then a director, officer, or agent of the corporation who ~~wilfully~~ WILLFULLY and knowingly authorized, ordered, or carried out the violation, failure, or refusal ~~shall be~~ IS subject to the same ~~civil~~ fines and imprisonment that may be imposed on a person under subsections (1) and (5).

(8) A person who knowingly makes a false statement, representation, or certification, or who knowingly fails to make a statement, representation, or certification in an application, record, report, or other document filed or required to be maintained pursuant to a state program or this ~~act~~ PART or any order of decision issued by the department under this ~~act~~ PART, shall be punished by IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR a fine of not more than $10,000.00, ~~or by imprisonment for not more than 1 year,~~ or both.

Sec. ~~802~~ 63538. (1) Except as provided in subsections (2) and (3), a person having an interest that is or may be adversely affected by an operation not in compliance with a permit or this ~~act~~ PART may commence a civil action in circuit court or federal district court, whichever has jurisdiction, on his or her own behalf to compel compliance against ANY OF THE FOLLOWING:

(a) The department or other state agency ~~where~~ IF there is alleged a failure of the department or other state agency to perform any act or duty under this ~~act~~ PART that is not discretionary with the department or other state regulatory authority.

(b) Any governmental instrumentality or agency of the United States that is alleged to be in violation of ~~the provisions of~~ this ~~act~~ PART or of any rule, order, or permit issued pursuant to this ~~act~~ PART or any other person who is alleged to be in violation of any rule, order, or permit issued pursuant to this ~~act~~ PART.

(2) An action shall not be commenced under subsection (1)(a) until 20 days after the person intending to bring the action has

given notice in writing of the intent to commence a civil action to the department or other state regulatory authority in the manner as the department shall by rule prescribe, except that the action may be brought immediately after the notification if the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(3) An action shall not be commenced under subsection (1)(b) until 20 days after the person intending to bring the action has given notice in writing of the violation to the department and to any alleged violator. ~~; however~~ HOWEVER, if this state has commenced and is diligently prosecuting a civil action in a court of this state or the United States to require compliance with the provisions of this ~~act~~ PART, or any rule, order, or permit issued pursuant to this ~~act~~ PART, an action shall not be commenced pursuant to subsection (1)(b). In a civil action brought under this section, the department or federal regulatory agency, if not a party, may intervene as a matter of right.

(4) The circuit court, in an action brought pursuant to this section, may award costs of litigation, including attorney and expert witness fees to a party. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security.

(5) This section shall not be construed to restrict any right that a person or class of persons has under any statute or common law to seek enforcement of ~~the provisions of~~ this ~~act~~

PART and the rules promulgated under this ~~act~~ PART, or to seek any other relief, including relief against the department.

Sec. ~~803~~ 63539. (1) If the department determines, on the basis of an inspection, that a condition exists or practices exist or that a person or permittee is in violation of a requirement of this ~~act~~ PART or a permit condition required by this ~~act~~ PART and that this condition, practice, or violation also creates an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause pollution, impairment, or destruction to land, air, or water resources, the department shall immediately order a cessation of surface coal mining operations or the portion of surface coal mining operations relevant to the condition, practice, or violation. The cessation order shall remain in effect until the department determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the department pursuant to subsection (8). If the department finds that the ordered cessation of surface coal mining and reclamation operations, or any portion of those operations, will not completely abate the imminent danger to health or safety of the public or the pollution, impairment, or destruction to land, air, or water resources, the department shall, in addition to the cessation order, impose affirmative obligations on the operator requiring the operator to take those actions the department considers necessary to abate the imminent danger or the pollution, impairment, or destruction.

(2) If the department determines, on the basis of an inspection, that a permittee is in violation of a requirement of this ~~act~~ PART or a permit condition required by this ~~act~~ PART, but the violation does not create an imminent danger to th health or safety of the public or is not causing or reasonably expected to cause pollution, impairment, or destruction to land, air, or water resources, the department shall issue a notice to the permittee setting a reasonable time not to exceed 90 days for the abatement of the violation. If, on expiration of the period of time as originally set or subsequently extended for good cause shown, and on written finding of the department, the department finds that the violation has not been abated, it shall immediately order a cessation of surface coal mining operations or the portion of surface coal mining operations relevant to the violation. The cessation order shall remain in effect until the department determines that the violation has been abated or until modified, vacated, or terminated by the department under subsection (9). In the order of cessation issued by the department under this subsection, the department shall specify the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order.

(3) A permittee issued notice or order by the department pursuant to subsections (1) and (2), or any person having an interest ~~which~~ THAT is or may be adversely affected by the notice or order or by any modification, vacation, or termination of the notice or order, may apply to the department for review of the notice or order within 30 days of issuance of the notice or

order or within 30 days of its modification, vacation, or termination. On receipt of the application, the department shall conduct an investigation. The investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest ~~which~~ THAT is or may be adversely affected, to enable the applicant or the person to present information relating to the issuance and continuance of the notice or order or the modification, vacation, or termination of the notice or order. The filing of an application for review under this subsection shall not operate as a stay of any order or notice. A hearing conducted under this subsection shall be conducted pursuant to chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

(4) On receiving the report of the investigation, the department shall make findings of fact and shall issue a written decision incorporating in the decision an order vacating, affirming, modifying, or terminating the notice or order or the modification, vacation, or termination of the notice or order complained of and incorporate its findings therein. ~~Where~~ IF the application for review concerns an order for cessation of surface coal mining and reclamation operations issued pursuant to subsection (1) or (2), the department shall issue the written decision within 30 days of the receipt of the application for review unless temporary relief has been granted by the department under subsection (5).

(5) Pending completion of the investigation and hearing required by this section, the applicant may file with the department a written request that the department grant temporary relief from any notice or order issued under this section, together with a detailed statement giving reasons for granting the relief. The department shall issue an order or decision granting or denying the relief, except that if the applicant requests relief from an order for cessation of coal mining and reclamation operations issued under subsection (3) or (4), the order or decision on the request shall be issued within 5 days of its receipt. The department may grant the relief, under conditions it may prescribe, if all of the following requirements are met:

(a) A hearing has been held in the locality of the permit area on the request for temporary relief in which interested parties were given an opportunity to be heard.

(b) The applicant shows that there is a substantial likelihood that the findings of the department will be favorable to the applicant.

(c) The relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

(6) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked under this section, the department shall hold a public hearing after giving written notice of the time, place, and date of the hearing. The hearing shall be conducted pursuant to chapters 4 and 5 of the

administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections ~~24.171~~ 24.271 to ~~14.292~~ 24.292 of the Michigan Compiled Laws. If the department revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the department, or the department shall declare as forfeited the performance bonds for the operation.

(7) If an order is issued under this section, or as a result of any administrative proceeding under this ~~act~~ PART, at the request of any person, a sum equal to the aggregate amount of all costs and expenses, including attorney fees, as determined by the department to have been reasonably incurred by the person for or in connection with his OR HER participation in the proceedings, may be assessed against either party as the department considers proper, or as the court, for costs and attorneys' fees resulting from judicial review, considers proper.

(8) If the department has reason to believe, on the basis of an inspection, that a pattern of violations of any requirements of this ~~act~~ PART or any permit conditions required by this ~~act~~ PART exists or has existed, and if the department or its authorized representative also finds that these violations are caused by the unwarranted failure of the permittee to comply with requirements of this ~~act~~ PART or any permit conditions, or that the violations are ~~wilfully~~ WILLFULLY caused by the permittee, the department shall issue an order to the permittee to show cause as to why the permit should not be suspended or revoked.

The order shall set a time and place for a public hearing, to be conducted pursuant to chapters 4 and 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, and the department shall inform all interested parties of the hearing. If the permittee fails to show cause why the permit should not be suspended or revoked, the department shall promptly suspend or revoke the permit.

