

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994
Part 326
GREAT LAKES SUBMERGED LOGS RECOVERY

324.32601 Definitions.

Sec. 32601.

As used in this part:

- (a) "Bottomlands" means land in the Great Lakes, and bays and harbors of the Great Lakes, lying below and lakeward of the ordinary high-water mark as described in section 32502.
- (b) "Department" means the department of environmental quality.
- (c) "Fair market value" means the price based upon the unique historical and physical properties, including, but not limited to, species, growth rates, volume, and condition of the submerged logs as calculated at dockside following delivery to shore.
- (d) "Fund" means the submerged log recovery fund created in section 32610.
- (e) "Great Lakes" means Lake Superior, Lake Michigan, Lake Huron, and Lake Erie, and includes Lake St. Clair.
- (f) "Ordinary high-water mark" means the elevations described in section 32502. When the soil, configuration of the surface, or vegetation has been altered by human activity, the ordinary high-water mark is located where it would have been if this alteration had not occurred.
- (g) "Patented lands" means any bottomlands lying within a specific government grant area, including a private claim patent or federal patent.
- (h) "Riparian owner" means a person who owns frontage bordering bottomlands.
- (i) "Riparian rights" means those rights that are associated with the ownership of frontage bordering bottomlands, subject to the public trust.
- (j) "Submerged log" means a portion of the trunk of a felled tree that has not been further processed for any end use and is located on, in, over, or under bottomlands. Submerged log does not include a portion of a tree that is located in the Great Lakes or on, in, over, or under bottomlands that poses a navigational or safety hazard or is of no or little commercial value.
- (k) "Unpatented lands" means all bottomlands except patented lands.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000

Popular Name: Act 451

Popular Name: NREPA

324.32602 Submerged logs; reservation of ownership rights.

Sec. 32602.

This state reserves to itself title and ownership of all submerged logs lying on or over, embedded in, or buried under unpatented lands.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000

Popular Name: Act 451

Popular Name: NREPA

324.32603 Removal of submerged logs from bottomlands, patented lands, or underwater preserves; permit.

Sec. 32603.

(1) A person shall not remove submerged logs from bottomlands except as authorized by a permit issued by the department pursuant to part 13.

(2) The department may issue a permit under this part to a person for the removal of submerged logs from patented lands if permission is received from the lawful owner of the patented lands.

(3) A person shall not recover, alter, or destroy abandoned property as defined in part 761 while engaging in submerged log removal operations under a submerged log removal permit issued under this part.

(4) For submerged log recovery in underwater preserves established under part 761, the department shall place reasonable conditions on submerged log removal permits to prevent damage to abandoned watercraft or other features of archaeological, historical, recreational, or environmental significance and to minimize conflicts between recreational activities within the preserve and the submerged log recovery operation.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000 ;-- Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011

Popular Name: Act 451

Popular Name: NREPA

324.32604 Application for submerged log removal permit; submission; form; information; time period for submission; disposition of fees.

Sec. 32604.

(1) Applications for submerged log removal permits shall be submitted before February 1 of each calendar year.

(2) An application for a submerged log removal permit shall be submitted in writing on a form provided by the department and shall include all of the following:

(a) A description of the proposed bottomland log removal area with boundaries delineated by the use of current technology such as a digital global positioning system or other technology approved by the department. The proposed bottomland log removal area shall be a contiguous area of not more than 320 acres. The area proposed shall be square or rectangular in shape, and the length shall not exceed the width by more than a factor of 6.

(b) A description of the methods to be used to raise the submerged logs, the time of year during which submerged logs will be raised, and the procedures to be used for transferring logs to the shore.

(c) Identification of any adverse environmental impacts associated with the proposed submerged log removal method.

(d) Identification of the steps proposed to mitigate any adverse environmental impacts caused by the proposed submerged log removal operation.

(e) Other information that the department considers necessary in evaluating a submerged log removal permit application.

(f) A \$500.00 application fee.

(3) An application for a submerged log removal permit is not complete until all information requested on the application form and any other information requested by the department are received. Within 30 days of its receipt of an application, the department shall notify the applicant in writing if the application is deficient. The applicant shall submit the requested information to the department within 30 days after the date the notice is provided. If the applicant fails to respond within the 30-day period, the department shall deny the submerged log removal permit unless the applicant requests and the department approves an extension of time based upon the applicant's reasonable justification for the extension.

(4) Application fees received under this section shall be forwarded to the state treasurer for deposit into the fund.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000 ;-- Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011

Popular Name: Act 451

Popular Name: NREPA

324.32605 Receipt of completed application; review by department; issuance of permit; conditions.

Sec. 32605.

Upon receiving a complete application for a submerged log removal permit, the department shall do both of the following:

(a) Place the application on public notice for a 20-day period for review and comment.

