

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**  
**Act 451 of 1994**

PART 121

LIQUID INDUSTRIAL BY-PRODUCTS

**324.12101 Definitions; B to L.**

Sec. 12101. As used in this part:

(a) "Biofuel" means any renewable liquid or gas fuel offered for sale as a fuel that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol, ethanol-blended fuel, biodiesel, and biodiesel blends.

(b) "Biogas" means a biofuel that is a gas.

(c) "Brine" means a liquid produced as a by-product of oil or natural gas production or exploration.

(d) "Container" means any portable device in which a liquid industrial by-product is stored, transported, treated, or otherwise handled.

(e) "Department" means the department of environmental quality.

(f) "Designated facility" means a treatment facility, storage facility, disposal facility, or reclamation facility that receives liquid industrial by-product from off-site.

(g) "Director" means the director of the department.

(h) "Discarded" means any of the following:

(i) Abandoned by being disposed of, burned, or incinerated; or accumulated, stored, or treated before, or instead of, being abandoned.

(ii) Accumulated, stored, or treated before being managed in 1 of the following ways:

(A) By being used or reused in a manner constituting disposal by being applied to or placed on land or by being used to produce products that are applied to or placed on land.

(B) By being burned to recover energy or used to produce a fuel.

(C) By reclamation.

(i) "Discharge" means the accidental or intentional spilling, leaking, pumping, releasing, pouring, emitting, emptying, or dumping of liquid industrial by-product into the land, air, or water.

(j) "Disposal" means the abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing of a liquid industrial by-product into or on land or water in such a manner that the liquid industrial by-product may enter the environment, or be emitted into the air, or discharged into surface water or groundwater.

(k) "Disposal facility" means a facility or a part of a facility at which liquid industrial by-product is disposed.

(l) "Facility" means all contiguous land and structures, other appurtenances, and improvements on land for treating, storing, disposing of, or reclamation of liquid industrial by-product.

(m) "Generator" means a person whose act or process produces liquid industrial by-product.

(n) "Liquid industrial by-product" or "by-product" means any material that is produced by, is incident to, or results from industrial, commercial, or governmental activity or any other activity or enterprise, that is determined to be liquid by method 9095 (paint filter liquids test) as described in "Test methods for evaluating solid wastes, physical/chemical methods," United States Environmental Protection Agency publication no. SW-846, and that is discarded. Liquid industrial by-product does not include any of the following:

(i) Hazardous waste regulated and required to be manifested under part 111.

(ii) Septage waste regulated under part 117.

(iii) Medical waste regulated under part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13832.

(iv) A discharge to the waters of the state in accordance with a permit, order, or rule under part 31.

(v) A liquid generated by a household.

(vi) A liquid regulated under 1982 PA 239, MCL 287.651 to 287.683.

(vii) Material managed in accordance with section 12102a.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 61, Imd. Eff. May 24, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99903 of the Michigan Compiled Laws.

**Popular name:** Act 451

**Popular name:** NREPA

### 324.12102 Definitions; O to V.

Sec. 12102. As used in this part:

(a) "On-site" means on the same geographically contiguous property, which may be divided by a public or private right-of-way if access is by crossing rather than going along the right-of-way. On-site includes noncontiguous pieces of property owned by the same person but connected by a right-of-way that the owner controls and to which the public does not have access.

(b) "Peace officer" means any law enforcement officer who is trained and licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, or an officer appointed by the director of the department of state police under section 6d of 1935 PA 59, MCL 28.6d.

(c) "Publicly owned treatment works" means any entity that treats municipal sewage or industrial waste or liquid industrial by-product that is owned by the state or a municipality, as that term is defined in 33 USC 1362. Publicly owned treatment works include sewers, pipes, or other conveyances only if they convey wastewater to a publicly owned treatment works providing treatment.

(d) "Reclamation" means either processing to recover a usable product or regeneration.

(e) "Reclamation facility" means a facility or part of a facility where liquid industrial by-product reclamation is conducted.

(f) "Shipping document" means a log, an invoice, a bill of lading, or other record, in either written or electronic form, that includes all of the following information:

(i) The name and address of the generator.

(ii) The name of the transporter.

(iii) The type and volume of liquid industrial by-product in the shipment.

(iv) The date the by-product was shipped off-site from the generator.

(v) The name, address, and site identification number of the designated facility.

(g) "Site identification number" means a number that is assigned by the United States Environmental Protection Agency or the department to a transporter or facility.

