

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

CHAPTER 6  
ENVIRONMENTAL FUNDING

PART 191  
CLEAN MICHIGAN FUND

**324.19101 Meanings of words and phrases.**

Sec. 19101. For purposes of this part, the words and phrases defined in sections 19102 and 19103 have the meanings ascribed to them in those sections.

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

**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 Compiled Laws.

**Popular name:** Act 451

**Popular name:** NREPA

**324.19102 Definitions; A to N.**

Sec. 19102. (1) "Approved solid waste management plan" means a solid waste management plan submitted and approved under part 115.

(2) "Capital costs" means those allowable costs, as determined by the department, of constructing or equipping, or both, a solid waste transfer facility, a recycling project, or a composting project.

(3) "Composting project" means a project in which yard wastes, including leaves and grass clippings, are converted into humus through natural biological processes.

(4) "Disposal area" means disposal area as defined in part 115.

(5) "Fund" means the clean Michigan fund created in section 19104.

(6) "Municipality" means a county, city, village, township, or an agency of a county, city, village, or township; an authority or any other public body created by or pursuant to state law; or this state or an agency or department of this state.

(7) "Nonprofit private entity" means a private entity that carries out any lawful purpose or purposes not involving pecuniary profit or gain for its directors, officers, shareholders, or members.

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

**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 Compiled Laws.

**Popular name:** Act 451

**Popular name:** NREPA

**324.19103 Definitions; P to W.**

Sec. 19103. (1) "Private entity" means an individual, trust, firm, joint stock company, corporation, or association that is not a local unit of government.

(2) "Recycling project" means a project in which materials that otherwise would become solid waste are collected, separated, or processed and returned for conversion into raw materials or products.

(3) "Resource recovery" means the processing or collecting of solid wastes so as to produce materials or energy that may be used in manufacturing, agriculture, heat production, or other productive processes or purposes designed to reuse materials or products or to conserve natural resources.

(4) "Site separated material" means glass, metals, wood, paper products, plastics, rubber, textiles, or any other material approved by the department that is separated from solid waste for conversion into raw materials or new products.

(5) "Solid waste" means solid waste as defined in part 115.

(6) "Solid waste transfer facility" means a solid waste transfer facility as defined in part 115.

(7) "Source separated material" means glass, metals, wood, paper products, plastics, rubber, textiles, or any other material approved by the department that is separated at the source of generation for conversion into raw material or new products.

(8) "Waste-to-energy" means a process that is specifically designed to recover energy through the combustion or volume reduction of solid waste.

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

**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 Compiled Laws.

**Popular name:** Act 451

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### **324.19104 Clean Michigan fund; creation; appropriations, gifts, and donations; expenditures.**

Sec. 19104. The clean Michigan fund is created in the state treasury. The fund shall consist of appropriations from the general fund or any other fund, as provided by law, and any gifts and donations to the fund. The fund shall be expended only for the programs described in this part and for the staffing and administrative costs to the department of administering those programs.

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

**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 Compiled Laws.

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### **324.19105 Grants to counties for establishment of revolving loan fund; use of initial grant; percentage of grant utilized for administration of loan program; use of loans; establishment, duties, and membership of county loan board; conditions to making loan; annual audit; liability of county; maximum grant.**

Sec. 19105. (1) The department may make a grant to a county having a population of less than 12,000 enabling the county to establish a revolving loan fund with money received from the department. The initial grant shall be used by the county to establish a revolving loan fund that shall be allocated and reallocated as provided in this section. Not more than 1% of a grant made pursuant to this section may be utilized by a county for the administration of the loan program.

(2) Grant money loaned by a county under this section shall be loaned to a private entity or nonprofit private entity only for purposes and programs that would be eligible to receive a grant under this part and may not be used for any other purpose, except administration costs.

(3) A county that receives a grant under this section shall establish a county loan board to review applications for loans submitted to the county and the board shall make recommendations to the county board of commissioners. The county loan board shall consist of a member to represent each of the following:

- (a) The county.
- (b) Nonprofit private entities and private entities engaged in resource recovery alternatives.
- (c) Conservation or environmental organizations.
- (d) The department.
- (e) A member of the general public.

(4) Upon receipt of the recommendations of the county loan board, the county board of commissioners of a county that receives a grant under this section shall determine when a loan shall be made. The board of commissioners shall not make a loan unless both of the following conditions are met:

(a) The loan applicant is seeking a loan for a purpose or program that would be eligible to receive a grant under this part.

(b) The amount of the proposed loan is not more than \$300,000.00.

(5) The county shall provide the department with an annual audit of the revolving loan fund using generally accepted accounting procedures.

(6) A county may be liable to the department for the full amount of a grant made pursuant to this section if at any time the county makes a loan in a manner or to an entity that is substantially out of compliance with this part.

(7) A grant to a county made under this section shall not exceed \$300,000.00.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19106 Waste stream assessments.**

Sec. 19106. (1) The department shall cause to be conducted a series of waste stream assessments in representative areas of the state. The assessments shall determine the characteristics of the waste stream and document seasonal fluctuations in the volume of waste.

- (2) The department shall select a site for a waste stream assessment subject to the following prerequisites:
- (a) The site is located in a county that has an approved solid waste management plan.
  - (b) The approved solid waste management plan for the county proposes some type of resource recovery.
  - (c) The site has not been the subject of an adequate waste stream assessment within the 5 years before the assessment authorized by this part is performed.
- (3) The department shall consider the following in determining appropriate sites for inclusion in the waste stream assessment:
- (a) The extent to which the owners of the disposal areas in the proposed study site will do the following:
    - (i) Provide an area on the site for scales and for composition studies.
    - (ii) Provide temporary shelter for work during inclement weather.
    - (iii) Enlist the cooperation of solid waste haulers.
  - (b) The likelihood that a resource recovery project or projects will be undertaken at the proposed site.
  - (c) The likelihood that the data resulting from the assessment of the proposed site will be usable or useful in evaluating the waste stream in other similar areas of the state.
  - (d) The extent to which selection of the site contributes to the achievement of a balanced distribution of assessments throughout the state.
  - (e) The availability of a scale at the proposed site.
- (4) The department shall not expend more than 5% of the total amount in the fund in any state fiscal year on the assessments described in this section. The department shall not expend more than \$50,000.00 for any single assessment conducted under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.19107 Recycling and composting feasibility studies.**

Sec. 19107. (1) The department shall cause to be conducted a series of recycling and composting feasibility studies. A study shall establish a basis upon which a decision to commit financial resources to a proposed recycling or composting project can be made. The department shall prescribe the elements to be included within a study.

(2) The department shall select a site for a recycling and composting feasibility study subject to the following prerequisites:

- (a) The site is located in a county that has an approved solid waste management plan.
  - (b) The recycling or composting project proposed by the municipality is consistent with the approved solid waste management plan.
- (3) The department shall consider the following factors in selecting a site for a recycling and composting feasibility study:
- (a) The extent to which a municipality commits to proceeding with the project if the study determines that the project is feasible.
  - (b) The degree of demonstrated municipality, community group, or volunteer interest in undertaking a recycling or composting project.
  - (c) A demonstration that a recycling or composting project undertaken on the basis of the study would provide a necessary solid waste management alternative, given the status of existing disposal areas serving the location.
  - (d) The extent to which selection of the site contributes to the achievement of a balanced distribution of studies throughout the state.
  - (e) The demonstrated capability of the municipality in which the site is located to work with adjacent municipalities on alternative resource recovery projects.
- (4) The department shall not expend more than 5% of the total amount in the fund in any state fiscal year on the studies described in this section. The department shall not expend more than \$30,000.00 for any single study conducted under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.19108 Waste-to-energy feasibility studies.**

Sec. 19108. (1) The department shall cause to be conducted a series of waste-to-energy feasibility studies. A study shall establish a basis upon which a decision to commit financial resources to a proposed waste-to-energy project can be made. The department shall prescribe the elements to be included in the study.

(2) The department shall select a site for a waste-to-energy feasibility study subject to the following prerequisites:

- (a) The site is located in a county that has an approved solid waste management plan.
- (b) The waste-to-energy project proposed is consistent with the approved solid waste management plan.

(3) The department shall consider the following factors in selecting a site for a waste-to-energy feasibility study:

(a) The extent to which the municipality proposing the project has done the following:

- (i) Held meetings to discuss a waste-to-energy project.
- (ii) Sought funding for studies of a waste-to-energy project.
- (iii) Sought feasibility data on its own.

(b) The availability of letters of interest from potential energy markets.

(c) Whether a recycling feasibility study for the area to be served by the proposed waste-to-energy facility is available.

(d) Whether a waste-to-energy facility undertaken on the basis of the study would provide a necessary solid waste management alternative, given the status of existing disposal areas serving the location.

(e) The extent to which selection of the site contributes to the achievement of a balanced distribution of studies throughout the state.

(f) The demonstrated efforts of the municipality in which the site is located in working towards alternative resource recovery solutions to solid waste management problems, such as implementing recycling or composting programs in the area to be served.

(g) The demonstrated capability of the municipality in which the site is located to work with adjacent municipalities on alternative resource recovery projects.

(4) The department shall not expend more than 15% of the total amount in the fund in any state fiscal year for the studies described in this section. The department shall not expend more than \$400,000.00 for any single study conducted under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19109 Educational program with respect to resource recovery; resource recovery education grant program; authorized grants; factors in selecting recipients; limitations on expenditures.**

Sec. 19109. (1) The department shall establish an educational program with respect to resource recovery to accomplish the following:

(a) To promote on a statewide basis the purchase of recycled products and materials.

(b) To develop promotional materials for distribution by municipalities in support of their resource recovery initiatives.

(2) The department shall establish a resource recovery education grant program. The program shall provide funding for the direct promotion of local resource recovery initiatives by municipalities, nonprofit private entities, and private entities. The department shall make the grants described in this subsection.

(3) The department shall not make a resource recovery education grant unless both of the following conditions are met:

(a) The proposed education project is conducted in a county that has an approved solid waste management plan.

(b) A local resource recovery project is planned or under way and the proposed education project directly promotes the use of that project.

(4) The department shall consider the following factors in selecting recipients of resource recovery education grants:

(a) Whether the education program has measurable objectives.

(b) The extent of background research completed.

(c) The type and extent of follow-up or evaluation, or both, to be conducted.

(d) The level of commitment by local officials.

