

SUBSTITUTE FOR  
HOUSE BILL NO. 6243

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
(MCL 324.101 to 324.90106) by adding part 632.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           PART 632 NONFERROUS METALLIC MINERAL MINING

2           Sec. 63201. As used in this part:

3           (a) "Administratively complete" means an application for a  
4 mining permit under this part that is determined by the  
5 department to contain all of the documents and information  
6 required under this part and any rules promulgated under this  
7 part.

8           (b) "Affected area" means an area outside of the mining area  
9 where the land surface, surface water, groundwater, or air  
10 resources are determined through an environmental impact  
11 assessment to be potentially affected by mining operations within

1 the proposed mining area.

2 (c) "Department" means the department of environmental  
3 quality.

4 (d) "Emergency management coordinator" means that term as  
5 defined in section 2 of the emergency management act, 1976 PA  
6 390, MCL 30.402.

7 (e) "Fund" means the nonferrous metallic mineral surveillance  
8 fund created in section 63217.

9 (f) "Metallic product" means a commercially salable mineral  
10 produced primarily for its nonferrous metallic mineral content in  
11 its final marketable form or state.

12 (g) "Mining" means the excavation or removal of more than  
13 10,000 tons of earth material a year or disturbing more than 1  
14 acre of land a year in the regular operation of a business for  
15 the purpose of extracting a nonferrous metallic mineral or  
16 minerals by 1 or both of the following:

17 (i) Removing the overburden lying above natural deposits of a  
18 mineral and excavating directly from the natural deposits thus  
19 exposed or by excavating directly from deposits lying exposed in  
20 their natural state.

21 (ii) Excavating from below the surface of the ground by means  
22 of shafts, tunnels, or other subsurface openings.

23 (h) "Mining area" means an area of land from which earth  
24 material is removed in connection with nonferrous metallic  
25 mineral mining, the lands on which material from that mining is  
26 stored or deposited, the lands on which beneficiating or  
27 treatment plants and auxiliary facilities are located, the lands

1 on which the water reservoirs used in the nonferrous metallic  
2 mineral mining process are located, and auxiliary lands that are  
3 used in connection with the mining.

4 (i) "Mining permit" means a permit issued under this part for  
5 conducting nonferrous metallic mineral mining and reclamation  
6 operations.

7 (j) "Nonferrous metallic mineral" means any ore or material  
8 to be excavated from the natural deposits on or in the earth for  
9 its metallic content, but not primarily for its iron or iron  
10 mineral content, to be used for commercial or industrial  
11 purposes.

12 (k) "Nonferrous metallic mineral operator" or "operator"  
13 means a permittee or other person who is engaged in, or who is  
14 preparing to engage in, mining operations for nonferrous metallic  
15 minerals, whether individually or jointly, or through agents,  
16 employees, or contractors.

17 (l) "Permittee" means a person who holds a mining permit.

18 (m) "Postclosure monitoring period" means a period following  
19 closure of a nonferrous metallic mineral mine during which the  
20 permittee is required to conduct monitoring of groundwater and  
21 surface water.

22 (n) "Stockpile" means material, including, but not limited  
23 to, surface overburden, rock, or lean ore, that in the process of  
24 mining and beneficiation or treatment has been removed from the  
25 earth and stored on the surface. Stockpile does not include  
26 materials that are being treated in the production of metallic  
27 products and the metallic product that has been produced by that

1 operation.

2 (o) "Tailings basin" means land on which is deposited, by  
3 hydraulic or other means, the material that is separated from the  
4 metallic product in the beneficiation or treatment of minerals  
5 including any surrounding dikes constructed to contain the  
6 material.

7 Sec. 63202. The legislature finds that:

8 (a) It is the policy of this state to foster the conservation  
9 and development of the state's natural resources.

10 (b) Discoveries of nonferrous metallic sulfide deposits have  
11 resulted in intensive exploration activities and may lead to the  
12 development of 1 or more mines.

13 (c) Nonferrous metallic sulfide deposits are different from  
14 the iron oxide ore deposits currently being mined in Michigan in  
15 that the sulfide minerals may react, when exposed to air and  
16 water, to form acid rock drainage. If the mineral products and  
17 waste materials associated with nonferrous metallic sulfide  
18 mining operations are not properly managed and controlled, they  
19 can cause significant damage to the environment, impact human  
20 health, and degrade the quality of life of the impacted  
21 community.

