

**SUBSTITUTE FOR
HOUSE BILL NO. 5691**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 32501, 32502, 32503, 32504, 32505, 32510, 32511, 32512, 32513, 32514, and 32515 (MCL 324.32501, 324.32502, 324.32503, 324.32504, 324.32505, 324.32510, 324.32511, 324.32512, 324.32513, 324.32514, and 324.32515), sections 32501, 32502, 32503, 32504, 32505, 32510, 32511, 32512, 32514, and 32515 as added by 1995 PA 59 and section 32513 as amended by 1999 PA 106, and by adding section 32510a and part 326.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 32501. As used in this part: ~~—, "marina"~~
2 (A) "AGREEMENT" MEANS A CONTRACT BETWEEN THIS STATE AND
3 ANOTHER PERSON CONCERNING THE USE OF BOTTOMLANDS, EXCEPT A USE
4 FOR MARINA PURPOSES.

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1 (B) "APPLICANT" MEANS A RIPARIAN OWNER OR AN AGENT OF A
2 RIPARIAN OWNER WHO APPLIES FOR A DEED, LEASE, AGREEMENT, OR
3 PERMIT TO USE OR ALTER UNPATENTED LANDS OR AN AGREEMENT OR PERMIT
4 FOR USE OF WATER AREAS OVER PATENTED OR UNPATENTED LANDS.

5 (C) "BOTTOMLANDS" MEANS LAND IN THE GREAT LAKES, AND BAYS
6 AND HARBORS OF THE GREAT LAKES, LYING BELOW AND LAKEWARD OF THE
7 ORDINARY HIGH-WATER MARK AS DESCRIBED IN SECTION 32502.

8 (D) "CONVEYANCE" MEANS A DEED, LEASE, AGREEMENT, OR CERTIFI-
9 CATE AS PROVIDED FOR IN THIS PART.

10 (E) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
11 QUALITY.

12 (F) "DREDGING" MEANS REMOVAL OF ANY MINERAL, ORGANIC, OR
13 OTHER MATERIAL FROM OR WITHIN THE BOTTOMLANDS OR WATERS OF THE
14 GREAT LAKES BY ANY MEANS.

15 (G) "FILLING" MEANS PLACEMENT OF ANY MINERAL, ORGANIC, OR
16 OTHER MATERIAL ON THE BOTTOMLANDS OR INTO THE WATERS OF THE GREAT
17 LAKES.

18 (H) "GREAT LAKES" MEANS LAKE SUPERIOR, LAKE MICHIGAN, LAKE
19 HURON, AND LAKE ERIE, AND INCLUDES LAKE ST. CLAIR.

20 (I) "MARINA purposes" means an operation making use of
21 ~~submerged bottomlands or filled-in bottomlands of the Great~~
22 ~~Lakes for the purpose of~~ THAT PROVIDES A service to boat owners
23 or operators, which operation may restrict or prevent the free
24 public use of the affected bottomlands. ~~or filled-in lands.~~

25 (J) "NONCOMMERCIAL LOG" MEANS A PORTION OF A TREE THAT IS
26 LOCATED IN THE GREAT LAKES OR ON BOTTOMLANDS THAT THE DEPARTMENT

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1 DETERMINES POSES A NAVIGATIONAL OR SAFETY HAZARD OR IS OF NO OR
2 LITTLE COMMERCIAL VALUE.

3 (K) "ORDINARY HIGH-WATER MARK" MEANS THE ELEVATIONS
4 DESCRIBED IN SECTION 32502. WHEN THE SOIL, CONFIGURATION OF THE
5 SURFACE, OR VEGETATION HAS BEEN ALTERED BY HUMAN ACTIVITY, THE
6 ORDINARY HIGH-WATER MARK IS LOCATED WHERE IT WOULD HAVE BEEN IF
7 THIS ALTERATION HAD NOT OCCURRED.

8 (L) "OTHER MATERIAL" MEANS ANY HUMAN-MADE STRUCTURE OR
9 INSTALLED DEVICE OR FACILITY EXTENDING OVER OR PLACED ON BOTTOM-
10 LANDS OR EXTENDING OVER OR PLACED INTO THE WATERS OF THE GREAT
11 LAKES. OTHER MATERIAL INCLUDES A HUMAN-MADE STRUCTURE OR
12 INSTALLED DEVICE OR FACILITY ATTACHED TO OR ADMINISTERED BY A
13 MARINA. OTHER MATERIAL DOES NOT INCLUDE SEASONAL OPEN PILE DOCKS
14 AND BOAT HOISTS FOR PRIVATE NONCOMMERCIAL USE BY A RIPARIAN PROP-
15 ERTY OWNER WHEN PLACED ON BOTTOMLANDS LAKEWARD OF THAT RIPARIAN
16 OWNER'S FRONTAGE.

17 (M) "PATENTED LANDS" MEANS ANY BOTTOMLANDS LYING WITHIN A
18 SPECIFIC GOVERNMENT GRANT AREA, INCLUDING A PRIVATE CLAIM PATENT
19 OR A FEDERAL PATENT.

20 (N) "RIPARIAN OWNER" MEANS A PERSON WHO OWNS FRONTAGE BOR-
21 DERING BOTTOMLANDS.

22 (O) "RIPARIAN RIGHTS" MEANS THOSE RIGHTS THAT ARE ASSOCIATED
23 WITH THE OWNERSHIP OF FRONTAGE BORDERING BOTTOMLANDS, SUBJECT TO
24 THE PUBLIC TRUST.

25 (P) "UNPATENTED LANDS" MEANS ALL BOTTOMLANDS EXCEPT PATENTED
26 LANDS.

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1 Sec. 32502. The lands covered and affected by this part are
2 all of the unpatented lake bottomlands and unpatented made lands
3 in the Great Lakes, including the bays and harbors of the Great
4 Lakes, belonging to the state or held in trust by it, including
5 those lands that have been artificially filled in. The waters
6 covered and affected by this part are all of the waters of the
7 Great Lakes within the boundaries of the state. This part shall
8 be construed so as to preserve and protect the interests of the
9 general public in the lands and waters described in this section,
10 to provide for the sale, lease, exchange, or other disposition of
11 unpatented lands and the private or public use of waters over
12 patented and unpatented lands ~~, and to permit the filling in of~~
13 ~~patented submerged lands~~ whenever it is determined by the
14 department that the private or public use of those lands and
15 waters will not substantially affect the public use of those
16 lands and waters for hunting, fishing, swimming, pleasure boat-
17 ing, or navigation or that the public trust in the state will not
18 be impaired by those agreements for use, sales, lease, or other
19 disposition. The word "land" or "lands" as used in this part
20 refers to the aforesaid described unpatented lake bottomlands and
21 unpatented made lands and patented lands in the Great Lakes and
22 the bays and harbors of the Great Lakes lying below and lakeward
23 of the natural ordinary high-water mark, but this part does not
24 affect property rights secured by virtue of a swamp land grant or
25 rights acquired by accretions occurring through natural means or
26 reliction. For purposes of this part, the ordinary high-water
27 mark shall be at the following elevations above sea level,

04148'99 ** (H-2)

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1 international Great Lakes datum of ~~1955~~ 1985: Lake Superior,
2 ~~601.5~~ 602.6 feet; Lakes Michigan and Huron, ~~579.8~~ 580.5 feet;
3 Lake St. Clair, ~~574.7~~ 575.3 feet; and Lake Erie, ~~571.6~~ 572.2
4 feet.

