



HOUSE BILL No. 5691

April 27, 2000, Introduced by Reps. Scranton, Birkholz, Godchaux and Shackleton and referred to the Committee on Great Lakes and Tourism.

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.

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

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) "PUBLIC TRUST" MEANS TITLE HELD FOR THE PEOPLE OF THIS
21 STATE, THAT THEY MAY ENJOY THE AIR, WATER, OR OTHER NATURAL
22 RESOURCES AND THE USE OF THE WATERS AND BOTTOMLANDS OF THE GREAT
23 LAKES, CARRY ON COMMERCE ON THESE WATERS AND BOTTOMLANDS, HAVE
24 LIBERTY TO FISH AND RECREATE THEREIN, FREE FROM THE OBSTRUCTION
25 OR INTERFERENCE OF PRIVATE PARTIES. THE PUBLIC TRUST IMPOSES ON
26 THE STATE A PERPETUAL DUTY TO CONSERVE AND PROTECT THE AIR,
27 WATER, AND OTHER NATURAL RESOURCES OF THIS STATE AGAINST

1 POLLUTION, IMPAIRMENT, OR DESTRUCTION, AND SECURE TO ITS PEOPLE
2 THE RIGHTS OF NAVIGATION, FISHING, HUNTING, AND USE OF ITS LANDS
3 AND WATERS FOR OTHER PUBLIC PURPOSES.

4 (O) "RIPARIAN OWNER" MEANS A PERSON WHO OWNS FRONTAGE BOR-
5 DERING BOTTOMLANDS.

6 (P) "RIPARIAN RIGHTS" MEANS THOSE RIGHTS THAT ARE ASSOCIATED
7 WITH THE OWNERSHIP OF FRONTAGE BORDERING BOTTOMLANDS, SUBJECT TO
8 THE PUBLIC TRUST.

9 (Q) "UNPATENTED LANDS" MEANS ALL BOTTOMLANDS EXCEPT PATENTED
10 LANDS.

11 Sec. 32502. The lands covered and affected by this part are
12 all of the unpatented lake bottomlands and unpatented made lands
13 in the Great Lakes, including the bays and harbors of the Great
14 Lakes, belonging to the state or held in trust by it, including
15 those lands that have been artificially filled in. The waters
16 covered and affected by this part are all of the waters of the
17 Great Lakes within the boundaries of the state. This part shall
18 be construed so as to preserve and protect the interests of the
19 general public in the lands and waters described in this section,
20 to provide for the sale, lease, exchange, or other disposition of
21 unpatented lands and the private or public use of waters over
22 patented and unpatented lands ~~, and to permit the filling in of~~
23 ~~patented submerged lands~~ whenever it is determined by the
24 department that the private or public use of those lands and
25 waters will not substantially affect the public use of those
26 lands and waters for hunting, fishing, swimming, pleasure
27 boating, or navigation or that the public trust in the state will

1 not be impaired by those agreements for use, sales, lease, or
2 other disposition. The word "land" or "lands" as used in this
3 part refers to the aforesaid described unpatented lake bottom-
4 lands and unpatented made lands and patented lands in the Great
5 Lakes and the bays and harbors of the Great Lakes lying below and
6 lakeward of the natural ordinary high-water mark, but this part
7 does not affect property rights secured by virtue of a swamp land
8 grant or rights acquired by accretions occurring through natural
9 means or reliction. For purposes of this part, the ordinary
10 high-water mark shall be at the following elevations above sea
11 level, international Great Lakes datum of ~~1955~~ 1985: Lake
12 Superior, ~~601.5~~ 602.6 feet; Lakes Michigan and Huron, ~~579.8~~
13 580.5 feet; Lake St. Clair, ~~574.7~~ 575.3 feet; and Lake Erie,
14 ~~571.6~~ 572.2 feet.