(e) The extent to which the recipient commits its own financial resources to the education project.

(f) The extent to which selection of the project contributes to the achievement of a balanced distribution of grants throughout the state.

(5) The department shall not expend more than 25% of the total amount in the trust fund in any state fiscal year on the educational program and the education grant program described in this section. The department

shall not expend more than \$50,000.00 for any single education grant made under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19110 Solid waste transfer station grant program.**

Sec. 19110. (1) The department shall establish a solid waste transfer station grant program. The program shall provide funding to municipalities, nonprofit private entities, and private entities for the cost of transfer station construction. The department shall make the grants described in this section.

(2) The department shall not make a solid waste transfer station grant unless both of the following conditions are met:

(a) The proposed transfer station is located in a county that has an approved solid waste management plan.

(b) The proposed solid waste transfer station is consistent with the approved solid waste management plans of all of the affected counties.

(3) The department shall consider the following factors in selecting recipients for solid waste transfer station grants:

(a) The potential for providing to the municipality resource recovery alternatives otherwise not available to the municipality without the proposed transfer station.

(b) The willingness of the municipality to form or participate in a joint solid waste management system with adjacent municipalities.

(c) The applicant demonstrates that the proposed transfer station replaces a sanitary landfill or open dump closed according to the standards contained in part 115.

(4) The department shall not dispense a solid waste transfer station grant unless all permits that are required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 25% of the total amount in the fund in any state fiscal year on the solid waste transfer station grant program. The department shall not expend more than \$300,000.00 for any single transfer station grant made under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19111 Recycling and composting capital grant program.**

Sec. 19111. (1) The department shall establish a recycling and composting capital grant program. The program shall provide funding for the capital costs of recycling and composting programs undertaken by municipalities, nonprofit private entities, or private entities. The department shall make the grants described in this section.

(2) The department shall not make a recycling or composting capital grant unless all of the following conditions are met:

(a) The proposed recycling or composting project is located in a county that has an approved solid waste management plan.

(b) The proposed recycling or composting project is consistent with the approved solid waste management plan.

(c) The applicant provides either a feasibility study with positive results supportive of project initiation or sufficient data justifying project expansion.

(d) The equipment obtained with the grant is used for source separated materials or site separated materials, or both.

(3) The department shall consider the following factors in selecting recipients for recycling and composting capital grants:

(a) The likelihood of project success as indicated by the feasibility study results.

(b) The availability of an appropriate site.

(c) A demonstration by the applicant that the materials to be collected or processed, or both, are not being recovered presently and would not be recovered without the proposed recycling or composting project.

(d) A demonstration by the applicant that the materials to be collected or processed, or both, will be absorbed in an existing market without displacing existing resource recovery operations or that the materials, by being collected or processed, or both, will create a new market.

(e) The business and accounting plans for the proposed recycling or composting project.

(f) The need for a new or expanded recycling or composting program in the area to be served, relative to

the needs of other areas.

(g) The extent to which selection of the recycling or composting program contributes to the achievement of a balanced distribution of grants throughout the state.

(h) A demonstration by the applicant that land, buildings, personnel, support services, or funds have been committed to the recycling or composting project.

(i) The portion of the waste stream that is projected to be diverted from landfills, compared to the projected costs of the recycling or composting project.

(j) The immediacy of the reduction in waste resulting from the recycling or composting program.

(k) The potential of the recycling or composting project to be replicated in similar areas of the state.

(l) The availability of capacity at existing licensed landfills that serve the area to be served by the proposed recycling or composting program.

(m) The demonstrated municipality, community group, or volunteer interest in undertaking a recycling or composting project.

(n) The demonstrated capability of the applicant in working with adjacent municipalities on alternative resource recovery projects, such as development of a regional resource recovery organization, jointly sponsored resource recovery initiatives, or regional materials marketing strategies.

(4) The department shall not dispense a recycling or composting capital grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 20% of the total amount in the fund in any state fiscal year on the recycling and composting capital grant program. The department shall not expend more than \$500,000.00 for any single recycling or composting capital grant made under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19112 Waste-to-energy capital grant program.**

Sec. 19112. (1) The department shall establish a waste-to-energy capital grant program. The program shall provide funding for the capital costs of waste-to-energy programs undertaken by municipalities, nonprofit private entities, or private entities. The department shall make the grants described in this section.

(2) The department shall not make a waste-to-energy capital grant unless all of the following conditions are met:

(a) The proposed waste-to-energy project is located in a county that has an approved solid waste management plan.

(b) The proposed waste-to-energy project is consistent with the approved solid waste management plan.

(c) The applicant provides either a feasibility study with positive results supportive of project initiation or sufficient data justifying project expansion.

(3) The department shall consider the following factors in selecting recipients for waste-to-energy capital grants:

(a) The likelihood of project success as indicated by the feasibility study results.

(b) The availability of an appropriate site.

(c) A demonstration by the applicant that the materials to be collected or processed, or both, are not being recovered presently.

(d) The business and accounting plans for the proposed waste-to-energy project.

(e) The need for a new or expanded waste-to-energy program in the area to be served, relative to the needs of other areas.

(f) The extent to which selection of the waste-to-energy program contributes to the achievement of a balanced distribution of grants throughout the state.

(g) A demonstration by the applicant that land, buildings, personnel, support services, or funds have been committed to the waste-to-energy project.

(h) The portion of the waste stream that is projected to be diverted from landfills, compared to the projected costs of the waste-to-energy project.

(i) The potential of the waste-to-energy project to be replicated in similar areas of the state.

(4) The department shall not dispense a waste-to-energy capital grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 30% of the total amount in the fund in any state fiscal year on the waste-to-energy capital grant program. The department shall not expend more than \$2,000,000.00 for

any single waste-to-energy grant made under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19113 Recycling operational grant program.**

Sec. 19113. (1) The department shall establish a recycling operational grant program. The program shall provide temporary operating subsidies to assist municipalities, nonprofit private entities, and private entities in recapturing the difference between the cost of collection, processing, and transportation and the revenues generated from the sale of the recovered materials. The department shall make the grants described in this section.

(2) The department shall not make a recycling operational grant unless all of the following conditions are met:

- (a) The proposed recycling project is located in a county with an approved solid waste management plan.
- (b) The proposed recycling project is consistent with the approved solid waste management plan.
- (c) A positive feasibility study of the proposed recycling project, or sufficient data justifying project expansion, is available.

(d) The applicant agrees to match the grant on a dollar for dollar basis.

(e) The applicant agrees to continue support for the recycling project if the project is within 10% of previous disposal costs.

(f) The applicant agrees to provide the department with an annual operation report.

(g) The need for an operating subsidy is demonstrated.

(h) The grant is used for a project handling source separated material or site separated material, or both.

(3) The department shall consider the following factors in determining whether to make a recycling operational grant:

(a) The portion of the waste stream projected to be diverted from a landfill, compared to projected costs.

(b) A demonstration by the applicant that land, buildings, personnel, support services, or funds have been committed to the recycling project.

(c) The applicant's willingness to show others the program.

(d) The potential of the recycling project to be replicated in similar areas of the state.

(e) The extent to which selection of the project contributes to the achievement of a balanced distribution of grants throughout the state.

(f) The demonstrated municipality, community group, or volunteer interest in undertaking a recycling project.

(g) The demonstrated capability of the applicant in working with adjacent municipalities on alternative resource recovery projects, such as development of a regional resource recovery organization, jointly sponsored resource recovery initiatives, or regional materials marketing strategies.

(h) The availability of capacity at existing licensed landfills that serve the area to be served by the proposed recycling project.

(i) The existence of a plan for transferring financial responsibility for the program to another funding source.

(j) The existence of sources of capital funding for the project.

(4) The department shall not dispense a recycling operational grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 5% of the total amount in the fund in any state fiscal year for the recycling operational grant program. The department shall not expend more than \$150,000.00 for any single recycling operational grant made under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19114 Composting operational grant program.**

Sec. 19114. (1) The department shall establish a composting operational grant program. The program shall provide temporary operating subsidies to assist municipalities, nonprofit private entities, and private entities in undertaking composting projects. The department shall make the grants described in this section.

(2) The department shall not make a composting operational grant unless all of the following conditions are met:

(a) The proposed composting project is located in a county with an approved solid waste management plan.

(b) The proposed composting project is consistent with the approved solid waste management plan.

(c) A positive feasibility study of the proposed composting project, or sufficient data justifying project expansion, is available.

(d) The applicant agrees to match the grant on a dollar for dollar basis.

(e) The applicant agrees to provide the department with an annual operation report.

(3) The department shall consider the following factors in determining whether to make a composting operational grant:

(a) The portion of the waste stream projected to be diverted from a landfill, compared to projected costs.

(b) A demonstration by the applicant that land, buildings, personnel, support services, or funds have been committed to the composting project.

(c) The applicant's willingness to show others the program.

(d) The potential of the composting project to be replicated in similar areas of the state.

(e) The extent to which selection of the project contributes to the achievement of a balanced distribution of grants throughout the state.

(f) The demonstrated municipality, community group, or volunteer interest in undertaking a composting project.

(g) The demonstrated capability in working with adjacent municipalities on alternative resource recovery projects, such as development of a regional resource recovery organization, jointly sponsored resource recovery initiatives, or regional materials marketing strategies.

(h) The availability of capacity at existing licensed landfills that serve the area to be served by the proposed composting project.

(i) A plan for transferring financial responsibility for the program to another funding source has been developed.

(j) The sources of capital funding for the project.

(4) The department shall not dispense a composting operational grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 5% of the total amount in the fund in any state fiscal year for the composting operational grant program. The department shall not expend more than \$150,000.00 for any single composting operational grant made under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19115 Household hazardous waste disposal grant program.**

Sec. 19115. (1) The department shall establish a household hazardous waste disposal grant program. The program shall assist municipalities in projects that educate citizens as to methods of household hazardous waste reduction and disposal option, promote the safe handling of household hazardous waste, or dispose of household hazardous waste at a state or federally permitted or licensed hazardous waste treatment, storage, or disposal facility. The department shall make the grants described in this section.

(2) The department shall not make a household hazardous waste disposal grant unless all of the following conditions are met:

(a) The project is not funded under a federal program.

(b) The municipality commits to contributing 20% of the total project cost in cash or in-kind services, or both.

(c) The project is completed within 1 year after receipt of the grant.

(d) The project is consistent with this part and other state law and policy.

