

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

PART 169
SCRAP TIRES

324.16901 Definitions.

Sec. 16901. (1) As used in this part:

(a) "Abandoned scrap tires" means an accumulation of scrap tires on property where the property owner is not responsible in whole or in part for the accumulation of the scrap tires. For the purposes of this subdivision, an owner who purchased or willingly took possession of an existing scrap tire collection site shall be considered by the department to be responsible in whole or in part for the accumulation of the scrap tires.

(b) "Automotive recycler" means that term as defined in section 2a of the Michigan vehicle code, 1949 PA 300, MCL 257.2a.

(c) "Bond" means a performance bond from a surety company authorized to transact business in this state, a certificate of deposit, a cash bond, or an irrevocable letter of credit, in favor of the department.

(d) "Collection site" means a site, other than a disposal area licensed under part 115, a racecourse, or a feed storage location, consisting of a parcel or adjacent parcels of real property where any of the following are accumulated:

(i) 500 or more scrap tires. This subparagraph does not apply if that property is owned or leased by and associated with the operations of a retailer or automotive recycler or a commercial contractor as described in subparagraph (iv).

(ii) 1,500 or more scrap tires if that property is owned or leased by and associated with the operations of a retailer. This subparagraph does not apply if the site is owned or leased by and associated with the operations of an automotive recycler.

(iii) 2,500 or more scrap tires if that property is owned or leased by and associated with the operations of an automotive recycler.

(iv) More than 150 cubic yards of tire chips if that property is owned or leased by and associated with the operations of a commercial contractor that is authorized to use the tire chips as an aggregate replacement in a manner approved by a designation of inertness for scrap tires or is otherwise authorized for such use by the department under part 115.

(e) "Commodity" means crumb rubber, tire chips, a ring or slab cut from a tire for use as a weight, or a product die-cut or punched from a tire, or any other product that, as determined by the department based on the product's production cost and value, is not likely to result in an accumulation, at the site of production or use, that poses a threat to public health or the environment. A product is not a commodity unless it meets published national standards or specifications that the department determines are relevant to accomplishing the purposes of this part.

(f) "Commodity storage area" means 1 or more locations within a collection site where a commodity is stored.

(g) "Crumb rubber" means rubber material derived from tires that is less than 1/8 inch by 1/8 inch in size and is free of steel and fiber.

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

(i) "End-user" means any of the following:

(i) A person who possesses a permit to burn tires under part 55.

(ii) The owner or operator of a landfill that is authorized under the landfill's operating license to use scrap tires.

(iii) A person who uses a commodity to make a product that is sold in the market.

(iv) A person who is authorized by this part to accumulate scrap tires, who acquires scrap tires, and who converts scrap tires into a product that is sold in the market or reused in a manner authorized by this part.

(j) "Farm" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(k) "Farm operation" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(l) "Feed storage location" means a location on 1 or more parcels of adjacent real property containing a farm operation where not more than 3,000 scrap tires are used to secure stored feed.

(m) "Fund" means the scrap tire regulatory fund created in section 16908.

(n) "Landfill" means a landfill as defined in section 11504 that is licensed under part 115.

(o) "Outdoor" or "outdoors" means in a place other than a building or covered vehicle.

(p) "Portable shredding operation" means a person who operates scrap tire shredding equipment, which produces a commodity or tire shreds, if the shredding equipment can be moved from site to site.

(q) "Racecourse" means a commercially operated track for go-carts, vehicles, off-road recreational vehicles, or motorcycles that uses not more than 3,000 scrap tires for bumpers along the track for safety purposes.

(r) "Retailer" means a person who sells or offers for sale new, retreaded, or remanufactured tires to consumers in this state.

(s) "Retreader" means a person who retreads, recases, or recaps tire casings for reuse.

(t) "Scrap tire" means a tire that is no longer being used for its original intended purpose including, but not limited to, a used tire, a reusable tire casing, or portions of a tire. Scrap tire does not include a vehicle support stand.