15 Sec. 32503. (1) Except as otherwise provided in this sec-
16 tion, the department, after finding that the public trust in the
17 waters will not be impaired or substantially affected, may enter
18 into agreements pertaining TO UNPATENTED LANDS OR to waters over
19 ~~and the filling in of~~ submerged patented lands, or to lease or
20 deed unpatented lands, after approval of the state administrative
21 board. Quitclaim deeds, leases, or agreements covering unpat-
22 ented lands may be issued or entered into by the department with
23 any person, and shall contain such terms, conditions, and
24 requirements as the department determines to be just and equita-
25 ble and in conformance with the public trust. The department
26 shall reserve to the state all mineral rights, including, but not
27 limited to, coal, oil, gas, sand, gravel, stone, and other

1 materials or products located or found in those lands, except
2 where lands are occupied or to be occupied for residential pur-
3 poses at the time of conveyance.

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

7 (2) ~~(3)~~ The department OF NATURAL RESOURCES shall not
8 enter into a lease or deed of unpatented lands UNDER SECTION 503
9 that ~~permits~~ AUTHORIZES drilling operations for the taking of
10 oil or gas, unless all drilling operations originate from loca-
11 tions above and inland of the ordinary high-water mark. The
12 department OF NATURAL RESOURCES shall not enter into a lease or
13 deed of unpatented lands that ~~permits~~ AUTHORIZES drilling for
14 exploration purposes unless the drilling operations originate
15 from locations above and inland of the ordinary high-water mark.

16 (3) ~~(4)~~ An agreement, lease, or deed entered into under
17 this part by the department with the United States shall be
18 entered into and executed pursuant to the property rights acqui-
19 sition act, ~~Act No. 201 of the Public Acts of 1986, being~~
20 ~~section 3.251 to 3.262 of the Michigan Compiled Laws~~ 1986 PA
21 201, MCL 3.251 TO 3.262.

22 Sec. 32504. (1) ~~Application~~ AN APPLICATION for a ~~deed or~~
23 ~~lease to~~ CONVEYANCE OF unpatented lands or AN agreement for use
24 of water areas over patented lands shall be SUBMITTED on ~~forms~~
25 A FORM provided by the department. An application shall include
26 a surveyed description of the lands or water area applied for,
27 together with a surveyed description of the riparian or littoral

1 property lying adjacent and contiguous to the lands or water
2 area, certified to by a ~~registered land surveyor~~ PROFESSIONAL
3 SURVEYOR AS DEFINED IN SECTION 2001 OF THE OCCUPATIONAL CODE,
4 1980 PA 299, MCL 339.2001. The description shall show the loca-
5 tion of the water's edge at the time it was prepared and other
6 information that is required by the department. The applicant
7 shall be ~~a~~ 1 OR MORE riparian or littoral ~~owner or~~ owners of
8 property touching or situated opposite the unpatented land or
9 water area over patented lands applied for or an occupant of that
10 land. The application shall include the names and mailing
11 addresses of all persons in possession or occupancy or having an
12 interest in the adjacent or contiguous riparian or littoral prop-
13 erty or having riparian or littoral rights or interests in the
14 lands or water areas applied for, and the application shall be
15 accompanied by the written consent of all persons having an
16 interest in the lands or water areas applied for in the
17 application.

18 (2) ~~Before an application is acted upon by the department,~~
19 ~~the applicant shall secure approval of or permission for his or~~
20 ~~her proposed use of such lands or water area from any federal~~
21 ~~agency as provided by law, the department with the advice of the~~
22 ~~Michigan waterways commission,~~ UPON RECEIPT OF AN APPLICATION
23 UNDER SUBSECTION (1), THE DEPARTMENT SHALL NOTIFY THE UNITED
24 STATES ARMY CORPS OF ENGINEERS, THE DEPARTMENT OF NATURAL
25 RESOURCES, and the legislative body of the local unit or units of
26 government within which ~~such~~ THE land or water area is or will
27 be included, or to which it is contiguous or adjacent. ~~A deed,~~

1 ~~lease, or agreement shall not be issued or entered into by the~~
 2 ~~department without such approvals or permission.~~ The department
 3 may also require the applicant to furnish an abstract of title
 4 ~~and ownership, and a 20-year tax history~~ OR TITLE INSURANCE
 5 POLICY on the riparian or littoral property that is contiguous or
 6 adjacent to the lands or water area applied for IN THE
 7 APPLICATION, as well as on the lands applied for, if available.