(3) The department shall not dispense a household hazardous waste disposal grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(4) The department shall not expend more than 2% of the total amount in the fund in any state fiscal year for the household hazardous waste disposal grant program. The department shall not expend more than \$15,000.00 for any single household hazardous waste disposal grant made under this section.

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

**Popular name:** Act 451



Popular name: NREPA

**324.19116 Statewide market development research study; market development plan; market development grant program; selection of development projects; selecting recipients of market development grants; permits as condition to dispensing market development grant; limitation on expenditures.**

Sec. 19116. (1) The department shall cause to be conducted a statewide market development research study to assess the current markets and the potential for and the means for expansion of markets for recycled materials in this state. The department shall not expend more than 2.5% of the total amount in the fund in any state fiscal year for the market development research study. In addition, the department shall establish a market development plan based on the market development research study. The plan shall identify the barriers in attracting or expanding industries that use recycled materials and determine the appropriate methods for eliminating those barriers. The department of commerce shall serve as project coordinator for the market development study funded and administered by the department pursuant to this section.

(2) The department shall establish a market development grant program. The program shall encourage expansion of the use of recycled materials and the development of innovative technologies to use recycled materials. The department shall make a grant under the program described in this section.

(3) The department shall select development projects subject to the following prerequisites:

- (a) The project is beyond the research stage and a demonstration has indicated that it is technically feasible.
- (b) The recipient of the grant is a municipality, nonprofit private entity, or private entity in this state.
- (c) The project shall be performed in this state.

(4) The department shall consider the following factors in selecting recipients of market development grants:

(a) The contribution that would be made by the project toward the goal of increasing the use of recycled materials.

(b) The market's need for the development of the technology or equipment.

(c) The potential impact of the technology or equipment on the cost effectiveness of using recycled materials.

(d) The potential for development of new resource recovery markets and for the generation of positive economic impacts.

(e) The potential of the project for commercial application.

(f) The stage of the development of the technology or equipment proposed to be used in the project.

(g) The environmental, economic, and social benefits to the state of the development of the technology or equipment.

(h) The future sources of capital funding for the project.

(i) The extent to which the applicant has committed land, buildings, personnel, support services, or funds to the project.

(j) The potential of the project for developing multiple markets.

(5) The department shall not dispense a market development grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(6) The department shall not expend more than 25% of the total amount in the fund in any state fiscal year for the market development grant program. The department shall not expend more than \$500,000.00 for any single grant made under this program.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.19117 Program to perform hydrogeological monitoring studies on open and closed sanitary landfills and open dumps owned by municipalities.**

Sec. 19117. (1) The department shall establish a program to perform hydrogeological monitoring studies on open and closed sanitary landfills and open dumps owned by municipalities. The program shall determine the extent of groundwater contamination associated with the sanitary landfills and open dumps and the need for remedial actions on those sites. The department shall determine which landfills and dumps owned by municipalities are to be monitored. In determining the order in which the landfills and dumps owned by municipalities are to be monitored, the department shall consider the potential threat of human exposure to environmental contamination originating from the sanitary landfill or open dump and the likelihood that hazardous waste was accepted at the landfill or dump.

(2) The department shall not expend more than 10% of the total amount in the fund in any state fiscal year for the program to perform hydrogeological monitoring studies. The department shall not expend more than \$50,000.00 for any single hydrogeological monitoring study performed under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19118 Sanitary landfill and open dump closure or reclosure matching grant program.**

Sec. 19118. (1) The department shall establish a sanitary landfill and open dump closure or reclosure matching grant program. The program shall provide up to 75% of the funding for the closure or reclosure of sanitary landfills and open dumps owned or operated by municipalities. In addition, the program shall provide up to 75% reimbursement for the closure of municipally owned sanitary landfills and open dumps or the reclosure of municipally owned sanitary landfills and open dumps that were closed after January 11, 1979, the effective date of former Act No. 641 of the Public Acts of 1978, according to the standards prescribed by that former act, which is currently part 115, but before December 4, 1986. The department shall make the grants described in this section.

(2) The department shall not make a closure or reclosure grant unless all of the following requirements are met:

(a) The sanitary landfill or open dump proposed for closure or reclosure is located in a county that has an approved solid waste management plan.

(b) The grant is for the closure of an operating sanitary landfill or open dump that is not operated according to the standards contained in part 115 and the rules promulgated under that part or the grant is for the reclosure of a closed sanitary landfill or dump that was not closed according to the standards contained in part 115 and the rules promulgated under that part.

(c) If the grant is reimbursement for the closure or reclosure of a landfill or dump, the closure or reclosure was made according to the standards of part 115 and the rules promulgated under that part.

(d) The grant shall be used only for a closure or reclosure that is a complete closure of an entire landfill or dump.

(e) The closure or reclosure will be accomplished completely within 1 year after receipt of the grant.

(3) The department shall consider the following factors in selecting recipients of closure or reclosure grants:

(a) The degree of effort demonstrated by the municipality in working toward alternative solutions to solid waste management problems.

(b) The degree of the potential threat of groundwater contamination.

(c) The likelihood that hazardous waste was accepted.

(d) The municipality's willingness to work with adjacent municipalities on alternative solutions.

(e) The municipality's commitment to refrain from operating unlicensed disposal areas in the future.

(4) The department shall not expend more than 25% of the total amount in the fund in any state fiscal year for the sanitary landfill and open dump closure or reclosure matching grant program. The department shall not expend more than \$600,000.00 for any single grant made under this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19119 Project producing site separated materials; eligibility for grant.**

Sec. 19119. Any project of the type for which a grant may be available under section 19111, which produces site separated materials, and for which the licenses or permits required by this part and otherwise required by law have been obtained, is eligible to receive a grant under this part.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19120 Administration of studies, assessments, and programs; application for inclusion in study or assessment or for grant; project summary.**

Sec. 19120. (1) The department shall administer the studies, assessments, and programs described in this part according to the following:

(a) Within 60 days after enactment of the general appropriations bill for the department of natural resources for a state fiscal year, the department shall issue a request for applications for inclusion in any study

or assessment to be conducted that year and for receipt of any grant available during that year.

(b) The department shall not accept any applications after 60 days from the issuance of a request for applications.

(c) Within 135 days after the advisory panel recommendations are made, the department shall complete its review of the application and recommendations and make its determinations.

(2) An application for inclusion in any study or assessment described in this part or for any grant available under this part shall be made on a form prescribed by the department. The department may require the applicant to provide any information reasonably necessary to allow the department to make the determinations required by this part.

(3) Each recipient of a grant and each participant in a study or assessment under this part shall complete and return a project summary on a form developed by the department by a date specified by the advisory panel. A recipient or participant who fails to submit a project summary as required by this section is not eligible to be a recipient or participant under this part for 5 years after the year for which the failure occurs.

(4) The project summary form developed by the department shall not exceed 1 page and shall include the following information:

(a) The name, address, and telephone number of the recipient or participant.

(b) The name of the project.

(c) The amount of money received.

(d) The county in which the project is located.

(e) A brief summary of the activities and accomplishments of the project.

(5) A completed project summary is available to the public under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19121 Reports.**

Sec. 19121. (1) Not later than March 31 of each year, the department shall report the following information regarding the projects financed under this part for that fiscal year to the governor, the standing committees of the senate and the house of representatives that primarily consider issues pertaining to the protection of natural resources and the environment, and the subcommittees of the house of representatives and the senate on appropriations for the department:

(a) The name, address, and telephone number of the recipient or participant.

(b) The nature of the project.

(c) The amount of money received.

(d) The county in which the project is located.

(2) Not later than September 30 of each year, the department shall submit to the governor and the legislature a report on the projects financed under this act during the previous fiscal year. The report shall consist of the project summaries described in section 19120, along with an introduction and conclusion.

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

**Popular name:** Act 451

**Popular name:** NREPA

## PART 193

### ENVIRONMENTAL PROTECTION BOND AUTHORIZATION

#### **324.19301 Bonds; authorization; limitation; purpose.**

Sec. 19301. The state shall borrow a sum not to exceed \$660,000,000.00 and issue the general obligation bonds of this state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance environmental protection programs that would clean up sites of toxic and other environmental contamination and contribute to a regional Great Lakes protection fund, address solid waste problems, treat sewage and other water quality problems, and reuse industrial sites and preserve open space.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.19302 Conditions, methods, and procedures.**

Sec. 19302. Bonds shall be issued in accordance with conditions, methods, and procedures to be

established by law.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19303 Disposition of proceeds and interest.**

Sec. 19303. The proceeds of the sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be deposited in the state treasury and credited to the environmental protection bond fund created in part 195 and shall be disbursed from that fund only for the purposes for which the bonds have been authorized, including the expense of issuing the bonds. The proceeds of sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be expended for the purposes set forth in this part in a manner as provided by law.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19304 Submission of question to electors.**

Sec. 19304. The question of borrowing a sum not to exceed \$660,000,000.00 and the issuance of the general obligation bonds of the state for the purposes set forth in this part shall be submitted to a vote of the electors of the state qualified to vote on the question in accordance with section 15 of article IX of the state constitution of 1963, at the general election following September 9, 1988, the effective date of former Act No. 326 of the Public Acts of 1988. The question submitted to the electors shall be substantially as follows:

"Shall the state of Michigan borrow a sum not to exceed \$660,000,000.00 and issue general obligation bonds of the state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance environmental protection programs that would clean up sites of toxic and other environmental contamination and contribute to a regional Great Lakes protection fund, address solid waste problems, treat sewage and other water quality problems, and reuse industrial sites and preserve open space, the method of repayment of the bonds to be from the general fund of this state?

Yes.....

No.....".

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19305 Duties of secretary of state.**

Sec. 19305. The secretary of state shall perform all acts necessary to properly submit the question prescribed by section 19304 to the electors of this state qualified to vote on the question at the general November election following September 9, 1988, the effective date of former Act No. 326 of the Public Acts of 1988.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19306 Appropriation; purpose.**

Sec. 19306. (1) After the issuance of the bonds authorized by this part or former Act No. 326 of the Public Acts of 1988, there shall be appropriated from the general fund of the state each fiscal year a sufficient amount to pay promptly, when due, the principal of and interest on all outstanding bonds authorized by this part or former Act No. 326 of the Public Acts of 1988 and the costs incidental to the payment of the bonds.