5 Sec. 32503. (1) Except as otherwise provided in this sec-
6 tion, the department, after finding that the public trust in the
7 waters will not be impaired or substantially affected, may enter
8 into agreements pertaining TO UNPATENTED LANDS OR to waters over
9 ~~and the filling in of~~ submerged patented lands, or to lease or
10 deed unpatented lands, after approval of the state administrative
11 board. Quitclaim deeds, leases, or agreements covering unpat-
12 ented lands may be issued or entered into by the department with
13 any person, and shall contain such terms, conditions, and
14 requirements as the department determines to be just and equita-
15 ble and in conformance with the public trust. The department
16 shall reserve to the state all mineral rights, including, but not
17 limited to, coal, oil, gas, sand, gravel, stone, and other mate-
18 rials or products located or found in those lands, except where
19 lands are occupied or to be occupied for residential purposes at
20 the time of conveyance.

21 ~~(2) A riparian owner shall obtain a permit from the depart-~~
22 ~~ment before dredging or placing spoil or other materials on~~
23 ~~bottomland.~~

24 (2) ~~(3)~~ The department OF NATURAL RESOURCES shall not
25 enter into a lease or deed of unpatented lands UNDER SECTION 503
26 that ~~permits~~ AUTHORIZES drilling operations for the taking of
27 oil or gas, unless all drilling operations originate from

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1 locations above and inland of the ordinary high-water mark. The
2 department OF NATURAL RESOURCES shall not enter into a lease or
3 deed of unpatented lands that ~~permits~~ AUTHORIZES drilling for
4 exploration purposes unless the drilling operations originate
5 from locations above and inland of the ordinary high-water mark.

6 (3) ~~(4)~~ An agreement, lease, or deed entered into under
7 this part by the department with the United States shall be
8 entered into and executed pursuant to the property rights acqui-
9 sition act, ~~Act No. 201 of the Public Acts of 1986, being~~
10 ~~section 3.251 to 3.262 of the Michigan Compiled Laws 1986 PA~~
11 201, MCL 3.251 TO 3.262.

12 Sec. 32504. (1) ~~Application~~ AN APPLICATION for a ~~deed or~~
13 ~~lease to~~ CONVEYANCE OF unpatented lands or AN agreement for use
14 of water areas over patented lands shall be SUBMITTED on ~~forms~~
15 A FORM provided by the department. An application shall include
16 a surveyed description of the lands or water area applied for,
17 together with a surveyed description of the riparian or littoral
18 property lying adjacent and contiguous to the lands or water
19 area, certified to by a ~~registered land surveyor~~ PROFESSIONAL
20 SURVEYOR AS DEFINED IN SECTION 2001 OF THE OCCUPATIONAL CODE,
21 1980 PA 299, MCL 339.2001. The description shall show the loca-
22 tion of the water's edge at the time it was prepared and other
23 information that is required by the department. The applicant
24 shall be ~~a~~ 1 OR MORE riparian or littoral ~~owner or~~ owners of
25 property touching or situated opposite the unpatented land or
26 water area over patented lands applied for or an occupant of that
27 land. The application shall include the names and mailing

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1 addresses of all persons in possession or occupancy or having an
2 interest in the adjacent or contiguous riparian or littoral prop-
3 erty or having riparian or littoral rights or interests in the
4 lands or water areas applied for, and the application shall be
5 accompanied by the written consent of all persons having an
6 interest in the lands or water areas applied for in the
7 application.

8 (2) Before an application is acted upon by the department,
9 the applicant shall secure approval of or permission for his or
10 her proposed ~~use of such lands or water area from any federal~~
11 ~~agency as provided by law, the department with the advice of the~~
12 ~~Michigan waterways commission, and~~ CONVEYANCE FROM the legisla-
13 tive body of the local unit or units of government within which
14 ~~such~~ THE land or water area is or will be included, or to which
15 it is contiguous or adjacent. A deed, lease, or agreement shall
16 not be issued or entered into by the department without such
17 ~~approvals~~ APPROVAL or permission. The department may also
18 require the applicant to furnish an abstract of title ~~and owner=~~
19 ~~ship, and a 20-year tax history~~ OR TITLE INSURANCE POLICY on the
20 riparian or littoral property that is contiguous or adjacent to
21 the lands or water area applied for IN THE APPLICATION, as well
22 as on the lands applied for, if available.

23 (3) The department shall require the applicant to deposit a
24 fee of not less than \$50.00 for each application filed. The fee
25 shall be ~~deposited with~~ FORWARDED TO the state treasurer ~~to~~
26 ~~the credit of the state's general fund~~ FOR DEPOSIT INTO THE LAND
27 AND WATER MANAGEMENT PERMIT FEE FUND CREATED IN SECTION 30113.

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1 If a deed, lease, or other agreement is approved by the
2 department, the applicant is entitled to credit for the fee
3 against the consideration that is paid for the deed, lease, or
4 other agreement.

5 Sec. 32505. (1) If the department determines that it is in
6 the public interest to grant an applicant a deed or lease to
7 ~~such~~ THE lands or enter into an agreement to ~~permit~~ AUTHORIZE
8 use and improvements in the waters or to enter into any other
9 agreement in regard ~~thereto~~ TO THE LANDS OR WATERS, the depart-
10 ment shall determine the amount of consideration to be paid to
11 the state by the applicant for the conveyance ~~or lease~~ of
12 unpatented lands.