8 (3) The department shall require the applicant to deposit a
 9 fee of not less than \$50.00 for each application filed. The fee
 10 shall be ~~deposited with~~ FORWARDED TO the state treasurer ~~to~~
 11 ~~the credit of the state's general fund~~ FOR DEPOSIT INTO THE LAND
 12 AND WATER MANAGEMENT PERMIT FEE FUND CREATED IN SECTION 30113.
 13 If a deed, lease, or other agreement is approved by the depart-
 14 ment, the applicant is entitled to credit for the fee against the
 15 consideration that is paid for the deed, lease, or other
 16 agreement.

17 Sec. 32505. (1) If the department determines that it is in
 18 the public interest to grant an applicant a deed or lease to
 19 ~~such~~ THE lands or enter into an agreement to ~~permit~~ AUTHORIZE
 20 use and improvements in the waters or to enter into any other
 21 agreement in regard ~~thereto~~ TO THE LANDS OR WATERS, the depart-
 22 ment shall determine the amount of consideration to be paid to
 23 the state by the applicant for the conveyance ~~or lease~~ of
 24 unpatented lands.

25 ~~(2) The department may permit, by lease or agreement, the~~
 26 ~~filling in of patented and unpatented submerged lands and permit~~

1 ~~permanent improvements and structures after finding that the~~
2 ~~public trust will not be impaired or substantially injured.~~

3 (2) ~~(3) The department may issue deeds or may enter into~~
4 ~~leases if the unpatented lands applied for have been artificially~~
5 ~~filled in or are proposed to be changed from the condition that~~
6 ~~exists on October 14, 1955 by filling, sheet piling, shoring, or~~
7 ~~by any other means, and such lands are used or to be used or~~
8 ~~occupied in whole or in part for uses other than existing, lawful~~
9 ~~riparian or littoral purposes.~~ The consideration to be paid to
10 the state for ~~the conveyance or lease of~~ A DEED TO FILLED,
11 unpatented lands by the applicant shall be not less than the
12 fair, cash market value of the lands determined as of the date of
13 the filing of the application, minus any improvements placed on
14 the lands, but the sale price shall not be less than 30% of the
15 value of the land. In determining the fair, cash market value of
16 the lands applied for, the department may give due consideration
17 to the fact that the lands are connected with the riparian or
18 littoral property belonging to the applicant, and to the uses,
19 including residential and commercial, being made or which can be
20 made of the lands.

21 (3) ~~(4) Agreements for the lands or water area described~~
22 ~~in section 32502 may be granted to or entered into with local~~
23 ~~units of government for public purposes and containing those~~
24 ~~terms and conditions that may be considered just and equitable in~~
25 ~~view of the public trust involved. ~~and may include the granting~~~~
26 ~~of permission to make such fills as may be necessary.~~

1 ~~(5) If the unpatented lands applied for have not been~~
2 ~~filled in or in any way substantially changed from their natural~~
3 ~~character at the time the application is filed with the depart-~~
4 ~~ment, and the application is filed for the purpose of flood con-~~
5 ~~trol, shore erosion control, drainage and sanitation control, or~~
6 ~~to straighten irregular shore lines, then the consideration to be~~
7 ~~paid to the state by the applicant shall be the fair, cash value~~
8 ~~of such land, giving due consideration to its being adjacent to~~
9 ~~and connected with the riparian or littoral property owned by the~~
10 ~~applicant.~~

11 (4) ~~(6)~~ Leases or agreements covering unpatented lands may
12 be granted or entered into with riparian or littoral proprietors
13 for commercial marina purposes or for marinas operated by persons
14 for consideration and containing terms and conditions that are
15 considered by the department to be just and equitable. The
16 leases may include either filled or unfilled lake bottomlands, or
17 both. Rental shall ~~commence~~ BEGIN as of the date of use of the
18 unpatented lands for the marina operations. Dockage and other
19 uses by marinas in waters over patented lands on October 14, 1955
20 shall be considered to be lawful riparian use.

