

**SUBSTITUTE FOR**

**HOUSE BILL NO. 5876**

(As amended, August 4, 2004)  
[As amended September 8, 2004]

[<A bill to amend 1994 PA 451, entitled

"An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,"

by amending sections 3104, 3503, 4105, 6516, 6517, 6521, 8310,

8504, 9112, 11509, 11511, 11512, 11516, 11542, 11703, 11704,

11709, 30104, 30105, 30113, 30304, 30307, 31509, 31512, 32312,

32503, 32515, 35304, 36505, 40116, 41702, 41709, 42101, 42501, 42702,

44513, 44517, 45503, 45902, 45903, 45906, 61525, 62509, 63103a,

63103c, 63514, 63524, 63525, 63704, 63708, 72108, 76105, 76109,

76504, and 80159 (MCL 324.3104, 324.3503, 324.4105, 324.6516,

324.6517, 324.6521, 324.8310, 324.8504, 324.9112, 324.11509,

324.11511, 324.11512, 324.11516, 324.11542, 324.11703, 324.11704,

324.11709, 324.30104, 324.30105, 324.30113, 324.30304, 324.30307,

324.31509, 324.31512, 324.32312, 324.32503, 324.32515, 324.35304,

324.36505, 324.40116, 324.41702, 324.41709, 324.42101, 324.42501,

324.42702, 324.44513, 324.44517, 324.45503, 324.45902, 324.45903,

House Bill No. 5876 as amended August 4, 2004

as amended September 8, 2004

324.45906, 324.61525, 324.62509, 324.63103a, 324.63103c, 324.63514, 324.63524, 324.63525, 324.63704, 324.63708, 324.72108, 324.76105, 324.76109, 324.76504, and 324.80159), sections 3104, 30104, and 32312 as amended by 2003 PA 163, sections 3503, 6521, and 8504 as added by 1995 PA 60, sections 6516 and 6517 as amended by 1996 PA 166, section 8310 as amended by 2002 PA 418, section 9112 as amended by 2000 PA 504, sections 11509 and 11511 as amended by 1996 PA 358, sections 11512 and 11516 as amended by 2003 PA 153, section 11542 as amended by 1996 PA 359, section 30105 as amended by 1999 PA 106, section 30113 as amended by 2004 PA 246, sections 30304, 31509, 31512, 32515, and 35304 as added by 1995 PA 59, section 30307 as amended by 1998 PA 228, section 32503 as amended by 2002 PA 148, section 36505 as amended by 1998 PA 470, section 40116 as amended by 1996 PA 154, section 41702 as amended by 2001 PA 23, sections 41709, 42101, 42501, 44513, 44517, 45503, 45903, 63514, 63525, 63704, and 63708 as added by 1995 PA 57, section 42702 as amended by 2000 PA 191, section 45902 as amended by 1996 PA 200, section 45906 as amended by 2003 PA 270, section 61525 as amended by 1998 PA 303, section 62509 as amended by 1998 PA 467, sections 63103a and 63103c as added by 1997 PA 149, sections 63524 and 76504 as amended by 2001 PA 78, sections 72108 and 80159 as added by 1995 PA 58, and sections 76105 and 76109 as amended by 2001 PA 75, and by adding sections 1301, 1303, 1305, 1307, 1309, and 1311.>>]

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           **Sec. 1301. As used in this part:**

2           **(a) "Application period" means the period beginning when an**  
 3 **application for a permit is received by the state and ending when**

1 the application is considered to be administratively complete  
2 under section 1305 and any applicable fee has been paid.

3 (b) "Department" means the department, agency, or officer  
4 authorized by this act to approve or deny an application for a  
5 particular permit.

6 (c) "Director" means the director of the state department  
7 authorized under this act to approve or deny an application for a  
8 particular permit or the director's designee.

9 (d) "Permit" means a permit or operating license required by  
10 any of the following sections or by rules promulgated thereunder,  
11 or, in the case of section 9112, by an ordinance or resolution  
12 adopted thereunder:

13 (i) Section 3104, floodplain alteration permit.

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

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

17 (iv) Section 6516, vehicle testing license.

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

19 (vi) Section 8310, restricted use pesticide dealer business  
20 location license.

21 (vii) Section 8504, license to manufacture or distribute  
22 fertilizer.

23 (viii) Section 9112, local soil erosion and sedimentation  
24 control permit.

25 (ix) Section 11509, solid waste disposal area construction  
26 permit.

27 (x) Section 11512, solid waste disposal area operating

- 1 license.
- 2       (x*i*) Section 11542, municipal solid waste incinerator ash  
3 landfill operating license amendment.
- 4       (x*ii*) Section 11703, septage waste servicing license.
- 5       (x*iii*) Section 11704, septage waste vehicle license.
- 6       (x*iv*) Section 11709, septage waste disposal permit.
- 7       (x*v*) Section 30104, inland lakes and streams project permit.
- 8       (x*vi*) Section 30304, state permit for dredging, filling, or  
9 other activity in wetland.
- 10       (x*vii*) Section 31509, dam construction, repair, removal  
11 permit.
- 12       (x*viii*) Section 32312, flood risk, high risk, or  
13 environmental area permit.
- 14       (x*ix*) Section 32503, permit for dredging and filling  
15 bottomland.
- 16       (x*x*) Section 35304, department permit for critical dune area  
17 use.
- 18       (x*xi*) Section 36505, endangered species permit.
- 19       (x*xii*) Section 41702, game bird hunting preserve license.
- 20       (x*xiii*) Section 42101, dog training area permit.
- 21       (x*xiv*) Section 42501, fur dealer's license.
- 22       (x*xv*) Section 42702, game dealer's license.
- 23       (x*xvi*) Section 44513, charter boat operating permit under  
24 reciprocal agreement.
- 25       (x*xvii*) Section 44517, boat livery operating permit.
- 26       (x*xviii*) Section 45503, permit to take frogs for scientific  
27 use.

1           (xxix) Section 45902, game fish propagation license.

2           (xxx) Section 45906, game fish import license.

3           (xxxi) Section 61525, oil or gas well drilling permit.

4           (xxxii) Section 62509, brine, storage, or waste disposal well  
5 drilling or conversion permit or test well drilling permit.

6           (xxxiii) Section 63103a, metallic mineral mining permit.

7           (xxxiv) Section 63514 or 63525, surface coal mining and  
8 reclamation permit or revision of the permit during the term of  
9 the permit, respectively.

10          (xxxv) Section 63704, sand dune mining permit.

11          (xxxvi) Section 72108, use permits for Michigan trailway.

12          (xxxvii) Section 76109, sunken aircraft or watercraft  
13 abandoned property recovery permit.

14          (xxxviii) Section 76504, Mackinac Island motor vehicle and  
15 land use permits.

16          (xxxix) Section 80159, buoy or beacon permit.

17          (e) "Processing deadline" means the last day of the  
18 processing period.

19          (f) "Processing period" means the following time period after  
20 the close of the application period, for the following permit, as  
21 applicable:

22           (i) Thirty days for a permit under section 9112.

23           (ii) Thirty days after the department consults with the  
24 underwater salvage and preserve committee created under section  
25 76103, for a permit under section 76109.

26           (iii) Sixty days, for a permit under section 30104 for a  
27 minor project as established by rule under section 30105(6) or

1 for a permit under section 32312.

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

4 (v) Sixty days or, if a hearing is held, 120 days for a  
5 permit under section 30104, other than a permit for a minor  
6 project as established by rule under section 30105(6), or for a  
7 permit under section 31509.

8 (vi) Twenty days for a permit under section 61525 or 62509.

9 (vii) Ninety days for a permit under section 11512, a  
10 revision of a surface coal mining and reclamation permit during  
11 the term of the permit under section 63525, or a permit under  
12 section 72108.

13 (viii) Ninety days or, if a hearing is held, 150 days for a  
14 permit under section 3104, 30304, or 32503.

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

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

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

23 Sec. 1303. (1) An application for a permit shall be  
24 submitted to the department in a format to be developed by the  
25 department, except as provided in section 30307 with respect to a  
26 state wetland permit.

27 (2) The department shall, upon request and without charge,

1 provide a person a copy of all of the following:

2 (a) A blank permit application form.

3 (b) In concise form, any instructions necessary to complete  
4 the application.

5 (c) A complete, yet concise, explanation of the permit review  
6 process.

7 (3) The department shall post the documents described in  
8 subsection (2) on its website.

9 Sec. 1305. (1) Effective 30 days after the state receives  
10 an application for a permit, the application shall be considered  
11 to be administratively complete unless the department proceeds as  
12 provided under subsection (2).

13 (2) If, before the expiration of the 30-day period under  
14 subsection (1), the department notifies the applicant that the  
15 application is not administratively complete, specifying the  
16 information necessary to make the application administratively  
17 complete, or notifies the applicant that a fee required to  
18 accompany the application has not been paid, specifying the  
19 amount due, the running of the 30-day period under subsection (1)  
20 is tolled until the applicant submits to the department the  
21 specified information or fee amount due. The notice shall be  
22 given in writing or by electronic notification.

23 Sec. 1307. (1) By the processing deadline, the department  
24 shall approve or deny an application for a permit. If requested  
25 by the permit applicant, the department may extend the processing  
26 period for a permit by not more than 20%. Approval of an  
27 application for a permit may be granted with conditions or

1 modifications necessary to achieve compliance with the part or  
2 parts of this act under which the permit is issued.

3 (2) A denial of an application for a permit shall include an  
4 explanation of the reasons for denial and make specific reference  
5 to provisions of this act or rules promulgated under this act  
6 providing the basis for denial.

7 (3) Except for permits described in subsection (4), if the  
8 department fails to satisfy the requirements of subsection (1)  
9 with respect to an application for a permit, the department shall  
10 pay the applicant an amount equal to 15% of the greater of the  
11 following, as applicable:

12 (a) The amount of the application fee for that permit.

13 (b) If an assessment or other fee is charged on an annual or  
14 other periodic basis by the department to a person holding the  
15 permit for which the application was submitted, the amount of the  
16 first periodic charge of that assessment or other fee for that  
17 permit.

18 (4) If the department fails to satisfy the requirements of  
19 subsection (1) with respect to a permit under section 11509,  
20 11512, or 30307, the application shall be considered to be  
21 approved and the department shall be considered to have made any  
22 determination required for approval.

23 (5) The failure of the department to satisfy the requirements  
24 of subsection (1) or the fact that the department is required to  
25 make a payment under subsection (3) or is considered to have  
26 approved a permit under subsection (4) shall not be used by the  
27 department as the basis for discriminating against the

1 applicant. If the department is required to make a payment under  
2 subsection (3), the application shall be processed in sequence  
3 with other applications for the same type of permit, based on the  
4 date on which the processing period began, unless the director  
5 determines on an application-by-application basis that the public  
6 interest is best served by processing in a different order.

7 (6) If the department fails to satisfy the requirements of  
8 subsection (1), the director shall notify the appropriations  
9 committees of the senate and house of representatives of the  
10 failure. The notification shall be in writing and shall include  
11 both of the following:

12 (a) An explanation of the reason for the failure.

13 (b) A statement of the amount the department was required to  
14 pay the applicant under subsection (3) or a statement that the  
15 department was required to consider the application to be  
16 approved under subsection (4), as applicable.

17 Sec. 1309. If a person submits applications for more than 1  
18 type of permit for a particular development or project, the  
19 department or departments shall process the applications in a  
20 coordinated fashion to the extent feasible given procedural  
21 requirements applicable to individual permits and, at the request  
22 of an applicant, appoint a primary contact person to assist in  
23 communications with the department or departments.

24 Sec. 1311. The director of the department shall submit a  
25 report by December 1, 2005 and each year thereafter to the  
26 standing committees and appropriations subcommittees of the  
27 senate and house of representatives with primary responsibility

1 for issues under the jurisdiction of that department. The  
2 department shall post the current report on its website. The  
3 report shall include all of the following information for each  
4 type of permit for the preceding fiscal year:

5 (a) The number of applications for permits the department  
6 received.

7 (b) The number of applications approved, the number of  
8 applications approved by the processing deadline, the number of  
9 applications approved after the processing deadline, and the  
10 average time for the department to determine administrative  
11 completeness and to approve or disapprove applications.

12 (c) The number of applications denied, the number of  
13 applications denied by the processing deadline, and the number of  
14 applications denied after the processing deadline.

15 (d) The number of applications approved or denied after the  
16 processing deadline that, based on the director's determination  
17 of the public interest, were not processed in sequence as  
18 otherwise required by section 1307(5).

19 (e) The number of applications that were not administratively  
20 complete when received.

21 (f) The amount of money refunded and discounts granted under  
22 section 1307.

23 (g) The number of applications processed as provided in  
24 section 1309.

25 Sec. 3104. (1) The department is designated the state  
26 agency to cooperate and negotiate with other governments,  
27 governmental units, and governmental agencies in matters

1 concerning the water resources of the state, including, but not  
 2 limited to, flood control, beach erosion control, and water  
 3 quality control planning, development, and management. The  
 4 department shall have control over the alterations of natural or  
 5 present watercourses of all rivers and streams in the state to  
 6 assure that the channels and the portions of the floodplains that  
 7 are the floodways are not inhabited and are kept free and clear  
 8 of interference or obstruction that will cause any undue  
 9 restriction of the capacity of the floodway. The department may  
 10 take steps as may be necessary to take advantage of any act of  
 11 congress that may be of assistance in carrying out the purposes  
 12 of this part, including the water resources planning act, ~~Public~~  
 13 ~~Law 89-80, 42 U.S.C. 1962 to 1962-1 and 1962a- 42 USC 1962 to~~  
 14 ~~1962d-3, and the federal water pollution control act, -chapter~~  
 15 ~~758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to~~  
 16 ~~1257, 1258 to 1263, 1265 to 1270, 1273 to 1274, 1281, 1282 to~~  
 17 ~~1293, 1294 to 1301, 1311 to 1313, 1314 to 1330, 1341 to 1346,~~  
 18 ~~1361 to 1375, 1376 to 1377, and 1381- 33 USC 1251 to 1387.~~

19 (2) The department shall report to the governor and to the  
 20 legislature at least annually **on** any plans or projects being  
 21 implemented or considered for implementation. ~~and shall include~~  
 22 ~~in the~~ **The report shall include** requests for any legislation  
 23 needed to implement any proposed projects or agreements made  
 24 necessary as a result of a plan or project, together with any  
 25 requests for appropriations. The department may make  
 26 recommendations to the governor on the designation of areawide  
 27 water quality planning regions and organizations relative to the

1 governor's responsibilities under the federal water pollution  
2 control act, **33 USC 1251 to 1387.**

3 (3) A person shall ~~submit an application for a permit to~~  
4 ~~alter a floodplain on a form approved by the department and not~~  
5 **alter a floodplain except as authorized by a floodplain permit**  
6 **issued by the department pursuant to part 13. An application for**  
7 **a permit** shall include information that may be required by the  
8 department to assess the proposed alteration's impact on the  
9 floodplain. If an alteration includes activities at multiple  
10 locations in a floodplain, 1 application may be filed for  
11 combined activities.

12 (4) Except as provided in subsections (5), (6), and (8),  
13 until October 1, 2008, an application for a floodplain permit  
14 shall be accompanied by a fee of \$500.00. Until October 1, 2008,  
15 if the department determines that engineering computations are  
16 required to assess the impact of a proposed floodplain alteration  
17 on flood stage or discharge characteristics, the department shall  
18 assess the applicant an additional \$1,500.00 to cover the  
19 department's cost of review.

20 (5) Until October 1, 2008, an application for a floodplain  
21 permit for a minor project category shall be accompanied by a fee  
22 of \$100.00. Minor project categories shall be established by  
23 rule and shall include activities and projects that are similar  
24 in nature and have minimal potential for causing harmful  
25 interference.

26 (6) If work has been done in violation of a permit  
27 requirement under this part and restoration is not ordered by the

1 department, the department may accept an application for a permit  
2 **for that work** if the application is accompanied by a fee equal to  
3 2 times the permit fee required under subsection (4) or (5).

4 (7) The department shall forward fees collected under this  
5 section to the state treasurer for deposit in the land and water  
6 management permit fee fund created in section 30113.

7 (8) A project that requires review and approval under this  
8 part and 1 or more of the following is subject to only the single  
9 highest permit fee required under this part or the following:

10 (a) Part 301.

11 (b) Part 303.

12 (c) Part 323.

13 (d) Part 325.

14 (e) Section 117 of the land division act, 1967 PA 288, MCL  
15 560.117.

16 Sec. 3503. ~~The department may grant permits for the~~  
17 ~~drainage, diversion~~ **A person shall not drain, divert,** control,  
18 or use ~~of water when necessary~~ **water** for the operation of a  
19 low-grade iron ore mining property ~~— The operator of the~~  
20 ~~low grade iron ore mining property may make application for the~~  
21 ~~permit to the department in the form prescribed by the~~  
22 ~~department. The application shall contain~~ **except as authorized**  
23 **by a permit issued by the department pursuant to part 13. An**  
24 **application for a permit shall include** information and data as  
25 may be prescribed by the department in its rules and  
26 regulations. Not later than 60 days following receipt of an  
27 application, the department shall fix the time and place for a

1 public hearing on the application and shall publish notice of the  
2 hearing. The notice shall be published twice in each county  
3 involved in at least 1 newspaper of general circulation in the  
4 county. At the hearing, the applicant and any other interested  
5 party may appear, present witnesses, and submit evidence.  
6 Following the hearing, the department may grant the permit and  
7 publish notice of the granting of the permit, in the manner  
8 provided for publication of notice of hearing, upon finding the  
9 following conditions:

10 (a) That the proposed drainage, diversion, control, or use of  
11 waters is necessary for the mining of substantial deposits of  
12 low-grade iron ore, and that other feasible and economical  
13 methods of obtaining a continuing supply of water for that  
14 purpose are not available to the applicant.

15 (b) That the proposed drainage, diversion, control, or use of  
16 waters will not unreasonably impair the interests of the public  
17 or of riparians in lands or waters or the beneficial public use  
18 of lands, and will not endanger the public health or safety.