(h) "Storage" means the containment of liquid industrial by-product, on a temporary basis, in a manner that does not constitute disposal of the by-product.

(i) "Storage facility" means a facility or part of a facility where liquid industrial by-product is stored.

(j) "Surface impoundment" means a treatment facility, storage facility, or disposal facility or part of a treatment, storage, or disposal facility that is either a natural topographic depression, a human-made excavation, or a diked area formed primarily of earthen materials. A surface impoundment may be lined with human-made materials designed to hold an accumulation of liquid industrial by-product. Surface impoundments include, but are not limited to, holding, storage, settling, and aeration pits, ponds, and lagoons. Surface impoundment does not include an injection well.

(k) "Tank" means a stationary device designed to contain an accumulation of liquid industrial by-product that is constructed primarily of nonearthen materials such as wood, concrete, steel, or plastic to provide structural support.

(l) "Transportation" means the movement of liquid industrial by-product by air, rail, public or private roadway, or water.

(m) "Transporter" means a person engaged in the off-site transportation of liquid industrial by-product by air, rail, public roadway, or water.

(n) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any liquid industrial by-product, to neutralize the by-product, or to render the by-product safer to transport, store, or dispose of, amenable to recovery, amenable to storage, or reduced in volume.

(o) "Treatment facility" means a facility or part of a facility at which liquid industrial by-product undergoes treatment.

(p) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and that, as a result of the use, is contaminated by physical or chemical impurities.

(q) "Vehicle" means a transport vehicle as defined by 49 CFR 171.8.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 61, Imd. Eff. May 24, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016;—Am. 2016, Act 294, Eff. Jan. 2, 2017.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99903 of the Michigan Compiled Laws.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12102a Materials not specified as liquid industrial by-products.**

Sec. 12102a. The following materials are not liquid industrial by-products when managed as specified:

(a) A material that is used or reused as an effective substitute for commercial products, used or reused as an ingredient to make a product, or returned to the original process, if the material does not require reclamation prior to use or reuse, is not directly burned to recover energy or used to produce a fuel, and is not applied to the land or used in products applied to the land.

(b) A used oil that is directly burned to recover energy or used to produce a fuel if all of the following requirements are met:

(i) The material meets the used oil specifications of R 299.9809(1)(f) of the Michigan administrative code.

(ii) The material contains no greater than 2 ppm polychlorinated biphenyls.

(iii) The material has a minimum energy content of 17,000 BTU/lb.

(iv) The material is expressly authorized as a used oil fuel source, regulated under part 55, or, in another state, regulated under a similar air pollution control authority.

(c) A liquid fully contained inside a manufactured article, until the liquid is removed or the manufactured equipment is discarded, at which point it becomes subject to this part.

(d) A liquid by-product sample transported for testing to determine its characteristics or composition. The sample becomes subject to this part when discarded.

(e) A liquid that is not regulated under part 615 that is generated in the drilling, operation, maintenance, or closure of a well, or other drilling operation, including the installation of cathodic protection or directional drilling, if either of the following applies:

(i) The liquid is left in place at the point of generation in compliance with part 31, 201, or 213.

(ii) The liquid is transported off-site from a location that is not a known facility as defined in section 20101, and all of the following occur:

(A) The disposal complies with applicable provisions of part 31 or 115.

(B) The disposal is not to a surface water.

(C) The landowner of the disposal site has authorized the disposal.

(f) A liquid vegetable or animal fat oil that is transported directly to a producer of biofuels for the purpose of converting the oil to biofuel.

(g) An off-specification fuel, including a gasoline blendstock, that was generated in a pipeline as the interface material from the mixture of 2 adjacent fuel products and that will be processed, by blending or by distillation or other refining, to produce a fuel product or fuel products.

(h) An off-specification fuel, including a gasoline blendstock, that resulted from the commingling of off-specification fuel products or from phase separation in a gasoline and alcohol blend and that will be processed, by distillation or other refining, to produce fuel products.

(i) An off-specification fuel product transported directly to a distillation or refining facility to produce a fuel product or fuel products regulated pursuant to 40 CFR part 80.

(j) A liquid or a sludge and associated liquid authorized to be applied to land under part 31 or 115.