(u) "Scrap tire hauler" means a person who transports more than 7 scrap tires at once in a vehicle on a public road or street. Scrap tire hauler does not include any of the following:

(i) A person who is transporting his or her own tires to a location authorized in section 16902(1).

(ii) A member of a nonprofit service organization who is participating in a community service project and is transporting scrap tires to a location authorized in section 16902(1).

(iii) The owner of a farm who is transporting only scrap tires that originated from his or her farm operation, to a location authorized in section 16902(1), or that are intended for use in a feed storage location.

(iv) A solid waste hauler that is transporting solid waste to a disposal area licensed under part 115.

(v) A person who is transporting only a commodity.

(vi) A retreader.

(v) "Scrap tire processor" means either of the following:

(i) A person who is authorized by this part to accumulate scrap tires and is engaged in the business of buying or otherwise acquiring scrap tires and reducing their volume by shredding or otherwise facilitating recycling or resource recovery techniques for scrap tires.

(ii) A portable shredding operation.

(w) "Solid waste hauler" means a solid waste hauler as defined in part 115 who transports less than 25% by weight or volume of scrap tires along with other solid waste in any truckload to a disposal area licensed under part 115.

(x) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a tractor or other farm machinery or of a vehicle.

(y) "Tire chip" means a portion of a tire that is any of the following:

(i) Not more than 2 inches by 2 inches in size and meets requirements for size, metal content, and cleanliness as specified in an executed contract for delivery of the material by the scrap tire processor.

(ii) Not more than 3/8 inch by 3/8 inch in size and sufficiently free from steel to be used in the construction and modification of sports surfaces such as golf course turf, athletic field turf, athletic tracks, hiking surfaces, livestock show arena surfaces, and playgrounds.

(iii) To be used in a drain field approved under a district or county sanitary code.

(iv) To be used as ground cover or mulch, if, in aggregate, 95% of the material is equal to or less than 3/4 inch in size in any dimension and the material contains less than 1% by weight or volume of steel and fiber.

(v) Approved by the department for use at a landfill as daily cover or a leachate collection system protective layer or for access road construction within a lined cell.

(z) "Tire shred" means a portion of a tire that is not a commodity.

(aa) "Tire storage area" means a location within a collection site where tires are accumulated.

(bb) "Vehicle" means a device in, upon, or by which a person or property is or may be transported or drawn upon a highway. Vehicle does not include a device that is exclusively moved by human power or used exclusively upon stationary rails or tracks or a mobile home as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

(cc) "Vehicle support stand" means equipment used to support a stationary vehicle consisting of an inflated tire and wheel that is attached to another wheel.

(2) A reference in this part to a number of scrap tires means either of the following, or an equivalent combination thereof:

(a) That number of whole tires or reusable tire casings.

(b) A quantity of a commodity or tire shreds equivalent in weight to that number of whole tires.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 268, Imd. Eff. Jan. 8, 1996;—Am. 1997, Act 17, Imd. Eff. June 11, 1997;—Am. 2002, Act 496, Imd. Eff. July 3, 2002;—Am. 2006, Act 520, Imd. Eff. Dec. 29, 2006.

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 324.99901 of the Michigan Rendered Wednesday, February 08, 2012

Popular name: Act 451

Popular name: NREPA

324.16902 Delivery of scrap tire; limitations; removal; scope of subsection (2).

Sec. 16902. (1) A person shall deliver a scrap tire only to 1 of the following that is in compliance with this part:

(a) A collection site registered under section 16904.

(b) A location that has legally accumulated scrap tires below the regulatory threshold for qualifying as a collection site as specified in section 16901(d).

(c) A disposal area licensed under part 115.

(d) An end-user.

(e) A scrap tire processor.

(f) A tire retailer.

(2) A person shall not by contract, agreement, or otherwise arrange for the removal of scrap tires except with 1 of the following:

(a) A scrap tire hauler who is registered pursuant to section 16905(1) and who by contract, agreement, or otherwise is obligated to deliver the scrap tires to the destination as identified under section 16905(3)(c).