19 Sec. 4105. (1) The mayor of each city, the president of  
20 each village, the township supervisor **of each township**, the  
21 responsible executive officer of a governmental agency, and all  
22 other persons operating sewerage systems in this state shall file  
23 with the department a true copy of the plans and specifications  
24 of the entire sewerage system owned or operated by that person,  
25 including **any** filtration or other purification plant or treatment  
26 works as may be operated in connection with the sewerage system,  
27 and also plans and specifications of all alterations, additions,

1 or improvements to the systems that may be made. The plans and  
2 specifications shall, in addition to all other ~~things~~  
3 **requirements**, show all the sources through or from which water is  
4 or may be at any time pumped or otherwise permitted to enter into  
5 the sewerage system, and the drain, watercourse, river, or lake  
6 into which sewage is to be discharged. The plans and  
7 specifications shall be certified by the mayor ~~and city engineer~~  
8 ~~of a city, by the president and engineer if employed for a~~  
9 ~~village, by the proper officer and the engineer employed by any~~  
10 ~~other governmental agency, association, or private corporation~~  
11 ~~for the governmental agency, association, or private corporation,~~  
12 ~~and by an individual member of a partnership, or by the~~  
13 ~~individual owner of a sewerage system owned and operated by a~~  
14 ~~partnership or 1 or more individuals, including the engineer~~  
15 ~~employed, if any. Before constructing a sewerage system,~~  
16 ~~filtration or other purification plant, or treatment works or any~~  
17 ~~alteration, addition, or improvement to the system or plant, the~~  
18 ~~mayor of each city, the president of each village, and the~~  
19 ~~responsible official of all other governmental agencies,~~  
20 ~~associations, private corporations, and partnerships or~~  
21 ~~individuals shall submit the plans and specifications to the~~  
22 ~~department and secure from the department a permit for~~  
23 ~~construction.~~ **of a city, the president of a village, a**  
24 **responsible member of a partnership, an individual owner, or the**  
25 **proper officer of any other person that operates a sewerage**  
26 **system, as well as by the engineer, if any are employed by any**  
27 **such operator.** The department may promulgate and enforce rules

1 regarding the preparation and submission of plans and  
2 specifications and for the issuance and period of validity of  
3 construction permits for the work. ~~A contractor, builder,~~  
4 ~~governmental agency, corporation, association, partnership, or~~  
5 ~~individual shall not engage in or commence the construction of a~~  
6 ~~sewerage system, filtration or other purification plant, or~~  
7 ~~treatment works or an alteration, addition, or improvement until~~  
8 ~~a valid permit for the construction is secured from the~~  
9 ~~department. An official of the governmental agency, corporation,~~  
10 ~~association, partnership, or individual shall not issue a voucher~~  
11 ~~or check, or in any other way expend the money of the~~  
12 ~~governmental agency, corporation, association, partnership, or~~  
13 ~~individual, for the construction unless a valid permit issued by~~  
14 ~~the department is in effect.~~

15       (2) A person shall not construct a sewerage system or any  
16 filtration or other purification plant or treatment works in  
17 connection with a sewerage system except as authorized by a  
18 construction permit issued by the department pursuant to part  
19 13. A person shall not issue a voucher or check or otherwise  
20 expend money for such construction unless such a permit has been  
21 issued. An application for a permit shall be submitted by the  
22 mayor of a city, the president of a village, a responsible member  
23 of a partnership, an individual owner, or the proper officer of  
24 any other person proposing the construction. An application for  
25 a permit shall include plans and specifications as described in  
26 subsection (1).

27       (3) ~~(2)~~ A municipal officer or an officer or agent of a

1 governmental agency, corporation, association, partnership, or  
2 individual who permits or allows construction to proceed on a  
3 sewerage works without a valid permit, or in a manner not in  
4 accordance with the plans and specifications approved by the  
5 department, is guilty of a misdemeanor **punishable by a fine of**  
6 **not more than \$500.00 or imprisonment for not more than 90 days,**  
7 **or both.**

8       Sec. 6516. (1) A person shall not engage in the business of  
9 inspecting motor vehicles under this part ~~unless the person has~~  
10 ~~received~~ **except as authorized by** a license to operate a testing  
11 station ~~from the department~~ **issued by the department pursuant**  
12 **to part 13.**

13       (2) A person shall not be licensed to operate a testing  
14 station unless the person has an established place of business  
15 where inspections are to be performed during regular business  
16 hours, where records required by this part and the rules  
17 promulgated under this part are to be maintained, and that is  
18 equipped with an instrument or instruments of a type that comply  
19 with and are capable of performing inspections of motor vehicles  
20 under this part.

21       (3) A person licensed as a testing station shall perform  
22 inspections under this part at the established place of business  
23 for which the person is licensed. A person shall inform the  
24 department immediately of a change in the address of an  
25 established place of business at which the person is licensed as  
26 a testing station.

27       (4) A person shall obtain a separate license and pay a

1 separate fee for each established place of business at which a  
2 testing station is to be operated.

3 (5) A testing station may establish and operate mobile or  
4 temporary testing station locations if they meet all of the  
5 following conditions:

6 (a) The instrument used at the mobile or temporary location  
7 is capable of meeting the performance specifications for  
8 instruments set forth in rules promulgated under this part while  
9 operating in the mobile or temporary station environment.

10 (b) The owner of a motor vehicle inspected at the mobile or  
11 temporary location shall be provided with a free reinspection of  
12 the motor vehicle, at the established place of business of the  
13 testing station or at any mobile or temporary testing station  
14 location operated by the testing station.

15 (c) Personnel at the licensed established place of business  
16 location shall, at all times, know the location and hours of  
17 operation of the mobile or temporary testing station or  
18 stations.

19 (d) The records required by this part and the rules  
20 promulgated under this part relating to inspections performed and  
21 the instrument or instruments used at a mobile or temporary  
22 testing station shall be maintained at a single established place  
23 of business that is licensed as a testing station.

24 (e) The documents printed as required by the rules  
25 **promulgated under this part** by an instrument used at a mobile or  
26 temporary testing station location shall contain the testing  
27 station number and the name, address, and telephone number of the

1 testing station's established place of business.

2 (6) A testing station may use remote sensing devices as a  
3 complement to testing otherwise required by this part.

4 (7) A testing station shall not cause or permit an inspection  
5 of a motor vehicle to be performed by a person other than an  
6 emission inspector using an instrument of a type that complies  
7 with the rules promulgated under this part.

8 (8) A testing station shall display a valid testing station  
9 license issued by the department in a place and manner  
10 conspicuous to its customers.

11 Sec. 6517. ~~-(1) Application for original and replacement~~  
12 ~~testing station licenses shall be submitted on forms provided by~~  
13 ~~the department.~~

14 (1) ~~-(2)-~~ An ~~applicant~~ **application** for a testing station  
15 license shall ~~submit to the department~~ **include** a description of  
16 the business to be licensed. ~~, which~~ **The description** shall  
17 include, in addition to other information required by this part  
18 and the rules promulgated under this part, all of the following:

19 (a) The repair facility registration number issued to the  
20 applicant if the applicant is licensed under the motor vehicle  
21 service and repair act, ~~Act No. 300 of the Public Acts of 1974,~~  
22 ~~being sections 257.1301 to 257.1340 of the Michigan Compiled~~  
23 ~~Laws~~ **1974 PA 300, MCL 257.1301 to 257.1340.**

24 (b) The name of the business and the address of the business  
25 location for which a testing station license is being sought.

26 (c) The name and address of each owner of the business in the  
27 case of a sole proprietorship or a partnership and, in the case

1 of a corporation, the name and address of each officer and  
2 director and of each owner of 25% or more of the corporation.

3 (d) The name **of** and identification number issued by the  
4 department ~~of~~ **for** each emission inspector employed by the  
5 applicant.

6 (e) A description, including the model and serial number, of  
7 each instrument to be used by the applicant to perform  
8 inspections or reinspections under this part and the rules  
9 promulgated under this part and the date the instrument was  
10 purchased by the applicant.

11 (f) The estimated capacity of the applicant to perform  
12 inspections.

13 (2) ~~(3)~~ The fee for a testing station license is \$50.00 and  
14 shall accompany the application for a license submitted to the  
15 department.

16 (3) ~~(4)~~ A testing station license shall take effect on the  
17 date it is approved by the department and shall remain in effect  
18 until this part expires, the license is surrendered by the  
19 station, revoked or suspended by the department, or until the  
20 motor vehicle repair facility registration of the business has  
21 been revoked or suspended by the department of state, surrendered  
22 by the facility, or has expired without timely renewal.

23 (4) ~~(5)~~ If a testing station license has expired by reason  
24 of surrender, revocation, or expiration of repair facility  
25 registration, the business shall not resume operation as a  
26 testing station until the repair facility registration has been  
27 reinstated and a new, original application for a testing station

1 license has been received and approved by the department and a  
2 new license fee paid.

3 (5) ~~—(6)—~~ When the repair facility registration has been  
4 suspended, the testing station may resume operation without a new  
5 application when the repair facility registration suspension has  
6 ended.

7 Sec. 6521. (1) A fleet owner or lessee shall not perform  
8 inspections under this part or the rules promulgated under this  
9 part ~~unless the fleet owner or lessee has received from the~~  
10 ~~department~~ **except as authorized under** a permit to operate a  
11 fleet testing station **issued by the department pursuant to part**  
12 13.

13 (2) A person shall not receive a permit to operate a fleet  
14 testing station unless the person has an established location  
15 where inspections are to be performed, where records required by  
16 this part and the rules promulgated under this part are to be  
17 maintained, that is equipped with an instrument or instruments of  
18 a type that comply with this part or the rules promulgated under  
19 this part, and that is capable of performing inspections of motor  
20 vehicles under this part and the rules promulgated under this  
21 part.

22 (3) A person with a permit to operate a fleet testing station  
23 shall perform inspections under this part and the rules  
24 promulgated under this part only at the established location for  
25 which the person has the permit. A person shall inform the  
26 department immediately of a change in the address of the  
27 established location for which the person has a permit to operate

1 a fleet testing station.

2 (4) A fleet testing station shall not cause or permit an  
3 inspection of a motor vehicle to be performed by a person other  
4 than an emission inspector using an instrument of a type that  
5 complies with the rules promulgated under this part.

6 ~~(5) Applications for original and replacement fleet testing~~  
7 ~~station permits shall be submitted on forms provided by the~~  
8 ~~department.~~

9 (5) ~~(6)~~ An ~~applicant~~ **application** for a fleet testing  
10 station shall ~~submit to the department~~ **include** a description of  
11 the operation to be licensed. ~~—, which~~ **The description** shall  
12 include, in addition to other information required by this part  
13 and the rules promulgated under this part, all of the following:

14 (a) The name of the business and the address of the location  
15 for which a fleet testing station permit is being sought.

16 (b) The name and address of each owner of the business in the  
17 case of a sole proprietorship or a partnership and, in the case  
18 of a corporation, the name and address of each officer and  
19 director and of each owner of 25% or more of the corporation.

20 (c) The name **of** and identification number issued by the  
21 department ~~of~~ **for** each emission inspector employed by the  
22 applicant.

23 (d) A description, including the model and serial number of  
24 each instrument to be used by the applicant to perform  
25 inspections or reinspections under this part and the rules  
26 promulgated under this part, and the date the equipment was  
27 purchased by the applicant.

1 (e) A description of the fleet to be inspected, including the  
2 number and types of motor vehicles.

3 (f) A statement signed by the applicant certifying that the  
4 applicant maintains and repairs, on a regular basis, the fleet  
5 vehicles owned by the applicant.

6 (6) ~~-(7)-~~ A fleet testing station permit shall take effect on  
7 the date it is approved by the department and shall expire 1 year  
8 from that date. A fleet testing station permit shall be renewed  
9 automatically, unless the fleet testing station informs the  
10 department not to renew it or unless the department has revoked  
11 the permit.

12 (7) ~~-(8)-~~ A person shall obtain a separate permit for each  
13 location at which fleet inspections are performed.

14 (8) ~~-(9)-~~ By the fifteenth day of each month, each fleet  
15 testing station shall remit \$1.00 for each vehicle inspected  
16 during the preceding month to the department of treasury for  
17 deposit in the motor vehicle emissions testing program fund.

18 Sec. 8310. (1) A ~~restricted use pesticide dealer shall~~  
19 ~~obtain~~ **person shall not engage in distributing, selling, or**  
20 **offering for sale restricted use pesticides to the ultimate user**  
21 **except as authorized under** an annual license for each place of  
22 business **issued by the department pursuant to part 13.**

23 (2) The applicant for a license under subsection (1) shall be  
24 the person in charge of each business location. The applicant  
25 shall demonstrate by written examination his or her knowledge of  
26 laws and rules governing the use and sale of restricted use  
27 pesticides.

1           (3) A restricted use pesticide dealer shall forward to the  
2 director a record of all sales of restricted use pesticides on  
3 forms provided by the director as required by rule. Restricted  
4 use pesticide dealers shall keep copies of the records on file  
5 for 2 years. These records are subject to inspection by an  
6 authorized agent of the director. The records shall, upon  
7 request, be supplied in summary form to other state agencies.  
8 The summary shall include the name and address of the restricted  
9 use pesticide dealer, the name and address of the purchaser, the  
10 name of the pesticide sold, and, in an emergency, the quantity  
11 sold. Information may not be made available to the public if, in  
12 the discretion of the director, release of that information could  
13 have a significant adverse effect on the competitive position of  
14 the dealer, distributor, or manufacturer.

15           (4) A restricted use pesticide dealer shall sell or  
16 distribute restricted use pesticides for use only by applicators  
17 certified under this part.

18           (5) The director may deny, suspend, or revoke a restricted  
19 use pesticide dealer's license for any violation of this part  
20 committed by the dealer or the dealer's officer, agent, or  
21 employee.

22           (6) A restricted use pesticide dealer shall maintain and  
23 submit to the department records of all restricted use pesticide  
24 sales to private applicators and the intended county of  
25 application for those pesticides.

26           (7) Information collected in subsection (6) is confidential  
27 business information and is not subject to the freedom of

1 information act, 1976 PA 442, MCL 15.231 to 15.246.

2       Sec. 8504. (1) A person shall not manufacture or distribute  
3 fertilizer in this state, except specialty fertilizer and soil  
4 conditioners, until the appropriate groundwater protection fee  
5 provided in section 8715 has been submitted, and **except as**  
6 **authorized by** a license to manufacture or distribute ~~has been~~  
7 ~~obtained by the manufacturer or distributor from the department~~  
8 ~~upon~~ **issued by the department pursuant to part 13. An**  
9 **application for a license shall be accompanied by a** payment of a  
10 fee of \$100.00 **for each of the following:**

11       (a) ~~For each~~ **Each** fixed location at which fertilizer is  
12 manufactured in this state.

13       (b) ~~For each~~ **Each** mobile unit used to manufacture  
14 fertilizer in this state.

15       (c) ~~For each~~ **Each** location out of the state that applies  
16 labeling showing out-of-state origin of fertilizer distributed in  
17 this state to nonlicensees.

18       (2) An application for a license to manufacture or distribute  
19 fertilizer shall include:

20       (a) The name and address of the applicant.

21       (b) The name and address of each bulk distribution point in  
22 the state not licensed for fertilizer manufacture or  
23 distribution. The name and address shown on the license shall be  
24 shown on all labels, pertinent invoices, and bulk storage for  
25 fertilizers distributed by the licensee in this state.

26       (3) The licensee shall inform the director in writing of  
27 additional distribution points established during the period of

1 the license.

2 (4) A distributor ~~shall not be~~ **is not** required to obtain a  
3 license if the distributor is selling fertilizer of a distributor  
4 or a manufacturer licensed under this part.

5 (5) All licenses to manufacture or distribute fertilizer  
6 expire on December 31 of each year.

7 Sec. 9112. (1) A person shall not maintain or undertake an  
8 earth change governed by this part, the rules promulgated under  
9 this part, or an applicable local ordinance, except in accordance  
10 with this part and the rules promulgated under this part or with  
11 the applicable local ordinance, and ~~pursuant to a permit~~  
12 ~~approved~~ **except as authorized by a permit issued** by the  
13 appropriate county enforcing agency or municipal enforcing agency  
14 **pursuant to part 13.** ~~A county enforcing agency or municipal~~  
15 ~~enforcing agency shall approve or deny an application for a~~  
16 ~~permit within 30 days after the filing of a complete application~~  
17 ~~for a permit.~~

18 (2) If in the opinion of the department a person, including  
19 an authorized public agency, violates this part, the rules  
20 promulgated under this part, or an applicable local ordinance, or  
21 a county enforcing agency or municipal enforcing agency fails to  
22 enforce this part, the rules promulgated under this part, or an  
23 applicable local ordinance, the department may notify the alleged  
24 offender in writing of its determination. If the department  
25 places a county on probation under section 9105, a municipality  
26 is not approved under section 9106, or a state agency or agency  
27 of a local unit of government is not approved under section 9110,

1 or if the department determines that a municipal enforcing agency  
2 or authorized public agency is not satisfactorily administering  
3 and enforcing this part and rules promulgated under this part,  
4 the department shall notify the county, municipality, state  
5 agency, or agency of a local unit of government in writing of its  
6 determination or action. The notice shall contain, in addition  
7 to a statement of the specific violation or failure that the  
8 department believes to exist, a proposed order, stipulation for  
9 agreement, or other action that the department considers  
10 appropriate to assure timely correction of the violation or  
11 failure. The notice shall set a date for a hearing not less than  
12 4 nor more than 8 weeks from the date of the notice of  
13 determination. Extensions of the date of the hearing may be  
14 granted by the department or on request. At the hearing, any  
15 interested party may appear, present witnesses, and submit  
16 evidence. A person who has been served with a notice of  
17 determination may file a written answer to the notice of  
18 determination before the date set for hearing or at the hearing  
19 may appear and present oral or written testimony and evidence on  
20 the charges and proposed requirements of the department to assure  
21 correction of the violation or failure. If a person served with  
22 the notice of determination agrees with the proposed requirements  
23 of the department and notifies the department of that agreement  
24 before the date set for the hearing, disposition of the case may  
25 be made with the approval of the department by stipulation or  
26 consent agreement without further hearing. The final order of  
27 determination following the hearing, or the stipulation or

1 consent order as authorized by this section and approved by the  
2 department, is conclusive unless reviewed in accordance with the  
3 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
4 24.328, in the circuit court of Ingham county, or of the county  
5 in which the violation occurred, upon petition filed within 15  
6 days after the service upon the person of the final order of  
7 determination.