13 ~~(2) The department may permit, by lease or agreement, the~~
14 ~~filling in of patented and unpatented submerged lands and permit~~
15 ~~permanent improvements and structures after finding that the~~
16 ~~public trust will not be impaired or substantially injured.~~

17 (2) ~~(3) The department may issue deeds or may enter into~~
18 ~~leases if the unpatented lands applied for have been artificially~~
19 ~~filled in or are proposed to be changed from the condition that~~
20 ~~exists on October 14, 1955 by filling, sheet piling, shoring, or~~
21 ~~by any other means, and such lands are used or to be used or~~
22 ~~occupied in whole or in part for uses other than existing, lawful~~
23 ~~riparian or littoral purposes.~~ The consideration to be paid to
24 the state for ~~the conveyance or lease of~~ A DEED TO FILLED,
25 unpatented lands by the applicant shall be not less than the
26 fair, cash market value of the lands determined as of the date of
27 the filing of the application, minus any improvements placed on

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1 the lands, but the sale price shall not be less than 30% of the
2 value of the land. In determining the fair, cash market value of
3 the lands applied for, the department may give due consideration
4 to the fact that the lands are connected with the riparian or
5 littoral property belonging to the applicant, and to the uses,
6 including residential and commercial, being made or which can be
7 made of the lands.

8 (3) ~~(4)~~ Agreements for the lands or water area described
9 in section 32502 may be granted to or entered into with local
10 units of government for public purposes and containing those
11 terms and conditions that may be considered just and equitable in
12 view of the public trust involved. ~~and may include the granting~~
13 ~~of permission to make such fills as may be necessary.~~

14 ~~(5) If the unpatented lands applied for have not been~~
15 ~~filled in or in any way substantially changed from their natural~~
16 ~~character at the time the application is filed with the depart=~~
17 ~~ment, and the application is filed for the purpose of flood con=~~
18 ~~trol, shore erosion control, drainage and sanitation control, or~~
19 ~~to straighten irregular shore lines, then the consideration to be~~
20 ~~paid to the state by the applicant shall be the fair, cash value~~
21 ~~of such land, giving due consideration to its being adjacent to~~
22 ~~and connected with the riparian or littoral property owned by the~~
23 ~~applicant.~~

24 (4) ~~(6)~~ Leases or agreements covering unpatented lands may
25 be granted or entered into with riparian or littoral proprietors
26 for commercial marina purposes or for marinas operated by persons
27 for consideration and containing terms and conditions that are

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1 considered by the department to be just and equitable. The
2 leases may include either filled or unfilled lake bottomlands, or
3 both. Rental shall ~~commence~~ BEGIN as of the date of use of the
4 unpatented lands for the marina operations. Dockage and other
5 uses by marinas in waters over patented lands on October 14, 1955
6 shall be considered to be lawful riparian use.

7 (5) ~~(7)~~ If the department after investigation determines
8 that an applicant FOR A CONVEYANCE has willfully and knowingly
9 filled in or in any way substantially changed the lands applied
10 for with an intent to defraud, or if the applicant has acquired
11 ~~such~~ THE lands with knowledge of such a fraudulent intent and
12 is not an innocent purchaser, the sale price shall be the fair,
13 cash market value of the land. An applicant FOR A CONVEYANCE may
14 request a hearing of a determination made under this subsection.
15 The department shall grant a hearing if requested.

16 Sec. 32510. (1) Except as provided in subsection ~~(2)~~ (3),
17 a person who ~~excavates or fills or in any manner alters or modi-~~
18 ~~fies any of the land or waters subject to this part without the~~
19 ~~approval of the department is guilty of a misdemeanor, punishable~~
20 ~~by imprisonment for not more than 1 year or a fine of not more~~
21 ~~than \$1,000.00, or both.~~ DOES ANY OF THE FOLLOWING IS GUILTY OF
22 A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$10,000.00
23 PER DAY FOR EACH DAY OF VIOLATION:

24 (A) VIOLATES THIS PART OR A RULE PROMULGATED UNDER THIS
25 PART.

26 (B) VIOLATES A TERM OR CONDITION OF A PERMIT OR A CONVEYANCE
27 UNDER THIS PART.

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1 (C) MAKES A FALSE STATEMENT, REPRESENTATION, OR
2 CERTIFICATION IN AN APPLICATION FOR OR WITH REGARD TO A PERMIT OR
3 A CONVEYANCE UNDER THIS PART OR IN A NOTICE OR REPORT REQUIRED BY
4 A PERMIT OR A CONVEYANCE UNDER THIS PART.

5 (D) RENDERS INACCURATE ANY MONITORING DEVICE OR METHOD
6 REQUIRED TO BE MAINTAINED BY A PERMIT UNDER THIS PART.

7 (2) Land altered or modified in violation of this part shall
8 not be sold to any person convicted under this section at less
9 than fair, cash market value.

10 (3) ~~(2)~~ A person who commits a minor offense is guilty of
11 a misdemeanor ~~,~~ punishable by a fine of not more than \$500.00
12 for each violation. A law enforcement officer may issue and
13 serve an appearance ticket upon a person for a minor offense pur-
14 suant to sections 9a to 9g of chapter IV of the code of criminal
15 procedure, ~~Act No. 175 of the Public Acts of 1927, being sec-~~
16 ~~tions 764.9a to 764.9g of the Michigan Compiled Laws 1927 PA~~
17 175, MCL 764.9A TO 764.9G.

18 (4) ~~(3)~~ As used in this section, "minor offense" means
19 either of the following violations of this part if the department
20 determines that restoration of the affected property is not
21 required:

22 (a) The failure to obtain a permit under this part.

23 (b) A violation of a permit issued under this part.

24 SEC. 32510A. (1) THE DEPARTMENT MAY BRING A CIVIL ACTION IN
25 THE CIRCUIT COURT OF THE COUNTY IN WHICH A VIOLATION OCCURS OR IN
26 INGHAM COUNTY CIRCUIT COURT TO DO 1 OR MORE OF THE FOLLOWING:

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1 (A) ENFORCE COMPLIANCE WITH THIS PART AND THE RULES
2 PROMULGATED UNDER THIS PART.

3 (B) RESTRAIN A VIOLATION OF THIS PART OR THE RULES PROMUL-
4 GATED UNDER THIS PART.

5 (C) ENJOIN THE FURTHER PERFORMANCE OF, OR ORDER THE REMOVAL
6 OF, ANY PROJECT THAT IS UNDERTAKEN CONTRARY TO THIS PART OR THE
7 RULES PROMULGATED UNDER THIS PART.

8 (D) ORDER THE RESTORATION OF AN AREA AFFECTED BY A VIOLATION
9 OF THIS PART OR THE RULES PROMULGATED UNDER THIS PART TO ITS
10 PRIOR CONDITION.

11 (2) IN AN ACTION BROUGHT UNDER THIS SECTION, THE CIRCUIT
12 COURT, IN ADDITION TO ANY OTHER RELIEF GRANTED, MAY ASSESS A
13 CIVIL FINE OF NOT MORE THAN \$5,000.00 PER DAY FOR EACH DAY OF
14 VIOLATION OF THIS PART OR THE RULES PROMULGATED UNDER THIS PART.