(b) A person hauling only a commodity.

(c) A retreader hauling only tire casings.

(d) A solid waste hauler.

(3) Subsection (2) does not do any of the following:

(a) Prohibit a person from transporting his or her scrap tires to a site authorized by subsection (1).

(b) Prohibit a member of a nonprofit service organization who is participating in a community service project from transporting scrap tires to a site authorized by subsection (1).

(c) Prohibit the owner of a farm from transporting scrap tires that originated from his or her farm operation to a location authorized by subsection (1).

(d) Prohibit a solid waste hauler from transporting solid waste to a disposal area licensed under part 115.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2002, Act 496, Imd. Eff. July 3, 2002;—Am. 2006, Act 521, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16902a Repealed. 2002, Act 496, Imd. Eff. July 3, 2002.

Compiler's note: The repealed section pertained to retailer disposal of scrap tires and maintenance of records.

Popular name: Act 451

Popular name: NREPA

324.16903 Accumulation of scrap tires outdoors by owner or operator of collection site; compliance; bond required; exception.

Sec. 16903. (1) A person who owns or operates a collection site where less than 2,500 scrap tires are accumulated outdoors shall comply with all of the following:

(a) Scrap tires shall be stored in the tire storage area identified on the scrap tire collection site registration application map and approved by the department.

(b) Only scrap tires shall be accumulated in the tire storage area.

(c) Subject to subdivision (f), the scrap tires shall be accumulated in piles no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet.

(d) Subject to subdivision (f), the scrap tires shall not be within 20 feet of the property line or within 60 feet of a building or structure.

(e) Subject to subdivision (f), there shall be a minimum separation of 30 feet between scrap tire piles. The open space between the piles shall at all times be free of rubbish, equipment, and other materials.

(f) Scrap tire piles shall be accessible to fire fighting equipment. If the requirement of this subdivision is met, the local fire department that serves the jurisdiction in which the collection site is located may grant a variance from the requirements of subdivisions (c), (d), and (e). A variance under this subsection shall be in writing.

(g) Scrap tires shall be isolated from other stored materials that may create hazardous products if there is a fire, including, but not limited to, lead acid batteries, fuel tanks, solvent barrels, and pesticide containers.

(h) Except for scrap tires that are a commodity used to create a storage pad for, or a roadway for access to,

other scrap tires that are also a commodity, scrap tires shall not be placed in the open spaces between tire piles or used to construct on-site roads.

(i) The owner or operator of the collection site shall allow the local fire department that serves the jurisdiction in which the collection site is located to inspect the collection site at any reasonable time.

(j) All persons employed to work at the collection site shall be trained in emergency response operations. The owner or operator of the collection site shall maintain training records and shall make these records available to the local fire department that serves the jurisdiction in which the collection site is located.

(2) A person who owns or operates a collection site where at least 2,500 but less than 100,000 scrap tires are accumulated outdoors shall comply with all of the following:

(a) All of the requirements of subsection (1).

(b) The tire storage area shall be completely enclosed with a fence that is at least 6 feet tall with lockable gates and that is designed to prevent easy access.

(c) An earthen berm not less than 5 feet in height shall completely enclose the tire storage area except to allow for necessary ingress and egress from roadways and buildings.

(d) The collection site shall contain sufficient drainage so that water does not pool or collect on the property.

(e) The approach road to the tire storage area and on-site access roads to the tire storage area shall be of all-weather construction and maintained in good condition and free of debris and equipment so that it is passable at all times for fire fighting and other emergency vehicles. If the local fire department for the jurisdiction where the collection site is located submits to the department a written determination that the on-site access roads do not ensure that the site is accessible to emergency vehicles at all times during the year, the department of environmental quality shall consider the on-site access roads to be in violation of this requirement.

(f) Tire storage areas shall be mowed regularly or otherwise kept free of weeds, vegetation, and other growth at all times.