8       Sec. 11509. (1) Except as otherwise provided in section  
9 11529, a person ~~otherwise allowed under this part to own or~~  
10 ~~operate a solid waste disposal area~~ shall not establish a  
11 disposal area ~~without a construction permit from the~~  
12 ~~department,~~ **except as authorized by a construction permit issued**  
13 **by the department pursuant to part 13. In addition, a person**  
14 **shall not establish a disposal area** contrary to an approved solid  
15 waste management plan, or contrary to a permit, license, or final  
16 order issued pursuant to this part. A person proposing the  
17 establishment of a disposal area shall apply for a construction  
18 permit to the department through the health officer. ~~on a form~~  
19 ~~provided by the department.~~ If the disposal area is located in a  
20 county or city that does not have a certified health department,  
21 the application shall be made directly to the department.

22       (2) The application for a construction permit shall contain  
23 the name and residence of the applicant, the location of the  
24 proposed disposal area, the design capacity of the disposal area,  
25 and other information specified by rule. A person may apply to  
26 construct more than 1 type of disposal area at the same facility  
27 under a single permit. The application shall be accompanied by

1 an engineering plan and a construction permit application fee. A  
2 construction ~~application~~ permit **application** for a landfill  
3 shall be accompanied by a fee in an amount that is the sum of all  
4 of the ~~applicable fees in this subsection~~ **following fees, as**  
5 **applicable:**

6 (a) For a new sanitary landfill, a fee equal to the following  
7 amount:

8 (i) For a municipal solid waste landfill, \$1,500.00.

9 (ii) For an industrial waste landfill, \$1,000.00.

10 (iii) For a type III landfill limited to low hazard  
11 industrial waste, \$750.00.

12 (b) For a lateral expansion of a sanitary landfill, a fee  
13 equal to the following amount:

14 (i) For a municipal solid waste landfill, \$1,000.00.

15 (ii) For an industrial waste landfill, \$750.00.

16 (iii) For a type III landfill limited to low hazard  
17 industrial waste, construction and demolition waste, or other  
18 nonindustrial waste, \$500.00.

19 (c) For a vertical expansion of an existing sanitary  
20 landfill, a fee equal to the following amount:

21 (i) For a municipal solid waste landfill, \$750.00.

22 (ii) For an industrial waste landfill, \$500.00.

23 (iii) For an industrial waste landfill limited to low hazard  
24 industrial waste, construction and demolition waste, or other  
25 nonindustrial waste, \$250.00.

26 (3) The application for a construction permit for a solid  
27 waste transfer facility, a solid waste processing plant, other

1 disposal area, or a combination of these, shall be accompanied by  
2 a fee in the following amount:

3 (a) For a new facility for municipal solid waste, or a  
4 combination of municipal solid waste and waste listed in  
5 subdivision (b), \$1,000.00.

6 (b) For a new facility for industrial waste, or construction  
7 and demolition waste, \$500.00.

8 (c) For the expansion of an existing facility for any type of  
9 waste, \$250.00.

10 (4) If an application is returned to the applicant as  
11 administratively incomplete, the department shall refund the  
12 entire fee. If a permit is denied or an application is  
13 withdrawn, the department shall refund 1/2 the amount specified  
14 in subsection (3) to the applicant. An applicant for a  
15 construction permit, within 12 months after a permit denial or  
16 withdrawal, may resubmit the application and the refunded portion  
17 of the fee, together with the additional information as needed to  
18 address the reasons for denial, without being required to pay an  
19 additional application fee.

20 (5) An application for a modification to a construction  
21 permit or for renewal of a construction permit which has expired  
22 shall be accompanied by a fee of \$250.00. Increases in final  
23 elevations that do not result in an increase in design capacity  
24 or a change in the solid waste boundary shall be considered a  
25 modification and not a vertical expansion.

26 (6) A person who applies to permit more than 1 type of  
27 disposal area at the same facility shall pay a fee equal to the

1 sum of the applicable fees listed in this section.

2 (7) The department shall deposit permit application fees  
3 collected under this section in the solid waste staff account of  
4 the solid waste management fund established in section 11550.

5 Sec. 11511. (1) ~~The department shall make a final decision~~  
6 ~~as to whether to issue a construction permit within 120 days~~  
7 ~~after the department receives an administratively complete~~  
8 ~~application. The decision of the department and the reasons for~~  
9 ~~the decision shall be in writing with specific reference to this~~  
10 ~~part or rules promulgated under this part for any substantiation~~  
11 ~~of denial of the permit application and shall be sent by~~  
12 ~~first class mail to~~ **The department shall notify** the clerk of the  
13 municipality in which the disposal area is proposed to be located  
14 and ~~to~~ the applicant **of its approval or denial of an**  
15 **application for a construction permit** within 10 days after the  
16 final decision is made. ~~If the department fails to make a final~~  
17 ~~decision within 120 days, the permit shall be considered issued.~~

18 (2) A construction permit shall expire 1 year after the date  
19 of issuance, unless development under the construction permit is  
20 initiated within that year. A construction permit that has  
21 expired may be renewed upon payment of a permit renewal fee and  
22 submission of any additional information the department may  
23 require.

24 (3) Except as otherwise provided in this subsection, the  
25 department shall not issue a construction permit for a disposal  
26 area within a planning area unless a solid waste management plan  
27 for that planning area has been approved pursuant to sections

1 11536 and 11537 and unless the disposal area complies with and is  
2 consistent with the approved solid waste management plan. The  
3 department may issue a construction permit for a disposal area  
4 designed to receive ashes produced in connection with the  
5 combustion of fossil fuels for electrical power generation in the  
6 absence of an approved county solid waste management plan, upon  
7 receipt of a letter of approval from whichever county or  
8 counties, group of municipalities, or regional planning agency  
9 has prepared or is preparing the county solid waste management  
10 plan for that planning area under section 11533 and from the  
11 municipality in which the disposal area is to be located.

12 Sec. 11512. (1) A person shall dispose of solid waste at a  
13 disposal area licensed under this part unless a person is  
14 permitted by state law or rules promulgated by the department to  
15 dispose of the solid waste at the site of generation.

16 (2) Except as otherwise provided in this section or in  
17 section 11529, a person shall not conduct, manage, maintain, or  
18 operate a disposal area within this state ~~without a license from~~  
19 ~~the department,~~ **except as authorized by an operating license**  
20 **issued by the department pursuant to part 13. In addition, a**  
21 **person shall not conduct, manage, maintain, or operate a disposal**  
22 **area** contrary to an approved solid waste management plan, or  
23 contrary to a permit, license, or final order issued under this  
24 part. A person who intends to conduct, manage, maintain, or  
25 operate a disposal area shall submit a license application to the  
26 department through a certified health department. ~~on a form~~  
27 ~~provided by the department.~~ If the disposal area is located in a

1 county or city that does not have a certified health department,  
2 the application shall be made directly to the department. A  
3 person authorized by this part to operate more than 1 type of  
4 disposal area at the same facility may apply for a single  
5 license.

6 (3) The application for a license shall contain the name and  
7 residence of the applicant, the location of the proposed or  
8 existing disposal area, the type or types of disposal area  
9 proposed, evidence of bonding, and other information required by  
10 rule. In addition, an applicant for a type II landfill shall  
11 submit evidence of financial assurance adequate to meet the  
12 requirements of section 11523a, the maximum waste slope in the  
13 active portion, an estimate of remaining permitted capacity, and  
14 documentation on the amount of waste received at the disposal  
15 area during the previous license period or expected to be  
16 received, whichever is greater. The application shall be  
17 accompanied by a fee as specified in subsections (7), (9), and  
18 (10).

19 (4) At the time of application for a license for a disposal  
20 area, the applicant shall submit to a health officer or the  
21 department a certification under the seal of a licensed  
22 professional engineer verifying that the construction of the  
23 disposal area has proceeded according to the approved plans. If  
24 construction of the disposal area or a portion of the disposal  
25 area is not complete, the department shall require additional  
26 construction certification of that portion of the disposal area  
27 during intermediate progression of the operation, as specified in

1 section 11516(5).

2 (5) An applicant for an operating license, within 6 months  
3 after a license denial, may resubmit the application, together  
4 with additional information or corrections as are necessary to  
5 address the reason for denial, without being required to pay an  
6 additional application fee.

7 (6) In order to conduct tests and assess operational  
8 capabilities, the owner or operator of a municipal solid waste  
9 incinerator that is designed to burn at a temperature in excess  
10 of 2500 degrees Fahrenheit may operate the incinerator without an  
11 operating license, upon notice to the department, for a period  
12 not to exceed 60 days.

13 (7) The application for a type II landfill operating license  
14 shall be accompanied by the following fee for the 5-year term of  
15 the operating license, calculated in accordance with subsection  
16 (8):

17 (a) Landfills receiving less than 100 tons per day, \$250.00.

18 (b) Landfills receiving 100 tons per day or more, but less  
19 than 250 tons per day, \$1,000.00.

20 (c) Landfills receiving 250 tons per day or more, but less  
21 than 500 tons per day, \$2,500.00.

22 (d) Landfills receiving 500 tons per day or more, but less  
23 than 1,000 tons per day, \$5,000.00.

24 (e) Landfills receiving 1,000 tons per day or more, but less  
25 than 1,500 tons per day, \$10,000.00.

26 (f) Landfills receiving 1,500 tons per day or more, but less  
27 than 3,000 tons per day, \$20,000.00.

1 (g) Landfills receiving greater than 3,000 tons per day,  
2 \$30,000.00.

3 (8) Type II landfill application fees shall be based on the  
4 average amount of waste projected to be received daily during the  
5 license period. Application fees for license renewals shall be  
6 based on the average amount of waste received in the previous  
7 calendar year. Application fees shall be adjusted in the  
8 following circumstances:

9 (a) If a landfill accepts more waste than projected, a  
10 supplemental fee equal to the difference shall be submitted with  
11 the next license application.

12 (b) If a landfill accepts less waste than projected, the  
13 department shall credit the applicant an amount equal to the  
14 difference with the next license application.

15 (c) A type II landfill that measures waste by volume rather  
16 than weight shall pay a fee based on 3 cubic yards per ton.

17 (d) A landfill used exclusively for municipal solid waste  
18 incinerator ash that measures waste by volume rather than weight  
19 shall pay a fee based on 1 cubic yard per ton.

20 (e) If an application is submitted to renew a license more  
21 than 1 year prior to license expiration, the department shall  
22 credit the applicant an amount equal to 1/2 the application fee.

23 (f) If an application is submitted to renew a license more  
24 than 6 months but less than 1 year prior to license expiration,  
25 the department shall credit the applicant an amount equal to 1/4  
26 the application fee.

27 (9) The operating license application for a type III landfill

1 shall be accompanied by a fee equal to \$2,500.00.

2 (10) The operating license application for a solid waste  
3 processing plant, solid waste transfer facility, other disposal  
4 area, or combination of these entities shall be accompanied by a  
5 fee equal to \$500.00.

6 (11) The department shall deposit operating license  
7 application fees collected under this section in the perpetual  
8 care account of the solid waste management fund established in  
9 section 11550.

10 (12) A person who applies for an operating license for more  
11 than 1 type of disposal area at the same facility shall pay a fee  
12 equal to the sum of the applicable application fees listed in  
13 this section.

14 Sec. 11516. (1) ~~Subject to subsection (4), the~~ **The**  
15 department shall conduct a consistency review ~~and make~~ **before**  
16 **making** a final decision on a license application. ~~within 90 days~~  
17 ~~after the department receives an administratively complete~~  
18 ~~application. The decision of the department and the reasons for~~  
19 ~~the decision shall be documented in writing with specific~~  
20 ~~reference to this part or rules promulgated under this part and~~  
21 ~~shall be sent by first class mail to~~ **The department shall notify**  
22 the clerk of the municipality in which the disposal area is  
23 located and ~~to~~ the applicant **of its approval or denial of a**  
24 **license application** within 10 days after the final decision is  
25 made. ~~If the department fails to make a final decision within~~  
26 ~~90 days, the license is considered issued.~~

27 (2) An operating license shall expire 5 years after the date

1 of issuance. An operating license may be renewed before  
2 expiration upon payment of a renewal application fee specified in  
3 section 11512(8) if the licensee is in compliance with this part  
4 and the rules promulgated under this part.

5 (3) The issuance of the operating license under this part  
6 empowers the department or a health officer or an authorized  
7 representative of a health officer to enter at any reasonable  
8 time, pursuant to law, in or upon private or public property  
9 licensed under this part for the purpose of inspecting or  
10 investigating conditions relating to the storage, processing, or  
11 disposal of any material.

12 (4) Except as otherwise provided in this subsection, the  
13 department shall not issue an operating license for a new  
14 disposal area within a planning area unless a solid waste  
15 management plan for that planning area has been approved pursuant  
16 to sections 11536 and 11537 and unless the disposal area complies  
17 with and is consistent with the approved solid waste management  
18 plan. The department may issue an operating license for a  
19 disposal area designed to receive ashes produced in connection  
20 with the combustion of fossil fuels for electrical power  
21 generation in the absence of an approved county solid waste  
22 management plan, upon receipt of a letter of approval from  
23 whichever county or counties, group of municipalities, or  
24 regional planning agency has prepared or is preparing the county  
25 solid waste management plan for that planning area under section  
26 11533 and from the municipality in which the disposal area is to  
27 be located.

1           (5) Issuance of an operating license by the department  
2 authorizes the licensee to accept waste for disposal in certified  
3 portions of the disposal area for which a bond was established  
4 under section 11523 and, for type II landfills, for which  
5 financial assurance was demonstrated under section 11523a. If  
6 the construction of a portion of a landfill licensed under this  
7 section is not complete at the time of license application, the  
8 owner or operator of the landfill shall submit a certification  
9 under the seal of a licensed professional engineer verifying that  
10 the construction of that portion of the landfill has proceeded  
11 according to the approved plans at least 60 days prior to the  
12 anticipated date of waste disposal in that portion of the  
13 landfill. If the department does not deny the certification  
14 within 60 days of receipt, the owner or operator may accept waste  
15 for disposal in the certified portion. In the case of a denial,  
16 the department shall issue a written statement stating the  
17 reasons why the construction or certification is not consistent  
18 with this part or rules promulgated under this part or the  
19 approved plans.

20           Sec. 11542. (1) Except as provided in subsection ~~—(9)—~~ (5),  
21 municipal solid waste incinerator ash shall be disposed of in 1  
22 of the following:

23           (a) A landfill that meets all of the following requirements:

24           (i) The landfill is in compliance with this part and the  
25 rules promulgated under this part.

26           (ii) The landfill is used exclusively for the disposal of  
27 municipal solid waste incinerator ash.

- 1           (iii) The landfill design includes all of the following in  
2 descending order according to their placement in the landfill:
- 3           (A) A leachate collection system.
- 4           (B) A synthetic liner at least 60 mils thick.
- 5           (C) A compacted clay liner of 5 feet or more with a maximum  
6 hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per second.
- 7           (D) A leak detection and leachate collection system.
- 8           (E) A compacted clay liner at least 3 feet thick with a  
9 maximum hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per  
10 second or a synthetic liner at least 40 mils thick.
- 11          (b) A landfill that meets all of the following requirements:
- 12           (i) The landfill is in compliance with this part and the  
13 rules promulgated under this part.
- 14           (ii) The landfill is used exclusively for the disposal of  
15 municipal solid waste incinerator ash.
- 16           (iii) The landfill design includes all of the following in  
17 descending order according to their placement in the landfill:
- 18           (A) A leachate collection system.
- 19           (B) A composite liner, as defined in R 299.4102 of the  
20 Michigan administrative code.
- 21           (C) A leak detection and leachate collection system.
- 22           (D) A second composite liner.
- 23           (iv) If contaminants that may threaten the public health,  
24 safety, or welfare, or the environment are found in the leachate  
25 collection system described in subparagraph (iii) (C), the owner  
26 or operator of the landfill shall determine the source and nature  
27 of the contaminants and make repairs, to the extent practicable,

1 that will prevent the contaminants from entering the leachate  
2 collection system. If the department determines that the source  
3 of the contaminants is caused by a design failure of the  
4 landfill, the department, notwithstanding an approved  
5 construction permit or operating license, may require landfill  
6 cells at that landfill that will be used for the disposal of  
7 municipal solid waste incinerator ash, which are under  
8 construction or will be constructed in the future at the  
9 landfill, to be constructed in conformance with improved design  
10 standards approved by the department. However, this subparagraph  
11 does not require the removal of liners or leak detection and  
12 leachate collection systems that are already in place in a  
13 landfill cell under construction.

14 (c) A landfill that is a monitorable unit, as defined in  
15 R 299.4104 of the Michigan administrative code, and that meets  
16 all of the following requirements:

17 (i) The landfill is in compliance with this part and the  
18 rules promulgated under this part.

19 (ii) The landfill is used exclusively for the disposal of  
20 municipal solid waste incinerator ash.

21 (iii) The landfill design includes all of the following in  
22 descending order according to their placement in the landfill:

23 (A) A leachate collection system.

24 (B) A synthetic liner at least 60 mils thick.

25 (C) Immediately below the synthetic liner, either 2 feet of  
26 compacted clay with a maximum hydraulic conductivity of  $1 \times 10^{-7}$   
27 centimeters per second or a bentonite geocomposite liner, as

1 specified in R 299.4914 of the Michigan administrative code.

2 (D) At least 10 feet of either natural or compacted clay with  
3 a maximum hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per  
4 second, or equivalent.

5 (d) A landfill with a design approved by the department that  
6 will prevent the migration of any hazardous constituent into the  
7 groundwater or surface water at least as effectively as the  
8 design requirements of subdivisions (a) to (c).

9 (e) A type II landfill, as defined in R 299.4105 of the  
10 Michigan administrative code, if both of the following conditions  
11 apply:

12 (i) The ash was generated by a municipal solid waste  
13 incinerator that is designed to burn at a temperature in excess  
14 of 2500 degrees Fahrenheit.

15 (ii) The ash from any individual municipal solid waste  
16 incinerator is disposed of pursuant to this subdivision for a  
17 period not to exceed 60 days.

18 (2) ~~(3)~~ Except as provided in subsection ~~(4)~~ (3), a  
19 landfill that is constructed pursuant to the design described in  
20 subsection (1) shall be capped following its closure by all of  
21 the following in descending order:

22 (a) Six inches of top soil with a vegetative cover.

23 (b) Two feet of soil to protect against animal burrowing,  
24 temperature, erosion, and rooted vegetation.