(2) The governor shall include the appropriation provided in subsection (1) in his or her annual executive budget recommendations to the legislature.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 195

### ENVIRONMENTAL PROTECTION BOND IMPLEMENTATION

### **324.19501 Definitions.**

Sec. 19501. As used in this part:

- (a) "Bonds" means the bonds issued under part 193 or former Act No. 326 of the Public Acts of 1988.
- (b) "Fund" means the environmental protection bond fund created in section 19506.
- (c) "Local unit of government" means a county, city, village, or township, or an agency of a county, city, village, or township; an authority or any other public body created by or pursuant to state law; or this state or an agency or department of this state.
- (d) "Private entity" means an individual, trust, firm, partnership, corporation, or association, whether profit or nonprofit, that is not a local unit of government.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19502 Legislative finding and declaration.**

Sec. 19502. The legislature finds and declares that the environmental protection programs implemented under former Act No. 328 of the Public Acts of 1988 or this part are a public purpose and of paramount public concern in the interest of the health, safety, and general welfare of the citizens of this state.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19503 Bonds; requirements generally.**

Sec. 19503. (1) The bonds issued under former Act No. 326 of the Public Acts of 1988 or part 193 shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities which may be either serial, term, or term and serial, to bear interest at a rate or rates, to be subject or not subject to prior redemption, and if subject to prior redemption with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board and subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to insure the marketability, insurability, or tax exempt status. The state administrative board shall rotate the services of legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds partly to refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued pursuant to this section shall not be counted against the limitation on principal amount imposed by the vote of the people on November 8, 1988. Further, refunding bonds issued pursuant to this section shall not be subject to the restrictions of section 19507.

(3) The state administrative board may authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this part.

(4) The state administrative board may authorize the state treasurer, but only within limitations that are contained in the authorizing resolution of the board, to do 1 or more of the following:

- (a) Sell and deliver and receive payment for the bonds.
- (b) Deliver bonds partly to refund bonds and partly for other authorized purposes.
- (c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.
- (d) Buy bonds so issued at not more than their face value.
- (e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.
- (f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(5) The bonds shall be approved by the department of treasury before their issuance but are not otherwise subject to the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of

the Michigan Compiled Laws.

(6) The bonds or any series of the bonds shall be sold at such price and at a publicly advertised sale or a competitively negotiated sale as determined by the state administrative board. If bonds are issued at a competitively negotiated sale, the state administrative board shall use its best efforts to include firms based in this state in the sale of the bonds.

(7) Except as provided in subsection (8), the bonds shall be sold in accordance with the following schedule, beginning during the first year after December 1, 1988:

(a) Not more than 34% shall be sold during the first year.

(b) Not more than 33% shall be sold during the second year.

(c) Not more than 33% shall be sold during the third year.

(d) After the third year, any remaining bonds may be sold at the discretion of the state administrative board.

(8) The state administrative board may alter the schedule for issuance of the bonds provided in subsection (7) if either or both of the following occur:

(a) Amendments to the internal revenue code of 1986 would impair the tax-exempt status of the bonds.

(b) The legislature concurs in the declaration of a toxic substance emergency made by the governor pursuant to law.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1995, Act 73, Imd. Eff. June 6, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.19504 Bonds negotiable; tax exemption.**

Sec. 19504. Bonds issued under former Act No. 326 of the Public Acts of 1988 or part 193 shall be fully negotiable under the uniform commercial code, Act No. 174 of the Public Acts of 1962, being sections 440.1101 to 440.11102 of the Michigan Compiled Laws. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivisions of the state.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.19505 Bonds as securities.**

Sec. 19505. Bonds issued under former Act No. 326 of the Public Acts of 1988 or part 193 are made securities in which banks, savings and loan associations, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.19506 Environmental protection bond fund; creation; composition; restricted subaccounts.**

Sec. 19506. (1) The environmental protection bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of general obligation bonds issued pursuant to former Act No. 326 of the Public Acts of 1988 or part 193 and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any repayment of principal and interest made under a loan program authorized in this part.

(d) Any federal funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.19507 Disposition and allocation of bond proceeds; investment of fund; allocation and disposition of interest and earnings; transfer of repayments of principal and interest;**

**disposition of unencumbered balance.**

Sec. 19507. (1) The total proceeds of all bonds issued under former Act No. 326 of the Public Acts of 1988 or part 193 shall be deposited into the fund and allocated as follows:

(a) Except as provided in section 19508(1)(a)(ii) and as otherwise provided in this act, not more than \$425,000,000.00 shall be used to clean up sites of toxic and other environmental contamination.

(b) Not more than \$150,000,000.00 shall be used for solid waste projects including, but not limited to, reducing, recycling, and properly disposing of solid waste. Money that is available under this subdivision but not appropriated and money that is appropriated under this subdivision that reverts to the fund shall be transferred to the cleanup and redevelopment fund created in section 20108.

(c) Not more than \$60,000,000.00 shall be used to capitalize the state water pollution control revolving fund established pursuant to section 16a of the shared credit rating act, Act No. 227 of the Public Acts of 1985, being section 141.1066a of the Michigan Compiled Laws.

(d) Not more than \$25,000,000.00 shall be used to fund this state's participation in a regional Great Lakes protection fund.

(2) The state treasurer shall direct the investment of the fund. Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be transferred to the cleanup and redevelopment fund created in section 20108, except for the fiscal years 1992-93 and 1993-94, when any such interest and earnings accrued in those, or prior fiscal years, shall be deposited in the state water pollution control revolving fund established pursuant to section 16a of Act No. 227 of the Public Acts of 1985.

(3) Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, all repayments of principal and interest earned under a loan program created with money under subsection (1)(b) shall be transferred to the cleanup and redevelopment fund created in section 20108.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1996, Act 380, Imd. Eff. July 24, 1996.

**Popular name:** Act 451

**Popular name:** NREPA

**324.19508 Use of money in fund allocated under MCL 324.19507; expenditures; recovery and retention of funds by eligible community; contents and submission of list of projects; appropriations; prioritizing and approving projects; "eligible community" defined.**

Sec. 19508. (1) Except as provided in subsection (3), money in the fund that is allocated under section 19507 shall be used for the following purposes:

(a) Money in the fund that is allocated under section 19507(1)(a) shall be used for sites identified through parts 201 and 213, to be expended and recovered by the state in the same manner as provided in that part. Of the funds allocated under section 19507(1)(a), the following apply:

(i) Not more than \$35,000,000.00 shall be used to clean up sites of environmental contamination that have been identified under former 1982 PA 307, part 201, or part 213; that meet either of the following:

(A) Until the effective date of the 2016 amendatory act that amended this section, will not be funded in the next fiscal year and have been approved by the department as having measurable economic benefit.

(B) Beginning on the effective date of the 2016 amendatory act that amended this section, for projects meeting the criteria of sections 19608 to 19615.

(ii) Not more than \$10,000,000.00 may be used to provide grants to eligible communities to investigate and determine whether property within an eligible community is a site of environmental contamination and, if so, to characterize the nature and extent of the contamination. A grant shall be issued under this subparagraph only if all of the following conditions are met:

(A) The characterization of the nature and extent of contamination includes an estimate of response activity costs in relation to the value of the property in an uncontaminated state and identifies future potential limitations on the use of the property based upon current environmental conditions.

(B) The property has demonstrable economic development potential. This provision does not require a specific development proposal to be identified.

(C) The property is located within an eligible community that has received less than \$1,000,000.00 in total grants under this subparagraph. However, a grant that has resulted in measurable economic benefits shall not be included in the calculation of the \$1,000,000.00.

(b) Money in the fund that is allocated for solid waste projects including, but not limited to, reducing, recycling, and properly disposing of solid waste shall be used to fund state projects, to provide grants and loans to local units of government, and to provide grants and loans to private entities for any of the programs identified in part 191, in the amounts appropriated pursuant to subsection (5). Not less than \$17,500,000.00 of the money for solid waste projects shall be used to fund the following:

(i) To promote and expand markets for recycled materials.

(ii) To assist in the recycling of solid wastes, including, but not limited to, plastics, metals, tires, wood, and paper.

(iii) To promote research on resource recovery.

(iv) To study marketing options for products that use recycled materials.

(c) Money in the fund that is allocated to capitalize the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, shall be used as provided in part 53.

(d) Money in the fund that is allocated to fund this state's participation in a regional Great Lakes protection fund pursuant to part 331.

(2) If, by June 28, 1995, the department determines that money allocated under subsection (1)(a)(ii) is unlikely to be expended pursuant to that subparagraph, \$5,000,000.00 of the money allocated pursuant to that subparagraph shall be expended pursuant to subsection (1)(a)(i).

(3) If money that is expended pursuant to subsection (1)(a)(ii) is recovered by an eligible community from a person who may be liable under part 201, through proceeds from the sale of the property, or through any other mechanism, and additional funds for environmental response activities on the property are not necessary, the eligible community may retain those funds for expenditure on projects that the department determines are eligible to receive funding under subsection (1)(a)(ii). An accounting of the recovered funds must be provided to the department within 30 days of receipt, and approval and expenditure of the recovered funds shall be in the same manner as funds awarded pursuant to subsection (1)(a)(ii). If funds are recovered and not spent on other projects pursuant to this subparagraph within 2 years after they are recovered by the eligible community, the eligible community shall forward the money collected to the state treasurer for deposit into the fund to be used pursuant to subsection (1)(a)(ii). When accounting for the use of recovered funds, eligible communities may itemize deductions for site preparation and other costs directly related to the reuse of a site funded under this section.

(4) Money provided in the fund may be used by the department of treasury to pay for the cost of issuing bonds under former 1988 PA 326 or part 193 and by the department to pay department costs as provided in this subsection. Not more than 6% of the total amount specified in section 19507(1)(a), (b), and (d) shall be available for appropriation to the department to pay department costs directly associated with the completion of a project described in section 19507(1)(a), (b), or (d), for which bonds are issued as provided under this part. Any department costs associated with a project described in section 19507(1)(c) for which bonds are issued under this part shall be paid as provided in the state statute implementing the state water pollution control revolving fund. Bond proceeds shall not be available to pay indirect, administrative overhead costs incurred by any organizational unit of the department not directly responsible for the completion of a project. It is the intent of the legislature that general fund appropriations to the department shall not be reduced as a result of department costs funded pursuant to this subsection.