(g) An emergency procedures plan shall be prepared and displayed at the collection site. The plan shall include telephone numbers of the local fire and police departments. The plan shall be reviewed by the local fire department prior to being posted.

(h) Scrap tires shall not be accumulated in excess of 10,000 cubic yards of scrap tires per acre.

(3) A person who owns or operates a collection site where 100,000 or more scrap tires are accumulated outdoors shall comply with all of the requirements of subsections (1) and (2) and that person shall operate as a scrap tire processor.

(4) Except as otherwise provided in subsection (5) and section 16903b, a person who owns a collection site shall maintain a bond in favor of the department. The amount of the bond shall be not less than the sum of \$25,000.00 per quarter acre, or fraction thereof, of outdoor tire storage area, and \$2.00 per square foot of tire storage area in a building. However, for collection sites with fewer than 2,500 tires, the bond shall not exceed \$2,500.00. A person who elects to use a certificate of deposit as bond shall receive any accrued interest on that certificate of deposit upon release of the bond by the department. A person who elects to post cash as bond shall accrue interest on that bond at the annual rate of 6%, to be accrued quarterly, except that the interest rate payable to an applicant shall not exceed the rate of interest accrued on the state common cash fund for the quarter in which an accrual is determined. Interest shall be paid to the applicant upon release of the bond by the department. Any interest greater than 6% shall be deposited into the fund. The department may utilize a bond required under this subsection for removing scrap tires from a collection site, for other costs of cleanup at the collection site, and for costs of fire suppression and costs associated with responding to a fire or an emergency at a collection site, if there is an emergency at the collection site, if the collection site owner becomes insolvent, or if the owner or operator of the collection site fails to comply with the requirements of this section and does not cause the removal of the tires at the direction of a court of competent jurisdiction.

(5) A bond is not required under subsection (4) for a commodity storage area that meets all of the following requirements:

(a) The commodity is stored in accordance with the requirements of subsection (1).

(b) Not less than 75% of the commodity, by weight or volume, that is stored at the collection site each calendar year is removed from the collection site to a market during that year, and the collection site owner or operator certifies compliance with this subparagraph on a form approved by the department.

(c) The areas of the collection site that are used for storage of the commodity are not larger than a total of 1 acre and those areas are indicated on a survey by a registered professional engineer submitted to the department as part of the collection site registration.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1997, Act 17, Imd. Eff. June 11, 1997;—Am. 2002, Act 496, Imd. Eff. July 3, 2002;—Am. 2006, Act 522, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16903a Fires at collection sites; statewide response plan.

Sec. 16903a. The department of environmental quality shall prepare and implement a statewide response plan for responding to fires at collection sites.

History: Add. 1997, Act 17, Imd. Eff. June 11, 1997.

Popular name: Act 451

Popular name: NREPA

324.16903b Bond; exemptions; noncompliance; "site requirements" defined.

Sec. 16903b. (1) Subject to subsection (2), the owner of a collection site is exempt from the requirement to obtain a bond under section 16903(4) if all of the following requirements are met:

(a) The owner of the collection site is a scrap tire processor.

(b) Not less than 75% of the scrap tires, by weight or volume, that are stored at the collection site each calendar year are recycled or used for resource recovery during that year.

(c) The collection site has been in compliance with the site requirements for at least 1 year.

(d) The owner annually certifies compliance with the requirements of this subsection on a form approved by the department.

(2) If the department determines that the owner of a collection site is not in compliance with the site requirements or the certification requirements of subsection (1), the department shall deliver to the owner of the collection site a notice of noncompliance. If within 60 days after receipt of that notice the owner does not bring the collection site into compliance with the site requirements or the certification requirements of subsection (1), respectively, the owner shall comply with section 16903(4). Once an owner is required to obtain a bond under section 16903(4), the bond shall be maintained unless the owner brings the collection site into compliance with the site requirements, maintains compliance with the site requirements for a 1-year period, and complies with the certification requirements of subsection (1).