25 (c) An infiltration collection system.

26 (d) A synthetic liner at least 30 mils thick.

27 (e) Two feet of compacted clay with a maximum hydraulic

1 conductivity of  $1 \times 10^{-7}$  centimeters per second.

2       (3) ~~—(4)—~~ A landfill that receives municipal solid waste  
3 incinerator ash under this section may be capped with a design  
4 approved by the department that will prevent the migration of any  
5 hazardous constituent into the groundwater or surface water at  
6 least as effectively as the design requirements of subsection  
7 ~~—(3)—~~ (2).

8       (4) ~~—(5)—~~ If leachate is collected from a landfill under this  
9 section, the leachate shall be monitored and tested in accordance  
10 with this part and the rules promulgated under this part.

11       (5) ~~—(6)—~~ As an alternative to disposal described in  
12 subsection (1), the owner or operator of a municipal solid waste  
13 incinerator may process municipal solid waste incinerator ash  
14 through mechanical or chemical methods, or both, to substantially  
15 diminish the toxicity of the ash or its constituents or limit the  
16 leachability of the ash or its constituents to minimize threats  
17 to human health and the environment, if processing is performed  
18 on the site of the municipal solid waste incinerator or at the  
19 site of a landfill described in subsection (1), if the process  
20 has been approved by the department as provided by rule, and if  
21 the ash is tested after processing in accordance with a protocol  
22 approved by the department as provided by rule. The department  
23 shall approve the process and testing protocol under this  
24 subsection only if the process and testing protocol will protect  
25 human health and the environment. In making this determination,  
26 the department shall consider all potential pathways of human and  
27 environmental exposure, including both short-term and long-term,

1 to constituents of the ash that may be released during the reuse  
2 or recycling of the ash. The department shall consider requiring  
3 methods to determine the leaching, total chemical analysis,  
4 respirability, and toxicity of reused or recycled ash. A  
5 leaching procedure shall include testing under both acidic and  
6 native conditions. If municipal solid waste incinerator ash is  
7 processed in accordance with the requirements of this subsection  
8 and the processed ash satisfies the testing protocol approved by  
9 the department as provided by rule, the ash may be disposed of in  
10 a municipal solid waste landfill, as defined by R 299.4104 of the  
11 Michigan administrative code, licensed under this part or may be  
12 used in any manner approved by the department. If municipal  
13 solid waste incinerator ash is processed as provided in this  
14 subsection, but does not satisfy the testing protocol approved by  
15 the department as provided by rule, the ash shall be disposed of  
16 in accordance with subsection (1).

17       (6) ~~—(7)—~~ The disposal of municipal solid waste incinerator  
18 ash within a landfill that is in compliance with subsection (1)  
19 does not constitute a new proposal for which a new construction  
20 permit is required under section 11510, if a construction permit  
21 has previously been issued under section 11509 for the landfill  
22 and the owner or operator of the landfill submits 6 copies of an  
23 operating license amendment application to the department for  
24 approval **pursuant to part 13**. The operating license amendment  
25 application shall include revised plans and specifications for  
26 all facility modifications including a leachate disposal plan, an  
27 erosion control plan, and a dust control plan which shall be part

1 of the operating license amendment. The dust control plan shall  
2 contain sufficient detail to ensure that dust emissions are  
3 controlled by available control technologies that reduce dust  
4 emissions by a reasonably achievable amount to the extent  
5 necessary to protect human health and the environment. The dust  
6 control plan shall provide for the ash to be wet during all times  
7 that the ash is exposed to the atmosphere at the landfill or  
8 otherwise to be covered by daily cover material; for dust  
9 emissions to be controlled during dumping, grading, loading, and  
10 bulk transporting of the ash at the landfill; and for dust  
11 emissions from access roads within the landfill to be  
12 controlled. With the exception of a landfill that is in  
13 existence on June 12, 1989 that the department determines is  
14 otherwise in compliance with this section, the owner or operator  
15 of the landfill shall obtain the operating license amendment  
16 prior to initiating construction. Prior to operation, the owner  
17 or operator of a landfill shall submit to the department  
18 certification from a licensed professional engineer that the  
19 landfill has been constructed in accordance with the approved  
20 plan and specifications. At the time the copies are submitted to  
21 the department, the owner or operator of the landfill shall send  
22 a copy of the operating license amendment application to the  
23 municipality where the landfill is located. At least 30 days  
24 prior to making a final decision on the operating license  
25 amendment, the department shall hold at least 1 public meeting in  
26 the vicinity of the landfill to receive public comments. Prior  
27 to a public meeting, the department shall publish notice of the

1 meeting in a newspaper serving the local area. ~~The department~~  
2 ~~shall issue a final decision on an operating license amendment~~  
3 ~~application within 120 days after the department receives an~~  
4 ~~administratively complete application.~~

5 (7) ~~(8)~~ The owner or operator of a municipal solid waste  
6 incinerator or a disposal area that receives municipal solid  
7 waste incinerator ash shall allow the department access to the  
8 facility for the purpose of supervising the collection of samples  
9 or obtaining samples of ash to test or to monitor air quality at  
10 the facility.

11 (8) ~~(9)~~ As used in subsection (1), "landfill" means a  
12 landfill or a specific portion of a landfill.

13 Sec. 11703. (1) A person ~~engaged~~ **shall not engage** in the  
14 business of servicing ~~shall apply for~~ **except as authorized by a**  
15 septage waste servicing license ~~on an application form provided~~  
16 ~~by the department~~ **issued by the department pursuant to part 13.**  
17 The department shall provide an application form that includes  
18 all of the following:

19 (a) The applicant's name and mailing address.

20 (b) The location or locations where the business is  
21 operated.

22 (c) Additional information pertinent to this part as required  
23 by the department.

24 (2) A person who submits a completed application form under  
25 subsection (1) shall submit to the department with the  
26 application all of the following:

27 (a) An application fee of \$300.00 that will be refunded by

1 the department if a septage waste servicing license is not  
2 issued.

3 (b) A \$100.00 fee to accompany an initial license application  
4 to be credited to the septage waste site contingency fund as  
5 provided in section 11717.

6 (c) Written approval from all public septage waste treatment  
7 facilities where the applicant plans to dispose of septage waste  
8 and the ~~locations~~ **sites** where the applicant plans to dispose of  
9 septage waste upon receiving the department's approval, and, **for**  
10 **each proposed disposal site**, either proof of ownership of the  
11 proposed disposal ~~location~~ **site** or written approval from the  
12 site owner.

13 (3) A person who holds a septage waste servicing license  
14 shall maintain at all times at his or her place of business a  
15 complete record of the amount of septage waste that the person  
16 has transported and disposed of and the location at which the  
17 disposal of septage waste has occurred. The person shall display  
18 these records upon the request of the director, a peace officer,  
19 or an official of a certified health department.

20 Sec. 11704. (1) A person who is required to be licensed  
21 pursuant to section 11703 ~~is required to have~~ **shall not use a**  
22 **motor vehicle to transport septage waste except as authorized by**  
23 a septage waste motor vehicle license issued by the department  
24 **pursuant to part 13** for each vehicle that is used to transport  
25 septage waste. A septage waste motor vehicle license application  
26 ~~form shall be provided by the department and shall be~~ submitted  
27 to the department ~~with~~ **shall be accompanied by** a license fee of

1 \$75.00 for each vehicle required to be licensed under this part.

2 A motor vehicle license application ~~is to~~ **shall** include all of  
3 the following information:

4 (a) The model and year of the motor vehicle.

5 (b) The capacity of any tank used to remove or transport the  
6 septage waste.

7 (c) The name of the motor vehicle's insurance carrier.

8 (d) Additional information pertinent to this part as required  
9 by the department.

10 (2) A person who is issued a septage waste motor vehicle  
11 license ~~issued pursuant to this section~~ shall carry that  
12 license at all times in the motor vehicle that is described in  
13 that license and display the license upon the request of the  
14 department, a peace officer, or an official of a certified health  
15 department.

16 (3) Without the express permission of the department, a  
17 person shall not use a vehicle used to transport septage waste to  
18 transport hazardous waste regulated under part 111 or liquid  
19 industrial waste regulated under part 121.

20 Sec. 11709. (1) Subject to the limitations contained in  
21 sections 11710 and 11711, septage waste that is picked up at a  
22 location that is further than 15 road miles from a public septage  
23 waste treatment facility ~~, or where a public waste treatment~~  
24 ~~facility is not available,~~ may be disposed of on land if the  
25 person holding licenses issued pursuant to sections 11703 and  
26 11704 ~~applies to the department for a permit~~ **obtains a permit**  
27 **issued by the department pursuant to part 13** authorizing the

1 disposal of septage waste on land, supplies any additional  
2 information pertinent to this part as required by the department,  
3 and sends notice to property owners as provided in  
4 subsection (2).

5 (2) An applicant for a permit under subsection (1) shall send  
6 a notice to each land owner who owns property located within 800  
7 feet of the proposed disposal location on a form approved by the  
8 department. Service of the notice shall be made by first-class  
9 mail. The notification shall include the nature of the proposed  
10 land use, the location of the proposed disposal area, and whom to  
11 contact if there is an objection to the proposed land use. A  
12 copy of the notice that is mailed to each property owner shall be  
13 sent to the certified health department having jurisdiction. If  
14 no substantiated objections as determined by the department are  
15 received within 10 business days following the mailing of the  
16 notification, the department may issue a permit as provided in  
17 this section. If the department finds that the applicant is  
18 unable to provide notice as required in this subsection, the  
19 department may waive the notice requirement or allow the  
20 applicant to use a substitute means of providing notice.

21 (3) A permit issued under this section shall expire at the  
22 same time as a septage waste servicing license issued pursuant to  
23 section 11703, but is subject to renewal at that time. A permit  
24 issued under this section may be revoked by the department if  
25 septage waste disposal or site management is in violation of this  
26 part or the rules promulgated under this part.

27 Sec. 30104. (1) ~~Before a project that is subject to this~~

~~1 part is undertaken, a person shall file an application and~~  
~~2 receive a permit from the department. The application shall be~~  
~~3 on a form prescribed by the department and~~ **A person shall not**  
**4 undertake a project subject to this part except as authorized by**  
**5 a permit issued by the department pursuant to part 13. An**  
**6 application for a permit** shall include any information that may  
7 be required by the department. If a project includes activities  
8 at multiple locations, 1 application may be filed for the  
9 combined activities.

10 (2) Except as provided in subsections (3) and (4), until  
11 October 1, 2008, an application for a permit shall be accompanied  
12 by a fee based on an administrative cost in accordance with the  
13 following schedule:

14 (a) For a minor project listed in R 281.816 of the Michigan  
15 administrative code, or a seasonal drawdown or the associated  
16 reflooding, or both, of a dam or impoundment for the purpose of  
17 weed control, a fee of \$50.00. However, for a permit for a  
18 seasonal drawdown or associated reflooding, or both, of a dam or  
19 impoundment for the purpose of weed control that is issued for  
20 the first time after October 9, 1995, an initial fee of \$500.00  
21 with subsequent permits for the same purpose being assessed a  
22 \$50.00 fee.

23 (b) For construction or expansion of a marina, a fee of:

24 (i) \$50.00 for an expansion of 1-10 slips to an existing  
25 permitted marina.

26 (ii) \$100.00 for a new marina with 1-10 proposed marina  
27 slips.

1           (iii) \$250.00 for an expansion of 11-50 slips to an existing  
2 permitted marina, plus \$10.00 for each slip over 50.

3           (iv) \$500.00 for a new marina with 11-50 proposed marina  
4 slips, plus \$10.00 for each slip over 50.

5           (v) \$1,500.00 if an existing permitted marina proposes  
6 maintenance dredging of 10,000 cubic yards or more or the  
7 addition of seawalls, bulkheads, or revetments of 500 feet or  
8 more.

9           (c) For renewal of a marina operating permit, a fee of  
10 \$50.00.

11           (d) For major projects other than a project described in  
12 subdivision (b)(v), involving any of the following, a fee of  
13 \$2,000.00:

14           (i) Dredging of 10,000 cubic yards or more.

15           (ii) Filling of 10,000 cubic yards or more.

16           (iii) Seawalls, bulkheads, or ~~revetment~~ **revetments** of 500  
17 feet or more.

18           (iv) Filling or draining of 1 acre or more of wetland  
19 contiguous to a lake or stream.

20           (v) New dredging or upland boat basin excavation in areas of  
21 suspected contamination.

22           (vi) Shore projections, such as groins and underwater  
23 stabilizers, that extend 150 feet or more into a lake or stream.

24           (vii) New commercial docks or wharves of 300 feet or more in  
25 length.

26           (viii) Stream enclosures 100 feet or more in length.

27           (ix) Stream relocations 500 feet or more in length.

1 (x) New golf courses.

2 (xi) Subdivisions.

3 (xii) Condominiums.

4 (e) For all other projects not listed in subdivisions (a)  
5 through (d), a fee of \$500.00.

6 (3) A project that requires review and approval under this  
7 part and 1 or more of the following acts or parts of acts is  
8 subject to only the single highest permit fee required under this  
9 part or the following acts or parts of acts:

10 (a) Part 303.

11 (b) Part 323.

12 (c) Part 325.

13 (d) Section 3104.

14 (e) Section 117 of the land division act, 1967 PA 288, MCL  
15 560.117.

16 (4) If work has been done in violation of a permit  
17 requirement under this part and restoration is not ordered by the  
18 department, the department may accept an application for a permit  
19 if the application is accompanied by a fee equal to 2 times the  
20 permit fee required under this section.

21 Sec. 30105. (1) Until October 1, 2003, a person who desires  
22 notification of pending applications may submit a written request  
23 to the department accompanied by an annual fee of \$25.00. The  
24 department shall forward all annual fees to the state treasurer  
25 for deposit into the fund. The department shall prepare a  
26 monthly list of the applications made during the previous month  
27 and shall promptly mail copies of the list for the remainder of

1 the calendar year to the persons who have so requested notice.  
2 The monthly list shall state the name and address of each  
3 applicant, the legal description of the lands included in the  
4 applicant's project, and a summary statement of the purpose of  
5 the project. The department may hold a public hearing on pending  
6 applications.

7 (2) Except as otherwise provided in this section, upon  
8 receiving an application, the department shall submit copies for  
9 review to the director of the department of community health or  
10 the local health department designated by the director of the  
11 department of community health, to the city, village, or township  
12 and the county where the project is to be located, to the local  
13 ~~soil~~ conservation district, to the watershed council organized  
14 under part 311, if any, to the local port commission, if any, and  
15 to the persons required to be included in the application  
16 pursuant to section 30104(1). Each copy of the application shall  
17 be accompanied by a statement that unless a written request is  
18 filed with the department within 20 days after the submission for  
19 review, the department may grant the application without a public  
20 hearing where the project is located. The department may hold a  
21 public hearing upon the written request of the applicant or a  
22 riparian owner or a person or governmental unit that is entitled  
23 to receive a copy of the application pursuant to this  
24 subsection.

25 (3) After completion of a project for which an application is  
26 approved, the department may cause a final inspection to be made  
27 and certify to the applicant that the applicant has complied with

1 the department's permit requirements.

2 (4) At least 10 days' notice of a hearing to be held under  
3 this section shall be given by publication in a newspaper  
4 circulated in the county where the project is to be located and  
5 by mailing copies of the notice to the persons who have requested  
6 the monthly list pursuant to subsection (1), to the person  
7 requesting the hearing, and to the persons and governmental units  
8 that are entitled to receive a copy of the application pursuant  
9 to subsection (2).

10 (5) ~~The department shall grant or deny the permit within 60~~  
11 ~~days, or within 90 days if a public hearing is held, after the~~  
12 ~~filing of an application pursuant to section 30104. If a permit~~  
13 ~~is denied, the department shall provide to the applicant a~~  
14 ~~concise written statement of its reasons for denial of the~~  
15 ~~permit, and, if it appears that a minor modification of the~~  
16 ~~application would result in the granting of the permit, the~~  
17 ~~nature of the modification shall be stated.~~ In an emergency, the  
18 department may issue a conditional permit before the expiration  
19 of the 20-day period referred to in subsection (2).

20 (6) The department, by rule promulgated under section  
21 30110(1), may establish minor project categories of activities  
22 and projects that are similar in nature and have minimal adverse  
23 environmental impact. The department may act upon an application  
24 received pursuant to section 30104 for an activity or project  
25 within a minor project category after an on-site inspection of  
26 the land and water involved without providing notices or holding  
27 a public hearing pursuant to subsection (2). A final inspection

1 or certification of a project completed under a permit granted  
2 pursuant to this subsection is not required, but all other  
3 provisions of this part are applicable to a minor project.

4 Sec. 30113. (1) The land and water management permit fee  
5 fund is created within the state treasury.

6 (2) The state treasurer may receive money or other assets  
7 from any source for deposit into the fund. The state treasurer  
8 shall direct the investment of the fund. The state treasurer  
9 shall credit to the fund interest and earnings from fund  
10 investments. The state treasurer shall annually present to the  
11 department an accounting of the amount of money in the fund.

12 (3) Money in the fund at the close of the fiscal year shall  
13 remain in the fund and shall not lapse to the general fund.

14 (4) The department shall expend money from the fund, upon  
15 appropriation, only to implement this part and the following:

16 (a) Sections 3104, 3107, and 3108.

17 (b) ~~Part~~ **Before October 1, 2004, section 12562 of the**  
18 **public health code, 1978 PA 368, MCL 333.12562, or, on or after**  
19 **October 1, 2004, part 33.**

20 (c) Part 303.

21 (d) Part 315.

22 (e) Part 323.

23 (f) Part 325.

24 (g) Part 353.

25 (h) Section 117 of the land division act, 1967 PA 288,  
26 MCL 560.117.

27 ~~(5) The department shall process permit applications for~~

1 ~~those acts and parts of acts cited in subsection (4) under which~~  
2 ~~permits are issued within 60 days after receiving a completed~~  
3 ~~permit application unless the act or part specifically provides~~  
4 ~~for permit application processing time limits.~~

5 (5) ~~—(6)—~~ The department shall annually report to the  
6 legislature ~~on both of the following:~~ (a) ~~How~~ **how** money in the  
7 fund was expended during the previous fiscal year.

