

HOUSE BILL No. 6564

November 10, 2010, Introduced by Rep. Scripps and referred to the Committee on Energy and Technology.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 30113 (MCL 324.30113), as amended by 2006 PA
496, and by adding section 32504b and part 324.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

the amount of money in the fund.

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

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

(a) Sections 3104, 3107, and 3108.

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

(c) Part 303.

(d) Part 315.

(e) Part 323.

(F) PART 324.

(G) ~~(f)~~ Part 325.

(H) ~~(g)~~ Part 339.

(I) ~~(h)~~ Part 353.

(J) ~~(i)~~ Section 117 of the land division act, 1967 PA 288, MCL 560.117.

(5) The department shall annually report to the legislature how money in the fund was expended during the previous fiscal year.

PART 324 OFFSHORE WIND ENERGY FACILITIES

SEC. 32401. AS USED IN THIS ACT:

(A) "ABANDONED PROPERTY" MEANS THAT TERM AS DEFINED IN SECTION 76101.

(B) "ADVISORY COUNCIL" MEANS THE OFFSHORE WIND ADVISORY COUNCIL CREATED IN SECTION 32469.

(C) "AQUATIC ENVIRONMENT" MEANS THE PHYSICAL, CHEMICAL,

1 ATMOSPHERIC, AND BIOLOGICAL COMPONENTS, CONDITIONS, AND FACTORS
2 THAT INTERACTIVELY DETERMINE THE PRODUCTIVITY, STATE, CONDITION,
3 AND QUALITY OF THE AQUATIC ECOSYSTEM OF THE GREAT LAKES.

4 (D) "BOTTOMLANDS" MEANS LANDS IN THE GREAT LAKES LYING BELOW
5 AND LAKEWARD OF THE NATURAL ORDINARY HIGH-WATER MARK.

6 (E) "CATEGORICAL EXCLUSION AREA" MEANS AN AREA IDENTIFIED BY
7 THE DEPARTMENT UNDER SECTION 32415(1) OR (2).

8 (F) "COMMERCIAL ACTIVITIES" MEANS SITE ASSESSMENT ACTIVITIES,
9 CONSTRUCTION OF AN OFFSHORE WIND ENERGY FACILITY, COMMERCIAL
10 OPERATIONS, AND DECOMMISSIONING.

11 (G) "COMMERCIAL OPERATIONS" MEANS ALL ACTIVITIES LOCATED ON OR
12 IN UNPATENTED BOTTOMLANDS OR ABOVE, ON, IN, OR UNDER WATERS OF THE
13 GREAT LAKES ASSOCIATED WITH THE GENERATION, STORAGE, OR
14 TRANSMISSION OF ELECTRICITY OR OTHER ENERGY PRODUCT FROM AN
15 EXISTING OFFSHORE WIND ENERGY FACILITY, FOR DISTRIBUTION, SALE, OR
16 OTHER COMMERCIAL USE.

17 (H) "CONDITIONAL AREA" MEANS AN AREA IDENTIFIED BY THE
18 DEPARTMENT UNDER SECTION 32415(3) OR (4).

19 (I) "CONSTRUCTION AND OPERATIONS PERMIT" MEANS A PERMIT FOR
20 CONSTRUCTION OF AN OFFSHORE WIND ENERGY FACILITY AND COMMERCIAL
21 OPERATIONS REQUIRED UNDER SECTION 32437.

22 SEC. 32403. AS USED IN THIS PART:

23 (A) "DECOMMISSIONING" MEANS REMOVAL OF STRUCTURES AUTHORIZED
24 UNDER A CONSTRUCTION AND OPERATIONS PERMIT AND RESTORATION OF
25 LEASED BOTTOMLANDS AND WATERS TO THEIR PRELEASE CONDITION.

26 "DECOMMISSION" HAS A CORRESPONDING MEANING. DECOMMISSIONING DOES
27 NOT INCLUDE THE REPLACEMENT OF PORTIONS OF AN EXISTING OFFSHORE

1 WIND ENERGY FACILITY.

2 (B) "DECOMMISSIONING PERMIT" MEANS A PERMIT REQUIRED UNDER
3 SECTION 32453.

4 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES AND
5 ENVIRONMENT.

6 (D) "ELECTRIC SERVICE PLATFORM" MEANS AN OFFSHORE TRANSFORMER
7 USED TO INCREASE THE VOLTAGE OF ELECTRICITY FROM A WIND TURBINE.

8 (E) "EXPORT CABLE" MEANS AN OFFSHORE CABLE THAT TRANSMITS
9 ELECTRICITY FROM AN ELECTRIC SERVICE PLATFORM TO A TRANSMISSION
10 LINE.

11 (F) "GREAT LAKES" MEANS LAKE SUPERIOR, LAKE MICHIGAN, LAKE
12 HURON, AND LAKE ERIE AND INCLUDES THE CONNECTING WATER, LAKE ST.
13 CLAIR, AND THE BAYS AND HARBORS OF ANY OF THESE LAKES.

14 (G) "GRID CELL" MEANS AN AREA BOUNDED BY LINES OF 1-MINUTE
15 INTERVALS OF LATITUDE AND LONGITUDE.

16 (H) "GROSS REVENUE" MEANS THE TOTAL AMOUNT OF MONEY OR OTHER
17 CONSIDERATION RECEIVED BY A LESSEE OR AN AFFILIATED PARTY, UNDER
18 ANY AGREEMENT, SETTLEMENT, OR JUDGMENT, FOR THE SALE, USE, OR OTHER
19 DISPOSITION OF ELECTRICITY OR OTHER ENERGY PRODUCT GENERATED OR
20 CAPABLE OF BEING GENERATED AT THE LEASED SITE.

21 (I) "INTERTURBINE CABLE" MEANS AN OFFSHORE CABLE THAT
22 TRANSMITS ELECTRICITY FROM 1 OR MORE WIND TURBINES TO AN ELECTRIC
23 SERVICE PLATFORM.

24 SEC. 32405. AS USED IN THIS ACT:

25 (A) "LEASE" MEANS A CONVEYANCE FROM THIS STATE UNDER SECTION
26 32423 OF A LEASEHOLD INTEREST IN UNPATENTED BOTTOMLANDS AND WATERS
27 ABOVE UNPATENTED BOTTOMLANDS FOR PURPOSES OF COMMERCIAL ACTIVITIES.

1 (B) "LESSEE" MEANS THE LEASEHOLDER, INCLUDING A DEPARTMENT-
2 APPROVED ASSIGNEE. WHEN DESCRIBING THE CONDUCT REQUIRED OF PARTIES
3 ENGAGED IN ACTIVITIES AT THE LEASED SITE, LESSEE ALSO INCLUDES THE
4 OPERATOR AND ALL PERSONS AUTHORIZED BY THE LEASEHOLDER OR OPERATOR
5 TO CONDUCT ACTIVITIES AT THE LEASED SITE. WHEN USED IN REFERENCE TO
6 DECOMMISSIONING, AFTER THE LEASE HAS TERMINATED, LESSEE MEANS THE
7 FORMER LEASEHOLDER AND INCLUDES ALL PERSONS AUTHORIZED BY THE
8 FORMER LEASEHOLDER TO CONDUCT DECOMMISSIONING AT THE FORMER LEASED
9 SITE.

10 (C) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, TOWNSHIP, CITY,
11 OR VILLAGE.

12 (D) "MEDC" MEANS THE MICHIGAN ECONOMIC DEVELOPMENT
13 CORPORATION, THE PUBLIC BODY CORPORATE CREATED UNDER SECTION 28 OF
14 ARTICLE VII OF THE STATE CONSTITUTION OF 1963 AND THE URBAN
15 COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO
16 124.512, BY A CONTRACTUAL INTERLOCAL AGREEMENT EFFECTIVE APRIL 5,
17 1999, AND SUBSEQUENTLY AMENDED, BETWEEN LOCAL PARTICIPATING
18 ECONOMIC DEVELOPMENT CORPORATIONS FORMED UNDER THE ECONOMIC
19 DEVELOPMENT CORPORATIONS ACT, 1974 PA 338, MCL 125.1601 TO
20 125.1636, AND THE MICHIGAN STRATEGIC FUND CREATED UNDER SECTION 5
21 OF THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270, MCL 125.2005.

22 (E) "MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY" MEANS THE
23 PUBLIC BODY CREATED BY SECTION 21 OF THE STATE HOUSING DEVELOPMENT
24 AUTHORITY ACT OF 1966, 1966 PA 346, MCL 125.1421.

25 (F) "MILE" MEANS A STATUTE MILE.

26 (G) "MPSC" MEANS THE MICHIGAN PUBLIC SERVICE COMMISSION
27 CREATED UNDER SECTION 1 OF 1939 PA 3, MCL 460.1.

1 SEC. 32407. AS USED IN THIS PART:

2 (A) "OFFSHORE WIND ENERGY FACILITY" MEANS ANY ELECTRICAL
3 ENERGY PRODUCING WIND TURBINES CONNECTED TO THE ELECTRIC POWER GRID
4 BY TRANSMISSION LINES AND PERMANENTLY OR TEMPORARILY ATTACHED TO
5 UNPATENTED BOTTOMLANDS, INCLUDING ANY ASSOCIATED STRUCTURES SUCH AS
6 SUPPORT TOWERS, PERMANENTLY MOORED VESSELS, INTERTURBINE CABLES,
7 ELECTRIC SERVICE PLATFORMS, AND EXPORT CABLES, BUT NOT INCLUDING
8 TRANSMISSION LINES. ANY GROUP OF SUCH INSTALLATIONS THAT INCLUDES A
9 PRIMARY INSTALLATION WITH 1 OR MORE SECONDARY INSTALLATIONS IS A
10 SINGLE OFFSHORE WIND ENERGY FACILITY FOR PURPOSES OF THIS ACT
11 UNLESS THE DEPARTMENT DETERMINES THAT THE COMPLEXITY OF THE
12 SECONDARY INSTALLATIONS JUSTIFIES THEIR CLASSIFICATION AS 1 OR MORE
13 SEPARATE OFFSHORE WIND ENERGY FACILITIES.

14 (B) "OPERATOR" MEANS THE LEGAL ENTITY HAVING CONTROL OR
15 MANAGEMENT OF ACTIVITIES AT THE LEASED SITE. THE OPERATOR MAY BE
16 THE LESSEE OR A CONTRACTOR DESIGNATED BY THE LESSEE UNDER THIS
17 PART.

18 (C) "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, CORPORATION,
19 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

20 (D) "REGIONAL PLANNING COMMISSION" MEANS THE REGIONAL PLANNING
21 COMMISSION OR COUNCIL OF GOVERNMENTS REPRESENTING A STATE PLANNING
22 AND DEVELOPMENT REGION CREATED BY EXECUTIVE DIRECTIVE NO. 1968-1,
23 AS AMENDED.

24 (E) "SITE ASSESSMENT ACTIVITIES" MEANS ANY OF THE FOLLOWING:

25 (i) ACTIVITIES THAT UTILIZE STRUCTURES AND ARE CONDUCTED TO
26 CHARACTERIZE A SITE FOR THE DEVELOPMENT OF AN OFFSHORE WIND ENERGY
27 FACILITY, SUCH AS LIMNOLOGICAL, METEOROLOGICAL, OR GEOPHYSICAL

1 RESOURCE ASSESSMENT SURVEYS.

2 (ii) REMOVAL OF STRUCTURES AUTHORIZED UNDER A SITE ASSESSMENT
3 PERMIT AND RESTORATION OF LEASED BOTTOMLANDS AND WATERS TO THEIR
4 PRELEASE CONDITION.

5 (F) "SITE ASSESSMENT PERMIT" MEANS A PERMIT FOR SITE
6 ASSESSMENT ACTIVITIES REQUIRED UNDER SECTION 32427(1).

7 (G) "STRUCTURE" MEANS ANY EQUIPMENT OR MAN-MADE STRUCTURE
8 PLACED ON, PLACED IN, OR SECURED TO THE BOTTOMLANDS, OTHER THAN A
9 TEMPORARILY MOORED VESSEL.

10 (H) "TRANSMISSION LINE" MEANS AN ONSHORE ELECTRICAL LINE AND
11 RELATED EQUIPMENT USED TO TRANSFER ELECTRICITY FROM AN EXPORT CABLE
12 TO THE ELECTRIC GRID AT SYSTEM BULK SUPPLY VOLTAGE OF 100 KILOVOLTS
13 OR MORE.

14 (I) "UTILITY LINE" MEANS ANY OF THE FOLLOWING NOT RELATED TO
15 THE SPECIFIC OFFSHORE WIND ENERGY FACILITY IN QUESTION:

16 (i) A TELECOMMUNICATIONS LINE.

17 (ii) AN OIL, GAS, OR OTHER PIPELINE.

18 (iii) AN ELECTRIC POWER LINE.

19 (J) "VIOLATION OF THIS PART" MEANS A VIOLATION OF THIS PART OR
20 A RULE PROMULGATED, A LEASE ENTERED, A PLAN APPROVED, A PERMIT OR
21 OTHER APPROVAL GRANTED, OR AN ORDER ISSUED UNDER THIS PART.

22 "VIOLATE THIS PART" HAS A CORRESPONDING MEANING.

23 SEC. 32409. (1) TO MINIMIZE DELAY AND DUPLICATION, WHILE
24 ADDRESSING THE UNIQUE MANAGEMENT CONCERNS OF THIS STATE, THE
25 DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO COORDINATE LEASING,
26 PERMITTING, AND OTHER REGULATORY PROCESSES UNDER THIS PART WITH
27 APPLICABLE REGULATORY PROCESSES OF INDIAN TRIBES, OTHER STATE

1 AGENCIES, INCLUDING THE MPSC, AND OTHER FEDERAL AGENCIES, INCLUDING
2 THE FEDERAL AVIATION ADMINISTRATION, THE FEDERAL COMMUNICATIONS
3 COMMISSION, THE UNITED STATES COAST GUARD, THE UNITED STATES
4 DEPARTMENT OF HOMELAND SECURITY, AND THE UNITED STATES ARMY CORPS
5 OF ENGINEERS. COORDINATION INCLUDES USE OF THE SAME APPLICATIONS AS
6 REQUIRED BY OTHER STATE OR FEDERAL AGENCIES, USE OF INFORMATION
7 FROM REPORTS, ANALYSES, ENVIRONMENTAL IMPACT STATEMENTS,
8 ENVIRONMENTAL ASSESSMENTS, AND OTHER DOCUMENTS AS REQUIRED BY SUCH
9 AGENCIES, AND HOLDING HEARINGS JOINTLY WITH SUCH AGENCIES.

10 (2) THE DEPARTMENT, ADVISORY COUNCIL, A REGIONAL PLANNING
11 COMMISSION, OR OTHER ENTITIES MAY CONSOLIDATE MEETINGS, HEARINGS,
12 AND NOTICES UNDER THIS PART RELATING TO DIFFERENT PARCELS OF
13 BOTTOMLANDS IF THE REQUIREMENTS OF THIS PART ARE OTHERWISE MET.

14 (3) THE MEDC, IN CONSULTATION WITH OTHER RELEVANT STATE
15 AGENCIES, SHALL PREPARE AND POST ON ITS WEBSITE A CHECKLIST OF
16 STATE LEASES, PERMITS, AND OTHER AGREEMENTS OR APPROVALS THAT ARE
17 REQUIRED UNDER STATE LAW FOR COMMERCIAL ACTIVITIES. THE CHECKLIST
18 SHALL DESIGNATE THE AGENCY WITH JURISDICTION OVER EACH AGREEMENT
19 AND APPROVAL, INFORMATION REQUIRED TO BE SUBMITTED TO THE AGENCY,
20 AND A TIMELINE FOR PROVIDING THE INFORMATION.

21 SEC. 32411. (1) SUBJECT TO SECTION 32504B, A PERSON SHALL NOT
22 CONDUCT SITE ASSESSMENT ACTIVITIES EXCEPT AS AUTHORIZED BY A LEASE
23 AND A SITE ASSESSMENT PERMIT. A PERSON SHALL REMOVE SITE ASSESSMENT
24 STRUCTURES AS REQUIRED BY THE SITE ASSESSMENT PERMIT.

25 (2) A PERSON SHALL NOT CONSTRUCT OR OPERATE AN OFFSHORE WIND
26 ENERGY FACILITY OR ENGAGE IN COMMERCIAL OPERATIONS EXCEPT AS
27 AUTHORIZED BY A LEASE AND A CONSTRUCTION AND OPERATIONS PERMIT.

1 (3) A LESSEE SHALL REMOVE OFFSHORE WIND ENERGY FACILITY
2 STRUCTURES WHEN REQUIRED UNDER SECTION 32453, AND AS REQUIRED BY A
3 DECOMMISSIONING PERMIT.

4 (4) A PERMIT UNDER THIS PART ALSO SERVES AS BOTH OF THE
5 FOLLOWING:

6 (A) A WATER QUALITY CERTIFICATE AS REQUIRED UNDER SECTION 401
7 OF TITLE IV OF THE FEDERAL WATER POLLUTION CONTROL ACT, 33 USC
8 1341.

9 (B) A COASTAL ZONE MANAGEMENT CONSISTENCY DETERMINATION UNDER
10 SECTION 307 OF THE COASTAL ZONE MANAGEMENT ACT OF 1972, 16 USC
11 1456.

12 (5) A PERSON IS NOT REQUIRED TO BE A LITTORAL LANDOWNER TO
13 NOMINATE A PARCEL FOR LEASE AUCTION, PARTICIPATE IN A LEASE
14 AUCTION, ENTER A LEASE, OR APPLY FOR A PERMIT UNDER THIS PART.

15 SEC. 32413. (1) THE DEPARTMENT SHALL APPROVE A PARCEL FOR
16 LEASE AUCTION, ENTER A LEASE, OR APPROVE A SITE ASSESSMENT,
17 CONSTRUCTION AND OPERATIONS, OR DECOMMISSIONING PERMIT APPLICATION
18 IF ACTIVITIES AND STRUCTURES AUTHORIZED UNDER THE LEASE OR PERMIT
19 WILL SATISFY ALL OF THE FOLLOWING REQUIREMENTS:

20 (A) PROVIDE FOR THE PROTECTION OF THE PUBLIC HEALTH, SAFETY,
21 AND WELFARE.

22 (B) NOT RESULT IN SIGNIFICANT ADVERSE EFFECTS ON CULTURAL
23 RESOURCES, NATURAL RESOURCES, THE ENVIRONMENT, OR THE PUBLIC TRUST
24 IN THE BOTTOMLANDS AND WATERS OF THE GREAT LAKES, AND ANY ADVERSE
25 EFFECTS WILL BE MITIGATED TO THE EXTENT REASONABLE AND PRACTICABLE.