(3) As used in this section, "site requirements" means all the requirements of section 16903(1) and, if applicable, 16903(2).

History: Add. 2002, Act 496, Imd. Eff. July 3, 2002;—Am. 2006, Act 523, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16903c Maintenance limiting mosquito breeding; requirements; violation; penalty; payment default.

Sec. 16903c. (1) The owner or operator of a collection site shall ensure that tires at a collection site are maintained in a manner that limits the potential of mosquito breeding by complying with 1 or more of the following:

(a) The tires shall be covered by plastic sheets or other impermeable barriers to prevent the accumulation of precipitation.

(b) The tires shall be chemically treated to eliminate mosquito breeding.

(c) The tires shall be baled, shredded, or chipped into pieces no larger than 4 inches by 6 inches and stored in piles that allow complete water drainage.

(2) A person who violates this section is responsible for the payment of a civil fine of not more than \$400.00.

(3) A default in the payment of a civil fine or costs ordered under this section or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

History: Add. 2002, Act 496, Imd. Eff. July 3, 2002.

Popular name: Act 451

Popular name: NREPA

324.16904 Owner of collection site or portable shredding operation; application for registration; form; documentation of bonding; compliance with storage requirements; fee.

Sec. 16904. (1) By January 31 of each year, a person who owns a collection site or portable shredding operation, or both, shall submit an application for registration to the department. The application shall be on a

form provided by the department and shall contain the information required by the department. The application for registration of a collection site shall include documentation that the collection site is bonded for the registration period in accordance with the requirements of section 16903(4), if applicable.

(2) The department shall not register a collection site unless the site is in compliance with the storage requirements of section 16903.

(3) A \$200.00 registration fee shall accompany each annual application for registration under this section. The department shall deposit money collected under this subsection into the state treasury to be credited to the fund.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2006, Act 527, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16904a End user; exemption.

Sec. 16904a. (1) Except as provided in subsection (2), an end-user is exempt from this part for scrap tires stored on the site of the end-user if not less than 75% of the scrap tires, by weight or volume, that are stored on site each calendar year are recycled or used for resource recovery during that year, and the end-user annually certifies his or her compliance with this section on a form approved by the department.

(2) All end-users shall comply with the requirements of section 16906.

History: Add. 1997, Act 17, Imd. Eff. June 11, 1997;—Am. 2002, Act 496, Imd. Eff. July 3, 2002.

Popular name: Act 451

Popular name: NREPA

324.16905 Scrap tire hauler; registration; form; contents; presentment; display of number; maintenance and availability of records; disposal at other location prohibited; original record; copy.

Sec. 16905. (1) By January 31 of each year, a scrap tire hauler shall submit an application for registration to the department. The application shall be on a form provided by the department and shall contain the information required by the department.

(2) A scrap tire hauler when transporting scrap tires shall have in his or her possession a copy of the current unexpired scrap tire hauler registration and shall present it upon demand of a peace officer. The scrap tire hauler registration number issued by the department shall be visibly displayed on a vehicle transporting scrap tires.

(3) A scrap tire hauler shall maintain a record of each load or consolidated load of scrap tires he or she transports on forms approved by the department. The record shall be maintained for a period of 3 years and shall be made available, upon request, to the department or to a peace officer at reasonable hours. The record shall contain all of the following information:

(a) The name, address, telephone number, authorized signature, and registration number of the scrap tire hauler.

(b) The name, address, telephone number, and authorized signature of the person who contracts for the removal of the scrap tires.

(c) The name, address, telephone number, and, upon delivery, the authorized signature of the owner or operator of the location described in section 16902(1) where the tires are to be delivered.

(d) The date of removal and the number of scrap tires being transported.

(4) A scrap tire hauler shall not dispose of scrap tires at a location other than the location identified under subsection (3)(c).

