

HOUSE BILL No. 4401

March 9, 2011, Introduced by Rep. Geiss and referred to the Committee on Energy and Technology.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

7 (A) APPLY TO ALL SEQUESTRATION OPERATIONS SUBJECT TO THE

1 SEQUESTRATION ORDER.

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

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

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

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

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

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

1 (2) THE SEQUESTRATION PROJECT OWNER SHALL NOTIFY THE
2 DEPARTMENT AT LEAST 30 DAYS BEFORE BEGINNING A SEQUESTRATION
3 OPERATION, AND 5 BUSINESS DAYS BEFORE ACTUAL GEOLOGIC SEQUESTRATION
4 BEGINS.

5 SEC. 62719. (1) A PERSON MAY REQUEST THE DEPARTMENT TO AMEND A
6 SEQUESTRATION ORDER TO NAME THE PERSON AS A NEW SEQUESTRATION
7 PROJECT OWNER. THE REQUEST SHALL BE SUBMITTED TO THE DEPARTMENT ON
8 A FORM PROVIDED BY THE DEPARTMENT. THE REQUEST SHALL INCLUDE AN
9 ORGANIZATION REPORT AND OTHER RELEVANT INFORMATION REQUIRED BY THE
10 DEPARTMENT. THE REQUEST SHALL BE VERIFIED IN THE SAME MANNER AS A
11 PLEADING IN A CIVIL ACTION. THE DEPARTMENT SHALL APPROVE THE
12 REQUEST AND ISSUE AN AMENDED SEQUESTRATION ORDER IF ALL OF THE
13 FOLLOWING REQUIREMENTS ARE MET:

14 (A) THE PERSON SUBMITTING THE REQUEST PROVIDES FINANCIAL
15 ASSURANCE AS REQUIRED UNDER SECTION 62715.

16 (B) THE PERSON SUBMITTING THE REQUEST ACCEPTS THE CONDITIONS
17 OF THE EXISTING SEQUESTRATION ORDER.

18 (C) IF THE DEPARTMENT DETERMINES THE CURRENT SEQUESTRATION
19 PROJECT OWNER TO BE IN VIOLATION OF THIS PART OR THE RULES
20 PROMULGATED UNDER THIS PART AT THE SEQUESTRATION PROJECT INVOLVED
21 IN THE TRANSFER, THE CURRENT SEQUESTRATION PROJECT OWNER HAS
22 COMPLETED THE NECESSARY CORRECTIVE ACTIONS OR THE PERSON SUBMITTING
23 THE REQUEST HAS ENTERED INTO A WRITTEN CONSENT AGREEMENT WITH THE
24 DEPARTMENT TO CORRECT THE VIOLATION.

25 (2) PENDING THE APPROVAL OF AN AMENDED SEQUESTRATION ORDER
26 UNDER SUBSECTION (1), THE CURRENT SEQUESTRATION PROJECT OWNER
27 REMAINS RESPONSIBLE FOR THE SEQUESTRATION OPERATION.

1 (3) A SEQUESTRATION ORDER MAY BE AMENDED, FOR PURPOSES OTHER
2 THAN NAMING A NEW SEQUESTRATION PROJECT OWNER, AS FOLLOWS:

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

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

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

17 (D) IF THE DEPARTMENT DETERMINES THAT THE AMENDMENT WOULD
18 CONSTITUTE A SIGNIFICANT SUBSTANTIVE CHANGE, THEN THE DEPARTMENT
19 SHALL GIVE NOTICE AND CONDUCT AN EVIDENTIARY HEARING ON THE
20 PROPOSED AMENDMENT AS PROVIDED UNDER SECTION 62711.

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

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

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

9 (4) IF THE DEPARTMENT DENIES A REQUEST TO AMEND A
10 SEQUESTRATION ORDER UNDER SUBSECTION (1) OR (3), THE DEPARTMENT
11 SHALL STATE THE REASONS FOR DENIAL IN AN ORDER PROVIDED TO THE
12 SEQUESTRATION PROJECT OWNER.