15 (3) ANY CIVIL FINE OR REMEDY ASSESSED, SOUGHT, OR AGREED TO
16 BY THE DEPARTMENT SHALL BE APPROPRIATE TO THE VIOLATION.

17 Sec. 32511. (1) A riparian owner may apply to the depart-
18 ment for a certificate suitable for recording indicating the
19 location of his or her lakeward boundary or indicating that the
20 land involved has accreted to his or her property as a result of
21 natural accretions or placement of a lawful, permanent
22 structure. The application shall be accompanied by a fee of
23 ~~\$200.00~~ \$500.00 and proof of upland ownership.

24 (2) THE DEPARTMENT SHALL FORWARD FEES COLLECTED UNDER THIS
25 SECTION TO THE STATE TREASURER FOR DEPOSIT INTO THE LAND AND
26 WATER MANAGEMENT PERMIT FEE FUND CREATED IN SECTION 30113.

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1 Sec. 32512. (1) ~~Unless a permit has been granted by the~~
2 ~~department or authorization has been granted by the legislature,~~
3 ~~or except as to boat wells and slips facilitating private, non-~~
4 ~~commercial, recreational boat use, not exceeding 50 feet in~~
5 ~~length where the spoil is not disposed of below the ordinary~~
6 ~~high-water mark of the body of water to which it is connected, a~~
7 ~~person~~ EXCEPT AS PROVIDED IN SUBSECTION (2) AND AS OTHERWISE
8 PROVIDED IN THIS PART, A PERSON shall not do any of the following
9 WITHOUT A PERMIT FROM THE DEPARTMENT:

10 (a) Construct, dredge, commence, or do any work with respect
11 to an artificial canal, channel, ditch, lagoon, pond, lake, or
12 similar waterway where the purpose is ultimate connection of the
13 waterway with any of the Great Lakes, including Lake St. Clair.

14 (b) Connect any natural or artificially constructed water-
15 way, canal, channel, ditch, lagoon, pond, lake, or similar water-
16 way with any of the Great Lakes, including Lake St. Clair, for
17 navigation or any other purpose.

18 (c) Dredge or place spoil or other material on bottomland OR
19 IN WATERS OF THE GREAT LAKES.

20 (d) Construct a marina.

21 (E) REMOVE NONCOMMERCIAL LOGS FROM THE GREAT LAKES OR
22 BOTTOMLANDS.

23 (2) A PERSON IS NOT REQUIRED TO OBTAIN A PERMIT UNDER THIS
24 PART FOR EITHER OF THE FOLLOWING:

25 (A) SEASONAL, PRIVATE, NONCOMMERCIAL DOCKS AND BOAT HOISTS.

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1 (B) MAINTENANCE OF A STRUCTURE CONSTRUCTED UNDER A PERMIT
2 ISSUED UNDER THIS PART, IF THE MAINTENANCE IS IN PLACE AND IN
3 KIND WITH NO DESIGN OR MATERIALS MODIFICATION.

4 Sec. 32513. (1) Before any work or connection specified in
5 section ~~32512~~ 32512(1) is undertaken, ~~a person~~ AN APPLICANT
6 shall file an application ~~with~~ ON A FORM PROVIDED BY the
7 department ~~of environmental quality~~ setting forth the
8 following:

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

10 (b) The legal description of the lands included in the
11 project.

12 (c) A summary statement of the purpose of the project.

13 (d) A map or diagram showing the proposal on an adequate
14 scale with contours and cross-section profiles of the ~~waterway~~
15 ~~to be constructed~~ PROPOSED WORK.

16 (e) Other information required by the department of environ-
17 mental quality.

18 (2) Except as provided in subsections (3) and (4), an appli-
19 cation for a permit under this section shall be accompanied by a
20 fee according to the following schedule:

21 (a) Until October 1, 2003:

22 (i) For activities included in the minor project category as
23 described in rules promulgated under this part, \$50.00.

24 (ii) For construction or expansion of a marina, a fee of:

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

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1 (B) \$100.00 for a new marina with 1-10 proposed marina
2 slips.

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

5 (D) \$500.00 for a new marina with 11-50 proposed marina
6 slips, plus \$10.00 for each slip over 50.

7 (E) \$1,500.00 if an existing permitted marina proposes main-
8 tenance dredging of 10,000 cubic yards or more or the addition of
9 seawalls, bulkheads, or revetments of 500 feet or more.

10 (iii) For major projects other than a project described in
11 subparagraph (ii)(E), involving any of the following, a fee of
12 \$2,000.00:

13 (A) Dredging of 10,000 cubic yards or more.

14 (B) Filling of 10,000 cubic yards or more.

15 (C) Seawalls, bulkheads, or revetment of 500 feet or more.

16 (D) Filling or draining of 1 acre or more of coastal
17 wetland.

18 (E) New dredging or upland boat basin excavation in areas of
19 suspected contamination.

20 (F) New breakwater or channel jetty.

21 (G) Shore protection, such as groins and underwater stabi-
22 lizers, that extend 150 feet or more on Great Lakes bottomlands.

23 (H) New commercial dock or wharf of 300 feet or more in
24 length.

25 (iv) For all other projects not listed in subparagraphs (i)
26 through (iii), \$500.00.

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1 (b) Beginning October 1, 2003, a fee of \$50.00 for any
2 project listed in subdivision (a).

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

6 (a) Part 301.

7 (b) Part 303.

8 (c) Part 323.

9 (d) Section 3104.

10 (e) Section 117 of the land division act, 1967 PA 288, MCL
11 560.117.

12 (4) If work has been done in violation of a permit require-
13 ment under this part and restoration is not ordered by the
14 department, ~~of environmental quality,~~ the department ~~of envi-~~
15 ~~ronmental quality~~ may accept an application for a permit if the
16 application is accompanied by a fee equal to 2 times the permit
17 fee required under this section.

18 (5) The department ~~of environmental quality~~ shall forward
19 all fees collected under this section to the state treasurer for
20 deposit into the land and water management permit fee fund cre-
21 ated in section 30113.