26 (C) NOT INTERFERE WITH ACTIVITIES OR STRUCTURES ALREADY
27 AUTHORIZED UNDER THIS PART.

1 (D) MEET ANY OTHER APPLICABLE REQUIREMENTS OF THIS PART AND
2 RULES PROMULGATED UNDER THIS PART, INCLUDING, BUT NOT LIMITED TO,
3 FINANCIAL ASSURANCE REQUIREMENTS UNDER SECTION 32449, IF
4 APPLICABLE.

5 (2) THE DEPARTMENT MAY MODIFY A LEASE NOMINATION OR IMPOSE
6 REASONABLE TERMS AND CONDITIONS IN A LEASE OR PERMIT ISSUED UNDER
7 THIS PART TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION
8 (1) AND OTHER APPLICABLE PROVISIONS OF THIS PART OR RULES
9 PROMULGATED UNDER THIS PART.

10 SEC. 32415. (1) NOT MORE THAN 90 DAYS AFTER THE EFFECTIVE DATE
11 OF THIS SECTION, THE DEPARTMENT SHALL IDENTIFY AND MAP AREAS OF THE
12 GREAT LAKES THAT ARE NOT SUITABLE FOR OFFSHORE WIND ENERGY
13 FACILITIES BECAUSE THOSE AREAS ARE USED OR DEDICATED FOR USE UNDER
14 STATE OR FEDERAL LAW FOR AIDS TO NAVIGATION, BUOYED NAVIGATION
15 CHANNELS, MILITARY OPERATION AREAS, UTILITY LINES, OR OTHER
16 CONFLICTING USES OR ARE NECESSARY TO PROVIDE BUFFERS FOR THOSE USES
17 OR FOR AIRPORTS.

18 (2) THE DEPARTMENT SHALL CONSULT WITH THE UNITED STATES COAST
19 GUARD, THE UNITED STATES DEPARTMENT OF DEFENSE, THE FEDERAL
20 AVIATION ADMINISTRATION, THE DEPARTMENT OF MILITARY AND VETERANS
21 AFFAIRS, AND REPRESENTATIVES OF THE TELECOMMUNICATIONS, OIL, GAS,
22 AND ELECTRIC TRANSMISSION INDUSTRIES AS APPLICABLE IN MAKING
23 DETERMINATIONS OF CATEGORICAL EXCLUSION AREAS. AT LEAST ONCE EVERY
24 3 YEARS, THE DEPARTMENT SHALL UPDATE THE CATEGORICAL EXCLUSION
25 AREAS USING THE LATEST AVAILABLE INFORMATION.

26 (3) NOT MORE THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THIS
27 SECTION, THE DEPARTMENT SHALL IDENTIFY AND MAP AREAS OF THE GREAT

1 LAKES THAT MAY BE SUITABLE FOR OFFSHORE WIND ENERGY FACILITIES BUT
2 THAT INCLUDE 1 OR MORE POTENTIALLY COMPETING FEATURES OR USES OR
3 ARE NECESSARY TO PROVIDE BUFFERS FOR SUCH FEATURES OR USES. THE
4 FOLLOWING ARE AMONG POTENTIALLY COMPETING FEATURES OR USES FOR THE
5 PURPOSES OF THIS SUBSECTION AND ASSOCIATED BUFFER DISTANCES:

6 (A) ZONE OF HIGH BIOLOGICAL PRODUCTIVITY--3 MILES.

7 (B) HABITAT NECESSARY TO THE CONSERVATION OF RARE SPECIES OF
8 WILDLIFE, INCLUDING ELEMENT OCCURRENCES OF STATE-LISTED ENDANGERED
9 OR THREATENED SPECIES AND CRITICAL HABITAT FOR FEDERALLY LISTED
10 ENDANGERED OR THREATENED SPECIES, OTHER THAN PLANTS--5 MILES.

11 (C) LOCATION OF GLOBALLY OR CONTINENTALLY SIGNIFICANT
12 CONCENTRATION OF BIRD OR BAT SPECIES OF CONSERVATION CONCERN AS
13 IDENTIFIED USING NATIONALLY OR INTERNATIONALLY RECOGNIZED CRITERIA-
14 -5 MILES.

15 (D) LOCATION OF VERY HIGH CONCENTRATION OF BIRDS OR BATS ON AT
16 LEAST A SEASONAL BASIS, INCLUDING SIGNIFICANT STOPOVER LOCATION,
17 OFFSHORE WATERFOWL FORAGING AREA, DOCUMENTED MIGRATION OR TRAVEL
18 CORRIDOR, NESTING LOCATION OF COLONIAL BIRDS, OR FLIGHT ROUTE INTO
19 BAT HIBERNACULA--5 MILES.

20 (E) RECREATIONAL FISH SPAWNING SITE OR REFUGE AS DOCUMENTED BY
21 STATE OR FEDERAL AUTHORITIES WHERE FISH SPAWNING OCCURS FOR
22 SENSITIVE SPECIES OR SPECIES OF RECOVERY--1 MILE.

23 (F) TRIBAL AND NONTRIBAL LICENSED FISHING SITE BASED ON
24 REPORTED FISH HARVEST LOCATIONS--0.5 MILE.

25 (G) A FACILITY OR AREA SPECIFICALLY DESIGNATED FOR THE
26 DISPOSAL OF CONTAMINATED DREDGED SEDIMENT--0.5 MILE.

27 (H) NATIONAL PARK LAKESHORE AS IDENTIFIED BY THE UNITED STATES

1 DEPARTMENT OF THE INTERIOR--13 MILES.

2 (I) STATE-RECOGNIZED AND MAPPED SHIPWRECK SITE--0.5 MILE.

3 (J) STATE UNDERWATER PRESERVE, INCLUDING THUNDER BAY NATIONAL
4 MARINE SANCTUARY.

5 (K) STATE-RECOGNIZED UNDERWATER AREA OF ARCHEOLOGICAL
6 SIGNIFICANCE--0.5 MILE.

7 (L) LEGAL BOUNDARY WITH ANOTHER STATE OR PROVINCE--0.5 MILE,
8 UNLESS THE OFFSHORE WIND ENERGY FACILITY IS APPROVED BY THE OTHER
9 STATE OR PROVINCE.

10 (M) SHIPPING LANE THROUGH OPEN WATER PRIMARILY USED FOR
11 COMMERCIAL SHIPPING TRAFFIC AND NOTED ON THE MOST RECENT NAUTICAL
12 CHART ISSUED BY THE NATIONAL OCEANIC AND ATMOSPHERIC
13 ADMINISTRATION, UNITED STATES DEPARTMENT OF COMMERCE--1 MILE ON
14 EACH SIDE OF THE SHIPPING LANE.

15 (4) AT LEAST ONCE EVERY 3 YEARS, THE DEPARTMENT SHALL UPDATE
16 THE CONDITIONAL AREAS UNDER SUBSECTION (3) USING THE LATEST
17 AVAILABLE INFORMATION.

18 (5) THIS PART DOES NOT PROHIBIT AN EXPORT CABLE FROM BEING
19 LOCATED IN A CATEGORICAL EXCLUSION AREA, IN A CONDITIONAL AREA, OR
20 WITHIN A SPECIFIED DISTANCE FROM SHORELINE.

21 SEC. 32417. (1) THE DEPARTMENT SHALL AWARD LEASES OF PARCELS
22 OF UNPATENTED BOTOMLANDS FOR OFFSHORE WIND ENERGY FACILITIES BY
23 PUBLIC AUCTION. THE DEPARTMENT SHALL NOT SELECT A PARCEL OF
24 BOTOMLANDS FOR LEASE AUCTION UNLESS THE PARCEL HAS BEEN NOMINATED
25 FOR LEASE. A PARCEL OF BOTOMLANDS MAY BE NOMINATED FOR LEASE BY 1
26 OF THE FOLLOWING:

27 (A) THE DEPARTMENT, PURSUANT TO SUBSECTION (4).

1 (B) A PRIVATE PARTY, PURSUANT TO SUBSECTION (5).

2 (C) A COUNTY, PURSUANT TO SUBSECTIONS (6) AND (7).

3 (2) THE DEPARTMENT SHALL ESTABLISH 30-DAY TIME PERIODS FOR THE
4 SUBMISSION OF NOMINATIONS. THE FIRST NOMINATION PERIOD SHALL BEGIN
5 NOT MORE THAN 180 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.
6 SUBSEQUENT NOMINATION PERIODS SHALL BEGIN AT TIMES DETERMINED BY
7 THE DEPARTMENT BASED ON DEMAND. NOT LESS THAN 90 DAYS BEFORE A
8 NOMINATION PERIOD BEGINS, THE DEPARTMENT SHALL SEND NOTICE OF THE
9 NOMINATION PERIOD BY FIRST-CLASS MAIL TO THE COUNTY CLERK OF EACH
10 COUNTY WITH SHORELINE ON THE GREAT LAKES. THE DEPARTMENT SHALL ALSO
11 POST A NOTICE OF THE NOMINATION PERIOD ON ITS WEBSITE BEGINNING NOT
12 LESS THAN 90 DAYS BEFORE THE NOMINATION PERIOD BEGINS. A NOTICE
13 UNDER THIS SUBSECTION SHALL SPECIFY THE NOMINATION PERIOD AND SET
14 FORTH NOMINATION REQUIREMENTS AND PROCEDURES.

15 (3) A NOMINATION BY A PRIVATE PARTY OR COUNTY SHALL BE
16 SUBMITTED TO THE DEPARTMENT, AND A NOMINATION BY THE DEPARTMENT
17 SHALL BE PLACED ON FILE IN THE DEPARTMENT, IN WRITING ON A FORM
18 DEVELOPED BY THE DEPARTMENT. A NOMINATION SHALL INCLUDE A DETAILED
19 DESCRIPTION OF THE PARCEL BASED UPON A GRID CELL MAP PRODUCED BY
20 THE DEPARTMENT. A NOMINATION BY A PRIVATE PARTY OR COUNTY SHALL BE
21 ACCOMPANIED BY A NONREFUNDABLE FEE OF \$0.25 PER ACRE. IF A
22 NOMINATION BY A PRIVATE PARTY OR COUNTY IS NOT COMPLETE, OR IS
23 SUBMITTED BEFORE THE NOMINATION PERIOD BEGINS OR AFTER THE
24 NOMINATION PERIOD HAS ENDED, THE DEPARTMENT SHALL RETURN THE
25 NOMINATION.

26 (4) THE DEPARTMENT SHALL NOMINATE PARCELS OF BOTTOMLANDS FOR
27 LEASE. A PARCEL THAT IS IN A CATEGORICAL EXCLUSION AREA OR A

1 CONDITIONAL AREA OR IS LESS THAN 6 MILES FROM ANY GREAT LAKES
2 SHORELINE IS NOT ELIGIBLE TO BE NOMINATED UNDER THIS SUBSECTION.

3 (5) A PRIVATE PARTY THAT IS QUALIFIED UNDER SECTION 32421 MAY
4 NOMINATE A PARCEL OF BOTTOMLANDS FOR LEASE. A PARCEL THAT IS IN A
5 CATEGORICAL EXCLUSION AREA OR IS LESS THAN 6 MILES FROM ANY
6 SHORELINE IN THIS STATE IS NOT ELIGIBLE TO BE NOMINATED FOR LEASE
7 UNDER THIS SUBSECTION.

8 (6) IF ALL OR PART OF A PARCEL OF BOTTOMLANDS IS LESS THAN 6
9 MILES FROM THE SHORELINE OF 1 OR MORE COUNTIES IN THIS STATE, THE
10 PARCEL MAY BE NOMINATED FOR LEASE BY A RESOLUTION APPROVED BY THE
11 COUNTY BOARD OF COMMISSIONERS OF EACH SUCH COUNTY. A PARCEL THAT IS
12 IN A CATEGORICAL EXCLUSION AREA OR IS LESS THAN 3 MILES FROM ANY
13 GREAT LAKES SHORELINE IS NOT ELIGIBLE TO BE NOMINATED FOR LEASE
14 UNDER THIS SUBSECTION. BEFORE ADOPTING A RESOLUTION UNDER THIS
15 SUBSECTION, THE COUNTY BOARD OF COMMISSIONERS SHALL SUBMIT THE
16 PROPOSED RESOLUTION TO THE COUNTY PLANNING COMMISSION FOR ITS
17 RECOMMENDATIONS. IF THE COUNTY DOES NOT HAVE A PLANNING COMMISSION,
18 THE PROPOSED RESOLUTION SHALL BE REFERRED TO THE REGIONAL PLANNING
19 COMMISSION. THE PLANNING COMMISSION SHALL HOLD A PUBLIC MEETING ON
20 THE PROPOSAL. THE PLANNING COMMISSION SHALL PUBLISH NOTICE OF THE
21 MEETING IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY NOT
22 LESS THAN 20 DAYS BEFORE THE MEETING. COMMENTS MAY BE SUBMITTED AT
23 THE MEETING OR MAY BE SUBMITTED TO THE PLANNING COMMISSION IN
24 WRITING OR BY ELECTRONIC MAIL AT ANY TIME NOT LATER THAN 15 DAYS
25 AFTER THE MEETING. THE NOTICE SHALL INCLUDE OR DESCRIBE ALL OF THE
26 FOLLOWING:

27 (A) THE TIME, DATE, AND PLACE, AND PURPOSE OF THE MEETING.

1 (B) THE OPPORTUNITY TO SUBMIT WRITTEN COMMENTS TO THE PLANNING
2 COMMISSION IN WRITING OR BY ELECTRONIC MAIL AT ANY TIME NOT LATER
3 THAN 15 DAYS AFTER THE DATE OF THE MEETING, AND THE POSTAL AND
4 ELECTRONIC MAIL ADDRESS FOR SUBMITTING COMMENTS.

5 (7) NOT MORE THAN 60 DAYS AFTER RECEIPT OF THE PROPOSED
6 RESOLUTION, THE PLANNING COMMISSION SHALL SUBMIT TO THE COUNTY
7 BOARD OF COMMISSIONERS ITS RECOMMENDATIONS ON THE PROPOSED
8 NOMINATION IN WRITING TOGETHER WITH A SUMMARY OF WRITTEN COMMENTS
9 RECEIVED DURING THE TIME PERIOD SPECIFIED IN SUBSECTION (6) (B).
10 AFTER RECEIPT OF THE RECOMMENDATIONS AND COMMENTS OF THE PLANNING
11 COMMISSION OR EXPIRATION OF THE 60-DAY PERIOD, WHICHEVER OCCURS
12 FIRST, THE COUNTY BOARD OF COMMISSIONERS MAY MODIFY THE PROPOSED
13 RESOLUTION AND SHALL CONDUCT A PUBLIC HEARING ON THE PROPOSED
14 RESOLUTION. AFTER THE PUBLIC HEARING, THE COUNTY BOARD OF
15 COMMISSIONERS MAY ADOPT THE RESOLUTION NOMINATING THE PARCEL WITH
16 OR WITHOUT MODIFICATIONS. IF THE RESOLUTION IS ADOPTED, THE COUNTY
17 CLERK SHALL PROMPTLY SUBMIT A COPY OF THE RESOLUTION TO THE
18 DEPARTMENT.

19 (8) TWO OR MORE PLANNING COMMISSIONS OR 2 OR MORE COUNTY
20 BOARDS OF COMMISSIONERS MAY HOLD JOINT MEETINGS OR HEARINGS UNDER
21 SUBSECTION (6) OR (7), RESPECTIVELY.

22 SEC. 32419. (1) NOT MORE THAN 45 DAYS AFTER THE CLOSE OF THE
23 PERIOD UNDER SECTION 32417 DURING WHICH A PARCEL IS NOMINATED FOR
24 LEASE AUCTION, THE DEPARTMENT SHALL HOLD A PUBLIC HEARING ON THE
25 NOMINATION AND THE TERMS AND CONDITIONS OF A LEASE. THE HEARING
26 SHALL BE HELD IN THE COUNTY NEAREST TO THE NOMINATED PARCEL. THE
27 DEPARTMENT SHALL PUBLISH A NOTICE OF THE HEARING AND A COMMENT

1 PERIOD IN A NEWSPAPER OF GENERAL CIRCULATION IN THAT COUNTY AND
2 SEND NOTICE BY FIRST-CLASS MAIL TO THE CLERK OF EACH LOCAL UNIT OF
3 GOVERNMENT WITH ANY GREAT LAKES SHORELINE LESS THAN 12 MILES OF THE
4 NOMINATED PARCEL NOT LESS THAN 30 DAYS BEFORE THE HEARING. THE
5 DEPARTMENT SHALL ALSO POST A NOTICE OF THE HEARING AND COMMENT
6 PERIOD ON ITS WEBSITE BEGINNING NOT LESS THAN 30 DAYS BEFORE THE
7 HEARING. THE LAST DAY OF THE COMMENT PERIOD IS 15 DAYS AFTER THE
8 HEARING. COMMENTS SHALL BE SUBMITTED IN WRITING OR BY ELECTRONIC
9 MAIL, EXCEPT THAT COMMENTS AT THE HEARING MAY BE SUBMITTED ORALLY.

10 (2) A NOTICE UNDER SUBSECTION (1) SHALL INCLUDE OR DESCRIBE
11 ALL OF THE FOLLOWING:

12 (A) THE TIME, DATE, AND PLACE, AND PURPOSE OF THE HEARING.

13 (B) THE OPPORTUNITY TO SUBMIT COMMENTS TO THE DEPARTMENT IN
14 WRITING OR BY ELECTRONIC MAIL AT ANY TIME NOT MORE THAN 15 DAYS
15 AFTER THE DATE OF THE HEARING, AND THE POSTAL AND ELECTRONIC MAIL
16 ADDRESS FOR SUBMITTING COMMENTS.

17 (C) STANDARD LEASE TERMS AND CONDITIONS, INCLUDING, BUT NOT
18 LIMITED TO, THOSE DESCRIBED IN SECTION 32425(A) TO (E).

19 (D) SPECIFIC LEASE TERMS AS DESCRIBED IN SECTION 32425(F).

20 (E) LEASE AUCTION DETAILS, INCLUDING ALL OF THE FOLLOWING:

21 (i) APPLICATION AND BIDDING PROCEDURES AND INSTRUCTIONS.

22 (ii) MINIMUM BID.