8 ~~(b) For permit programs funded with money in the fund, the~~  
9 ~~average length of time for department action on permit~~  
10 ~~applications for each class of permits reviewed.~~

11 Sec. 30304. Except as otherwise provided ~~by~~ **in** this part  
12 or by a permit ~~obtained from~~ **issued by** the department under  
13 sections 30306 to 30314 **and pursuant to part 13**, a person shall  
14 not do any of the following:

15 (a) Deposit or permit the placing of fill material in a  
16 wetland.

17 (b) Dredge, remove, or permit the removal of soil or minerals  
18 from a wetland.

19 (c) Construct, operate, or maintain any use or development in  
20 a wetland.

21 (d) Drain surface water from a wetland.

22 Sec. 30307. (1) Within 60 days after receipt of the  
23 completed application and fee, the department may hold a  
24 hearing. If a hearing is held, it shall be held in the county  
25 where the wetland to which the permit is to apply is located.  
26 Notice of the hearing shall be made in the same manner as for the  
27 promulgation of rules under the administrative procedures act of

1 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may  
2 approve or disapprove a permit application without a public  
3 hearing unless a person requests a hearing in writing within 20  
4 days after the mailing of notification of the permit application  
5 as required by subsection (3) or unless the department determines  
6 that the permit application is of significant impact to warrant a  
7 public hearing.

8 ~~(2) If a hearing is not held, the department shall approve~~  
9 ~~or disapprove the permit application within 90 days after the~~  
10 ~~completed permit application is filed with the department. If a~~  
11 ~~hearing is held, the department shall approve or disapprove the~~  
12 ~~permit application within 90 days after the conclusion of the~~  
13 ~~hearing. The department may approve a permit application,~~  
14 ~~request modifications in the application, or deny the permit~~  
15 ~~application. If the department approves the permit application,~~  
16 ~~the department shall prepare and send the permit to the~~  
17 ~~applicant. If the department denies, or requests a modification~~  
18 ~~of, the permit application, the department shall send notice of~~  
19 ~~the denial or modification request and the reasons for the denial~~  
20 ~~or the modifications requested to the applicant. Department~~  
21 ~~approval may include the issuance of a permit containing~~  
22 ~~conditions necessary for compliance with this part. If the~~  
23 ~~department does not approve or disapprove the permit application~~  
24 ~~within the time provided by this subsection, the permit~~  
25 ~~application shall be considered approved, and the department~~  
26 ~~shall be considered to have made the determinations required by~~  
27 ~~section 30311. The action taken by the department on a permit~~

1 application under this part and part 13 may be appealed pursuant  
2 to the administrative procedures act of 1969, 1969 PA 306, MCL  
3 24.201 to 24.328. A property owner may, after exhaustion of  
4 administrative remedies, bring appropriate legal action in a  
5 court of competent jurisdiction.

6 (3) A person who desires notification of pending permit  
7 applications may make a written request to the department  
8 accompanied by an annual fee of \$25.00, which shall be credited  
9 to the general fund of the state. The department shall prepare a  
10 biweekly list of the applications made during the previous 2  
11 weeks and shall promptly mail copies of the list for the  
12 remainder of the calendar year to the persons who requested  
13 notice. The biweekly list shall state the name and address of  
14 each applicant, the location of the wetland in the proposed use  
15 or development, including the size of both the proposed use or  
16 development and of the wetland affected, and a summary statement  
17 of the purpose of the use or development.

18 (4) A local unit of government may regulate wetland within  
19 its boundaries, by ordinance, only as provided under this part.  
20 This subsection is supplemental to the existing authority of a  
21 local unit of government. An ordinance adopted by a local unit  
22 of government pursuant to this subsection shall comply with all  
23 of the following:

24 (a) The ordinance shall not provide a different definition of  
25 wetland than is provided in this part, except that a wetland  
26 ordinance may regulate wetland of less than 5 acres in size.

27 (b) If the ordinance regulates wetland that is smaller than 2

1 acres in size, the ordinance shall comply with section 30309.

2 (c) The ordinance shall comply with sections 30308 and  
3 30310.

4 (d) The ordinance shall not require a permit for uses that  
5 are authorized without a permit under section 30305, and shall  
6 otherwise comply with this part.

7 (5) Each local unit of government that adopts an ordinance  
8 regulating wetlands under subsection (4) shall notify the  
9 department.

10 (6) A local unit of government that adopts an ordinance  
11 regulating wetlands shall use an application form supplied by the  
12 department, and each person applying for a permit shall make  
13 application directly to the local unit of government. Upon  
14 receipt, the local unit of government shall forward a copy of  
15 each application along with any state fees that may have been  
16 submitted under section 30306 to the department. The department  
17 shall begin reviewing the application as provided in this part.  
18 The local unit of government shall review the application  
19 pursuant to its ordinance and shall modify, approve, or deny the  
20 application within 90 days after receipt. If a municipality does  
21 not approve or disapprove the permit application within the time  
22 period provided by this subsection, the permit application shall  
23 be considered approved, and the municipality shall be considered  
24 to have made the determinations as listed in section 30311. The  
25 denial of a permit shall be accompanied by a written statement of  
26 all reasons for denial. The failure to supply complete  
27 information with a permit application may be reason for denial of

1 a permit. The department shall inform any interested person  
2 whether or not a local unit of government has an ordinance  
3 regulating wetlands. If the department receives an application  
4 with respect to a wetland ~~which is~~ located in a local unit of  
5 government ~~which~~ **that** has an ordinance regulating wetlands, the  
6 department immediately shall forward the application to the local  
7 unit of government, which shall modify, deny, or approve the  
8 application under this subsection. The local unit of government  
9 shall notify the department of its decision. The department  
10 shall proceed as provided in this part.

11 (7) If a local unit of government does not have an ordinance  
12 regulating wetlands, the department shall promptly send a copy of  
13 the permit application to the local unit of government where the  
14 wetland is located. The local unit of government may review the  
15 application; may hold a hearing on the application; and may  
16 recommend approval, modification, or denial of the application to  
17 the department. The recommendations of the local unit of  
18 government shall be made and returned to the department within 45  
19 days after the local unit of government's receipt of the permit  
20 application. ~~The department shall approve, modify, or deny the~~  
21 ~~application as provided in this part.~~

22 (8) In addition to the requirements of subsection (7), the  
23 department shall notify the local unit of government that the  
24 department has issued a permit under this part within the  
25 jurisdiction of that local unit of government within 15 days of  
26 issuance of the permit. The department shall enclose a copy of  
27 the permit with the notice.

1           Sec. 31509. (1) Except as otherwise provided in this part  
2 **or as authorized by a permit issued by the department pursuant to**  
3 **part 13**, a person shall not ~~begin~~ **undertake** any of the  
4 following activities: ~~unless that person has a valid permit~~  
5 ~~issued by the department under this part.~~

6           (a) Construction of a new dam.

7           (b) Enlargement of a dam or an impoundment.

8           (c) Repair of a dam.

9           (d) Alteration of a dam.

10          (e) Removal of a dam.

11          (f) Abandonment of a dam.

12          (g) Reconstruction of a failed dam.

13          (2) ~~A person desiring to perform any of the activities~~  
14 ~~listed in subsection (1) shall apply to the department on a form~~  
15 ~~prescribed by the department and shall provide~~ **An application**  
16 **for a permit shall include** information that the department  
17 determines is necessary for the administration of this part. If  
18 a project includes activities at multiple locations, 1  
19 application may be filed for the combined activities.

20          (3) An application for a permit for construction of a new  
21 dam, reconstruction of a failed dam, or enlargement of a dam  
22 shall be accompanied by the following fees:

23           (a) For a dam with a height of 6 feet or more but less than  
24 10 feet, \$500.00.

25           (b) For a dam with a height of 10 feet or more but less than  
26 20 feet, \$1,000.00.

27           (c) For a dam with a height of 20 feet or more, \$3,000.00.

1 (4) An application for a permit for the repair, alteration,  
2 removal, or abandonment of a dam shall be accompanied by a fee of  
3 \$200.00, and an application for a permit for a minor project  
4 pursuant to section 31513(1) shall be accompanied by a fee of  
5 \$100.00.

6 (5) The department shall waive the fees under this section  
7 for applications from state agencies, department sponsored  
8 projects located on public lands, and organizations of the type  
9 described in section 31508(2) (a) through (c).

10 (6) The department shall forward fees collected under this  
11 section to the state treasurer for deposit in the land and water  
12 management permit fee fund created in section 30113.

13 Sec. 31512. ~~-(1) The department shall grant or deny a~~  
14 ~~permit within 60 days after the submission of a complete~~  
15 ~~application, or within 120 days after the submission of a~~  
16 ~~complete application if a public hearing is held. If a permit is~~  
17 ~~denied, the department shall provide to the applicant a concise~~  
18 ~~written statement of the reasons for the denial of the permit.~~  
19 ~~If it appears that a minor modification of the application would~~  
20 ~~result in the granting of the permit, the nature of the~~  
21 ~~modification shall be included in the written statement.~~

22 (1) ~~-(2)-~~ When immediate action is necessary to protect the  
23 structural integrity of a dam, the department may issue a permit  
24 before the expiration of the 20-day period referred to in section  
25 31511(1). This subsection does not prohibit an owner from taking  
26 action necessary to mitigate emergency conditions if imminent  
27 danger of failure exists.

1           (2) ~~(3)~~ A person applying for a permit to reconstruct a  
2 failed dam shall file a complete application not less than 1 year  
3 after the date of the failure. If such an application is filed  
4 more than 1 year after the date of the failure, the department  
5 shall consider the application to be an application to construct  
6 a new dam.

7           Sec. 32312. (1) The department, in order to regulate the  
8 uses and development of high-risk areas, flood risk areas, and  
9 environmental areas and to implement the purposes of this part,  
10 shall promulgate rules. **If permits are required under rules**  
11 **promulgated under this part, the permits shall be issued pursuant**  
12 **to the rules and part 13.** Except as provided under subsection  
13 (2), until October 1, 2008, if permits are required pursuant to  
14 rules promulgated under this part, ~~a fee of \$500.00 shall be~~  
15 ~~submitted to the department with each application for an~~  
16 **application for a permit shall be accompanied by a fee as**  
17 **follows:**

18           (a) **For** a commercial or multi-family residential project, ~~a~~  
19 ~~fee of \$100.00 shall be submitted with each application for~~  
20 **\$500.00.**

21           (b) **For** a single-family home construction, ~~and a fee of~~  
22 ~~\$50.00 shall be submitted with each application for~~ **\$100.00.**

23           (c) **For** an addition to an existing single-family home or for  
24 a project that has a minor impact on fish and wildlife resources  
25 in environmental areas as determined by the department, **\$50.00.**

26           (2) A project that requires review and approval under this  
27 part and under 1 or more of the following is subject to only the

1 single highest permit fee required under this part or the  
2 following:

3 (a) Part 301.

4 (b) Part 303.

5 (c) Part 325.

6 (d) Section 3104.

7 (e) Section 117 of the land division act, 1967 PA 288, MCL  
8 560.117.

9 (3) The department shall forward fees collected under this  
10 section to the state treasurer for deposit in the land and water  
11 management permit fee fund created in section 30113.

12 (4) A circuit court, upon petition and a showing by the  
13 department that a violation of a rule promulgated under  
14 subsection (1) exists, shall issue any necessary order to the  
15 defendant to correct the violation or to restrain the defendant  
16 from further violation of the rule.

17 Sec. 32503. (1) Except as otherwise provided in this  
18 section, the department, after finding that the public trust in  
19 the waters will not be impaired or substantially affected, may  
20 enter into agreements pertaining to waters over and the filling  
21 in of submerged patented lands, or to lease or deed unpatented  
22 lands, after approval of the state administrative board.  
23 Quitclaim deeds, leases, or agreements covering unpatented lands  
24 may be issued or entered into by the department with any person,  
25 and shall contain such terms, conditions, and requirements as the  
26 department determines to be just and equitable and in conformance  
27 with the public trust. The department shall reserve to the state

1 all mineral rights, including, but not limited to, coal, oil,  
2 gas, sand, gravel, stone, and other materials or products located  
3 or found in those lands, except where lands are occupied or to be  
4 occupied for residential purposes at the time of conveyance.

5 (2) A riparian owner shall ~~obtain a permit from the~~  
6 ~~department before dredging or placing~~ **not dredge or place** spoil  
7 or other materials on bottomland **except as authorized by a permit**  
8 **issued by the department pursuant to part 13.**

9 (3) The department shall not enter into a lease or deed that  
10 allows drilling operations beneath unpatented lands for the  
11 exploration or production of oil or gas.

12 (4) An agreement, lease, or deed entered into under this part  
13 by the department with the United States shall be entered into  
14 and executed pursuant to the property rights acquisition act,  
15 1986 PA 201, MCL 3.251 to 3.262.

16 Sec. 32515. If the department finds that the project will  
17 not injure the public trust or interest including fish and game  
18 habitat, that the project conforms to the requirements of law for  
19 sanitation, and that no material injury to the rights of any  
20 riparian owners on any body of water affected will result, the  
21 department shall issue a permit authorizing enlargement of the  
22 waterway affected. The permit shall provide that the artificial  
23 waterway shall be a public waterway, except intake or discharge  
24 canals or channels on property owned, controlled, and used by a  
25 public utility. ~~The department may impose further conditions in~~  
26 ~~the permit that it finds reasonably necessary to protect the~~  
27 ~~public health, safety, welfare, trust, and interest, and private~~

1 ~~rights and property.~~ The existing and future owners of land  
2 fronting on the artificial waterway are liable for maintenance of  
3 the waterway in accordance with the conditions of the permit.

4       Sec. 35304. ~~(1) Beginning on July 5, 1989 and until the~~  
5 ~~local unit of government either adopts a zoning ordinance that is~~  
6 ~~approved by the department or the department issues permits as~~  
7 ~~provided in subsection (3) or (8), whichever occurs first, the~~  
8 ~~local unit of government may require the submittal of~~  
9 ~~applications for permits for uses in critical dune areas. The~~  
10 ~~local unit of government shall evaluate applications for uses and~~  
11 ~~may issue permits for uses in critical dune areas that are in~~  
12 ~~conformance with and are at least as environmentally protective~~  
13 ~~as the model zoning plan.~~

14 ~~—— (2) A local unit of government that elects to issue permits~~  
15 ~~during the interim period described in subsection (1) shall~~  
16 ~~notify the department of its decision and shall reflect this~~  
17 ~~decision by passage of a resolution of its governing body or by~~  
18 ~~providing documentation to the department that an existing~~  
19 ~~ordinance meets or exceeds the requirements of the model zoning~~  
20 ~~plan. Following the passage of the resolution, a local unit of~~  
21 ~~government may issue permits during the interim period in accord~~  
22 ~~with the procedures and criteria established in subsection (4).~~

23 ~~—— (3) If by August 1, 1989 a local unit of government has not~~  
24 ~~passed a resolution indicating its intent to issue permits during~~  
25 ~~the interim period or submitted an existing ordinance that meets~~  
26 ~~the requirements of this part, the department shall issue permits~~  
27 ~~in the same manner provided for local units of government in~~

1 ~~subsection (4) for uses within that local unit of government~~  
2 ~~under the model zoning plan until the local unit of government~~  
3 ~~submits a zoning ordinance to the department and obtains approval~~  
4 ~~of the ordinance.~~

5 (1) ~~—(4)—~~ A local unit of government that issues permits  
6 ~~during the interim time period provided for in subsection (1),~~  
7 or the department if it issues permits as provided under  
8 subsection ~~—(3) or (8),—~~ (5) shall issue **the** permits ~~in~~  
9 ~~accordance with—~~ **subject to** all of the following **requirements:**

10 (a) A person proposing a use within a critical dune area  
11 shall file an application with the local unit of government, or  
12 with the department if the department is issuing permits under  
13 the model zoning plan. The application form shall include  
14 information that may be necessary to conform with the  
15 requirements of this part. If a project proposes the use of more  
16 than 1 critical dune area location within a local unit of  
17 government, 1 application may be filed for the uses.

18 (b) Notice of an application filed under this section shall  
19 be sent to a person who makes a written request to the local unit  
20 of government for notification of pending applications  
21 accompanied by an annual fee established by the local unit of  
22 government. The local unit of government shall prepare a monthly  
23 list of the applications made during the previous month and shall  
24 promptly mail copies of the list for the remainder of the  
25 calendar year to the persons who have requested notice. In  
26 addition, if the department issues permits under this part within  
27 a local unit of government, notice of an application shall be

1 given to the local ~~soil~~ conservation district office, the  
2 county clerk, the county health department, and the local unit of  
3 government in which the property is located. The monthly list  
4 shall state the name and address of each applicant, the location  
5 of the applicant's project, and a summary statement of the  
6 purpose of the use. The local unit of government may hold a  
7 public hearing on pending applications.

8 (c) The notice shall state that unless a written request is  
9 filed with the local unit of government within 20 days after the  
10 notice is mailed, the local unit of government may grant the  
11 application without a public hearing. Upon the written request  
12 of 2 or more persons that own real property within the local unit  
13 of government or an adjacent local unit of government, or that  
14 reside within the local unit of government or an adjacent local  
15 unit of government, the local unit of government shall hold a  
16 public hearing pertaining to a permit application.

17 (d) At least 10 days' notice of a hearing to be held pursuant  
18 to this section shall be given by publication in 1 or more  
19 newspapers of general circulation in the county in which the  
20 proposed use is to be located, and in other publications, if  
21 appropriate, to give notice to persons likely to be affected by  
22 the proposed use, and by mailing copies of the notice to the  
23 persons who have requested notice pursuant to subsection (1) and  
24 to the person requesting the hearing.

25 (e) After the filing of an application, the local unit of  
26 government shall grant or deny the permit within 60 days, or  
27 within 90 days if a public hearing is held. When a permit is

1 denied, the local unit of government shall provide to the  
2 applicant a concise written statement of its reasons for denial  
3 of the permit, and if it appears that a minor modification of the  
4 application would result in the granting of the permit, the  
5 nature of the modification shall be stated. In an emergency, the  
6 local unit of government may issue a conditional permit before  
7 the expiration of the 20-day period referred to in  
8 subdivision (c).

9 (f) The local unit of government shall base a decision to  
10 grant or deny a permit required by this section on the model  
11 zoning plan or on any existing ordinance that is in effect in the  
12 local unit of government that provides the same or a greater  
13 level of protection for critical dune areas and that is approved  
14 by the department.