22 (d) The special concerns surrounding nonferrous metallic  
23 mineral mining warrant additional regulatory measures beyond  
24 those applied to the current iron mining operations.

25 (e) Nonferrous metallic mineral mining may be an important  
26 contributor to Michigan's economic vitality. The economic  
27 benefits of nonferrous metallic mineral mining shall occur only

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1 under conditions that assure that the environment, natural  
2 resources, and public health and welfare are adequately  
3 protected.

4       Sec. 63203. (1) The department shall administer and enforce  
5 this part. In addition to other powers granted to it, the  
6 department shall promulgate rules to implement and administer  
7 this part, including standards for construction, operation,  
8 closure, postclosure monitoring, reclamation, and remediation of  
9 a mine. [However, the department shall not promulgate rules under this  
part after 1 year after the effective date of this part.]

10       (2) The department may do either of the following:

11       (a) Enter at all reasonable times in or upon a mining area  
12 for the purpose of inspecting and investigating conditions  
13 relating to the operation of a mining area.

14       (b) Conduct research or enter into contracts related to  
15 mining areas and the reclamation of mining areas as may be  
16 necessary to implement this part.

17       (3) A local unit of government shall not regulate or control  
18 mining or reclamation activities that are subject to this part,  
19 including construction, operation, closure, postclosure  
20 monitoring, reclamation, and remediation activities, and does not  
21 have jurisdiction concerning the issuance of permits for those  
22 activities. A local unit of government may enact, maintain, and  
23 enforce ordinances, regulations, or resolutions affecting mining  
24 operations if the ordinances, regulations, or resolutions do not  
25 duplicate, contradict, or conflict with this part.

26       Sec. 63205. (1) A person shall not engage in the mining of  
27 nonferrous metallic minerals except as authorized in a mining

1 permit issued by the department.

2 (2) An application for a mining permit shall be submitted to  
3 the department in a format to be developed by the department.

4 The application shall be accompanied by all of the following:

5 (a) A permit application fee of \$5,000.00. The department  
6 shall forward all permit application fees received under this  
7 section to the state treasurer for deposit in the fund.

8 (b) An environmental impact assessment for the proposed  
9 mining operation that describes the natural and human-made  
10 features, including, but not limited to, flora, fauna, hydrology,  
11 geology, and geochemistry, and baseline conditions in the  
12 proposed mining area and the affected area that may be impacted  
13 by the mining, and the potential impacts on those features from  
14 the proposed mining operation. The environmental impact  
15 assessment shall define the affected area and shall address  
16 feasible and prudent alternatives.

17 (c) A mining, reclamation, and environmental protection plan  
18 for the proposed mining operation, including beneficiation  
19 operations, that will reasonably minimize the actual and  
20 potential adverse impacts on natural resources, the environment,  
21 and public health and safety within the mining area and the  
22 affected area. The plan shall address the unique issues  
23 associated with nonferrous metallic mining and shall include all  
24 of the following:

25 (i) A description of materials, methods, and techniques that  
26 will be utilized.

27 (ii) Information that demonstrates that all methods,

1 materials, and techniques proposed to be utilized are capable of  
2 accomplishing their stated objectives in protecting the  
3 environment and public health, except that such information may  
4 not be required for methods, materials, and techniques that are  
5 widely used in mining or other industries and are generally  
6 accepted as effective. The required information may consist of  
7 results of actual testing, modeling, documentation by credible  
8 independent testing and certification organizations, or  
9 documented applications in similar uses and settings.

10 (iii) Plans and schedules for interim and final reclamation  
11 of the mining area following cessation of mining operations.

12 (iv) A description of the geochemistry of the ore, waste  
13 rock, overburden, peripheral rock, and tailings, including  
14 characterization of leachability and reactivity.

15 (v) Provisions for the prevention, control, and monitoring of  
16 acid-forming waste products and other waste products from the  
17 mining process so as to prevent leaching into groundwater or  
18 runoff into surface water.

19 (d) A contingency plan that includes an assessment of the  
20 risk to the environment or public health and safety associated  
21 with potential significant incidents or failures and describes  
22 the operator's notification and response plans. When the  
23 application is submitted to the department, the applicant shall  
24 provide a copy of the contingency plan to each emergency  
25 management coordinator having jurisdiction over the affected  
26 area.

27 (e) Financial assurance as described in section 63211.