23 (3) NOT MORE THAN 45 DAYS AFTER THE PUBLIC HEARING UNDER
24 SUBSECTION (1), THE DEPARTMENT SHALL SUBMIT TO THE CHAIRPERSON OF
25 THE ADVISORY COUNCIL A COPY OF THE NOMINATION, A COPY OR TRANSCRIPT
26 OF EACH PUBLIC COMMENT RECEIVED UNDER SUBSECTION (1), A SUMMARY OF
27 THE COMMENTS, AND THE DEPARTMENT'S RESPONSES TO THE COMMENTS. NOT

1 MORE THAN 45 DAYS AFTER THE DEPARTMENT SUBMITS THIS INFORMATION TO
2 THE CHAIRPERSON OF THE ADVISORY COUNCIL, THE ADVISORY COUNCIL SHALL
3 REVIEW THE INFORMATION AND SUBMIT TO THE DEPARTMENT RECOMMENDATIONS
4 REGARDING APPROVAL, MODIFICATION, OR REJECTION OF THE NOMINATION
5 AND THE TERMS AND CONDITIONS OF A LEASE.

6 (4) THE DEPARTMENT SHALL PREPARE A SUMMARY OF THE DEPARTMENT'S
7 RESPONSES TO THE ADVISORY COUNCIL'S RECOMMENDATIONS. AFTER THE
8 SUMMARY IS PREPARED AND NOT MORE THAN 45 DAYS AFTER RECEIPT OF THE
9 ADVISORY COUNCIL'S RECOMMENDATIONS, THE DEPARTMENT SHALL APPROVE OR
10 DISAPPROVE A NOMINATED PARCEL FOR AUCTION. THE DEPARTMENT SHALL
11 APPROVE THE PARCEL IF THE REQUIREMENTS OF SECTION 32413 ARE MET.
12 THE DEPARTMENT MAY APPROVE THE PARCEL WITH MODIFICATIONS NECESSARY
13 TO MEET SUCH REQUIREMENTS.

14 SEC. 32421. (1) THE DEPARTMENT SHALL AWARD LEASES BY ORAL
15 AUCTION TO THE QUALIFIED BIDDER MAKING THE HIGHEST BID.

16 (2) AFTER APPROVAL OF A NOMINATED PARCEL TO BE AUCTIONED FOR
17 LEASE, THE DEPARTMENT SHALL PUBLISH A PUBLIC NOTICE OF THE LEASE
18 AUCTION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY NEAREST
19 THE PARCEL NOT LESS THAN 45 DAYS BEFORE THE SCHEDULED AUCTION. THE
20 DEPARTMENT SHALL ALSO POST A NOTICE OF THE AUCTION ON ITS WEBSITE
21 BEGINNING NOT LESS THAN 45 DAYS BEFORE THE AUCTION. THE NOTICES
22 UNDER THIS SUBSECTION SHALL INCLUDE OR DESCRIBE ALL OF THE
23 FOLLOWING:

24 (A) THE INFORMATION LISTED IN SECTION 32419(2)(C) TO (E).

25 (B) PROCEDURES FOR AWARDED A LEASE AND HANDLING UNSUCCESSFUL
26 APPLICATIONS OR BIDS.

27 (C) THE OFFICIAL DEPARTMENT LEASE FORM TO BE USED OR A

1 REFERENCE TO THAT FORM.

2 (3) ONLY 1 DESIGNATED INDIVIDUAL MAY BID ON BEHALF OF A
3 PARTICIPANT IN A LEASE AUCTION.

4 (4) TO QUALIFY AS A PARTICIPANT IN A LEASE AUCTION OR A LESSEE
5 UNDER THIS PART, A PERSON SHALL MEET ALL OF THE FOLLOWING
6 REQUIREMENTS:

7 (A) DEMONSTRATE TECHNICAL AND FINANCIAL CAPABILITY TO
8 CONSTRUCT, OPERATE, MAINTAIN, AND REMOVE PROJECTS FOR WHICH THE
9 PERSON IS REQUESTING AUTHORIZATION. DOCUMENTATION MAY INCLUDE THE
10 FOLLOWING:

11 (i) DESCRIPTIONS OF INTERNATIONAL OR DOMESTIC EXPERIENCE WITH
12 RENEWABLE ENERGY PROJECTS OR OTHER TYPES OF ELECTRIC ENERGY
13 PROJECTS.

14 (ii) INFORMATION ESTABLISHING THE ABILITY TO RAISE CAPITAL
15 SUFFICIENT TO CARRY OUT TERMS AND CONDITIONS DESCRIBED IN SECTION
16 32429(8) .

17 (iii) OTHER RELEVANT INFORMATION REQUIRED BY THE DEPARTMENT.

18 (B) DEMONSTRATE THE ABILITY TO OBTAIN AND MAINTAIN FINANCIAL
19 ASSURANCE AND LIABILITY INSURANCE UNDER SECTION 32449.

20 (C) UNLESS THE PERSON IS AN INDIVIDUAL, SUBMIT EVIDENCE
21 ACCEPTABLE TO THE DEPARTMENT THAT ALL OF THE FOLLOWING REQUIREMENTS
22 ARE MET:

23 (i) THE PERSON IS AUTHORIZED TO CONDUCT BUSINESS UNDER THE LAWS
24 OF THIS STATE.

25 (ii) THE PERSON IS AUTHORIZED TO HOLD A LEASE UNDER ITS
26 PARTNERSHIP AGREEMENT, ARTICLES OF INCORPORATION, OR OTHER
27 ORGANIZATIONAL DOCUMENTS.

1 (iii) AN INDIVIDUAL BIDDING FOR A LEASE OR SIGNING A LEASE,
2 ASSIGNMENT, OR PERMIT UNDER THIS PART ON BEHALF OF THE PERSON IS
3 AUTHORIZED TO BIND THE PERSON WHEN CONDUCTING BUSINESS WITH THIS
4 STATE.

5 (5) INFORMATION REQUIRED UNDER SUBSECTION (4) MUST BE RECEIVED
6 BY THE DEPARTMENT AT LEAST 30 DAYS BEFORE THE LEASE AUCTION. THE
7 DEPARTMENT SHALL ASSIGN A UNIQUE CODE TO EACH PROSPECTIVE LEASE
8 AUCTION PARTICIPANT UPON ACCEPTANCE OF THE INFORMATION AND SHALL
9 ACKNOWLEDGE THE SUFFICIENCY OF THE SUBMITTAL IN WRITING.

10 (6) A LEASE OR PERMIT UNDER THIS PART SHALL COVER ONLY 1
11 OFFSHORE WIND ENERGY FACILITY.

12 SEC. 32423. (1) A SUCCESSFUL LEASE AUCTION PARTICIPANT SHALL
13 PAY THE FULL AMOUNT BID AT THE CONCLUSION OF THE AUCTION. THE
14 AMOUNT BID SHALL BE PAID IN CASH OR BY CASHIER'S CHECK, CERTIFIED
15 CHECK, OR MONEY ORDER PAYABLE TO THE STATE OF MICHIGAN. THE
16 DEPARTMENT SHALL FORWARD THE PAYMENT TO THE STATE TREASURER FOR
17 DEPOSIT IN THE LAND AND WATER MANAGEMENT PERMIT FEE FUND. IF A
18 SUCCESSFUL LEASE AUCTION PARTICIPANT FAILS TO TIMELY PAY THE TOTAL
19 AMOUNT DUE UNDER THIS SUBSECTION, THE PERSON FORFEITS THE LEASE
20 RIGHTS SUCCESSFULLY BID UPON.

21 (2) IF THE DEPARTMENT ACCEPTS A BID, THE DEPARTMENT SHALL
22 PREPARE AND OBTAIN STATE ADMINISTRATIVE BOARD APPROVAL OF THE
23 LEASE. THE DEPARTMENT SHALL THEN SEND THE SUCCESSFUL LEASE AUCTION
24 PARTICIPANT 3 COPIES OF THE APPROVED UNEXECUTED LEASE.

25 (3) NOT MORE THAN 21 DAYS AFTER THE SUCCESSFUL LEASE AUCTION
26 PARTICIPANT RECEIVES THE UNEXECUTED LEASE COPIES, THE LEASE AUCTION
27 PARTICIPANT SHALL EXECUTE THE COPIES AND FILE THEM WITH THE

1 DEPARTMENT ALONG WITH A CERTIFICATE OF INSURANCE AND EVIDENCE OF
2 FINANCIAL ASSURANCE AS DESCRIBED UNDER SECTION 32449.

3 (4) THE LEASE AUCTION PARTICIPANT SHALL FORFEIT THE AMOUNT BID
4 AND THE RIGHT, SUBJECT TO SUBSECTION (8), TO ENTER THE LEASE IF THE
5 PARTICIPANT FAILS TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION
6 (3), APPLICABLE LEASE AUCTION OR LEASE EXECUTION RULES, OR TERMS
7 SET FORTH IN THE LEASE AUCTION NOTICE UNDER SECTION 32419. IN THE
8 EVENT OF FORFEITURE UNDER THIS SUBSECTION, THE DEPARTMENT SHALL
9 PROCEED UNDER SECTION 32421 TO HOLD ANOTHER LEASE AUCTION FOR THE
10 SUBJECT PARCEL, AND THE PERSON SUBJECT TO THE FORFEITURE IS NOT
11 ELIGIBLE TO PARTICIPATE IN THE NEW AUCTION FOR THAT PARCEL.

12 (5) THE DEPARTMENT MAY EXTEND THE TIME PERIOD UNDER SUBSECTION
13 (3) IF THE DEPARTMENT DETERMINES THAT THE LEASE AUCTION PARTICIPANT
14 HAS DEMONSTRATED SUFFICIENT CAUSE FOR THE DELAY.

15 (6) SUBJECT TO SUBSECTION (4), UPON RECEIPT OF THE ITEMS
16 REQUIRED UNDER SUBSECTION (3), THE DEPARTMENT SHALL EXECUTE THE
17 LEASE AND SEND THE LESSEE 1 FULLY EXECUTED COPY.

18 (7) NOT MORE THAN 45 DAYS AFTER THE LESSEE RECEIVES THE FULLY
19 EXECUTED LEASE COPY UNDER SUBSECTION (6), THE LESSEE SHALL PAY THE
20 FIRST YEAR'S RENT AS PROVIDED IN SECTION 32447.

21 (8) THE DEPARTMENT MAY WITHDRAW A PARCEL FOR WHICH THE
22 DEPARTMENT HAS HELD A LEASE AUCTION BEFORE THE SUCCESSFUL LEASE
23 AUCTION PARTICIPANT AND THE DEPARTMENT EXECUTE THE LEASE. IF THE
24 DEPARTMENT EXERCISES THIS RIGHT, THE DEPARTMENT SHALL REFUND THE
25 AMOUNT BID, WITHOUT INTEREST, AND PROVIDE THE SUCCESSFUL LEASE
26 AUCTION PARTICIPANT WITH A WRITTEN EXPLANATION FOR THE WITHDRAWAL.

27 SEC. 32425. A LEASE SHALL PROVIDE FOR AT LEAST ALL OF THE

1 FOLLOWING:

2 (A) THE LEASE IS FOR COMMERCIAL ACTIVITIES.

3 (B) THE LESSEE SHALL NOT CONDUCT SITE ASSESSMENT ACTIVITIES
4 UNDER THE LEASE EXCEPT PURSUANT TO THE TERMS OF A SITE ASSESSMENT
5 PERMIT.

6 (C) THE LESSEE SHALL NOT CONSTRUCT OR OPERATE AN OFFSHORE WIND
7 ENERGY FACILITY UNDER THE LEASE EXCEPT PURSUANT TO THE TERMS OF A
8 CONSTRUCTION AND OPERATIONS PERMIT.

9 (D) THE TERM OF THE LEASE IS 30 YEARS, SUBJECT TO EXTENSION
10 UNDER SECTION 32463 AND PROVISIONS OF THIS PART PROVIDING FOR
11 SUSPENSION OR EARLY TERMINATION OF THE LEASE.

12 (E) RENT AND ROYALTY PAYMENTS PURSUANT TO SECTION 32447.

13 (F) A DETAILED DESCRIPTION OF THE PARCEL BASED UPON A GRID
14 CELL MAP PRODUCED BY THE DEPARTMENT.

15 (G) SITE-SPECIFIC LEASE STIPULATIONS.

16 (H) SUCH OTHER TERMS, CONDITIONS, AND REQUIREMENTS AS THE
17 DEPARTMENT DETERMINES TO BE JUST AND EQUITABLE AND IN CONFORMANCE
18 WITH THE REQUIREMENTS OF SECTION 32413.

19 SEC. 32427. (1) A PERSON SHALL NOT CONDUCT SITE ASSESSMENT
20 ACTIVITIES EXCEPT PURSUANT TO THE TERMS OF A PERMIT ISSUED BY THE
21 DEPARTMENT. TO OBTAIN A SITE ASSESSMENT PERMIT, A LESSEE SHALL
22 SUBMIT AN APPLICATION TO THE DEPARTMENT ON A FORM PROVIDED BY THE
23 DEPARTMENT. THE APPLICATION SHALL BE ACCOMPANIED BY A NONREFUNDABLE
24 FEE OF \$5,000.00.

25 (2) IF THE LESSEE REQUESTS A PREAPPLICATION MEETING WITH THE
26 DEPARTMENT, THE DEPARTMENT SHALL MEET WITH THE LESSEE OR ITS
27 REPRESENTATIVES TO REVIEW PROPOSED SITE ASSESSMENT ACTIVITIES OR A

1 PROPOSED SITE ASSESSMENT PERMIT APPLICATION.

2 (3) BEFORE SUBMITTING A SITE ASSESSMENT PERMIT APPLICATION, A
3 LESSEE SHALL HOLD AT LEAST 1 PUBLIC MEETING TO PROVIDE INFORMATION
4 AND RECEIVE PUBLIC COMMENT ON THE PROPOSED APPLICATION. THE MEETING
5 SHALL BE HELD AT THE EXPENSE OF THE APPLICANT, IN THE COUNTY
6 NEAREST TO THE LEASED SITE. COMMENTS MAY BE SUBMITTED AT THE
7 MEETING OR MAY BE SUBMITTED TO THE LESSEE IN WRITING OR BY
8 ELECTRONIC MAIL AT ANY TIME THROUGH 30 DAYS AFTER THE MEETING. THE
9 LESSEE SHALL PUBLISH A NOTICE OF THE MEETING AND COMMENT PERIOD IN
10 A NEWSPAPER OF GENERAL CIRCULATION IN THAT COUNTY NOT LESS THAN 20
11 DAYS BEFORE THE MEETING. THE LESSEE SHALL ALSO POST A NOTICE OF THE
12 MEETING AND COMMENT PERIOD ON ITS WEBSITE, IF ANY, BEGINNING NOT
13 LESS THAN 20 DAYS BEFORE THE MEETING. THE NOTICES SHALL ALSO
14 INCLUDE OR DESCRIBE ALL OF THE FOLLOWING:

15 (A) THE PURPOSE OF THE COMMENT PERIOD.

16 (B) THE OPPORTUNITY TO SUBMIT COMMENTS TO THE APPLICANT IN
17 WRITING OR ELECTRONICALLY AT ANY TIME THROUGH THE EXPIRATION OF THE
18 COMMENT PERIOD AND THE POSTAL AND ELECTRONIC MAIL ADDRESS FOR
19 SUBMITTING COMMENTS.

20 (4) A SITE ASSESSMENT PERMIT APPLICATION SHALL BE SUBMITTED
21 NOT MORE THAN 180 DAYS AFTER THE DEPARTMENT EXECUTES THE LEASE. IF
22 THE LESSEE FAILS TO TIMELY SUBMIT FOR A SITE ASSESSMENT PERMIT
23 APPLICATION, THE LEASE IS TERMINATED, AND THE RENT PAYMENT FOR THE
24 FIRST YEAR OF THE LEASE SHALL NOT BE REFUNDED.

25 (5) A SITE ASSESSMENT PERMIT APPLICATION SHALL INCLUDE ALL OF
26 THE FOLLOWING:

27 (A) A SUMMARY OF PUBLIC COMMENTS RECEIVED UNDER SUBSECTION (3)

1 AND THE LESSEE'S RESPONSES TO THOSE COMMENTS.

2 (B) BASELINE PHYSICAL CHARACTERIZATION SURVEYS, OR PLANS FOR
3 SUCH SURVEYS, SUCH AS GEOLOGICAL AND GEOPHYSICAL SURVEYS OR HAZARD
4 SURVEYS, TO IDENTIFY BOTTOM TYPE (SUCH AS MUD, SAND, SILT, BEDROCK,
5 OR ROCK OUTCROPPINGS), POTENTIAL SEDIMENT TRANSPORT, APPROPRIATE
6 SEDIMENT TESTING AND DISPOSAL, AS NECESSARY, OR OTHER RELEVANT
7 PHYSICAL CHARACTERISTICS IN THE PROPOSED LOCATION OF ANY STRUCTURE
8 PROPOSED FOR SITE ASSESSMENT PURPOSES.

9 (C) BASELINE BIOLOGICAL SURVEYS, OR PLANS FOR SUCH SURVEYS,
10 SUCH AS FISH AND WILDLIFE MONITORING STUDIES, USING RADAR, SIDE-
11 SCAN SONAR, SUB-BOTTOM PROFILER, MAGNETOMETER, OR OTHER MEANS AS
12 REQUIRED BY THE DEPARTMENT TO CHARACTERIZE BIOLOGICAL RESOURCES,
13 INCLUDING, BUT NOT LIMITED TO, BAT AND BIRD USE, THREATENED AND
14 ENDANGERED SPECIES AND ASSOCIATED HABITAT, BENTHIC COMMUNITIES, AND
15 VEGETATION, AT THE LEASED SITE IN GENERAL AND SPECIFICALLY IN THE
16 PROPOSED LOCATION OF ANY STRUCTURE PROPOSED FOR SITE ASSESSMENT
17 PURPOSES.

18 (D) BASELINE ARCHAEOLOGICAL SURVEYS, OR PLANS FOR SUCH
19 SURVEYS, USING SIDE-SCAN SONAR, SUB-BOTTOM PROFILER, MAGNETOMETER,
20 OR OTHER MEANS AS REQUIRED BY THE DEPARTMENT TO IDENTIFY CULTURAL,
21 HISTORICAL, AND ARCHAEOLOGICAL SITES, INCLUDING ABANDONED PROPERTY
22 AT THE LEASED SITE IN GENERAL AND SPECIFICALLY IN THE PROPOSED
23 LOCATION OF ANY STRUCTURE PROPOSED FOR SITE ASSESSMENT PURPOSES.

24 (E) THE SURFACE LOCATION, SUCH AS GLOBAL POSITIONING SYSTEM
25 COORDINATES, OF EACH HUMAN-MADE OBJECT CURRENTLY LOCATED ON THE
26 BOTTOMLANDS AND EACH STRUCTURE PROPOSED TO BE LOCATED ON THE
27 BOTTOMLANDS DURING SITE ASSESSMENT AND THE ESTIMATED WATER DEPTH AT

1 THAT LOCATION.

2 (F) GENERAL STRUCTURAL AND PROJECT DESIGN, FABRICATION, AND
3 INSTALLATION INFORMATION FOR EACH TYPE OF STRUCTURE ASSOCIATED WITH
4 SITE ASSESSMENT ACTIVITIES AND THE LOCATION OF EACH SUCH STRUCTURE
5 ON THE MOST RECENT NAUTICAL CHART ISSUED BY THE NATIONAL OCEANIC
6 AND ATMOSPHERIC ADMINISTRATION, UNITED STATES DEPARTMENT OF
7 COMMERCE OR GRID CELL MAP PRODUCED BY THE DEPARTMENT.