22 Sec. 32514. ~~Upon~~ EXCEPT FOR ACTIVITIES INCLUDED IN THE
23 MINOR PROJECT CATEGORY AS DESCRIBED IN RULES PROMULGATED UNDER
24 THIS PART, UPON receipt of ~~the~~ A CONVEYANCE OR PERMIT applica-
25 tion, the department shall mail copies to the department of
26 ~~public~~ COMMUNITY health, THE DEPARTMENT OF NATURAL RESOURCES,
27 THE UNITED STATES ARMY CORPS OF ENGINEERS, the clerks of the

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1 county, AND THE city, village, ~~and~~ OR township, and the drain
2 commissioner of the county or, if none, the COUNTY road
3 ~~commissioner~~ COMMISSION of the county, in which the project or
4 body of water affected is located, and to the adjacent riparian
5 owners, accompanied by a statement that unless a written objec-
6 tion is filed with the department within 20 days after the mail-
7 ing of the copies, the department may take action to grant the
8 application. The department may set the application for public
9 hearing. At least 10 days' notice of the hearing shall be given
10 by publication in a newspaper circulated in the county and by
11 mailing copies of the notice to the persons named in this
12 section. IF THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS,
13 THE DEPARTMENT MAY ISSUE A CONDITIONAL PERMIT BEFORE THE EXPIRA-
14 TION OF THE 20-DAY COMMENT PERIOD.

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

25 (1) THE DEPARTMENT SHALL NOT ISSUE A PERMIT UNDER THIS PART
26 UNLESS IT DETERMINES ALL OF THE FOLLOWING:

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1 (A) THAT THE NEED FOR THE PROPOSED WORK HAS BEEN CLEARLY
2 DEMONSTRATED.

3 (B) THAT THE PROPOSED WORK IS WATER DEPENDENT.

4 (C) THAT THE IMPACTS FROM THE PROPOSED WORK, INCLUDING, BUT
5 NOT LIMITED TO, IMPACTS TO THE WATERS, PUBLIC TRUST, NATURAL
6 RESOURCES, NAVIGATION, AND ADJACENT RIPARIAN OWNERS, IS MINIMAL
7 AND MITIGATED TO THE EXTENT PRACTICABLE.

8 (D) THAT NO FEASIBLE AND PRUDENT ALTERNATIVES ARE
9 AVAILABLE. AN ALTERNATIVE IS FEASIBLE AND PRUDENT IF THE ALTER-
10 NATIVE IS PRACTICABLE AND CAPABLE OF BEING DONE WITH EXISTING
11 TECHNOLOGY AND AT A SIMILAR COST OR A REASONABLE COST INCREASE
12 AND THE ALTERNATIVE WOULD HAVE LESS IMPACT ON THE WATERS, PUBLIC
13 TRUST, NATURAL RESOURCES INCLUDING COASTAL PROCESSES, NAVIGATION,
14 AND ADJACENT RIPARIAN PROPERTY OWNERS. THE APPLICANT SHALL
15 DEMONSTRATE THAT, GIVEN ALL PERTINENT INFORMATION, THERE ARE NO
16 FEASIBLE AND PRUDENT ALTERNATIVES THAT HAVE LESS IMPACT ON THE
17 WATERS, PUBLIC TRUST, NATURAL RESOURCES, NAVIGATION, AND ADJACENT
18 RIPARIAN PROPERTY OWNERS.

19 (2) THE DEPARTMENT MAY REQUIRE A PERSON PROPOSING TO UNDER-
20 TAKE AN ACTIVITY THAT REQUIRES A PERMIT UNDER THIS PART TO PRO-
21 VIDE A PERFORMANCE BOND OR OTHER ACCEPTABLE GUARANTEE BEFORE
22 ISSUING A PERMIT FOR PROJECTS WITH THE POTENTIAL FOR SIGNIFICANT
23 IMPACT OR TO ENSURE THE APPLICANT SATISFACTORILY COMPLETES THE
24 PROJECT DURING THE PERIOD OF THE PERMIT. The department may
25 impose further conditions in the permit that it finds reasonably
26 necessary to protect the public health, safety, welfare, trust,
27 and interest, and private rights and property. ~~The existing and~~

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

4 PART 326

5 GREAT LAKES SUBMERGED LOGS RECOVERY

6 SEC. 32601. AS USED IN THIS PART:

7 (A) "BOTTOMLANDS" MEANS THAT TERM AS DEFINED IN SECTION
8 32501.

9 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
10 QUALITY.

11 (C) "FUND" MEANS THE SUBMERGED LOG RECOVERY FUND CREATED IN
12 SECTION 32610.

13 (D) "GREAT LAKES" MEANS LAKE SUPERIOR, LAKE MICHIGAN, LAKE
14 HURON, AND LAKE ERIE, AND INCLUDES LAKE ST. CLAIR.

15 (E) "ORDINARY HIGH-WATER MARK" MEANS THE ELEVATIONS
16 DESCRIBED IN SECTION 32502. WHEN THE SOIL, CONFIGURATION OF THE
17 SURFACE, OR VEGETATION HAS BEEN ALTERED BY HUMAN ACTIVITY, THE
18 ORDINARY HIGH-WATER MARK IS LOCATED WHERE IT WOULD HAVE BEEN IF
19 THIS ALTERATION HAD NOT OCCURRED.

20 (F) "PATENTED LANDS" MEANS ANY BOTTOMLANDS LYING WITHIN A
21 SPECIFIC GOVERNMENT GRANT AREA, INCLUDING A PRIVATE CLAIM PATENT
22 OR FEDERAL PATENT.

23 (G) "RIPARIAN OWNER" MEANS A PERSON WHO OWNS FRONTAGE BOR-
24 DERING GREAT LAKES BOTTOMLANDS.

25 (H) "RIPARIAN RIGHTS" MEANS THOSE RIGHTS THAT ARE ASSOCIATED
26 WITH THE OWNERSHIP OF FRONTAGE BORDERING BOTTOMLANDS, SUBJECT TO
27 THE PUBLIC TRUST.

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1 (I) "SUBMERGED LOG" MEANS A PORTION OF THE TRUNK OF A FELLED
2 TREE THAT HAS NOT BEEN FURTHER PROCESSED FOR ANY END USE AND IS
3 LOCATED ON, IN, OVER, OR UNDER BOTTOMLANDS.

4 (J) "UNPATENTED LANDS" MEANS ALL BOTTOMLANDS EXCEPT SUB-
5 MERGED PATENTED LANDS.

6 SEC. 32602. THIS STATE RESERVES TO ITSELF TITLE AND OWNER-
7 SHIP OF ALL SUBMERGED LOGS LYING ON OR OVER, EMBEDDED IN, OR
8 BURIED UNDER UNPATENTED LANDS.

9 SEC. 32603. (1) EXCEPT FOR THE REMOVAL OF NONCOMMERCIAL
10 LOGS REGULATED UNDER PART 325, A PERSON SHALL OBTAIN A PERMIT
11 FROM THE DEPARTMENT UNDER THIS PART PRIOR TO REMOVING SUBMERGED
12 LOGS FROM BOTTOMLANDS.

13 (2) THE DEPARTMENT MAY ISSUE A PERMIT UNDER THIS PART TO A
14 PERSON FOR THE REMOVAL OF SUBMERGED LOGS FROM SUBMERGED PATENTED
15 LANDS IF PERMISSION IS RECEIVED FROM THE LAWFUL OWNER OF THE SUB-
16 MERGED PATENTED LANDS.