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

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

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

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

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

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

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

1 SUBDIVISION (A) .

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

7 SEC. 62723. (1) THE LEGISLATURE FINDS THAT GEOLOGIC
8 SEQUESTRATION RESULTS IN LONG-TERM STORAGE OF CO₂, THEREBY REDUCING
9 MAN-MADE CO₂ EMISSIONS TO THE ATMOSPHERE AND THE ATTENDANT ADVERSE
10 ATMOSPHERIC EFFECTS OF THESE EMISSIONS ON NATURAL RESOURCES, THE
11 ENVIRONMENT, AND PUBLIC HEALTH AND SAFETY. CONSEQUENTLY, A
12 SEQUESTRATION PROJECT IS A PUBLIC USE OF PROPERTY. THE PROJECT OWNER
13 UNDER A SEQUESTRATION ORDER MAY ACQUIRE ANY OF THE FOLLOWING BY
14 EXERCISE OF POWER OF EMINENT DOMAIN:

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

17 (B) THE RIGHT TO USE PROPERTY AND HIGHWAY RIGHTS-OF-WAY IN THIS
18 STATE, BUT ONLY TO TRANSPORT CARBON DIOXIDE BY A PIPELINE OR
19 PIPELINES, AND TO LOCATE, LAY, CONSTRUCT, MAINTAIN, AND OPERATE THOSE
20 PIPELINES. THE PIPELINE OR PIPELINES SHALL BE USED EXCLUSIVELY FOR THE
21 TRANSMISSION, TRANSPORTATION, AND DISTRIBUTION OF CARBON DIOXIDE
22 WITHIN THIS STATE.

23 (2) EMINENT DOMAIN UNDER THIS SECTION SHALL BE EXERCISED BY
24 CONDEMNATION PURSUANT TO THE UNIFORM CONDEMNATION PROCEDURES ACT OF
25 1980, 1980 PA 87, MCL 213.51 TO 213.75.

26 (3) RIGHTS OR INTERESTS A PROJECT OWNER ACQUIRES FOR A
27 SEQUESTRATION PROJECT BY TITLE CONVEYANCE OR OTHER CONTRACTUAL

1 ARRANGEMENT ARE NOT SUBJECT TO THE EXERCISE OF THE POWER OF EMINENT
2 DOMAIN UNDER SUBSECTION (1) FOR A DIFFERENT SEQUESTRATION PROJECT.

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

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

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

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

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

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

27 (8) THE DEPARTMENT AND ITS EMPLOYEES ARE NEITHER NECESSARY NOR

1 INDISPENSABLE PARTIES TO ANY CONDEMNATION PROCEEDING UNDER THIS
2 SECTION, AND IF NAMED AS A PARTY OR THIRD PARTY, UPON MOTION, SHALL BE
3 DISMISSED FROM THE ACTION AT THE EXPENSE OF THE PARTY WHO NAMES THE
4 DEPARTMENT OR ANY EMPLOYEE. THE DEPARTMENT SHALL BE AWARDED ALL COSTS
5 REASONABLY INCURRED TO BE DISMISSED FROM THE ACTION, INCLUDING
6 ATTORNEY FEES.

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

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

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

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

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

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

1 MIGRATING OUTSIDE THE SEQUESTRATION ZONE. THE REQUEST SHALL BE MADE
2 IN WRITING NOT LESS THAN 6 MONTHS BEFORE THE PROPOSED POSTCLOSURE
3 MONITORING TERMINATION DATE AND SHALL PROVIDE THE DEPARTMENT WITH
4 TECHNICAL DATA AND INFORMATION DEMONSTRATING THAT ADDITIONAL
5 MONITORING IS NOT NEEDED TO ENSURE THAT THERE IS NOT A SIGNIFICANT
6 RISK OF ENDANGERMENT OF NATURAL RESOURCES, THE ENVIRONMENT, OR
7 PUBLIC HEALTH AND SAFETY. THE DEPARTMENT SHALL GIVE NOTICE AND
8 CONDUCT AN EVIDENTIARY HEARING ON THE REQUEST IN THE SAME MANNER AS
9 PROVIDED UNDER SECTION 62711.

10 SEC. 62727. (1) A SEQUESTRATION PROJECT OWNER SHALL FILE A
11 BIENNIAL GEOLOGIC SEQUESTRATION REPORT WITH THE DEPARTMENT ON OR
12 BEFORE MARCH 15 AND SEPTEMBER 15 OF EACH YEAR OF THE SEQUESTRATION
13 OPERATION AND POSTCLOSURE MONITORING PERIOD. THE REPORT DUE ON OR
14 BEFORE MARCH 15 SHALL COVER OPERATIONS DURING THE PRECEDING JULY 1
15 TO DECEMBER 31. THE REPORT DUE ON OR BEFORE SEPTEMBER 15 SHALL
16 COVER OPERATIONS DURING THE PRECEDING JANUARY 1 TO JUNE 30. THE
17 GEOLOGIC SEQUESTRATION REPORT SHALL CONTAIN ALL OF THE FOLLOWING:

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

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

22 (C) A REPORT OF MONITORING RESULTS FOR THE PRECEDING 6-MONTH
23 PERIOD.

