

§484-D. Compensation fee program for renewable energy development

1. Compensation fee program. The department shall establish a compensation fee program to fund a compensation project as an alternative means of satisfying requirements related to off-site habitat improvement or preservation that the department determines necessary to mitigate the adverse effects of a renewable energy development on wildlife and fisheries habitats, as defined by the department, to comply with section 484, subsection 3. For purposes of this section, "renewable energy development" means a development subject to the requirements of this article that is:

- A. A solar energy development and associated facilities; [PL 2023, c. 448, §2 (NEW).]
- B. A wind energy development as defined in Title 35-A, section 3451, subsection 11 and associated facilities; or [PL 2023, c. 448, §2 (NEW).]
- C. A high-impact electric transmission line as defined in Title 35-A, section 3131, subsection 4-A. [PL 2023, c. 448, §2 (NEW).]

A compensation project funded in whole or in part from compensation fees under this section must be approved by the department.

[PL 2023, c. 448, §2 (NEW).]

2. Calculating compensation fee. The department shall establish criteria for determining compensation fee amounts based upon the fair market value of land consisting of habitat comparable to the habitat affected by the development under this section and including reasonable costs, including stewardship costs, of a compensation project completed in whole or in part with the compensation fee. A portion of the fee may be used to cover the cost of administering a compensation fund in subsection 3. The fee may not include compensation for an area as defined by section 480-Z, subsection 7.

[PL 2023, c. 448, §2 (NEW).]

3. Compensation fund. The department shall establish one or more compensation funds to receive compensation fees under this section for restoration, enhancement or preservation activities under paragraph A or to provide compensation fees to an organization authorized by the department under paragraph B. The department may require compensation fees to be remitted to another fund or funds created by the Legislature that can carry out the purposes of this section. Funds may be used by an agency required to assist with implementation of the requirements of this section to hire contract staff.

A. The department may establish a nonlapsing compensation fund for the purpose of receiving compensation fees, grants and other related income to carry out a compensation project dedicated to payment of costs and related expenses of restoration, enhancement or preservation activities of the project. The department may make payments from the fund consistent with the purpose of the fund. Income received under this paragraph must be deposited with the Treasurer of State to the credit of the compensation fund and may be invested as provided by law. Interest on investments under this paragraph must be credited to the compensation fund. [PL 2023, c. 448, §2 (NEW).]

B. The department may enter into an enforceable, written agreement with a public, quasi-public or municipal organization or a private, nonprofit organization with expertise in the conservation of natural or working lands. The organization must demonstrate the ability to receive compensation fees, administer a compensation fund and ensure that compensation projects are implemented consistent with local, regional or state management priorities. If compensation fees are provided to an authorized organization, the organization shall maintain records of expenditures and provide an annual summary report as requested by the department. If the organization is a state agency other than the department, the agency shall establish a fund meeting the requirements specified in paragraph A. If the organization does not perform in accordance with this paragraph or with the requirements of the written agreement with the department, the department may revoke the organization's authority to conduct activities in accordance with this paragraph. [PL 2023, c. 448, §2 (NEW).]

[PL 2023, c. 448, §2 (NEW).]

4. Location and type of projects. A compensation project funded by a compensation fee under this section must be located in the same biophysical region as the renewable energy development unless otherwise approved by the department and must consist of habitat comparable to the habitat affected by the renewable energy development. The department shall base approval of a compensation project on the management priorities for the biophysical region in which the project is located. For purposes of this subsection, "biophysical region" has the same meaning as in section 480-Z.

[PL 2023, c. 448, §2 (NEW).]

5. Relationship to other provisions. The payment of a compensation fee under this section does not relieve the renewable energy development of the requirement to comply with any other provision of this article, including but not limited to the requirement to avoid and minimize adverse impacts on natural resources to the greatest extent practicable.

[PL 2023, c. 448, §2 (NEW).]

6. Rules. The department shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are major substantive rules under Title 5, chapter 375, subchapter 2-A.

[PL 2023, c. 448, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 448, §2 (NEW).

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