(5) The original record as required by subsection (3) shall be in the possession of the scrap tire hauler during the actual transportation of the scrap tires. A copy of the record provided for in subsection (3) shall be provided to the person who contracts for the removal of scrap tires at the time of removal of the tires from the originating location. A copy shall also be provided to the location described in section 16902(1) to which the scrap tires are delivered at the time of delivery.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2002, Act 496, Imd. Eff. July 3, 2002;—Am. 2006, Act 527, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16906 Records.

Sec. 16906. (1) A person, other than a property owner removing 7 or fewer scrap tires from his or her

property, who by contract, agreement, or otherwise arranges for the removal of scrap tires from a property under his or her control, including an end-user, shall maintain at the site of removal the record obtained from a registered scrap tire hauler pursuant to section 16905(5) and the record received from an owner, operator, or authorized agent of a location pursuant to subsection (3). A person who by contract, agreement, or otherwise arranges for the removal of scrap tires from a property under his or her control does not have an affirmative duty to obtain these records and is not liable for the failure to receive such records. These records shall be maintained at the site of removal for a period of 3 years and shall be made available to the department upon request during reasonable hours.

(2) A person, other than a solid waste hauler or a scrap tire hauler, who receives scrap tires, including an end-user, shall maintain a record of all scrap tires received from a scrap tire hauler by contract, agreement, or otherwise. The record shall be maintained for a period of 3 years and shall be made available upon request to the department or a peace officer at reasonable hours. The record shall contain all of the information required of a scrap tire hauler in section 16905(3).

(3) Upon delivery of scrap tires by a scrap tire hauler by contract, agreement, or otherwise to a location described in section 16902(1), the owner, operator, or authorized agent of that location shall sign the record, indicating acceptance of the scrap tires, and provide a copy of the signed record to the person delivering the scrap tires and shall within 30 days forward a copy of the signed record to the person who by contract, agreement, or otherwise arranged for the removal of the scrap tires being delivered.

(4) A retreader shall maintain for a period of 3 years, and make available upon request to the department or a peace officer at reasonable hours, all records required to be carried or maintained with the retreader's tire casings including all of the following:

(a) A retread work order that includes the customer's name, date of transaction, retreader DOT identification number pursuant to 49 CFR part 574, order number, and details of casing information for the casing intended for processing. Work orders shall reflect the number of tires that are being transported and retreaded.

(b) A work order sales report that specifies the work process detail for the customer work order. This report shall be returned to the customer with the work order number and invoice.

(c) An invoice stating the sales transaction of the retread process that was completed for the customer.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2002, Act 496, Imd. Eff. July 3, 2002;—Am. 2006, Act 529, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16907 Report to legislature.

Sec. 16907. By January 1, 1996, the department shall report to the legislature on all of the following:

(a) The effectiveness of this part and whether the department recommends any changes in this part.

(b) The volume of tires that are being disposed of in landfills and whether the department recommends banning tires from landfills in the future.

(c) Whether a manifest system to track scrap tires would be useful in the enforcement of this part.

(d) Whether, under certain circumstances, the fund should be used for the cleanup of abandoned scrap tires on land owned by persons other than the state or a municipality or county.

(e) Whether sufficient collection sites are available for the disposal of scrap tires from private individuals.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA

324.16908 Scrap tire regulatory fund; creation; sources of money; investments; interest and earnings; no reversion to general fund; use of money in fund; grants.

Sec. 16908. (1) The scrap tire regulatory fund is created in the state treasury. The fund shall receive money as provided by law and any gifts or contributions to the fund. The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(2) Money in the fund shall be used, upon appropriation, for all of the following purposes:

(a) For administrative costs of the department associated with this part including the implementation and enforcement of this part. However, money shall not be expended under this subdivision for the employment of more than 11 full-time equated positions.

(b) For the administrative costs of the secretary of state associated with the collection of the tire disposal surcharge pursuant to section 806 of the Michigan vehicle code, 1949 PA 300, MCL 257.806.