1 (f) A list of other state and federal permits that are  
2 anticipated to be required.

3 (3) The applicant has the burden of establishing that the  
4 terms and conditions set forth in the permit application; mining,  
5 reclamation, and environmental protection plan; and environmental  
6 impact assessment will result in a mining operation that  
7 reasonably minimizes actual or potential adverse impacts on air,  
8 water, and other natural resources and meets the requirements of  
9 this act.

10 (4) Effective 14 days after the department receives an  
11 application for a mining permit, the application shall be  
12 considered to be administratively complete unless the department  
13 proceeds as provided under subsection (5).

14 (5) If, before the expiration of the 14-day period under  
15 subsection (4), the department notifies the applicant that the  
16 application is not administratively complete, specifying the  
17 information necessary to make the application administratively  
18 complete, or notifies the applicant that the fee required to  
19 accompany the application has not been paid, specifying the  
20 amount due, the running of the 14-day period under subsection (4)  
21 is tolled until the applicant submits to the department the  
22 specified information or fee amount due. The notice shall be  
23 given in writing or electronically.

24 (6) Within 42 days after an application for a mining permit  
25 is determined to be administratively complete, the department  
26 shall hold a public meeting on the application. The department  
27 shall give notice of the public meeting not less than 14 or more



1 than 28 days before the date of the public meeting. The notice  
2 shall specify the time and place of the public meeting, which  
3 shall be held in the county where the proposed mining operation  
4 is located, and shall include information on how to review a copy  
5 of the application. The notice shall be given in writing to the  
6 city, village, or township and the county where the proposed  
7 mining operation is to be located and to all affected federally  
8 recognized Indian tribes in this state. The notice shall also be  
9 given by publication in a newspaper of local distribution in the  
10 area where the proposed mining operation is to be located.

11 (7) The department shall accept written public comment on the  
12 permit application for 28 days following the public meeting under  
13 subsection (6). Within 28 days after the expiration of the  
14 public comment period, the department shall reach a proposed  
15 decision to grant or deny a mining permit and shall establish a  
16 time and place for a public hearing on the proposed decision.  
17 The department shall give notice of the public hearing not less  
18 than 14 or more than 28 days before the date of the public  
19 hearing. The notice shall be given in writing to the city,  
20 village, or township and the county where the proposed mining  
21 operation is to be located and to all affected federally  
22 recognized Indian tribes in this state. The notice shall also be  
23 given by publication in a newspaper of local distribution in the  
24 area where the proposed mining operation is to be located. The  
25 notice shall contain all of the following:

26 (a) A summary of the permit application.

27 (b) Information on how to review a complete copy of the

1 application. The application shall be made available at a public  
2 location in the area.

3 (c) A listing of other permits and hearings that are pending  
4 or anticipated under this act with respect to the proposed mining  
5 operation.

6 (d) The time and place of the public hearing, which shall be  
7 held in the area where the proposed mining operation is located.

8 (8) The department shall accept written public comment on the  
9 proposed decision to grant or deny a mining permit for 28 days  
10 following the public hearing. At the expiration of the public  
11 comment period, the department shall issue a report summarizing  
12 all comments received and providing the department's response to  
13 the comments.

14 (9) Within 28 days after the expiration of the public comment  
15 period under subsection (8), the department shall grant or deny  
16 the mining permit application in writing. A determination that  
17 an application is administratively complete does not preclude the  
18 department from requiring additional information from the  
19 applicant. The 28-day period under this subsection shall be  
20 tolled until such time as the applicant submits the requested  
21 information. If a mining permit is denied, the reasons shall be  
22 stated in a written report to the applicant.

23 (10) A mining permit shall not be issued or transferred to a  
24 person if the department has determined that person to be in  
25 violation of this part, rules promulgated under this part, the  
26 permit, or an order of the department under this part, unless the  
27 person has corrected the violation or the person has agreed in

1 writing to correct the violation pursuant to a compliance  
2 schedule approved by the department.

3 (11) Subject to subsection (10), the department shall approve  
4 a mining permit if it determines both of the following:

5 (a) The permit application meets the requirements of this  
6 part.