8 (G) SITE ASSESSMENT ACTIVITIES AND OBJECTIVES, AND A PROPOSED
9 SCHEDULE OF SITE ASSESSMENT ACTIVITIES FROM START TO COMPLETION.

10 (H) COMPETING USE SURVEYS THAT IDENTIFY THE CURRENT USES IN
11 THE VICINITY OF THE PROPOSED STRUCTURES ASSOCIATED WITH SITE
12 ASSESSMENT ACTIVITIES AND THE LOCATION OF THE USES. SUCH USES MAY
13 INCLUDE, BUT ARE NOT LIMITED TO, COMMERCIAL, TREATY, AND
14 RECREATIONAL FISHING, WATER INTAKES OR OUTFALLS, UTILITY LINES,
15 MILITARY USES, SHIPPING LANES, FERRY ROUTES, RECREATIONAL BOATING
16 COURSES, DESIGNATED REFUGES, BOTTOMLAND PRESERVES, AND SPECIAL
17 MANAGEMENT AREAS.

18 (I) ENVIRONMENTAL PROTECTION FEATURES OR MEASURES THE LESSEE
19 WILL USE DURING SITE ASSESSMENT ACTIVITIES.

20 (J) A PLAN TO REMOVE SITE ASSESSMENT STRUCTURES AND RESTORE
21 LEASED BOTTOMLANDS AND WATERS TO THEIR PRELEASE CONDITION. A
22 REMOVAL PLAN SHALL BE PREPARED BY A LICENSED PROFESSIONAL ENGINEER
23 AND PROVIDE FOR ALL OF THE FOLLOWING:

24 (i) AN IMPLEMENTATION SCHEDULE FOR ALL REMOVAL AND RESTORATION
25 ACTIVITIES.

26 (ii) REMOVAL OF THE STRUCTURES PERMITTED UNDER THIS PART FROM
27 ALL BOTTOMLANDS AND WATERS. HOWEVER, A SITE ASSESSMENT PERMIT MAY

1 AUTHORIZE A STRUCTURE THAT HAS A CONTINUING BENEFICIAL USE TO
2 REMAIN IN PLACE FOLLOWING SITE ASSESSMENT ACTIVITIES.

3 (iii) MINIMIZING BOTTOMLAND DISTURBANCES AND SUSPENDED SEDIMENTS
4 DURING REMOVAL OF STRUCTURES.

5 (iv) AS NECESSARY, APPROPRIATE SEDIMENT TESTING AND DISPOSAL.

6 (v) MONITORING THE EFFECTS OF REMOVAL ON THE AQUATIC
7 ENVIRONMENT BOTH DURING AND SUBSEQUENT TO REMOVAL.

8 (vi) AN ESTIMATE OF THE TOTAL REMOVAL COST, WITHOUT REGARD TO
9 SALVAGE VALUE OF THE STRUCTURES, AND THE NET REMOVAL COST AFTER
10 DEDUCTING SALVAGE VALUE.

11 (K) A SAFETY PLAN TO PROTECT THE PUBLIC FROM EVENTS SUCH AS
12 ELECTROCUTION; COLLISIONS OF AIRCRAFT OR VESSELS WITH CONSTRUCTION
13 EQUIPMENT OR PERMITTED STRUCTURES; ENTANGLEMENT OF FISHING GEAR,
14 ANCHORS, DREDGING EQUIPMENT, OR OTHER UNDERWATER DEVICES WITH SUCH
15 EQUIPMENT OR STRUCTURES; OR SUCH EQUIPMENT OR STRUCTURES BECOMING
16 UNMOORED OR DETACHED. THE SAFETY PLAN SHALL INCLUDE A PLAN TO MARK
17 CONSTRUCTION EQUIPMENT AND PERMITTED STRUCTURES WITH FOG SIGNALS,
18 LOW-INTENSITY NAVIGATION LIGHTS, HAZARD-MARKING LIGHTS, OR OTHER
19 AIDS TO NAVIGATION AND BY PAINTING, CONSISTENT WITH FEDERAL
20 AVIATION ADMINISTRATION AND UNITED STATES COAST GUARD GUIDELINES
21 AND REQUIREMENTS. TO THE EXTENT COMPATIBLE WITH THE OTHER GOALS OF
22 THIS SUBDIVISION, A MARKING PLAN SHALL MINIMIZE ADVERSE EFFECTS ON
23 WILDLIFE, AND ADVERSE VISUAL EFFECTS, INCLUDING, BUT NOT LIMITED
24 TO, SKY GLOW AND GLARE.

25 (I) AN EMERGENCY PREVENTION, MONITORING, AND RESPONSE PLAN THAT
26 INCLUDES ALL OF THE FOLLOWING:

27 (i) PROCEDURES THE LESSEE WILL TAKE DURING AN EMERGENCY,

1 INCLUDING, BUT NOT LIMITED TO, IMMEDIATE SHUTDOWN AND CONTAINMENT
2 AND CLEANUP OF ANY SPILLS.

3 (ii) A PROTOCOL FOR COORDINATION WITH AND REPORTING AN
4 EMERGENCY TO LOCAL, STATE, AND FEDERAL AGENCIES.

5 (iii) A SCHEDULE FOR ANNUAL TESTING OF EMERGENCY EQUIPMENT.

6 (M) A DESCRIPTION OF THE MEASURES THE LESSEE WILL USE TO AVOID
7 OR MINIMIZE ADVERSE EFFECTS ON CULTURAL OR ARCHAEOLOGICAL SITES OR
8 THE ENVIRONMENT, INCLUDING INCIDENTAL TAKE OF FISH OR WILDLIFE,
9 BEFORE SITE ASSESSMENT ACTIVITIES ARE CONDUCTED, AND A DESCRIPTION
10 OF HOW ANY SUCH ADVERSE EFFECTS FROM SITE ASSESSMENT ACTIVITIES
11 WILL BE MITIGATED. PROTECTION OF CULTURAL AND ARCHAEOLOGICAL SITES
12 SHALL BE EVALUATED USING APPLICABLE CRITERIA FOR NATIONAL
13 SIGNIFICANCE, IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE
14 UNITED STATES SECRETARY OF THE INTERIOR PURSUANT TO SECTION
15 101(A) (2) OF THE NATIONAL HISTORIC PRESERVATION ACT, 16 USC
16 470A(A) (2) .

17 (N) ANY OTHER DEPLOYMENT PROTOCOLS.

18 (O) A LISTING OF ALL OTHER STATE, FEDERAL, AND LOCAL PERMITS
19 AND APPROVALS REQUIRED FOR THE STRUCTURES AND ACTIVITIES THAT ARE
20 THE SUBJECT OF THE APPLICATION INDICATING WHETHER EACH SUCH PERMIT
21 OR APPROVAL HAS BEEN APPLIED FOR OR OBTAINED.

22 (P) THE NAME, POSTAL ADDRESS, ELECTRONIC MAIL ADDRESS, AND
23 TELEPHONE NUMBER OF AN AUTHORIZED REPRESENTATIVE OF THE LESSEE.

24 (Q) A DESIGNATION OF THE OPERATOR, IF APPLICABLE.

25 (R) IDENTIFICATION OF CONSULTANTS AND CONSULTANT CONTACT
26 INFORMATION.

27 (S) EVIDENCE OF FINANCIAL ASSURANCE AND A CERTIFICATE OF

1 LIABILITY INSURANCE AS REQUIRED UNDER SECTION 32449.

2 (T) A LISTING OF ALL DOCUMENTS REFERENCED IN THE APPLICATION.

3 (U) OTHER RELEVANT INFORMATION REQUIRED BY THE DEPARTMENT.

4 SEC. 32429. (1) EFFECTIVE 45 DAYS AFTER THE STATE RECEIVES AN
5 APPLICATION FOR A SITE ASSESSMENT PERMIT, THE APPLICATION SHALL BE
6 CONSIDERED TO BE ADMINISTRATIVELY COMPLETE UNLESS THE DEPARTMENT
7 PROCEEDS AS PROVIDED UNDER SUBSECTION (2).

8 (2) IF, BEFORE THE EXPIRATION OF THE 45-DAY PERIOD UNDER
9 SUBSECTION (1), THE DEPARTMENT NOTIFIES THE APPLICANT THAT THE
10 APPLICATION IS NOT ADMINISTRATIVELY COMPLETE, SPECIFYING THE
11 INFORMATION NECESSARY TO MAKE THE APPLICATION ADMINISTRATIVELY
12 COMPLETE, OR NOTIFIES THE APPLICANT THAT A FEE REQUIRED TO
13 ACCOMPANY THE APPLICATION HAS NOT BEEN PAID, SPECIFYING THE AMOUNT
14 DUE, THE RUNNING OF THE 45-DAY PERIOD UNDER SUBSECTION (1) IS
15 TOLLED UNTIL THE APPLICANT SUBMITS TO THE DEPARTMENT THE SPECIFIED
16 INFORMATION OR FEE AMOUNT DUE. THE NOTICE SHALL BE GIVEN IN WRITING
17 OR BY ELECTRONIC MAIL. AFTER RECEIPT OF AN ADMINISTRATIVELY
18 COMPLETE SITE ASSESSMENT PERMIT APPLICATION, THE DEPARTMENT MAY, IN
19 WRITING, REQUEST THE APPLICANT TO SUBMIT SPECIFIC ADDITIONAL
20 INFORMATION THAT THE DEPARTMENT DETERMINES IS NECESSARY TO COMPLETE
21 THE REVIEW PROCESS.

22 (3) THE APPLICANT SHALL PAY THE FEE REQUESTED UNDER SUBSECTION
23 (2) OR PROVIDE ADDITIONAL INFORMATION THAT IS THE SUBJECT OF A
24 NOTIFICATION OR REQUEST UNDER SUBSECTION (2) NOT MORE THAN 45 DAYS
25 AFTER RECEIVING THE REQUEST. IF THE APPLICANT SHOWS SUFFICIENT
26 CAUSE FOR NEEDING ADDITIONAL TIME TO PROVIDE THE INFORMATION, THE
27 DEPARTMENT MAY EXTEND THE PERIOD TO PROVIDE THE INFORMATION FOR AN

1 ADDITIONAL 30 DAYS. IF THE APPLICANT FAILS TO TIMELY PROVIDE THE
2 INFORMATION OR PAY THE FEE, THE DEPARTMENT SHALL DISAPPROVE THE
3 APPLICATION AND NOTIFY THE APPLICANT IN WRITING OF THE REASONS FOR
4 DISAPPROVAL. IF THE APPLICATION IS DISAPPROVED, THE LEASE IS
5 TERMINATED AND ANY LEASE PAYMENT SHALL NOT BE REFUNDED.

6 (4) IF THE SITE ASSESSMENT PERMIT APPLICATION IS
7 ADMINISTRATIVELY COMPLETE, THE FEE HAS BEEN PAID, AND ANY
8 ADDITIONAL INFORMATION REQUESTED UNDER SUBSECTION (2) HAS BEEN
9 TIMELY PROVIDED, THE DEPARTMENT SHALL RECEIVE COMMENT ON THE
10 APPLICATION. COMMENTS SHALL BE SUBMITTED TO THE DEPARTMENT IN
11 WRITING OR BY ELECTRONIC MAIL. THE DEPARTMENT SHALL PUBLISH NOTICE
12 OF THE COMMENT PERIOD IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
13 COUNTY NEAREST TO THE LEASE SITE AND SEND NOTICE BY FIRST-CLASS
14 MAIL TO THE CLERK OF EACH LOCAL UNIT OF GOVERNMENT WITH ANY GREAT
15 LAKES SHORELINE NOT MORE THAN 12 MILES FROM THE LEASED SITE AT
16 LEAST 30 DAYS BEFORE THE EXPIRATION OF THE COMMENT PERIOD. THE
17 DEPARTMENT SHALL ALSO POST A NOTICE OF THE COMMENT PERIOD ON ITS
18 WEBSITE BEGINNING AT LEAST 30 DAYS BEFORE THE EXPIRATION OF THE
19 COMMENT PERIOD. THE NOTICES SHALL INCLUDE OR DESCRIBE ALL OF THE
20 FOLLOWING:

21 (A) THE PURPOSE OF THE COMMENT PERIOD.

22 (B) THE OPPORTUNITY TO SUBMIT COMMENTS TO THE DEPARTMENT IN
23 WRITING OR BY ELECTRONIC MAIL AT ANY TIME THROUGH THE EXPIRATION OF
24 THE COMMENT PERIOD AND THE POSTAL AND ELECTRONIC MAIL ADDRESS FOR
25 SUBMITTING COMMENTS.

26 (5) AFTER THE COMMENT PERIOD EXPIRES, THE DEPARTMENT SHALL
27 PREPARE A SUMMARY OF THE COMMENTS RECEIVED AND THE DEPARTMENT'S

1 RESPONSES TO THE COMMENTS.

2 (6) SUBJECT TO SUBSECTION (3), NOT MORE THAN 150 DAYS AFTER
3 THE DATE THE SITE ASSESSMENT PERMIT APPLICATION IS RECEIVED AND
4 ADMINISTRATIVELY COMPLETE, THE DEPARTMENT SHALL APPROVE OR
5 DISAPPROVE THE APPLICATION. THE DEPARTMENT SHALL APPROVE THE
6 APPLICATION IF IT MEETS THE REQUIREMENTS OF SECTION 32413. THE
7 DEPARTMENT MAY APPROVE THE APPLICATION WITH MODIFICATIONS NECESSARY
8 TO MEET SUCH REQUIREMENTS.

9 (7) IF THE DEPARTMENT DISAPPROVES THE SITE ASSESSMENT PERMIT
10 APPLICATION, OTHER THAN FOR REASONS SET FORTH IN SUBSECTION (3),
11 THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING OF THE REASONS
12 FOR THE DISAPPROVAL. THE APPLICANT MAY SUBMIT REVISIONS TO THE
13 PERMIT APPLICATION, IN WRITING, NOT MORE THAN 60 DAYS AFTER NOTICE
14 IS RECEIVED. THE DEPARTMENT MAY EXTEND THE PERIOD TO SUBMIT
15 REVISIONS IF THE APPLICANT SUBMITS TO THE DEPARTMENT INFORMATION
16 DEMONSTRATING SUFFICIENT CAUSE FOR NEEDING ADDITIONAL TIME. IF THE
17 APPLICANT FAILS TO TIMELY SUBMIT THE NECESSARY REVISIONS, THE LEASE
18 IS TERMINATED.

19 (8) IF THE DEPARTMENT APPROVES A SITE ASSESSMENT PERMIT
20 APPLICATION, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING
21 AND ISSUE A PERMIT THAT INCORPORATES THE TERMS AND CONDITIONS UNDER
22 WHICH SITE ASSESSMENT ACTIVITIES SHALL BE CONDUCTED. THE TERMS AND
23 CONDITIONS SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING:

24 (A) REQUIREMENTS TO ENSURE THAT THE PERMITTEE USES
25 COMMERCIALY REASONABLE AVAILABLE TECHNOLOGY, BEST MANAGEMENT
26 PRACTICES, AND PROPERLY TRAINED PERSONNEL FOR PERMITTED ACTIVITIES.

27 (B) PLANS AND REQUIREMENTS TO COLLECT INFORMATION DESCRIBED IN

1 SECTION 32427(5) NOT ALREADY INCLUDED IN THE SITE ASSESSMENT PERMIT
2 APPLICATION.

3 (9) A SITE ASSESSMENT PERMIT EXPIRES UPON THE EARLIER OF THE
4 FOLLOWING:

5 (A) ISSUANCE OF A CONSTRUCTION AND OPERATIONS PERMIT.

6 (B) TERMINATION OF THE LEASE.

7 SEC. 32431. IF THE DEPARTMENT ISSUES A SITE ASSESSMENT PERMIT,
8 THE LESSEE SHALL DO ALL OF THE FOLLOWING:

9 (A) NOTIFY THE DEPARTMENT IN WRITING NOT MORE THAN 30 DAYS
10 AFTER COMPLETING INSTALLATION OF PERMITTED STRUCTURES.

11 (B) PREPARE AND SUBMIT TO THE DEPARTMENT A REPORT ON NOVEMBER
12 1 OF EACH YEAR THAT SUMMARIZES THE ACTIVITIES AUTHORIZED BY THE
13 PERMIT, THE RESULTS OF THOSE ACTIVITIES, AND ANY INCIDENTS THAT
14 OCCURRED AT THE LEASED SITE DURING THE YEAR PERIOD ENDING THE
15 PRECEDING SEPTEMBER 30. THE REPORT SHALL ALSO IDENTIFY AND DESCRIBE
16 ANY MITIGATION MEASURES AND MONITORING METHODS AND THEIR
17 EFFECTIVENESS. IF MITIGATION MEASURES OR MONITORING METHODS WERE
18 NOT EFFECTIVE, THE LESSEE SHALL INCLUDE RECOMMENDATIONS FOR NEW
19 MITIGATION MEASURES OR MONITORING METHODS, MODIFYING SITE
20 ASSESSMENT ACTIVITIES OR STRUCTURES, OR COMMENCING REMOVAL OF
21 STRUCTURES AND RESTORATION OF LEASED BOTTOMLANDS AND WATERS TO
22 THEIR PRELEASE CONDITION.