(b) Submit a copy to the department of natural resources and the department of state for their review and comment.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000

Popular Name: Act 451

Popular Name: NREPA

324.32606 Department review of application; issuance; limitation; time period for making decision; conditions; notification of approval or denial; disposition of fees.

Sec. 32606.

(1) The department shall review each complete application received for a submerged log removal permit and shall not issue a permit unless the department determines both of the following:

(a) That any adverse impacts, including, but not limited to, impacts to the environment, natural resources, riparian rights, and the public trust are minimal and will be mitigated to the extent practicable.

(b) That the proposed activity will not unreasonably affect the public health, safety, and welfare.

(2) The department may determine that certain areas within a proposed bottomland log removal area described in an application for a submerged log removal permit shall not be authorized for submerged log removal based upon adverse impacts, including, but not limited to, adverse impacts to the environment, natural resources, riparian rights, and the public trust.

(3) The department shall make a decision on whether or not to issue a submerged log removal permit under this part within 90 days after the close of the review and comment period under section 32605 or, if a public hearing is held under section 32608, within 90 days after the date of that public hearing.

(4) If the department issues a submerged log removal permit, the department shall condition the permit on compliance with both of the following:

(a) The permittee has provided the department with a \$3,000.00 log recovery fee.

(b) The permittee has provided the department a bond as required in section 32607(7).

(5) The department shall notify the applicant in writing within 10 days after the date the department approves or denies a submerged log removal permit under this section.

(6) The department shall forward log recovery fees received under this subsection to the state treasurer for deposit into the Great Lakes fund created in section 32611.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000 ;-- Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011

Popular Name: Act 451

Popular Name: NREPA

324.32607 Submerged log removal permit; overlaps; expiration; transfer; bond; termination; "bond" defined.

Sec. 32607.

(1) The department shall not authorize the same bottomland log removal area in more than 1 submerged log removal permit at any 1 time.

(2) The department may modify the boundaries of a proposed bottomland log removal area in a submerged log removal permit to avoid overlaps with other active submerged log removal permits or adverse impacts, including, but not limited to, impacts to the environment, natural resources, riparian rights, and the public trust.

(3) A submerged log removal plan approved by the department shall be included in each submerged log removal permit.

(4) A submerged log removal permit shall contain terms and conditions that are determined by the department to protect the environment, natural resources, riparian rights, and the public trust.

(5) Each submerged log removal permit shall expire 5 years after the date the permit is issued. However, a submerged log removal permit issued prior to the effective date of the 2011 amendatory act that amended this section expires 5 years after the effective date of the 2011 amendatory act that amended this section. If federal

approval is required, an applicant shall notify the department of the date on which the federal government issued its approval for the submerged log removal permit.

(6) A submerged log removal permit issued under this section is not transferrable unless the transfer is approved in writing by the department.

(7) An applicant for a submerged log removal permit shall provide a bond acceptable to the department in the amount of not less than \$10,000.00 or more than \$100,000.00 as required by the department, based upon permit conditions including costs of restoration and payments under section 32609. Except as provided in subsection (8), the term of the bond shall extend for 1 year following the expiration of the submerged log removal permit. The bond shall be provided to the department at least 10 days prior to beginning submerged log removal in a bottomland log removal area. The bond shall ensure compliance with the submerged log removal permit and all required payments under section 32609. If a submerged log removal permit is terminated under subsection (8), the department shall issue a written statement releasing the permittee or bonding company, or both, upon satisfaction of the department as to the compliance of the permittee with the terms and conditions of the permit and satisfaction of all payments as required in section 32609.

(8) A permittee may request, in writing, and the department may grant, termination of a submerged log removal permit prior to the expiration date, including release from quarterly reports and bond requirements.

(9) As used in this section, "bond" means a performance bond from a surety company authorized to transact business in this state or an irrevocable letter of credit, in favor of the department.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000 ;-- Am. 2004, Act 546, Imd. Eff. Jan. 3, 2005 ;-- Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011

Popular Name: Act 451

Popular Name: NREPA

324.32608 Application for submerged log removal permit; hearing.

Sec. 32608.

(1) The department may hold a public hearing on an application for a submerged log removal permit if the department desires additional information before making a decision on the permit application, or upon request, if such request is made within the public notice period.

(2) An applicant for a submerged log removal permit or a riparian owner who is aggrieved by an action or inaction of the department under this part may request a formal hearing on the matter, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, within 60 days of the notice of the department's decision.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000

Popular Name: Act 451

Popular Name: NREPA

324.32609 Sawlog stumpage value; reservation of payments; "sawlog stumpage value" defined; report and payments due; disposition of payments; overdue payment.

Sec. 32609.