7 (b) The proposed mining operation will not pollute, impair,  
8 or destroy the air, water, or other natural resources or the  
9 public trust in those resources, in accordance with part 17 of  
10 this act. In making this determination, the department shall  
11 take into account the extent to which other permit determinations  
12 afford protection to natural resources. For the purposes of this  
13 subsection, excavation and removal of nonferrous metallic  
14 minerals and of associated overburden and waste rock, in and of  
15 itself, does not constitute pollution, impairment, or destruction  
16 of those natural resources.

17 (12) The department shall deny a mining permit if it  
18 determines the requirements of subsection (11) have not been  
19 met.

20 (13) Terms and conditions that are set forth in the permit  
21 application and the mining, reclamation, and environmental  
22 protection plan and that are approved by the department shall be  
23 incorporated in and become a part of the mining permit.

24 (14) A mining permit is not effective until all other permits  
25 required under this act for the proposed mining operation are  
26 obtained.

27 (15) If a person submits an application for a mining permit

1 and 1 or more other permits under this act with respect to a  
2 particular mining operation, the department may process the  
3 applications in a coordinated fashion to the extent feasible  
4 given procedural requirements applicable to individual permits.  
5 The coordinated permit process may include consolidating public  
6 hearings under this part with public hearings required under  
7 other parts of this act. Any notice of a consolidated public  
8 hearing shall state clearly which permits are to be considered at  
9 the public hearing. An applicant may waive any required  
10 timelines under subsections (4) to (9) to facilitate the  
11 coordination.

12       Sec. 63207. (1) A mining permit issued by the department  
13 shall remain in effect until terminated or revoked by the  
14 department.

15       (2) The department may terminate a mining permit under 1 or  
16 more of the following conditions:

17       (a) The permittee has not commenced construction of plant  
18 facilities or conducted actual mining activities covered by the  
19 mining permit within 2 years after the effective date of the  
20 mining permit.

21       (b) The permittee has completed final reclamation of the  
22 mining area and requests the termination of the mining permit and  
23 the department determines all of the following:

24       (i) The mining operation has not polluted, impaired, or  
25 destroyed the air, water, or other natural resources or the  
26 public trust in those resources by activities conducted within  
27 the scope of the permit.

1           (ii) The permittee has otherwise fulfilled all conditions  
2 determined to be necessary by the department to protect the  
3 public health, safety, and welfare and the environment.

4           (iii) The requirements for the postclosure monitoring period  
5 have been satisfied.

6           (3) The department may revoke a mining permit pursuant to  
7 section 63221.

8           (4) A mining permit may be transferred to a new operator with  
9 approval of the department after public notice as follows:

10          (a) The person acquiring the mining permit shall submit to  
11 the department on forms provided by the department a request for  
12 transfer of the mining permit and shall provide the financial  
13 assurance required under section 63211.

14          (b) The person acquiring the mining permit shall accept the  
15 conditions of the existing mining permit and adhere to the  
16 requirements set forth in this part.

17          (c) If the permittee is determined by the department to be in  
18 violation of this part or the rules promulgated under this part  
19 at the mining site involved in the transfer, then the mining  
20 permit shall not be transferred to a person until the permittee  
21 has completed the necessary corrective actions or the person  
22 acquiring the mining permit has entered into a written consent  
23 agreement to correct all of the violations.

24          (5) Pending the transfer of an existing mining permit under  
25 subsection (4), the proposed transferee shall not operate the  
26 mine.

27          (6) A mining permit may be amended as follows:

1 (a) The permittee may submit to the department a request to  
2 amend the mining permit to address anticipated changes in the  
3 mining operation, including, if applicable, amendments to the  
4 environmental impact assessment and to the mining, reclamation,  
5 and environmental protection plan.

6 (b) The department may require a mining permit to be amended  
7 if the department determines that the terms and conditions of the  
8 mining permit are not providing the intended reasonable  
9 protection of the environment, natural resources, or public  
10 health and safety.

11 (c) Within 30 days after receiving a request to amend a  
12 mining permit, or upon a determination by the department that an  
13 amendment is necessary, the department shall determine within 30  
14 days whether the request constitutes a significant change from  
15 the conditions of the approved mining permit. If the department  
16 determines that the request is a significant change from the  
17 conditions of the approved mining permit, the department may  
18 submit the request for amendment to the same review process as  
19 provided for a new permit application in section 63205(4) to  
20 (9). If a request to amend the mining permit is denied, the  
21 reasons for denial shall be stated in a written report to the  
22 permittee. If the department determines that the request for  
23 amendment does not constitute a significant change from the  
24 conditions of the approved mining permit, the department shall  
25 provide written notice of the determination to the city, village,  
26 or township and the county where the proposed mining operation is  
27 to be located and to all affected federally recognized Indian

1 tribes in this state. The department shall also give notice of  
2 the determination by publication in a newspaper of local  
3 distribution in the area where the proposed mining operation is  
4 to be located. The department shall approve the amendment within  
5 14 days after publication of the notice and shall notify the  
6 permittee of the approval.