(9) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or an agent of the permittee by the department. A notice or order issued pursuant to this section may be modified, vacated, or terminated by the department. A notice or order issued pursuant to this section that requires cessation of mining by the operator shall expire within 30 days of actual notice to the operator unless a public hearing is held at the site or within a reasonable proximity to the site so that any viewings of the site can be conducted during the course of the public hearing.

(10) The department may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order, if the permittee does any of the following:

(a) Violates or fails or refuses to comply with an order or decision issued by the department under this ~~act~~ PART.

(b) Interferes with, hinders, or delays the department or its authorized representative in carrying out the provisions of this section.

(c) Refuses to admit to the mine an authorized representative of the department, if the authorized representative presented the documents required by this ~~act~~ PART for proper entry.

(d) Refuses to permit inspection of the mine by an authorized representative of the department, if the authorized representative presented the documents required by this ~~act~~ PART for proper entry.

(e) Refuses to furnish information or a report requested by the department under the department's rules.

(f) Refuses to permit access to and copying of records the department determines reasonably necessary to carry out this ~~act~~ PART.

(11) All notices or orders required by this ~~article~~ SUBPART shall be sent by certified mail, return receipt requested.

Sec. ~~804~~ 63540. An employee of the department performing any function or duty under this ~~act~~ PART shall not have a direct or indirect financial interest in an underground or surface coal mining operation. A person who knowingly violates ~~the provisions of~~ this subsection shall, on conviction, be punished by IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR a fine of not more

than $2,500.00, ~~or by imprisonment of not more than 1 year,~~ or both.

Sec. ~~805~~ 63541. Except as permitted by a law of this state or the United States, a person shall not ~~wilfully~~ WILLFULLY resist, prevent, impede, or interfere with the department or any of its agents in the performance of duties pursuant to this ~~act~~ PART. A person who violates this section shall be punished by IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR a fine of not more than $5,000.00, ~~or by imprisonment for not more than 1 year,~~ or both.

~~ARTICLE~~ SUBPART 9. INSPECTION AND RECLAMATION FEE

Sec. ~~901~~ 63542. (1) For the purposes of inspections and monitoring, and the administration and enforcement of this ~~act~~ PART, an operator is assessed an inspection and reclamation fee of not more than 25 cents per ton of coal mined, as determined by the department. The department shall establish, by rule, criteria for determining the amount of the inspection and reclamation fee. In making the determination of the amount of the inspection and reclamation fee, the department shall take into account funds made available to the department pursuant to the surface mining control and reclamation act of 1977, ~~Public Law 95-87,~~ and funds from any other source for the purposes specified in this subsection. The total inspection and reclamation fees assessed annually shall not exceed the total amount appropriated to the department for the purposes specified in this subsection.

(2) An operator shall file quarterly reports with the department on a calendar year basis. The report shall include all of the following:

(a) The location of the mining operation and the areas mined during the quarter.

(b) A description of the progress of restoration and reclamation activities of the operator for the preceding quarter.

(c) The number of tons of coal mined during the quarter.

(3) Based on the information reported pursuant to subsection (2)(c), the department shall send the operator written notice of the amount of the fee due for the quarter. The operator shall pay the fee to the department within 30 days after receipt of the notice.

(4) The department shall deposit the inspection and reclamation fee in the state abandoned mine reclamation fund created by section ~~202~~ 63510.

Sec. ~~902~~ 63543. (1) Failure to submit a quarterly report ~~shall constitute~~ CONSTITUTES grounds for revocation of a permit. An action taken by the department under this subsection shall be conducted pursuant to chapters 4 and 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.292 of the Michigan Compiled Laws.

(2) A penalty equal to 12% of the amount due, or $1,000.00, whichever is greater, shall be assessed against the operator for a fee not properly or promptly paid pursuant to section ~~901~~ 63542. An unpaid fee and penalty shall constitute a debt and

become the basis of a civil action against the operator to compel the payment of the debt.

(3) The inspection and reclamation fee and quarterly reports required by this ~~article~~ SUBPART shall be confidential and shall not be subject to the disclosure requirements of the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, except that disclosure may be made with the written consent of the operator filing the fee and report or pursuant to a court order.

Sec. ~~903~~ 63544. Any person, corporate officer, agent, or director, on behalf of an operator, who knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification regarding a report required in this ~~article~~ SUBPART, shall be punished by IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR a fine of not more than $10,000.00, ~~or by imprisonment for not more than 1 year,~~ or both.

~~ARTICLE~~ SUBPART 10. MISCELLANEOUS PROVISIONS

Sec. ~~1001~~ 63545. (1) The department shall promulgate rules establishing a process for designating areas unsuitable for surface coal mining. The rules shall include all of the following:

(a) Surface coal mining land review.

(b) Development of a data base and an inventory system ~~which~~ THAT will permit proper evaluation of the capacity of

different land areas of the state to support and permit reclamation of surface coal mining operations.

(c) Development, by rule, of a method for implementing land use planning decisions concerning surface coal mining operations.

(d) Development, by rule, of proper notice provisions and opportunity for public participation, including a public hearing, prior to making any designation or redesignation pursuant to this section.

(e) Procedures for determining whether an area proposed for surface coal mining contains historic resources. These rules shall be developed with the concurrence of the department of state.

(2) On a petition submitted pursuant to subsection (3), the department shall designate an area as unsuitable for all or certain types of surface coal mining operations if the department determines that reclamation pursuant to the requirements of this ~~act~~ PART is not technologically and economically feasible. A surface area may be designated unsuitable for certain types of surface coal mining operations if those operations ~~cause~~ DO any of the following:

(a) ~~Incompatibility~~ ARE INCOMPATIBLE with existing state or local land use plans or programs.

(b) Affect fragile land or historic resources resulting in significant damage to important historic, cultural, scientific, and ~~esthetic~~ AESTHETIC values and natural systems.

(c) Affect renewable resource land, including aquifers and aquifer recharge areas, resulting in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products.

(d) Affect natural hazard land, including areas subject to frequent flooding and areas of unstable geology, substantially endangering life and property.

(e) Affect agricultural land by diminishing the productivity of the land after reclamation to less than the productivity before the site was mined.

(f) Adversely affect an agricultural operation, including planting, harvesting, transportation, processing, or other activity included in the agricultural impact statement required by section ~~303(1)(s)~~ 63516(1)(S).

(3) Determinations of the unsuitability of land for surface coal mining shall be integrated with present and future land use planning and regulation processes at the federal, state, and local levels. The requirements of this section ~~shall~~ DO not apply to land on which surface coal mining operations were being conducted on August 3, 1977, or under a permit issued pursuant to ~~this act~~ FORMER ACT NO. 303 OF THE PUBLIC ACTS OF 1982, or where substantial legal and financial commitments in the operation or proposed operation were in existence prior to January 4, 1977.

(4) ~~(3)~~ A person having an interest that is or may be adversely affected ~~shall have~~ HAS the right to petition the department to have an area designated as unsuitable for surface

coal mining operations or to have that designation terminated. The petition shall contain allegations of facts with supporting evidence. Within 30 days after receipt of the petition, the department shall hold a public hearing in the locality of the affected area. After a person having an interest that is or may be adversely affected has filed a petition and before the hearing, any person may intervene by filing allegations of facts with supporting evidence that would tend to establish the allegations. Within 60 days after the hearing, the department shall issue and furnish to the petitioner and any other party to the hearing a written decision with reasons for the decision. In the event that all the parties stipulate agreement prior to the requested hearing and withdraw their request, the hearing need not be held.