(5) Except as provided in subsection (3), the department shall annually submit a list of all projects that are recommended to be funded under this part to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate. This list shall be submitted to the legislature not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. The list shall include the name, address, and telephone number of the eligible recipient or participant; the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the department.

(6) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed. Environmental cleanup projects that are eligible for funding under subsection (1)(a), but not including subsection (1)(a)(i) and (ii), shall be prioritized and approved pursuant to the procedures outlined in part 201. Projects to which loans are provided from the state water pollution control revolving fund shall be approved pursuant to state law implementing that fund. The capitalization of the regional Great Lakes protection fund shall be a 1-time appropriation.

(7) Not later than December 31 of each year, the department shall submit a list of the projects financed



under this part to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the committees of the house of representatives and the senate on appropriations for the department. The list shall include the name, address, and telephone number of the recipient or participant; the nature of the project; the amount of money received; the county in which the project is located; and other information considered pertinent by the department.

(8) As used in this section, "eligible community" means any of the following:

(a) A city, village, or township, or a county on behalf of a city, village, or township, that on May 1, 1993 meets the applicable criteria of a local government unit under section 2(f) of the neighborhood enterprise zone act, 1992 PA 147, MCL 207.772.

(b) A city that meets any of the following descriptions:

(i) Has a population of greater than 10,000 and is located within a county that has a population density of less than 39 residents per square mile.

(ii) Has a population of greater than 2,500 and is located within a county that has a population density of less than 39 residents per square mile.

(iii) Had an average unemployment rate of 11.5% or more during the most recent calendar year for which data is available from the Michigan employment security commission.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2016, Act 474, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19509 Grant and loan programs; rules; maximum participation; considerations in making grant or loan; interest; grant projects under MCL 324.19508(1)(a); applicability.**

Sec. 19509. (1) The department shall promulgate rules necessary to implement grant and loan programs provided in this part.

(2) The department shall assure maximum participation by local units of government and by private entities by promulgating rules that provide for a grant or loan program, where appropriate. In determining whether a grant or a loan program is appropriate, the department shall consider whether the project is likely to be undertaken without state assistance; the availability of state funds from other sources; the degree of private sector participation in the type of project under consideration; the extent of the need for the project as a demonstration project; and such other factors considered important by the department.

(3) Prior to making a grant or loan authorized by this part, the department shall consider the extent to which the making of the grant or loan contributes to the achievement of a balanced distribution of grants and loans throughout the state.

(4) The department shall provide in rules promulgated under this part that loans that are issued by the department to private entities shall include an interest charge of not less than 5% per year.

(5) Notwithstanding any other provision of this section, for grant projects considered for funding under section 19508(1)(a) on or after the effective date of the 2016 amendatory act that amended this section, subsections (1) to (4) do not apply and the department shall apply the criteria used for projects funded under section 19611.

(6) Neither this section nor section 19510 apply to loans from the state water pollution control revolving fund.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2016, Act 474, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19510 Application for grant or loan; form; requirements.**

Sec. 19510. (1) An application for a grant or a loan authorized under this part shall be made on a form prescribed by the department. The department may require the applicant to provide any information reasonably necessary to allow the department to make a determination required by this part.

(2) Beginning on the effective date of the 2016 amendatory act that amended this section, an application for a grant under section 19508(1)(a) is subject to the same requirements listed in section 19610 for a loan under section 19608(1)(a)(iv).

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2016, Act 474, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19511 Conditions to making grant or loan.**

Sec. 19511. The department shall not make a grant or a loan under section 19508(1)(a) or (b) unless all of the following conditions are met:

(a) The applicant demonstrates that the proposed project is in compliance with or will result in compliance with all applicable state laws and rules.

(b) The applicant demonstrates to the department the capability to carry out the proposed project.

(c) The applicant provides the department with evidence that a licensed professional engineer has approved the plans and specifications for the project, if appropriate.

(d) The applicant demonstrates to the department that there is an identifiable source of funds for the future maintenance and operation of the proposed project.

(e) Notwithstanding any other provision of this section, for grant projects approved for funding under section 19508(1)(a) on or after the effective date of the 2016 amendatory act that amended this section, subdivisions (a) to (d) do not apply and the department shall apply the same application requirements provided for a grant or loan in section 19609.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2016, Act 472, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19512 Recipient of grant or loan; conditions; noncompliance; revocation of grant or withholding payment; recovery of grant by department; withholding grant or loan; grant projects approved under MCL 324.19508(1)(a).**

Sec. 19512. (1) A recipient of a grant or a loan made under section 19508(1)(a) or (b) must comply with all of the following:

(a) A recipient shall keep an accounting of the money spent on the project or facility in a generally accepted manner. The accounting is subject to a postaudit.

(b) A recipient shall obtain authorization from the department before implementing a change that significantly alters the proposed project or facility.

(2) The department may revoke a grant or a loan made by it under this part or withhold payment if the recipient fails to comply with the terms and conditions of the grant or loan or with the requirements of this part or the rules promulgated under this part.

(3) The department may recover a grant if the project for which the grant was made never operates.

(4) The department may withhold a grant or a loan until the department determines that the recipient is able to proceed with the proposed project or facility.

(5) To assure timely completion of a project, the department may withhold 10% of the grant or loan amount until the project is complete.

(6) Notwithstanding any other provision of this section, for grant projects approved for funding under section 19508(1)(a) on or after the effective date of the 2016 amendatory act that amended this section, subsections (1) to (5) do not apply and the recipient of any grant or loan must comply with the requirements of section 19612.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2016, Act 472, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19513 Rules.**

Sec. 19513. (1) The department may promulgate rules as are necessary or required to implement this part.

(2) For grant projects funded under section 19508(1)(a), the department shall not implement or enforce R 299.5051 to R 299.5061 related to any grant or loan authorized or approved on or after the effective date of the 2016 amendatory act that amended this section.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2016, Act 472, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

**Administrative rules:** R 299.5101 et seq. and R 299.51001 et seq. of the Michigan Administrative Code.

## **PART 196**

### **CLEAN MICHIGAN INITIATIVE IMPLEMENTATION**

### **324.19601 Definitions.**

Sec. 19601. As used in this part:

(a) "Baseline environmental assessment" means that term as defined in sections 20101 and 21302.

(b) "Bonds" means the bonds authorized under the clean Michigan initiative act, 1998 PA 284, MCL 324.95101 to 324.95108.

(c) "Brownfield project" or "project" means the entire project to be undertaken, including, but not limited to, the actual site remediation and its resulting economic development.

(d) "Chief executive officer" means the mayor of a city, the village manager of a village, the township supervisor of a township, or the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners.

(e) "Corrective action" means that term as it is defined in section 21302.

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

(g) "Due care activities" means those activities conducted under sections 20107a and 21304c.

(h) "Eligible activities" for projects with funding allocated under section 19608(1)(a)(iv) means:

(i) Baseline environmental assessment activities.

(ii) Investigations.

(iii) Due care activities.

(iv) Response activities, including response activities that are more protective of the public health, safety, and welfare and the environment than required by section 20107a or 21304c.

(v) Removal and closure of underground storage tanks pursuant to parts 211 and 213.

(vi) Dust control related to construction activities.

(vii) Industrial cleaning.

(viii) Sheeting and shoring necessary for the removal of materials exceeding part 201 cleanup criteria at projects requiring a permit under part 301, 303, or 325.

(ix) The following activities, provided that the total cost of these activities does not exceed the total cost of project-related activities identified in subparagraphs (i) to (viii):

(A) Disposal of solid waste, as defined in part 115, from the eligible property, provided it was not generated or accumulated by the authority or the developer.

(B) Lead, asbestos, or mold abatement, and demolition of structures that are not a response activity.

(C) Removal and disposal of lake or river sediments exceeding part 201 unrestricted criteria from, at, or related to an economic development project if the upland property either is a facility or would become a facility as a result of the deposition of dredged spoils.

(i) "Eligible property" for projects with funding allocated under section 19608(1)(a)(iv) means property that is known or suspected to be a facility under part 201 or a site or property under part 213 and that was used or is currently being used for commercial, industrial, public, or residential purposes.

(j) "Facility" means that term as it is defined in part 201.

(k) "Fund" means the clean Michigan initiative bond fund created in section 19606.

(l) "Gaming facility" means a gaming facility regulated under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(m) "Local unit of government" means a county, city, village, or township, or an agency of a county, city, village, or township; or a brownfield redevelopment authority, economic development corporation, or an authority or other public body created by or pursuant to state law.

(n) "Measurable economic benefit" means the permanent jobs that are created or retained, the capital invested, or the increased tax base to the applicable county, city, village, and township where the project is located.

(o) "Measurable environmental benefit" means the extent that the requirements of part 201 or part 213, or both, are advanced at a brownfield project where environmental conditions inhibit the site's redevelopment or reuse.

(p) "Part 213 property" means a property as defined in section 21303.

(q) "Response activity" means that term as it is defined in part 201 or corrective action as defined in part 213.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998;—Am. 2016, Act 473, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19602 Findings and declaration.**

Sec. 19602. The legislature finds and declares that the environmental and natural resources protection programs implemented under this part are a public purpose and of paramount public concern in the interest of

the health, safety, and general welfare of the citizens of this state.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

**324.19603 Bonds; issuance; refund; security; authority of state treasurer; bonds not subject to revised municipal finance act; sale; issuance subject to agency financing reporting act; interest rate agreement.**

Sec. 19603. (1) The bonds shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities that may be either serial, term, or both, to bear interest at a rate or rates, to be subject or not subject to prior redemption, and if subject to prior redemption with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board and subject to covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax exempt status of the bonds. The state administrative board shall rotate the services of legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds partly to refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued under this section shall not be counted against the limitation on principal amount provided in the clean Michigan initiative act, 1998 PA 284, MCL 324.95101 to 324.95108. Further, refunding bonds issued under this section are not subject to the restrictions of section 19607.

(3) The state administrative board may approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this part.

(4) The state administrative board may authorize the state treasurer, but only within limitations contained in the authorizing resolution of the board, to do 1 or more of the following:

- (a) Sell and deliver and receive payment for the bonds.
- (b) Deliver bonds partly to refund bonds and partly for other authorized purposes.
- (c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.
- (d) Buy issued bonds at not more than their face value.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(5) The bonds are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The bonds or any series of the bonds shall be sold at a price as determined by the state administrative board.

(7) The bonds shall be sold in accordance with a schedule established by the state administrative board.