21 (5) ~~(7)~~ If the department after investigation determines
22 that an applicant FOR A CONVEYANCE has willfully and knowingly
23 filled in or in any way substantially changed the lands applied
24 for with an intent to defraud, or if the applicant has acquired
25 ~~such~~ THE lands with knowledge of such a fraudulent intent and
26 is not an innocent purchaser, the sale price shall be the fair,
27 cash market value of the land. An applicant FOR A CONVEYANCE may

1 request a hearing of a determination made under this subsection.

2 The department shall grant a hearing if requested.

3 Sec. 32510. (1) Except as provided in subsection ~~(2)~~ (3),
4 a person who ~~excavates or fills or in any manner alters or modi-~~
5 ~~fies any of the land or waters subject to this part without the~~
6 ~~approval of the department is guilty of a misdemeanor, punishable~~
7 ~~by imprisonment for not more than 1 year or a fine of not more~~
8 ~~than \$1,000.00, or both.~~ DOES ANY OF THE FOLLOWING IS GUILTY OF
9 A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$10,000.00

10 PER DAY FOR EACH DAY OF VIOLATION:

11 (A) VIOLATES THIS PART OR A RULE PROMULGATED UNDER THIS
12 PART.

13 (B) VIOLATES A TERM OR CONDITION OF A PERMIT OR A CONVEYANCE
14 UNDER THIS PART.

15 (C) MAKES A FALSE STATEMENT, REPRESENTATION, OR CERTIFICA-
16 TION IN AN APPLICATION FOR OR WITH REGARD TO A PERMIT OR A CON-
17 VEYANCE UNDER THIS PART OR IN A NOTICE OR REPORT REQUIRED BY A
18 PERMIT OR A CONVEYANCE UNDER THIS PART.

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

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

24 (3) ~~(2)~~ A person who commits a minor offense is guilty of
25 a misdemeanor ~~—~~, punishable by a fine of not more than \$500.00
26 for each violation. A law enforcement officer may issue and
27 serve an appearance ticket upon a person for a minor offense

1 pursuant to sections 9a to 9g of chapter IV of the code of
2 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~
3 ~~being sections 764.9a to 764.9g of the Michigan Compiled Laws~~
4 1927 PA 175, MCL 764.9A TO 764.9G.

5 (4) ~~(3)~~ As used in this section, "minor offense" means
6 either of the following violations of this part if the department
7 determines that restoration of the affected property is not
8 required:

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

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

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

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

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

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

21 (D) 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.

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

3 Sec. 32511. (1) A riparian owner may apply to the depart-
4 ment for a certificate suitable for recording indicating the
5 location of his or her lakeward boundary or indicating that the
6 land involved has accreted to his or her property as a result of
7 natural accretions or placement of a lawful, permanent
8 structure. The application shall be accompanied by a fee of
9 ~~\$200.00~~ \$500.00 and proof of upland ownership.

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

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

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

26 (b) Connect any natural or artificially constructed
27 waterway, canal, channel, ditch, lagoon, pond, lake, or similar

1 waterway with any of the Great Lakes, including Lake St. Clair,
2 for navigation or any other purpose.

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

5 (d) Construct a marina.

6 (E) REMOVE NONCOMMERCIAL LOGS FROM THE GREAT LAKES OR
7 BOTTOMLANDS.