23 (C) IF SUBMERGED ABANDONED PROPERTY IS DISCOVERED BY THE
24 LESSEE WHILE CONDUCTING SITE ASSESSMENT ACTIVITIES, COMPLY WITH
25 PART 761. IN ADDITION, THE LESSEE SHALL IMMEDIATELY SUSPEND BOTTOM-
26 DISTURBING ACTIVITIES WITHIN 1,000 FEET OF THE ABANDONED PROPERTY
27 AND, NOT MORE THAN 72 HOURS AFTER THE DISCOVERY, REPORT THE

1 ABANDONED PROPERTY TO THE DEPARTMENT AND THE MICHIGAN STATE HOUSING
2 DEVELOPMENT AUTHORITY. NOT MORE THAN 60 DAYS AFTER RECEIVING THE
3 REPORT OR, IF WATERS ARE NOT NAVIGABLE BECAUSE OF WINTER
4 CONDITIONS, NOT MORE THAN 60 DAYS AFTER WATERS BECOME NAVIGABLE,
5 THE DEPARTMENT EITHER SHALL COMMENCE AN INVESTIGATION INTO THE
6 NATURE AND EXTENT OF THE ABANDONED PROPERTY OR SHALL DIRECT THE
7 LESSEE TO CONDUCT THE INVESTIGATION AT THE LESSEE'S COST IN A
8 MANNER PRESCRIBED BY THE DEPARTMENT AND SUBJECT TO THE DEPARTMENT'S
9 SUPERVISION. BASED ON THE RESULTS OF THE INVESTIGATION, THE
10 DEPARTMENT SHALL PROMPTLY DETERMINE WHETHER THE ABANDONED PROPERTY
11 MEETS CRITERIA FOR NATIONAL SIGNIFICANCE, IN ACCORDANCE WITH
12 REGULATIONS PROMULGATED BY THE UNITED STATES SECRETARY OF THE
13 INTERIOR PURSUANT TO SECTION 101(A)(2) OF THE NATIONAL HISTORIC
14 PRESERVATION ACT, 16 USC 470A(A)(2). THE LESSEE SHALL NOT RESUME
15 THE SUSPENDED SITE ASSESSMENT ACTIVITIES BEFORE THE DEPARTMENT'S
16 DETERMINATION IS MADE. THE DEPARTMENT SHALL SUBMIT THE RESULTS OF
17 THE INVESTIGATION AND THE DEPARTMENT'S DETERMINATION TO THE
18 MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY. THE LESSEE SHALL KEEP
19 THE LOCATION OF THE ABANDONED PROPERTY CONFIDENTIAL UNTIL RELEASED
20 TO THE PUBLIC BY THE DEPARTMENT. THE DEPARTMENT MAY SUSPEND THE
21 RUNNING OF THE TERM OF THE LEASE DURING THE SUSPENSION OF SITE
22 ASSESSMENT ACTIVITIES UNDER THIS SUBDIVISION.

23 (D) NOT MORE THAN 60 DAYS AFTER REMOVAL OF A STRUCTURE, SUBMIT
24 A WRITTEN REPORT TO THE DEPARTMENT THAT INCLUDES BOTH OF THE
25 FOLLOWING:

26 (i) A SUMMARY OF THE REMOVAL ACTIVITIES, INCLUDING THE DATE
27 THEY WERE COMPLETED.

1 (ii) A DESCRIPTION OF ANY MITIGATION MEASURES.

2 SEC. 32433. A LESSEE MAY REQUEST THE DEPARTMENT TO AMEND THE
3 LESSEE'S SITE ASSESSMENT PERMIT. THE REQUEST SHALL BE SUBMITTED IN
4 WRITING AND SHALL DESCRIBE IN DETAIL THE AMENDMENTS REQUESTED. THE
5 REQUEST SHALL BE ACCOMPANIED BY A NONREFUNDABLE FEE OF \$500.00. THE
6 REQUEST SHALL BE PROCESSED IN THE SAME MANNER AND IS SUBJECT TO THE
7 SAME REQUIREMENTS AS AN APPLICATION FOR A SITE ASSESSMENT PERMIT
8 EXCEPT THAT THE DEPARTMENT MAY WAIVE THE PUBLIC NOTICE REQUIREMENTS
9 FOR MINOR AMENDMENTS.

10 SEC. 32435. (1) A PERSON SHALL NOT CONSTRUCT OR OPERATE AN
11 OFFSHORE WIND ENERGY FACILITY UNLESS THE PERSON HAS OBTAINED ALL
12 NECESSARY EASEMENTS FOR THE OFFSHORE WIND ENERGY FACILITY.

13 (2) A LESSEE SHALL APPLY FOR A UTILITY EASEMENT PURSUANT TO
14 SUBPART 9 OF PART 21 FOR AN EXPORT CABLE LOCATED OUTSIDE OF THE
15 LEASED SITE.

16 (3) EASEMENT REVENUE SHALL BE DEPOSITED AS PROVIDED IN SECTION
17 32447.

18 SEC. 32437. (1) A PERSON SHALL NOT CONSTRUCT OR OPERATE AN
19 OFFSHORE WIND ENERGY FACILITY EXCEPT PURSUANT TO THE TERMS OF A
20 CONSTRUCTION AND OPERATIONS PERMIT. TO OBTAIN A CONSTRUCTION AND
21 OPERATIONS PERMIT, A LESSEE SHALL SUBMIT AN APPLICATION TO THE
22 DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT. THE APPLICATION
23 SHALL BE ACCOMPANIED BY A NONREFUNDABLE FEE OF \$10,000.00.

24 (2) IF THE LESSEE REQUESTS A PREAPPLICATION MEETING WITH THE
25 DEPARTMENT, THE DEPARTMENT SHALL MEET WITH THE LESSEE OR ITS
26 REPRESENTATIVES TO REVIEW A PROPOSED OFFSHORE WIND ENERGY FACILITY
27 OR A PROPOSED CONSTRUCTION AND OPERATIONS PERMIT APPLICATION.

1 (3) AN APPLICATION FOR A CONSTRUCTION AND OPERATIONS PERMIT
2 SHALL BE SUBMITTED NOT MORE THAN 4 YEARS AFTER THE ISSUANCE OF THE
3 SITE ASSESSMENT PERMIT. THE DEPARTMENT SHALL GRANT ONE 1-YEAR
4 EXTENSION OF THE DEADLINE TO SUBMIT AN APPLICATION FOR A
5 CONSTRUCTION AND OPERATIONS PERMIT IF THE LESSEE SUBMITS A WRITTEN
6 REQUEST FOR THE EXTENSION THAT DEMONSTRATES IN DETAIL THAT
7 SUBSTANTIAL PROGRESS HAS BEEN MADE TO COMPLETE SITE ASSESSMENT
8 INCLUDING SUBSTANTIAL PROGRESS ON THE INSTALLATION OF MONITORING
9 EQUIPMENT OR SUBSTANTIAL PROGRESS ON THE COMPLETION OF STUDIES
10 REQUIRED UNDER SECTION 32427. IF THE LESSEE FAILS TO TIMELY SUBMIT
11 AN APPLICATION FOR A CONSTRUCTION AND OPERATIONS PERMIT, THE LEASE
12 IS TERMINATED, AND THE RENT PAYMENT FOR THE CURRENT YEAR OF THE
13 LEASE SHALL NOT BE REFUNDED.

14 (4) A CONSTRUCTION AND OPERATIONS PERMIT APPLICATION SHALL
15 INCLUDE ALL OF THE FOLLOWING, UTILIZING RELEVANT DATA COLLECTED
16 FROM SITE ASSESSMENT ACTIVITIES AND OTHER SOURCES:

17 (A) SCALED DRAWINGS THAT INCLUDE ALL OF THE FOLLOWING
18 ELEMENTS:

19 (i) A CROSS-SECTIONAL AND PLAN VIEW DRAWING OF THE ENTIRE
20 PROJECT AREA PREPARED BY A PROFESSIONAL LAND SURVEYOR OR
21 PROFESSIONAL ENGINEER. THE DRAWING SHALL SHOW, WITH GLOBAL
22 POSITIONING SYSTEM COORDINATES, THE PROPOSED SURFACE LOCATION OF
23 ALL PROPOSED OFFSHORE WIND ENERGY FACILITY STRUCTURES, INCLUDING,
24 BUT NOT LIMITED TO, METEOROLOGICAL TOWERS, WIND TURBINE TOWERS,
25 GENERATING FACILITIES, INTERTURBINE CABLES, ELECTRIC SERVICE
26 PLATFORMS, AND EXPORT CABLES, AND THE ESTIMATED WATER DEPTH AT THAT
27 LOCATION.

1 (ii) A PLAN, TO SCALE, THAT SHOWS THE OUTSIDE LIMITS OF THE
2 PERMIT AND LEASED SITE, AND THE LOCATION OF ALL PROPOSED ABOVE-
3 WATER OFFSHORE WIND ENERGY FACILITY STRUCTURES IN RELATION TO THE
4 ADJACENT SHORELINE AND NEARBY LOCAL UNITS OF GOVERNMENT, PARKS,
5 ROADS, OTHER EXISTING OR PROPOSED PERMITTED OFFSHORE WIND ENERGY
6 FACILITIES, AND OTHER PHYSICAL FEATURES.

7 (B) A NARRATIVE DESCRIPTION OF THE PROPOSED OBJECTIVES,
8 ACTIVITIES, AND METHODS AND PLAN FOR PROPOSED CONSTRUCTION AND
9 OPERATION, INCLUDING PLANS FOR ANY PHASED DEVELOPMENT, AND SCHEDULE
10 OF CONSTRUCTION ACTIVITY SHOWING SIGNIFICANT MILESTONES LEADING TO
11 THE COMMENCEMENT OF COMMERCIAL OPERATIONS.

12 (C) STRUCTURAL AND PROJECT DESIGN, FABRICATION, AND
13 INSTALLATION INFORMATION FOR EACH TYPE OF STRUCTURE PROPOSED TO BE
14 PERMITTED AND THE LOCATION OF EACH SUCH STRUCTURE ON THE MOST
15 RECENT NAUTICAL CHART ISSUED BY THE NATIONAL OCEANIC AND
16 ATMOSPHERIC ADMINISTRATION, UNITED STATES DEPARTMENT OF COMMERCE OR
17 GRID CELL MAP PRODUCED BY THE DEPARTMENT.

18 (D) A REPORT, PREPARED FOLLOWING CONSULTATION WITH THE
19 DEPARTMENT, BASED ON THE INFORMATION AND DATA COLLECTED IN THE SITE
20 ASSESSMENT PERMIT STUDIES THAT DESCRIBES ALL OF THE FOLLOWING:

21 (i) THE LOCATION AND TYPES OF COMPETING USES.

22 (ii) THE AQUATIC ENVIRONMENT, INCLUDING BENTHIC COMMUNITIES, IN
23 THE WATERS AND ON THE BOTTOMLANDS IN, ON, OR OVER WHICH THE
24 APPLICANT PROPOSES TO LOCATE ANY STRUCTURE, AND IMMEDIATELY
25 ADJACENT AREAS.

26 (iii) THE CULTURAL, HISTORICAL, AND ARCHAEOLOGICAL SITES WITHIN
27 THE PROJECT AREA.

1 (iv) THE RESULTS OF ALL BASELINE BIOLOGICAL SURVEYS CONDUCTED
2 UNDER SECTION 32427(5)(C).

3 (E) A FISH AND WILDLIFE PROTECTION PLAN THAT CONTAINS, AT A
4 MINIMUM, ALL OF THE FOLLOWING:

5 (i) A DETAILED DESCRIPTION OF THE METHODS AND EQUIPMENT THAT
6 WILL BE USED FOR MONITORING FISH AND WILDLIFE BEHAVIOR AND ACTIVITY
7 IN THE VICINITY OF THE PROJECT.

8 (ii) A DETAILED DESCRIPTION OF HOW THE FISH AND WILDLIFE
9 MONITORING DATA WILL BE ANALYZED AND PROVIDED TO THE DEPARTMENT IN
10 ELECTRONIC FORMAT, WITH SPECIFIC CRITERIA BY WHICH TO EVALUATE
11 ADVERSE EFFECTS.

12 (iii) A DETAILED IMPLEMENTATION SCHEDULE, INCLUDING THE
13 FREQUENCY AND TIMING OF DATA RECOVERY, MAINTENANCE OF THE
14 MONITORING EQUIPMENT, AND QUARTERLY REPORTING TO THE DEPARTMENT.

15 (iv) A DETAILED MONITORING SCHEDULE THAT CONSIDERS LAKE
16 CONDITIONS, SEASONAL VARIATIONS IN THE PRESENCE OF SPECIES, AND
17 OTHER PERTINENT BIOLOGICAL FACTORS.

18 (v) PROVISIONS FOR IDENTIFYING AND IMPLEMENTING REMEDIAL
19 MEASURES IF MONITORING IDENTIFIES ANY ADVERSE EFFECTS ON FISH OR
20 WILDLIFE.

21 (F) A DESCRIPTION OF THE MEASURES THE LESSEE TOOK, OR WILL
22 TAKE, TO SATISFY THE CONDITIONS OF ANY LEASE STIPULATIONS RELATED
23 TO THE PROPOSED ACTIVITIES.

24 (G) A DETAILED DESCRIPTION OF THE METHODS AND EQUIPMENT THAT
25 WILL BE USED TO MONITOR AMBIENT NOISE LEVELS, ELECTROMAGNETIC
26 FIELDS AND NOISE ASSOCIATED WITH OFFSHORE WIND ENERGY FACILITY
27 CONSTRUCTION AND SUBSEQUENT OPERATIONS, AND THE EFFECTIVENESS OF

1 ANY DEVICES THAT ARE PROPOSED TO AVOID AND MINIMIZE THE POTENTIAL
2 FOR ADVERSE EFFECTS FROM NOISE OR ELECTROMAGNETIC FIELDS, IF ANY.

3 (H) A POLLUTION PREVENTION PLAN FOR LUBRICANTS AND OTHER
4 CHEMICAL PRODUCTS USED IN THE OFFSHORE WIND ENERGY FACILITY,
5 INCLUDING ALL OF THE FOLLOWING:

6 (i) AN ANALYSIS OF THE USE OF NONTOXIC ALTERNATIVES.

7 (ii) A LIST OF CHEMICAL PRODUCTS TO BE USED.

8 (iii) THE QUANTITY TO BE USED OR STORED ON LOCATION.

9 (iv) THE TREATMENT, DISCHARGE, OR DISPOSAL METHODS TO BE USED.

10 (v) THE NAME AND LOCATION OF THE ONSHORE WASTE RECEIVING,
11 TREATMENT, OR DISPOSAL FACILITY.

12 (vi) HOW THESE CHEMICAL PRODUCTS WILL BE BROUGHT ON-SITE.

13 (vii) THE NUMBER OF TRANSFERS OF THE CHEMICAL PRODUCTS THAT MAY
14 TAKE PLACE.

15 (viii) THE QUANTITY OF CHEMICAL PRODUCTS THAT WILL BE
16 TRANSFERRED EACH TIME.

17 (I) A DESCRIPTION OF ANY VESSELS, AIRCRAFT, OR OTHER VEHICLES
18 THE LESSEE WILL USE TO SUPPORT THE ACTIVITIES AND AN ESTIMATE OF
19 THE FREQUENCY AND DURATION OF VEHICLE TRAFFIC.

20 (J) A DECOMMISSIONING PLAN THAT MEETS THE REQUIREMENTS OF A
21 REMOVAL PLAN UNDER SECTION 32427(5)(J).

22 (K) INFORMATION DESCRIBED IN SECTION 32427(5)(K) TO (U).

23 SEC. 32439. (1) A CONSTRUCTION AND OPERATIONS PERMIT
24 APPLICATION SHALL BE PROCESSED IN THE SAME MANNER AND IS SUBJECT TO
25 THE SAME REQUIREMENTS AS PROVIDED FOR A SITE ASSESSMENT PERMIT
26 APPLICATION UNDER SECTION 32429(1), (2), (3), (6), AND (7).

27 (2) BEFORE DETERMINING WHETHER TO APPROVE OR DISAPPROVE A

1 CONSTRUCTION AND OPERATIONS PERMIT APPLICATION, THE DEPARTMENT
2 SHALL HOLD A PUBLIC HEARING ON THE APPLICATION. THE HEARING SHALL
3 BE HELD IN THE COUNTY NEAREST TO THE PARCEL FOR WHICH THE PERMIT IS
4 SOUGHT. THE DEPARTMENT SHALL PUBLISH A NOTICE OF THE HEARING AND
5 COMMENT PERIOD IN A NEWSPAPER OF GENERAL CIRCULATION IN THAT COUNTY
6 AND SEND NOTICE BY FIRST-CLASS MAIL TO THE CLERK OF EACH LOCAL UNIT
7 OF GOVERNMENT WITH ANY GREAT LAKES SHORELINE NOT MORE THAN 12 MILES
8 FROM THE LEASED SITE NOT LESS THAN 30 DAYS BEFORE THE HEARING. THE
9 DEPARTMENT SHALL ALSO POST A NOTICE OF THE HEARING AND COMMENT
10 PERIOD ON ITS WEBSITE BEGINNING NOT LESS THAN 30 DAYS BEFORE THE
11 HEARING. THE LAST DAY OF THE COMMENT PERIOD IS 15 DAYS AFTER THE
12 HEARING. COMMENTS SHALL BE SUBMITTED IN WRITING OR BY ELECTRONIC
13 MAIL, EXCEPT THAT COMMENTS AT THE HEARING MAY BE SUBMITTED ORALLY.

14 (3) A NOTICE UNDER SUBSECTION (2) SHALL INCLUDE OR DESCRIBE
15 ALL OF THE FOLLOWING:

16 (A) THE TIME, DATE, PLACE, AND PURPOSE OF THE HEARING.

17 (B) THE OPPORTUNITY TO SUBMIT COMMENTS TO THE DEPARTMENT IN
18 WRITING OR BY ELECTRONIC MAIL AT ANY TIME NOT MORE THAN 15 DAYS
19 AFTER THE HEARING, AND THE POSTAL AND ELECTRONIC MAIL ADDRESS FOR
20 SUBMITTING COMMENTS.

21 (4) AFTER THE COMMENT PERIOD EXPIRES, THE DEPARTMENT SHALL
22 PREPARE A SUMMARY OF THE COMMENTS RECEIVED AND THE DEPARTMENT'S
23 RESPONSES TO THE COMMENTS.

24 (5) NOT MORE THAN 45 DAYS AFTER THE PUBLIC HEARING UNDER
25 SUBSECTION (2), THE DEPARTMENT SHALL SUBMIT TO THE CHAIRPERSON OF
26 THE ADVISORY COUNCIL A COPY OF THE CONSTRUCTION AND OPERATIONS
27 PERMIT APPLICATION, A COPY OR TRANSCRIPT OF EACH PUBLIC COMMENT

1 RECEIVED UNDER SUBSECTION (2), AND A SUMMARY OF THE COMMENTS AND
2 THE DEPARTMENT'S RESPONSES TO THE COMMENTS. NOT MORE THAN 45 DAYS
3 AFTER THE DEPARTMENT SUBMITS THIS INFORMATION TO THE CHAIRPERSON OF
4 THE ADVISORY COUNCIL, THE ADVISORY COUNCIL SHALL REVIEW THE
5 INFORMATION AND SUBMIT TO THE DEPARTMENT RECOMMENDATIONS REGARDING
6 APPROVAL OR DISAPPROVAL OF THE CONSTRUCTION AND OPERATIONS PERMIT
7 APPLICATION AND THE TERMS AND CONDITIONS OF A PERMIT.

8 (6) THE DEPARTMENT SHALL PREPARE A SUMMARY OF THE DEPARTMENT'S
9 RESPONSES TO THE ADVISORY COUNCIL'S RECOMMENDATIONS.