17 (3) A PERSON SHALL NOT RECOVER, ALTER, OR DESTROY ABANDONED
18 PROPERTY AS DEFINED IN PART 761 WHILE ENGAGING IN SUBMERGED LOG
19 REMOVAL OPERATIONS UNDER A SUBMERGED LOG REMOVAL PERMIT ISSUED
20 UNDER THIS PART.

21 SEC. 32604. (1) FOR CALENDAR YEAR 2000, THE DEPARTMENT
22 SHALL ESTABLISH A TIME PERIOD FOR THE SUBMISSION OF APPLICATIONS
23 FOR SUBMERGED LOG REMOVAL PERMITS UNDER THIS PART. BEGINNING IN
24 2001, AND EACH YEAR THEREAFTER, APPLICATIONS SHALL BE SUBMITTED
25 BETWEEN JANUARY 1 AND JANUARY 31 OF EACH CALENDAR YEAR.

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1 (2) AN APPLICATION FOR A SUBMERGED LOG REMOVAL PERMIT SHALL
2 BE SUBMITTED IN WRITING ON A FORM PROVIDED BY THE DEPARTMENT AND
3 SHALL INCLUDE ALL OF THE FOLLOWING:

4 (A) A DESCRIPTION OF THE PROPOSED BOTTOMLAND LOG REMOVAL
5 AREA WITH BOUNDARIES DELINEATED BY A DIGITAL GLOBAL POSITIONING
6 SYSTEM OR OTHER TECHNOLOGY APPROVED BY THE DEPARTMENT. THE PRO-
7 POSED BOTTOMLAND LOG REMOVAL AREA SHALL BE A CONTIGUOUS AREA OF
8 NOT MORE THAN 320 ACRES. THE AREA PROPOSED SHALL BE SQUARE OR
9 RECTANGULAR IN SHAPE, AND THE LENGTH SHALL NOT EXCEED THE WIDTH
10 BY MORE THAN A FACTOR OF 6.

11 (B) A DESCRIPTION OF THE METHODS TO BE USED TO RAISE THE
12 SUBMERGED LOGS, THE TIME OF YEAR DURING WHICH SUBMERGED LOGS WILL
13 BE RAISED, AND THE PROCEDURES TO BE USED FOR TRANSFERRING LOGS TO
14 THE SHORE.

15 (C) IDENTIFICATION OF ANY ADVERSE ENVIRONMENTAL IMPACTS
16 ASSOCIATED WITH THE PROPOSED SUBMERGED LOG REMOVAL METHOD.

17 (D) IDENTIFICATION OF THE STEPS PROPOSED TO MITIGATE ANY
18 ADVERSE ENVIRONMENTAL IMPACTS CAUSED BY THE PROPOSED SUBMERGED
19 LOG REMOVAL OPERATION.

20 (E) OTHER INFORMATION THAT THE DEPARTMENT CONSIDERS NECES-
21 SARY IN EVALUATING A SUBMERGED LOG REMOVAL PERMIT APPLICATION.

22 (F) A \$3,500.00 APPLICATION FEE.

23 (3) AN APPLICATION FOR A SUBMERGED LOG REMOVAL PERMIT IS NOT
24 COMPLETE UNTIL ALL INFORMATION REQUESTED ON THE APPLICATION FORM
25 AND ANY OTHER INFORMATION REQUESTED BY THE DEPARTMENT ARE
26 RECEIVED. THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING
27 WHEN AN APPLICATION IS DEFICIENT. THE APPLICANT SHALL SUBMIT THE

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1 REQUESTED INFORMATION TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE
2 DATE THE NOTICE IS PROVIDED. IF THE APPLICANT FAILS TO RESPOND
3 WITHIN THE 30-DAY PERIOD, THE DEPARTMENT SHALL DENY THE SUBMERGED
4 LOG REMOVAL PERMIT UNLESS THE APPLICANT REQUESTS AND THE DEPART-
5 MENT APPROVES AN EXTENSION OF TIME BASED UPON THE APPLICANT'S
6 REASONABLE JUSTIFICATION FOR THE EXTENSION.

7 (4) APPLICATION FEES RECEIVED UNDER THIS SECTION SHALL BE
8 FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

9 SEC. 32605. UPON RECEIVING A COMPLETE APPLICATION FOR A
10 SUBMERGED LOG REMOVAL PERMIT, THE DEPARTMENT SHALL DO BOTH OF THE
11 FOLLOWING:

12 (A) PLACE THE APPLICATION ON PUBLIC NOTICE FOR A 20-DAY
13 PERIOD FOR REVIEW AND COMMENT.

14 (B) SUBMIT A COPY TO THE DEPARTMENT OF NATURAL RESOURCES AND
15 THE DEPARTMENT OF STATE FOR THEIR REVIEW AND COMMENT.

16 SEC. 32606. (1) THE DEPARTMENT SHALL REVIEW EACH COMPLETE
17 APPLICATION RECEIVED FOR A SUBMERGED LOG REMOVAL PERMIT AND SHALL
18 NOT ISSUE A PERMIT UNLESS THE DEPARTMENT DETERMINES BOTH OF THE
19 FOLLOWING:

20 (A) THAT ANY ADVERSE IMPACTS, INCLUDING, BUT NOT LIMITED TO,
21 IMPACTS TO THE ENVIRONMENT, NATURAL RESOURCES, RIPARIAN RIGHTS,
22 AND THE PUBLIC TRUST ARE MINIMAL AND WILL BE MITIGATED TO THE
23 EXTENT PRACTICABLE.

24 (B) THAT THE PROPOSED ACTIVITY WILL NOT UNREASONABLY AFFECT
25 THE PUBLIC HEALTH, SAFETY, AND WELFARE.

26 (2) THE DEPARTMENT MAY DETERMINE THAT CERTAIN AREAS WITHIN A
27 PROPOSED BOTTOMLAND LOG REMOVAL AREA DESCRIBED IN AN APPLICATION

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1 FOR A SUBMERGED LOG REMOVAL PERMIT SHALL NOT BE AUTHORIZED FOR
2 SUBMERGED LOG REMOVAL BASED UPON ADVERSE IMPACTS, INCLUDING, BUT
3 NOT LIMITED TO, ADVERSE IMPACTS TO THE ENVIRONMENT, NATURAL
4 RESOURCES, RIPARIAN RIGHTS, AND THE PUBLIC TRUST.