(k) A liquid residue remaining in a container after pouring, pumping, aspirating, or another practice commonly employed to remove liquids has been utilized, if not more than 1 inch of residue remains on the bottom, or, for containers less than or equal to 110 gallons in size, not more than 3% by weight of residue remains in the container, or, for containers greater than 110 gallons in size, not more than 0.3% by weight of residue remains in the container. The liquid residue becomes subject to this part when discarded.

(l) A residual amount of liquid remaining in a container and generated as a result of transportation of a solid waste in that container.

(m) A liquid brine authorized for use as dust and ice control regulated under parts 31 and 615.

(n) Food processing residuals as defined in section 11503, or site-separated material or source-separated material approved by the department under part 115, that, to produce biogas, will be decomposed in a controlled manner under anaerobic conditions using a closed system that complies with part 55.

(o) A liquid approved by the director for use as a biofuel in energy production in compliance with part 55 that is not speculatively accumulated and that is transported directly to the burner of the biofuel.

**History:** Add. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2008, Act 153, Imd. Eff. June 5, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12103 Generator; duties.**

Sec. 12103. (1) A generator shall do all of the following:

(a) Characterize the liquid industrial by-product in accordance with this act and maintain records of the characterization.

(b) Maintain labeling or marking on containers and tanks of liquid industrial by-product to identify their contents.

(c) If transporting liquid industrial by-product, other than the generator's own by-product, by public roadway, engage, employ, or contract for the transportation only with a transporter registered and permitted under the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480.

(d) Except as otherwise provided in this part, utilize and retain a separate shipping document for each shipment of liquid industrial by-product transported to a designated facility. The department may authorize the use of a consolidated shipping document for a single shipment of uniform types of by-product collected from multiple by-product pickups. If a consolidated shipping document is authorized by the department and utilized by a generator, a receipt shall be obtained from the transporter documenting the transporter's company name, the driver's signature, the date of pickup, the type and quantity of by-product accepted from the generator, the consolidated shipping document number, and the designated facility. A generator of brine may complete a single shipping document per transporter of brine, per disposal well, each month.

(e) Certify that, when the transporter picks up liquid industrial by-product, the liquid industrial by-product is fully and accurately described on the shipping document and in proper condition for transport and that the information contained on the shipping document is factual. This certification shall be by the generator or the generator's authorized representative.

(f) Provide to the transporter a copy of the shipping document to accompany the liquid industrial by-product to the designated facility.

(g) If the generator does not receive confirmation of acceptance of the liquid industrial by-product by the designated facility, attempt to obtain confirmation by contacting the designated facility and the transporter. If resolution cannot be achieved after contacting the designated facility and transporter, the generator shall notify the department.

(2) A generator that transports its own liquid industrial by-product or operates an on-site reclamation facility, treatment facility, or disposal facility shall keep records of all by-product produced and transported, reclaimed, treated, or disposed of at the facility.

(3) A generator shall retain all records required pursuant to this part for a period of at least 3 years, and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required by this subsection is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as otherwise required by the department. Records required under this part may be retained in electronic format.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2013, Act 73, Eff. Oct. 1, 2013;—Am. 2014, Act 286, Imd. Eff. Sept. 23, 2014;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99903 of the Michigan Compiled Laws.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12104 Repealed. 1998, Act 140, Eff. Sept. 1, 1998.**

**Compiler's note:** The repealed section pertained to licensing requirements for transportation of liquid industrial wastes.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12105 Registered and permitted transporter; requirements.**

Sec. 12105. A transporter is subject to the registration and permitting requirements of the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480. A transporter registered and permitted under that act and licensed under part 117 shall comply with all of the following:

(a) All registration and permitting requirements of the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480, and licensing requirements of this part and part 117.

(b) Septage waste or liquid industrial by-product transported in a vehicle managed under part 117 and this part shall not be disposed of on land, unless specifically authorized by the department.

(c) Unless, under subdivision (b), the department specifically authorizes land application, in addition to the requirements of this part and part 117, the words "Land Application Prohibited", in a minimum of 2-inch letters, shall be affixed in a conspicuous location and visible on both sides of the vehicle if both of the

following apply:

(i) The vehicle is licensed under part 117 to transport septage waste.

(ii) The vehicle is authorized under the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480, to transport liquid industrial by-product.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12106 Equipment, location, and methods of transporter; inspection by department.**

Sec. 12106. The department may conduct an inspection to verify that the equipment, location, and methods of a transporter are adequate to effectuate service under this part.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12107 Vehicles; copy of registration and permit to be carried; closing or covering of vehicles; cleaning and decontamination; applicability of subsection (3) to vehicle transporting brine.**

Sec. 12107. (1) A vehicle used to transport liquid industrial by-product by public roadway shall carry a copy of the registration and permit issued in accordance with the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480, and shall produce it upon request of the department or a peace officer. The registration and permit may be carried in electronic format.