10 (7) IF THE DEPARTMENT APPROVES A CONSTRUCTION AND OPERATIONS
11 PERMIT APPLICATION, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN
12 WRITING AND ISSUE A PERMIT THAT INCORPORATES THE TERMS AND
13 CONDITIONS UNDER WHICH THE OFFSHORE WIND ENERGY FACILITY IS TO BE
14 CONSTRUCTED AND OPERATED. THE TERMS AND CONDITIONS SHALL INCLUDE,
15 BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

16 (A) THE REQUIREMENTS OF SECTIONS 32429(8)(A) AND 32445(1).

17 (B) THE WIND TURBINE ROTOR SWEEP HEIGHT OF AN OFFSHORE WIND
18 ENERGY FACILITY SHALL BE NOT LESS THAN 75 FEET ABOVE THE WATER
19 SURFACE.

20 (C) WHERE TRAVERSING SHORELINE, EXPORT CABLES SHALL BE BURIED
21 UNDER THE SHORELINE.

22 (D) A CONSTRUCTION SCHEDULE CONSISTENT WITH SECTION 32445.

23 (8) A CONSTRUCTION AND OPERATIONS PERMIT EXPIRES UPON THE
24 EARLIER OF THE FOLLOWING:

25 (A) ISSUANCE OF A DECOMMISSIONING PERMIT.

26 (B) TERMINATION OF THE LEASE.

27 SEC. 32441. IF THE DEPARTMENT ISSUES A CONSTRUCTION AND

1 OPERATIONS PERMIT, THE LESSEE SHALL DO ALL OF THE FOLLOWING:

2 (A) COMMENCE CONSTRUCTION BY THE DATE GIVEN IN THE
3 CONSTRUCTION SCHEDULE INCLUDED AS A PART OF THE CONSTRUCTION AND
4 OPERATIONS PERMIT, UNLESS THE DEPARTMENT APPROVES A DEVIATION FROM
5 THE SCHEDULE.

6 (B) NOT MORE THAN 30 DAYS AFTER COMPLETION OF INSTALLATION
7 ACTIVITIES APPROVED IN THE CONSTRUCTION AND OPERATIONS PERMIT,
8 NOTIFY THE DEPARTMENT IN WRITING OF THE DATE OF COMPLETION.

9 (C) PREPARE AND SUBMIT TO THE DEPARTMENT BY NOVEMBER 1 OF EACH
10 YEAR BOTH OF THE FOLLOWING:

11 (i) A REPORT AS DESCRIBED IN SECTION 32431(B) .

12 (ii) AN UPDATE OF THE EMERGENCY PLAN DESCRIBED IN SECTION 32427
13 (5) (I) .

14 (D) IF SUBMERGED CULTURAL RESOURCES ARE DISCOVERED WHILE
15 CONDUCTING CONSTRUCTION AND OPERATIONS ACTIVITIES, PROCEED AS
16 PROVIDED IN SECTION 32431(C) .

17 (E) NOT MORE THAN 5 BUSINESS DAYS AFTER COMMERCIAL OPERATIONS
18 CEASE WITHOUT AN APPROVED SUSPENSION, NOTIFY THE DEPARTMENT IN
19 WRITING. IF COMMERCIAL OPERATIONS CEASE FOR AN INDEFINITE PERIOD
20 LONGER THAN 6 MONTHS, THE DEPARTMENT, AFTER PROVIDING THE PERMITTEE
21 AN OPPORTUNITY FOR A CONTESTED CASE HEARING UNDER THE
22 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
23 24.328, MAY CANCEL THE LEASE AND THE LESSEE SHALL INITIATE THE
24 DECOMMISSIONING PROCESS, AS SET FORTH IN THIS PART.

25 (F) INITIATE THE DECOMMISSIONING PROCESS AS REQUIRED IN THIS
26 PART UPON COMPLETION OF THE COMMERCIAL OPERATIONS AS AUTHORIZED IN
27 THE CONSTRUCTION AND OPERATIONS PERMIT.

1 SEC. 32443. A LESSEE MAY REQUEST THE DEPARTMENT TO AMEND THE
2 LESSEE'S CONSTRUCTION AND OPERATIONS PERMIT. THE REQUEST SHALL BE
3 SUBMITTED IN WRITING AND SHALL DESCRIBE IN DETAIL THE AMENDMENTS
4 REQUESTED. THE REQUEST SHALL BE ACCOMPANIED BY A NONREFUNDABLE FEE
5 OF \$500.00. THE REQUEST SHALL BE PROCESSED IN THE SAME MANNER AND
6 IS SUBJECT TO THE SAME REQUIREMENTS AS AN APPLICATION FOR A
7 CONSTRUCTION AND OPERATIONS PERMIT EXCEPT THAT THE DEPARTMENT MAY
8 WAIVE THE PUBLIC NOTICE REQUIREMENTS FOR MINOR AMENDMENTS.

9 SEC. 32445. (1) THE LESSEE SHALL COMMENCE THE WORK AUTHORIZED
10 IN THE CONSTRUCTION AND OPERATIONS PERMIT NOT MORE THAN 2 YEARS
11 AFTER ISSUANCE OF THE PERMIT AND BEGIN COMMERCIAL OPERATIONS NOT
12 MORE THAN 4 YEARS AFTER THE ISSUANCE OF THE PERMIT.

13 (2) THE DEPARTMENT SHALL AMEND THE CONSTRUCTION AND OPERATIONS
14 PERMIT TO PROVIDE NOT MORE THAN ONE 1-YEAR EXTENSION OF THE
15 DEADLINE TO COMMENCE WORK AND NOT MORE THAN TWO 1-YEAR EXTENSIONS
16 OF THE DEADLINE TO BEGIN COMMERCIAL OPERATIONS. IN ADDITION TO
17 MEETING THE REQUIREMENTS OF SECTION 32443, TO QUALIFY FOR AN
18 EXTENSION UNDER THIS SUBSECTION, THE LESSEE SHALL SUBMIT TO THE
19 DEPARTMENT DETAILED INFORMATION DEMONSTRATING THAT SUBSTANTIAL
20 PROGRESS HAS BEEN MADE.

21 (3) IF THE LESSEE FAILS TO MEET THE REQUIREMENTS OF SUBSECTION
22 (1), SUBJECT TO ANY EXTENSION UNDER SUBSECTION (2), THE DEPARTMENT
23 SHALL TERMINATE THE LEASE.

24 SEC. 32447. (1) SUBJECT TO SECTION 32463, THE RENT FOR A LEASE
25 SHALL BE \$3.00 PER ACRE PER YEAR FOR THE ENTIRE LEASED SITE UNLESS
26 OTHERWISE PROVIDED IN THE LEASE. THE RENT SHALL BE ADJUSTED BY THE
27 STATE TREASURER IN YEARS ENDING IN "0" OR "5". THE RENT ADJUSTMENT

1 SHALL BE DIRECTLY PROPORTIONAL TO CHANGES IN THE CONSUMER PRICE
2 INDEX OF THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR
3 STATISTICS, AND OTHER ECONOMIC INDICATORS.

4 (2) A LESSEE SHALL PAY THE ANNUAL RENT NOT MORE THAN 45 DAYS
5 AFTER THE LEASE IS ISSUED AND THEN BY EACH SUBSEQUENT ANNIVERSARY
6 OF THE ISSUANCE OF THE LEASE. A LESSEE SHALL CONTINUE TO MAKE RENT
7 PAYMENTS UNTIL DECOMMISSIONING HAS BEEN COMPLETED PURSUANT TO THE
8 TERMS OF THE DECOMMISSIONING PERMIT AND APPROVED BY THE DEPARTMENT.

9 (3) ALL APPLICATION FEES, NOMINATION FEES, BID AMOUNTS, RENT,
10 AND EASEMENT REVENUE RECEIVED UNDER THIS PART SHALL BE FORWARDED TO
11 THE STATE TREASURER FOR DEPOSIT INTO THE LAND AND WATER MANAGEMENT
12 PERMIT FEE FUND CREATED UNDER SECTION 30113. UPON APPROPRIATION,
13 THE DEPARTMENT SHALL EXPEND MONEY DEPOSITED IN THE LAND AND WATER
14 MANAGEMENT PERMIT FEE FUND PURSUANT TO THIS SECTION TO IMPLEMENT
15 THIS PART, INCLUDING UPDATING, AS NEW INFORMATION BECOMES
16 AVAILABLE, THE GREAT LAKES RESOURCE MAPPING SYSTEM DEVELOPED IN
17 CONJUNCTION WITH THE SEPTEMBER 1, 2009 "REPORT OF THE GREAT LAKES
18 WIND COUNCIL" ISSUED PURSUANT TO EXECUTIVE ORDER NO. 2009-1.

19 (4) NOT MORE THAN 10 DAYS AFTER THE COMMENCEMENT OR
20 TERMINATION OF COMMERCIAL OPERATIONS, THE LESSEE SHALL NOTIFY THE
21 MPSC IN WRITING OF THE DATE OF COMMENCEMENT OR TERMINATION. THE
22 MPSC SHALL PROMPTLY FORWARD A COPY OF THE NOTICE TO THE DEPARTMENT.

23 (5) A LESSEE SHALL MAKE ANNUAL ROYALTY PAYMENTS OF 3% OF GROSS
24 REVENUE FROM ELECTRICITY OR OTHER ENERGY PRODUCT GENERATED OR
25 PRODUCED BY THE OFFSHORE WIND ENERGY FACILITY DURING THE PRECEDING
26 YEAR. NOT MORE THAN 15 DAYS AFTER EACH ANNIVERSARY OF THE
27 COMMENCEMENT OF COMMERCIAL OPERATIONS, THE LESSEE SHALL FILE WITH

1 THE MPSC DOCUMENTATION THE MPSC CONSIDERS NECESSARY TO MAKE A
2 DETERMINATION OF ROYALTIES OWED FOR THE 1-YEAR PERIOD PRECEDING THE
3 ANNIVERSARY DATE. THE MPSC SHALL DETERMINE AND NOTIFY THE LESSEE
4 AND DEPARTMENT OF THE AMOUNT OF ROYALTIES DUE. THE LESSEE SHALL PAY
5 THE ROYALTIES TO THE DEPARTMENT NOT MORE THAN 15 DAYS AFTER THE
6 LESSEE RECEIVES THE NOTICE FROM THE MPSC.

7 (6) PAST DUE ROYALTY AND ANNUAL RENTAL PAYMENTS SHALL BEAR
8 INTEREST AT THE RATE DETERMINED AND APPLIED BY THE DEPARTMENT OF
9 TREASURY FROM THE DUE DATE UNTIL THE DATE OF PAYMENT.

10 (7) THE OFFSHORE WIND ENERGY TRUST FUND IS CREATED WITHIN THE
11 STATE TREASURY. ROYALTY PAYMENTS UNDER SUBSECTION (5) SHALL BE
12 DEPOSITED IN THE FUND. THE STATE TREASURER MAY RECEIVE MONEY OR
13 OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE
14 TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE
15 TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND
16 INVESTMENTS. MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR
17 SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

18 (8) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE GREAT
19 LAKES WIND ENERGY TRUST FUND FOR AUDITING PURPOSES. MONEY FROM THE
20 FUND SHALL BE EXPENDED, UPON APPROPRIATION, ONLY FOR 1 OR MORE OF
21 THE FOLLOWING PURPOSES:

22 (A) NOT LESS THAN 70% OF THE MONEY APPROPRIATED SHALL BE
23 EXPENDED TO PROTECT AND MANAGE BOTTOMLANDS, ENHANCE AND RESTORE
24 GREAT LAKES AQUATIC ENVIRONMENT AND NEARSHORE HABITAT, AND MANAGE
25 SUBMERGED CULTURAL RESOURCES. PREFERENCE IN EXPENDITURE OF REVENUE
26 UNDER THIS SUBDIVISION SHALL BE GIVEN TO ACTIVITIES LOCATED NOT
27 MORE THAN 30 MILES FROM THE SHORELINE OF A COUNTY WITH SHORELINE

1 NEAREST TO ANY PARTICULAR OFFSHORE WIND ENERGY FACILITY.

2 (B) NOT LESS THAN 23% OF THE MONEY APPROPRIATED SHALL BE
3 DEPOSITED IN THE ENERGY EFFICIENCY AND RENEWABLE ENERGY REVOLVING
4 LOAN FUND CREATED IN SECTION 2 OF 2009 PA 242, MCL 460.912, OR
5 APPROPRIATED TO THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC
6 GROWTH FOR GRANTS ISSUED IN CONFORMITY WITH THE ENERGY EFFICIENCY
7 AND CONSERVATION BLOCK GRANT PROGRAM CREATED UNDER THE ENERGY
8 INDEPENDENCE AND SECURITIZATION ACT OF 2007, PUBLIC LAW 110-140.

9 (C) NOT MORE THAN 7% OF THE MONEY APPROPRIATED SHALL BE
10 APPROPRIATED TO THE MPSC AND EXPENDED FOR FULFILLING ITS
11 RESPONSIBILITIES UNDER THIS SECTION OR DEPOSITED IN THE LAND AND
12 WATER MANAGEMENT PERMIT FEE FUND TO BE EXPENDED, UPON
13 APPROPRIATION, AS PROVIDED IN SUBSECTION (3).

14 (9) FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2011, THERE IS
15 APPROPRIATED TO THE DEPARTMENT \$200,000.00 TO HIRE 2.0 FULL-TIME
16 EQUATED POSITIONS TO IMPLEMENT THIS PART.

17 SEC. 32449. (1) A LESSEE SHALL MAINTAIN FINANCIAL ASSURANCE
18 AND A POLICY OF GENERAL LIABILITY INSURANCE FROM THE COMMENCEMENT
19 OF THE TERM OF THE LEASE UNTIL TERMINATION OF THE LEASE AS PROVIDED
20 IN SECTION 32465, REMOVAL OF ANY PERMITTED STRUCTURES, AND
21 RESTORATION OF LEASED BOTTLANDS AND WATERS TO THEIR PRELEASE
22 CONDITION AS APPROVED BY THE DEPARTMENT.

23 (2) FINANCIAL ASSURANCE UNDER SUBSECTION (1) SHALL BE IN AN
24 AMOUNT THE DEPARTMENT DETERMINES TO BE REASONABLY NECESSARY TO
25 ENSURE THE PERFORMANCE OF ALL OF THE FOLLOWING:

26 (A) THE TERMS AND CONDITIONS IN THE LEASE.

27 (B) DECOMMISSIONING.

1 (C) NECESSARY ENVIRONMENTAL PROTECTION MEASURES, INCLUDING
2 POTENTIAL REMEDIATION OF ANY CONTAMINATION OF THE AIR, WATER, OR
3 BOTTOMLANDS.

4 (3) THE FINANCIAL ASSURANCE SHALL CONSIST OF A PERFORMANCE
5 BOND, ESCROW, CASH, OR OTHER EQUIVALENT SECURITY, OR ANY
6 COMBINATION THEREOF, COVERING 100% OF THE TOTAL REQUIRED AMOUNT.
7 THE AMOUNT OF FINANCIAL ASSURANCE TO COVER POTENTIAL LIABILITIES,
8 SUCH AS REMEDIATION FOR POSSIBLE CONTAMINATION, AS OPPOSED TO
9 ESTIMATED ACTUAL LIABILITIES, NEED NOT EXCEED 1% OF THE COST OF THE
10 FACILITY. EVERY 3 YEARS, OR MORE OFTEN IF THE DEPARTMENT CONSIDERS
11 IT NECESSARY, A LESSEE SHALL ADJUST THE AMOUNT OF FINANCIAL
12 ASSURANCE SO THE AMOUNT REMAINS CONSISTENT WITH SUBSECTION (2). IN
13 MAKING THIS DETERMINATION, THE DEPARTMENT SHALL CONSIDER THE
14 CONSUMER PRICE INDEX OF THE UNITED STATES DEPARTMENT OF LABOR,
15 BUREAU OF LABOR STATISTICS, AND OTHER ECONOMIC INDICATORS, THE
16 SCOPE, SCALE, AND LOCATION OF ACTIVITIES, THE STAGE OF THE OFFSHORE
17 ENERGY FACILITY PROJECT, AND OTHER RELEVANT FACTORS.

18 (4) IF THE DEPARTMENT DEMONSTRATES TO THE HOLDER OF FINANCIAL
19 ASSURANCE THAT THE LESSEE HAS VIOLATED THE REQUIREMENTS OF THIS
20 PART, THE HOLDER OF THE FINANCIAL ASSURANCE SHALL RELEASE THE
21 AMOUNT OF THE FUNDS THAT THE DEPARTMENT DETERMINES IS NECESSARY TO
22 REMEDY THE NONCOMPLIANCE.

23 (5) THE GENERAL LIABILITY INSURANCE POLICY UNDER SUBSECTION
24 (1) SHALL COVER BODILY INJURY, PROPERTY DAMAGE, AND ENVIRONMENTAL
25 DAMAGE ARISING FROM ACTIVITIES UNDER THIS PART IN AN AMOUNT
26 CONSIDERED REASONABLE BY THE DEPARTMENT GIVEN THE SCOPE, SCALE, AND
27 LOCATION OF THE ACTIVITIES. THE AMOUNT OF LIABILITY INSURANCE NEED

1 NOT EXCEED 1% OF THE COST OF THE OFFSHORE WIND ENERGY FACILITY.

2 (6) IF A LESSEE FAILS TO PROVIDE OR MAINTAIN FINANCIAL
3 ASSURANCE OR GENERAL LIABILITY INSURANCE UNDER THIS SECTION, THE
4 DEPARTMENT MAY ORDER THE LESSEE TO IMMEDIATELY SUSPEND COMMERCIAL
5 ACTIVITIES.

6 SEC. 32451. A LESSEE SHALL NOT ASSIGN, IN WHOLE OR PART, A
7 LEASE OR A PERMIT PROVIDED FOR UNDER THIS PART EXCEPT UPON APPROVAL
8 OF THE DEPARTMENT. TO OBTAIN DEPARTMENT APPROVAL OF AN ASSIGNMENT,
9 A LESSEE SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT ON A FORM
10 PROVIDED BY THE DEPARTMENT. A PROCESSING FEE OF \$500.00 SHALL
11 ACCOMPANY THE APPLICATION. THE DEPARTMENT SHALL APPROVE THE
12 ASSIGNMENT IF THE ASSIGNEE MEETS ALL THE REQUIREMENTS OF THIS PART.
13 THE ASSIGNOR IS LIABLE FOR ALL OBLIGATIONS THAT ACCRUED ON THE
14 LEASE OR ASSIGNED PORTION THEREOF BEFORE THE DEPARTMENT APPROVES AN
15 ASSIGNMENT. THE ASSIGNEE IS LIABLE FOR ALL OBLIGATIONS THAT ACCRUE
16 ON THE LEASE OR ASSIGNED PORTION THEREOF AFTER THE DEPARTMENT
17 APPROVES THE ASSIGNMENT.