24 (D) A REPORT OF THE TOTAL TONS OF CARBON DIOXIDE INJECTED INTO
25 THE SEQUESTRATION ZONE FOR EACH MONTH OF THE PRECEDING 6-MONTH
26 PERIOD.

27 (E) A LIST OF ALL SEQUESTRATION WELLS PLUGGED AND ABANDONED

1 DURING THE PRECEDING 6-MONTH PERIOD.

2 (F) A LIST OF ALL SEQUESTRATION WELLS DRILLED DURING THE
3 PRECEDING 6-MONTH PERIOD.

4 (G) A LIST OF ALL SEQUESTRATION WELLS GRANTED TEMPORARY
5 ABANDONED STATUS UNDER PART 625 DURING THE PRECEDING 6-MONTH
6 PERIOD.

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

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

14 (3) THE SEQUESTRATION PROJECT OWNER SHALL PRESERVE RECORDS
15 UPON WHICH THE GEOLOGIC SEQUESTRATION REPORTS ARE BASED FOR 3
16 YEARS. HOWEVER, THE PROJECT OWNER SHALL PRESERVE RECORDS UPON WHICH
17 NOTIFICATIONS UNDER SUBSECTION (2) ARE BASED UNTIL THE END OF THE
18 POSTCLOSURE MONITORING PERIOD. RECORDS DESCRIBED IN THIS SUBSECTION
19 SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

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

1 (A) THERE IS NOT A SIGNIFICANT RISK THAT THE SEQUESTERED
2 SUBSTANCE WILL ENDANGER NATURAL RESOURCES, THE ENVIRONMENT, OR
3 PUBLIC HEALTH AND SAFETY BY MIGRATING OUTSIDE OF THE SEQUESTRATION
4 ZONE.

5 (B) THE SEQUESTRATION OPERATION HAS NOT RESULTED IN ANY
6 ONGOING CONDITIONS REQUIRING CORRECTION OR REMEDIATION.

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

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

14 (2) THE DEPARTMENT SHALL PUBLISH A COPY OF THE ENTIRE
15 CERTIFICATE OF COMPLETION IN A NEWSPAPER OF LOCAL DISTRIBUTION IN
16 THE AREA WHERE THE SEQUESTRATION PROJECT IS LOCATED.

17 SEC. 62731. (1) AFTER A CERTIFICATE OF COMPLETION OF THE
18 SEQUESTRATION OPERATION IS ISSUED, ALL OF THE FOLLOWING APPLY:

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

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

26 (C) THE SEQUESTRATION REMEDIATION FUND CREATED IN SECTION
27 62735 IS INTENDED AS THE SOLE SOURCE OF PUBLIC FUNDING FOR

1 CORRECTION OR REMEDIATION OF CONDITIONS CAUSED BY THE SEQUESTRATION
2 OPERATION.

3 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, A
4 SEQUESTRATION PROJECT OWNER IS LIABLE FOR ANY DAMAGE FROM THE
5 SEQUESTRATION OPERATION THAT IS PROXIMATELY CAUSED BY EITHER OF THE
6 FOLLOWING COMMITTED BY OR ON BEHALF OF THE SEQUESTRATION PROJECT
7 OWNER:

8 (A) GROSS NEGLIGENCE.

9 (B) INTENTIONAL CONCEALMENT OR MISREPRESENTATION OF MATERIAL
10 FACTS.

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

18 SEC. 62733. (1) AFTER A SEQUESTRATION ORDER BECOMES EFFECTIVE,
19 THE DEPARTMENT SHALL ASSESS A SEQUESTRATION PROJECT OWNER A
20 SEQUESTRATION SURVEILLANCE FEE OF NOT MORE THAN 15 CENTS PER TON OF
21 SEQUESTERED SUBSTANCE INJECTED DURING THE CALENDAR YEAR, AS
22 REPORTED UNDER SECTION 62727(1)(D), BUT NOT LESS THAN \$50,000.00,
23 FOR EACH CALENDAR YEAR IN WHICH SUBSURFACE INJECTION OF CARBON
24 DIOXIDE OCCURS. SURVEILLANCE FEES COLLECTED UNDER THIS SECTION
25 SHALL BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT IN THE
26 SEQUESTRATION ADMINISTRATION FUND CREATED IN SUBSECTION (6). THE
27 SURVEILLANCE FEE RATE SHALL BE CALCULATED EACH YEAR AS FOLLOWS:

1 (A) THE DEPARTMENT SHALL CALCULATE THE ADJUSTED APPROPRIATION
2 BY DEDUCTING ANY UNEXPENDED MONEY IN THE FUND AT THE CLOSE OF THE
3 PRIOR FISCAL YEAR FROM THE AMOUNT APPROPRIATED FOR THE CURRENT
4 FISCAL YEAR FOR SURVEILLANCE, MONITORING, ADMINISTRATION, AND
5 ENFORCEMENT OF THIS PART.

6 (B) THE DEPARTMENT SHALL DETERMINE THE TOTAL TONS OF CARBON
7 DIOXIDE INJECTED BY ALL SEQUESTRATION OPERATIONS IN THIS STATE IN
8 THE PRIOR CALENDAR YEAR.

9 (C) THE FEE RATE SHALL BE THE RATIO, TO THE NEAREST 1/100 OF
10 1%, OF THE ADJUSTED APPROPRIATION AS DETERMINED UNDER SUBDIVISION
11 (A) TO THE TOTAL TONS OF SEQUESTERED SUBSTANCE AS DETERMINED UNDER
12 SUBDIVISION (B).

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

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

22 (4) IF PAYMENT OF THE SEQUESTRATION SURVEILLANCE FEE FOR A
23 SEQUESTRATION PROJECT IS OVERDUE BY MORE THAN 6 MONTHS, THE
24 DEPARTMENT MAY ORDER THE SUSPENSION OF THE SEQUESTRATION OPERATION
25 UNTIL THE FEE AND ALL FINES ARE PAID.

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

1 (6) THE SEQUESTRATION ADMINISTRATION FUND IS CREATED WITHIN
2 THE STATE TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER
3 ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE SEQUESTRATION
4 ADMINISTRATION FUND. THE STATE TREASURER SHALL DIRECT THE
5 INVESTMENT OF THE SEQUESTRATION ADMINISTRATION FUND. THE STATE
6 TREASURER SHALL CREDIT TO THE SEQUESTRATION ADMINISTRATION FUND
7 INTEREST AND EARNINGS FROM SEQUESTRATION ADMINISTRATION FUND
8 INVESTMENTS. MONEY IN THE SEQUESTRATION ADMINISTRATION FUND AT THE
9 CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE SEQUESTRATION
10 ADMINISTRATION FUND AND SHALL NOT LAPSE TO THE GENERAL FUND. THE
11 DEPARTMENT SHALL BE THE SEQUESTRATION ADMINISTRATOR OF THE
12 SEQUESTRATION ADMINISTRATION FUND FOR AUDITING PURPOSES.

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

16 SEC. 62735. (1) THE SEQUESTRATION REMEDIATION FUND IS CREATED
17 WITHIN THE STATE TREASURY.

18 (2) FEES COLLECTED UNDER SUBSECTION (5) SHALL BE DEPOSITED IN
19 THE SEQUESTRATION REMEDIATION FUND. THE STATE TREASURER MAY RECEIVE
20 MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE
21 SEQUESTRATION REMEDIATION FUND. THE STATE TREASURER SHALL DIRECT
22 THE INVESTMENT OF THE SEQUESTRATION REMEDIATION FUND. THE STATE
23 TREASURER SHALL CREDIT TO THE A SEQUESTRATION REMEDIATION FUND
24 INTEREST AND EARNINGS FROM SEQUESTRATION REMEDIATION FUND
25 INVESTMENTS. MONEY IN THE SEQUESTRATION REMEDIATION FUND AT THE
26 CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE SEQUESTRATION
27 REMEDIATION FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

1 (3) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE
2 SEQUESTRATION REMEDIATION FUND FOR AUDITING PURPOSES.

3 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE SEQUESTRATION
4 REMEDIATION FUND, UPON APPROPRIATION, ONLY FOR CORRECTION OR
5 REMEDIATION OF PHYSICAL CONDITIONS CAUSED BY A SEQUESTRATION
6 OPERATION THAT OCCUR AFTER ISSUANCE OF THE CERTIFICATE OF
7 COMPLETION UNDER SECTION 62729. AN APPROPRIATION UNDER THIS
8 SUBSECTION IS AN APPROPRIATION FOR A PUBLIC PURPOSE.