(8) The issuance of bonds under this section is subject to the agency financing reporting act.

(9) For the purpose of more effectively managing its debt service, the state administrative board may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the state administrative board.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998;—Am. 2002, Act 383, Imd. Eff. May 28, 2002.

**Popular name:** Act 451

**Popular name:** NREPA

**324.19604 Bonds as negotiable and exempt from taxation.**

Sec. 19604. The bonds shall be fully negotiable under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102. The bonds and the interest on the bonds shall be exempt from all taxation by the state

or any political subdivision of the state.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19605 Bonds as securities; investment of funds.**

Sec. 19605. The bonds are securities in which banks, savings and loan associations, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19606 Clean Michigan initiative bond fund; creation; composition; establishment of restricted subaccounts.**

Sec. 19606. (1) The clean Michigan initiative bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of the bonds and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any repayment of principal and interest made under a loan program authorized in this part.

(d) Any federal or other funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19607 Disposition and allocation of fund; investment; loan repayments; expenditures; unencumbered balance not to revert to general fund; annual accounting.**

Sec. 19607. (1) The total proceeds of all bonds shall be deposited into the fund and allocated as follows:

(a) Not more than \$335,000,000.00 shall be used for eligible activities at facilities and part 213 properties.

(b) Not more than \$50,000,000.00 shall be used for waterfront improvements.

(c) Not more than \$25,000,000.00 shall be used for remediation of contaminated lake and river sediments.

(d) Not more than \$50,000,000.00 shall be used for nonpoint source pollution prevention and control projects or wellhead protection projects.

(e) Not more than \$90,000,000.00 shall be used for water quality monitoring and water resources protection and pollution control activities.

(f) Not more than \$20,000,000.00 shall be used for pollution prevention programs.

(g) Except as provided under subsection (1)(a), not more than \$5,000,000.00 shall be used to abate lead hazards.

(h) Not more than \$50,000,000.00 shall be used for state park infrastructure improvements.

(i) Not more than \$50,000,000.00 shall be used for local recreation projects.

(2) The state treasurer shall direct the investment of the fund. Except as may be required to maintain the exclusion from gross income of the interest paid on the bonds or to comply otherwise with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be allocated in the same proportion as earned on the investment of the proceeds of the bond issue.

(3) Except as may be required to maintain the exclusion from gross income of the interest paid on the bonds or to comply otherwise with state or federal law, all repayments of principal and interest earned under a loan program authorized by this part shall be credited to the appropriate restricted subaccount of the fund and used for the purposes authorized for that subaccount or to pay debt service on any obligation issued which pledges the loan repayments and the proceeds of which are deposited in that subaccount.

(4) The bond proceeds shall be expended in an appropriate manner that maintains the tax exempt status of the bonds.

(5) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall

not revert to the general fund.

(6) The department shall provide an annual accounting of bond proceeds spending on a cash basis to the department of treasury in order for the state to comply with requirements set forth for issuing tax exempt bonds, including arbitrage rebate calculations. This accounting shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998;—Am. 2016, Act 473, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

**324.19608 Use of money allocated under MCL 324.19607; purposes; notice to public advisory council; payment of costs; grant prohibited; submission of annual project list; carrying over appropriations until project completion; submission of list of financed projects.**

Sec. 19608. (1) Money in the fund that is allocated under section 19607 shall be used for the following purposes:

(a) Money allocated under section 19607(1)(a) shall be used by the department to fund all of the following:

(i) Corrective actions undertaken by the department to address releases from leaking underground storage tanks pursuant to part 213.

(ii) Response activities undertaken by the department at facilities pursuant to part 201 to address public health and environmental problems or to promote redevelopment.

(iii) Assessment activities undertaken by the department to determine whether a property is a facility.

(iv) \$75,000,000.00 shall be used to provide grants and loans to local units of government for eligible activities at eligible properties with redevelopment potential. Of the money provided for in this subparagraph, not more than \$50,000,000.00 shall be used to provide grants and not more than \$25,000,000.00 shall be used to provide loans pursuant to the clean Michigan initiative grant and revolving loan program created in section 19608a. However, grants or loans provided for in this subparagraph shall not be made to a local unit of government that is responsible for causing a release or threat of release under part 201 or part 213 at the site proposed for grant or loan funding, except as provided in section 19608b(f).

(b) Money allocated under section 19607(1)(b) shall be used for waterfront redevelopment grants pursuant to part 795.

(c) Money allocated under section 19607(1)(c) shall be used for response activities for the remediation of contaminated lake and river sediments pursuant to part 201.

(d) Money allocated under section 19607(1)(d) shall be used for nonpoint source pollution prevention and control grants or wellhead protection grants under part 88.

(e) Money allocated under section 19607(1)(e) shall be deposited into the clean water fund created in section 8807.

(f) Money allocated under section 19607(1)(f) shall be expended as follows:

(i) \$10,000,000.00 shall be deposited into the retired engineers technical assistance program fund created in section 14512.

(ii) \$5,000,000.00 shall be deposited into the small business pollution prevention assistance revolving loan fund created in section 14513.

(iii) \$5,000,000.00 shall be used by the department to implement pollution prevention activities other than those funded under subparagraphs (i) and (ii).

(g) Money that is allocated under section 19607(1)(g) shall be used by the department of health and human services for remediation and physical improvements to structures to abate or minimize exposure of persons to lead hazards.

(h) Money allocated under section 19607(1)(h) shall be used for infrastructure improvements at Michigan state parks as determined by the department of natural resources. The installation or upgrade of drinking water systems or rest room facilities shall be the first priority.

(i) Money allocated under section 19607(1)(i) shall be used to provide grants to local units of government for local recreation projects under part 716.

(2) Of the money allocated under section 19607(1)(a), \$93,000,000.00 shall be used for facilities or part 213 properties that pose an imminent or substantial endangerment to the public health, safety, or welfare, or to the environment. For purposes of this subsection, facilities or part 213 properties that pose an imminent or substantial endangerment include, but are not limited to, those where public access poses hazards because of potential exposure to chemicals or safety risks and where drinking water supplies are threatened by

contamination.

(3) Before expending any funds allocated under subsection (1)(c) at an area of concern as designated by the parties to the Great Lakes water quality agreement of 1978 as amended by protocol signed September 7, 2012, the department shall notify the public advisory council established to oversee that area of concern regarding the development, implementation, and evaluation of response activities to be conducted with money in the fund at that area of concern.

(4) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds and by the department and the department of natural resources to pay department costs as provided in this subsection. Not more than 3% of the total amount specified in section 19607(1)(a) to (f) shall be available for appropriation to the department to pay its costs directly associated with the completion of a project authorized by section 19607(1)(a) to (f). Not more than 3% of the total amount specified in section 19607(1)(h) and (i) shall be available for appropriation to the department of natural resources to pay its costs directly associated with the completion of a project authorized by section 19607(1)(h) and (i). It is the intent of the legislature that general fund appropriations to the department and to the department of natural resources shall not be reduced as a result of costs funded pursuant to this subsection.

(5) A grant shall not be provided under this part for a project that is located at any of the following:

(a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.

(b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.

(c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.

(6) The department, the department of natural resources, and the department of health and human services shall each submit annually a list of all projects that will be undertaken by that department that are recommended to be funded under this part. The list shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate. The list shall be submitted to the legislative committees not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. For each eligible project, the list shall include the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the administering state department. A project that is funded by a grant or loan with money from the fund does not need to be included on the list submitted under this subsection. However, money in the fund that is appropriated for grants and loans shall not be encumbered or expended until the administering state department has reported those projects that have been approved for a grant or a loan to the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment and to the appropriations subcommittees in the house of representatives and the senate on natural resources and environmental quality. The department shall post on its website the criteria it will use in evaluating and recommending projects for funding under this part.

(7) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed.

(8) Not later than December 31 of each year, the department, the department of natural resources, and the department of health and human services shall each submit a list of the projects financed under this part by that department to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the subcommittees of the house of representatives and the senate on appropriations on natural resources and environmental quality. Each list shall include the name, address, and telephone number of the recipient or participant, if appropriate; the name and location of the project; the nature of the project; the amount of money allocated to the project; the county in which the project is located; a brief summary of what has been accomplished by the project; and other information considered pertinent by the administering state department.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998;—Am. 2003, Act 252, Imd. Eff. Dec. 29, 2003;—Am. 2012, Act 446, Imd. Eff. Dec. 27, 2012;—Am. 2016, Act 473, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19608a Clean Michigan initiative grant and revolving loan program.**

Sec. 19608a. (1) The department shall create a clean Michigan initiative grant and revolving loan program  
Rendered Thursday, April 11, 2024

for the purpose of making grants and loans to local units of government under section 19608(1)(a)(iv) for eligible activities at eligible properties with redevelopment potential.

(2) Grants provided under the clean Michigan initiative grant and revolving loan program that are used solely to determine whether a property is a site or a facility and, if so, to characterize the nature and extent of the contamination by means of an assessment or investigation shall be issued only if all of the following conditions are met:

(a) The characterization of the nature and extent of contamination includes an estimate of response activity costs in relation to the value of the property in an uncontaminated state and identifies future potential limitations on the use of the property based upon current environmental conditions.

(b) The property has demonstrable economic development potential. This subdivision does not require a specific development proposal to be identified.

(3) The department shall not make a grant or a loan under the clean Michigan initiative grant and revolving loan program unless all of the following conditions are met:

(a) The applicant demonstrates that the proposed project is in, or will result in, compliance with all applicable state laws and rules.

(b) The applicant demonstrates to the department the capability to carry out the proposed project.

(c) The applicant demonstrates to the department that there is an identifiable source of funds for the future maintenance and operation of the activities funded with money from the fund, if appropriate.

(d) Within the last 24 months, the applicant has successfully undergone an audit conducted in accordance with generally accepted auditing standards or an emergency manager has been appointed for the applicant under the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575.

(e) Within the last 24 months, the department has not revoked or terminated a grant to the applicant and the administering state department has not determined that the applicant demonstrated an inability to manage a grant.

**History:** Add. 2003, Act 253, Imd. Eff. Dec. 29, 2003;—Am. 2016, Act 473, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19608b Grants and loans under MCL 324.19608(1)(a)(iv); conditions.**

Sec. 19608b. With respect to the grants and loans under section 19608(1)(a)(iv), all of the following conditions apply:

(a) An applicant must be a local unit of government.