7       Sec. 63209. (1) A permittee shall comply with all other  
8 applicable permit standards under this act.

9       (2) A permittee shall conduct reclamation activities at a  
10 mining area in accordance with the approved mining, reclamation,  
11 and environmental protection plan.

12       (3) If mining operations are suspended for a continuous  
13 period exceeding 90 days, the permittee shall take actions to  
14 maintain, monitor, and secure the mining area and shall conduct  
15 any interim sloping or stabilizing of surfaces necessary to  
16 protect the environment, natural resources, or public health and  
17 safety in accordance with the permit.

18       (4) Subject to subsection (5), a permittee shall begin final  
19 reclamation of a mining area within 3 years of the date of  
20 cessation of mining operations and shall complete reclamation  
21 within the time set forth in the mining, reclamation, and  
22 environmental protection plan approved by the department.

23       (5) Upon written request of a permittee, the department may  
24 approve an extension of time to begin or complete final  
25 reclamation.

26       (6) A permittee shall conduct groundwater and surface water  
27 monitoring in accordance with the provisions of the permit during

1 mining operations and during the postclosure monitoring period.  
2 The postclosure monitoring period shall be 20 years following  
3 cessation of mining, subject to the following conditions:

4 (a) The permittee shall provide to the department a written  
5 request to terminate the postclosure monitoring not less than 18  
6 months before the proposed termination date and shall provide the  
7 department with technical data and information demonstrating the  
8 basis for the termination. The department shall extend the  
9 postclosure monitoring period in increments of up to 20 years  
10 unless the department determines, approximately 1 year before the  
11 end of a postclosure monitoring period or postclosure incremental  
12 monitoring period, that there is no significant potential for  
13 water contamination resulting from the mining operation.

14 (b) The department may shorten the postclosure monitoring  
15 period at any time upon determining that there is no significant  
16 potential for water contamination resulting from the mining  
17 operation.

18 (7) The department may extend or shorten the postclosure  
19 monitoring period under subsection (6) only after public notice  
20 and opportunity for a public hearing under section 63219(2).

21 (8) Both the mining area and the affected area shall be  
22 reclaimed and remediated to achieve a self-sustaining ecosystem  
23 appropriate for the region that does not require perpetual care  
24 following closure and with the goal that the affected area shall  
25 be returned to the ecological conditions that approximate  
26 premining conditions subject to changes caused by nonmining  
27 activities or other natural events. Any portion of the mining



1 area owned by the applicant may be used for any legal purposes.

2 (9) Compliance with the provisions of this part does not  
3 relieve a person of the obligation to comply with all other  
4 applicable tribal, state, federal, or local statutes,  
5 regulations, or ordinances.

6 Sec. 63211. (1) An operator shall maintain financial  
7 assurance during mining operations until the department  
8 determines that all reclamation has been completed and for a  
9 postclosure monitoring period as determined under section  
10 63209(6) and (7), except that financial assurance shall be  
11 released immediately upon termination of a mining permit under  
12 section 63207(2)(a).

13 (2) The financial assurance required under subsection (1)  
14 shall apply to all mining and reclamation operations subject to  
15 the mining permit and be sufficient to cover the cost to  
16 administer, and to hire a third party to implement, reclamation  
17 under the mining, reclamation, and environmental protection plan  
18 as well as necessary environmental protection measures, including  
19 remediation of any contamination of the air, surface water, or  
20 groundwater that is in violation of the mining permit. The  
21 financial assurance shall consist of a conformance bond, escrow,  
22 cash, certificate of deposit, irrevocable letter of credit, or  
23 other equivalent security, or any combination thereof, covering  
24 at least 75% of the total required amount. Financial assurance  
25 for the balance of the required total amount, if any, shall  
26 consist of a statement of financial responsibility.