9 (5) A SEQUESTRATION PROJECT OWNER SHALL PAY A FEE FOR EACH TON
10 OF A SEQUESTERED SUBSTANCE INJECTED AFTER A SEQUESTRATION ORDER
11 BECOMES EFFECTIVE. FEES COLLECTED UNDER THIS SUBSECTION SHALL BE
12 DEPOSITED IN THE SEQUESTRATION REMEDIATION FUND.

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

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

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

22 (C) THE LIKELY DOLLAR VALUE OF ANY DAMAGES RELATING TO AN
23 INCIDENT.

24 (D) OTHER FACTORS RELATING TO THE RISK OF SEQUESTRATION
25 PROJECTS.

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

1 (7) THE DEPARTMENT SHALL REVIEW AND IF APPROPRIATE ADJUST THE
2 MINIMUM AND MAXIMUM SEQUESTRATION REMEDIATION FUND BALANCE AT LEAST
3 EVERY 5 YEARS TO ENSURE THAT THE BALANCE IS SUFFICIENT TO MEET THE
4 POTENTIAL NEED FOR PAYMENTS FROM THE REMEDIATION FUND.

5 (8) THE GEOLOGIC SEQUESTRATION ADVISORY BOARD IS CREATED
6 WITHIN THE DEPARTMENT. THE BOARD SHALL CONSIST OF THE FOLLOWING
7 MEMBERS:

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

9 (i) 1 MEMBER REPRESENTING AN ORGANIZATION OF INTRASTATE GAS
10 PIPELINE OPERATORS.

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

13 (iii) 1 MEMBER REPRESENTING AN ENVIRONMENTAL PROTECTION
14 ORGANIZATION.

15 (B) THE FOLLOWING MEMBERS APPOINTED BY THE SENATE MAJORITY
16 LEADER:

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

18 (ii) 1 MEMBER WHO IS AN ENGINEER SPECIALIZING IN CARBON
19 SEQUESTRATION.

20 (C) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF THE
21 HOUSE OF REPRESENTATIVES:

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

23 (ii) 1 MEMBER WHO IS AN ACTUARY.

24 (D) THE FOLLOWING EX OFFICIO MEMBERS:

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

26 (ii) THE MANAGER OF THE OPERATIONS AND WHOLESALE MARKET
27 DIVISION, OR A SUCCESSOR DIVISION, OF THE MICHIGAN PUBLIC SERVICE

1 COMMISSION.

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

4 (9) THE MEMBERS FIRST APPOINTED TO THE GEOLOGIC SEQUESTRATION
5 ADVISORY BOARD SHALL BE APPOINTED WITHIN 30 DAYS AFTER THE
6 EFFECTIVE DATE OF THIS SECTION. MEMBERS OF THE BOARD SHALL SERVE
7 FOR TERMS OF 4 YEARS OR UNTIL A SUCCESSOR IS APPOINTED, WHICHEVER
8 IS LATER, EXCEPT THAT THE MEMBER FIRST APPOINTED UNDER SUBSECTION
9 (8) (A) (ii) SHALL SERVE FOR 1 YEAR, THE MEMBERS FIRST APPOINTED UNDER
10 SUBSECTION (8) (B) (i) AND (C) (i) SHALL SERVE FOR 2 YEARS, AND THE
11 MEMBERS FIRST APPOINTED UNDER SUBSECTION (8) (B) (ii) AND (C) (ii) SHALL
12 SERVE FOR 3 YEARS. IF A VACANCY OCCURS ON THE BOARD, THE VACANCY
13 SHALL BE FILLED BY APPOINTMENT FOR THE UNEXPIRED TERM IN THE SAME
14 MANNER AS THE ORIGINAL APPOINTMENT. THE OFFICER APPOINTING A MEMBER
15 OF THE BOARD MAY REMOVE THE MEMBER FOR INCOMPETENCY, DERELICTION OF
16 DUTY, MALFEASANCE, MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY
17 OTHER GOOD CAUSE.