15 (2) ~~—(5)—~~ A local unit of government zoning ordinance  
16 regulating critical dune areas may be more restrictive of  
17 development and more protective of critical dune areas than the  
18 model zoning plan.

19 (3) ~~—(6)—~~ As soon as possible following adoption of a zoning  
20 ordinance enacted pursuant to this part, the local unit of  
21 government shall submit to the department a copy of the ordinance  
22 that it determines meets the requirements of this part. If the  
23 local unit of government has an existing ordinance that it  
24 contends is at least as restrictive as the model zoning plan,  
25 that ordinance may be submitted to the department at any time.  
26 The department shall review zoning ordinances submitted under  
27 this section to assure compliance with this part. If the

1 department finds that an ordinance is not in compliance with this  
2 part, the department shall work with the local unit of government  
3 to bring the ordinance into compliance and inform the local unit  
4 of the failure to comply and in what ways the submitted ordinance  
5 is deficient. Unless a local unit of government receives notice  
6 within 90 days of submittal that the ordinance they submit to the  
7 department under this subsection is not in compliance with this  
8 part, the local unit of government shall be considered to be  
9 approved by the department.

10       (4) ~~-(7)-~~ A local unit of government may adopt, submit to the  
11 department, and obtain approval of a zoning ordinance based on  
12 the model zoning plan or an equivalent ordinance as provided in  
13 this section by June 30, 1990. If a local unit does not have an  
14 approved ordinance by June 30, 1990, the department shall  
15 implement the model zoning plan for that local unit of government  
16 in the same manner and under the same circumstances as provided  
17 in subsection ~~-(4)-~~ (1). Notwithstanding any other provision of  
18 this part, a local unit of government may adopt a zoning  
19 ordinance at any time, and upon the approval of the department,  
20 that ordinance shall take the place of the model zoning plan  
21 implemented by the department.

22       (5) ~~-(8)-~~ If a local unit of government in which a proposed  
23 use is to be located does not elect to issue permits or does not  
24 receive approval of a zoning ordinance that regulates critical  
25 dune areas, the department shall implement the model zoning plan  
26 in the place of the local unit of government and issue special  
27 exceptions in the same circumstances as provided in this part for

1 the issuance of variances by local units of government, **and issue**  
2 **permits pursuant to subsection (1) and part 13.**

3 ~~(9) The department shall develop permit application forms to~~  
4 ~~implement this section.~~

5 (6) ~~—(10)—~~ The department shall assist local units of  
6 government in developing ordinances that meet the requirements of  
7 this part.

8 Sec. 36505. (1) Except as otherwise provided in this part,  
9 a person shall not take, possess, transport, import, export,  
10 process, sell, offer for sale, buy, or offer to buy, and a common  
11 or contract carrier shall not transport or receive for shipment,  
12 any species of fish, plants, or wildlife appearing on the  
13 following lists:

14 (a) The list of fish, plants, and wildlife indigenous to the  
15 state determined to be endangered or threatened within the state  
16 pursuant to section 36503 or subsection (3).

17 (b) The United States list of endangered or threatened native  
18 fish and wildlife.

19 (c) The United States list of endangered or threatened  
20 plants.

21 (d) The United States list of endangered or threatened  
22 foreign fish and wildlife.

23 (2) A species of fish, plant, or wildlife appearing on any of  
24 the lists delineated in subsection (1) which enters the state  
25 from another state or from a point outside the territorial limits  
26 of the United States may enter, be transported, possessed, and  
27 sold in accordance with the terms of a federal permit issued

1 pursuant to section 10 of the endangered species act of 1973,  
2 ~~Public Law 93-205, 16 U.S.C.~~ **16 USC** 1539, or an applicable  
3 permit issued under the laws of another state.

4 (3) The department may, by rule, treat any species as an  
5 endangered species or threatened species even though it is not  
6 listed pursuant to section 36503, if it finds any of the  
7 following:

8 (a) The species so closely resembles in appearance, at the  
9 point in question, a species which is listed pursuant to section  
10 36503 that enforcement personnel would have substantial  
11 difficulty in attempting to differentiate between the listed and  
12 unlisted species.

13 (b) The effect of the substantial difficulty in  
14 differentiating between a listed and an unlisted species is an  
15 additional threat to an endangered or threatened species.

16 (c) The treatment of an unlisted species will substantially  
17 facilitate the enforcement and further the intent of this part.

18 (4) The department may permit the taking, possession,  
19 purchase, sale, transportation, exportation, or shipment of  
20 species of fish, plants, or wildlife which appear on the state  
21 list of endangered or threatened species compiled pursuant to  
22 section 36503 and subsection (3) for scientific, zoological, or  
23 educational purposes, for propagation in captivity of such fish,  
24 plants, or wildlife to ensure their survival.

25 (5) Upon good cause shown and where necessary to alleviate  
26 damage to property or to protect human health, endangered or  
27 threatened species found on the state list compiled pursuant to

1 section 36503 and subsection (3) may be removed, captured, or  
2 destroyed, but only ~~pursuant to~~ **as authorized by** a permit  
3 issued by the department **pursuant to part 13**. Carnivorous  
4 animals found on the state list may be removed, captured, or  
5 destroyed by any person in emergency situations involving an  
6 immediate threat to human life, but the removal, capture, or  
7 destruction shall be reported to the department within 24 hours  
8 of the act.

9 (6) This section does not prohibit any of the following:

10 (a) The importation of a trophy under a permit issued  
11 pursuant to section 10 of the endangered species act of 1973,  
12 ~~Public Law 93-205, 16 U.S.C.~~ **16 USC** 1539, which is not for  
13 resale and which was lawfully taken in a manner permitted by the  
14 laws of the state, territory, or country where the trophy was  
15 caught, taken, or killed.

16 (b) The taking of a threatened species when the department  
17 has determined that the abundance of the species in the state  
18 justifies a controlled harvest not in violation of federal law.

19 (c) Subject to any permits that may be required by the  
20 department, the possession, transfer, transportation,  
21 importation, or exportation or the transport or receipt for  
22 shipment by a common or contract carrier of a raptor or the  
23 captive-bred progeny of a raptor, a raptor egg, or raptor semen  
24 acquired in accordance with applicable state and federal laws and  
25 regulations which allow raptors, raptor eggs, or raptor semen to  
26 be used in falconry or in the captive propagation of raptors for  
27 use in falconry.

1 (d) Subject to any permits that may be required by the  
2 department, the selling, offering for sale, buying, or offering  
3 to buy a raptor that was captive-bred or semen from a raptor that  
4 was captive-bred in accordance with applicable state and federal  
5 laws and regulations which allow raptors or raptor semen to be  
6 used in falconry or in captive propagation of raptors for use in  
7 falconry.

[Sec. 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 that are hunter orange shall be the hunter's outermost garment and shall be visible from all sides of the hunter. ~~This section~~

(2) **Subsection (1)** does not apply to a person engaged in the taking of deer with a bow during archery deer season, a person taking bear with a bow, or a person engaged in the taking of ~~waterfowl, crow, or~~ turkey **or migratory birds other than woodcock.**

(3) ~~(2)~~ The failure of a person to comply with this section is not evidence of contributory negligence in a civil action for injury to the person or for the person's wrongful death.]

8 Sec. 41702. The department may issue licenses authorizing  
9 the establishment and operation of game bird hunting preserves  
10 **pursuant to part 13.** The fee for a license is \$105.00 for a  
11 preserve of 320 acres or less and \$180.00 for a preserve in  
12 excess of 320 acres. Unless revoked as provided by law, licenses  
13 issued under this section are valid from the date of issuance  
14 until June 30 of the third license year. Game bird hunting  
15 preserves licensed under this section may allow hunting on  
16 Sundays, notwithstanding the provisions of a local ordinance or  
17 regulation.

18 Sec. 41709. ~~A person applying~~ **An application** for a  
19 license under this part shall ~~submit an application to the~~  
20 ~~department on forms furnished by the department, stating~~ **state**  
21 the name and address of the applicant, the legal description of

22 the premises to be licensed, the kind of birds to be covered by  
23 the license, and other information required by the department.

24 ~~The department shall prepare and distribute suitable forms~~  
25 ~~necessary to implement this part.~~

26 Sec. 42101. Upon application of any club or organization  
27 having 10 or more members who are citizens of this state, or upon

1 the application of 10 or more citizens of this state, and the  
2 payment of a registration fee of \$5.00, the department, **pursuant**  
3 **to part 13**, may issue a permit authorizing the establishment and  
4 maintenance by the club, organization, or citizens on land owned  
5 by them, or over which they have legal control, of a special dog  
6 training area where dogs may be trained at any time during the  
7 year. A dog training area shall not be less than 40 acres or  
8 more than 240 acres, and permits shall not be issued for more  
9 than 6 special dog training areas in any 1 county. In counties  
10 having a population of 100,000 or more, the department may issue  
11 additional permits as the department considers to be in the  
12 public interest.

13       Sec. 42501. (1) A person shall not engage in the business  
14 of buying, selling, dealing, or the tanning and dressing of raw  
15 furs, hides, or pelts of beaver, otter, fisher, marten, muskrat,  
16 mink, skunk, raccoon, opossum, wolf, lynx, bobcat, fox, weasel,  
17 coyote, badger, deer, or bear and the plumage, skins, or hides of  
18 protected game birds ~~and~~ or game animals ~~until that person~~  
19 ~~procures a license to do so from the department. Fees payable to~~  
20 ~~the department for such a license are~~ **except as authorized by a**  
21 **license issued by the department pursuant to part 13. A license**  
22 **application shall be accompanied by a fee** as follows:

23       (a) For any person who engages in the business of buying and  
24 selling raw furs, hides, and pelts of fur-bearing animals ~~and~~  
25 or the plumage, skins, or hides of protected game birds ~~and~~ or  
26 game animals, the fee is \$10.00.

27       (b) Each person in the business of manufacturing furs who

1 buys raw pelts is a dealer, and the fee for each ~~such resident~~  
2 ~~citizen,~~ **individual** or agent who buys furs ~~,~~ is, **for a**  
3 **resident**, \$10.00 ~~,~~ and, for ~~each~~ a nonresident, ~~the fee is~~  
4 \$50.00.

5 (c) ~~The fee for~~ **For** any person who engages in the business  
6 of custom tanning or dressing of raw furs, **the fee** is \$5.00. ~~,~~  
7 ~~but~~ **However**, such a license does not authorize that person to  
8 buy or sell raw furs.

9 (2) Any person holding a fur dealer's license under this part  
10 is entitled to buy furs, hides, pelts, and the plumage, skins, or  
11 hides, ~~or~~ **and** parts thereof, of protected game birds and game  
12 animals that are legally taken.

13 (3) A person holding a fur dealer's license under this part  
14 is not eligible to secure or hold a license to trap beaver.

15 (4) The department may designate the plumage and skin of  
16 those game birds and game animals that may not be bought or sold  
17 if it determines that such a prohibition will best serve the  
18 public interest. The plumage and skins, or parts of plumage and  
19 skins, of migratory game and nongame birds may be bought and sold  
20 only in accordance with federal law or rule.

21 (5) For the purposes of this part, "plumage" means any part  
22 of the feathers, head, wings, or tail of any bird.

23 Sec. 42702. The department may, **pursuant to part 13**, issue  
24 licenses to authorize the possession for propagation, and for  
25 dealing in and selling game. A license shall not be granted to  
26 an applicant who is not the owner or lessee of the premises to be  
27 used for the purposes designated by the license. A license

1 issued pursuant to this part is nontransferable and is valid from  
2 July 1 to June 30 of the third license year.

3 (2) Section 40111a of the natural resources and environmental  
4 protection act, 1994 PA 451, MCL 324.40111a, is repealed  
5 effective December 31, 2004.

6 Sec. 44513. (1) The department may enter into reciprocal  
7 agreements with other states and countries concerning the  
8 operation and inspection of charter boats from those states and  
9 countries that operate on the waters of this state. Reciprocity  
10 shall be granted only if a state or country can establish to the  
11 satisfaction of the department that their laws ~~and standards~~  
12 concerning charter boats meet or exceed the laws ~~and rules~~ of  
13 this state. A charter boat ~~that operates~~ **shall not operate** on  
14 the waters of this state under a reciprocal agreement pursuant to  
15 this section ~~shall obtain~~ **except as authorized under** an annual  
16 operating permit ~~from the department for a fee of \$100.00 for~~  
17 ~~each year the charter boat does business on the waters of this~~  
18 ~~state~~ **issued by the department pursuant to part 13. The fee for**  
19 **an annual operating permit is \$100.00.** The department shall  
20 utilize the fees for annual operating permits issued pursuant to  
21 this section to provide funds for the education and enforcement  
22 program provided for in subsection (2).

23 (2) The department shall develop an education and enforcement  
24 program designed to eliminate the operation of charter and livery  
25 boats that have not been inspected as required by this part and  
26 to prepare printed materials to provide the public with  
27 information regarding the safety features and requirements

1 necessary for the lawful operation of charter and livery boats.

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

11       (2) Upon receipt of the required fee and an application for  
12 an inspection and a permit, the department shall inspect, or  
13 provide for inspection of by the county sheriff or sheriff's  
14 deputy, all livery boats and their equipment of the boat livery.  
15 Upon completion of the inspection, the department, county  
16 sheriff, or the sheriff's deputy shall, **pursuant to part 13,**  
17 approve the issuance of a permit to operate a boat livery,  
18 provided the requirements of this part are met. A permit  
19 furnished by the department shall be prominently displayed on the  
20 site of the boat livery and shall expire on December 31 of each  
21 year in which a permit is issued.

22       Sec. 45503. The department may, ~~upon written application~~  
23 **pursuant to part 13,** issue permits to take frogs at any season of  
24 the year if used for scientific or experimental purposes. These  
25 permits are revocable at the pleasure of the department.

26       Sec. 45902. (1) A person shall not propagate, rear, or have  
27 in possession for the purpose of offering for sale or selling any

1 kind of game fish ~~unless he or she has applied for and been~~  
2 ~~issued a license as provided in this part. All such licenses are~~  
3 ~~nontransferable and expire~~ **except as authorized by a license**  
4 **issued by the department pursuant to part 13. A license is**  
5 **nontransferable and expires** on December 31 of the year for which  
6 issued. A separate license is required for each place of  
7 business where game fish are propagated, reared, or possessed for  
8 the purpose of sale or offering for sale.

9 (2) This part does not apply to the following:

10 (a) The sale, offering for sale, or possession of dead,  
11 fresh, or frozen brook trout, brown trout, or rainbow trout  
12 lawfully taken in and exported from another state or country or  
13 that have been procured from a licensed dealer within this  
14 state.

15 (b) The propagation, rearing, possession, or sale of game  
16 fish pursuant to a registration or permit issued pursuant to the  
17 Michigan aquaculture development act, **1996 PA 199, MCL 286.871 to**  
18 **286.884.**

19 Sec. 45903. Any person owning or having control of private  
20 waters in this state who desires a license under this part shall  
21 make application for the license to the department, ~~on a form~~  
22 ~~provided by the department,~~ accompanied by a fee of \$5.00. The  
23 application shall state the name and address of the applicant and  
24 include the description of the premises where game fish are to be  
25 propagated, reared, possessed, or offered for sale, together with  
26 additional information as may be required. Upon receipt of the  
27 application and fee, the department, if satisfied that this part

1 and the rules promulgated under this part have been complied  
2 with, shall issue a license to the applicant.

3       Sec. 45906. (1) A person shall not import into this state  
4 any live game fish, including viable eggs of any game fish,  
5 ~~without a license as provided for in this part~~ **except as**  
6 **authorized by a license as provided for in this part issued by**  
7 **the department pursuant to part 13.** A license under this  
8 subsection does not apply to a genetically engineered variant of  
9 a live game fish species unless the genetically engineered  
10 variant is specifically identified in the license.

11       (2) The department may promulgate rules under this part to  
12 prohibit or restrict the importation of any species of game fish  
13 or other fish ~~when~~ **if** the importation of that species would  
14 endanger the public fishery resources of this state. A  
15 prohibition or restriction in rules promulgated under this  
16 subsection applies to a genetically engineered variant of a fish  
17 species identified in the prohibition or restriction unless the  
18 prohibition or restriction specifically provides otherwise. A  
19 prohibition or restriction in rules promulgated under this  
20 subsection may be limited to a genetically engineered fish.

21       Sec. 61525. (1) A person shall not drill or begin the  
22 drilling of any well for oil or gas, for secondary recovery, or a  
23 well for the disposal of salt water, or brine produced in  
24 association with oil or gas operations or other oil field wastes,  
25 or wells for the development of reservoirs for the storage of  
26 liquid or gaseous hydrocarbons, ~~until the owner directly or~~  
27 ~~through his or her authorized representatives applies to drill~~

1 ~~and operate any such well,~~ **except as authorized by a permit to**  
2 **drill and operate the well issued by the supervisor of wells**  
3 **pursuant to part 13 and unless the person** files with the  
4 supervisor a bond as provided in section 61506. ~~—, and receives~~  
5 ~~and posts—~~ **The permittee shall post the permit** in a conspicuous  
6 place at the location of the well ~~—a permit—~~ as provided in the  
7 rules and requirements or orders issued or promulgated by the  
8 supervisor. ~~—A—~~ **An application for a permit shall be accompanied**  
9 **by a fee of \$300.00.** ~~—shall be charged for a permit to drill and~~  
10 ~~operate a well subject to this part.~~ Upon receiving and  
11 ~~accepting a complete and accurate written application and payment~~  
12 ~~of the fee required, the supervisor shall within 10 days after~~  
13 ~~that date issue to an owner or his or her authorized~~  
14 ~~representative a permit to drill and operate.~~ A permit to drill  
15 and operate shall not be issued to an owner or his or her  
16 authorized representative who does not comply with the rules and  
17 requirements or orders issued or promulgated by the supervisor.  
18 A permit shall not be issued to an owner or his or her authorized  
19 representative who has not complied with or is in violation of  
20 this part or any of the rules, requirements, or orders issued or  
21 promulgated by the supervisor or the department.

22 (2) The supervisor shall forward all fees received under this  
23 section to the state treasurer for deposit in the fund.

24 (3) The supervisor shall make available to any person, upon  
25 request, not less often than weekly, the following information  
26 pertaining to applications for permits to drill and operate:

27 (a) Name and address of the applicant.

1 (b) Location of proposed well.