(5) ~~(4)~~ Before designating land areas as unsuitable for surface coal mining operations, the department shall prepare a detailed statement on the potential coal resources of the area, the demand for coal resources, and the impact of the designation on the environment, the economy, and the supply of coal.

(6) ~~(5)~~ After ~~the effective date of this act~~ OCTOBER 12, 1982, and subject to valid existing rights, surface coal mining operations, except those that existed on August 3, 1977, shall not be permitted that do any of the following:

(a) Adversely affect a publicly owned park or historic resource unless approved jointly by the department and the federal, state, or local agency with jurisdiction over the park or historic resource and by the department of state.

(b) Are within 100 feet of the outside right-of-way line of a public road, except where mine access roads or haulage roads join the right-of-way lines and except that the department may permit these roads to be relocated or the area affected to lie within 100 feet of the public road, if, after public notice and opportunity for public hearing in the locality, a written finding is made that the interests of the public and the landowners affected by the relocation will be protected.

(c) Are within 300 feet of an occupied dwelling, unless waived by the owner of the dwelling, or within 300 feet of any public building, school, church, community, or institutional building, OR public park, or within 300 feet of a cemetery.

(7) ~~(6)~~ The department shall designate areas protected by ~~the wilderness and natural areas act of 1972, Act No. 241 of the Public Acts of 1972, being sections 322.751 to 322.763 of the Michigan Compiled Laws,~~ PART 351 as unsuitable for surface coal mining.

Sec. ~~1002~~ 63546. An agency, unit, or instrumentality of federal, state, or local government, including any publicly owned utility or publicly owned corporation of federal, state, or local government, that proposes to engage in surface coal mining operations that are subject to the requirements of this ~~act~~ PART shall comply with all provisions of this ~~act~~ PART.

Sec. ~~1003~~ 63547. ~~The provisions of this act shall~~ THIS PART DOES not apply to any of the following: ~~activities:~~

(a) The extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under rules established by the department.

(b) The extraction of coal incidental to the extraction of other minerals ~~where~~ IF the amount of coal does not exceed 50 tons or 16-2/3% of the total tonnage of other minerals removed annually for purposes of commercial use or sale, whichever is less.

Sec. ~~1004~~ 63548. To encourage advances in mining and reclamation practices and to allow postmining land use for industrial, commercial, residential, or public use, including recreational facilities, the department may, with approval by the secretary of the United States department of the interior, authorize departures in individual cases and on an experimental basis from the environmental protection performance standards of this ~~act~~ PART. These departures may be authorized if the experimental practices are potentially at least as environmentally protective, during and after mining operations, as those required by this ~~act~~ PART; IF the mining operations approved for particular land use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices; and IF the experimental practices do not reduce the protection afforded public health and safety below that provided by this ~~act~~ PART.

Sec. ~~1005~~ 63549. (1) This ~~act~~ PART shall not be construed as affecting the right of any person to enforce or protect, under applicable law, his or her interest in water or

any other natural resource affected by a surface coal mining operation.

(2) The operator of a surface coal mining operation shall replace the water supply of an owner of an interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution, or interruption proximately resulting from the surface coal mine operation.

~~Part 637. Sand Dune Mining~~

PART 637 SAND DUNE MINING

~~Sec. 1. This act shall be known and may be cited as the "sand dune protection and management act".~~

Sec. ~~2~~ 63701. As used in this ~~act~~ PART:

(a) "Active cell-unit" means a cell-unit set forth in the approved progressive cell-unit mining and reclamation plan provided for in section ~~6(1)~~ 63706(1), in which vegetation and topsoil have been removed in preparation for sand dune mining or sand removal has been initiated after the date of issuance of the sand dune mining permit. Vegetation removal does not preclude the removal of marketable forest products from a cell-unit, if the removal maintains the ground cover and topsoil within the cell-unit in stable condition.

(b) "Administratively complete" means an application for a sand dune mining permit that is determined by the department to satisfy all of the conditions of this ~~act~~ PART and rules promulgated under this ~~act~~ PART.

(c) "Barrier dune" means the first landward sand dune formation along the shoreline of a Great Lake or a sand dune formation designated by the department.

(d) "Beneficiation" means to process sand for any of the following purposes, but does not include the drying process:

(*i*) Regulating the grain size of the desired product.

(*ii*) Removing unwanted constituents.

(*iii*) Improving the quality and purity of the desired product.

(e) "Cell-unit" means a subunit of the total sand dune mining project as determined in size and location by the operator. A cell-unit shall not exceed 10 acres in size for sand dune mining operations that commence operation after March 31, 1977 or for the expansion of sand dune mining operations that existed before March 31, 1977. A cell-unit shall not exceed 30 acres in size for operations that existed before March 31, 1977.

~~(f) "Commission" means the commission of natural resources.~~

(F) ~~(g)~~ "Conformance bond" means a surety bond that is executed by a surety company authorized to do business in this state, cash, certificates of deposit, letters of credit, or other securities that are filed by an operator to ensure compliance with this ~~act~~ PART, rules promulgated under this ~~act~~ PART, or conditions of a sand dune mining permit.

~~(h) "Department" means the department of natural resources.~~

~~(i) "Director" means the director of the department or his or her authorized representative.~~

(G) ~~(j)~~ "Environmental elements" means the biological, physical, and chemical characteristics of the environment, including but not limited to the following:

(*i*) Watersheds.

(*ii*) Water bodies.

(*iii*) Forests.

(*iv*) Existing areas maintained for public recreation.

(*v*) Shorelands.

(*vi*) Habitat areas.

(H) ~~(k)~~ "Great Lakes" means any of the Great Lakes that have a shoreline within ~~the~~ THIS state.

(I) ~~(l)~~ "Interim cell-unit status" means a cell-unit as set forth in an approved progressive cell-unit mining and reclamation plan provided for in section ~~6(1)~~ 63706(1), in which all sand dune mining and reclamation within the cell-unit has been completed, but the vegetation has not sustained itself through 1 full growing season. A cell-unit placed in interim cell-unit status is required to retain the conformance bond provided in section ~~12~~ 63712 until reclassification by the department as provided in section ~~12(5)~~ 63712(5). Each sand dune mining activity shall be limited to no more than 3 cell-units in interim cell-unit status at any 1 time.

(J) ~~(m)~~ "Operator" means an owner or lessee of mineral rights or any other person engaged in or preparing to engage in

sand dune mining activities with respect to mineral rights within a sand dune area.

~~(n) "Person" means an individual, partnership, firm, corporation, association, local unit of government, or other political subdivision of the state, or a state or state agency.~~

(K) ~~(o)~~ "Sand dune area" means that area designated by the department ~~which~~ THAT includes those geomorphic features composed primarily of sand, whether windblown or of other origin and ~~which~~ THAT lies within 2 miles of the ordinary high-water mark on a Great Lake as defined in section ~~2 of the Great Lakes submerged lands act, Act No. 247 of the Public Acts of 1955, as amended, being section 322.702 of the Michigan Compiled Laws~~ 32502, and includes critical dune areas AS DEFINED IN PART 353.

(*l*) ~~(p)~~ "Sand dune mining" means the removal of sand from sand dune areas for commercial ~~,~~ or industrial purposes, or both. The removal of sand from sand dune areas in volumes of less than 3,000 tons is not sand dune mining ~~,~~ if the removal is a 1-time occurrence and the reason the sand is removed is not for the direct use for an industrial or commercial purpose. However, the removal of any volume of sand that is not sand dune mining within a critical dune area AS DEFINED IN PART 353 is subject to the critical dune protection provisions of ~~this act~~ PART 353. The department may authorize in writing the removal of more than 3,000 tons of sand without a sand dune mining permit issued pursuant to section ~~4~~ 63704 for a purpose related to protecting an occupied dwelling or other structure from property damage related to the migration of sand or the instability of

sand. This removal may be for more than 1 occurrence, but a written authorization from the department is required for each removal.