18 (10) THE FIRST MEETING OF THE GEOLOGIC SEQUESTRATION ADVISORY
19 BOARD SHALL BE CALLED BY THE DIRECTOR OF THE DEPARTMENT. AT THE
20 FIRST MEETING, THE BOARD SHALL ELECT FROM AMONG ITS MEMBERS A
21 CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS NECESSARY OR
22 APPROPRIATE. AFTER THE FIRST MEETING, THE BOARD SHALL MEET AT LEAST
23 ANNUALLY, OR MORE FREQUENTLY AT THE CALL OF THE CHAIRPERSON OR IF
24 REQUESTED BY 2 OR MORE MEMBERS. A MAJORITY OF THE MEMBERS OF THE
25 BOARD CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS AT A
26 MEETING OF THE BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING
27 ARE REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

1 (11) THE BUSINESS THAT THE GEOLOGIC SEQUESTRATION ADVISORY
2 BOARD PERFORMS SHALL BE CONDUCTED AT A PUBLIC MEETING OF THE BOARD
3 HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL
4 15.261 TO 15.275. A WRITING PREPARED, OWNED, USED, IN THE
5 POSSESSION OF, OR RETAINED BY THE BOARD IN THE PERFORMANCE OF AN
6 OFFICIAL FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT,
7 1976 PA 442, MCL 15.231 TO 15.246.

8 (12) MEMBERS OF THE GEOLOGIC SEQUESTRATION ADVISORY BOARD
9 SHALL SERVE WITHOUT COMPENSATION. HOWEVER, MEMBERS OF THE BOARD MAY
10 BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN
11 THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE BOARD.

12 (13) THE GEOLOGIC SEQUESTRATION ADVISORY BOARD SHALL MAKE
13 RECOMMENDATIONS TO THE DEPARTMENT ON ALL OF THE FOLLOWING:

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

15 (B) THE MINIMUM AND MAXIMUM SEQUESTRATION REMEDIATION FUND
16 BALANCE.

17 (C) MANAGEMENT OF THE SEQUESTRATION REMEDIATION FUND.

18 (14) THE DEPARTMENT SHALL CONSIDER THE RECOMMENDATIONS OF THE
19 GEOLOGIC SEQUESTRATION ADVISORY BOARD AND SHALL EXPLAIN THE REASONS
20 IN WRITING IF RECOMMENDATIONS OF THE BOARD ARE NOT ADOPTED.

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

26 (2) THE DEPARTMENT MAY PROMULGATE RULES TO ALLOW CONVERSION OR
27 EXPANSION OF AN EXISTING SECONDARY RECOVERY PROJECT APPROVED UNDER

1 PART 615 OR PART 617, OR BOTH, INTO A SEQUESTRATION PROJECT. UPON
2 APPROVAL OF A CONVERSION OR EXPANSION OF A SECONDARY RECOVERY
3 PROJECT, THIS PART APPLIES TO THE PROJECT.

4 SEC. 62739. (1) IF THE DEPARTMENT DETERMINES THAT A
5 SEQUESTRATION PROJECT OWNER HAS VIOLATED THIS PART, A RULE
6 PROMULGATED UNDER THIS PART, OR A SEQUESTRATION ORDER ISSUED UNDER
7 THIS PART, THE DEPARTMENT SHALL ORDER THE SEQUESTRATION PROJECT
8 OWNER TO CORRECT THE VIOLATION.

9 (2) IF THE DEPARTMENT DETERMINES THAT THE SEQUESTRATION
10 PROJECT OWNER HAS VIOLATED THIS PART, A RULE PROMULGATED UNDER THIS
11 PART, OR AN ORDER ISSUED UNDER THIS PART, AND THAT THE VIOLATION IS
12 ENDANGERING OR THAT THERE IS A SIGNIFICANT RISK THAT THE VIOLATION
13 WILL ENDANGER NATURAL RESOURCES, THE ENVIRONMENT, OR PUBLIC HEALTH
14 AND SAFETY, THE DEPARTMENT SHALL SERVE NOTICE BY REGISTERED MAIL OR
15 IN PERSON OF THIS DETERMINATION, IN WRITING, TO THE PROJECT OWNER
16 AND TO ANY SURETY EXECUTING A BOND FILED WITH THE DEPARTMENT BY THE
17 PROJECT OWNER. THE NOTICE SHALL SPECIFY ACTIONS NECESSARY TO
18 REMEDIATE THE VIOLATION. IF THE PROJECT OWNER AND SURETY FAIL TO
19 TAKE THE ACTIONS DESCRIBED IN THE NOTICE OF DETERMINATION AS SOON
20 AS PRACTICABLE BUT NOT LATER THAN 30 DAYS AFTER THE DATE OF
21 SERVICE, THE DEPARTMENT MAY ENTER INTO AND UPON ANY PRIVATE OR
22 PUBLIC PROPERTY NECESSARY TO REACH THE SITE OF THE SEQUESTRATION
23 PROJECT, AND TAKE ACTIONS NECESSARY TO REMEDIATE THE VIOLATION. THE
24 PROJECT OWNER AND SURETY ARE JOINTLY AND SEVERALLY LIABLE FOR ALL
25 EXPENSES INCURRED BY THE DEPARTMENT FOR REMEDIATION UNDER THIS
26 SECTION. THE PROJECT OWNER OR SURETY SHALL PAY WITHIN 30 DAYS ANY
27 CLAIM SUBMITTED BY THE DEPARTMENT LISTING THE EXPENSES INCURRED TO