5 SEC. 32607. (1) THE DEPARTMENT SHALL NOT AUTHORIZE THE SAME
6 BOTTOMLAND LOG REMOVAL AREA IN MORE THAN 1 SUBMERGED LOG REMOVAL
7 PERMIT AT ANY 1 TIME.

8 (2) THE DEPARTMENT MAY MODIFY THE BOUNDARIES OF A PROPOSED
9 BOTTOMLAND LOG REMOVAL AREA IN A SUBMERGED LOG REMOVAL PERMIT TO
10 AVOID OVERLAPS WITH OTHER ACTIVE SUBMERGED LOG REMOVAL PERMITS OR
11 ADVERSE IMPACTS, INCLUDING, BUT NOT LIMITED TO, IMPACTS TO THE
12 ENVIRONMENT, NATURAL RESOURCES, RIPARIAN RIGHTS, AND THE PUBLIC
13 TRUST.

14 (3) A SUBMERGED LOG REMOVAL PLAN APPROVED BY THE DEPARTMENT
15 SHALL BE INCLUDED IN EACH SUBMERGED LOG REMOVAL PERMIT.

16 (4) A SUBMERGED LOG REMOVAL PERMIT SHALL CONTAIN TERMS AND
17 CONDITIONS THAT ARE DETERMINED BY THE DEPARTMENT TO PROTECT THE
18 ENVIRONMENT, NATURAL RESOURCES, RIPARIAN RIGHTS, AND THE PUBLIC
19 TRUST.

20 (5) THE TERM OF EACH SUBMERGED LOG REMOVAL PERMIT SHALL NOT
21 BE MORE THAN 5 YEARS. WITHIN 6 MONTHS PRIOR TO THE EXPIRATION OF
22 A SUBMERGED LOG REMOVAL PERMIT AND UPON WRITTEN REQUEST OF THE
23 APPLICANT, THE PERMIT MAY, AT THE DISCRETION OF THE DEPARTMENT,
24 BE RENEWED FOR AN ADDITIONAL 2 YEARS UPON PAYMENT OF A \$500.00
25 PROCESSING FEE. PROCESSING FEES RECEIVED UNDER THIS SUBSECTION
26 SHALL BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE
27 FUND.

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1 (6) A SUBMERGED LOG REMOVAL PERMIT ISSUED UNDER THIS SECTION
2 IS NOT TRANSFERRABLE UNLESS APPROVED IN WRITING BY THE
3 DEPARTMENT.

4 (7) AN APPLICANT FOR A SUBMERGED LOG REMOVAL PERMIT SHALL
5 PROVIDE A PERFORMANCE BOND ACCEPTABLE TO THE DEPARTMENT IN THE
6 AMOUNT OF \$100,000.00. THE PERFORMANCE BOND SHALL BE PROVIDED TO
7 THE DEPARTMENT AT LEAST 10 DAYS PRIOR TO BEGINNING SUBMERGED LOG
8 REMOVAL IN A BOTTOMLAND LOG REMOVAL AREA. THE PERFORMANCE BOND
9 SHALL ENSURE COMPLIANCE WITH THE SUBMERGED LOG REMOVAL PERMIT FOR
10 THE PERIOD OF THE PERMIT OR UNTIL THE AUTHORIZED SUBMERGED LOG
11 REMOVAL IS COMPLETED TO THE SATISFACTION OF THE DEPARTMENT AND
12 ALL PAYMENTS UNDER SECTION 32609 HAVE BEEN MADE. THE DEPARTMENT
13 SHALL ISSUE A WRITTEN STATEMENT RELEASING THE PERMITTEE AND BOND-
14 ING COMPANY UPON TERMINATION OF THE SUBMERGED LOG REMOVAL PERMIT
15 AND UPON SATISFACTION OF THE DEPARTMENT AS TO THE COMPLIANCE OF
16 THE PERMITTEE WITH THE TERMS AND CONDITIONS OF THE PERMIT. THE
17 DEPARTMENT MAY DRAW UPON THE PERFORMANCE BOND FOR DELINQUENT PAY-
18 MENTS AS REQUIRED IN SECTION 32609.

19 (8) A PERMITTEE MAY REQUEST, IN WRITING, AND THE DEPARTMENT
20 MAY GRANT, TERMINATION OF A SUBMERGED LOG REMOVAL PERMIT PRIOR TO
21 THE EXPIRATION DATE, INCLUDING RELEASE FROM QUARTERLY REPORTS AND
22 PERFORMANCE BOND REQUIREMENTS.

23 SEC. 32608. (1) THE DEPARTMENT MAY PROMULGATE RULES TO
24 IMPLEMENT THIS PART.

25 (2) THE DEPARTMENT MAY HOLD A PUBLIC HEARING ON AN APPLICA-
26 TION FOR A SUBMERGED LOG REMOVAL PERMIT IF THE DEPARTMENT DESIRES
27 ADDITIONAL INFORMATION BEFORE MAKING A DECISION ON THE PERMIT

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1 APPLICATION, OR UPON REQUEST, IF SUCH REQUEST IS MADE WITHIN THE
2 PUBLIC NOTICE PERIOD.

3 (3) AN APPLICANT FOR A SUBMERGED LOG REMOVAL PERMIT OR A
4 RIPARIAN OWNER WHO IS AGGRIEVED BY AN ACTION OR INACTION OF THE
5 DEPARTMENT UNDER THIS PART MAY REQUEST A FORMAL HEARING ON THE
6 MATTER, PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
7 1969 PA 306, MCL 24.201 TO 24.328, WITHIN 60 DAYS OF THE NOTICE
8 OF THE DEPARTMENT'S DECISION.

9 SEC. 32609. (1) THE STATE RESERVES A PAYMENT OF 2.5 TIMES
10 SAWLOG STUMPAGE VALUE FOR EACH SUBMERGED LOG THAT IS REMOVED FROM
11 UNPATENTED LANDS. AS USED IN THIS SUBSECTION, "SAWLOG STUMPAGE
12 VALUE" MEANS THE MOST RECENT AVERAGE VALUE OF STANDING TIMBER ON
13 STATE FORESTLANDS FOR EACH SPECIES AS DETERMINED AND REPORTED BY
14 THE DEPARTMENT OF NATURAL RESOURCES. HOWEVER, IF A SPECIES IS NO
15 LONGER HARVESTED ON STATE FORESTLANDS, "SAWLOG STUMPAGE VALUE"
16 MEANS THE MOST RECENT HIGHEST VALUE OF ANY SPECIES CURRENTLY
17 BEING HARVESTED ON STATE FORESTLANDS AS DETERMINED AND REPORTED
18 BY THE DEPARTMENT OF NATURAL RESOURCES.