(b) A recipient is not eligible to receive more than the following:

(i) Except as provided in subparagraphs (iii) and (iv), 1 grant per year, not to exceed \$1,000,000.00 per grant.

(ii) Except as provided in subparagraphs (iii) and (iv), 1 loan per year, not to exceed \$1,000,000.00 per loan.

(iii) Brownfield projects that have significant economic and environmental benefit may be considered for more than 1 grant or loan over consecutive years, provided that the loan or grant agreement includes project-specific benchmarks for eligible activities and failure to satisfy a benchmark would terminate the project's eligibility for additional grant or loan funding, as applicable.

(iv) A local unit of government may be considered for and awarded more than 1 grant or loan in a single year relating to multiple unrelated brownfield projects if the projects are determined to have significant environmental or economic benefits to the recipient's municipality or region.

(c) Except for a grant described in section 19608a(2), the department may award a grant only if it determines that both of the following apply:

(i) The property is an eligible property.

(ii) The proposed development of the property is expected to result in measurable economic benefit in excess of the grant amount requested by the applicant.

(d) The department may award a loan only if it determines that both of the following apply:

(i) The property is known or suspected to be an eligible property.

(ii) The property has economic development potential based on the applicant's planned use of the property.

(e) The department may approve funding for response activities that are more protective of the public health, safety, and welfare and the environment than required by section 20107a or 21304c if those activities provide public health or environmental benefit. In its review of a work plan that includes activities that are more protective of the public health, safety, and welfare and the environment, the department may consider, but is not limited to, all of the following:



(i) Proposed new land use and reliability of restrictions to prevent exposure to contamination.

(ii) Cost of implementation activities minimally necessary to satisfy due care requirements, the incremental cost of response activities relative to the cost of activities minimally necessary to satisfy due care requirements, and the total cost of all response activities.

(iii) Long-term obligations associated with leaving contamination in place and the value of reducing or eliminating these obligations.

(f) A grant or loan shall not be used to fund response activities that benefit a party that is responsible for an activity causing a release at the eligible property, except that a loan may be used to fund appropriate response activities related to redevelopment and due care activities necessary to facilitate redevelopment of the property if the party that is responsible for an activity causing a release at the eligible property meets all of the following:

(i) Is a local unit of government.

(ii) Has a proposed redevelopment for the property with measurable economic benefit.

(iii) Provides a minimum of 50% local matching funds for the project.

(g) A grant or loan may be used to fund due care activities necessary to facilitate redevelopment if the party responsible for an activity causing a release is not the developer of proposed redevelopment.

(h) A loan may be used to fund response activities if both of the following are met:

(i) A party responsible for an activity causing a release is neither the seller nor the developer of the property to receive funding.

(ii) The recipient can show that response activities are appropriate in relation to the redevelopment.

**History:** Add. 2016, Act 473, Eff. Apr. 5, 2017.

#### **324.19609 Grant or loan application; form or format; funds under MCL 324.19608(1)(a)(iv).**

Sec. 19609. (1) An application for a grant or a loan from the fund shall be made on a form or in a format prescribed by the administering state department. The administering state department may require the applicant to provide any information reasonably necessary to allow the administering state department to make a determination required by this part.

(2) Of the funds to be used to provide grants and loans under section 19608(1)(a)(iv), the following apply:

(a) The department shall accept, and consider for approval, applications for grants and loans throughout the year.

(b) The department shall make final application decisions within 90 days after receipt of a complete grant or loan application.

(c) A complete application includes all of the following:

(i) A description of the proposed eligible activities and the reasons they should be funded.

(ii) An itemized budget for the proposed eligible activities.

(iii) A schedule for the completion of the proposed eligible activities.

(iv) The location of the property.

(v) The current ownership and ownership history of the property.

(vi) The relevant history of the use of the property.

(vii) The current use of the property.

(viii) The existing and proposed future zoning of the property.

(ix) If the property is not owned by the applicant, a draft of an enforceable agreement between the property owner and the applicant that commits the property owner to cooperate with the applicant, including a commitment to allow access to the property to complete, at a minimum, the proposed eligible activities.

(x) A description of the property's economic redevelopment potential.

(xi) For loans, a resolution from the governing body of the applicant committing to repayment of the loan.

(xii) A letter from the chief executive officer or highest ranking appointed official indicating that the local unit of government supports the brownfield project and that the brownfield project complies with all local zoning and planning ordinances.

(xiii) Any other relevant information the department requires.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998;—Am. 2016, Act 475, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.19610 Funding provided under MCL 324.19608(1)(a)(iv); application; review; considerations; grants for brownfield projects.**

Sec. 19610.

(1) Upon receipt of a grant or loan application, for funding provided under section 19608(1)(a)(iv), the

department shall review the application based on the following considerations:

- (a) Whether the brownfield project proposed to be funded is authorized by this part.
- (b) Whether the brownfield project is consistent with the local planning and zoning for the area in which the project is located.
- (c) Whether the brownfield project provides measurable environmental benefit.
- (d) Whether the brownfield project provides measurable economic benefit or will significantly contribute to the local unit of government's economic and community redevelopment or the revitalization of adjacent neighborhoods.
- (e) The viability of the redevelopment plan.
- (f) The level of public and private commitment and other resources available for the project.
- (g) How the brownfield project relates to a broader economic and community development plan for the local unit of government as a whole.
- (h) Other criteria that the department considers relevant.

(2) The department shall issue grants under section 19608(1)(a)(iv) for brownfield projects that the department determines meet the requirements of this part and will contribute to the revitalization of underutilized properties.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998;—Am. 2016, Act 475, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19610a Funding provided under MCL 324.19608(1)(iv); conditions.**

Sec. 19610a. For the funds to be used to provide grants and loans under section 19608(1)(a)(iv), all of the following apply:

(a) To receive grant or loan funds, approved applicants must enter into a grant or loan agreement with the department. At a minimum, the grant or loan agreement shall contain all of the following:

(i) The approved eligible activities to be undertaken with grant or loan funds.

(ii) An implementation schedule for the approved eligible activities.

(iii) Reporting requirements, including, at a minimum, the following:

(A) The grant or loan recipient shall submit progress status reports to the department during the implementation of the brownfield project that include documentation of project costs and expenditures, at a frequency determined by the department.

(B) The grant or loan recipient shall provide a final report upon completion of the grant- or loan-funded activities within a time frame determined by the department.

(iv) If the property is not owned by the grant or loan recipient, an executed agreement that meets the requirements of section 19609(2)(c)(ix).

(v) When entering into a loan agreement, the loan recipient shall provide financial assurance of repayment of the loan including pledges of revenue sharing, escrow account, letter of credit, or other acceptable mechanism negotiated with the department. Use of real property as a means to secure a loan is not considered an acceptable mechanism. The department is authorized to include in the loan agreement a provision that permits the release of the financial assurance in favor of a pledge of the right of first refusal of the tax increment revenue to the department under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, if the brownfield project has been substantially completed and the annual tax increment being captured relative to the brownfield project is equal to or greater than 125% of the annual loan reimbursement payment.

(vi) Other provisions as considered appropriate by the department.

(b) All eligible activities must be consistent with an approved grant or loan work plan.

(c) Unless otherwise approved by the director of the department, only activities carried out and costs incurred after execution of a grant or loan agreement are eligible.

(d) Grant funds shall be disbursed on a reimbursement basis upon receipt of appropriate documentation.

(e) Loan funds shall be disbursed in draws based on an approved work plan, and supporting documentation must be submitted after expenses are incurred.

(f) The department shall specify documentation requirements for grants and loans on a form prescribed for requesting reimbursement or draws.

**History:** Add. 2016, Act 475, Eff. Apr. 5, 2017.

### **324.19611 Balancing distribution of grants and loans; considerations.**

Sec. 19611. (1) Prior to making a grant or loan with money from the fund, the administering state department shall consider the extent to which the making of the grant or loan contributes to the achievement

of a balanced distribution of grants and loans throughout the state.

(2) In determining whether a grant or a loan is appropriate under section 19608(1)(a)(iv), the department shall consider whether the project is likely to be undertaken without state assistance, the availability of state funds from other sources, the degree of private sector participation in the type of project under consideration, and other factors considered important by the department.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998;—Am. 2016, Act 475, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

**324.19612 Duties of grant or loan recipient; revoking grant or loan; withholding payment; cancellation of grant or loan offer; termination of grant or loan agreement; renegotiation of outstanding loan terms; disposition of loan payments and interest.**

Sec. 19612. (1) A recipient of a grant or a loan made with money from the fund shall do both of the following:

(a) Keep an accounting of the money spent on the project or facility in a generally accepted manner. The accounting is subject to a postaudit.

(b) Obtain authorization from the administering state department before implementing a change that significantly alters the proposed project.

(2) The administering state department may revoke a grant or a loan made with money from the fund or withhold payment if the recipient fails to comply with the terms and conditions of the grant or loan agreement or with the requirements of this part or the rules promulgated under this part, or with other applicable law or rules. If a grant or loan is revoked, the administering state department may recover all funds awarded.

(3) The administering state department may withhold a grant or a loan until the administering state department determines that the recipient is able to proceed with the proposed project.

(4) To assure timely completion of a project, the administering state department may withhold 10% of the grant or loan amount until the project is complete.

(5) If an approved applicant fails to sign a grant or loan agreement within 90 days after receipt of a written grant or loan offer by the administering state department, the administering state department may cancel the grant or loan offer. The applicant may not appeal or contest a cancellation pursuant to this subsection.

(6) The administering state department may terminate a grant or loan agreement and require immediate repayment of the grant or loan if the recipient uses grant or loan funds for any purpose other than for the approved activities specified in the grant or loan agreement. The administering state department shall provide the recipient written notice of the termination 30 days prior to the termination.

(7) A loan made with money in the fund must be made on the following terms:

(a) A loan interest rate of not more than 50% of the prime rate as determined by the administering state department as of the date of approval of the loan.

(b) Loan recipients shall repay loans in equal annual installments of principal and interest beginning not later than 5 years after the first draw of the loan and concluding not later than 15 years after the first draw of the loan.

(c) A loan recipient shall enter into a loan agreement with the administering state department.

(d) Upon default of a loan, as determined by the administering state department, or upon the request of the loan recipient as a method to repay the loan, the department of treasury shall withhold from state payments payable to the loan recipient amounts consistent with the repayment schedule in the loan agreement until the loan is repaid. The department of treasury shall deposit the withheld or collected money into the fund until the loan is repaid.