1 REMEDIATE THE VIOLATION. IF A CLAIM IS NOT PAID WITHIN THAT TIME,
2 THE DEPARTMENT MAY BRING A SUIT AGAINST THE PROJECT OWNER OR
3 SURETY, JOINTLY OR SEVERALLY, TO COLLECT THE CLAIM IN ANY COURT OF
4 COMPETENT JURISDICTION. A PERSON CHALLENGING THE RECOVERY OF COSTS
5 UNDER THIS SUBSECTION HAS THE BURDEN OF ESTABLISHING THAT THE COSTS
6 WERE NOT REASONABLY INCURRED UNDER THE CIRCUMSTANCES.

7 (3) THIS SECTION DOES NOT REQUIRE A SURETY TO PAY MORE THAN
8 ITS OBLIGATIONS UNDER THE APPLICABLE SURETY INSTRUMENT.

9 (4) A FINDING OF SIGNIFICANT ENDANGERMENT UNDER THIS SECTION
10 DOES NOT PROVIDE A BASIS FOR A FINDING OF AN IMMINENT AND
11 SUBSTANTIAL ENDANGERMENT OR A SIMILAR FINDING UNDER ANY OTHER
12 PROVISION OF LAW.

13 (5) IF THE DEPARTMENT FINDS THAT EMERGENCY ACTION IS REQUIRED
14 TO PROTECT NATURAL RESOURCES, THE ENVIRONMENT, OR PUBLIC HEALTH AND
15 SAFETY, THE DEPARTMENT MAY ISSUE AN EMERGENCY ORDER WITHOUT A
16 HEARING TO REQUIRE A SEQUESTRATION PROJECT OWNER TO SUSPEND THE
17 SEQUESTRATION OPERATION OR TO TAKE OTHER CORRECTIVE ACTIONS. AN
18 EMERGENCY ORDER SHALL REMAIN IN FORCE AND EFFECT FOR NOT MORE THAN
19 21 DAYS.

20 (6) IF A SEQUESTRATION PROJECT OWNER FAILS TO COMPLY WITH AN
21 ORDER UNDER SUBSECTION (1), THE DEPARTMENT MAY REQUEST THE ATTORNEY
22 GENERAL TO COMMENCE A CIVIL ACTION FOR APPROPRIATE RELIEF,
23 INCLUDING A PERMANENT OR TEMPORARY INJUNCTION, FOR A VIOLATION OF
24 THIS PART, A RULE PROMULGATED UNDER THIS PART, OR AN ORDER ISSUED
25 UNDER THIS PART. AN ACTION UNDER THIS SUBSECTION MAY BE BROUGHT IN
26 THE CIRCUIT COURT FOR THE COUNTY OF INGHAM OR FOR THE COUNTY IN
27 WHICH THE DEFENDANT IS LOCATED, RESIDES, OR IS DOING BUSINESS. THE

1 COURT HAS JURISDICTION TO RESTRAIN THE VIOLATION AND TO REQUIRE
2 COMPLIANCE. IN ADDITION TO ANY OTHER RELIEF GRANTED UNDER THIS
3 SECTION, THE COURT MAY IMPOSE A CIVIL FINE OF NOT LESS THAN
4 \$2,500.00, AND THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND
5 COSTS TO THE PREVAILING PARTY. THE MAXIMUM FINE IMPOSED BY THE
6 COURT SHALL BE NOT MORE THAN \$25,000.00 PER DAY OF VIOLATION.

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

12 (8) A CIVIL FINE OR OTHER CIVIL AWARD IMPOSED UNDER THIS
13 SECTION IS PAYABLE TO THIS STATE AND SHALL BE CREDITED TO THE
14 GENERAL FUND. THE FINE CONSTITUTES A LIEN ON ANY PROPERTY, OF ANY
15 NATURE OR KIND, OWNED BY THE DEFENDANT.