27 (3) Every 3 years, or as the department considers necessary,

1 a permittee shall update the statement of financial  
2 responsibility required under subsection (2) and shall adjust the  
3 conformance bond, escrow, cash, certificate of deposit,  
4 irrevocable letter of credit, or other security, as applicable,  
5 to assure that the financial assurance is sufficient for the  
6 purposes of subsection (2).

7 (4) The financial assurance mechanism required by this  
8 section may be satisfied in whole or in part by financial  
9 assurance provisions required by other parts of this act if those  
10 provisions address the remediation activities required under this  
11 part.

12 (5) Failure to provide financial assurance under this  
13 section constitutes grounds for the department to order immediate  
14 suspension of activities at a mining operation, including the  
15 removal of metallic product from the site, pursuant to section  
16 63221.

17 Sec. 63213. (1) A permittee shall file with the department  
18 a mining and reclamation report on or before March 15 of each  
19 year, during the period the mine is operating and during the  
20 postclosure monitoring period. The mining and reclamation report  
21 shall contain all of the following:

22 (a) A description of the status of mining and reclamation  
23 operations.

24 (b) An update of the contingency plan. The permittee shall  
25 provide a copy of the update to the emergency management  
26 coordinator.

27 (c) A report of monitoring results for the preceding calendar

1 year.

2 (d) A report of the total tons of material mined from the  
3 mining area, and the amount of metallic product by weight,  
4 produced from the nonferrous metallic mineral mine for the  
5 preceding calendar year.

6 (e) A list of the reports required under subsection (2) for  
7 the preceding calendar year.

8 (2) A permittee shall promptly notify the department of any  
9 incident, act of nature, or exceedance of a permit standard or  
10 condition at a mining operation that has created, or may create,  
11 a threat to the environment, natural resources, or public health  
12 and safety.

13 (3) Records upon which the mining and reclamation reports are  
14 based shall be preserved by the permittee for 3 years and made  
15 available to the department upon request.

16 (4) Records upon which incident reports under subsection (2)  
17 are based shall be preserved by the permittee for 3 years or  
18 until the end of the postclosure monitoring period, whichever is  
19 later.

20 Sec. 63215. (1) For purposes of surveillance, monitoring,  
21 administration, and enforcement of this part, the department  
22 shall assess a permittee a nonferrous metallic mineral  
23 surveillance fee of not more than 5 cents per ton of material  
24 mined from the mining area as reported under section 63213(1)(d),  
25 but not less than \$5,000.00, for each calendar year the mine is  
26 in operation and during the postclosure monitoring period.  
27 Surveillance fees collected under this section shall be forwarded

1 to the state treasurer for deposit in the nonferrous metallic  
2 mineral surveillance fund created in section 63217. The  
3 surveillance fee rate shall be calculated each year as follows:

4 (a) The department shall determine the total tons of material  
5 mined from mining areas in this state in the prior calendar  
6 year.

7 (b) The department shall calculate the adjusted appropriation  
8 by deducting any unexpended money in the fund at the close of the  
9 prior fiscal year from the amount appropriated for the current  
10 fiscal year for surveillance, monitoring, administration, and  
11 enforcement of this part.

12 (c) The fee rate shall be the ratio, to the nearest 1/100 of  
13 1%, of the adjusted appropriation to the total tons of material  
14 mined.

15 (2) The nonferrous metallic mineral surveillance fee  
16 described in subsection (1) is due by 30 days after the  
17 department sends written notice to the permittee of the amount  
18 due.

19 (3) A penalty equal to 10% of the amount due, or \$1,000.00,  
20 whichever is greater, shall be assessed against the permittee for  
21 a metallic mineral surveillance fee that is not paid when due.  
22 The department may file an action in the circuit court for Ingham  
23 county to collect the unpaid fee and penalty. The unpaid fee and  
24 penalty shall constitute a debt and become the basis of a  
25 judgment against the permittee.

26 (4) Penalties paid pursuant to this section shall be used for  
27 the implementation, administration, and enforcement of this

1 part.

2           Sec. 63217. (1) The nonferrous metallic mineral  
3 surveillance fund is created within the state treasury.

4           (2) The state treasurer may receive money or other assets  
5 from any source for deposit into the fund. The state treasurer  
6 shall direct the investment of the fund. The state treasurer  
7 shall credit to the fund interest and earnings from fund  
8 investments.

9           (3) Unexpended money in the fund at the close of the fiscal  
10 year shall remain in the fund and be carried over to the  
11 succeeding fiscal year.