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

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

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

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

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

20 (b) The legal description of the lands included in the
21 project.

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

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

26 (e) Other information required by the department of
27 environmental quality.

1 (2) Except as provided in subsections (3) and (4), an
2 application for a permit under this section shall be accompanied
3 by a fee according to the following schedule:

4 (a) Until October 1, 2003:

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

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

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

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

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

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

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

19 (iii) For major projects other than a project described in
20 subparagraph (ii)(E), involving any of the following, a fee of
21 \$2,000.00:

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

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

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

25 (D) Filling or draining of 1 acre or more of coastal
26 wetland.

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

3 (F) New breakwater or channel jetty.

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

6 (H) New commercial dock or wharf of 300 feet or more in
7 length.

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

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

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

15 (a) Part 301.

16 (b) Part 303.

17 (c) Part 323.

18 (d) Section 3104.

19 (e) Section 117 of the land division act, 1967 PA 288, MCL
20 560.117.

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

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

5 Sec. 32514. ~~Upon~~ EXCEPT FOR ACTIVITIES INCLUDED IN THE
6 MINOR PROJECT CATEGORY AS DESCRIBED IN RULES PROMULGATED UNDER
7 THIS PART, UPON receipt of ~~the~~ A CONVEYANCE OR PERMIT applica-
8 tion, the department shall mail copies to the department of
9 ~~public~~ COMMUNITY health, THE DEPARTMENT OF NATURAL RESOURCES,
10 the clerks of the county, AND THE city, village, ~~and~~ OR town-
11 ship, and the drain commissioner of the county or, if none, the
12 COUNTY road ~~commissioner~~ COMMISSION of the county, in which the
13 project or body of water affected is located, and to the adjacent
14 riparian owners, accompanied by a statement that unless a written
15 objection is filed with the department within 20 days after the
16 mailing of the copies, the department may take action to grant
17 the application. The department may set the application for
18 public hearing. At least 10 days' notice of the hearing shall be
19 given by publication in a newspaper circulated in the county and
20 by mailing copies of the notice to the persons named in this
21 section. IF THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS,
22 THE DEPARTMENT MAY ISSUE A CONDITIONAL PERMIT BEFORE THE EXPIRA-
23 TION OF THE 20-DAY COMMENT PERIOD.

24 Sec. 32515. ~~If the department finds that the project will~~
25 ~~not injure the public trust or interest including fish and game~~
26 ~~habitat, that the project conforms to the requirements of law for~~
27 ~~sanitation, and that no material injury to the rights of any~~

~~1 riparian owners on any body of water affected will result, the
2 department shall issue a permit authorizing enlargement of the
3 waterway affected. The permit shall provide that the artificial
4 waterway shall be a public waterway, except intake or discharge
5 canals or channels on property owned, controlled, and used by a
6 public utility.~~

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

9 (A) THAT THE NEED FOR THE PROPOSED WORK HAS BEEN CLEARLY
10 DEMONSTRATED.

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

12 (C) THAT THE IMPACTS FROM THE PROPOSED WORK, INCLUDING, BUT
13 NOT LIMITED TO, IMPACTS TO THE WATERS, PUBLIC TRUST, NATURAL
14 RESOURCES, NAVIGATION, AND ADJACENT RIPARIAN OWNERS, IS MINIMAL
15 AND MITIGATED TO THE EXTENT PRACTICABLE.