(8) Upon request of a loan recipient and a showing of financial hardship related to the project that was financed in whole or in part by the loan, the administering state department may renegotiate the terms of any outstanding loan, including the length of the loan, the interest rate, and the repayment terms. However, the administering state department shall not reduce or eliminate the amount of the outstanding loan principal. The department shall report to the legislature the number of loans refinanced under this subsection, the local unit of government or authority responsible for each loan refinanced, and the change in the terms of the loan, as appropriate. This information may be included in the report prepared by the department under section 16 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2666.

(9) Loan payments and interest shall be deposited in the fund.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998;—Am. 2012, Act 446, Imd. Eff. Dec. 27, 2012;—Am. 2014, Act 115, Imd. Eff. Apr. 11, 2014;—Am. 2016, Act 475, Eff. Apr. 5, 2017.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19613 Grants and loans under MCL 324.19608; conditions.**

Sec. 19613. Of the funds to be used to provide grants and loans under section 19608(1)(a)(iv), all of the following conditions apply:

(a) A recipient of a grant shall receive not more than 1 grant per year not to exceed \$1,000,000.00 per grant.

(b) A recipient of a loan shall receive a maximum of 1 loan per year not to exceed \$1,000,000.00 per loan.

(c) A grant shall be awarded only if the department determines that both of the following apply:

(i) The property is a facility as defined in section 20101.

(ii) The proposed development of the property will result in measurable economic benefit in excess of the grant amount requested by the applicant.

(d) A loan shall be awarded only if the department determines that both of the following apply:

(i) The property is a facility as defined in section 20101 or is suspected of being a facility.

(ii) The property has economic development potential based on the applicant's planned use of the property.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19614 Recovery of costs.**

Sec. 19614. The department and the department of the attorney general may recover costs expended pursuant to section 19608(1)(a)(i) to (iv) for corrective actions, response activities, site assessments, and all other recoverable costs under part 201 from persons who are liable under part 201. Actions to recover costs shall be undertaken in the manner provided in part 201.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19615 Performance audit.**

Sec. 19615. Every 2 years that state programs funded with money from the fund continue to be administered, the auditor general shall conduct a performance audit of these programs. Upon completion of a performance audit under this section, the auditor general shall submit a copy of the performance audit to the audited department and to the legislature.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19616 Rules.**

Sec. 19616. The department may promulgate rules as are necessary to implement this part.

**History:** Add. 1998, Act 288, Eff. Dec. 1, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 197

### GREAT LAKES WATER QUALITY BOND IMPLEMENTATION

### **324.19701 Definitions.**

Sec. 19701. As used in this part:

(a) "Bonds" means the bonds authorized under the Great Lakes water quality bond authorization act.

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

(c) "Fund" means the Great Lakes water quality bond fund created in section 19706.

**History:** Add. 2002, Act 397, Eff. Nov. 5, 2002.

**Compiler's note:** Enacting section 2 of Act 397 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the Rendered Thursday, April 11, 2024

November 5, 2002, general election.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19702 Legislative findings.**

Sec. 19702. The legislature finds and declares that the environmental, natural resources, and water quality protection programs implemented under this part are a public purpose and of paramount public concern in the interest of the health, safety, and general welfare of the citizens of this state.

**History:** Add. 2002, Act 397, Eff. Nov. 5, 2002.

**Compiler's note:** Enacting section 2 of Act 397 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the November 5, 2002, general election.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19703 Bonds generally.**

Sec. 19703. (1) Subject to subsection (2), the bonds shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities which may be either serial, term, or both, to bear interest at a rate or rates, to be subject or not subject to prior redemption, and if subject to prior redemption with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board and subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax exempt status of the bonds. The state administrative board shall rotate the services of legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds partly to refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued pursuant to this section shall not be counted against the limitation on principal amount provided in the Great Lakes water quality bond authorization act.

(3) The state administrative board may authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this part. The state administrative board may authorize and approve an interest rate exchange or swap, hedge, or similar agreement in connection with the issuance of bonds under this part, payable from the same source as the bonds.

(4) The state administrative board may authorize the state treasurer, but only within limitations contained in the authorizing resolution of the board, to do 1 or more of the following:

- (a) Sell and deliver and receive payment for the bonds.
- (b) Deliver bonds partly to refund bonds and partly for other authorized purposes.
- (c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.
- (d) Buy issued bonds.

(e) Approve interest rates or methods for determining interest rates, including fixed or variable rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(g) Determine the details of, execute, deliver, and pay the cost of any interest rate exchange or swap, hedge, or similar agreement.

(h) Pledge all or any portion of the strategic water quality initiatives fund created in section 5204 to secure

bonds issued or to be issued by the Michigan municipal bond authority created in section 4 of the shared credit rating act, 1985 PA 227, MCL 141.1054, for the purpose of funding loans under the strategic water quality initiatives loan program under part 52.

(5) The bonds shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Issuance of the bonds shall be subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

(6) The bonds or any series of the bonds shall be sold at public or private sale at such price or may be issued and deposited directly into the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, or the strategic water quality initiatives fund created in section 5204, as determined by or pursuant to a resolution of the state administrative board.

(7) Not more than 20% of the bonds shall be issued in any year. The first bond issuance shall be structured in such a manner that debt payments do not begin before October 1, 2003. In making the determination to issue these bonds, the department shall consider the availability of the workforce to conduct the activities authorized by this part, in order to ensure a competitive bidding process.

**History:** Add. 2002, Act 397, Eff. Nov. 5, 2002;—Am. 2003, Act 287, Imd. Eff. Jan. 8, 2004.

**Compiler's note:** Enacting section 2 of Act 397 of 2002 provides:

“Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election.”

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds “shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question.” In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the November 5, 2002, general election.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19703a Issuance of bonds; conditions; report; "fundable range" defined.**

Sec. 19703a. (1) Bonds issued under this part are subject to the following:

(a) For the state fiscal year ending on September 30, 2011, bonds must not be issued or expended under this part for the purposes of section 5204b, unless the department of natural resources and environment has established a fundable range of at least \$210,000,000.00 for that state fiscal year to fund projects under the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(b) For the state fiscal year ending on September 30, 2012, bonds must not be issued or expended under this part for the purposes of section 5204b, unless the department of natural resources and environment has established a fundable range of at least \$259,000,000.00 for that state fiscal year to fund projects under the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, to the extent administratively possible and as long as sufficient applications have been submitted to the department of natural resources and environment.

(c) For each state fiscal year beginning with the state fiscal year ending September 30, 2013, the department of natural resources and environment, in conjunction with the department of treasury, shall seek to fully fund all eligible projects applying for assistance under part 53, to the extent administratively possible, utilizing the bond proceeds under this part as necessary to achieve this goal.

(2) If the department of natural resources and environment is not able to establish a fundable range under subsection (1)(b) of at least \$259,000,000.00, the department of natural resources and environment shall submit to the standing committees of the senate and house of representatives with jurisdiction over issues primarily pertaining to natural resources and the environment a report detailing the reasons why the fundable range was not set at this level.

(3) As used in this section, "fundable range" means that term as it is defined in section 5301.

**History:** Add. 2010, Act 232, Imd. Eff. Dec. 14, 2010;—Am. Act 132, Imd. Eff. June 30, 2022.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19704 Bonds as negotiable.**

Sec. 19704. The bonds shall be fully negotiable under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

**History:** Add. 2002, Act 397, Eff. Nov. 5, 2002.

**Compiler's note:** Enacting section 2 of Act 397 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the November 5, 2002, general election.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19705 Bonds as securities.**

Sec. 19705. The bonds are securities in which banks, savings and loan associations, state authorities, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

**History:** Add. 2002, Act 397, Eff. Nov. 5, 2002.

**Compiler's note:** Enacting section 2 of Act 397 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the November 5, 2002, general election.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19706 Great Lakes water quality bond fund; creation; subaccounts.**

Sec. 19706. (1) The Great Lakes water quality bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of the bonds sold at public or private sale and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any federal or other funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

**History:** Add. 2002, Act 397, Eff. Nov. 5, 2002.

**Compiler's note:** Enacting section 2 of Act 397 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the November 5, 2002, general election.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19707 Bond proceeds; disposition; investment; expenditure; tax exempt status; funds remaining at close of fiscal year; annual accounting.**

Sec. 19707. (1) The total proceeds of all bonds sold at public or private sale shall be deposited into the fund.

(2) The state treasurer shall direct the investment of the fund.

(3) The bond proceeds shall be expended in an appropriate manner that maintains the tax exempt status of any bonds issued as tax exempt bonds.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) The department shall provide an annual accounting of bond proceeds spending on a cash basis to the department of treasury. This accounting shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate.

**History:** Add. 2002, Act 397, Eff. Nov. 5, 2002.

**Compiler's note:** Enacting section 2 of Act 397 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the November 5, 2002, general election.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.19708 Funds; transfer; use; deposit of certain bonds in determination of allocation and transfer; audit.**

Sec. 19708. (1) Subject to subsections (2), (3), and (4), the state treasurer shall transfer money in the fund as follows:

(a) In aggregate, not more than \$290,000,000.00 of the money in the fund shall be deposited into the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(b) In aggregate, not more than \$710,000,000.00 of the money in the fund shall be deposited into the strategic water quality initiatives fund created in section 5204.

(2) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds and the costs incurred under section 19703(3).

(3) Bonds that are directly deposited into the state water pollution control revolving fund or strategic water quality initiatives fund as authorized by section 19703 shall be taken into account for the purpose of determining the allocation and transfer of money set forth in subsection (1).

(4) Not later than December 14, 2012, the auditor general shall conduct an audit of the fund to assure that the money in the fund has been expended in compliance with law. Not later than December 14, 2014, the auditor general shall update its initial audit to assure that money in the fund has been expended in compliance with law.

**History:** Add. 2002, Act 397, Eff. Nov. 5, 2002;—Am. 2005, Act 256, Imd. Eff. Dec. 1, 2005;—Am. 2010, Act 232, Imd. Eff. Dec. 14, 2010;—Am. 2012, Act 562, Imd. Eff. Jan. 2, 2013.

**Compiler's note:** Enacting section 2 of Act 397 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the November 5, 2002, general election.

**Popular name:** Act 451

**Popular name:** NREPA