(2) All vehicles and containers used to transport liquid industrial by-product shall be closed or covered to prevent the escape of by-product. The outside of all vehicles, containers, and accessory equipment shall be kept free of by-product and its residue.

(3) To avoid cross-contamination, all portions of a vehicle or equipment that have been in contact with liquid industrial by-product shall be cleaned and decontaminated before the transport of any products, incompatible by-product, hazardous waste regulated under part 111, or other material. Before the transport of by-product, all portions of a vehicle or equipment shall be cleaned and decontaminated, as necessary, of any hazardous waste regulated under part 111. A transporter who owns or legally controls a vehicle or equipment shall maintain as part of the transporter's records documentation that before its use for the transportation of any products, incompatible by-product, hazardous waste regulated under part 111, or other material, the vehicle or equipment was decontaminated. This subsection does not apply to a vehicle if brine was transported in the vehicle and the next load transported in the vehicle is brine for disposal or well drilling or production purposes, oil or other hydrocarbons produced from an oil or gas well, or water or other fluids to be used in activities regulated under part 615 or the rules, orders, or instructions under that part.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12108 Repealed. 1998, Act 140, Eff. Sept. 1, 1998.**

**Compiler's note:** The repealed section pertained to denial, revocation, or suspension of license.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12109 Liquid industrial by-product transporter; delivery; retention of records; use of consolidated shipping document; issuance of site identification number.**

Sec. 12109. (1) A liquid industrial by-product transporter shall provide the generator confirmation of acceptance of by-product for transportation and shall deliver the liquid industrial by-product only to the designated facility specified by the generator.

(2) The liquid industrial by-product transporter shall retain all records required under this part for at least 3 years, and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required in this subsection is automatically extended during the course of any unresolved enforcement action regarding an activity regulated under this part or as required by the department. Records required under this part may be retained in electronic format.

(3) The department may authorize, for certain liquid industrial by-product streams, the use of a



consolidated shipping document as authorized under section 12103(1)(d). If a consolidated shipping document is authorized by the department and utilized by a generator, the transporter shall give to the generator a receipt documenting the transporter's company name, the driver's signature, the date of pickup, the type and quantity of by-product removed, the consolidated shipping document number, and the designated facility.

(4) A transporter shall obtain a site identification number assigned by the United States Environmental Protection Agency or the department. Until October 1, 2021, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subsection unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received. Money collected under this subsection shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2013, Act 73, Eff. Oct. 1, 2013;—Am. 2014, Act 286, Imd. Eff. Sept. 23, 2014;—Am. 2015, Act 224, Eff. Mar. 16, 2016;—Am. 2017, Act 90, Imd. Eff. July 12, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12110 Repealed. 1998, Act 140, Eff. Sept. 1, 1998.**

**Compiler's note:** The repealed section pertained to proof of financial responsibility.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12111 Incidents threatening public health, safety, and welfare, or environment; duties of generator, transporter, or owner or operator of facility; exemptions.**

Sec. 12111. (1) If a fire, explosion, or discharge of liquid industrial by-product occurs that could threaten the public health, safety, and welfare, or the environment, or when a generator, transporter, or owner or operator of a designated facility first has knowledge that a spill of by-product has reached surface water or groundwater, the generator, transporter, or owner or operator of the designated facility shall take appropriate immediate action to protect the public health, safety, and welfare, and the environment, including notification of local authorities and the pollution emergency alerting system using the telephone number 800-292-4706, unless the incident is reported to this state under another state law.

(2) The generator, transporter, or owner or operator of a designated facility shall, within 30 days, prepare and maintain as part of his or her records a written report documenting the incident described in subsection (1) and the response action taken, including any supporting analytical data and cleanup activities. The report shall be provided to the department upon request. Both the initial notification, as appropriate, and the report shall include all of the following information:

(a) The name and telephone number of the person reporting the incident.

(b) The name, address, and telephone number of the generator, transporter, or designated facility, and the site identification number of the transporter or designated facility.

(c) The date, time, and type of incident.

(d) The name and quantity of liquid industrial by-product involved and discharged.

(e) The extent of injuries, if any.