18 SEC. 32453. (1) A PERSON SHALL NOT CONDUCT DECOMMISSIONING
19 EXCEPT PURSUANT TO THE TERMS OF A DECOMMISSIONING PERMIT ISSUED BY
20 THE DEPARTMENT. TO OBTAIN A DECOMMISSIONING PERMIT, A LESSEE SHALL
21 SUBMIT AN APPLICATION TO THE DEPARTMENT ON A FORM PROVIDED BY THE
22 DEPARTMENT. THE APPLICATION SHALL BE ACCOMPANIED BY A NONREFUNDABLE
23 FEE OF \$5,000.00.

24 (2) IF THE LESSEE REQUESTS A PREAPPLICATION MEETING WITH THE
25 DEPARTMENT, THE DEPARTMENT SHALL MEET WITH THE LESSEE OR ITS
26 REPRESENTATIVES TO REVIEW THE PROPOSED DECOMMISSIONING OR
27 DECOMMISSIONING PERMIT APPLICATION.

1 (3) AN APPLICATION FOR A DECOMMISSIONING PERMIT SHALL BE
2 SUBMITTED BY THE EARLIER OF THE FOLLOWING DATES:

3 (A) 180 DAYS BEFORE THE TERMINATION OF ALL OTHER COMMERCIAL
4 ACTIVITIES.

5 (B) 90 DAYS AFTER CANCELLATION, RELINQUISHMENT, OR OTHER
6 TERMINATION OF THE LEASE.

7 (4) THE DECOMMISSIONING PERMIT APPLICATION SHALL INCLUDE ALL
8 OF THE FOLLOWING:

9 (A) AN UPDATED DECOMMISSIONING PLAN, AS DESCRIBED IN SECTION
10 32437, THAT REFLECTS STATE-OF-THE-ART METHODS FOR DECOMMISSIONING
11 AND REMOVAL AT THE TIME THOSE ACTIVITIES ARE TO COMMENCE.

12 (B) INFORMATION DESCRIBED IN SECTION 32427(5)(K) TO (U).

13 SEC. 32455. (1) A DECOMMISSIONING PERMIT APPLICATION SHALL BE
14 PROCESSED IN THE SAME MANNER AND IS SUBJECT TO THE SAME
15 REQUIREMENTS AS PROVIDED FOR A SITE ASSESSMENT PERMIT APPLICATION
16 UNDER SECTION 32429(1), (2), (3), (6), AND (7) AND A CONSTRUCTION
17 AND OPERATIONS PERMIT APPLICATION UNDER SECTION 32439(2), (3), AND
18 (4).

19 (2) IF THE DEPARTMENT APPROVES A DECOMMISSIONING PERMIT
20 APPLICATION, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING
21 AND ISSUE A PERMIT THAT INCORPORATES THE TERMS AND CONDITIONS UNDER
22 WHICH THE DECOMMISSIONING IS TO BE CONDUCTED.

23 (3) A DECOMMISSIONING PERMIT MAY AUTHORIZE A STRUCTURE THAT
24 HAS A CONTINUING BENEFICIAL USE TO REMAIN IN PLACE FOLLOWING
25 TERMINATION OF A LEASE.

26 SEC. 32457. (1) NOT MORE THAN 60 DAYS AFTER THE DEPARTMENT
27 APPROVES AN APPLICATION FOR A DECOMMISSIONING PERMIT, THE LESSEE

1 SHALL BEGIN DECOMMISSIONING PURSUANT TO THE PERMIT. THE LESSEE
2 SHALL COMPLETE DECOMMISSIONING NOT MORE THAN 3 YEARS AFTER THE
3 ISSUANCE OF A DECOMMISSIONING PERMIT.

4 (2) IN CONDUCTING DECOMMISSIONING, THE LESSEE SHALL COMPLY
5 WITH SECTION 32431(C) AND (D).

6 SEC. 32459. A LESSEE MAY REQUEST THE DEPARTMENT TO AMEND THE
7 LESSEE'S DECOMMISSIONING PERMIT. THE REQUEST SHALL BE SUBMITTED IN
8 WRITING AND SHALL DESCRIBE IN DETAIL THE AMENDMENTS REQUESTED. THE
9 REQUEST SHALL BE ACCOMPANIED BY A NONREFUNDABLE FEE OF \$500.00. THE
10 REQUEST SHALL BE PROCESSED IN THE SAME MANNER AND IS SUBJECT TO THE
11 SAME REQUIREMENTS AS AN APPLICATION FOR A DECOMMISSIONING PERMIT
12 EXCEPT THAT THE DEPARTMENT MAY WAIVE THE PUBLIC NOTICE REQUIREMENTS
13 FOR MINOR AMENDMENTS.

14 SEC. 32461. (1) NOT MORE FREQUENTLY THAN EVERY 5 YEARS, THE
15 DEPARTMENT MAY REVIEW THE LEASED SITE TO CONSIDER WHETHER IT IS
16 LARGER THAN NEEDED TO FULLY DEVELOP AND OPERATE THE OFFSHORE WIND
17 ENERGY FACILITY IN A MANNER CONSISTENT WITH THIS PART. THE
18 DEPARTMENT SHALL NOTIFY THE LESSEE IN WRITING IF THE DEPARTMENT
19 PROPOSES TO REDUCE THE AREA OF THE LEASED SITE. THE NOTICE SHALL
20 DESCRIBE THE AREA PROPOSED TO BE EXCLUDED FROM THE LEASED SITE AND
21 PROVIDE THE REASONS FOR THE PROPOSAL.

22 (2) NOT LATER THAN 45 DAYS AFTER THE DEPARTMENT SUBMITS ITS
23 NOTICE UNDER SUBSECTION (1), THE LESSEE MAY SUBMIT TO THE
24 DEPARTMENT IN WRITING A STATEMENT OF REASONS THAT THE LESSEE NEEDS
25 TO RETAIN THE AREA IN QUESTION TO FULLY DEVELOP AND OPERATE THE
26 OFFSHORE WIND ENERGY FACILITY IN A MANNER CONSISTENT WITH THIS
27 PART.

1 (3) NOT MORE THAN 90 DAYS AFTER THE DEPARTMENT SUBMITS ITS
2 NOTICE UNDER SUBSECTION (1), THE DEPARTMENT SHALL DETERMINE WHETHER
3 TO REDUCE THE LEASED SITE, AND SHALL NOTIFY THE LESSEE OF ITS
4 DECISION IN WRITING. IF THE DEPARTMENT DETERMINES TO REDUCE THE
5 LEASED SITE, THE NOTICE SHALL INCLUDE THE DEPARTMENT'S RESPONSES TO
6 ANY STATEMENT SUBMITTED BY THE LESSEE UNDER SUBSECTION (2). IF THE
7 LEASED SITE IS REDUCED, RENT UNDER THE LEASE SHALL BE REDUCED
8 PROPORTIONATELY.

9 SEC. 32463. (1) IF REQUESTED BY THE LESSEE IN WRITING AFTER
10 COMMENCEMENT OF COMMERCIAL OPERATIONS, THE DEPARTMENT MAY EXTEND
11 THE TERM OF A LEASE FOR 10 OR MORE YEARS. AN EXTENSION SHALL NOT
12 EXCEED THE ORIGINAL LEASE TERM UNLESS A LONGER TERM IS AGREED TO BY
13 THE DEPARTMENT AND LESSEE. MORE THAN 1 EXTENSION MAY BE GRANTED.

14 (2) A REQUEST FOR A LEASE EXTENSION SHALL BE SUBMITTED TO THE
15 DEPARTMENT NOT LATER THAN 2 YEARS BEFORE THE TERMINATION DATE OF
16 THE LEASE. THE DEPARTMENT SHALL RECEIVE COMMENT ON THE REQUEST. THE
17 COMMENT PROCESS IS SUBJECT TO THE SAME REQUIREMENTS AS SET FORTH IN
18 SECTION 32429(4) AND (5). NOT LATER THAN 1 YEAR BEFORE THE
19 TERMINATION DATE OF THE LEASE, THE DEPARTMENT SHALL APPROVE OR
20 DISAPPROVE THE REQUEST OR APPROVE THE REQUEST WITH MODIFICATIONS.
21 THE DEPARTMENT SHALL NOTIFY THE LESSEE IN WRITING OF THE
22 DEPARTMENT'S APPROVAL OR DISAPPROVAL OF THE REQUEST. IF THE
23 DEPARTMENT DISAPPROVES THE REQUEST, THE DEPARTMENT SHALL NOTIFY THE
24 LESSEE IN WRITING OF THE REASONS FOR DISAPPROVAL.

25 (3) THE DEPARTMENT MAY REVISE RENTS AND OPERATING TERMS OF THE
26 LEASE AT THE TIME OF EXTENSION AS A CONDITION OF THE EXTENSION.

27 (4) FOR THE PERIOD THE DEPARTMENT CONSIDERS A LESSEE'S REQUEST

1 FOR EXTENSION, THE LESSEE SHALL CONTINUE TO MAKE ALL PAYMENTS IN
2 ACCORDANCE WITH THE ORIGINAL TERMS AND CONDITIONS OF THE LEASE.

3 SEC. 32465. (1) THE LEASE TERMINATES ON WHICHEVER OF THE
4 FOLLOWING OCCURS FIRST:

5 (A) FAILURE TO TIMELY SUBMIT AN APPLICATION FOR A SITE
6 ASSESSMENT PERMIT UNDER SECTION 32427(4) OR A CONSTRUCTION AND
7 OPERATIONS PERMIT UNDER SECTION 32437(3).

8 (B) FAILURE TO TIMELY PROVIDE INFORMATION NECESSARY TO MAKE AN
9 APPLICATION ADMINISTRATIVELY COMPLETE OR OTHER ADDITIONAL
10 INFORMATION REQUESTED BY THE DEPARTMENT IN CONNECTION WITH A SITE
11 ASSESSMENT PERMIT APPLICATION AS PROVIDED IN SECTION 32429(2) OR A
12 CONSTRUCTION AND OPERATIONS PERMIT APPLICATION UNDER SECTIONS
13 32429(2) AND 32439(1).

14 (C) DISAPPROVAL OF A SITE ASSESSMENT PERMIT APPLICATION AND
15 FAILURE TO TIMELY SUBMIT NECESSARY REVISIONS UNDER SECTION 32429(7)
16 OR DISAPPROVAL OF A CONSTRUCTION AND OPERATIONS PERMIT APPLICATION
17 AND FAILURE TO TIMELY SUBMIT NECESSARY REVISIONS UNDER SECTIONS
18 32429(7) AND 32439(1).

19 (D) THE EXPIRATION OF THE APPLICABLE TERM OF THE LEASE,
20 SUBJECT TO ANY EXTENSION UNDER SECTION 32463.

21 (E) CANCELLATION OF THE LEASE IN AN ENFORCEMENT ACTION UNDER
22 SECTION 32479.

23 (F) COMPLETION OF DECOMMISSIONING PURSUANT TO THE TERMS OF A
24 DECOMMISSIONING PERMIT AND APPROVAL OF THE DECOMMISSIONING BY THE
25 DEPARTMENT.

26 (G) RELINQUISHMENT OF THE LEASE UNDER SECTION 32467.

27 (2) IF A LEASE TERMINATES, THE LESSEE SHALL DO ALL OF THE

1 FOLLOWING:

2 (A) UPON TERMINATION, MAKE ALL PAYMENTS DUE, INCLUDING ANY
3 ACCRUED RENTALS. THE LESSEE SHALL MAKE THE PAYMENTS PROMPTLY UPON
4 TERMINATION OF A LEASE AS DESCRIBED UNDER SUBSECTION (1)(A) TO (F).
5 SECTION 32467 GOVERNS PAYMENTS IN THE EVENT OF RELINQUISHMENT OF A
6 LEASE AS DESCRIBED IN SUBSECTION (1)(G).

7 (B) NOT MORE THAN 180 DAYS AFTER TERMINATION, PERFORM
8 OUTSTANDING OBLIGATIONS UNDER THE LEASE. THIS SUBDIVISION DOES NOT
9 APPLY TO DECOMMISSIONING OBLIGATIONS.

10 SEC. 32467. (1) A LESSEE MAY NOT RELINQUISH THE LEASE OR A
11 PORTION OF THE LEASED SITE EXCEPT AS APPROVED BY THE DEPARTMENT. TO
12 OBTAIN APPROVAL FOR RELINQUISHMENT, THE LESSEE SHALL SUBMIT AN
13 APPLICATION WITH THE DEPARTMENT ON A FORM PROVIDED BY THE
14 DEPARTMENT. THE APPLICATION SHALL BE ACCOMPANIED BY A NONREFUNDABLE
15 FEE OF \$500.00.

16 (2) EFFECTIVE 30 DAYS AFTER THE DEPARTMENT RECEIVES AN
17 APPLICATION FOR RELINQUISHMENT, THE APPLICATION SHALL BE CONSIDERED
18 TO BE ADMINISTRATIVELY COMPLETE UNLESS THE DEPARTMENT PROCEEDS AS
19 PROVIDED UNDER SUBSECTION (3).

20 (3) IF, BEFORE THE EXPIRATION OF THE 30-DAY PERIOD UNDER
21 SUBSECTION (1), THE DEPARTMENT NOTIFIES THE APPLICANT THAT THE
22 APPLICATION IS NOT ADMINISTRATIVELY COMPLETE, SPECIFYING THE
23 INFORMATION NECESSARY TO MAKE THE APPLICATION ADMINISTRATIVELY
24 COMPLETE, THE RUNNING OF THE 30-DAY PERIOD UNDER SUBSECTION (1) IS
25 TOLLED UNTIL THE APPLICANT SUBMITS TO THE DEPARTMENT THE SPECIFIED
26 INFORMATION OR FEE AMOUNT DUE. THE NOTICE SHALL BE GIVEN IN WRITING
27 OR BY ELECTRONIC MAIL.

1 (4) SUBJECT TO SUBSECTION (5), THE DEPARTMENT SHALL APPROVE OR
2 DISAPPROVE THE RELINQUISHMENT APPLICATION NOT MORE THAN 30 DAYS
3 AFTER RECEIPT OF AN ADMINISTRATIVELY COMPLETE APPLICATION.

4 (5) A RELINQUISHMENT TAKES EFFECT ON THE DATE THE DEPARTMENT
5 APPROVES THE LESSEE'S APPLICATION. THE DEPARTMENT SHALL NOT APPROVE
6 THE RELINQUISHMENT OF THE LEASED SITE, OR A PORTION OF THE LEASED
7 SITE, UNLESS THE LESSEE HAS MADE ALL PAYMENTS DUE, INCLUDING ANY
8 ACCRUED RENTALS, OR A PROPORTIONAL PART THEREOF.

9 SEC. 32469. (1) THE OFFSHORE WIND ENERGY ADVISORY COUNCIL IS
10 CREATED WITHIN THE DEPARTMENT.

11 (2) THE ADVISORY COUNCIL SHALL CONSIST OF THE FOLLOWING
12 MEMBERS:

13 (A) THE DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND
14 ECONOMIC GROWTH OR HIS OR HER DESIGNEE.

15 (B) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AND
16 ENVIRONMENT OR HIS OR HER DESIGNEE.

17 (C) THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR HIS OR
18 HER DESIGNEE.

19 (D) THE PRESIDENT OF THE MICHIGAN STRATEGIC FUND, OR HIS OR
20 HER DESIGNEE.

21 (E) THE CHAIRPERSON OF THE MPSC OR HIS OR HER DESIGNEE.

22 (F) THE DIRECTOR OF THE OFFICE OF THE GREAT LAKES OR HIS OR
23 HER DESIGNEE.

24 (G) ONE OTHER INDIVIDUAL WHO IS A RESIDENT OF THIS STATE AND
25 AN OWNER OF GREAT LAKES LITTORAL PROPERTY IN THIS STATE, APPOINTED
26 BY THE GOVERNOR.

27 (H) THE FOLLOWING MEMBERS APPOINTED BY THE SENATE MAJORITY

1 LEADER, WHO SHALL BE RESIDENTS OF THIS STATE:

2 (i) ONE INDIVIDUAL REPRESENTING A STATEWIDE ENVIRONMENTAL
3 ORGANIZATION.

4 (ii) ONE INDIVIDUAL REPRESENTING THE TOURISM INDUSTRY.

5 (iii) ONE INDIVIDUAL REPRESENTING THE COMMERCIAL SHIPPING
6 INDUSTRY.

7 (iv) ONE INDIVIDUAL REPRESENTING THE CHARTER FISHING INDUSTRY.

8 (v) ONE INDIVIDUAL REPRESENTING ELECTRIC UTILITIES.

9 (vi) ONE INDIVIDUAL WHO IS AN OWNER OF GREAT LAKES LITTORAL
10 PROPERTY IN THIS STATE.

11 (I) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF THE
12 HOUSE OF REPRESENTATIVES, WHO SHALL BE RESIDENTS OF THIS STATE:

13 (i) ONE INDIVIDUAL REPRESENTING ELECTRIC UTILITIES.

14 (ii) ONE INDIVIDUAL REPRESENTING INDEPENDENT ELECTRIC
15 TRANSMISSION COMPANIES.

16 (iii) ONE INDIVIDUAL REPRESENTING THE WIND ENERGY DEVELOPMENT
17 INDUSTRY.

18 (iv) ONE INDIVIDUAL REPRESENTING NATIVE AMERICAN TRIBAL
19 GOVERNMENTS.

20 (v) ONE INDIVIDUAL REPRESENTING LOCAL GOVERNMENT OFFICIALS.

21 (vi) ONE INDIVIDUAL WHO IS AN OWNER OF GREAT LAKES LITTORAL
22 PROPERTY IN THIS STATE.

23 (3) THE MEMBERS FIRST APPOINTED TO THE ADVISORY COUNCIL SHALL
24 BE APPOINTED NOT MORE THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS
25 SECTION.

26 (4) MEMBERS OF THE ADVISORY COUNCIL, OTHER THAN EX OFFICIO
27 MEMBERS, SHALL SERVE FOR TERMS OF 3 YEARS OR UNTIL A SUCCESSOR IS

1 APPOINTED, WHICHEVER IS LATER, EXCEPT THAT THE MEMBERS FIRST
2 APPOINTED UNDER SUBSECTION (2) (G), (H) (i) AND (ii), AND (I) (i) AND (ii)
3 SHALL SERVE FOR 1 YEAR, AND THE MEMBERS FIRST APPOINTED UNDER
4 SUBSECTION (2) (H) (iii) AND (iv) AND (I) (iii) AND (iv) SHALL SERVE FOR 2
5 YEARS.

