



Michigan
Great
Lakes
Wind
Council

**Bottomlands Leasing and
Permitting Work Group:
Summary of Recommendations**

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Executive Order 2009-1 Charge

Council's report to Governor must include:

- Options for how the public could be compensated for bottomlands leasing and wind rights for wind energy systems, and
- Recommendations for legislation and for changes in administrative rules and policies related to the siting and development of offshore wind energy systems

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Bottomlands Leasing and Permitting Work Group

Recommended legislative changes are:

1. Part 325 should be amended to facilitate the initial site assessment permit and lease for offshore wind energy development. The amendment should indicate simply that in the case of permits and leases for offshore wind, the riparian requirement of Part 325 is not applicable. Also, Part 325 should be amended to explicitly state that the harvest of Great Lakes wind resources is a “water-dependent” use.
2. A new statute and/or administrative rule should be written and adopted that specifically regulates long-term leasing and permitting for offshore use of bottomlands for wind energy development and production.

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Bottomlands Leasing and Permitting Recommended Process

- Under this approach, parcels of Great Lakes bottomlands that conform to approved mapping criteria and are of a commercially significant size (+/- 20 acres) may be nominated by prospective developers **or** selected by the state
- When parcels are identified, the state will issue a notice of intent to lease; the parcels will be leased through a competitive bidding process at public auction
- The state will award a site assessment lease for a term of 10 years to the winning bidder, during which all data collection necessary to create a development and construction plan will be completed

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Bottomlands Leasing and Permitting Recommended Process (cont.)

- During initial site assessment lease, developer will submit a complete development proposal that meets permit criteria outlined in the regulation
- When proposal that meets criteria is submitted and state approves the proposal, initial lease will be extended for operational life of facility and a permit will be issued for construction and operation

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Recommended Attributes of a Site Assessment Lease

- Easy to acquire
- Require nominal bond (e.g., \$100,000)
- Include nominal fee based on the area (e.g. a flat fee per acre)
- Provide term of 10 years
- Automatically extended, subject to attainment of all permitting requirements
- Renewable beyond initial 10-year period with demonstration of significant progress toward site assessment
- Assignable with state approval.
- Provide an undefined right of easement to get to shore

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Additional Work Group Recommendations Related to Administration of Regulatory Program

- Limited trial basis
- Work group to develop lease documents
- MDEQ administers initial site assessment
- A state authority of relevant state agencies administers construction and operation
- Relevant agency coordination
- Fees set by statute to significantly offset costs of administrative review
- Promulgation of rules allowed under new statute
- Permit requirements to assess impacts

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Compensating the Public for Use of Bottomlands: Key Workgroup Recommendations

The work group discussed methods for compensating the public for use of bottomlands and agreed on the following combination of compensation methods:

- Nominal rent
- Royalties, non-production and production, phased in as development advances

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Compensating the Public for Use of Bottomlands: Recommended Process

- Compensation scheme detailed by statute
- Nominal rent (e.g., 25 cents per acre per year and a \$100,000 assurance bond) related to area of bottomlands occupied and other public uses displaced by development
- During operation, both rent and royalty for projected life of project (e.g., 25 years or as long as actively producing at a predetermined level of megawatts per acre)

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Compensating the Public for Use of Bottomlands: Recommended Process (cont.)

- Compensation scheme should be phased in as development advances from construction (non-production) to production to encourage development
- Royalties should be related to value of energy produced (e.g., a percentage of revenues)
- Portion of royalties to support mitigation of environmental impacts and long-term monitoring

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Protection of the Public Trust: Work Group Recommendations

The work group discussed the following approaches for protecting public resource values during siting, operation, and decommissioning of offshore wind turbines and related facilities.

- The legislature or executive should make a determination that development of renewable energy in the form of offshore wind is in the public's best interest if sited with adequate due diligence to protect natural features, historic and cultural sites, public recreation, navigation, and Tribal, commercial, and recreational fishing resources.

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Protection of the Public Trust: Work Group Recommendations (cont.)

- In addition to site-specific data identified by Mapping Criteria Work Group (e.g., substrate, navigation lanes, fish spawning reefs, bathymetry), permit criteria should include sufficient specificity to allow MDEQ to understand the risks to public trust resources and make decisions in a manner that allows highest level of protection while enabling development of the offshore wind energy industry
- In addition to directing some of the compensation received by the state toward support for the regulatory program, a portion of royalties collected by the state should be directed to another public use that will offset impacts of offshore wind development (e.g., supporting related programs for offshore fisheries habitat; developing recreation opportunities; protecting and managing bottomlands, including shipwreck management; and/or contributing to additional energy efficiency advancements within the state)

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