2 (c) Well name and number.

3 (d) Proposed depth of the well.

4 (e) Proposed formation.

5 (f) Surface owner.

6 (g) Whether hydrogen sulfide gas is expected.

7 (4) The supervisor shall provide the information under  
8 subsection (3) to the county in which an oil or gas well is  
9 proposed to be located and to the city, village, or township in  
10 which the oil or gas well is proposed to be located if that city,  
11 village, or township has a population of 70,000 or more. A city,  
12 village, township, or county in which an oil or gas well is  
13 proposed to be located may provide written comments and  
14 recommendations to the supervisor pertaining to applications for  
15 permits to drill and operate. The supervisor shall consider all  
16 such comments and recommendations in reviewing the application.

17 Sec. 62509. (1) A person shall not drill or begin the  
18 drilling of any brine, storage, or waste disposal well, or  
19 convert any well for these uses, ~~until the owner directly or~~  
20 ~~through his or her authorized representative files a written~~  
21 ~~application for a permit to drill or convert a well, pays the~~  
22 ~~application fee provided in subsection (6), files and except as~~  
23 **authorized by a permit issued by the supervisor of mineral wells**  
24 **pursuant to part 13 and rules promulgated by the supervisor of**  
25 **mineral wells, and unless the person files with the supervisor of**  
26 **mineral wells an approved surety or security bond. The**  
27 **application shall be accompanied by a survey of the well site. —**

1 ~~files an approved surety or security bond, and receives a permit~~  
2 ~~pursuant to the rules of the supervisor of mineral wells. Within~~  
3 ~~10 days after receiving the prescribed application and fee, and~~  
4 ~~following investigation, inspection, and approval, the supervisor~~  
5 ~~of mineral wells shall issue the well permit. The department~~  
6 **shall conduct an investigation and inspection before the**  
7 **supervisor of mineral wells issues a permit.** A permit shall not  
8 be issued to any owner or his or her authorized representative  
9 who does not comply with the rules of the supervisor of mineral  
10 wells or who is in violation of this part or any rule of the  
11 supervisor of mineral wells. Upon completion of the drilling or  
12 converting of a well for storage or waste disposal and after  
13 necessary testing by the owner to determine that the well can be  
14 used for these purposes and in a manner that will not cause  
15 surface or underground waste, the supervisor of mineral wells,  
16 upon receipt of appropriate evidence, shall approve and regulate  
17 the use of the well for storage or waste disposal. These  
18 operations shall be pursuant to part 31. The supervisor of  
19 mineral wells may schedule a public hearing to consider the need  
20 or advisability of permitting the drilling or operating of a  
21 storage or waste disposal well, or converting a well for these  
22 uses, if the public safety or other interests are involved.

23 (2) A person shall not drill a test well 50 feet or greater  
24 in depth into the bedrock or below the deepest freshwater strata,  
25 except as provided in section 62508(c), ~~until the owner directly~~  
26 ~~or through his or her authorized representative files a written~~  
27 ~~application for a permit to drill, pays the permit application~~

1 except as authorized by a permit issued by the supervisor of  
2 mineral wells pursuant to part 13 and rules promulgated by the  
3 supervisor of mineral wells, and unless the person files with the  
4 supervisor of mineral wells an approved surety or security bond.  
5 The application shall be accompanied by the fee provided in  
6 subsection (6).  ~~, files an approved surety or security bond, and~~  
7  ~~receives a permit pursuant to the rules of the supervisor of~~  
8  ~~mineral wells. Within 10 days after receiving the prescribed~~  
9  ~~application and fee, and following necessary investigation,~~  
10  ~~inspection, and approval, the supervisor of mineral wells shall~~  
11  ~~issue the permit. The department shall conduct an investigation~~  
12  ~~and inspection before the supervisor of mineral wells issues a~~  
13  ~~permit.~~ A permit shall not be issued to any owner or his or her  
14 authorized representative who does not comply with the rules of  
15 the supervisor of mineral wells or who is in violation of this  
16 part or any rule of the supervisor of mineral wells. A test well  
17 that penetrates below the deepest freshwater stratum or is  
18 greater than 250 feet in depth is subject to an individual test  
19 well permit. A test well that does not penetrate below the  
20 deepest freshwater stratum and is 250 feet or less in depth is  
21 subject to a blanket test well permit. This subsection does not  
22 apply to a test well regulated under part 111 or part 115, or a  
23 water well regulated under part 127 of the public health code,  
24 1978 PA 368, MCL 333.12701 to 333.12771.

25 (3) A permit is not required to drill a test well in those  
26 areas of the state where rocks of Precambrian age directly  
27 underlie unconsolidated surface deposits or in those areas that

1 have been designated pursuant to section 62508(c). However,  
2 within 2 years after completion of the drilling of the well, the  
3 owner shall advise the supervisor of mineral wells of the  
4 location of the well and file with the supervisor of mineral  
5 wells the log required under section 62508(d). The provisions of  
6 this part pertaining to the prevention and correction of surface  
7 and underground waste have the same application to these test  
8 wells as to other wells defined in this part.

9 (4) Upon request, the supervisor of mineral wells may issue  
10 to qualified persons a blanket permit to drill within a county  
11 test wells which will not penetrate below the deepest freshwater  
12 stratum and are 250 feet or less in depth.

13 (5) All information and records pertaining to the application  
14 for and issuance of permits for wells subject to this part shall  
15 be held confidential in the same manner as provided for logs and  
16 reports on these wells.

17 (6) A permit application submitted under this section shall  
18 be accompanied by the following permit application fee:

- 19 (a) Disposal well for disposal of waste
- 20 products other than processed brine..... \$2,500.00.
- 21 (b) Disposal well for disposal of processed
- 22 brine..... \$500.00.
- 23 (c) Storage well..... \$500.00.
- 24 (d) Natural brine production well..... \$500.00.
- 25 (e) Artificial brine production well..... \$500.00.
- 26 (f) Individual test well under subsection (2) \$500.00.
- 27 (g) Blanket permit for test wells drilled pursuant to

1 subsection (4):

2	(i) 1 to 24 wells.....	\$75.00.
3	(ii) 25 to 49 wells.....	\$150.00.
4	(iii) 50 to 75 wells.....	\$300.00.
5	(iv) 75 to 200 wells.....	\$600.00.

6 (7) The supervisor of mineral wells shall deposit all permit  
7 application fees collected under this section into the fund.

8 Sec. 63103a. ~~—(1) After October 1, 1997, a~~ **A** metallic  
9 mineral operator shall not engage in the mining of metallic  
10 minerals ~~without first obtaining a permit for that purpose from~~  
11 ~~the department. A metallic mineral operator engaged in or~~  
12 ~~carrying out a metallic mining operation as of the effective date~~  
13 ~~of this section shall apply for a permit to mine 1 year after the~~  
14 ~~effective date of this section. Any such existing metallic~~  
15 ~~mining operation may continue mining until the department issues~~  
16 ~~or denies a permit for the metallic mining operation.~~

17 ~~——(2) Prior to receiving a permit from the department, a~~  
18 ~~metallic mineral operator shall submit the following:~~

19 ~~——(a) A permit application on a form provided by the~~  
20 ~~department.~~

21 ~~——(b) A~~ **except as authorized by a permit issued by the**  
22 **department pursuant to part 13. The department shall not issue a**  
23 **permit unless the applicant has submitted to the department, in**  
24 **addition to the permit application, a mining and reclamation plan**  
25 **for the proposed metallic mining activity as prescribed by**  
26 **section 63103b.**

27 Sec. 63103c. (1) A metallic mineral mining permit issued by

1 the department is valid for the life of the mine. However, the  
2 department may revoke a metallic mineral mining permit under the  
3 following conditions:

4 (a) The person holding the permit has not commenced  
5 construction of plant facilities or conducted actual mining and  
6 reclamation activities covered by the permit within 3 years after  
7 the date of issuance of the permit.

8 (b) The permittee requests the revocation of the metallic  
9 mineral mining permit and the department determines the mining  
10 activity has not polluted, impaired, or destroyed the air, water,  
11 or other natural resources or the public trust in those  
12 resources, as provided in part 17.

13 (c) The permittee fails to submit the annual report of  
14 production as required by section 63103d(2).

15 (d) The department finds that the permittee is not in  
16 compliance with this part, the rules promulgated under this part,  
17 or the metallic mineral permit and there exists an imminent  
18 threat to the health and safety of the public.

19 (2) The department may order immediate suspension of any or  
20 all activities at a metallic mineral mining operation, including  
21 the removal of metallic product from the site, if the department  
22 finds there exists an emergency endangering the public health and  
23 safety or an imminent threat to the natural resources of the  
24 state.

25 (3) An order suspending operations shall be in effect for the  
26 shorter of the following time periods: not more than 10 days, or  
27 until the operation is in compliance and protection of the public

1 health and safety is ensured or the threat to the natural  
2 resources has been eliminated. To extend the suspension beyond  
3 10 days, the department shall issue an emergency order to  
4 continue the suspension of operations and shall schedule a  
5 hearing as provided by the administrative procedures act of 1969,  
6 1969 PA 306, MCL 24.201 to 24.328. The total duration of the  
7 suspension of operations shall not be more than 30 days.

8 (4) A metallic mineral mining permit may be transferred to a  
9 new person with approval of the department. The person acquiring  
10 the permit shall submit a request for transfer of the permit to  
11 the department on forms provided by the department. The person  
12 acquiring the permit shall accept the conditions of the existing  
13 permit and adhere to the requirements set forth on the approved  
14 mining and reclamation plan. Pending the transfer of the  
15 existing permit, the person acquiring the permit shall not  
16 operate the mine.

17 (5) A metallic mineral mining permit shall not be transferred  
18 to a person who has been determined to be in violation of any of  
19 the following, until the person acquiring the permit has  
20 corrected the violation or the department has accepted a  
21 compliance schedule and a written agreement has been reached to  
22 correct the violations:

23 (a) This part.

24 (b) The rules promulgated under this part.

25 (c) Permit conditions.

26 (d) An order of the department. ~~of environmental quality.~~

27 (6) If the permittee of a metallic mineral mining operation

1 is under notice because of unsatisfactory conditions at the  
2 mining site involved in the transfer, then the permit for the  
3 mining operation shall not be transferred to a person until the  
4 permittee has completed the necessary corrective actions or the  
5 person acquiring the permit has entered into a written agreement  
6 to correct all of the unsatisfactory conditions.

7 ~~(7) Upon receipt of an application for a permit, the~~  
8 ~~department shall have up to 60 days to review the application to~~  
9 ~~determine if the application is accurate and complete. If the~~  
10 ~~application is determined to be inaccurate or incomplete, then~~  
11 ~~the department shall provide the person making the application~~  
12 ~~for a permit, within the 60 day period, with a notice that the~~  
13 ~~application is inaccurate or incomplete and what changes or~~  
14 ~~additional information shall be submitted. Upon receipt of the~~  
15 ~~requested information, the department shall have up to an~~  
16 ~~additional 30 days to review the information to determine if the~~  
17 ~~application is accurate and complete. Upon completion of the~~  
18 ~~review process, the department shall approve or deny a metallic~~  
19 ~~mineral mining permit application in writing within 60 days after~~  
20 ~~the application is determined by the department to be~~  
21 ~~administratively complete. A determination of administrative~~  
22 ~~completeness shall not be construed to mean that additional~~  
23 ~~information may not be required from the applicant as a result of~~  
24 ~~new circumstances that come to the attention of the department.~~  
25 ~~If a metallic mineral permit is denied, the reasons shall be~~  
26 ~~stated in a written report to the applicant.~~

27 (7) ~~(8)~~ A metallic mineral mining permit may be amended

1 upon submission to the department of a request by the permittee.  
2 Upon receipt of the request to amend an existing metallic mineral  
3 permit, the department shall determine if the request constitutes  
4 a significant change from the conditions of the approved permit.  
5 If the department determines the request is a significant change  
6 from the conditions of the approved permit, the department may  
7 submit the request for amendment to the same review process as  
8 provided in section 63103c(7). If a request to amend the permit  
9 is denied, the reasons for denial shall be stated in a written  
10 report to the permittee. If the department determines the  
11 request for amendment does not constitute a significant change  
12 from the conditions of the approved permit, the department shall  
13 approve the amendment and notify the permittee.

14 Sec. 63514. ~~(1)~~ A person shall not conduct a surface coal  
15 mining operation in this state ~~without~~ **except as authorized by**  
16 a permit ~~for that operation~~ issued by the department pursuant  
17 to ~~this~~ part 13.

18 ~~(2) Not later than 2 months following approval by the~~  
19 ~~federal government of this state's program under the surface~~  
20 ~~mining control and reclamation act of 1977, regardless of~~  
21 ~~litigation contesting that approval or implementation, all~~  
22 ~~operators of surface coal mines engaged in surface coal mining~~  
23 ~~operations before October 12, 1982, shall file an application for~~  
24 ~~a permit with the department. The application shall cover all~~  
25 ~~land to be mined.~~

26 ~~—— (3) If the federal government disapproves of this state's~~  
27 ~~program and prior to promulgation of a federal program or a~~

~~1 federal land program for this state, permits shall not be issued  
2 by the department, but the existing surface coal mining  
3 operations may continue. Permits that lapse during the period  
4 may continue in full force and effect until promulgation of a  
5 federal program or a federal land program.~~

6       Sec. 63524. (1) ~~On the basis of a complete application for  
7 a surface coal mining and reclamation permit or a revision or  
8 renewal of a permit, the department shall grant, require  
9 modification of, or deny the application for a permit within 120  
10 days after the application is submitted to the department, except  
11 that an application submitted pursuant to section 63514(2) shall  
12 be granted, modified, or denied within 120 days after the  
13 approval of this state's program. The department shall notify  
14 the applicant in writing of its decision regarding granting,  
15 modifying, or denying the application for a permit. The  
16 applicant for a permit or revision of a permit has the burden of  
17 establishing that his or her application is in compliance with  
18 all the requirements of this part. Within 3 days after the  
19 granting of a permit, but before the permit is issued, the  
20 department shall notify the county clerk in each county in which  
21 the land to be affected is located that a permit has been issued  
22 and shall describe the location of the land.~~

23       (2) An application for a permit or revision of a permit shall  
24 not be approved unless the department finds, in writing, that all  
25 the following requirements have been met:

26       (a) The application is accurate and complete and complies  
27 with all of the requirements of this part.

1 (b) The applicant has demonstrated that reclamation as  
2 required by this part can be accomplished under the reclamation  
3 plan contained in the application.

4 (c) An assessment of the probable cumulative impact of all  
5 anticipated surface coal mining inside and outside the permit  
6 area on the hydrologic balance, including quantitative and  
7 qualitative analyses, has been made by the department, and the  
8 proposed operation has been designed to prevent material damage  
9 to the hydrologic balance inside and outside the permit area.

10 (d) The area proposed to be mined is not included within an  
11 area designated unsuitable for surface coal mining pursuant to  
12 this part and is not within an area under study for this  
13 designation in an administrative proceeding commenced pursuant to  
14 this part, unless in the area as to which an administrative  
15 proceeding has commenced, the applicant demonstrates that, prior  
16 to January 1, 1977, the applicant has made substantial legal and  
17 financial commitments in relation to the operation for which the  
18 applicant is applying for a permit.

19 (e) If the ownership of the coal has been severed from the  
20 private surface estate, the applicant has submitted to the  
21 department either the written consent of the surface owner to the  
22 extraction of coal by surface mining methods or a conveyance that  
23 expressly grants or reserves the right to extract the coal by  
24 surface mining methods. However, if the conveyance does not  
25 expressly grant the right to extract coal by surface mining  
26 methods, the surface-subsurface legal relationship shall be  
27 determined in accordance with state law, except that this part

1 does not authorize the department to adjudicate property rights  
2 disputes.

3 (f) If the department of history, arts, and libraries  
4 determines that the proposed surface mining operation will  
5 adversely affect a historic resource, the application is approved  
6 jointly by the department, by the federal, state, or local agency  
7 with jurisdiction over the historic resource, and by the  
8 department of history, arts, and libraries.

9 (3) The applicant shall file, with the application, a  
10 schedule listing all notices of violations of this part or other  
11 law of this state and any law, rule, or regulation of the United  
12 States or of any department or agency in the United States  
13 pertaining to air or water environmental protection incurred by  
14 the applicant in connection with a surface coal mining operation  
15 during the 3-year period prior to the date of application. The  
16 schedule shall include the final resolution of notice of the  
17 violation. If the schedule or other information available to the  
18 department indicates that a surface coal mining operation owned  
19 or controlled by the applicant is currently in violation of this  
20 part or other laws referred to in this subsection, the permit  
21 shall not be issued until the applicant submits affidavits that  
22 the violation has been corrected or is in the process of being  
23 corrected to the satisfaction of the department or the agency  
24 that has jurisdiction over the violation or that the notice of  
25 violation is being contested by the applicant. A permit shall  
26 not be issued to an applicant after a finding by the department,  
27 after opportunity for hearing, that the applicant, or the

1 operator specified in the application, controls or has controlled  
2 mining operations with a demonstrated pattern of violations of  
3 this part of such nature and duration with such resulting  
4 pollution, impairment, or destruction to the environment as to  
5 indicate an intent not to comply with this part.

6 (4) If the area proposed to be mined contains agricultural  
7 land, the department shall consult with the director of the  
8 department of agriculture and the secretary of the United States  
9 department of agriculture and shall not grant a permit to mine on  
10 agricultural land unless the department finds in writing that the  
11 operator has the technological capability to restore the mined  
12 area and any other areas impacted by the surface coal mining  
13 operation within a reasonable time to equivalent or higher levels  
14 of yield as nonmined agricultural land in the surrounding area  
15 under equivalent levels of management, and also finds that the  
16 applicant can meet the soil reconstruction standards of this  
17 part.

18 Sec. 63525. (1) During the term of a permit, the permittee  
19 may submit to the department an application for a revision of the  
20 permit, including a revised reclamation plan. An application for  
21 a revision of a permit shall not be approved unless the  
22 department finds that reclamation as required by this part can be  
23 accomplished under the revised reclamation plan. ~~The revision~~  
24 ~~shall be approved or disapproved within 90 days after it is~~  
25 ~~submitted to the department. The~~ **An application for a revision**  
26 **is subject to part 13, except that the** department shall establish  
27 standards for a determination of the scale or extent of a

1 revision request for which all permit application information  
2 requirements and procedures shall apply.