(f) The estimated quantity and disposition of recovered materials that resulted from the incident, if any.

(g) An assessment of actual or potential hazards to human health or the environment.

(h) The response action taken.

(3) Incidents occurring in connection with activities regulated under part 615 or the rules, orders, or instructions under that part or regulated under part C of title XIV of the public health service act, 42 USC 300h to 300h-8, or the regulations promulgated under that act are exempt from the requirements of this section.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12112 Facility accepting liquid industrial by-product; duties of owner or operator; report.**

Sec. 12112. (1) The owner or operator of a facility that accepts liquid industrial by-product shall accept delivery of by-product at the designated facility only if the facility is the destination indicated on the shipping

document. The facility owner or operator shall do all of the following:

(a) Obtain a site identification number assigned by the United States Environmental Protection Agency or the department. Until October 1, 2021, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subdivision unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received. Money collected under this subdivision shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130.

(b) Provide the generator or the generator's authorized representative confirmation of the receipt of the liquid industrial by-product.

(c) Maintain records of the characterization of the liquid industrial by-product. Characterization shall be in accordance with the requirements of this act.

(2) All storage, treatment, and reclamation of liquid industrial by-product at the designated facility shall be in either containers or tanks or as otherwise specified in section 12113(5). Storage, treatment, or reclamation regulated under part 615 or the rules, orders, or instructions promulgated under that part, or regulated under part C of title XIV of the public health service act, 42 USC 300h to 300h-8, or the regulations promulgated under that part are exempt from this subsection.

(3) The owner or operator of a designated facility shall not store liquid industrial by-product for longer than 1 year unless the by-product is being stored for purposes of reclamation and not less than 75% of the cumulative amount, by weight or volume, of each type of by-product that is stored on site each calendar year is reclaimed or transferred to a different site for reclamation during that calendar year. The owner or operator of a designated facility shall maintain documentation that demonstrates compliance with this subsection.

(4) The owner or operator of a designated facility shall do all of the following:

(a) Retain all records required pursuant to this part for a period of at least 3 years and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required by this subdivision is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department. Records required under this part may be retained in electronic format.

(b) Maintain a plan designed to respond to and minimize hazards to human health and the environment from unplanned releases of liquid industrial by-product to air, soil, and surface water.

(c) Document that all employees who have a responsibility to manage liquid industrial by-product are trained in the proper handling and emergency procedures appropriate for their job duties.

(5) Except as provided in subsection (6), a designated facility shall submit to the department by April 30 each year a report describing its activities for the previous calendar year. The department shall provide for a method of electronic reporting. The report, at a minimum, shall include the following information:

(a) The name and address of the facility.

(b) The calendar year covered by the report.

(c) The types and quantities of liquid industrial by-product accepted and a description of the manner in which the liquid industrial by-product was processed or managed.

(6) A designated facility is not subject to the reporting requirements of subsection (5) for a calendar year if, during that calendar year, the designated facility received liquid industrial by-products only from 1 generator and was owned, operated, or legally controlled by that generator.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2013, Act 73, Eff. Oct. 1, 2013;—Am. 2014, Act 286, Imd. Eff. Sept. 23, 2014;—Am. 2015, Act 224, Eff. Mar. 16, 2016;—Am. 2017, Act 90, Imd. Eff. July 12, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12113 Treatment, storage, or disposal of liquid industrial by-product; requirements.**

Sec. 12113. (1) Storage of liquid industrial by-product, whether at the location of generation, under the control of the transporter, or at the designated facility, shall be protected from weather, fire, physical damage, and vandals. All vehicles, containers, and tanks used to hold by-product shall be closed or covered, except when necessary to add or remove by-product, or otherwise managed in accordance with applicable state laws, to prevent the escape of by-product. The exterior of all vehicles, containers, and tanks used to hold by-product shall be kept free of by-product and its residue.

(2) Except as otherwise authorized pursuant to this section or other applicable statutes or rules or orders of the department, liquid industrial by-product shall be managed to prevent by-product from being discharged into the soil, surface water or groundwater, or a drain or sewer, or discharged in violation of part 55.

(3) A person shall treat, store, and dispose of liquid industrial by-product in accordance with all applicable statutes and rules and orders of the department.

(4) This part does not prohibit a publicly owned treatment works from accepting liquid industrial by-product from the premises of a person, and does not prohibit a person from engaging, employing, or contracting with a publicly owned treatment works. However, a publicly owned treatment works that receives by-product by means of transportation is a designated facility and shall comply with section 12112.