(M) ~~(q)~~ "Water table" means the surface in an unconfined aquifer at which the pressure is atmospheric. The water table is found at the level at which water stands in wells that penetrate the aquifer.

Sec. ~~2b~~ 63702. (1) Notwithstanding any other provision of this ~~act~~ PART, the department shall not issue a sand dune mining permit within a critical dune area AS DEFINED IN PART 353 after July 5, 1989, except under either of the following circumstances:

(a) The operator seeks to renew or amend a sand dune mining permit that was issued prior to July 5, 1989, subject to the criteria and standards applicable to a renewal or amendatory application.

(b) The operator holds a sand dune mining permit issued pursuant to section ~~4~~ 63704 and is seeking to amend the mining permit to include land that is adjacent to property the operator is permitted to mine, and prior to July 5, 1989 the operator owned the land or owned rights to mine dune sand in the land for which the operator seeks an amended permit.

(2) As used in this section, "adjacent" means land that is contiguous with the land for which the operator holds a sand dune mining permit issued pursuant to section ~~4 and~~ 63704, PROVIDED no land or space, including a highway or road right-of-way,

exists between the property on which sand dune mining is authorized AND THE ADJACENT LAND.

Sec. ~~3~~ 63703. The department, by July 1, 1977, shall make or cause to be made a comprehensive study and inventory of Great Lakes sand dune areas in the state. The study and inventory shall include ALL OF THE FOLLOWING:

(a) An economic study of the current and projected sand dune mining practices in the state, showing where the sand is marketed, its uses, and the amount of sand reserves.

(b) A geologic study of sand areas within ~~Michigan~~ THIS STATE, other than Great Lakes sand dune areas, that would contain sufficient reserves and have properties suitable for use as foundry core and molding sands or FOR other uses of sand.

(c) Sand dune areas or portions ~~thereof~~ OF SAND DUNE AREAS that, for environmental or other reasons, should be protected through purchase by the state or other persons or interests, or easements including the acquisition of mineral rights by the state, and a priority list of sand dune areas to be acquired by the department.

(d) An identification and designation of barrier dunes along the shoreline, showing their effect on aesthetic, environmental, economic, industrial, and agricultural interests in this state.

(e) Methods for recycling or reusing sand for industrial and commercial purposes, along with alternatives to the use of dune sand and its economic impact.

(f) Recommendations for the protection and management of sand dune areas for uses other than sand mining.

Sec. ~~4~~ 63704. (1) After July 1, 1977, a person or operator shall not engage in sand dune mining within Great Lakes sand dune areas without first obtaining a permit for that purpose from the department.

(2) Prior to receiving a permit from the department, a person or operator shall submit ALL OF THE FOLLOWING:

(a) A permit application on a form provided by the department.

(b) An environmental impact statement of the proposed mining activity as prescribed by section ~~5~~ 63705.

(c) A progressive cell-unit mining and reclamation plan for the proposed mining activity as prescribed by section ~~6~~ 63706.

(d) A 15-year mining plan as prescribed by section ~~7~~ 63707.

Sec. ~~5~~ 63705. The environmental impact statement submitted to the department shall comply with the requirements of the department and shall include, but is not limited to, the following:

(a) The compatibility of the proposed sand dune mining activity with adjacent existing land uses or land use plans.

(b) The impact of the proposed sand dune mining activity on flora, fauna, or wildlife habitats.

(c) The economic impact of the proposed sand dune mining activity on the surrounding area.

(d) The effects of the proposed sand dune mining activity on groundwater supply, level, quality, and flow ~~on site~~ ON SITE and within 1,000 feet of the proposed sand dune mining activity.

(e) The effects of the proposed sand dune mining activity on adjacent surface resources.

(f) The effect of the proposed sand dune mining activity on air quality within 1,000 feet of the proposed sand dune mining activity.

(g) Whether the proposed sand dune mining activity is located within any of the following:

(*i*) 1,000 feet of a residence.

(*ii*) 2,000 feet of a school.

(*iii*) 500 feet of a commercial development.

(h) Alternatives, if any, to the location of the proposed sand dune mining activity and the reasons for the choice of the location of the proposed sand dune mining activity over those alternatives.

(i) A description of the environment as it exists prior to commencement of sand dune mining activity of area of the proposed sand dune mining activity. The environmental impact statement shall provide the greatest detail of the areas and the environmental elements that receive the major impacts from the proposed activity, but also shall include areas that may be impacted as an indirect result of the project.

(j) An inventory of the physical environmental elements of the proposed site. The inventory shall be conducted at a time or at different times of the year that will provide the most complete information regarding the existing conditions of the area that will be impacted directly or indirectly by the proposed activity.

Sec. ~~6~~ 63706. (1) The progressive cell-unit mining and reclamation plan, for both the total project and each cell-unit, shall include all of the following:

(a) The method and direction of mining.

(b) Surface overburden stripping plans.

(c) The depth of grade level over the entire site from which the sand will be removed.

(d) Provisions for grading, revegetation, and stabilization that will minimize shore and soil erosion, sedimentation, and public safety problems.

(e) The location of buildings, equipment, stockpiles, roads, or other features necessary to the mining activity and provisions for their removal and restoration of the area at the project termination.

(f) Provisions for buffer areas, landscaping, and screening.

(g) The interim use or uses of reclaimed cell-units before the cessation of the entire mining operation.

(h) Maps and other supporting documents required by the department.

(2) The department shall not issue a sand dune mining permit for any of the following:

(a) A sand dune mining operation that existed before March 31, 1977, if the progressive cell-unit mining and reclamation plan includes more than 3 30-acre cell-units.

(b) A sand dune mining operation that commenced after March 31, 1977, if the progressive cell-unit mining and

reclamation plan includes any cell-unit having an area exceeding 10 acres.

(c) The expansion of an existing sand dune mining operation if that expansion includes any cell-unit having an area exceeding 10 acres.

(3) The progressive cell-unit mining and reclamation plan for sand dune mining permits issued 30 days or more after ~~the effective date of the amendatory act that added this subsection~~ JUNE 23, 1994 shall meet the following requirements:

(a) All upland reclamation grades for sand dune mining operations shall have a slope not steeper than 1-foot vertical rise in a 3-foot horizontal plane, except that the department may approve plans that allow steeper reclaimed slopes in order to provide a smoother transition to undisturbed topographic features or the protection of existing environmental features.

(b) All submerged grades established by the excavation of material below the water table and the creation of a water body shall have underwater slopes as follows:

(*i*) For water bodies with a surface area less than 5 acres, the submerged grades shall be 1-foot vertical rise in a 3-foot horizontal plane, or flatter, to a depth of 6 feet.

(*ii*) For water bodies with a surface area 5 acres or greater, the submerged grades shall be 1-foot vertical rise in a 6-foot horizontal plane, or flatter, to a depth of 6 feet.

(*iii*) For all water bodies where the progressive cell-unit mining and reclamation plan designates a final use after sand dune mining as public access, the area designated for public

access shall have submerged grades of 1-foot vertical rise in a 10-foot horizontal plane, or flatter, to a depth of 6 feet.

(c) A 200-foot minimum setback distance from the property line to the cell-unit boundary line shall be provided on all cell-unit mining and reclamation plans, except the department may approve plans with less than 200-foot minimum setback distances if the department determines that the sand dune mining activity is compatible with the adjacent existing land use.