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

1 (2) THE DEPARTMENT MAY REQUIRE A PERSON PROPOSING TO
2 UNDERTAKE AN ACTIVITY THAT REQUIRES A PERMIT UNDER THIS PART TO
3 PROVIDE A PERFORMANCE BOND OR OTHER ACCEPTABLE GUARANTEE BEFORE
4 ISSUING A PERMIT FOR PROJECTS WITH THE POTENTIAL FOR SIGNIFICANT
5 IMPACT OR TO ENSURE THE APPLICANT SATISFACTORILY COMPLETES THE
6 PROJECT DURING THE PERIOD OF THE PERMIT. The department may
7 impose further conditions in the permit that it finds reasonably
8 necessary to protect the public health, safety, welfare, trust,
9 and interest, and private rights and property. ~~The existing and
10 future owners of land fronting on the artificial waterway are
11 liable for maintenance of the waterway in accordance with the
12 conditions of the permit.~~

13

PART 326

14

GREAT LAKES SUBMERGED LOGS RECOVERY

15

SEC. 32601. AS USED IN THIS PART:

16

(A) "BOTTOMLANDS" MEANS THAT TERM AS DEFINED IN SECTION

17

32501.

18

(B) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL

19

QUALITY.

20

(C) "FAIR MARKET VALUE" MEANS THE PRICE BASED UPON THE

21

UNIQUE HISTORICAL AND PHYSICAL PROPERTIES, INCLUDING, BUT NOT

22

LIMITED TO, SPECIES, GROWTH RATES, VOLUME, AND CONDITION OF THE

23

SUBMERGED LOGS AS CALCULATED AT DOCKSIDE FOLLOWING DELIVERY TO

24

SHORE.

25

(D) "FUND" MEANS THE SUBMERGED LOG RECOVERY FUND CREATED IN

26

SECTION 32610.

1 (E) "GREAT LAKES" MEANS LAKE SUPERIOR, LAKE MICHIGAN, LAKE
2 HURON, AND LAKE ERIE, AND INCLUDES LAKE ST. CLAIR.

3 (F) "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 (G) "PATENTED LANDS" MEANS ANY BOTTOMLANDS LYING WITHIN A
9 SPECIFIC GOVERNMENT GRANT AREA, INCLUDING A PRIVATE CLAIM PATENT
10 OR FEDERAL PATENT.

11 (H) "PUBLIC TRUST" MEANS TITLE HELD FOR THE PEOPLE OF THIS
12 STATE, THAT THEY MAY ENJOY THE AIR, WATER, OR OTHER NATURAL
13 RESOURCES AND THE USE OF THE SURFACE WATERS AND BOTTOMLANDS OF
14 THE GREAT LAKES, CARRY ON COMMERCE ON THESE WATERS AND BOTTOM-
15 LANDS, HAVE LIBERTY TO FISH AND RECREATE THEREIN, FREE FROM THE
16 OBSTRUCTION OR INTERFERENCE OF PRIVATE PARTIES. THE PUBLIC TRUST
17 IMPOSES ON THE STATE A PERPETUAL DUTY TO CONSERVE AND PROTECT THE
18 AIR, WATER, AND OTHER NATURAL RESOURCES OF THIS STATE AGAINST
19 POLLUTION, IMPAIRMENT, OR DESTRUCTION, AND SECURE TO ITS PEOPLE
20 THE RIGHTS OF NAVIGATION, FISHING, HUNTING, AND USE OF ITS LANDS
21 AND WATERS FOR OTHER PUBLIC PURPOSES.

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

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

1 (K) "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 (l) "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.

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 LORAN-C, GPS, OR LATITUDE AND
6 LONGITUDE. THE PROPOSED BOTTOMLAND LOG REMOVAL AREA SHALL BE A
7 CONTIGUOUS AREA BETWEEN 40 AND 160 ACRES. THE AREA PROPOSED
8 SHALL BE SQUARE OR RECTANGULAR IN AREA, AND THE LENGTH SHALL NOT
9 EXCEED THE WIDTH BY MORE THAN A FACTOR OF 3.

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

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

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

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

21 (F) A \$4,000.00 APPLICATION FEE.