6 (5) IF A VACANCY OCCURS ON THE ADVISORY COUNCIL, THE VACANCY
7 SHALL BE FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE
8 ORIGINAL APPOINTMENT WAS MADE.

9 (6) A MEMBER OF THE ADVISORY COUNCIL OTHER THAN AN EX OFFICIO
10 MEMBER MAY BE REMOVED FROM THE ADVISORY COUNCIL, BY THE OFFICER WHO
11 APPOINTED THAT MEMBER, FOR INCOMPETENCE, DERELICTION OF DUTY,
12 MALFEASANCE, MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER
13 GOOD CAUSE.

14 (7) THE FIRST MEETING OF THE ADVISORY COUNCIL SHALL BE CALLED
15 BY THE DIRECTOR OF THE DEPARTMENT OR HIS OR HER DESIGNEE. AT THE
16 FIRST MEETING, THE ADVISORY COUNCIL SHALL ELECT FROM AMONG ITS
17 MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS
18 APPROPRIATE. AFTER THE FIRST MEETING, THE ADVISORY COUNCIL SHALL
19 MEET AT LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF THE
20 CHAIRPERSON OR IF REQUESTED BY 3 OR MORE MEMBERS.

21 (8) A MAJORITY OF THE MEMBERS OF THE ADVISORY COUNCIL
22 CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF
23 THE ADVISORY COUNCIL. A MAJORITY OF THE MEMBERS PRESENT AND SERVING
24 ARE REQUIRED FOR OFFICIAL ACTION OF THE ADVISORY COUNCIL.

25 (9) THE BUSINESS THAT THE ADVISORY COUNCIL MAY PERFORM SHALL
26 BE CONDUCTED AT A PUBLIC MEETING OF THE ADVISORY COUNCIL HELD IN
27 COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO

1 15.275.

2 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
3 RETAINED BY THE ADVISORY COUNCIL IN THE PERFORMANCE OF AN OFFICIAL
4 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
5 MCL 15.231 TO 15.246.

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

11 SEC. 32471. (1) EXCEPT AS PROVIDED IN SUBSECTION (2),
12 INFORMATION OBTAINED BY THE DEPARTMENT UNDER THIS PART IS A PUBLIC
13 RECORD AS PROVIDED IN THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
14 MCL 15.231 TO 15.246.

15 (2) A PERSON REGULATED UNDER THIS PART MAY DESIGNATE A RECORD,
16 PERMIT APPLICATION, OTHER INFORMATION, OR A PORTION OF A RECORD,
17 PERMIT APPLICATION, OR OTHER INFORMATION OBTAINED BY THE DEPARTMENT
18 FROM THAT PERSON UNDER THIS PART AS BEING ONLY FOR THE CONFIDENTIAL
19 USE OF THE DEPARTMENT. THE DEPARTMENT SHALL PROMPTLY NOTIFY THE
20 REGULATED PERSON OF A REQUEST FOR PUBLIC RECORDS UNDER SECTION 5 OF
21 THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.235, THE SCOPE
22 OF WHICH INCLUDES INFORMATION DESIGNATED BY THAT PERSON AS
23 CONFIDENTIAL AND OF THE DATE THE REQUEST WAS RECEIVED BY THE
24 DEPARTMENT. THE PERSON REGULATED UNDER THIS PART HAS UNTIL 30 DAYS
25 AFTER THE RECEIPT OF THE REQUEST BY THE DEPARTMENT TO DEMONSTRATE
26 TO THE DEPARTMENT THAT THE INFORMATION DESIGNATED AS CONFIDENTIAL
27 SHOULD NOT BE DISCLOSED BECAUSE THE INFORMATION IS A TRADE SECRET

1 OR SECRET PROCESS OR IS PRODUCTION, COMMERCIAL, OR FINANCIAL
2 INFORMATION THE DISCLOSURE OF WHICH WOULD JEOPARDIZE THE
3 COMPETITIVE POSITION OF THE PERSON FROM WHOM THE INFORMATION WAS
4 OBTAINED AND MAKE AVAILABLE INFORMATION NOT OTHERWISE PUBLICLY
5 AVAILABLE. THE DEPARTMENT SHALL DECIDE WHETHER TO GRANT OR DENY THE
6 REQUEST NOT LATER THAN 35 DAYS AFTER THE REQUEST WAS RECEIVED. THE
7 DEPARTMENT SHALL GRANT THE REQUEST FOR THE INFORMATION UNLESS THE
8 PERSON REGULATED UNDER THIS PART MAKES A SATISFACTORY DEMONSTRATION
9 TO THE DEPARTMENT THAT THE INFORMATION SHOULD NOT BE DISCLOSED. IF
10 THE DEPARTMENT DECIDES TO GRANT A REQUEST, THE INFORMATION
11 REQUESTED SHALL NOT BE RELEASED UNTIL 3 DAYS HAVE ELAPSED AFTER THE
12 DECISION IS MADE.

13 (3) IF THE DEPARTMENT DENIES THE REQUEST BECAUSE THE
14 INFORMATION SHOULD NOT BE DISCLOSED, THE DEPARTMENT SHALL
15 RECONSIDER THE BASIS FOR THE DENIAL IF THAT INFORMATION IS
16 SUBSEQUENTLY REQUESTED AND AT LEAST 3 YEARS HAVE ELAPSED SINCE THE
17 DEPARTMENT LAST CONSIDERED THE BASIS FOR A DENIAL OF A REQUEST FOR
18 THAT INFORMATION.

19 (4) THE DEPARTMENT MAY RELEASE ANY INFORMATION OBTAINED UNDER
20 THIS PART, INCLUDING A RECORD, PERMIT APPLICATION, OR OTHER
21 INFORMATION CONSIDERED CONFIDENTIAL PURSUANT TO SUBSECTION (2), TO
22 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

23 SEC. 32473. THE DEPARTMENT MAY PROMULGATE RULES NECESSARY TO
24 IMPLEMENT THIS PART PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT
25 OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

26 SEC. 32475. (1) A PERSON AGGRIEVED BY A DECISION OF THE
27 DEPARTMENT ON A PERSON'S QUALIFICATIONS TO PARTICIPATE IN A LEASE

1 AUCTION OR ON AN APPLICATION FOR A LEASE OR PERMIT UNDER THIS PART
2 MAY REQUEST A HEARING UNDER CHAPTER 4 OF THE ADMINISTRATIVE
3 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.271 TO 24.287.

4 (2) A DETERMINATION, ACTION, OR INACTION BY THE DEPARTMENT
5 FOLLOWING THE HEARING IS SUBJECT TO JUDICIAL REVIEW AS PROVIDED IN
6 SECTIONS 103 TO 106 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
7 1969 PA 306, MCL 24.303 TO 24.306.

8 (3) A DETERMINATION ISSUED BY THE MPSC ISSUED UNDER THIS PART
9 IS SUBJECT TO REVIEW AS PROVIDED UNDER SECTION 26 OF 1909 PA 300,
10 MCL 462.26.

11 SEC. 32477. (1) SUBJECT TO SUBSECTION (2), A PARTY IS NOT
12 LIABLE FOR ANY FAILURE OR DELAY IN PERFORMANCE UNDER A PERMIT OR
13 LEASE, OTHER THAN FOR DELAY IN THE PAYMENT OF MONEY DUE AND PAYABLE
14 UNDER THIS PART, TO THE EXTENT THE FAILURE OR DELAY IS PROXIMATELY
15 CAUSED BY CAUSES THAT ARE BEYOND THAT PARTY'S REASONABLE CONTROL
16 AND THAT OCCUR WITHOUT THE PARTY'S FAULT OR NEGLIGENCE, SUCH AS
17 FAILURE OF A SUPPLIER, SUBCONTRACTOR, AND CARRIER OR OTHER PARTY TO
18 SUBSTANTIALLY MEET ITS PERFORMANCE OBLIGATIONS.

19 (2) SUBSECTION (1) DOES NOT APPLY UNLESS THE PARTY CLAIMING
20 NONLIABILITY GIVES THE OTHER PARTY WRITTEN NOTICE, WITH FULL
21 DETAILS, PROMPTLY FOLLOWING THE OCCURRENCE OF THE CAUSE RELIED
22 UPON. THE DEADLINE FOR A PERFORMANCE OBLIGATION SHALL BE EXTENDED
23 FOR A PERIOD EQUAL TO THE TIME LOST DUE TO ANY DELAY SO CAUSED.

24 (3) AN EXTENSION OF A DEADLINE FOR A PERFORMANCE OBLIGATION
25 UNDER THIS SECTION IS IN ADDITION TO ANY EXTENSION OF THE DEADLINE
26 OTHERWISE AUTHORIZED UNDER THIS PART.

27 SEC. 32479. (1) IF A LESSEE VIOLATES THIS PART, THE DEPARTMENT

1 MAY ISSUE A VIOLATION NOTICE TO THE LESSEE AT THE LESSEE'S LAST
2 KNOWN ADDRESS.

3 (2) A VIOLATION NOTICE UNDER SUBSECTION (1) SHALL IDENTIFY THE
4 VIOLATION AND SPECIFY HOW AND BY WHAT DATE THE VIOLATION SHALL BE
5 CORRECTED.

6 (3) IF A LESSEE UNDER THIS PART FAILS TO TAKE THE ACTIONS
7 SPECIFIED BY THE DEPARTMENT IN A VIOLATION NOTICE BY THE TIME
8 SPECIFIED, THE DEPARTMENT MAY ASSESS AN ADMINISTRATIVE FINE OF NOT
9 MORE THAN \$10,000.00 PER DAY FOR EACH VIOLATION OF THIS PART AND
10 FOR EACH DAY THAT THE VIOLATION CONTINUES.

11 (4) IF THE DEPARTMENT DETERMINES THAT A VIOLATION OF THIS PART
12 POSES AN IMMINENT THREAT OF SERIOUS OR IRREPARABLE DAMAGE TO THE
13 ENVIRONMENT OR NATURAL RESOURCES, PUBLIC HEALTH OR SAFETY, OR
14 PRIVATE OR PUBLIC PROPERTY, INCLUDING, BUT NOT LIMITED TO, SITES,
15 STRUCTURES, OR OBJECTS OF CULTURAL, HISTORICAL, OR ARCHAEOLOGICAL
16 SIGNIFICANCE, THE DEPARTMENT MAY ISSUE AN ORDER DIRECTING THE
17 LESSEE TO TAKE IMMEDIATE REMEDIAL ACTION PURSUANT TO SECTION 32483
18 TO ALLEVIATE THREATS AND TO ABATE THE VIOLATION. THE ORDER MAY
19 DIRECT THE LESSEE TO CEASE OPERATIONS AT THE LEASED SITE UNTIL THE
20 DEPARTMENT DETERMINES THAT THE VIOLATION HAS BEEN RESOLVED.

21 (5) AN ORDER TO CEASE OPERATIONS UNDER SUBSECTION (4) SHALL
22 SET FORTH WHAT MEASURES THE LESSEE IS REQUIRED TO TAKE, INCLUDING
23 SUBMISSION OF REPORTS TO THE DEPARTMENT, TO RECEIVE APPROVAL TO
24 RESUME ACTIVITIES ON THE LEASE. THE LESSEE SHALL CEASE ACTIVITIES
25 AS SPECIFIED IN THE ORDER. THE DEPARTMENT MAY AUTHORIZE CERTAIN
26 ACTIVITIES TO CONTINUE DURING THE PERIOD OF THE ORDER TO CEASE
27 OPERATIONS.

1 (6) AN ORDER TO CEASE OPERATIONS REMAINS IN EFFECT FOR THE
2 PERIOD SPECIFIED IN THE ORDER OR AS OTHERWISE SPECIFIED BY THE
3 DEPARTMENT. IF THE DEPARTMENT DETERMINES THAT THE CIRCUMSTANCES
4 GIVING RISE TO THE ORDER CANNOT BE RESOLVED WITHIN A REASONABLE
5 TIME PERIOD, THE DEPARTMENT MAY CANCEL THE LEASE.

6 (7) AN ORDER TO CEASE OPERATIONS DOES NOT EXTEND THE TERM OF
7 THE LEASE. THE LESSEE SHALL CONTINUE TO MAKE ALL REQUIRED PAYMENTS
8 ON THE LEASE DURING THE PERIOD THE ORDER IS IN EFFECT.

9 (8) IF THE DEPARTMENT DETERMINES THAT THERE HAS BEEN A
10 SIGNIFICANT, UNANTICIPATED ADVERSE EFFECT ON THE ENVIRONMENT,
11 NATURAL RESOURCES, OR PUBLIC HEALTH OR SAFETY, THE DEPARTMENT SHALL
12 ORDER THE LESSEE TO TAKE REMEDIAL ACTION THAT THE DEPARTMENT
13 CONSIDERS NECESSARY TO ADDRESS THE ADVERSE EFFECT.

14 SEC. 32481. IF AFTER PROVIDING AN OPPORTUNITY FOR AN
15 EVIDENTIARY HEARING UNDER THE ADMINISTRATIVE PROCEDURES ACT OF
16 1969, 1969 PA 306, MCL 24.201 TO 24.328, THE DEPARTMENT DETERMINES
17 THAT THE LESSEE HAS FAILED TO COMPLY WITH A REMOVAL PLAN UNDER
18 SECTION 32427 APPROVED IN A SITE ASSESSMENT PERMIT, WITH A
19 DECOMMISSIONING PERMIT, OR WITH THE REQUIREMENTS OF SECTION
20 32465(2)(B), BOTH OF THE FOLLOWING APPLY:

21 (A) THE DEPARTMENT MAY TAKE SUCH MEASURES AS IT CONSIDERS
22 NECESSARY TO INITIATE AND FULLY IMPLEMENT THE REMOVAL PLAN OR
23 DECOMMISSIONING PLAN OR PERFORM OUTSTANDING OBLIGATIONS UNDER THE
24 LEASE BY DRAWING ON THE FINANCIAL ASSURANCE MAINTAINED UNDER
25 SECTION 32447.

26 (B) THE LESSEE REMAINS LIABLE FOR REMOVAL AND DECOMMISSIONING
27 COSTS AND RESPONSIBLE FOR ACCIDENTS OR DAMAGES THAT MIGHT RESULT

1 FROM SUCH FAILURE.

2 SEC. 32483. (1) THE DEPARTMENT MAY REQUEST THE DEPARTMENT OF
3 ATTORNEY GENERAL TO COMMENCE A CIVIL ACTION IN INGHAM COUNTY TO
4 RESTRAIN OR CORRECT A VIOLATION OF THIS PART. THE COURT MAY ISSUE
5 AN ORDER REQUIRING COMPLIANCE WITH THIS PART INCLUDING RESTORATION
6 OF THE AREA AFFECTED BY THE VIOLATION. A PERSON WHO VIOLATES AN
7 ORDER OF THE COURT ISSUED UNDER THIS SUBSECTION IS SUBJECT TO A
8 CIVIL FINE OF NOT MORE THAN \$10,000.00 FOR EACH DAY OF VIOLATION.

9 (2) IN A CIVIL ACTION COMMENCED UNDER SUBSECTION (1), THE
10 CIRCUIT COURT MAY, IN ADDITION TO ANY OTHER RELIEF GRANTED, ASSESS
11 A CIVIL FINE OF NOT MORE THAN \$10,000.00 PER DAY FOR EACH VIOLATION
12 OF THIS PART AND FOR EACH DAY THAT THE VIOLATION CONTINUES.

13 SEC. 32485. (1) A PERSON WHO DOES ANY OF THE FOLLOWING IS
14 GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN
15 \$10,000.00 PER DAY FOR EACH DAY OF VIOLATION:

16 (A) DISCOVERS ABANDONED PROPERTY AND, KNOWING THAT THE
17 PROPERTY IS ABANDONED PROPERTY, FAILS TO SUSPEND BOTTOM-DISTURBING
18 ACTIVITIES OR REPORT THE ABANDONED PROPERTY AS REQUIRED BY SECTION
19 32431.

20 (B) KNOWINGLY MAKES A FALSE STATEMENT, REPRESENTATION, OR
21 CERTIFICATION IN AN APPLICATION FOR A LEASE OR PERMIT OR IN A
22 REPORT REQUIRED BY A LEASE OR PERMIT.

23 (C) KNOWINGLY RENDERS INACCURATE ANY MONITORING DEVICE OR
24 METHOD REQUIRED TO BE MAINTAINED BY A LEASE OR PERMIT.

25 (2) A PERSON WHO COMMITS A VIOLATION DESCRIBED IN THIS SECTION
26 A SECOND OR SUBSEQUENT TIME IS GUILTY OF A FELONY PUNISHABLE BY A
27 FINE OF NOT MORE THAN \$25,000.00 FOR EACH DAY OF VIOLATION OR BY

1 IMPRISONMENT FOR NOT MORE THAN 2 YEARS, OR BY BOTH.

2 SEC. 32504B. (1) THE DEPARTMENT MAY ENTER INTO A DEED, LEASE,
3 OR AGREEMENT WITH OR ISSUE A PERMIT TO AN APPROVED ORGANIZATION
4 PERTAINING TO LANDS DESCRIBED IN SECTION 32502 FOR PLACEMENT AND
5 USE OF 1 OR MORE OF THE FOLLOWING STRUCTURES:

6 (A) STRUCTURES TO RESEARCH OFFSHORE WIND ENERGY DEVELOPMENT.

7 (B) ENVIRONMENTAL MONITORING BUOYS.

8 (C) MOORING BUOYS AT SHIPWRECK SITES.

9 (2) ALL STUDIES, INFORMATION, AND OTHER DATA COLLECTED USING
10 STRUCTURES UNDER SUBSECTION (1) SHALL BE MADE AVAILABLE BY THE
11 APPROVED ORGANIZATION TO ANY PERSON UPON REQUEST.

12 (3) PART 324 DOES NOT APPLY TO ACTIVITIES OR STRUCTURES
13 AUTHORIZED UNDER THIS SECTION. ACTIVITIES AND STRUCTURES OTHERWISE
14 REGULATED BY PART 324 ARE NOT SUBJECT TO THIS PART.

15 (4) AS USED IN THIS SECTION, "APPROVED ORGANIZATION" MEANS A
16 LAWFUL NONPROFIT ENTITY AS APPROVED BY THE DEPARTMENT, A LOCAL UNIT
17 OF GOVERNMENT, A FEDERAL OR STATE AGENCY, OR AN INSTITUTION OF
18 HIGHER EDUCATION IN THIS STATE. NOTWITHSTANDING ANY OTHER PROVISION
19 OF THIS PART, FOR THE PURPOSES OF THIS SECTION, AN APPROVED
20 ORGANIZATION IS NOT REQUIRED TO BE A LITTORAL OR RIPARIAN
21 LANDOWNER.