(d) A 500-foot minimum setback distance from the ordinary high-water mark of the Great Lakes shall be provided on all cell-unit mining and reclamation plans. As used in this subdivision, ordinary high-water mark means for the lands bordering or adjacent to waters or land affected by levels of the Great Lakes landward of the ordinary high-water mark as defined by section ~~2 of the Great Lakes submerged lands act, Act No. 247 of the Public Acts of 1955, being section 322.702 of the Michigan Compiled Laws~~ 32502, and those lands between the ordinary high-water mark and the water's edge.

(e) All cell-unit mining and reclamation plans shall include fencing or other techniques to minimize trespass or unauthorized access to the sand dune mining activity.

(f) If the proposed sand dune mining activity proposes to mine below the water table, the department may require a hydrogeological survey of the surrounding area.

(g) If threatened or endangered species are identified within the cell-unit boundaries, the cell-unit mining and reclamation plan shall indicate how the threatened or endangered

species shall be protected or, if not protected, what mitigation measures shall be performed.

(h) If the proposed sand dune mining activity includes beneficiation or treatment of the sand, the application documents shall include specific plans depicting the methods, techniques, and manufacturer's material safety data sheets on all chemicals, or other additives that are not natural to the site, that will be utilized in the process. The operator shall also obtain all applicable state and federal permits prior to beginning the beneficiation process.

Sec. ~~7~~ 63707. (1) The 15-year mining plan shall include the following:

(a) The location and acreage of sand dune areas presently being mined and the amount of sand being mined.

(b) The location and acreage of sand dune areas not presently being mined but planned for that purpose and the amount of sand planned to be mined.

(c) A schedule indicating when the mining activity will begin in each sand dune area and the probable termination date of mining activities in each area.

(d) Additional information requested by the ~~director of the~~ department.

(2) A duplicate copy of the cell-unit mining and reclamation plan shall be submitted to the soil conservation district in the county where the mining activity is proposed to occur. The soil conservation district shall have 30 days after receipt of the

plan to review the proposal and submit written comments to the department.

Sec. ~~8~~ 63708. (1) A sand dune mining permit issued by the department is valid for not more than 5 years. A sand dune mining permit shall be renewed if the sand dune mining activities have been carried out in compliance with this ~~act~~ PART, the rules promulgated under this ~~act~~ PART, and the conditions of the sand dune mining permit issued by the department.

(2) The sand dune mining permit shall state any conditions, limitations, or other restrictions determined by the department, including any setback from the ordinary high-water mark of a Great Lake for the protection of the barrier dune.

(3) In granting a sand dune mining permit, if the department allows for the removal of all or a portion of the barrier dune pursuant to ~~the act~~ THIS PART, it shall submit to the commission written reasons for permitting the removal.

(4) The department shall approve or deny a sand dune mining permit application in writing within 120 days after the application is received and is determined by the department to be administratively complete. If a sand dune mining permit is denied, the reasons shall be stated in a written report.

(5) The department shall provide a list of all pending sand dune mining applications upon a request from a person. The list shall give the name and address of each applicant, the legal description of the lands included in the project, and a summary statement of the purpose of the application.

Sec. ~~9~~ 63709. The department shall deny a sand dune mining permit if, upon review of the environmental impact statement, it determines that the proposed sand dune mining activity is likely to pollute, impair, or destroy the air, water, or other natural resources or the public trust ~~therein~~ IN THOSE RESOURCES, as provided by ~~the Thomas J. Anderson, Gordon Rockwell environmental protection act of 1970, Act No. 127 of the Public Acts of 1970, being sections 691.1201 to 691.1207 of the Michigan Compiled Laws~~ PART 17.

Sec. ~~10~~ 63710. The state or an instrumentality of the state shall not engage in the extraction of sand or other minerals from a sand dune area, except as required in the interest of public health and safety in an emergency situation resulting from a disaster as defined in section 2 of the emergency preparedness act, Act No. 390 of the Public Acts of 1976, ~~as amended,~~ being section 30.402 of the Michigan Compiled Laws.

Sec. ~~11~~ 63711. (1) For purposes of surveillance, monitoring, administration, and enforcement of this ~~act~~ PART, an operator is assessed a fee of not more than 10 cents per ton of sand mined from a sand dune area for the calendar year reported as described in subsection (2). Funds collected by the assessment of the fee shall not exceed the actual costs to the department of implementing the sections of this ~~act~~ PART that pertain to sand dune mining. Any fees collected under this ~~s~~subsection that are unexpended at the end of a fiscal year shall be credited to a separate fund of the department, ~~and~~ carried over to the succeeding fiscal year, and ~~shall be~~ deducted from the amount

appropriated for that year for surveillance, monitoring, administration, and enforcement of this ~~act~~ PART for purposes of computing the fee to be assessed for that year.

(2) An operator shall file an annual report on or before January 31 of each year. The report shall show the areas mined and describe the progress of restoration and reclamation activities of the operator for the preceding calendar year. The report shall contain BOTH OF THE FOLLOWING:

(a) The number of tons of sand mined from a sand dune area.

(b) Location of the sand dune area.

(3) The fee described in subsection (1) shall be due not more than 30 days after the department sends written notice to the operator of the amount due.

(4) The surveillance fee and annual report required by this section ~~shall be~~ IS confidential and shall not be available for public inspection without the written consent of the person filing the fee and report, except in accordance with judicial order.

(5) Failure to submit an annual report in compliance with rules promulgated by the department ~~shall constitute~~ CONSTITUTES grounds for revocation of a permit.

(6) A penalty equal to 10% of the amount due, or $1,000.00, whichever is greater, shall be assessed against the operator for a fee THAT IS not paid when due. An unpaid fee and penalty shall constitute a debt and become the basis of a judgment against the operator. Penalties paid pursuant to this section shall be used

for the implementation, administration, and enforcement of this ~~chapter~~ PART.

(7) Records upon which the annual report is based shall be preserved for 3 years and ~~shall be~~ ARE subject to audit by the department.

(8) The department shall annually prepare and submit to the house of representatives and senate STANDING committees ~~on conservation~~ WITH JURISDICTION OVER SUBJECT AREAS RELATED TO NATURAL RESOURCES AND THE ENVIRONMENT a report on the sand mining surveillance activities undertaken by the department for the immediately preceding year and the cost of those activities.

Sec. ~~12~~ 63712. (1) Prior to the initiation of a disturbance of land, the holder of a sand dune mining permit shall file with the department a conformance bond in favor of the state.

(2) The conformance bonds shall be filed for a maximum of 3 active cell-units and 3 cell-units in interim cell-unit status within the sand dune mining permit and shall be for an amount equal to $10,000.00 per cell-unit or $1,000.00 per each acre in the cell-units, whichever is greater, for cell-units bonded prior to ~~the effective date of the amendatory act that added section 6(3)~~ JUNE 23, 1994. For all cell-units that are bonded after ~~the effective date of the amendatory act that added section 6(3)~~ JUNE 23, 1994, the conformance bond shall be for an amount equal to $20,000.00 per cell-unit or $2,000.00 per each acre in the cell-units, whichever is greater. The bond for a cell-unit bonded prior to ~~the effective date of section 6(3)~~ JUNE 23, 1994 shall remain in effect until the cell-unit is

released from the requirements of the conformance bond as provided in subsection (4) ~~,~~ or the cell-unit boundary is revised as approved by the department. If an existing cell-unit boundary is revised, the conformance bond for the cell-unit shall be increased to the amounts provided for cell-units bonded after ~~the effective date of section 6(3)~~ JUNE 23, 1994.

(3) The conformance bonds shall be transferable to other cell-units contained within the sand dune mining permit upon faithful conformance with the approved reclamation plan as provided in section ~~6~~ 63706.

(4) The conformance bond shall be conditioned upon the faithful performance of the requirements set forth in the approved reclamation plan as provided in section ~~6~~ 63706. Liability under the conformance bond shall be maintained as long as the reclamation is not completed in compliance with the approved plan. The conformance bond shall remain in full force until the release of the cell-unit from the conformance bond requirements, including the period of time the cell-unit may have been placed in interim cell-unit status.

(5) The department shall not reclassify a cell-unit from active to interim cell-unit status until the following minimum conditions or requirements have been met:

(a) All permitted sand dune mining activities within the cell-unit have been completed.

(b) All extraction or processing equipment has been removed from the cell-unit, except that a roadway, conveyor, or slurry pipeline corridor may be maintained through a cell-unit and the

cell-unit still may be reclassified to interim cell-unit status. This roadway, conveyor, or slurry pipeline corridor shall be considered part of the plant site and shall be removed and revegetated as provided by section ~~6(1)(e)~~ 63706(1)(E).

(c) All upland areas within the cell-unit that were disturbed by sand dune mining have been regraded as provided in section ~~6(3)(a)~~ 63706(3)(A).

(d) All submerged grades within the cell-unit established by sand dune mining have been regraded as provided in section ~~6(3)(b)~~ 63706(3)(B).

(e) All upland areas within the cell-unit that were disturbed by sand dune mining have been revegetated utilizing native or indigenous species or other plant material pursuant to the approved progressive cell-unit mining and reclamation plan as provided in section ~~6(1)~~ 63706(1). The vegetation that has been planted shall have germinated or taken root and cover a minimum of 80% of the upland areas disturbed by sand dune mining, and no single area exposed to the elements shall be greater than 25 square feet.

(f) The operator shall provide proper measures to aid in the establishment of growth of the planted vegetation until adequate root systems have developed to provide sustained growth.

(6) The department may reclassify an active cell-unit to interim cell-unit status upon receipt of a written request by the operator. The department shall conduct an on-site inspection of the reclamation activities that have been completed and determine if the completed reclamation activities are adequate to

reclassify the active cell-unit to interim cell-unit status. The department shall schedule the on-site inspection within 45 days of the written request. The department shall notify the operator within 30 days following the date of the inspection of the department's decision to grant or deny the request for interim cell-unit status. If the department determines the reclamation activities conducted within the cell-unit do not meet the conditions and requirements for interim cell-unit status, the notification shall include information detailing the reasons for denial.

(7) If the department determines the status of an active cell-unit does not meet the conditions or requirements for reclassification to interim cell-unit status, the operator may not reapply for reclassification of the same active cell-unit until 1 year from the previous request.

(8) Notification shall be given to the operator upon completion or acceptance by the department of the reclamation activity. The notification ~~shall constitute~~ CONSTITUTES the release of the cell-unit from the conformance bond requirements if:

(a) All permitted sand dune mining activities within the cell-unit have been completed.

(b) All extraction or processing equipment has been removed from the cell-unit, except a roadway, conveyor, or slurry pipeline corridor may be maintained through a cell-unit and the cell-unit still released from bond. This roadway, conveyor, or slurry pipeline corridor shall be considered part of the plant

site and shall be removed and revegetated as provided by section ~~6(1)(e)~~ 63706(1)(E).

(c) All upland areas within the cell-unit that were disturbed by sand dune mining have been regraded as provided in section ~~6(3)(a)~~ 63706(3)(A).

(d) All submerged grades within the cell-unit established by sand dune mining have been regraded as provided in section ~~6(3)(b)~~ 63706(3)(B).

(e) All upland areas within the cell-unit that were disturbed by sand dune mining have been revegetated utilizing native or indigenous species or other plant material pursuant to the approved reclamation plan as provided in section ~~6(1)~~ 63706(1).

(f) There are no areas within the revegetated portions of the cell-unit where a 10-foot by 10-foot test plot can be measured with less than 80% survival of the planted vegetation.

(g) The plant material shall be required to sustain itself through 1 full growing season.

(h) There are no areas within the revegetated portion of the cell-unit with ongoing erosion, except some wind erosion shall be allowed if the wind erosion that is occurring does not threaten the stability of the regraded slopes or the ability of the plant material to accommodate the accretion of sand.

(9) Mining or extraction of sand dune minerals from any other cell-unit contained within the sand dune mining permit is prohibited until compliance or approval is attained from the department.

(10) A violation of this section constitutes grounds for revocation of the sand dune mining permit.

Sec. ~~13~~ 63713. The department shall promulgate rules ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws,~~ to implement and administer this ~~act~~ PART.

Sec. ~~14~~ 63714. (1) If the department finds that an operator is not in compliance with this ~~chapter~~ PART, the rules promulgated under this ~~chapter~~ PART, or ~~a provision of~~ a permit issued under this ~~chapter~~ PART, the department may suspend or revoke the permit.

(2) At the request of the department, the attorney general may institute an action in the circuit court for a restraining order or injunction or other appropriate remedy to prevent or preclude a violation of THIS PART, a permit issued under this ~~chapter~~ PART, ~~this chapter,~~ or the rules promulgated under this ~~chapter~~ PART. This shall be in addition to the rights provided in ~~the Thomas J. Anderson, Gordon Rockwell environmental protection act of 1970, Act No. 127 of the Public Acts of 1970, being sections 691.1201 to 691.1207 of the Michigan Compiled Laws~~ PART 17.

(3) A person who violates this ~~chapter~~ PART or a permit issued under this ~~chapter~~ PART is guilty of a misdemeanor, punishable by a fine of not more than $5,000.00.

~~SUBCHAPTER 5. PEAT EXTRACTION FROM STATE OWNED LANDS~~

~~Part 641. Peat Extraction from State Owned Lands~~

SUBCHAPTER 5: PEAT EXTRACTION FROM STATE OWNED LANDS

PART 641 PEAT EXTRACTION FROM STATE OWNED LANDS

Sec. ~~1~~ 64101. As used in this ~~act: (a) "Commission" means the natural resources commission. (b) "Department" means the department of natural resources. (c) "Peat"~~ PART, "PEAT" means a deposit of unconsolidated, naturally occurring soil material consisting of decomposed and partially decomposed mosses, sedges, trees, and other wetland plants, having 12% or greater organic carbon content on a dry weight basis.

Sec. ~~2~~ 64102. Subject to the requirements of this ~~act~~ PART, the ~~commission~~ DEPARTMENT may make contracts with persons ~~, sole proprietorships, partnerships, associations, and corporations~~ for the taking of peat from state owned lands upon terms consistent with this ~~act provided that no~~ PART, IF NOT less than 10% of the surface area of all eligible and potentially leasable parcels of state owned land containing peat ~~be~~ IS set aside and preserved in its original natural state as a unique, irreplaceable natural resource of significant historical value.

Sec. ~~3~~ 64103. (1) Beginning immediately after ~~the effective date of this act~~ JULY 9, 1984, the department shall conduct an inventory of state owned land to determine the surface areas of peat present on those lands and to make a preliminary evaluation of the nature of the peat lands and the relationship of the peat resource to the surrounding wetlands and watershed. The preliminary evaluation shall consist of an analysis of the following data obtained from aerial photographs, a field check of surface features, and any information currently available:

(a) The importance of the peat land for flood and storm control by the hydrologic absorption and storage capacity of the peat land.

(b) The importance of the peat land for wildlife habitat including migratory waterfowl and rare, threatened, or endangered species.

(c) The presence of rare, threatened, or endangered plant species.

(d) The importance of the peat land for its natural pollution treatment capacity.

(e) The importance of the peat land for erosion control as a sedimentation area filtering basin.

(f) The potential impact on water quality for adjacent fish habitat and nursery grounds.

(g) The presence of historical or archeological features in or adjacent to the peat lands.

(h) The importance of the peat land for recreational, environmental, ecological, and educational purposes and any other purpose not covered in subdivisions (a) through (g).

(2) Based upon the inventory and preliminary evaluation described in subsection (1), the department shall classify the peat lands as either potentially leasable or not leasable according to the following:

(a) If the preliminary evaluation shows that a significant adverse impact is not likely to occur if the peat land is leased and the peat is taken, the peat land shall be classified as

potentially leasable. A significant adverse impact may include an impact limited to the peat land.

(b) A peat land not classified as potentially leasable under subdivision (a) shall be classified as not leasable.

(3) The department shall provide a public notice of the completion of the inventory and classification required by subsections (1) and (2) including, but not limited to, publication in the agenda of the commission. ~~of natural resources.~~ The department shall accept public comment on the inventory and classifications for not less than 60 days from the date of notice. The department shall consider all pertinent public comments before finalizing the inventory and classifications. Public hearings may be held on the inventory and classification at the department's discretion. The department may reclassify lands upon receipt of further information if the public notice and the opportunity for public comment described in this subsection are provided.

Sec. ~~4~~ 64104. (1) Except as provided in subsection (4), contracting for the taking of peat from state owned lands shall be initiated by the nomination of a parcel of land as provided in this section.

(2) Upon completion of the inventory and classification described in section ~~3~~ 64103, a private party or the department may nominate a parcel classified as leasable for the taking of peat.

(3) A nomination by a private party shall be accompanied by a fee established by the department. The fee established shall

be a nominal sum to assist in defraying the cost to the state of holding public auctions as described in section ~~5~~ 64105. The fee shall be deposited in the fund created in section ~~8~~ 64108.

(4) The ~~commission~~ DEPARTMENT may enter into a direct lease contract for the taking of peat from state owned land classified as leasable under section ~~3~~ 64103 upon obtaining from the direct lease applicant the same information described in section ~~5(4)~~ 64105(4) and upon consideration of the direct lease contract in the same manner as required by this ~~act~~ PART for a contract for the taking of peat from a nominated parcel. The ~~commission~~ DEPARTMENT may enter into a direct lease contract for the taking of peat from state owned land classified as leasable only under either of the following circumstances:

(a) For the completion of an extraction operation area.

(b) For the consolidation of fractional interests owned or controlled by the applicant for the direct lease contract.

Sec. ~~5~~ 64105. (1) On the basis of the inventory and the classification described in section ~~3~~ 64103, the ~~commission~~ DEPARTMENT shall determine whether to offer at a public auction the exclusive opportunity to pursue a contract for the taking of peat from a nominated parcel.

(2) The exclusive opportunity to pursue a contract for the taking of peat from a specified parcel of state owned land shall be awarded to the highest bidder at a public auction by sealed or oral bid.

(3) An exclusive opportunity to pursue a contract awarded under this section guarantees that, if the ~~commission~~

DEPARTMENT decides to enter into a contract for the taking of peat from the nominated parcel as provided in section ~~6~~ 64106, a contract ~~will~~ SHALL be entered into with the highest bidder.

(4) Within 2 years after being awarded an exclusive opportunity to pursue a contract, the highest bidder shall provide to the department the following information:

(a) The quantity and quality of the peat ~~which~~ THAT the bidder proposes to take from the nominated parcel.

(b) The capacity of the production facility ~~which~~ THAT the bidder proposes to operate on the parcel.

(c) The date on which the bidder projects that the taking of peat will commence and the projected duration of the activity.

(d) An environmental assessment of the impact of the taking of the peat, including an analysis of the factors described in section ~~6(2)~~ 64106(2).

(e) Any other information the department determines to be reasonably necessary for the ~~commission~~ DEPARTMENT to make the determination described in section ~~6(2)~~ 64106(2).

Sec. ~~6~~ 64106. (1) After the submission of the information required by section ~~5(4)~~ 64105(4), and after review and evaluation of that information by the department, the department shall hold a public hearing to hear comments from the public on whether the ~~commission~~ DEPARTMENT should enter into a contract for the taking of peat from a nominated parcel. This hearing may be consolidated with other legally required hearings related to the taking of peat from the nominated parcel.

(2) After completion of the public hearing required by subsection (1), ~~and after recommendation by the department,~~ the ~~commission~~ DEPARTMENT shall decide whether to enter into a contract with the highest bidder based upon a determination that the taking of the peat from the parcel of nominated land would be in the public interest and would not unacceptably disrupt or destroy the aquatic or other resources of the peat land or the surrounding area. In making this determination, the ~~commission~~ DEPARTMENT shall balance the benefit that reasonably may be expected to accrue from the taking of the peat against the reasonably foreseeable detriment of the taking, and, to that end, shall consider the following criteria:

(a) The relative extent of the public and private need for the taking of the peat.

(b) The availability of feasible and prudent alternative locations and methods for attaining the expected benefits of the taking of the peat.

(c) The extent and permanence of the beneficial or detrimental effects which the taking of the peat may have on the public and private uses to which the area is suited.

(d) The probable impact of the taking of peat in relation to the cumulative effect created by other existing and anticipated activities in the watershed where the peat is located.

(e) The probable impact of the taking of the peat on recognized historic, cultural, scenic, ecological, educational, or recreational values, and on the public health, or fish ~~,~~ or wildlife.

(f) The size of the peat surface area in relation to the size of the parcel of state owned land.

(g) The impact of the taking of the peat on subsurface water resources, recharging groundwater supplies and adjacent watersheds, and surface water bodies.

(h) The economic value, both public and private, of the taking of peat to the general area.

(3) The ~~commission~~ DEPARTMENT shall state its reasons for deciding to enter or not to enter into a contract with the highest bidder for the taking of peat.

Sec. ~~7~~ 64107. A contract entered into under this ~~act~~ PART for the taking of peat from state owned lands shall contain the following terms:

(a) A requirement that the lessee obtain worker's compensation insurance, liability insurance, and any other insurance reasonably required by the ~~commission~~ DEPARTMENT.

(b) A requirement that the lessee hold the ~~commission~~ DEPARTMENT harmless against all claims, demands, or judgments for loss, damage, death, or injury arising out of the lessee's activities or operations.

(c) A requirement that the lessee obtain and maintain public liability insurance in amounts reasonably required by the ~~commission~~ DEPARTMENT.

(d) A prohibition against assignment of the contract or rights under the contract without the written approval of the ~~commission~~ DEPARTMENT.

(e) A requirement that the lessee pay all taxes and assessments.

(f) A requirement that the lessee maintain the premises in a manner ~~which~~ THAT safeguards the public health and safety.

(g) A provision that the term of the lease not exceed 10 years, with extension of that period in the discretion of the ~~commission~~ DEPARTMENT.

(h) A requirement that the lessee pay rentals and minimum royalties established on a per acre basis or production royalties established by the ~~commission~~ DEPARTMENT.

(i) A requirement that the lessee file a performance bond, an escrow account, or both, conditioned on the faithful performance of the agreements in the lease, including any agreements relating to the reclamation.

(j) A provision setting forth the ~~commission's~~ DEPARTMENT'S rights as lessor.

(k) A provision setting forth the lessee's rights.

(*l*) A provision regarding the ~~commission's~~ DEPARTMENT'S rights in the event of the default of the lessee.

(m) A requirement that the lessee's rights under the lease are conditioned on operation in accordance with the extraction and reclamation plan as approved by the department.

(n) A requirement that the lessee have an extraction and reclamation plan, subject to the approval of the department, that ~~insures~~ ENSURES, to the extent practicable, the extraction operations do not have significant adverse impacts on water quality, air quality, wildlife, or fishing resources of the

state; that waste areas and product storage and conditioning areas are located, designed, and utilized to minimize aesthetic unattractiveness and fire hazards and to promote reclamation; that extraction is conducted in a manner that will prevent or mitigate hazardous conditions that will result from acidic drainage and blowing dust; and that the parcel is reclaimed in an acceptable manner given the following factors: the original state, condition, and appearance of the land including suitability for original flora and fauna, the uses of adjacent land, the necessary disruption caused by extraction operations, reclamation techniques, the public trust in the natural resources, and applicable statutes and ordinances.

(o) A requirement that the lessee have a plan for monitoring groundwater changes and surface water quality and flow rates.

(p) Any other term reasonably required by the ~~commission~~ DEPARTMENT to protect the state's interest in the land, to protect the surrounding environment, or to assure the optimum economic return to the state.

Sec. ~~8~~ 64108. (1) The peat resource conservation and development fund is created in the state treasury.

(2) Subject to subsections (3) and (4), the following shall be deposited in the peat resource conservation and development fund:

(a) Money received by the state under contracts for the taking of peat.

(b) The fees imposed under this ~~act~~ PART.

(3) Money received by the state under contracts for taking of peat from state owned lands acquired with game and fish protection funds shall be deposited in the game and fish protection fund.

(4) If the money in the fund exceeds $250,000.00 at the end of a state fiscal year, the excess shall be deposited ~~in the general trust account of the state recreational land acquisition trust created in the Kammer recreational land trust fund act of 1976, Act No. 204 of the Public Acts of 1976, being sections 318.401 to 318.413 of the Michigan Compiled Laws~~ IN THE MICHIGAN NATURAL RESOURCES TRUST FUND CREATED IN SECTION 35 OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963 OR AS OTHERWISE PROVIDED BY LAW.

Sec. ~~9~~ 64109. The ~~commission~~ DEPARTMENT shall expend the money in the fund and the interest and earnings on the money in the fund for the following purposes:

(a) To administer a peat resource conservation, development, and regulatory program consistent with this ~~act~~ PART.

(b) To perform the inventory of state lands described in section ~~3~~ 64103, to fund further study of the state owned lands classified as not leasable under section ~~3~~ 64103, and to provide for the reclassification of parcels consistent with the provisions of section ~~3~~ 64103 based on the development of information unavailable during the classification required by section ~~3(2)~~ 64103(2).

(c) To fund research necessary for the further development of appropriate techniques for environmental monitoring of peat

extraction sites, for development and protection of the state's peat resources, and for reclamation of lands following the extraction of peat.

(d) To pay for the costs to the state of personnel services, printing, postage, advertising, contractual services, and the rental of facilities associated with the offering of state owned lands for the purpose of taking peat.

Sec. ~~10~~ 64110. The requirements of sections ~~3~~ 64103 through ~~6 shall~~ 64106 DO not apply to proposals for the taking of peat from state owned lands that have been the subject of ~~commission~~ DEPARTMENT action prior to ~~the effective date of this act~~ JULY 9, 1984. This provision does not relieve the ~~commission, the~~ department ~~,~~ or any of the entities listed in section ~~2~~ 64102 from the responsibility of meeting legal requirements applicable to the leasing of state lands for peat development that might otherwise be imposed by law.

Sec. ~~11~~ 64111. The ~~commission~~ DEPARTMENT may promulgate rules ~~in the manner provided in the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws,~~ for the implementation of this ~~act~~ PART.

SEC. 90104. (1) THE FOLLOWING ACTS THAT ARE CODIFIED IN ARTICLE III, CHAPTER 2, ENTITLED MANAGEMENT OF RENEWABLE RESOURCES, ARE REPEALED:

PUBLIC ACT NUMBER	YEAR OF ACT	MICHIGAN COMPILED LAWS SECTIONS
256	1988	300.251 TO 300.270

1	179	1974	299.211 TO 299.213
2	281	1939	299.201
3	269	1925	317.141 TO 317.143
4	230	1925	300.1 TO 300.5
5	66	1891	317.271 TO 317.274
6	112	1895	317.281 TO 317.283
7	171	1899	317.291 TO 317.297
8	134	1957	317.301 TO 317.313
9	159	1967	317.331 TO 317.336
10	82	1947	317.401 TO 317.405
11	308	1929	317.1 TO 317.7
12	191	1929	317.71 TO 317.84
13	103	1941	317.21 TO 317.25
14	207	1923	317.261 TO 317.263
15	86	1980	316.101 TO 316.901
16	73	1986	300.211 TO 300.216
17	285	1986	299.151 TO 299.161
18	94	1988	316.1001 TO 316.1008
19	244	1986	281.571 TO 281.595
20	14	1923	307.71 TO 307.72
21	121	1891	307.41 TO 307.42
22	156	1933	307.101 TO 307.106
23	261	1915	307.51 TO 307.61
24	196	1957	308.111 TO 308.119
25	180	1931	308.151 TO 308.152
26	57	1931	307.161

274	1993	752.221 TO 752.230
218	1955	308.201 TO 308.205
194	1925	307.171 TO 307.172
63	1885	300.51 TO 300.56
84	1929	308.1 TO 308.51
175	1956	307.251 TO 307.253
111	1951	300.151
350	1865	307.22 TO 307.32
123	1929	307.1 TO 307.7
4	1939	307.151
165	1929	301.1 TO 306.3
92	1931	308.161
158	1949	300.101 TO 300.103
298	1980	320.1101 TO 320.1711
150	1984	320.501 TO 320.505
280	1990	320.2001 TO 320.2023
214	1982	322.11 TO 322.17
94	1925	320.301 TO 320.314
86	1917	320.271 TO 320.282
329	1969	320.21 TO 320.38
366	1976	320.61 TO 320.62
35	1955	320.41 TO 320.48
178	1935	320.81
217	1931	320.201 TO 320.210
182	1962	320.411 TO 320.420

(2) THE FOLLOWING ACTS AND PARTS OF ACTS ARE NOT CODIFIED IN THIS ACT BUT ARE REPEALED:

PUBLIC ACT NUMBER	YEAR OF ACT	MICHIGAN COMPILED LAWS SECTIONS
175	1903	320.101 TO 320.107
63	1885	300.51 TO 300.56
22	1913	317.131 TO 317.133

SEC. 90105. (1) THE FOLLOWING ACTS AND PARTS OF ACTS THAT ARE CODIFIED IN ARTICLE III, CHAPTER 3, ENTITLED MANAGEMENT OF NONRENEWABLE RESOURCES, ARE REPEALED:

PUBLIC ACT NUMBER	YEAR OF ACT	MICHIGAN COMPILED LAWS SECTIONS
65	1869	321.1 TO 321.9
373	1917	321.21 TO 321.31
248	1937	321.151 TO 321.154
268	1977	321.41 TO 321.45
204	1979	321.201 TO 321.213
61	1939	319.1 TO 319.27
308	1994	319.41 TO 319.49
197	1959	319.351 TO 319.394
316	1980	319.121 TO 319.125
138	1947	319.301 TO 319.303
315	1969	319.211 TO 319.236
92	1970	425.181 TO 425.188
59	1945	319.151 TO 319.156
303	1982	425.1101 TO 425.2005
204	1984	322.801 TO 322.811

(2) THE FOLLOWING ACTS AND PARTS OF ACTS ARE NOT CODIFIED IN THIS ACT BUT ARE REPEALED:

PUBLIC ACT NUMBER	YEAR OF ACT	MICHIGAN COMPILED LAWS SECTIONS
7	1911	319.202 TO 319.205
132	1897	319.251 TO 319.253

Section 2. This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

(a) Senate Bill No. _____ or House Bill No. 4351 (request no. 02005'95).

(b) Senate Bill No. _____ or House Bill No. 4350 (request no. 02005'95 a).

(c) Senate Bill No. _____ or House Bill No. 4349 (request no. 02006'95 a).