(c) For the cleanup or collection of abandoned scrap tires and scrap tires at collection sites. The department shall give priority to funding activities under this subdivision at collection sites in which the scrap tires were accumulated prior to January 1, 1991 and to collection sites that pose an imminent threat to public health, safety, welfare, or the environment. The department shall make every effort to assure that all abandoned scrap tires accumulated at collection sites prior to January 1, 1991 are cleaned up or collected by September 31, 2009. For collection sites that have accumulated tires after January 1, 1991, a lien, in favor of the state up to the value of the cleanup grant amount and any increase in the value of the property as a result of the cleanup of the property with grant funds, shall be placed on the property that is affected by the removal of the tires as provided in section 16908b. Before making a grant under this subdivision, the department shall consider the extent to which the making of the grant would contribute to the achievement of a balanced distribution of grants under this subdivision throughout the state.

(3) Money expended under subsection (2)(c) may be expended for either or both of the following:

(a) Not more than \$500,000.00 each year for grants to reimburse the cost of purchasing scrap tires to support the development of increased markets for scrap tires. Only the cost of purchasing scrap tires from scrap tire processors in this state or other generators of scrap tires in this state is eligible for reimbursement under this subdivision.

(b) For grants of up to 50% of the cost of purchasing equipment, or research and development, to provide for a new or increased use for scrap tires.

(4) Applications for grants under subsection (3) shall be submitted on a form approved by the department and containing the information required by the department. The department shall publish criteria upon which the grants will be issued and shall make that information available to grant applicants.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 268, Imd. Eff. Jan. 8, 1996;—Am. 2002, Act 496, Imd. Eff. July 3, 2002;—Am. 2006, Act 524, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16908a Development of markets for scrap tires.

Sec. 16908a. The department of environmental quality shall assist owners and operators of collection sites and scrap tire processors in this state in developing markets for scrap tires.

History: Add. 1997, Act 17, Imd. Eff. June 11, 1997.

Popular name: Act 451

Popular name: NREPA

324.16908b Unpaid cleanup costs; lien; filing of petition by attorney general; type of lien; duration; release.

Sec. 16908b. (1) All unpaid cleanup costs for scrap tires accumulated after January 1, 1991 that are incurred under section 16908(2)(c), including any staff costs, costs of surveillance and enforcement, and attorney costs or fees constitute a lien in favor of this state upon a collection site that has been the subject of cleanup activity by this state. A lien under this subsection has priority over all other liens and encumbrances except liens and encumbrances recorded before the date the lien under this subsection is recorded. A lien under this subsection arises when this state first incurs such cleanup costs at the collection site.

(2) If the attorney general determines that the lien provided in subsection (1) is insufficient to protect the interest of this state in recovering the cleanup costs at a collection site, the attorney general may file a petition in the circuit court for the county in which the property is located seeking either or both of the following:

(a) A lien upon the collection site subject to the scrap tire cleanup activity that takes priority over all other liens and encumbrances that are or have been recorded on the collection site.

(b) A lien upon real or personal property or rights to real or personal property other than the collection site, owned by the person who owns the collection site, having priority over all other liens and encumbrances recorded prior to the date the lien under this subsection is recorded. However, the following are not subject to the lien provided for in this subdivision:

(i) Assets of a qualified pension plan or individual retirement account under the internal revenue code.

(ii) Assets held expressly for the purpose of financing a dependent's college education.

(iii) Up to \$500,000.00 in nonbusiness real or personal property or rights to real or personal property, except that not more than \$25,000.00 of this amount may be cash or securities.

(3) A petition submitted pursuant to subsection (2) shall set forth with as much specificity as possible the type of lien sought, the property that would be affected, and the reasons the attorney general believes the lien is necessary. Upon receipt of a petition under subsection (2), the court shall promptly schedule a hearing to

determine whether the petition should be granted. Notice of the hearing shall be provided to the attorney general, the property owner, and any persons holding liens or perfected security interests in the real property subject to the cleanup activity.

(4) In addition to the lien provided in subsections (1) and (2), if this state incurs costs for cleanup activity under section 16908(2)(c) that increase the market value of the real property that is the location of the cleanup activity, the increase in value caused by the state-funded cleanup activity, to the extent this state incurred unpaid cleanup costs, constitutes a lien in favor of the state upon the real property. This lien has priority over all other liens or encumbrances that are or have been recorded upon the property.