12           (4) The department shall expend money from the fund, upon  
13 appropriation, only for surveillance, monitoring, administration,  
14 and enforcement under this part.

15           Sec. 63219. (1) A person who is aggrieved by an order,  
16 action, or inaction of the department or by the issuance, denial,  
17 revocation, or amendment of a mining permit under this part may  
18 file a petition with the department requesting a contested case  
19 hearing, under the administrative procedures act of 1969, 1969 PA  
20 306, MCL 24.201 to 24.328. A petition filed more than 60 days  
21 after an order, action, or inaction of the department or an  
22 action on a mining permit may be rejected as being untimely.

23           (2) Any hearing under this part shall be held pursuant to the  
24 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
25 24.328. The department shall provide notice of the hearing and  
26 shall mail copies of the notice to the person requesting the  
27 hearing and to the city, village, or township and the county

1 where the proposed mining operation is to be located and to all  
2 affected federally recognized Indian tribes in this state. The  
3 department shall publish notice of the hearing in a newspaper of  
4 local distribution in the area of the mining operation at least  
5 10 days before the hearing.

6       Sec. 63221. (1) If the department determines that an  
7 operator has violated this part, a rule promulgated under this  
8 part, or a mining permit issued under this part, the department  
9 shall require the operator to correct the violation.

10       (2) If the department determines that a violation under  
11 subsection (1) is causing or resulting in an imminent and  
12 substantial endangerment to the public health or safety,  
13 environment, or natural resources, the department shall take  
14 action necessary to abate or eliminate the endangerment. Such  
15 action may include 1 or more of the following:

16       (a) Revoking the mining permit.

17       (b) Issuing an order to the operator requiring immediate  
18 suspension of activities at the mining operation, including the  
19 removal of metallic product from the site.

20       (c) Issuing an order to the operator to undertake such other  
21 response actions as may be necessary to abate or eliminate the  
22 endangerment.

23       (3) Before taking action under this section to suspend  
24 operations or revoke a mining permit, or to otherwise prevent the  
25 continuation of mining operations, the department shall give  
26 written notice, in person or by mail, to the operator. Subject  
27 to subsection (4), the department shall provide the operator an

1 opportunity for an evidentiary hearing.

2       (4) If the department finds that emergency action is required  
3 to protect the public health, safety, or welfare, or to protect  
4 the environment, the department may issue an emergency order  
5 without a public hearing to require an operator to suspend  
6 operations or to take other corrective actions. An emergency  
7 order shall remain in force and effect for not more than 21  
8 days.

9       (5) If the operator or surety fails or neglects to correct  
10 the violation or take corrective actions as specified under an  
11 order of the department, the department may, after giving written  
12 notice to the operator and surety, enter in or upon the mining  
13 area and upon and across any private or public property necessary  
14 to reach the mining area and take whatever action is necessary to  
15 curtail and remediate any damage to the environment and public  
16 health resulting from the violation, and the operator and surety  
17 are jointly and severally liable for all expenses incurred by the  
18 department. The claim shall be paid by the operator or surety  
19 within 30 days, and, if the claim is not paid within that time,  
20 the department may bring suit against the operator or surety,  
21 jointly or severally, for the collection of the claim in any  
22 court of competent jurisdiction. This part does not limit the  
23 department's authority to take whatever response activities it  
24 determines necessary to protect the public health, safety, and  
25 welfare and the environment.

26       (6) The revocation of a mining permit or suspension of  
27 activities under subsection (2) does not relieve a permittee of

1 the responsibility to complete reclamation, maintain financial  
2 assurance required under section 63211, and undertake all  
3 appropriate measures to protect the environment, natural  
4 resources, and public health and safety.

5 (7) If the department receives an allegation of improper  
6 action under or a violation of this part, a rule promulgated  
7 under this part, or a condition of a permit issued under this  
8 part, and the person making the allegation provides evidence or  
9 corroboration sufficient to support the allegation, as determined  
10 by the department, the department shall do all of the following:

11 (a) Make a record of the allegation.

12 (b) Conduct an inspection of the mining operation to  
13 investigate the allegation not more than 5 business days after  
14 receipt of the complaint or allegation. If the complaint or  
15 allegation is of a highly serious nature, as determined by the  
16 department, the mining operation shall be inspected as quickly as  
17 possible.