22 (3) AN APPLICATION FOR A SUBMERGED LOG REMOVAL PERMIT IS NOT
23 COMPLETE UNTIL ALL INFORMATION REQUESTED ON THE APPLICATION FORM
24 AND ANY OTHER INFORMATION REQUESTED BY THE DEPARTMENT ARE
25 RECEIVED. THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING
26 WHEN AN APPLICATION IS DEFICIENT. THE APPLICANT SHALL SUBMIT THE
27 REQUESTED INFORMATION TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE

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

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

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

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

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

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

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

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

25 (2) THE DEPARTMENT MAY DETERMINE THAT CERTAIN AREAS WITHIN A
26 PROPOSED BOTTOMLAND LOG REMOVAL AREA DESCRIBED IN AN APPLICATION
27 FOR A SUBMERGED LOG REMOVAL PERMIT SHALL NOT BE AUTHORIZED FOR

1 SUBMERGED LOG REMOVAL BASED UPON ADVERSE IMPACTS, INCLUDING, BUT
2 NOT LIMITED TO, ADVERSE IMPACTS TO THE ENVIRONMENT, NATURAL
3 RESOURCES, RIPARIAN RIGHTS, AND THE PUBLIC TRUST.

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

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

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

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

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

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 \$100,000.00 PERFORMANCE BOND ACCEPTABLE TO THE DEPART-
6 MENT PRIOR TO ISSUANCE OF A SUBMERGED LOG REMOVAL PERMIT BY THE
7 DEPARTMENT. THE PERFORMANCE BOND SHALL ENSURE COMPLIANCE WITH
8 THE SUBMERGED LOG REMOVAL PERMIT FOR THE PERIOD OF THE PERMIT OR
9 UNTIL THE AUTHORIZED SUBMERGED LOG REMOVAL IS COMPLETED TO THE
10 SATISFACTION OF THE DEPARTMENT AND ALL PAYMENTS UNDER SECTION
11 32609 HAVE BEEN MADE. THE DEPARTMENT SHALL ISSUE A WRITTEN
12 STATEMENT RELEASING THE PERMITTEE AND BONDING COMPANY UPON TERMI-
13 NATION OF THE SUBMERGED LOG REMOVAL PERMIT AND UPON SATISFACTION
14 OF THE DEPARTMENT AS TO THE COMPLIANCE OF THE PERMITTEE WITH THE
15 TERMS AND CONDITIONS OF THE PERMIT. THE DEPARTMENT MAY DRAW UPON
16 THE PERFORMANCE BOND FOR DELINQUENT PAYMENTS AS REQUIRED IN SEC-
17 TION 32609.

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

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

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

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 30% OF THE
10 FAIR MARKET VALUE OF EACH SUBMERGED LOG THAT IS REMOVED FROM
11 UNPATENTED LANDS.

12 (2) THE DEPARTMENT SHALL CONDUCT A STUDY TO DETERMINE THE
13 FAIR MARKET VALUE OF SUBMERGED LOGS AS THE BASIS FOR THE PAYMENTS
14 DESCRIBED IN SUBSECTION (1). THE STUDY SHALL BE COMPLETED WITHIN
15 6 MONTHS AFTER THE EFFECTIVE DATE OF THIS PART. THE STUDY SHALL
16 BE UPDATED AS NECESSARY AS DETERMINED BY THE DEPARTMENT. THE
17 DEPARTMENT MAY CONDUCT THE STUDY OR UPDATES OR ENTER INTO A CON-
18 TRACT WITH A QUALIFIED PERSON TO CONDUCT THE STUDY OR UPDATES.

19 (3) 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 OF ALL SUBMERGED LOGS REMOVED, BY SPECIES. THE PERMITTEE
24 SHALL PROVIDE FOR AN INDEPENDENT AGENT, APPROVED BY THE DEPART-
25 MENT IN WRITING, TO CONDUCT THE SCALING AND SPECIES
26 DETERMINATION.

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

3 (5) 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.

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 Enacting section 1. This amendatory act does not take
25 effect unless Senate Bill No. _____ or House Bill No. 5690
26 (request no. 03252'99 *) of the 90th Legislature is enacted into
27 law.