19 (2) THE HOLDER OF A SUBMERGED LOG REMOVAL PERMIT UNDER THIS
20 PART SHALL PROVIDE THE DEPARTMENT WITH A DETAILED REPORT AND ALL
21 PAYMENTS DUE UNDER THIS SECTION WITHIN 30 DAYS AFTER THE CLOSE OF
22 EACH CALENDAR QUARTER. THE REPORT SHALL INCLUDE AN ACCURATE
23 SCALING AT DOCKSIDE OF ALL SUBMERGED LOGS REMOVED, BY SPECIES.
24 THE PERMITTEE SHALL PROVIDE FOR AN INDEPENDENT AGENT, APPROVED BY
25 THE DEPARTMENT IN WRITING, TO CONDUCT THE SCALING AND SPECIES
26 DETERMINATION.

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1 (3) ALL PAYMENTS RECEIVED UNDER THIS SECTION SHALL BE
2 FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

3 (4) AFTER A PERMITTEE IS NOTIFIED IN WRITING THAT A PAYMENT
4 UNDER THIS SECTION IS OVERDUE, THE DEPARTMENT MAY ORDER SUSPEN-
5 SION OF THE SUBMERGED LOG REMOVAL PERMIT UNTIL THE PAYMENT IS
6 SUBMITTED IN FULL. THE PERMITTEE SHALL NOT RESUME SUBMERGED LOG
7 REMOVAL OPERATIONS UNTIL THE DEPARTMENT PROVIDES WRITTEN AUTHORI-
8 ZATION FOR THE OPERATIONS TO RESUME.

9 SEC. 32612. (1) THE DEPARTMENT MAY BRING A CIVIL ACTION
10 AGAINST A PERSON IN THE CIRCUIT COURT OF THE COUNTY IN WHICH A
11 VIOLATION OCCURS OR IN INGHAM COUNTY CIRCUIT COURT TO DO 1 OR
12 MORE OF THE FOLLOWING:

13 (A) ENFORCE COMPLIANCE WITH THIS PART AND THE RULES PROMUL-
14 GATED UNDER THIS PART.

15 (B) RESTRAIN A VIOLATION OF THIS PART OR THE RULES PROMUL-
16 GATED UNDER THIS PART.

17 (C) ENJOIN THE FURTHER PERFORMANCE OF, OR ORDER THE REMOVAL
18 OF, ANY PROJECT THAT IS UNDERTAKEN CONTRARY TO THIS PART OR THE
19 RULES PROMULGATED UNDER THIS PART.

20 (D) ENFORCE A PERMIT ISSUED UNDER THIS PART.

21 (E) ORDER THE RESTORATION OF AN AREA AFFECTED BY A VIOLATION
22 OF THIS PART OR THE RULES PROMULGATED UNDER THIS PART TO ITS
23 PRIOR CONDITION.

24 (2) IN AN ACTION BROUGHT UNDER THIS SECTION, THE CIRCUIT
25 COURT, IN ADDITION TO ANY OTHER RELIEF GRANTED, MAY ASSESS A
26 CIVIL FINE OF NOT MORE THAN \$5,000.00 PER DAY FOR EACH DAY OF
27 VIOLATION OF THIS PART OR THE RULES PROMULGATED UNDER THIS PART.

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1 (3) ANY CIVIL FINE OR REMEDY ASSESSED, SOUGHT, OR AGREED TO
2 BY THE DEPARTMENT SHALL BE APPROPRIATE TO THE VIOLATION.

3 (4) CIVIL FINES RECOVERED UNDER THIS SECTION SHALL BE FOR-
4 WARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

5 SEC. 32613. (1) A PERSON WHO DOES ANY OF THE FOLLOWING IS
6 GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN
7 \$10,000.00 PER DAY FOR EACH DAY OF VIOLATION:

8 (A) VIOLATES THIS PART OR A RULE PROMULGATED UNDER THIS
9 PART.

10 (B) VIOLATES A PERMIT ISSUED UNDER THIS PART.

11 (C) MAKES A FALSE STATEMENT, REPRESENTATION, OR CERTIFICA-
12 TION IN AN APPLICATION FOR OR WITH REGARD TO A PERMIT OR IN A
13 NOTICE OR REPORT REQUIRED BY A PERMIT.

14 (D) RENDERS INACCURATE ANY MONITORING DEVICE OR METHOD
15 REQUIRED TO BE MAINTAINED BY A PERMIT.

16 (2) IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS SEC-
17 TION, A COURT SHALL ORDER A PERSON CONVICTED UNDER THIS SECTION
18 TO RETURN TO THE STATE ANY LOGS REMOVED FROM BOTTOMLANDS IN VIO-
19 LATION OF THIS PART OR THE RULES PROMULGATED UNDER THIS PART, OR
20 TO COMPENSATE THE STATE FOR THE FULL MARKET VALUE OF THE LOGS.
21 IF THE PERSON CONVICTED UNDER THIS SECTION HAD BEEN ISSUED A
22 PERMIT UNDER THIS PART, THE PERMIT IS VOID AS OF THE DATE OF
23 CONVICTION.

24 SEC. 32614. THE DEPARTMENT SHALL ANNUALLY PREPARE AND
25 SUBMIT A REPORT TO THE LEGISLATURE THAT INCLUDES ALL OF THE
26 FOLLOWING:

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1 (A) THE NUMBER OF SUBMERGED LOG REMOVAL APPLICATIONS
2 RECEIVED UNDER THIS PART.

3 (B) THE NUMBER OF SUBMERGED LOG REMOVAL PERMITS ISSUED UNDER
4 THIS PART.

5 (C) THE NUMBER AND BOARD FEET OF SUBMERGED LOGS, BY SPECIES,
6 THAT WERE RECOVERED UNDER THIS PART.

7 (D) THE AMOUNT OF MONEY FROM THE FUND THAT WAS EXPENDED ON
8 ADMINISTRATIVE COSTS OF THE DEPARTMENT, THE DEPARTMENT OF NATURAL
9 RESOURCES, AND THE DEPARTMENT OF STATE UNDER THIS PART.

10 (E) THE AMOUNT OF MONEY FROM THE FUND THAT WAS TRANSFERRED
11 TO THE GREAT LAKES FUND CREATED IN SECTION 32611 AND TO THE
12 FOREST DEVELOPMENT FUND ESTABLISHED UNDER SECTION 50507.

13 (F) AN EVALUATION OF THE FORMULA FOR CALCULATING THE STATE
14 PAYMENT UNDER SECTION 32609 AS TO WHETHER THE FORMULA ADEQUATELY
15 REFLECTS THE TRUE VALUE TO THE STATE OF THE SUBMERGED LOGS.

16 Enacting section 1. This amendatory act does not take
17 effect unless House Bill No. 5690 of the 90th Legislature is
18 enacted into law.