18 (c) Not more than 15 business days after completing an  
19 investigation of the allegation, make a written report of the  
20 allegation and the results of the investigation to the operator  
21 and the person who made the allegation.

22 (8) The department shall comply with the administrative  
23 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in its  
24 actions under this section.

25 Sec. 63223. (1) The department may request the attorney  
26 general to commence a civil action for appropriate relief,  
27 including a permanent or temporary injunction, for a violation of



1 this part or a provision of a permit or order issued or rule  
2 promulgated under this part. An action under this subsection may  
3 be brought in the circuit court for the county of Ingham or for  
4 the county in which the defendant is located, resides, or is  
5 doing business. The court has jurisdiction to restrain the  
6 violation and to require compliance. In addition to any other  
7 relief granted under this subsection, the court may impose a  
8 civil fine of not less than \$2,500.00, and the court may award  
9 reasonable attorney fees and costs to the prevailing party. The  
10 maximum fine imposed by the court shall be not more than  
11 \$25,000.00 per day of violation.

12 (2) Upon a finding by the court that an operator has violated  
13 this part or a provision of a permit or order issued or rule  
14 promulgated under this part, and that the violation poses or  
15 posed a substantial endangerment to the public health, safety, or  
16 welfare, the court shall impose, in addition to the sanctions set  
17 forth in subsection (1), a fine of not less than \$500,000.00 and  
18 not more than \$5,000,000.00.

19 (3) The attorney general may file a civil suit in a court of  
20 competent jurisdiction to recover, in addition to a fine, the  
21 full value of the injuries done to the natural resources of this  
22 state and the costs of surveillance and enforcement by the state  
23 resulting from the violation.

24 (4) A person who intentionally makes a false statement,  
25 representation, or certification in an application for or form  
26 pertaining to a permit under this part or in a notice or report  
27 required by the terms and conditions of a permit issued under

1 this part is guilty of a felony and may be imprisoned for not  
2 more than 2 years and shall be fined not less than \$2,500.00 or  
3 more than \$25,000.00 for each violation. If the conviction is  
4 for a violation committed after a first conviction of the person  
5 under this subsection, the court shall impose a fine of not less  
6 than \$25,000.00 per day and not more than \$50,000.00 per day of  
7 violation. With the exception of the issuance of criminal  
8 complaints, issuance of warrants, and the holding of an  
9 arraignment, the circuit court for the county in which the  
10 violation occurred has exclusive jurisdiction. Knowledge  
11 possessed by a person other than the defendant under this  
12 subsection may be attributable to the defendant if the defendant  
13 took affirmative steps to shield himself or herself from the  
14 relevant information.

15 (5) Upon a finding by the court that the actions of a  
16 criminal defendant pose or posed a substantial endangerment to  
17 the public health, safety, or welfare, the court shall impose, in  
18 addition to the penalties set forth in subsection (2), a sentence  
19 of 5 years' imprisonment and a fine of not less than  
20 \$1,000,000.00.

21 (6) To find a defendant civilly or criminally liable for  
22 substantial endangerment under subsection (2) or (5), the court  
23 shall determine that the defendant knowingly or recklessly acted  
24 in such a manner as to cause a danger of death or serious bodily  
25 injury and that either of the following occurred:

26 (a) The defendant had an actual awareness, belief, or  
27 understanding that his or her conduct would cause a substantial

1 danger of death or serious bodily injury.

2 (b) The defendant acted in gross disregard of the standard of  
3 care that any reasonable person should observe in similar  
4 circumstances.

5 (7) A civil fine or other civil award imposed under this  
6 section is payable to this state and shall be credited to the  
7 general fund. The fine constitutes a lien on any property, of  
8 any nature or kind, owned by the defendant.

9 (8) A lien under subsection (7) is effective and has priority  
10 over all other liens and encumbrances except those filed or  
11 recorded prior to the date of judgment only if notice of the lien  
12 is filed or recorded as required by state or federal law.

13 (9) A lien filed or recorded pursuant to subsection (8) shall  
14 be terminated according to the procedures required by state or  
15 federal law within 14 days after the fine or other award ordered  
16 to be paid is paid.

17 (10) If a violation of this part also constitutes a violation  
18 of another part of this act, a court may apply a civil fine or  
19 penalty for the violation, and each day of continued violation,  
20 in accordance with and subject to the penalty limits of the other  
21 part.