3 (2) A transfer, assignment, or sale of the rights granted  
4 under a permit issued pursuant to this part shall not be made  
5 without the written approval of the department.

6 (3) The department shall, within a time limit prescribed by  
7 rule, review outstanding permits. The department may require  
8 revision or modification of the permit provisions during the  
9 terms of the permit based on a change in technology or a change  
10 in circumstances.

11 (4) All action taken by the department under this section  
12 regarding the granting, modification, denial, or revision of a  
13 permit shall be conducted pursuant to chapters 4 and 5 of the  
14 administrative procedures act of 1969, ~~Act No. 306 of the Public~~  
15 ~~Acts of 1969, being sections 24.271 to 24.292 of the Michigan~~  
16 ~~Compiled Laws 1969 PA 306, MCL 24.271 to 24.292.~~

17 Sec. 63704. (1) ~~After July 1, 1977, a person or operator~~  
18 **A person** shall not engage in sand dune mining within Great Lakes  
19 sand dune areas ~~without first obtaining a permit for that~~  
20 ~~purpose from the department~~ **except as authorized by a permit**  
21 **issued by the department pursuant to part 13.**

22 (2) Prior to receiving a permit from the department, a person  
23 ~~or operator~~ shall submit all of the following:

24 (a) A permit application on a form provided by the  
25 department.

26 (b) An environmental impact statement of the proposed mining  
27 activity as prescribed by section 63705.

1 (c) A progressive cell-unit mining and reclamation plan for  
2 the proposed mining activity as prescribed by section 63706.

3 (d) A 15-year mining plan as prescribed by section 63707.

4 Sec. 63708. (1) A sand dune mining permit issued by the  
5 department is valid for not more than 5 years. A sand dune  
6 mining permit shall be renewed if the sand dune mining activities  
7 have been carried out in compliance with this part, the rules  
8 promulgated under this part, and the conditions of the sand dune  
9 mining permit issued by the department.

10 (2) The sand dune mining permit shall state any conditions,  
11 limitations, or other restrictions determined by the department,  
12 including any setback from the ordinary high-water mark of a  
13 Great Lake for the protection of the barrier dune.

14 (3) In granting a sand dune mining permit, if the department  
15 allows for the removal of all or a portion of the barrier dune  
16 pursuant to this part, it shall submit to the commission written  
17 reasons for permitting the removal.

18 ~~(4) The department shall approve or deny a sand dune mining~~  
19 ~~permit application in writing within 120 days after the~~  
20 ~~application is received and is determined by the department to be~~  
21 ~~administratively complete. If a sand dune mining permit is~~  
22 ~~denied, the reasons shall be stated in a written report.~~

23 (4) ~~—(5)—~~ The department shall provide a list of all pending  
24 sand dune mining applications upon a request from a person. The  
25 list shall give the name and address of each applicant, the legal  
26 description of the lands included in the project, and a summary  
27 statement of the purpose of the application.

1           Sec. 72108. (1) The commission may do any of the  
2 following:

3           (a) Grant easements or, **pursuant to part 13**, use permits or  
4 lease land owned by the state that is being used for a Michigan  
5 trailway for a use that is compatible with the use of the  
6 Michigan trailway.

7           (b) Enter into contracts for concessions along a state owned  
8 Michigan trailway.

9           (c) Lease land adjacent to a state owned Michigan trailway  
10 for the operation of concessions.

11           (2) If the commission approves of the acquisition of land by  
12 the department, the commission may state that the specified land  
13 is acquired for use as a Michigan trailway. Following  
14 acquisition of land that the commission states is acquired for  
15 use as a Michigan trailway, any revenue derived from that land  
16 pursuant to subsection (1), except as otherwise provided by law,  
17 shall be deposited into the fund.

18           Sec. 76105. (1) A person, either personally or through an  
19 agent or employee, shall not explore or excavate an aboriginal  
20 remain covered by this part upon lands owned by the state, except  
21 ~~under~~ **as authorized by** a permit issued by the department, with  
22 written approval of the department of history, arts, and  
23 libraries, **pursuant to part 13**. A permit shall be issued without  
24 charge. ~~This section~~

25           (2) **Subsection (1)** does not apply to the Mackinac Island  
26 state park commission on lands owned or controlled by the  
27 Mackinac Island state park commission.

1           Sec. 76109. (1) A ~~permit issued under this section shall~~  
2 ~~authorize a person to~~ **person shall not** recover abandoned  
3 property located on, in, or located in the immediate vicinity of  
4 and associated with a sunken aircraft or watercraft **except as**  
5 **authorized by a permit issued by the department and the**  
6 **department of history, arts, and libraries pursuant to part 13.**

7           (2) ~~A~~ **Notwithstanding section 1303(1),** a person shall file  
8 an application for a permit with the department on a form  
9 prescribed by the department and approved by the department of  
10 history, arts, and libraries. The application shall contain all  
11 of the following information:

12           (a) The name and address of the applicant.

13           (b) The name, if known, of the watercraft or aircraft on or  
14 around which recovery operations are to occur and a current  
15 photograph or drawing of the watercraft or aircraft, if  
16 available.

17           (c) The location of the abandoned property to be recovered  
18 and the depth of water in which it may be found.

19           (d) A description of each item to be recovered.

20           (e) The method to be used in recovery operations.

21           (f) The proposed disposition of the abandoned property  
22 recovered, including the location at which it will be available  
23 for inspection by the department and the department of history,  
24 arts, and libraries.

25           (g) Other information which the department or the department  
26 of history, arts, and libraries considers necessary in evaluating  
27 the request for a permit.

1           (3) An application for a permit is not complete until all  
2 information requested on the application form and any other  
3 information requested by the department or the department of  
4 history, arts, and libraries has been received by the  
5 department. After receipt of an otherwise complete application,  
6 the department may request additional information or documents as  
7 are determined to be necessary to make a decision to grant or  
8 deny a permit. ~~The department, or the department of history,~~  
9 ~~arts, and libraries, shall notify the applicant in writing when~~  
10 ~~the application is deficient.~~

11 ~~——(4) An applicant notified that an application for a permit~~  
12 ~~may be deficient and returned due to insufficient information~~  
13 ~~under subsection (3) shall, within 20 days after the date the~~  
14 ~~notice is mailed, provide the information. If the applicant~~  
15 ~~fails to respond within the 20 day period, the application shall~~  
16 ~~be denied unless the applicant requests additional time and~~  
17 ~~provides reasonable justification for an extension of time.~~

18           (4) ~~—(5)—~~ The department and the department of history, arts,  
19 and libraries shall ~~—~~ **approve or deny an application for a**  
20 **permit** with the advice of the committee. ~~—, approve or disapprove~~  
21 ~~an application for a permit within 30 days after the date a~~  
22 ~~complete application is filed with the department. The~~  
23 ~~department and the department of history, arts, and libraries may~~  
24 ~~approve an application conditionally or unconditionally. A~~  
25 condition to the approval of an application shall be in writing  
26 on the face of the permit. The department and the department of  
27 history, arts, and libraries may impose such conditions as are

1 considered reasonable and necessary to protect the public trust  
2 and general interests, including conditions that accomplish 1 or  
3 more of the following:

4 (a) Protect and preserve the abandoned property to be  
5 recovered, and the recreational value of the area in which  
6 recovery is being accomplished.

7 (b) Assure reasonable public access to the abandoned property  
8 after recovery.

9 (c) Conform with rules applying to activities within a Great  
10 Lakes bottomlands preserve.

11 (d) Prohibit injury, harm, and damage to a bottomlands site  
12 or abandoned property not authorized for removal during and after  
13 salvage operations by the permit holder.

14 (e) Prohibit or limit the amount of discharge of possible  
15 pollutants, such as floating timbers, planking, and other debris,  
16 which may emanate from the shipwreck, plane wreck, or salvage  
17 equipment.

18 (f) Require the permit holder to submit a specific removal  
19 plan prior to commencing any salvaging activities. Among other  
20 matters considered appropriate by either the department or the  
21 department of history, arts, and libraries, or both, the removal  
22 plan may be required to ensure the safety of those removing or  
23 assisting in the removal of the abandoned property and to address  
24 how the permit holder proposes to prevent, minimize, or mitigate  
25 potential adverse effects upon the abandoned property to be  
26 removed, that portion of the abandoned property which is not to  
27 be removed, and the surrounding geographic features.

1           (5) ~~—(6)—~~ The department shall approve an application for a  
2 permit unless the department determines that the abandoned  
3 property to be recovered has substantial recreational value in  
4 itself or in conjunction with other abandoned property in its  
5 vicinity underwater, or the recovery of abandoned property would  
6 not comply with rules applying to a Great Lakes bottomlands  
7 preserve.

8           (6) ~~—(7)—~~ The department of history, arts, and libraries  
9 shall approve the application for a permit unless the department  
10 of history, arts, and libraries determines that the abandoned  
11 property to be recovered has substantial historical value in  
12 itself or in conjunction with other abandoned property in its  
13 vicinity. If the property has substantial historical value, the  
14 department of history, arts, and libraries, pursuant to  
15 subsection ~~—(5)—~~ (4), may impose a condition ~~to the approval of~~  
16 ~~the application requiring the applicant~~ **on the permit requiring**  
17 **the permittee** to turn over recovered property to the department  
18 of history, arts, and libraries for the purpose of preserving the  
19 property or permitting public access to the property. The  
20 department of history, arts, and libraries may authorize the  
21 display of the property in a public or private museum or by a  
22 local unit of government. In addition to the conditions  
23 authorized by subsection ~~—(5)—~~ (4), the department of history,  
24 arts, and libraries may provide for payment of salvage costs in  
25 connection with the recovery of the abandoned property.

26           (7) ~~—(8)—~~ A person ~~who discovers an abandoned watercraft~~  
27 ~~that is located outside of a Great Lakes bottomlands preserve is~~

1 ~~entitled to~~ **shall not** recover cargo situated on, in, or  
2 associated with ~~the watercraft, if the person applies for a~~  
3 ~~permit pursuant to this section within 90 days after discovering~~  
4 ~~the watercraft. If an application for a permit to recover cargo~~  
5 ~~is not filed within 90 days after a watercraft discovery, subject~~  
6 ~~to subsections (4) and (5) an exclusive cargo recovery permit~~  
7 ~~shall be issued to the first person applying for such a permit.~~  
8 ~~Only 1 permit to recover the same cargo shall be issued and~~  
9 ~~operative at a time.~~ **an abandoned watercraft that is located**  
10 **outside of a Great Lakes bottomlands preserve except as**  
11 **authorized by a permit issued pursuant to this section and part**  
12 **13. Subject to subsection (4), the permit shall be issued to the**  
13 **first person applying for the permit. However, only the person**  
14 **who discovered the abandoned watercraft may apply for a permit**  
15 **during the first 90 days after the discovery.** When a watercraft  
16 containing cargo is simultaneously discovered by more than 1  
17 person, a permit shall be approved with respect to the first  
18 person or persons jointly applying for a permit.

19 **(8) —(9)—** A person aggrieved by a condition contained on a  
20 permit or by the denial of an application for a permit may  
21 request an administrative review of the condition or the denial  
22 by the commission or the department of history, arts, and  
23 libraries, whichever disapproves the application or imposes the  
24 condition. A person shall file the request for review with the  
25 commission or the department of history, arts, and libraries,  
26 whichever is applicable, within 90 days after the permit  
27 application is submitted to the department. An administrative

1 hearing conducted pursuant to this subsection shall be conducted  
2 under the procedures set forth in chapter 4 of the administrative  
3 procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. If  
4 neither the department nor the department of history, arts, and  
5 libraries approves the application and an administrative review  
6 is requested from both the commission and the department of  
7 history, arts, and libraries, the appeals shall be combined upon  
8 request of the appellant or either the commission or the  
9 department of history, arts, and libraries and a single  
10 administrative hearing shall be conducted. The commission and  
11 the department of history, arts, and libraries shall issue  
12 jointly the final decision and order in the case.

13       (9) ~~(10)~~ A permit issued under this section ~~shall be~~ **is**  
14 valid until December 31 of the year in which the application for  
15 the permit was filed and is not renewable. If an item designated  
16 in a permit for recovery is not recovered, a permit holder may,  
17 upon request following the expiration of the permit, be issued a  
18 new permit to remove the same abandoned property if the permit  
19 holder demonstrates that diligence in attempting recovery was  
20 exercised under the previously issued permit.

21       (10) ~~(11)~~ A permit issued under this section shall not be  
22 transferred or assigned unless the assignment is approved in  
23 writing by both the department and the department of history,  
24 arts, and libraries.

25       Sec. 76504. (1) The Mackinac Island state park shall be  
26 under the control and management of the commission, and a  
27 majority of the members of the commission constitutes a quorum

1 for the transaction of business. The business which the  
2 commission may perform shall be conducted at a public meeting of  
3 the commission held in compliance with the open meetings act,  
4 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time,  
5 date, and place of the meeting shall be given in the manner  
6 required by the open meetings act, 1976 PA 267, MCL 15.261 to  
7 15.275.

8 (2) The commission shall have the exclusive right to do  
9 either or both of the following:

10 (a) Lay out, manage, and maintain the park and preserve the  
11 old fort and other property held by the commission on ~~the~~  
12 ~~effective date of the 2001 amendments to this section or which~~  
13 ~~is~~ or acquired by the commission after ~~this date~~ **August 6,**  
14 **2001.**

15 (b) Promulgate and enforce rules not inconsistent with the  
16 laws of this state and necessary to implement the commission's  
17 duties.

18 (3) The commission may do 1 or more of the following:

19 (a) Enter into leases and establish prices for rentals or  
20 privileges upon property controlled by the commission.

21 (b) Sell or lease as personal property buildings or  
22 structures acquired by the commission in settlement of delinquent  
23 land rentals.

24 (c) Employ a director and other persons as may be needed.

25 (4) The rules of the commission shall apply to all roads  
26 situated on Mackinac Island state park lands. The commission  
27 shall not make a rule permitting the use of motor vehicles except

1 motor vehicles owned by the state, a political subdivision of the  
2 state, or by a public utility, and used in the exercise of its  
3 franchise. The commission may provide by rule for the issuance  
4 of temporary permits for the operation of motor vehicles over  
5 roads situated on state park lands. The commission may grant  
6 permits **pursuant to part 13** for the use of lands for the  
7 expansion of existing cemeteries, under terms and conditions as  
8 the commission prescribes. The commission may also grant  
9 privileges and franchises for waterworks, sewerage,  
10 transportation, and lighting, for a period of not more than 40  
11 years. The commission shall prescribe by rule the maximum number  
12 of horse drawn vehicles for hire that may be licensed by the  
13 commission for operation within the park.

14 (5) The sheriff of the county of Mackinac, upon the  
15 application of the commission, shall appoint 1 or more persons  
16 who shall be designated by the commission as deputy sheriffs in  
17 and for the county, and who shall be employees of the commission  
18 but who shall not receive fees or emoluments for services as  
19 deputy sheriffs. The commission may establish the compensation  
20 of the persons employed by the commission, but a debt or  
21 obligation shall not be created by the commission exceeding the  
22 amount of money at its disposal at the time.

23 (6) All money received from rentals or privileges shall be  
24 paid promptly into the state treasury to be credited to the  
25 general fund and to be disbursed as appropriated by the  
26 legislature. The commission, in consideration of the furnishing  
27 of fire protection, street service, sewerage service, and other

1 public service agreed upon, may remit reasonable rentals as the  
2 commission determines from leases of property acquired by the  
3 state under the general property tax act, 1893 PA 206, MCL 211.1  
4 to 211.157, and deeded to the commission, to the several tax  
5 assessing units in which the property is situated as provided in  
6 ~~the general property tax act, 1893 PA 206, MCL 211.1 to 211.157~~  
7 **that act**, in proportion to the delinquent taxes and special  
8 assessments of the units canceled against the description of  
9 land.

10 (7) A writing prepared, owned, used, in the possession of, or  
11 retained by the commission in the performance of an official  
12 function shall be made available to the public in compliance with  
13 the freedom of information act, 1976 PA 442, MCL 15.231 to  
14 15.246. The commission shall provide to the governor an annual  
15 report and statement of receipts and expenditures, and  
16 recommendations and suggestions as the commission considers  
17 proper.

18 Sec. 80159. **A person shall not place a beacon or buoy,**  
19 **other than a mooring buoy, in the waters of this state except as**  
20 **authorized by a permit issued by the department pursuant to part**  
21 **13.** The department may ~~authorize, through the issuance of~~  
22 ~~revokeable permits,~~ **issue a permit for** the placing of buoys or  
23 beacons in the waters of this state to mark obstruction to  
24 navigation, to designate bathing areas, to designate vessel  
25 anchorages, or for any other purpose if it will promote safety or  
26 navigation. ~~Any person who desires to place buoys or beacons in~~  
27 ~~the waters of this state, without expense to the state, shall~~

1 ~~make application to the department in a form and containing~~ **An**  
2 **application for a permit shall contain** information required by  
3 the department. ~~Buoys or beacons, except for mooring buoys,~~  
4 ~~shall not be placed in the waters of this state unless authorized~~  
5 ~~by the department in writing. If authorization has been granted,~~  
6 ~~the buoys or beacons shall be placed only in accordance with the~~  
7 ~~terms of the permit and shall be considered lawfully placed. If~~  
8 buoys or beacons are placed in the waters of this state without a  
9 permit having been issued, the department may order their  
10 removal. If, in the judgment of the department, buoys or beacons  
11 authorized by the department are found to be improperly placed,  
12 the reason for their placement no longer exists, or the buoys or  
13 beacons do not conform to the uniform system of marking  
14 established by state regulation, the department may revoke the  
15 permit authorizing their placement and may order their removal.  
16 Revocation of permits and orders of removal shall be by written  
17 notice to the person placing the buoys or beacons or to the  
18 person to whom the permit was issued at his or her last known  
19 address, directing the removal within a specified time. The  
20 person to whom the notice is directed shall remove the buoys or  
21 beacons in accordance with the instructions. If the person fails  
22 to remove the buoys or beacons within the specified time, the  
23 department may cause their removal, and the cost and expense of  
24 the removal shall be charged against the person authorized to  
25 place the buoys or beacons or, where authorization has not been  
26 granted, the person placing such buoys or beacons and shall be  
27 recoverable through any court of competent jurisdiction.