16 SEC. 62741. A PERSON WHO INTENTIONALLY MAKES A FALSE
17 STATEMENT, REPRESENTATION, OR CERTIFICATION IN A PETITION FOR A
18 SEQUESTRATION PROJECT UNDER THIS PART OR IN A NOTICE OR REPORT
19 REQUIRED UNDER THIS PART OR UNDER A SEQUESTRATION ORDER IS GUILTY
20 OF A FELONY AND MAY BE IMPRISONED FOR NOT MORE THAN 2 YEARS AND
21 SHALL BE FINED NOT LESS THAN \$2,500.00 OR MORE THAN \$25,000.00 FOR
22 EACH VIOLATION.

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

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

1 (3) THE DEPARTMENT MAY ENTER AT ALL REASONABLE TIMES IN OR
2 UPON A SEQUESTRATION PROJECT SUBJECT TO THIS PART FOR THE PURPOSE
3 OF INSPECTING AND INVESTIGATING OPERATING RECORDS, SEQUESTRATION
4 WELLS, AND FACILITIES OF A SEQUESTRATION PROJECT. THE DEPARTMENT
5 SHALL CONDUCT AN INSPECTION AND INVESTIGATION AT LEAST ANNUALLY.

6 (4) THE DEPARTMENT MAY ENTER INTO COOPERATIVE AGREEMENTS WITH
7 THE FEDERAL GOVERNMENT OR OTHER STATE GOVERNMENTS OR STATE
8 GOVERNMENT ENTITIES TO REGULATE SEQUESTRATION PROJECTS THAT EXTEND
9 BEYOND STATE REGULATORY AUTHORITY UNDER THIS PART.

10 (5) A LOCAL UNIT OF GOVERNMENT SHALL NOT ENACT, MAINTAIN, OR
11 ENFORCE AN ORDINANCE, REGULATION, OR RESOLUTION THAT DUPLICATES,
12 CONTRADICTS, EXCEEDS, OR CONFLICTS WITH A PROVISION OF THIS PART,
13 EXCEPT THAT AN ORDINANCE MAY REGULATE ABOVEGROUND ELEMENTS OF THE
14 SEQUESTRATION OPERATION OR SEQUESTRATION PROJECT TO PROTECT PUBLIC
15 HEALTH AND SAFETY.

16 (6) A SEQUESTRATION OPERATION OR SEQUESTRATION PROJECT THAT
17 HAS BEEN APPROVED BY A SEQUESTRATION PROJECT ORDER IS NOT SUBJECT
18 TO AN ORDINANCE ADOPTED UNDER THE MICHIGAN ZONING ENABLING ACT,
19 2006 PA 110, MCL 125.3101 TO 125.3702.

20 (7) A CARBON DIOXIDE INJECTION PROJECT DESIGNED TO GATHER DATA
21 OR AS A PILOT OR FEASIBILITY STUDY OF GEOLOGIC SEQUESTRATION THAT
22 INJECTS NOT MORE THAN 2,000,000 TONS OF CARBON DIOXIDE IS NOT
23 SUBJECT TO THIS PART, IF THE OWNER OR OPERATOR OF THE PROJECT
24 COMPLIES WITH ALL APPLICABLE PROVISIONS OF PART 615 AND PART 625,
25 AS APPROPRIATE, AND PURSUANT TO THOSE PARTS, OBTAINS THE APPROVAL
26 OF THE DEPARTMENT FOR CONSTRUCTION AND OPERATION OF THE PROJECT.
27 THE PROJECT MAY AT ANY TIME BE CONSIDERED FOR CONVERSION INTO A

1 SEQUESTRATION PROJECT SUBJECT TO THIS PART, ON A PROSPECTIVE BASIS,
2 UPON FILING A PETITION PURSUANT TO SECTION 62707.

3 SEC. 62745. THIS PART SHALL BE CONSTRUED LIBERALLY TO
4 EFFECTUATE THE LEGISLATIVE INTENT AND THE PURPOSES AS COMPLETE AND
5 INDEPENDENT AUTHORITY FOR EACH ACT AND THING AUTHORIZED BY THIS
6 PART, AND ALL POWERS GRANTED SHALL BE BROADLY INTERPRETED TO
7 EFFECTUATE THE INTENT AND PURPOSES AND NOT AS A LIMITATION OF
8 POWERS.

9 Enacting section 1. This amendatory act does not take effect
10 unless Senate Bill No. ____ or House Bill No. 4399(request no.
11 01871'11) of the 96th Legislature is enacted into law.