(1) The state reserves a payment of 15% of the sawlog stumpage value of each submerged log that is removed from unpatented lands. As used in this subsection, "sawlog stumpage value" means the price received from recovered submerged logs.

(2) The holder of a submerged log removal permit under this part shall provide the department with a detailed report and all payments due under this section within 30 days after the close of each calendar quarter. The report shall include an accurate scaling at dockside of all submerged logs removed, by species. The permittee shall provide for an independent agent, approved by the department in writing, to conduct the scaling and species determination.

(3) All payments received under this section shall be forwarded to the state treasurer for deposit into the fund.

(4) After a permittee is notified in writing that a payment under this section is overdue, the department may order

suspension of the submerged log removal permit until the payment is submitted in full. The permittee shall not resume submerged log removal operations until the department provides written authorization for the operations to resume.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000 ;-- Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011

Popular Name: Act 451

Popular Name: NREPA

324.32610 Submerged log recovery fund.

Sec. 32610.

- (1) The submerged log recovery fund is created within the state treasury.
- (2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.
- (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) Subject to subsection (5), money from the fund shall be used, upon appropriation, for the administrative costs of the department, the department of natural resources, and the department of state in implementing this part.
- (5) On December 1, 2001 and on December 1 of each following year, the state treasurer shall transfer the balance of the fund as follows:
 - (a) Fifty percent to the Great Lakes fund created in section 32611.
 - (b) Fifty percent to the forest development fund established under section 50507.

History: Add. 2000, Act 277, Imd. Eff. July 10, 2000

Popular Name: Act 451

Popular Name: NREPA

324.32611 Great Lakes fund.

Sec. 32611.

- (1) The Great Lakes fund is created within the state treasury.
- (2) The state treasurer may receive money or other assets from any source for deposit into the Great Lakes fund. The state treasurer shall direct the investment of the Great Lakes fund. The state treasurer shall credit to the Great Lakes fund interest and earnings from Great Lakes fund investments.
- (3) Money in the Great Lakes fund at the close of the fiscal year shall remain in the Great Lakes fund and shall not lapse to the general fund.
- (4) The department shall expend money from the Great Lakes fund, upon appropriation, only for environmental projects related to the Great Lakes and areas contiguous to the Great Lakes including, but not limited to, the prevention and management of nonnative species, coastal wetland restoration, contaminated sediment cleanup, and underwater preserve management, and for the administration of this part.

History: Add. 2000, Act 277, Imd. Eff. July 10, 2000 ;-- Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011

Popular Name: Act 451

Popular Name: NREPA

324.32612 Violation; civil action; remedies; civil fine.

Sec. 32612.

(1) The department may bring a civil action against a person in the circuit court of the county in which a violation occurs or in Ingham county circuit court to do 1 or more of the following:

- (a) Enforce compliance with this part and the rules promulgated under this part.
- (b) Restrain a violation of this part or the rules promulgated under this part.
- (c) Enjoin the further performance of, or order the removal of, any project that is undertaken contrary to this part or the rules promulgated under this part.
- (d) Enforce a permit issued under this part.
- (e) Order the restoration of an area affected by a violation of this part or the rules promulgated under this part to its prior condition.

(2) In an action brought under this section, the circuit court, in addition to any other relief granted, may assess a civil fine of not more than \$5,000.00 per day for each day of violation of this part or the rules promulgated under this part.

(3) Any civil fine or remedy assessed, sought, or agreed to by the department shall be appropriate to the violation.

(4) Civil fines recovered under this section shall be forwarded to the state treasurer for deposit into the fund.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000

Popular Name: Act 451

Popular Name: NREPA

324.32613 Violation as misdemeanor; penalties.

Sec. 32613.

(1) A person who does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00 per day for each day of violation:

- (a) Violates this part or a rule promulgated under this part.
- (b) Violates a permit issued under this part.
- (c) Makes a false statement, representation, or certification in an application for or with regard to a permit or in a notice or report required by a permit.
- (d) Renders inaccurate any monitoring device or method required to be maintained by a permit.

(2) In addition to any other penalty provided in this section, a court shall order a person convicted under this section to return to the state any logs removed from bottomlands in violation of this part or the rules promulgated under this part, or to compensate the state for the full market value of the logs. If the person convicted under this section had been issued a permit under this part, the permit is void as of the date of conviction.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000

Popular Name: Act 451

Popular Name: NREPA

324.32614 Repealed. 2018, Act 237, Eff. Sept. 25, 2018.

Compiler's Notes: The repealed section pertained to an annual report on great lakes submerged logs recovery program.

Popular Name: Act 451

Popular Name: NREPA

324.32615 Rules.

Sec. 32615.

The department may promulgate rules to implement this part.

History: Add. 2000, Act 278, Imd. Eff. July 10, 2000

Popular Name: Act 451

Popular Name: NREPA