(5) A person shall not treat, store, or dispose of liquid industrial by-product in a surface impoundment, unless the surface impoundment has a discharge or storage permit authorized under part 31 or, in the case of leachate, is authorized in a permit issued under part 115.

(6) Activities regulated under part 615 or the rules, orders, or instructions under that part or regulated under part C of title XIV of the public health service act, 42 USC 300h to 300h-8, or the regulations promulgated under that act, are exempt from the requirements of this section.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12114 Violations; probable cause; powers of department or peace officer; court costs and other expenses; obtaining samples for purposes of enforcing or administering part.**

Sec. 12114. (1) If the department or a peace officer has probable cause to believe that a person is violating this part, the department or a peace officer may search without a warrant a vehicle or equipment that is possessed, used, or operated by that person. The department or a peace officer may seize a vehicle, equipment, or other property used or operated in a manner or for a purpose in violation of this part. A vehicle, equipment, or other property used in violation of this part is subject to seizure and forfeiture as provided in chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

(2) The court may award court costs and other expenses of litigation including attorney fees to a party who successfully brings an action under this section.

(3) The department or a peace officer may enter at reasonable times any generator, transporter, or designated facility or other place where liquid industrial by-products are or have been generated, stored, treated, or disposed of, or transported from and may inspect the facility or other place and obtain samples of the by-products and samples of the containers or labeling of the by-products for the purposes of enforcing or administering this part.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12115 Civil action; damages; court costs and other expenses.**

Sec. 12115. (1) The attorney general may commence a civil action against a person in a court of competent jurisdiction for appropriate relief, including injunctive relief for a violation of this part, or a registration or permit issued pursuant to this part. The court has jurisdiction to restrain the violation and to require compliance. In addition to any other relief granted under this section, the court may impose a civil fine of not more than \$10,000.00 for each instance of violation and, if the violation is continuous, for each day of continued noncompliance. A fine collected under this subsection shall be deposited in the general fund.

(2) The attorney general or a person may bring a civil action in a court of competent jurisdiction to recover the full value of the damage done to the natural resources that are damaged or destroyed and the costs of surveillance and enforcement by the state as a result of a violation of this part. The damages and costs collected under this section shall be deposited in the general fund. However, if the damages result from the impairment or destruction of the fish, wildlife, or other natural resources of the state, the damages shall be deposited in the game and fish protection account of the Michigan conservation and recreation legacy fund provided in section 2010. The attorney general may, in addition, recover expenses incurred by the department to address and remedy a violation of this part that the department reasonably considered an imminent and substantial threat to the public health, safety, or welfare, or to the environment.

(3) The court may award court costs and other expenses of litigation including attorney fees to a party who successfully brings an action pursuant to this section or to a person who successfully defends against an action brought under this section that the court determines is frivolous.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part



of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12116 Violations; penalties.**

Sec. 12116. (1) A person that violates section 12105(c), 12107(2) or (3), 12109(4), or 12112(1)(b) is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not less than \$200.00 and not more than \$500.00, or both. A peace officer may issue an appearance ticket to a person who is in violation of section 12105(c), 12107(2) or (3), 12109(4), or 12112(1)(b).

(2) A person that knowingly makes or causes to be made a false statement or entry in a registration or permit application or a shipping document under this part is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both.

(3) A person that violates this part or a registration or permit issued under this part, except as provided in subsections (1) and (2), is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than \$1,000.00 or more than \$2,500.00, or both.

(4) Each day that a violation continues constitutes a separate violation.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12117 Liquid industrial by-product transporter account.**

Sec. 12117. (1) The liquid industrial by-product transporter account is created within the environmental pollution prevention fund, which is created in section 11130.

(2) The state treasurer may receive money or other assets from any source for deposit into the account. The state treasurer shall direct the investment of the account. The state treasurer shall credit to the account interest and earnings from account investments.

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

(4) The department shall expend money from the account, upon appropriation, for the implementation of this part. In addition, funds not expended from the account for the implementation of this part may be utilized for emergency response and cleanup activities related to liquid industrial by-product that are initiated by the department.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.12118 Repealed. 1998, Act 140, Eff. Sept. 1, 1998.**

**Compiler's note:** The repealed section pertained to persons holding license on effective date of part.

**Popular name:** Act 451

**Popular name:** NREPA