(5) A lien provided in subsection (1), (2), or (4) is perfected against real property when a notice of lien is filed by the department with the register of deeds in the county in which the real property is located. In addition, the department shall, at the time of the filing of the notice of lien, provide a copy of the notice of lien to the owner of that property by certified mail.

(6) A lien under this section continues until the liability for the cleanup costs is satisfied.

(7) Upon satisfaction of the liability secured by the lien, the department shall file a notice of release of lien in the same manner as provided in subsection (5).

History: Add. 2006, Act 528, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16909 Violation as misdemeanor; penalties; separate violations; authority of officer; penalties inapplicable; conditions.

Sec. 16909. (1) A person who violates this part when fewer than 50 scrap tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$200.00 or more than \$500.00, or both, for each violation.

(2) A person who violates this part when 50 or more scrap tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not less than \$500.00 or more than \$10,000.00, or both, for each violation.

(3) A person convicted of a second or subsequent violation of this part is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than \$1,000.00 or more than \$25,000.00, or both, for each violation.

(4) In addition to any other penalty provided for in this section, the court may order a person who violates this part to perform not more than 100 hours of community service.

(5) For any violation of this part, each day that a violation continues constitutes a separate violation.

(6) A peace officer may issue an appearance ticket as described and authorized by sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g, to a person who violates this part.

(7) This section does not apply to a violation of section 16903c.

(8) The penalties provided for in this section shall not be applied against a person in violation of section 16903(1)(a), (b), (c), (d), (e), (g), or (j) or 16903(4) before September 1, 2002 if the person is in compliance with these provisions by September 1, 2002 and the person maintains compliance with those provisions. This subsection does not apply to a person who, before July 3, 2002, was convicted under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2002, Act 496, Imd. Eff. July 3, 2002;—Am. 2006, Act 520, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16909a Investigation or inspection.

Sec. 16909a. The department may enter at reasonable hours a tire retail establishment, vehicle owned or operated by a scrap tire hauler for the transport of scrap tires, or collection site or other place where scrap tires are or have been present, and may inspect the location or other place for the purposes of enforcing or administering this part. An investigation or inspection under this part shall comply with the United States constitution and the state constitution of 1963.

History: Add. 2006, Act 530, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.16910 Response to fire or violation of part; action for recovery of incurred costs.

Sec. 16910. A person who incurs costs as a result of a response to a fire or a violation of this part at a

collection site may bring an action against the owner or operator of the collection site, in the circuit court in which the collection site is located, to recover the incurred costs.

History: Add. 1997, Act 17, Imd. Eff. June 11, 1997.

Popular name: Act 451

Popular name: NREPA

324.16911 Report on utilization of fund revenues; reuse and safe storage of scrap tires; appointment of scrap tire advisory committee.

Sec. 16911. (1) The department shall annually report to the standing committees of the senate and house of representatives with primary responsibility for issues pertaining to natural resources and the environment on the utilization of revenues of the fund.

(2) Not later than 3 years after the effective date of the 2006 amendatory act that added this section, and every third year thereafter, the department shall prepare a report on the effectiveness of this part in encouraging the reuse of scrap tires and ensuring the safe storage of scrap tires. The report shall include recommendations for such changes to this part, including any further description of the use of money described in section 16908(2)(c) and (3), as the department finds necessary and appropriate. The department shall submit the report to the standing committees of the senate and house of representatives with primary responsibility for issues pertaining to natural resources and the environment.

(3) The director of the department shall appoint a scrap tire advisory committee of individuals interested in the management of scrap tires to advise the department on the implementation of this part. In addition to such other issues as the department may request the committee to consider, the committee shall advise the department on the report required by subsection (2) and the relevance of a national standard or specification under section 16901(1)(e).

History: Add. 2006, Act 525, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA