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

PART 31
WATER RESOURCES PROTECTION

324.3101 Definitions.

Sec. 3101. As used in this part:

(a) "Aquatic nuisance species" means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.

(b) "Ballast water" means water and associated solids taken on board a vessel to control or maintain trim, draft, stability, or stresses on the vessel, without regard to the manner in which it is carried.

(c) "Ballast water treatment method" means a method of treating ballast water and sediments to remove or destroy living biological organisms through 1 or more of the following:

(*i*) Filtration.

(*ii*) The application of biocides or ultraviolet light.

(*iii*) Thermal methods.

(*iv*) Other treatment techniques approved by the department.

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

(e) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States Department of Labor, Bureau of Labor Statistics.

(f) "Emergency management coordinator" means that term as defined in section 2 of the emergency management act, 1976 PA 390, MCL 30.402.

(g) "Great Lakes" means the Great Lakes and their connecting waters, including Lake St. Clair.

(h) "Group 1 facility" means a facility whose discharge is described by R 323.2218 of the Michigan administrative code.

(i) "Group 2 facility" means a facility whose discharge is described by R 323.2210(y), R 323.2215, or R 323.2216 of the Michigan administrative code. Group 2 facility does not include a Group 2a facility.

(j) "Group 2a facility" means a facility whose discharge is described by R 323.2210(y) or R 323.2215 of the Michigan administrative code and that meets 1 or more of the following:

(*i*) The facility's discharge is from a coin-operated laundromat.

(*ii*) The facility's discharge is from a car wash or vehicle wash open to the public.

(*iii*) The facility's discharge is a subsurface sanitary discharge of fewer than 10,000 gallons per day that does not meet the terms for authorization under R 323.2211(a) of the Michigan administrative code.

(*iv*) The facility's discharge is a seasonal sanitary discharge from a public park, public or private recreational vehicle park or campground, or recreational or vacation camp.

(k) "Group 3 facility" means a facility whose discharge is described by R 323.2211 or R 323.2213 of the Michigan administrative code.

(*l*) "Local health department" means that term as defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(m) "Local unit" means a county, city, village, or township or an agency or instrumentality of any of these entities.

(n) "Municipality" means this state, a county, city, village, or township, or an agency or instrumentality of any of these entities.

(o) "National response center" means the National Communications Center established under the clean water act, 33 USC 1251 to 1387, located in Washington, DC, that receives and relays notice of oil discharge or releases of hazardous substances to appropriate federal officials.

(p) "Nonoceangoing vessel" means a vessel that is not an oceangoing vessel.

(q) "Oceangoing vessel" means a vessel that operates on the Great Lakes or the St. Lawrence waterway after operating in waters outside of the Great Lakes or the St. Lawrence waterway.

(r) "Open water disposal of contaminated dredge materials" means the placement of dredge materials contaminated with toxic substances as defined in R 323.1205 of the Michigan administrative code into the open waters of the waters of the state but does not include the siting or use of a confined disposal facility designated by the United States Army Corps of Engineers or beach nourishment activities utilizing uncontaminated materials.

(s) "Primary public safety answering point" means that term as defined in section 102 of the emergency telephone service enabling act, 1986 PA 32, MCL 484.1102.

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(t) "Sediments" means any matter settled out of ballast water within a vessel.

(u) "Sewage sludge" means sewage sludge generated in the treatment of domestic sewage, other than only septage or industrial waste.

(v) "Sewage sludge derivative" means a product for land application derived from sewage sludge that does not include solid waste or other waste regulated under this act.

(w) "Sewage sludge generator" means a person who generates sewage sludge that is applied to land.

(x) "Sewage sludge distributor" means a person who applies, markets, or distributes, except at retail, a sewage sludge derivative.

(y) "St. Lawrence waterway" means the St. Lawrence River, the St. Lawrence Seaway, and the Gulf of St. Lawrence.

(z) "Threshold reporting quantity" means that term as defined in R 324.2002 of the Michigan administrative code.

(aa) "Waters of the state" means groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1997, Act 29, Imd. Eff. June 18, 1997;—Am. 2001, Act 114, Imd. Eff. Aug. 6, 2001;—Am. 2004, Act 90, Imd. Eff. Apr. 22, 2004;—Am. 2004, Act 142, Imd. Eff. June 15, 2004;—Am. 2006, Act 97, Imd. Eff. Apr. 4, 2006;—Am. 2015, Act 247, Imd. Eff. Dec. 22, 2015.

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

324.3102 Implementation of part.

Sec. 3102. The director shall implement this part.

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

Compiler's note: For creation of the office of administrative hearings within the department of natural resources and transfer of authority to make decisions regarding administrative appeals of surface water discharge permit applications from the commission of natural resources to the office of administrative hearings, see E.R.O. No. 1995-3, compiled at MCL 299.911 of the Michigan Compiled Laws.

For transfer of authority, powers, duties, functions, and responsibilities of the Surface Water Quality 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.

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.

For transfer of the Office of Administrative Hearings, including but not limited to authority, powers, duties, functions, and responsibilities, 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

324.3103 Department of environmental quality; powers and duties generally; rules; other actions.

Sec. 3103. (1) The department shall protect and conserve the water resources of the state and shall have control of the pollution of surface or underground waters of the state and the Great Lakes, which are or may be affected by waste disposal of any person. The department may make or cause to be made surveys, studies, and investigations of the uses of waters of the state, both surface and underground, and cooperate with other governments and governmental units and agencies in making the surveys, studies, and investigations. The department shall assist in an advisory capacity a flood control district that may be authorized by the legislature. The department, in the public interest, shall appear and present evidence, reports, and other testimony during the hearings involving the creation and organization of flood control districts. The department shall advise and consult with the legislature on the obligation of the state to participate in the costs of construction and maintenance as provided for in the official plans of a flood control district or intercounty drainage district.

(2) The department shall enforce this part and may promulgate rules as it considers necessary to carry out its duties under this part. However, notwithstanding any rule-promulgation authority that is provided in this part, except for rules authorized under section 3112(6), the department shall not promulgate any additional rules under this part after December 31, 2006.

(3) The department may promulgate rules and take other actions as may be necessary to comply with the federal water pollution control act, 33 USC 1251 to 1387, and to expend funds available under such law for extension or improvement of the state or interstate program for prevention and control of water pollution. This

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part shall not be construed as authorizing the department to expend or to incur any obligation to expend any state funds for such purpose in excess of any amount that is appropriated by the legislature.

(4) Notwithstanding the limitations on rule promulgation under subsection (2), rules promulgated under this part before January 1, 2007 shall remain in effect unless rescinded.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 91, Imd. Eff. Apr. 22, 2004;—Am. 2005, Act 33, Imd. Eff. June 6, 2005.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Environmental Assistance 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.

For transfer of authority, powers, duties, functions, and responsibilities of the Surface Water Quality Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled MCL 324.99901 of the Michigan Compiled Laws.

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

Administrative rules: R 323.1001 et seq. and R 323.2101 et seq. of the Michigan Administrative Code.

324.3103a Legislative findings; duties of department; vessel owner or operator ineligible for new grant, loan, or award.

Sec. 3103a. (1) The legislature finds both of the following:

(a) It is a goal of this state to prevent the introduction of and minimize the spread of aquatic nuisance species within the Great Lakes.

(b) That, to achieve the goal stated in subdivision (a), this state shall cooperate with the United States and Canadian authorities, other states and provinces, and the maritime industry.

(2) By March 1, 2002, the department shall do all of the following:

(a) Determine whether the ballast water management practices that were proposed by the shipping federation of Canada to the department on June 7, 2000 are being complied with by all oceangoing vessels operating on the Great Lakes and the St. Lawrence waterway. Upon request by the department, the owner or operator of an oceangoing vessel shall provide, on a form developed by the department and the shipping federation of Canada, confirmation of whether or not the vessel is complying with the ballast water management practices described in this subdivision.

(b) Determine whether the ballast water management practices that were proposed jointly by the lake carriers' association and the Canadian shipowners' association to the department on January 26, 2001 are being complied with by all nonoceangoing vessels operating on the Great Lakes and the St. Lawrence waterway. Upon request by the department, the owner or operator of a nonoceangoing vessel shall provide, on a form developed by the department and the lake carriers' association and the Canadian shipowners' association, confirmation of whether or not the vessel is complying with the ballast water management practices described in this subdivision. For a nonoceangoing vessel that is a ferry used to transport motor vehicles across Lake Michigan, if the configuration of the vessel would prohibit compliance with 1 or more of the ballast water management practices described in this section, the department shall establish alternative ballast water management practices for the vessel and shall determine whether those practices are being complied with.

(c) Determine whether either or both of the ballast water management practices described in subdivisions (a) and (b) have been made conditions of passage on the St. Lawrence seaway by the St. Lawrence seaway management corporation and the Saint Lawrence seaway development corporation.

(d) Determine the following:

(*i*) Whether 1 or more ballast water treatment methods, which protect the safety of the vessel, its crew, and its passengers, could be used by oceangoing vessels to prevent the introduction of aquatic nuisance species into the Great Lakes.

(*ii*) A time period after which 1 or more ballast water treatment methods identified under subparagraph (*i*) could be used by all oceangoing vessels operating on the Great Lakes.

(*iii*) If the department determines under subparagraph (*i*) that a ballast water treatment method is not available, the actions needed to be taken for 1 or more ballast water treatment methods that would meet the requirements of subparagraph (*i*) to be developed, tested, and made available to vessel owners and operators and a time period after which the ballast water treatment method or methods could be used by all oceangoing vessels operating on the Great Lakes. Subsequently, if at any time the department determines that 1 or more ballast water treatment methods that meet the requirements of subparagraph (*i*) could be used by oceangoing vessels operating on the Great Lakes, the department shall determine a date after which the ballast water treatment method or methods could be used by all oceangoing vessels operating on the Great Lakes.

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(e) Submit to the governor and the standing committees of the legislature with jurisdiction primarily over issues pertaining to natural resources and the environment a letter of determination that outlines the determinations made by the department under this subsection.

(3) By March 1, 2003, the department shall do all of the following:

(a) Determine whether all oceangoing vessels that are operating on the Great Lakes are using a ballast water treatment method, identified by the department under subsection (2)(d)(*i*) or (*iii*), to prevent the introduction of aquatic nuisance species into the Great Lakes. Upon request by the department, the owner or operator of an oceangoing vessel shall provide, on a form developed by the department and the shipping federation of Canada, confirmation of whether or not the vessel is using a ballast water treatment method identified by the department under subsection (2)(d)(*i*) or (*iii*). If the department determines that all oceangoing vessels that are operating on the Great Lakes are not using a ballast water treatment method by the dates identified in subsection (2)(d)(*ii*) or (*iii*), the department shall determine what the reasons are for not doing so.

(b) Determine whether the use of a ballast water treatment method has been made a condition of passage on the St. Lawrence seaway by the St. Lawrence seaway management corporation and the Saint Lawrence seaway development corporation.

(c) Submit to the governor and the standing committees of the legislature with jurisdiction primarily over issues pertaining to natural resources and the environment a letter of determination that outlines the determinations made by the department under this subsection.

(4) The department shall do all of the following:

(a) By March 1, 2002, compile and maintain a list of all oceangoing vessels and nonoceangoing vessels that it determines have complied with the ballast water management practices described in subsection (2)(a) or (b), as appropriate, during the previous 12 months. This list shall be continually updated and maintained on the department's website.

(b) By March 1, 2003, if the department has determined under subsection (2)(d)(*i*), or if the department subsequently determines under subsection (2)(d)(*iii*), that 1 or more ballast water treatment methods could be used by oceangoing vessels to prevent the introduction of aquatic nuisance species into the Great Lakes, compile and maintain a list of all oceangoing vessels that, after the date specified in subsection (2)(d)(*ii*) or the date identified by the department under subsection (2)(d)(*iii*), as appropriate, have been using 1 of these ballast water treatment methods during the previous 12 months.

(c) Continually update and post the lists provided for in subdivisions (a) and (b) on the department's website.

(d) Annually distribute a copy of the lists prepared under subdivisions (a) and (b) to persons in the state who have contracts with oceangoing or nonoceangoing vessel operators for the transportation of cargo.

(e) Provide to the governor and the standing committees of the legislature with jurisdiction primarily over issues pertaining to natural resources and the environment copies of the initial lists prepared under subdivisions (a) and (b) and the annual list distributed under subdivision (d).

(5) The owner or operator of an oceangoing vessel or a nonoceangoing vessel that is not on an applicable list prepared under subsection (4) and any persons in the state who have contracts for the transportation of cargo with an oceangoing or nonoceangoing vessel operator that is not on an applicable list prepared under subsection (4) are not eligible for a new grant, loan, or award administered by the department.

History: Add. 2001, Act 114, Imd. Eff. Aug. 6, 2001.

Popular name: Act 451

Popular name: NREPA

324.3104 Cooperation and negotiation with other governments as to water resources; alteration of watercourses; federal assistance; formation of Great Lakes aquatic nuisance species coalition; report; requests for appropriations; recommendations; permit to alter floodplain; application; fees; disposition of fees; other parts subject to single highest permit fee.

Sec. 3104. (1) The department is designated the state agency to cooperate and negotiate with other governments, governmental units, and governmental agencies in matters concerning the water resources of the state, including, but not limited to, flood control, beach erosion control, water quality control planning, development, and management, and the control of aquatic nuisance species. The department shall have control over the alterations of natural or present watercourses of all rivers and streams in this state to assure that the channels and the portions of the floodplains that are the floodways are not inhabited and are kept free and clear of interference or obstruction that will cause any undue restriction of the capacity of the floodway.

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The department may take steps as may be necessary to take advantage of any act of congress that may be of assistance in carrying out the purposes of this part, including the water resources planning act, 42 USC 1962 to 1962d-3, and the federal water pollution control act, 33 USC 1251 to 1387.

(2) To address discharges of aquatic nuisance species from oceangoing vessels that damage water quality, aquatic habitat, or fish or wildlife, the department shall facilitate the formation of a Great Lakes aquatic nuisance species coalition. The Great Lakes aquatic nuisance species coalition shall be formed through an agreement entered into with other states in the Great Lakes basin to implement on a basin-wide basis water pollution laws that prohibit the discharge of aquatic nuisance species into the Great Lakes from oceangoing vessels. The department shall seek to enter into an agreement that will become effective not later than January 1, 2007. The department shall consult with the department of natural resources prior to entering into this agreement. Upon entering into the agreement, the department shall notify the Canadian Great Lakes provinces of the terms of the agreement. The department shall seek funding from the Great Lakes protection fund authorized under part 331 to implement the Great Lakes aquatic nuisance species coalition.

(3) The department shall report to the governor and to the legislature at least annually on any plans or projects being implemented or considered for implementation. The report shall include requests for any legislation needed to implement any proposed projects or agreements made necessary as a result of a plan or project, together with any requests for appropriations. The department may make recommendations to the governor on the designation of areawide water quality planning regions and organizations relative to the governor's responsibilities under the federal water pollution control act, 33 USC 1251 to 1387.

(4) A person shall not alter a floodplain except as authorized by a floodplain permit issued by the department pursuant to part 13. An application for a permit shall include information that may be required by the department to assess the proposed alteration's impact on the floodplain. If an alteration includes activities at multiple locations in a floodplain, 1 application may be filed for combined activities.

(5) Except as provided in subsections (6), (7), and (9), until October 1, 2019, an application for a floodplain permit shall be accompanied by a fee of $500.00. Until October 1, 2019, if the department determines that engineering computations are required to assess the impact of a proposed floodplain alteration on flood stage or discharge characteristics, the department shall assess the applicant an additional $1,500.00 to cover the department's cost of review.

(6) Until October 1, 2019, an application for a floodplain permit for a minor project category shall be accompanied by a fee of $100.00. Minor project categories shall be established by rule and shall include activities and projects that are similar in nature and have minimal potential for causing harmful interference.

(7) If work has been done in violation of a permit requirement under this part and restoration is not ordered by the department, the department may accept an application for a permit for that work if the application is accompanied by a fee equal to 2 times the permit fee required under subsection (5) or (6).

(8) The department shall forward fees collected under this section to the state treasurer for deposit in the land and water management permit fee fund created in section 30113.

(9) A project that requires review and approval under this part and 1 or more of the following is subject to only the single highest permit fee required under this part or the following:

(a) Part 301.

(b) Part 303.

(c) Part 323.

(d) Part 325.

(e) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 169, Imd. Eff. Oct. 9, 1995;—Am. 1999, Act 106, Imd. Eff. July 7, 1999;—Am. 2003, Act 163, Imd. Eff. Aug. 12, 2003;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2005, Act 33, Imd. Eff. June 6, 2005;—Am. 2008, Act 276, Imd. Eff. Sept. 29, 2008;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2015, Act 82, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

Administrative rules: R 323.1001 et seq. of the Michigan Administrative Code.

324.3105 Entering property for inspections and investigations; assistance.

Sec. 3105. The department may enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions relating to the pollution of any waters of the state and the obstruction of the floodways of the rivers and streams of this state. The department may call upon any officer, board, department, school, university, or other state institution and the officers or employees thereof for any assistance considered necessary to implement this part.

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

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Popular name: Act 451

Popular name: NREPA

324.3106 Establishment of pollution standards; permits; determination of volume of water and high and low water marks; rules; orders; pollution prevention.

Sec. 3106. The department shall establish pollution standards for lakes, rivers, streams, and other waters of the state in relation to the public use to which they are or may be put, as it considers necessary. The department shall issue permits that will assure compliance with state standards to regulate municipal, industrial, and commercial discharges or storage of any substance that may affect the quality of the waters of the state. The department may set permit restrictions that will assure compliance with applicable federal law and regulations. The department may ascertain and determine for record and in making its order what volume of water actually flows in all streams, and the high and low water marks of lakes and other waters of the state, affected by the waste disposal or pollution of any persons. The department may promulgate rules and issue orders restricting the polluting content of any waste material or polluting substance discharged or sought to be discharged into any lake, river, stream, or other waters of the state. The department shall take all appropriate steps to prevent any pollution the department considers to be unreasonable and against public interest in view of the existing conditions in any lake, river, stream, or other waters of the state.

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

Popular name: Act 451

Popular name: NREPA

Administrative rules: R 323.1001 et seq. and R 323.2101 et seq. of the Michigan Administrative Code.

324.3106a Satisfaction of remedial obligations.

Sec. 3106a. Corrective action measures conducted pursuant to part 213 satisfy remedial obligations under this part.

History: Add. 1995, Act 15, Imd. Eff. Apr. 12, 1995.

Popular name: Act 451

Popular name: NREPA

324.3107 Harmful interference with streams; rules; orders; determinations for record.

Sec. 3107. The department may promulgate rules and issue orders for the prevention of harmful interference with the discharge and stage characteristics of streams. The department may ascertain and determine for record and in making its order the location and extent of floodplains, stream beds, and channels and the discharge and stage characteristics of streams at various times and circumstances.

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

Popular name: Act 451

Popular name: NREPA

Administrative rules: R 323.1001 et seq. of the Michigan Administrative Code.

324.3108 Unlawful occupation, filling, or grading of floodplain, stream bed, or channel of stream; exceptions; construction of building with basement.

Sec. 3108. (1) A person shall not occupy or permit the occupation of land for residential, commercial, or industrial purposes or fill or grade or permit the filling or grading for a purpose other than agricultural of land in a floodplain, stream bed, or channel of a stream, as ascertained and determined for the record by the department, or undertake or engage in an activity on or with respect to land that is determined by the department to interfere harmfully with the discharge or stage characteristics of a stream, unless the occupation, filling, grading, or other activity is permitted under this part.

(2) A person may construct or cause the construction of a building that includes a basement in a floodplain that has been properly filled above the 100-year flood elevation under permit if 1 or more of the following apply:

(a) The lowest floor, including the basement, will be constructed above the 100-year flood elevation.

(b) A licensed professional engineer schooled in the science of soil mechanics certifies that the building site has been filled with soil of a type and in a manner that hydrostatic pressures are not exerted upon the basement walls or floor while the watercourse is at or below the 100-year flood elevation, that the placement of the fill will prevent settling of the building or buckling of floors or walls, and that the building is equipped with a positive means of preventing sewer backup from sewer lines and drains that serve the building.

(c) A licensed professional engineer or architect certifies that the basement walls and floors are designed to be watertight and to withstand hydrostatic pressure from a water level equal to the 100-year flood elevation

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and that the building is properly anchored or weighted to prevent flotation and is equipped with a positive means of preventing sewer backup from sewer lines and drains that serve the building.

(3) If the community within which a building described in subsection (2) is located is a participant in the national flood insurance program authorized under the national flood insurance act of 1968, title XIII of the housing and urban development act of 1968, Public Law 90-448, 82 Stat. 572, 42 U.S.C. 4001, 4011 to 4012, 4013 to 4020, 4022 to 4102, 4104 to 4104d, 4121 to 4127, and 4129, then the developer shall apply for and obtain a letter of map revision, based on fill, from the federal emergency management agency prior to the issuance of a local building permit or the construction of the building if 1 or both of the following apply:

(a) The floodplain will be altered through the placement of fill.

(b) The watercourse is relocated or enclosed.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 162, Imd. Eff. Apr. 11, 1996.

Popular name: Act 451

Popular name: NREPA

324.3109 Discharge into state waters; prohibitions; exception; violation; penalties; abatement; "on-site wastewater treatment system" defined.

Sec. 3109. (1) A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to any of the following:

(a) To the public health, safety, or welfare.

(b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.

(c) To the value or utility of riparian lands.

(d) To livestock, wild animals, birds, fish, aquatic life, or plants or to their growth or propagation.

(e) To the value of fish and game.

(2) The discharge of any raw sewage of human origin, directly or indirectly, into any of the waters of the state shall be considered prima facie evidence of a violation of this part by the municipality in which the discharge originated unless the discharge is permitted by an order or rule of the department. If the discharge is not the subject of a valid permit issued by the department, a municipality responsible for the discharge may be subject to the remedies provided in section 3115. If the discharge is the subject of a valid permit issued by the department pursuant to section 3112, and is in violation of that permit, a municipality responsible for the discharge is subject to the penalties prescribed in section 3115.

(3) Notwithstanding subsection (2), a municipality is not responsible or subject to the remedies or penalties provided in section 3115 under either of the following circumstances:

(a) The discharge is an unauthorized discharge from a sewerage system as defined in section 4101 that is permitted under this part and owned by a party other than the municipality, unless the municipality has accepted responsibility in writing for the sewerage system and, with respect to the civil fine and penalty under section 3115, the municipality has been notified in writing by the department of its responsibility for the sewerage system.

(b) The discharge is from 3 or fewer on-site wastewater treatment systems.

(4) Unless authorized by a permit, order, or rule of the department, the discharge into the waters of this state of any medical waste, as defined in part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13832, is prima facie evidence of a violation of this part and subjects the responsible person to the penalties prescribed in section 3115.

(5) Unless a discharge is authorized by a permit, order, or rule of the department, the discharge into the waters of this state from an oceangoing vessel of any ballast water is prima facie evidence of a violation of this part and subjects the responsible person to the penalties prescribed in section 3115.

(6) A violation of this section is prima facie evidence of the existence of a public nuisance and in addition to the remedies provided for in this part may be abated according to law in an action brought by the attorney general in a court of competent jurisdiction.

(7) As used in this section, "on-site wastewater treatment system" means a system of components, other than a sewerage system as defined in section 4101, used to collect and treat sanitary sewage or domestic equivalent wastewater from 1 or more dwellings, buildings, or structures and discharge the resulting effluent to a soil dispersal system on property owned by or under the control of the same individual or entity that owns or controls the dwellings, buildings, or structures.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2005, Act 32, Eff. Jan. 1, 2007;—Am. 2005, Act 241, Imd. Eff. Nov. 22, 2005;—Am. 2014, Act 536, Imd. Eff. Jan 15, 2015.

Popular name: Act 451

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Popular name: NREPA

Administrative rules: R 323.1001 et seq. of the Michigan Administrative Code.

324.3109a Mixing zones for discharges of venting groundwater; conditions not requiring permit; definitions.

Sec. 3109a. (1) Notwithstanding any other provision of this part, or rules promulgated under this part, the department shall allow for a mixing zone for discharges of venting groundwater in the same manner as the department provides for a mixing zone for point source discharges. Mixing zones for discharges of venting groundwater shall not be less protective of public health or the environment than the level of protection provided for mixing zones from point source discharges.

(2) Notwithstanding any other provision of this part, if a discharge of venting groundwater is in compliance with the water quality standards provided for in this part and the rules promulgated under this part, a permit is not required under this part for the discharge if the discharge is provided for in either or both of the following:

(a) A remedial action plan that is approved by the department under part 201.

(b) A corrective action plan that is submitted to the department under part 213 that includes a mixing zone determination made by the department and that has been noticed in the department calendar.

(3) As used in this section:

(a) "Mixing zone" means that portion of a water body where a point source discharge or venting groundwater is mixed with receiving water.

(b) "Venting groundwater" means groundwater that is entering a surface water of the state from a facility, as defined in section 20101.

History: Add. 1995, Act 70, Imd. Eff. June 5, 1995;—Am. 1999, Act 106, Imd. Eff. July 7, 1999.

Popular name: Act 451

Popular name: NREPA

324.3109b Satisfaction of remedial obligations.

Sec. 3109b. Notwithstanding any other provision of this part, remedial actions that satisfy the requirements of part 201 satisfy a person's remedial obligations under this part.

History: Add. 1995, Act 70, Imd. Eff. June 5, 1995.

Popular name: Act 451

Popular name: NREPA

324.3109c Open water disposal of dredge materials contaminated with toxic substances; prohibition.

Sec. 3109c. Notwithstanding any other provision of this part or the rules promulgated under this part, the open water disposal of dredge materials that are contaminated with toxic substances as defined in R 323.1205 of the Michigan administrative code is prohibited.

History: Add. 2006, Act 97, Imd. Eff. Apr. 4, 2006;—Am. 2013, Act 87, Imd. Eff. June 28, 2013.

Popular name: Act 451

Popular name: NREPA

324.3109d MAEAP-verified farms; applicable conditions; obligation to obtain permit not modified or limited; definitions.

Sec. 3109d. (1) Beginning 6 months after the effective date of the amendatory act that added this section, notwithstanding any other provision of this part, the following apply to MAEAP-verified farms:

(a) Except as provided in subdivision (b), if all of the following conditions are met, the owner or operator of the MAEAP-verified farm is not subject to civil fines under section 3115, but may be responsible for actual natural resources damages:

(*i*) A discharge to the waters of the state occurs from a portion or operation of the farm that is MAEAP-verified and in compliance with MAEAP standards.

(*ii*) The owner or operator acted promptly to correct the condition after discovery.

(*iii*) The owner or operator reported the discharge to the department within 24 hours of the discovery.

(b) Subdivision (a) does not apply if either of the following conditions occurs:

(*i*) The actions of the owner or operator pose or posed a substantial endangerment to the public health, safety, or welfare.

(*ii*) The director, upon advice from the interagency technical review panel provided for in section 8710, determines the owner or operator has previously committed significant violations that constitute a pattern of

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repeated violations of environmental laws, rules, regulations, permit conditions, settlement agreements, or orders of consent or judicial orders and that were due to separate and distinct events.

(c) If a MAEAP-verified farm is in compliance with all MAEAP standards applicable to the farming operation, the farm is considered to be implementing conservation and management practices needed to meet total maximum daily load implementation for impaired waters pursuant to 33 USC 1313.

(d) If a discharge from a MAEAP-verified farm that is in compliance with all MAEAP standards applicable to land application is caused by an act of God weather event, both of the following apply:

(*i*) The discharge shall be considered nonpoint source pollution.

(*ii*) If the discharge is determined by the director with scientific evidence provided by water quality data to have caused an exceedance of water quality standards, the farm, within 30 days of notification, shall provide to the department a report that includes details of conservation or management practice changes, if necessary, to further address the risk of discharge recurrence. The report shall state whether those conservation or management practices have already been implemented by the farm. Upon receipt of the report, the department shall review the report and respond within 30 days. The departmental response may include report acceptance with no further action required or may recommend environmentally sound and economically feasible conservation or management practices to prevent future discharges.

(2) This section does not modify or limit any obligation to obtain a permit under this part.

(3) As used in this section:

(a) "Act of God weather event" means a precipitation event that meets both of the following conditions:

(*i*) Exceeds 1/2 inch in precipitation.

(*ii*) Was forecast by the national weather service 24 hours earlier as having less than a 70% probability of exceeding 1/2 inch of precipitation.

(b) "MAEAP-verified farm" means that term as it is defined in part 87.

History: Add. 2011, Act 1, Imd. Eff. Mar. 9, 2011.

Popular name: Act 451

Popular name: NREPA

324.3109e Sodium or chloride in groundwater discharge permit; limitation; discharge of sodium or chloride causing groundwater concentration exceeding certain levels; duties of permittee; response activities.

Sec. 3109e. (1) Notwithstanding any other provision in this act or the rules promulgated under this act, the department shall not establish or enforce a limitation for sodium or chloride in a groundwater discharge permit that is more restrictive than the following:

(a) 400 milligrams of sodium per liter.

(b) 500 milligrams of chloride per liter.

(2) Notwithstanding any other provision of this act or the rules promulgated under this act, the department shall not establish or enforce a limitation for sodium or chloride in groundwater that is more restrictive than the following:

(a) 230 milligrams of sodium per liter.

(b) 250 milligrams of chloride per liter.

(3) Notwithstanding any other provision of this part or rules promulgated under this part, if a permittee discharges sodium or chloride, or both, into groundwater that migrates off of the property on which the discharge was made and that discharge directly causes the groundwater concentration of sodium or chloride, or both, to exceed the levels provided under subsection (2), the permittee shall do all of the following:

(a) Initiate a sampling program approved by the department to monitor downgradient water supply wells for the levels of sodium or chloride, or both, in the water supply.

(b) If the concentration of sodium in a downgradient water supply exceeds the level provided under subsection (2), the permittee shall provide and maintain, for each affected downgradient water supply, free of charge, a point-of-use treatment system approved by the department that will remove sodium from the water supply so as to be in compliance with the level provided under subsection (2).

(c) If the concentration of chloride in a downgradient water supply exceeds the level provided under subsection (2), provide to each affected water supply owner a notice of aesthetic impact with respect to chloride levels.

(4) Notwithstanding any other provision of this act, a permittee subject to the requirements of subsection (3) that complies with the requirements of subsection (3) is not subject to response activities under part 201 with respect to a discharge of sodium or chloride, or both, that is in compliance with the discharge level under subsection (1).

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History: Add. 2013, Act 180, Imd. Eff. Nov. 26, 2013.

Popular name: Act 451

Popular name: NREPA

324.3110 Waste treatment facilities of industrial or commercial entity; exception; examination and certification of supervisory personnel; training program; fees; failure to pay fee; continuing education programs; reports; false statement; applicability of section.

Sec. 3110. (1) Each industrial or commercial entity, other than a concentrated animal feed operation, that discharges liquid wastes into any surface water or groundwater or underground or on the ground other than through a public sanitary sewer shall have waste treatment or control facilities under the specific supervision and control of persons who have been certified by the department as properly qualified to operate the facilities. The department shall examine all supervisory personnel having supervision and control of the facilities, other than a concentrated animal feed operation, and certify that the persons are properly qualified to operate or supervise the facilities.

(2) The department may conduct a program for training persons seeking to be certified as operators or supervisors under subsection (1), section 4104, or section 9 of the safe drinking water act, 1976 PA 399, MCL 325.1009. Until October 1, 2017, the department may charge a fee based on the costs to the department of operating this training program. The fees shall be deposited into the operator training and certification fund created in section 3134.

(3) The department shall administer certification operator programs for persons seeking to be certified as operators or supervisors under subsection (1), section 4104, or section 9 of the safe drinking water act, 1976 PA 399, MCL 325.1009. A person wishing to become certified as an operator or a supervisor shall submit an application to the department containing information required by the department. Information submitted as part of the application shall be considered part of the examination for certification. Until October 1, 2017, the department may charge a certification examination fee and a certification renewal fee in accordance with the following fee schedule:

(a) For certification examinations under subsection (1), the following fees apply:

(*i*) Industrial wastewater certification level 1 or 2 examination as described under subrule (2) of R 323.1253 of the Michigan administrative code, $35.00.

(*ii*) Industrial wastewater certification level 3 examination as described under subrule (2) of R 323.1253 of the Michigan administrative code, $40.00.

(*iii*) Industrial wastewater special classification A-1a examination or noncontact cooling water A-1h examination as described under subrule (2) of R 323.1253 of the Michigan administrative code, $30.00.

(*iv*) Storm water industrial certification A-1i examination as described under subrule (2) of R 323.1253 of the Michigan administrative code, $30.00.

(b) For certification examinations under section 4104, the following fees apply:

(*i*) Municipal wastewater certification level A, B, C, or D examination as described under subrule (1) of R 299.2911 of the Michigan administrative code, $70.00.

(*ii*) Municipal wastewater certification level L2 examination as described under subrule (3a) of R 299.2911 of the Michigan administrative code, $45.00.

(*iii*) Municipal wastewater certification level L1 examination as described under subrule (3b) of R 299.2911 of the Michigan administrative code, $45.00.

(*iv*) Municipal wastewater certification level SC examination as described under subrule (4) of R 299.2911 of the Michigan administrative code, $45.00.

(c) For certification examinations under section 9 of the safe drinking water act, 1976 PA 399, MCL 325.1009, the following fees apply:

(*i*) Drinking water complete treatment certification level 1, 2, 3, or 4 examination as described under subrule (1) of R 325.11901 of the Michigan administrative code, $70.00.

(*ii*) Drinking water limited treatment certification level 1, 2, 3, or 4 examination as described under subrule (2) of R 325.11901 of the Michigan administrative code, $70.00.

(*iii*) Drinking water distribution certification level 1, 2, 3, or 4 examination as described under R 325.11902 of the Michigan administrative code, $70.00.

(*iv*) Drinking water complete treatment certification level 5 examination as described under subrule (1) of R 325.11901 of the Michigan administrative code, $45.00.

(*v*) Drinking water limited treatment certification level 5 examination as described under subrule (2) of R 325.11901 of the Michigan administrative code, $45.00.

(*vi*) Drinking water distribution certification level 5 examination as described under R 325.11902 of the Michigan administrative code, $45.00.

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(d) For certification renewals under subsection (1), the following fees apply:

(*i*) Storm water industrial certification A-1i as described under subrule (2) of R 323.1253 of the Michigan administrative code, $95.00.

(*ii*) Storm water construction certification A-1j as described under subrule (2) of R 323.1253 of the Michigan administrative code, $95.00.

(*iii*) All other industrial wastewater certification levels 1, 2, or 3 as described under subrule (2) of R 323.1253 of the Michigan administrative code and issued on a single certificate, $95.00.

(e) For certification renewals under section 4104 for all municipal wastewater certification levels as described under R 299.2911 of the Michigan administrative code and issued on a single certificate, $95.00.

(f) For certification renewals under section 9 of the safe drinking water act, 1976 PA 399, MCL 325.1009, for all drinking water certification levels as described under R 325.11901 or R 325.11902 and issued on a single certificate, $95.00.

(4) The failure to pay a required certification examination fee within 90 days after taking an examination shall constitute failure of the examination. The department shall not allow an individual to take a future examination within the failed examination program unless he or she pays the prior fee in full.

(5) The department shall conduct a program for persons or organizations seeking to offer approved continuing education courses to be used by certified operators and supervisors when renewing their certifications under subsection (1), section 4104, and section 9 of the safe drinking water act, 1976 PA 399, MCL 325.1009. The department may charge continuing education providers a course application fee and course renewal fee in accordance with the following fee schedule:

(a) An application for approval of a training course, $75.00 for each course.

(b) An application for renewal of an approved training course, $50.00 for each course.

(6) All fees collected under this section shall be deposited in the operator training and certification fund established in section 3134.

(7) A person certified as required by subsection (1) shall file monthly, or at such longer intervals as the department may designate, on forms provided by the department, reports showing the effectiveness of the treatment or control facility operation and the quantity and quality of discharged liquid wastes. A person who knowingly makes a false statement in a report may have his or her certificate as an approved treatment facility operator revoked.

(8) This section does not apply to water, gas, or other material that is injected into a well to facilitate production of oil or gas or to water derived in association with oil or gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes and is under permit by the state supervisor of wells.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 148, Imd. Eff. Sept. 21, 2011.

Popular name: Act 451

Popular name: NREPA

324.3111 Repealed. 2012, Act 43, Imd. Eff. Mar. 6, 2012.

Compiler's note: The repealed section pertained to requirements for filing of report by person doing business with state who discharges wastewater into waters of the state or sewer system.

Popular name: Act 451

Popular name: NREPA

Administrative rules: R 299.9001 et seq. of the Michigan Administrative Code.

324.3111b Release required to be reported under R 324.2001 to R 324.2009.

Sec. 3111b. (1) If a person is required to report a release to the department under part 5 of the water resources protection rules, R 324.2001 to R 324.2009 of the Michigan administrative code, the person, via a 9-1-1 call, shall at the same time report the release to the primary public safety answering point serving the jurisdiction where the release occurred.

(2) If a person described in subsection (1) is required to subsequently submit to the department a written report on the release under part 5 of the water resources protection rules, R 324.2001 to R 324.2009 of the Michigan administrative code, the person shall at the same time submit a copy of the report to the local health department serving the jurisdiction where the release occurred.

(3) If the department of state police or other state agency receives notification, pursuant to an agreement with or the laws of another state, Canada, or the province of Ontario, of the release in that other jurisdiction of a polluting material in excess of the threshold reporting quantity and if the polluting material has entered or may enter surface waters or groundwaters of this state, the department of state police or other state agency shall contact the primary public safety answering point serving each county that may be affected by the

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release.

(4) The emergency management coordinator of each county shall develop and oversee the implementation of a plan to provide timely notification of a release required to be reported under subsection (1) or (3) to appropriate local, state, and federal agencies. In developing and overseeing the implementation of the plan, the emergency management coordinator shall consult with both of the following:

(a) The directors of the primary public safety answering points with jurisdiction within the county.

(b) Any emergency management coordinator appointed for a city, village, or township located in that county.

(5) If rules promulgated under this part require a person to maintain a pollution incident prevention plan, the person shall update the plan to include the requirements of subsections (1) and (2) when conducting any evaluation of the plan required by rule.

(6) If a person reports to the department a release pursuant to subsection (1), the department shall do both of the following:

(a) Notify the person of the requirements imposed under subsections (1) and (2).

(b) Request that the person, even if not responsible for the release, report the release, via a 9-1-1 call, to the primary public safety answering point serving 1 of the following, as applicable:

(*i*) The jurisdiction where the release occurred, if known.

(*ii*) The jurisdiction where the release was discovered, if the jurisdiction where the release occurred is not known.

(7) The department shall notify the public and interested parties, by posting on its website within 30 days after the effective date of the amendatory act that added this section and by other appropriate means, of all of the following:

(a) The requirements of subsections (1) and (2).

(b) The relevant voice, and, if applicable, facsimile telephone numbers of the department and the national response center.

(c) The criminal and civil sanctions under section 3115 applicable to violations of subsections (1) and (2).

(8) Failure of the department to provide a person with the notification required under subsection (6) or (7) does not relieve the person of any obligation to report a release or other legal obligation.

(9) The department shall biennially do both of the following:

(a) Evaluate the state and local reporting system established under this section.

(b) Submit to the standing committees of the senate and house of representatives with primary responsibility for environmental protection issues a written report on any changes recommended to the reporting system.

History: Add. 2004, Act 142, Imd. Eff. June 15, 2004.

Popular name: Act 451

Popular name: NREPA

324.3112 Permit to discharge waste into state waters; application determined as complete; condition of validity; modification, suspension, or revocation of permit; reissuance; application for new permit; notice; order; complaint; petition; contested case hearing; rejection of petition; oceangoing vessels engaging in port operations; permit required.

Sec. 3112. (1) A person shall not discharge any waste or waste effluent into the waters of this state unless the person is in possession of a valid permit from the department.

(2) An application for a permit under subsection (1) shall be submitted to the department. Within 30 days after an application for a new or increased use is received, the department shall determine whether the application is administratively complete. Within 90 days after an application for reissuance of a permit is received, the department shall determine whether the application is administratively complete. If the department determines that an application is not complete, the department shall notify the applicant in writing within the applicable time period. If the department does not make a determination as to whether the application is complete within the applicable time period, the application shall be considered to be complete.

(3) The department shall condition the continued validity of a permit upon the permittee's meeting the effluent requirements that the department considers necessary to prevent unlawful pollution by the dates that the department considers to be reasonable and necessary and to assure compliance with applicable federal law and regulations. If the department finds that the terms of a permit have been, are being, or may be violated, it may modify, suspend, or revoke the permit or grant the permittee a reasonable period of time in which to comply with the permit. The department may reissue a revoked permit upon a showing satisfactory to the department that the permittee has corrected the violation. A person who has had a permit revoked may apply

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for a new permit.

(4) If the department determines that a person is causing or is about to cause unlawful pollution of the waters of this state, the department may notify the alleged offender of its determination and enter an order requiring the person to abate the pollution or refer the matter to the attorney general for legal action, or both.

(5) A person who is aggrieved by an order of abatement of the department or by the reissuance, modification, suspension, or revocation of an existing permit of the department executed pursuant to this section may file a sworn petition with the department setting forth the grounds and reasons for the complaint and asking for a contested case hearing on the matter pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A petition filed more than 60 days after action on the order or permit may be rejected by the department as being untimely.

(6) Beginning January 1, 2007, all oceangoing vessels engaging in port operations in this state shall obtain a permit from the department. The department shall issue a permit for an oceangoing vessel only if the applicant can demonstrate that the oceangoing vessel will not discharge aquatic nuisance species or if the oceangoing vessel discharges ballast water or other waste or waste effluent, that the operator of the vessel will utilize environmentally sound technology and methods, as determined by the department, that can be used to prevent the discharge of aquatic nuisance species. The department shall cooperate to the fullest extent practical with other Great Lakes basin states, the Canadian Great Lakes provinces, the Great Lakes panel on aquatic nuisance species, the Great Lakes fishery commission, the international joint commission, and the Great Lakes commission to ensure development of standards for the control of aquatic nuisance species that are broadly protective of the waters of the state and other natural resources. Permit fees for permits under this subsection shall be assessed as provided in section 3120. The permit fees for an individual permit issued under this subsection shall be the fees specified in section 3120(1)(a) and (5)(a). The permit fees for a general permit issued under this subsection shall be the fees specified in section 3120(1)(c) and (5)(b)(*i*). Permits under this subsection shall be issued in accordance with the timelines provided in section 3120. The department may promulgate rules to implement this subsection.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 91, Imd. Eff. Apr. 22, 2004;—Am. 2005, Act 33, Imd. Eff. June 6, 2005.

Popular name: Act 451

Popular name: NREPA

324.3112a Discharge of untreated sewage from sewer system; notification; duties of municipality; legal action by state not limited; penalties and fines; definitions.

Sec. 3112a. (1) Except for sewer systems described in subsection (8), if untreated sewage or partially treated sewage is directly or indirectly discharged from a sewer system onto land or into the waters of the state, the person responsible for the sewer system shall immediately, but not more than 24 hours after the discharge begins, notify the department; local health departments as defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105; a daily newspaper of general circulation in the county or counties in which a municipality notified pursuant to subsection (4) is located; and a daily newspaper of general circulation in the county in which the discharge occurred or is occurring of all of the following:

(a) Promptly after the discharge starts, by telephone or in another manner required by the department, that the discharge is occurring.

(b) At the conclusion of the discharge, in writing or in another manner required by the department, all of the following:

(*i*) The volume and quality of the discharge as measured pursuant to procedures and analytical methods approved by the department.

(*ii*) The reason for the discharge.

(*iii*) The waters or land area, or both, receiving the discharge.

(*iv*) The time the discharge began and ended as measured pursuant to procedures approved by the department.

(*v*) Verification of the person's compliance status with the requirements of its national pollutant discharge elimination system permit or groundwater discharge permit and applicable state and federal statutes, rules, and orders.

(2) Upon being notified of a discharge under subsection (1), the department shall promptly post the notification on its website.

(3) Each time a discharge to surface waters occurs under subsection (1), the person responsible for the sewer system shall test the affected waters for E. coli to assess the risk to the public health as a result of the discharge and shall provide the test results to the affected local county health departments and to the department. The testing shall be done at locations specified by each affected local county health department

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but shall not exceed 10 tests for each separate discharge event. The requirement for this testing may be waived by the affected local county health department if the affected local county health department determines that such testing is not needed to assess the risk to the public health as a result of the discharge event.

(4) A person responsible for a sewer system that may discharge untreated sewage or partially treated sewage into the waters of the state shall annually contact each municipality whose jurisdiction contains waters that may be affected by the discharge. If those contacted municipalities wish to be notified in the same manner as provided in subsection (1), the person responsible for the sewer system shall provide that notification.

(5) A person who is responsible for a discharge of untreated sewage or partially treated sewage from a sewer system into the waters of the state shall comply with the requirements of its national pollutant discharge elimination system permit or groundwater discharge permit and applicable state and federal statutes, rules, and orders.

(6) This section does not authorize the discharge of untreated sewage or partially treated sewage into the waters of the state or limit the state from bringing legal action as otherwise authorized by this part.

(7) The penalties and fines provided for in section 3115 apply to a violation of this section.

(8) For sewer systems that discharge to the groundwater via a subsurface disposal system, that do not have a groundwater discharge permit issued by the department, and the discharge of untreated sewage or partially treated sewage is not to surface waters, the person responsible for the sewer system shall notify the local health department in accordance with subsection (1)(a) and (b), but the requirements of subsections (2), (3), (4), and (5) do not apply.

(9) As used in this section:

(a) "Partially treated sewage" means any sewage, sewage and storm water, or sewage and wastewater, from domestic or industrial sources that meets 1 or more of the following:

(*i*) Is not treated to national secondary treatment standards for wastewater or that is treated to a level less than that required by the person's national pollutant discharge elimination system permit.

(*ii*) Is treated to a level less than that required by the person's groundwater discharge permit.

(*iii*) Is found on the ground surface.

(b) "Sewer system" means a public or privately owned sewer system designed and used to convey or treat sanitary sewage or sanitary sewage and storm water. Sewer system does not include an on-site wastewater treatment system serving 1 residential unit or duplex.

(c) "Surface water" means all of the following, but does not include drainage ways and ponds used solely for wastewater conveyance, treatment, or control:

(*i*) The Great Lakes and their connecting waters.

(*ii*) Inland lakes.

(*iii*) Rivers.

(*iv*) Streams.

(*v*) Impoundments.

(*vi*) Open drains.

(*vii*) Other surface bodies of water.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 3, Imd. Eff. Jan. 30, 1998;—Am. 2000, Act 286, Imd. Eff. July 10, 2000;—Am. 2004, Act 72, Imd. Eff. Apr. 20, 2004.

Popular name: Act 451

Popular name: NREPA

324.3112b Discharge from combined sewer system; issuance or renewal of permit; disconnection of eaves troughs and downspouts as condition; exception; "combined sewer system" defined.

Sec. 3112b. (1) When a permit for a discharge from a combined sewer system is issued or renewed under this part, the department shall require as a condition of the permit that eaves troughs and roof downspouts for the collection of storm water throughout the tributary service area are not directly connected to the sewer system. The department may allow the permittee up to 1 year to comply with this provision for residential property and up to 5 years for commercial and industrial properties.

(2) Subsection (1) does not apply if the permittee demonstrates to the satisfaction of the department that the disconnection of downspouts and eaves troughs is not a cost-effective means of reducing the frequency or duration of combined sewer overflows or of maintaining compliance with discharge requirements.

(3) As used in this section, "combined sewer system" means a sewer designed and used to convey both

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storm water runoff and sanitary sewage, and which contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

History: Add. 1998, Act 4, Imd. Eff. Jan. 30, 1998.

Popular name: Act 451

Popular name: NREPA

324.3112c Discharges of untreated or partially treated sewage from sewer systems; list of occurrences; “partially treated sewage” and “sewer system” defined.

Sec. 3112c. (1) The department shall compile and maintain a list of occurrences of discharges of untreated or partially treated sewage from sewer systems onto land or into the waters of the state that have been reported to the department or are otherwise known to the department. This list shall be made available on the department's website on an ongoing basis. In addition, the department shall annually publish this list and make it available to the general public. The list shall include all of the following:

(a) The entity responsible for the discharge.

(b) The waters or land area, or both, receiving the discharge.

(c) The volume and quality of the discharge.

(d) The time the discharge began and ended.

(e) A description of the actions the department has taken to address the discharge.

(f) Whether the entity responsible for the discharge is subject to a schedule of compliance approved by the department.

(g) Any other information that the department considers relevant.

(2) As used in this section:

(a) “Partially treated sewage” means any sewage, sewage and storm water, or sewage and wastewater, from domestic or industrial sources that is not treated to national secondary treatment standards for wastewater or that is treated to a level less than that required by a national pollutant discharge elimination system permit.

(b) “Sewer system” means a sewer system designed and used to convey sanitary sewage or storm water, or both.

History: Add. 2000, Act 287, Imd. Eff. July 10, 2000.

Popular name: Act 451

Popular name: NREPA

324.3112e Permit not required; "beneficial use by-product" and "beneficial use 3" defined.

Sec. 3112e. (1) Notwithstanding sections 3112 and 3113, a permit is not required under this part for any of the following:

(a) The use of a beneficial use by-product for beneficial use 3 in compliance with part 115.

(b) The storage of a beneficial use by-product in compliance with part 115.

(2) As used in subsection (1), "beneficial use by-product" and "beneficial use 3" mean those terms as defined in section 11502.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014.

Popular name: Act 451

Popular name: NREPA

324.3113 New or increased use of waters for sewage or other waste disposal purposes; filing information; permit; conditions; complaint; petition; contested case hearing; rejection of petition.

Sec. 3113. (1) A person who seeks a new or increased use of the waters of the state for sewage or other waste disposal purposes shall file with the department an application setting forth the information required by the department, including the nature of the enterprise or development contemplated, the amount of water required to be used, its source, the proposed point of discharge of the wastes into the waters of the state, the estimated amount to be discharged, and a statement setting forth the expected bacterial, physical, chemical, and other known characteristics of the wastes.

(2) If a permit is granted, the department shall condition the permit upon such restrictions that the department considers necessary to adequately guard against unlawful uses of the waters of the state as are set forth in section 3109.

(3) If the permit or denial of a new or increased use is not acceptable to the permittee, the applicant, or any

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other person, the permittee, the applicant, or other person may file a sworn petition with the department setting forth the grounds and reasons for the complaint and asking for a contested case hearing on the matter pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A petition filed more than 60 days after action on the permit application may be rejected by the department as being untimely.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 91, Imd. Eff. Apr. 22, 2004.

Popular name: Act 451

Popular name: NREPA

324.3114 Enforcement of part; criminal complaint.

Sec. 3114. An employee of the department of natural resources or an employee of another governmental agency appointed by the department may, with the concurrence of the department, enforce this part and may make a criminal complaint against a person who violates this part.

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

Popular name: Act 451

Popular name: NREPA

324.3115 Violations; civil or criminal liability; venue; jurisdiction; penalties; knowledge attributable to defendant; lien; setoff.

Sec. 3115. (1) The department may request the attorney general to commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation of this part or a provision of a permit or order issued or rule promulgated under this part. An action under this subsection may be brought in the circuit court for the county of Ingham or for the county in which the defendant is located, resides, or is doing business. If requested by the defendant within 21 days after service of process, the court shall grant a change of venue to the circuit court for the county of Ingham or for the county in which the alleged violation occurred, is occurring, or, in the event of a threat of violation, will occur. The court has jurisdiction to restrain the violation and to require compliance. In addition to any other relief granted under this subsection, the court, except as otherwise provided in this subsection, shall impose a civil fine of not less than $2,500.00 and the court may award reasonable attorney fees and costs to the prevailing party. However, all of the following apply:

(a) The maximum fine imposed by the court shall be not more than $25,000.00 per day of violation.

(b) For a failure to report a release to the department or to the primary public safety answering point under section 3111b(1), the court shall impose a civil fine of not more than $2,500.00.

(c) For a failure to report a release to the local health department under section 3111b(2), the court shall impose a civil fine of not more than $500.00.

(2) A person who at the time of the violation knew or should have known that he or she discharged a substance contrary to this part, or contrary to a permit or order issued or rule promulgated under this part, or who intentionally makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, or who intentionally renders inaccurate a monitoring device or record required to be maintained by the department, is guilty of a felony and shall be fined not less than $2,500.00 or more than $25,000.00 for each violation. The court may impose an additional fine of not more than $25,000.00 for each day during which the unlawful discharge occurred. If the conviction is for a violation committed after a first conviction of the person under this subsection, the court shall impose a fine of not less than $25,000.00 per day and not more than $50,000.00 per day of violation. Upon conviction, in addition to a fine, the court in its discretion may sentence the defendant to imprisonment for not more than 2 years or impose probation upon a person for a violation of this part. With the exception of the issuance of criminal complaints, issuance of warrants, and the holding of an arraignment, the circuit court for the county in which the violation occurred has exclusive jurisdiction. However, the person shall not be subject to the penalties of this subsection if the discharge of the effluent is in conformance with and obedient to a rule, order, or permit of the department. In addition to a fine, the attorney general may file a civil suit in a court of competent jurisdiction to recover the full value of the injuries done to the natural resources of the state and the costs of surveillance and enforcement by the state resulting from the violation.

(3) Upon a finding by the court that the actions of a civil defendant pose or posed a substantial endangerment to the public health, safety, or welfare, the court shall impose, in addition to the sanctions set forth in subsection (1), a fine of not less than $500,000.00 and not more than $5,000,000.00.

(4) Upon a finding by the court that the actions of a criminal defendant pose or posed a substantial endangerment to the public health, safety, or welfare, the court shall impose, in addition to the penalties set

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forth in subsection (2), a fine of not less than $1,000,000.00 and, in addition to a fine, a sentence of 5 years' imprisonment.

(5) To find a defendant civilly or criminally liable for substantial endangerment under subsection (3) or (4), the court shall determine that the defendant knowingly or recklessly acted in such a manner as to cause a danger of death or serious bodily injury and that either of the following occurred:

(a) The defendant had an actual awareness, belief, or understanding that his or her conduct would cause a substantial danger of death or serious bodily injury.

(b) The defendant acted in gross disregard of the standard of care that any reasonable person should observe in similar circumstances.

(6) Knowledge possessed by a person other than the defendant under subsection (5) may be attributable to the defendant if the defendant took affirmative steps to shield himself or herself from the relevant information.

(7) A civil fine or other award ordered paid pursuant to this section shall do both of the following:

(a) Be payable to the state of Michigan and credited to the general fund.

(b) Constitute a lien on any property, of any nature or kind, owned by the defendant.

(8) A lien under subsection (7)(b) shall take effect and have priority over all other liens and encumbrances except those filed or recorded prior to the date of judgment only if notice of the lien is filed or recorded as required by state or federal law.

(9) A lien filed or recorded pursuant to subsection (8) shall be terminated according to the procedures required by state or federal law within 14 days after the fine or other award ordered to be paid is paid.

(10) In addition to any other method of collection, any fine or other award ordered paid may be recovered by right of setoff to any debt owed to the defendant by the state of Michigan, including the right to a refund of income taxes paid.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 91, Imd. Eff. Apr. 22, 2004;—Am. 2004, Act 143, Imd. Eff. June 15, 2004.

Popular name: Act 451

Popular name: NREPA

324.3115a Violation as misdemeanor; penalty; “minor offense” defined.

Sec. 3115a. (1) Except as provided in subsections (2) and (3), a person who alters or causes the alteration of a floodplain in violation of this part is guilty of a misdemeanor punishable by a fine of not more than $2,500.00 for each occurrence.

(2) A person who commits a minor offense is guilty of a misdemeanor punishable by a fine of not more than $500.00 for each violation. A law enforcement officer may issue and serve an appearance ticket upon a person for a minor offense pursuant to sections 9a to 9g of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 764.9a to 764.9g of the Michigan Compiled Laws.

(3) A person who willfully or recklessly violates a condition of a floodplain permit issued under this part is guilty of a misdemeanor punishable by a fine of not more than $2,500.00 per day.

(4) As used in this section, “minor offense” means either of the following violations of this part if the department determines that restoration of the affected floodplain is not required:

(a) The failure to obtain a permit under this part.

(b) A violation of a permit issued under this part.

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

Popular name: Act 451

Popular name: NREPA

324.3116 Construction of part.

Sec. 3116. This part does not repeal any law governing the pollution of lakes and streams, but shall be held and construed as ancillary to and supplementing the other laws and in addition to the laws now in force, except as a law may be in direct conflict with this part. This part does not apply to copper or iron mining operations, whereby such operations result in the placement, removal, use, or processing of copper or iron mineral tailings or copper or iron mineral deposits from such operations being placed in inland waters on bottomlands owned by or under the control of the mining company and only water which may contain a minimal amount of residue as determined by the department resulting from such placement, removal, use, or processing being allowed or permitted to escape into public waters. This part does not apply to the discharge of water from underground iron or copper mining operations subject to a determination by the department.

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

Popular name: Act 451

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Popular name: NREPA

324.3117 Supplemental construction.

Sec. 3117. This part is supplemental to and in addition to the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws. This part does not amend or repeal any law of the state relating to the public service commission, the department, and the department of public health relating to waters and water structures, or any act or parts of acts not inconsistent with this part.

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

Popular name: Act 451

Popular name: NREPA

324.3118 Storm water discharge fees.

Sec. 3118. (1) Except as otherwise provided in this section, until October 1, 2019, the department shall collect storm water discharge fees from persons who apply for or have been issued storm water discharge permits as follows:

(a) A 1-time fee of $400.00 is required for a permit related solely to a site of construction activity for each permitted site. The fee shall be submitted by the permit applicant with his or her application for an individual permit or for a certificate of coverage under a general permit. For a permit by rule, the fee shall be submitted by the construction site permittee along with his or her notice of coverage. A person needing more than 1 permit may submit a single payment for more than 1 permit and receive appropriate credit. Payment of the fee under this subdivision or verification of prepayment is a necessary part of a valid permit application or notice of coverage under a permit by rule.

(b) An annual fee of $260.00 is required for a permit related solely to a storm water discharge associated with industrial activity or from a commercial site for which the department determines a permit is needed.

(c) An annual fee of $500.00 is required for a permit for a municipal separate storm sewer system, unless the permit is issued to a city, a village, a township, or a county or is a single permit authorization for municipal separate storm sewer systems in multiple locations statewide.

(d) An annual fee for a permit for a municipal separate storm sewer system issued to a city, village, or township shall be determined by its population in an urbanized area as defined by the United States Bureau of the Census. The fee shall be based on the latest available decennial census as follows:

(*i*) For a population of 1,000 people or fewer, the annual fee is $500.00.

(*ii*) For a population of more than 1,000 people, but fewer than 3,001 people, the annual fee is $1,000.00.

(*iii*) For a population of more than 3,000 people, but fewer than 10,001 people, the annual fee is $2,000.00.

(*iv*) For a population of more than 10,000 people, but fewer than 30,001 people, the annual fee is $3,000.00.

(*v*) For a population of more than 30,000 people, but fewer than 50,001 people, the annual fee is $4,000.00.

(*vi*) For a population of more than 50,000 people, but fewer than 75,001 people, the annual fee is $5,000.00.

(*vii*) For a population of more than 75,000 people, but fewer than 100,001 people, the annual fee is $6,000.00.

(*viii*) For a population of more than 100,000 people, the annual fee is $7,000.00.

(e) An annual fee of $3,000.00 is required for a permit for a municipal separate storm sewer system issued to a county.

(f) An annual fee for a single municipal separate storm sewer systems permit authorizing a state or federal agency to operate municipal separate storm sewer systems in multiple locations statewide shall be determined in accordance with a memorandum of understanding between that state or federal agency and the department and shall be based on the projected needs by the department to administer the permit.

(2) A storm water discharge permit is not required for a municipality that does not own or operate a separate storm sewer system. The department shall not collect storm water discharge fees under this section from a municipality that does not own or operate a separate storm sewer system.

(3) Permit fees required under this section are nonrefundable.

(4) A person possessing a permit not related solely to a site of construction activity as of January 1 shall be assessed a fee. The department shall notify those persons of their fee assessments by February 1. Payment shall be postmarked no later than March 15. Failure by the department to send a fee assessment notification by the deadline, or failure of a person to receive a fee assessment notification, does not relieve that person of his or her obligation to pay the fee. If the department does not meet the February deadline for sending the fee assessment, the fee assessment is due not later than 45 days after the permittee receives a fee notification.

(5) If a storm water permit is issued for a drainage district, the drainage district is responsible for the

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applicable fee under this section.

(6) The department shall assess interest on all fee payments submitted under this section after the due date. The permittee shall pay an additional amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due.

(7) The department shall forward all fees and interest payments collected under this section to the state treasurer for deposit into the fund.

(8) The department shall make payment of the required fee assessed under this section a condition of issuance or reissuance of a permit not related solely to a site of construction activity.

(9) In addition to any other penalty provided in this part, if a person fails to pay the fee required under this section by its due date, the person is in violation of this part and the department may undertake enforcement actions as authorized under this part.

(10) The attorney general may bring an action to collect overdue fees and interest payments imposed under this section.

(11) If the permit is for a municipal separate storm sewer system and the population served by that system is different than the latest decennial census, the permittee may appeal the annual fee determination and submit written verification of actual population served by the municipal separate storm sewer system.

(12) A person who wishes to appeal either a fee or a penalty assessed under this section is limited to an administrative appeal, in accordance with section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. The appeal shall be filed within 30 days of the department's fee notification under subsection (4).

(13) As used in this section and section 3119:

(a) "Certificate of coverage" means a document issued by the department that authorizes a discharge under a general permit.

(b) "Clean water act" means the federal water pollution control act, 33 USC 1251 to 1387.

(c) "Construction activity" means a human-made earth change or disturbance in the existing cover or topography of land that is 5 acres or more in size, for which a national permit is required pursuant to 40 CFR 122.26(a), and which is described as a construction activity in 40 CFR 122.26(b)(14)(*x*). Construction activity includes clearing, grading, and excavating activities. Construction activity does not include the practice of clearing, plowing, tilling soil, and harvesting for the purpose of crop production.

(d) "Fee" means a storm water discharge fee authorized under this section.

(e) "Fund" means the storm water fund created in section 3119.

(f) "General permit" means a permit issued authorizing a category of similar discharges.

(g) "Individual permit" means a site-specific permit.

(h) "Municipal separate storm sewer system" means all separate storm sewers that are owned or operated by the United States or a state, city, village, township, county, district, association, or other public body created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law, such as a sewer district, flood control district, or drainage district or similar entity, or a designated or approved management agency under section 208 of the clean water act, 33 USC 1288, that discharges to waters of the state. Municipal separate storm sewer system includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. Municipal separate storm sewer system does not include separate storm sewers in very discrete areas, such as individual buildings.

(i) "Notice of coverage" means a notice that a person engaging in construction activity agrees to comply with a permit by rule for that activity.

(j) "Permit" or "storm water discharge permit" means a permit authorizing the discharge of wastewater or any other substance to surface waters of the state under the national pollutant discharge elimination system, pursuant to the clean water act or this part and the rules and regulations promulgated under that act or this part.

(k) "Public body" means the United States, the state of Michigan, a city, village, township, county, school district, public college or university, or single purpose governmental agency, or any other body that is created by federal or state statute or law.

(*l*) "Separate storm sewer system" means a system of drainage, including, but not limited to, roads, catch basins, curbs, gutters, parking lots, ditches, conduits, pumping devices, or man-made channels, that has the following characteristics:

(*i*) The system is not a combined sewer where storm water mixes with sanitary wastes.

(*ii*) The system is not part of a publicly owned treatment works.

(m) "Storm water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.

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(n) "Storm water discharge associated with industrial activity" means a point source discharge of storm water from a facility that is defined as an industrial activity under 40 CFR 122.26(b)(14)(*i*) to (*ix*) and (*xi*).

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 169, Imd. Eff. Oct. 9, 1995;—Am. 1999, Act 35, Imd. Eff. June 3, 1999 ;—Am. 2004, Act 91, Imd. Eff. Apr. 22, 2004;—Am. 2008, Act 2, Imd. Eff. Jan. 16, 2008;—Am. 2009, Act 102, Imd. Eff. Sept. 30, 2009 ;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2015, Act 82, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

324.3119 Storm water fund.

Sec. 3119. (1) The storm water fund is created within the state treasury.

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

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

(4) The department shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) Review of storm water permit applications.

(b) Storm water permit development, issuance, reissuance, modification, and termination.

(c) Surface water monitoring to support the storm water permitting process.

(d) Assessment of compliance with storm water permit conditions.

(e) Enforcement against storm water permit violations.

(f) Classification of storm water control facilities.

(g) Not more than 10% of the money in the fund for training for certification of storm water operators and educational material to assist persons regulated under this part.

(h) Regional or statewide public education to enhance the effectiveness of storm water permits.

(5) Money in the fund shall not be used to support the direct costs of litigation undertaken to enforce this part.

(6) Upon the expenditure or appropriation of money raised in section 3118 for any other purpose than those specifically listed in this section, authorization to collect fees under section 3118 shall be suspended until such time as the money expended or appropriated for purposes other than those listed in this section is returned to the fund.

(7) By January 1, 2006 and by January 1 of each year thereafter, the department shall prepare and submit to the governor, the legislature, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the departmental activities of the previous fiscal year in administering the department's storm water program that were funded by the fund. This report shall include, at a minimum, all of the following:

(a) The number of full-time equated positions performing each of the following functions:

(*i*) Permit issuance and development.

(*ii*) Compliance.

(*iii*) Enforcement.

(b) The number of new permit applications received by the department in the preceding year.

(c) The number of renewal permits in the preceding year.

(d) The number of permit modifications requested in the preceding year.

(e) The number of staff hours dedicated to each of the fee categories listed in section 3118.

(f) The number of permits issued for fee categories listed in section 3118.

(g) The average number of days required for review of a permit from the date the permit application is determined to be administratively complete.

(h) The number of permit applications denied.

(i) The number of permit applications withdrawn by the applicant.

(j) The percentage and number of permit applications that were reviewed for administrative completeness within 10 days of receipt by the department.

(k) The percentage and number of permit applications submitted to the department that were administratively complete as received.

(*l*) The percentage and number of new permit applications for which a final action was taken by the department within 180 days.

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(m) The percentage and number of permit renewals and modifications processed within the required time.

(n) The number of permits reopened by the department.

(o) The number of unfilled positions dedicated to the department's storm water program.

(p) The amount of revenue in the fund at the end of the fiscal year.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1999, Act 106, Imd. Eff. July 7, 1999;—Am. 2004, Act 91, Imd. Eff. Apr. 22, 2004.

Popular name: Act 451

Popular name: NREPA

324.3120 New, reissued, or modified permit fees; new or increased use permit; grant or denial of permit; failure to make decision within applicable time period; annual permit fees; definitions.

Sec. 3120. (1) Until October 1, 2019, an application for a new permit, a reissuance of a permit, or a modification of an existing permit under this part authorizing a discharge into surface water, other than a storm water discharge, shall be accompanied by an application fee as follows:

(a) For an EPA major facility permit, $750.00.

(b) For an EPA minor facility individual permit, a CSO permit, or a wastewater stabilization lagoon individual permit, $400.00.

(c) For an EPA minor facility general permit, $75.00.

(2) Within 180 days after receipt of a complete application for a new or increased use permit, the department shall either grant or deny the permit, unless the applicant and the department agree to extend this time period.

(3) By September 30 of the year following the submittal of a complete application for reissuance of a permit, the department shall either grant or deny the permit, unless the applicant and the department agree to extend this time period.

(4) If the department fails to make a decision on an application within the applicable time period under subsection (2) or (3), the department shall return to the applicant the application fee submitted under subsection (1) and the applicant shall not be subject to an application fee and shall receive a 15% annual discount on an annual permit fee required for a permit issued based upon that application.

(5) Until October 1, 2019, a person who receives a permit under this part authorizing a discharge into surface water, other than a stormwater discharge, is subject to an annual permit fee as follows:

(a) For an industrial or commercial facility that is an EPA major facility, $8,700.00.

(b) For an industrial or commercial facility that is an EPA minor facility, the following amounts:

(*i*) For a general permit for a low-flow facility, $150.00.

(*ii*) For a general permit for a high-flow facility, $400.00.

(*iii*) For an individual permit for a low-flow facility, $1,650.00.

(*iv*) For an individual permit for a high-flow facility, $3,650.00.

(c) For a municipal facility that is an EPA major facility, the following amounts:

(*i*) For an individual permit for a facility discharging 500 MGD or more, $213,000.00.

(*ii*) For an individual permit for a facility discharging 50 MGD or more but less than 500 MGD, $20,000.00.

(*iii*) For an individual permit for a facility discharging 10 MGD or more but less than 50 MGD, $13,000.00.

(*iv*) For an individual permit for a facility discharging less than 10 MGD, $5,500.00.

(d) For a municipal facility that is an EPA minor facility, the following amounts:

(*i*) For an individual permit for a facility discharging 10 MGD or more, $3,775.00.

(*ii*) For an individual permit for a facility discharging 1 MGD or more but less than 10 MGD, $3,000.00.

(*iii*) For an individual permit for a facility discharging less than 1 MGD, $1,950.00.

(*iv*) For a general permit for a high-flow facility, $600.00.

(*v*) For a general permit for a low-flow facility, $400.00.

(e) For a municipal facility that is a CSO facility, $6,000.00.

(f) For an individual permit for a wastewater stabilization lagoon, $1,525.00.

(g) For an individual or general permit for an agricultural purpose, $600.00, unless either of the following applies:

(*i*) The facility is an EPA minor facility and would qualify for a general permit for a low-flow facility, in which case the fee is $150.00.

(*ii*) The facility is an EPA major facility that is not a farmers' cooperative corporation, in which case the fee is $8,700.00.

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(h) For a facility that holds a permit issued under this part but has no discharge and is connected to and is authorized to discharge only to a municipal wastewater treatment system, an annual permit maintenance fee of $100.00. However, if a facility does have a discharge or at some point is no longer connected to a municipal wastewater treatment system, the annual permit fee shall be the appropriate fee as otherwise provided in this subsection.

(6) If the person required to pay an application fee under subsection (1) or an annual permit fee under subsection (5) is a municipality, the municipality may pass on the application fee or the annual permit fee, or both, to each user of the municipal facility.

(7) The department shall send invoices for annual permit fees under subsection (5) to all permit holders by December 1 of each year. The fee shall be based on the status of the facility as of October 1 of that year. A person subject to an annual permit fee shall pay the fee not later than January 15 of each year. Failure by the department to send an invoice by the deadline, or failure of a person to receive an invoice, does not relieve that person of his or her obligation to pay the annual permit fee. If the department does not meet the December 1 deadline for sending invoices, the annual permit fee is due not later than 45 days after receiving an invoice. The department shall forward annual permit fees received under this section to the state treasurer for deposit into the national pollutant discharge elimination system fund created in section 3121.

(8) The department shall assess a penalty on all annual permit fee payments submitted under this section after the due date. The penalty shall be an amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due.

(9) Following payment of an annual permit fee, if a permittee wishes to challenge its annual permit fee under this section, the owner or operator shall submit the challenge in writing to the department. The department shall not process the challenge unless it is received by the department by March 1 of the year the payment is due. A challenge shall identify the facility and state the grounds upon which the challenge is based. Within 30 calendar days after receipt of the challenge, the department shall determine the validity of the challenge and provide the permittee with notification of a revised annual permit fee and a refund, if appropriate, or a statement setting forth the reason or reasons why the annual permit fee was not revised. If the owner or operator of a facility desires to further challenge its annual permit fee, the owner or operator of the facility has an opportunity for a contested case hearing as provided for under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) The attorney general may bring an action for the collection of the annual permit fee imposed under this section.

(11) As used in this section:

(a) "Agricultural purpose" means the agricultural production or processing of those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy animals and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product, as determined by the commission of agriculture and rural development, that incorporates the use of food, feed, fiber, or fur. Agricultural purpose includes an operation or facility that produces wine.

(b) "Combined sewer overflow" means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded at a point prior to the headworks of a publicly owned treatment works during wet weather conditions.

(c) "Combined sewer system" means a sewer designed and used to convey both storm water runoff and sanitary sewage, and that contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

(d) "CSO facility" means a facility whose discharge is solely a combined sewer overflow.

(e) "EPA major facility" means a facility that is designated by the United States Environmental Protection Agency as being a major facility under 40 CFR 122.2.

(f) "EPA minor facility" means a facility that is not an EPA major facility.

(g) "Farmers' cooperative corporation" means a farmers' cooperative corporation organized within the limitations of section 98 of 1931 PA 327, MCL 450.98.

(h) "General permit" means a permit suitable for use at facilities meeting eligibility criteria as specified in the permit. With a general permit, the discharge from a specific facility is acknowledged through a certificate of coverage issued to the facility.

(i) "High-flow facility" means a facility that discharges 1 MGD or more.

(j) "Individual permit" means a permit developed for a particular facility, taking into account that facility's

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specific characteristics.

(k) "Industrial or commercial facility" means a facility that is not a municipal facility.

(*l*) "Low-flow facility" means a facility that discharges less than 1 MGD.

(m) "MGD" means 1,000,000 gallons per day.

(n) "Municipal facility" means a facility that is designed to collect or treat sanitary wastewater, and is either publicly or privately owned, and serves a residential area or a group of municipalities.

(o) "Wastewater stabilization lagoon" means a type of treatment system constructed of ponds or basins designed to receive, hold, and treat sanitary wastewater for a predetermined amount of time through a combination of physical, biological, and chemical processes.

History: Add. 2004, Act 91, Imd. Eff. Apr. 22, 2004;—Am. 2009, Act 102, Imd. Eff. Sept. 30, 2009;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2015, Act 82, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

324.3121 National pollutant discharge elimination system fund.

Sec. 3121. (1) The national pollutant discharge elimination system fund is created within the state treasury.

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

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

(4) The department shall expend money from the fund, upon appropriation, only to administer the national pollutant discharge elimination system program under this part including, but not limited to, all of the following:

(a) Water quality standards development and maintenance.

(b) Permit development and issuance.

(c) Maintenance of program data.

(d) Ambient water quality monitoring conducted to determine permit conditions and evaluate the effectiveness of permit requirements.

(e) Activities conducted to determine a discharger's permit compliance status, including, but not limited to, inspections, discharge monitoring, and review of submittals.

(f) Laboratory services.

(g) Enforcement.

(h) Program administration activities.

(5) By January 1, 2006 and by January 1 of each year thereafter, the department shall prepare and submit to the governor, the legislature, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the departmental activities of the previous fiscal year in administering the department's national pollutant discharge elimination system program that were funded by the fund. This report shall include, at a minimum, all of the following as it relates to the department:

(a) The number of full-time equated positions performing each of the following functions:

(*i*) Permit issuance and development.

(*ii*) Compliance.

(*iii*) Enforcement.

(b) The number of permit applications received by the department in the preceding year, including applications for new and increased uses and reissuances.

(c) The number of staff hours dedicated to each of the fee categories listed in section 3120.

(d) The number of permits issued for fee categories listed in section 3120.

(e) The number of permit applications denied.

(f) The number of permit applications withdrawn by the applicant.

(g) The percentage and number of permit applications that were reviewed for administrative completeness within statutory time frames.

(h) The percentage and number of permit applications submitted to the department that were administratively complete as received.

(i) The percentage and number of permit applications for which a final action was taken by the department within statutory time frames for new and increased uses and reissuances.

(j) The number of permits reopened by the department.

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(k) The number of unfilled positions dedicated to the national pollutant discharge elimination system program.

(*l*) The amount of revenue in the fund at the end of the fiscal year.

(6) As used in this section:

(a) "Fund" means the national pollutant discharge elimination system fund created in subsection (1).

(b) "National pollutant discharge elimination system program" means the national pollutant discharge elimination system program delegated to the department under section 402 of title IV of the federal water pollution control act, chapter 758, 86 Stat. 880, 33 U.S.C. 1342, and implemented under this part.

History: Add. 2004, Act 91, Imd. Eff. Apr. 22, 2004.

Popular name: Act 451

Popular name: NREPA

324.3122 Annual groundwater discharge permit fee; failure of department to grant or deny within certain time period; payment of fee by municipality; definitions.

Sec. 3122. (1) Until September 30, 2019, the department may levy and collect an annual groundwater discharge permit fee from facilities or municipalities that discharge wastewater to the ground or groundwater of this state pursuant to section 3112. The fee shall be as follows:

(a) For a group 1 facility, $3,650.00.

(b) For a group 2 facility or a municipality of 1,000 or fewer residents, $1,500.00.

(c) For a group 2a facility, $250.00.

(d) For a group 3 facility, $200.00.

(2) Within 180 days after receipt of a complete application for a permit to discharge wastewater to the ground or to groundwater, the department shall either grant or deny a permit, unless the applicant and the department agree to extend this time period. If the department fails to make a decision on an application within the time period specified or agreed to under this subsection, an applicant subject to an annual groundwater discharge permit fee shall receive a 15% annual discount on the annual groundwater discharge permit fee.

(3) If the person required to pay the annual groundwater discharge permit fee under subsection (1) is a municipality, the municipality may pass on the annual groundwater discharge permit fee to each user of the municipal facility.

(4) As used in this section, "group 1 facility", "group 2 facility", "group 2a facility", and "group 3 facility" do not include a municipality with a population of 1,000 or fewer residents.

History: Add. 2004, Act 90, Imd. Eff. Apr. 22, 2004;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2015, Act 82, Eff. Oct. 1, 2015;—Am. 2015, Act 247, Imd. Eff. Dec. 22, 2015.

Popular name: Act 451

Popular name: NREPA

324.3122a Annual groundwater discharge permit fees; credit; amount.

Sec. 3122a. In any state fiscal year, if the department collects more than $2,000,000.00 under section 3122 in annual groundwater discharge permit fees, the department shall credit in the next fiscal year each permittee who paid a groundwater discharge permit fee a proportional amount of the fees collected in excess of $2,000,000.00. However, if a permit is no longer required by the permittee in the next fiscal year, the department shall do the following:

(a) If the credited amount is $50.00 or more, the department shall provide a refund to the permittee for the credited amount.

(b) If the credited amount is less than $50.00, the department shall provide a credit to the permittee for an annual groundwater discharge permit fee that may be required in a subsequent year.

History: Add. 2004, Act 114, Imd. Eff. May 21, 2004.

Popular name: Act 451

Popular name: NREPA

324.3123 Groundwater discharge permit fees; invoices; late payment; action by attorney general.

Sec. 3123. (1) The department shall send invoices for the groundwater discharge permit fees under section 3122 to all permit holders by January 15 of each year. Fees will be charged for all facilities authorized as of December 15 of each calendar year. Payment shall be postmarked no later than March 1 of each year. Failure by the department to send an invoice by the deadline, or failure of a person to receive an invoice, does not

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relieve that person of his or her obligation to pay the annual groundwater discharge permit fee. If the department does not meet the January 15 deadline for sending invoices, the annual groundwater discharge permit fee is due not later than 45 days after receiving an invoice. The department shall forward money collected pursuant to this section to the state treasurer for deposit into the groundwater discharge permit fund established under section 3124.

(2) The department shall assess a penalty on all fee payments submitted under this section after the due date. The penalty shall be an amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due. Failure to timely pay a fee imposed by this section is a violation of this part and is cause for revocation of a permit issued under this part and may subject the discharger to additional penalties pursuant to section 3115.

(3) The attorney general may bring an action for the collection of the groundwater discharge permit fees imposed under this section.

History: Add. 2004, Act 90, Imd. Eff. Apr. 22, 2004.

Popular name: Act 451

Popular name: NREPA

324.3124 Groundwater discharge permit fund.

Sec. 3124. (1) The groundwater discharge permit fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the groundwater discharge permit fund. The state treasurer shall direct the investment of the groundwater discharge permit fund.

(2) Money in the groundwater discharge permit fund at the close of the fiscal year shall remain in the groundwater discharge permit fund and shall not lapse to the general fund.

(3) The state treasurer shall credit to the groundwater discharge permit fund the interest and earnings from groundwater discharge permit fund investments.

(4) The department shall expend money from the groundwater discharge permit fund, upon appropriation, only to implement the department's groundwater discharge program under this part. However, in any state fiscal year, the department shall not expend more than $2,000,000.00 of money from the fund.

(5) By March 1 annually, the department shall prepare and submit to the governor, the legislature, the chair of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the activities during the previous fiscal year in administering the department's groundwater discharge program that were funded by the groundwater discharge permit fund. This report shall include, at a minimum, all of the following as they relate to the department:

(a) The number of full-time equated positions performing groundwater permitting, compliance, and enforcement activities.

(b) The number of applications received by the department, reported as the number of applications determined to be administratively incomplete and the number determined to be administratively complete.

(c) The number of applications for groundwater permits determined to be administratively complete for which a final action was taken by the department. The number of final actions shall be reported as the number of applications approved, the number of applications denied, and the number of applications withdrawn by the applicant.

(d) The percentage and number of applications determined to be administratively complete for which a final decision was made within the statutory time frame.

(e) The number of inspections conducted at groundwater facilities.

(f) The number of violation letters sent.

(g) The number of contested case hearings and civil actions initiated and completed, the number of voluntary consent orders and administrative orders entered or issued, and the amount of fines and penalties collected through such actions or orders.

(h) For each enforcement action that includes a penalty, a description of what corrective actions were required by the enforcement action.

(i) The number of groundwater complaints received, investigated, resolved, and not resolved by the department.

(j) The amount of revenue in the groundwater discharge permit fund at the end of the fiscal year.

History: Add. 2004, Act 90, Imd. Eff. Apr. 22, 2004.

Popular name: Act 451

Popular name: NREPA

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324.3131 Land application of sewage sludge and derivatives; rules; applicability to bulk biosolids or bulk derivative; definitions.

Sec. 3131. (1) By October 1, 1997, the department of environmental quality in consultation with the department of agriculture and rural development shall promulgate rules to manage the land application of sewage sludge and sewage sludge derivatives. The rules shall be consistent with the minimum requirements of 40 CFR part 503 but may impose requirements in addition to or more stringent than 40 CFR part 503 to protect public health or the environment from any adverse effect from a pollutant in sewage sludge or in a sewage sludge derivative. However, the rules shall require that if monitoring of sewage sludge or a sewage sludge derivative indicates a pollutant concentration in excess of that provided in table 3 of 40 CFR 503.13, monitoring frequency shall be increased to not less than twice that provided in table 1 of 40 CFR 503.16, until pollutant concentrations are at or below those provided in table 3 of 40 CFR 503.13. The rules shall require a sewage sludge generator or sewage sludge distributor to deliver to a county, city, village, or township a copy of any record required to be created under the rules pertaining to sewage sludge or a sewage sludge derivative applied to land in that local unit. The copy shall be delivered free of charge promptly after the record is created.

(2) Notwithstanding R 323.2407(3) of the Michigan administrative code, the requirements of R 323.2408 and R 323.2410 of the Michigan administrative code in effect on the effective date of the 2012 amendatory act that added this subsection, or subsequent revisions of those requirements, do not apply to bulk biosolids or a bulk derivative that is sold or given away if all of the following requirements are met:

(a) The material is finished compost or other material that has been demonstrated to be mature and stable and to present minimal vector attraction and potential to generate a nuisance.

(b) The material is of exceptional quality.

(c) The generator or distributor provides to the person receiving the material a written record that contains all of the following information:

(*i*) The name and address of the person who prepared the material.

(*ii*) General handling guidelines and recommended application rates.

(*iii*) A current monitoring summary of nitrogen, phosphorus, and potassium concentrations.

(d) The material is used beneficially for its nutrient value in accordance with the generator's approved residuals management program.

(e) The material is utilized only for landscaping uses at 1 or more of the following locations:

(*i*) A public park.

(*ii*) An athletic field.

(*iii*) A cemetery.

(*iv*) A plant nursery.

(*v*) A turf farm.

(*vi*) A golf course.

(*vii*) A lawn.

(*viii*) A home garden.

(*ix*) Any other location approved by the director of the department or his or her designee.

(3) The requirements of R 323.2413(2)(a) through (c) and (e) through (i) of the Michigan administrative code in effect on the effective date of the 2012 amendatory act that added this subsection do not apply to bulk biosolids or a bulk derivative of exceptional quality utilized for landscaping purposes.

(4) A person who generates bulk biosolids or a bulk derivative of exceptional quality for landscaping uses shall keep a record of quantities in excess of 20 cubic yards sold or given away in a single transaction and make the record available to the department for inspection and copying. The record shall include all of the following information:

(a) The name and address of the recipient.

(b) The quantity received.

(c) The signature or initials of the recipient.

(d) A general description of the intended use consistent with subsection (2)(e).

(5) As used in this section:

(a) All of the following mean those terms as defined in R 324.2402 of the Michigan administrative code:

(*i*) "Bulk biosolids".

(*ii*) "Derivative".

(*iii*) "Exceptional quality".

(*iv*) "Generator".

(*v*) "Residuals management program".

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(b) "Bulk derivative" means a derivative that is not sold or given away in a bag or other container for application to a lawn or home garden.

History: Add. 1997, Act 29, Imd. Eff. June 18, 1997;—Am. 2012, Act 563, Imd. Eff. Jan. 2, 2013.

Compiler's note: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

Popular name: Act 451

Popular name: NREPA

324.3132 Sewage sludge generators and sewage sludge distributors; fees; report; sewage sludge land application fund; local ordinance.

Sec. 3132. (1) Beginning in state fiscal year 1998, an annual sewage sludge land application fee is imposed upon sewage sludge generators and sewage sludge distributors. The sewage sludge land application fee shall be in an amount equal to the sum of an administrative fee and a generation fee. The administrative fee shall be $400.00 and the department shall set the generation fee as provided by subsection (2). The department shall set the generation fee so that the annual cumulative total of the sewage sludge land application fee to be paid in a state fiscal year is, as nearly as possible, $650,000.00 minus the amount in the fund created under subsection (5) carried forward from the prior state fiscal year. Starting with fees to be paid in state fiscal year 1999, the $650,000.00 amount shall be annually adjusted for inflation using the Detroit consumer price index.

(2) Each sewage sludge generator and sewage sludge distributor shall annually report to the department for each state fiscal year, beginning with the 1997 state fiscal year, the number of dry tons of sewage sludge it generated or the number of dry tons of sewage sludge in sewage sludge derivatives it distributed that were applied to land in that state fiscal year. The report is due 30 days after the end of the state fiscal year. By December 15 of each state fiscal year, the department shall determine the generation fee on a per dry ton basis by dividing the cumulative generation fee by the number of dry tons of sewage sludge applied to land or in sewage sludge derivatives applied to land in the immediately preceding state fiscal year. The department shall notify each sewage sludge generator and sewage sludge distributor of the generation fee on a per dry ton basis. Notwithstanding any other provision of this section, for the 1998 state fiscal year, the generation fee shall not exceed $4.00 per dry ton.

(3) By January 31 of each state fiscal year, each sewage sludge generator or sewage sludge distributor shall pay its sewage sludge land application fee. The sewage sludge generator or sewage sludge distributor shall determine the amount of its sewage sludge land application fee by multiplying the number of dry tons of sewage sludge that it reported under subsection (2) by the generation fee and adding the administrative fee.

(4) The department of environmental quality shall assess interest on all fee payments submitted under this section after the due date. The permittee shall pay an additional amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due. The failure by a person to timely pay a fee imposed by this section is a violation of this part.

(5) The sewage sludge land application fund is created in the state treasury. The department of environmental quality shall forward all fees collected under this section to the state treasurer for deposit into the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. An unexpended balance within the fund at the close of the state fiscal year shall be carried forward to the following state fiscal year. The fund shall be allocated solely for the administration of this section and sections 3131 and 3133, including, but not limited to, education of the farmers, sewage sludge generators, sewage sludge distributors, and the general public about land application of sewage sludge and sewage sludge derivatives and the requirements of this section and sections 3131 and 3133. The director of the department of environmental quality may contract with a nonprofit educational organization to administer the educational components of this section. Ten percent of the fund shall be allocated to the department of agriculture to provide persons involved in or affected by land application of sewage sludge or sewage sludge derivatives with education and technical assistance relating to land application of sewage sludge or sewage sludge derivatives.

(6) A local unit may enact, maintain, and enforce an ordinance that prohibits the land application of sewage sludge or a sewage sludge derivative if monitoring indicates a pollutant concentration in excess of that provided in table 1 of 40 C.F.R. 503.13 until subsequent monitoring indicates that pollutant concentrations do not exceed those provided in table 1 of 40 C.F.R. 503.13.

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History: Add. 1997, Act 29, Imd. Eff. June 18, 1997.

Popular name: Act 451

Popular name: NREPA

324.3133 Local ordinances, regulations, or resolutions; preemption; contracts with local units; enactment and enforcement of local standards; compliance with conditions of approval; submission of resolution by local unit to department; public meeting; issuance of opinion and approval by department.

Sec. 3133. (1) Except as otherwise provided in this section, sections 3131 and 3132 preempt a local ordinance, regulation, or resolution of a local unit that would duplicate, extend, revise, or conflict with section 3131 or 3132. Except as otherwise provided for in this section, a local unit shall not enact, maintain, or enforce an ordinance, regulation, or resolution that duplicates, extends, revises, or conflicts with section 3131 or 3132.

(2) The director of the department of environmental quality may contract with a local unit to act as its agent for the purpose of enforcing this section and sections 3131 and 3132. The department shall have sole authority to assess fees. If a local unit is under contract with the department of environmental quality to act as its agent or the local unit has received prior written authorization from the department, then the local unit may pass an ordinance that is identical to section 3132 and rules promulgated under section 3131, except as prohibited in subsection (4).

(3) A local unit may enact an ordinance prescribing standards in addition to or more stringent than those contained in section 3132 or in rules promulgated under section 3131 and which regulate a sewage sludge or sewage sludge derivative land application site under either or both of the following circumstances:

(a) The operation of a sewage sludge or sewage sludge derivative land application site within that local unit will result in unreasonable adverse effects on the environment or public health within the local unit. The determination that unreasonable adverse effects on the environment or public health will exist shall take into consideration specific populations whose health may be adversely affected within the local unit.

(b) The operation of a sewage sludge or sewage sludge derivative land application site within that local unit has resulted or will result in the local unit being in violation of other existing state laws or federal laws.

(4) An ordinance enacted pursuant to subsection (2) or (3) shall not conflict with existing state laws or federal laws. An ordinance enacted pursuant to subsection (3) shall not be enforced by a local unit until approved or conditionally approved by the director of the department of environmental quality under subsection (5). The local unit shall comply with any conditions of approval.

(5) If the legislative body of a local unit submits to the department of environmental quality a resolution identifying how the requirements of subsection (3)(a) or (b) are met, the department shall hold a public meeting in the local unit within 60 days after the submission of the resolution to assist the department in determining whether the requirements of subsection (3)(a) or (b) are met. Within 45 days after the public meeting, the department shall issue a detailed opinion on whether the requirements of subsection (3)(a) or (b) are met as identified by the resolution of the local unit and shall approve, conditionally approve, or disapprove the ordinance accordingly. If the department fails to satisfy the requirements of this subsection, the ordinance is considered to be approved.

History: Add. 1997, Act 29, Imd. Eff. June 18, 1997.

Popular name: Act 451

Popular name: NREPA

324.3134 Operator training and certification fund.

Sec. 3134. (1) The operator training and certification fund is created within the state treasury.

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

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

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, only to administer this part, part 41, and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, including all of the following:

(a) Licensing, examination, compliance assistance, education, training, and other certification activities directly related to this part, part 41, and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

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(b) Maintenance of program data.

(c) Development of program-related databases and software.

(d) Program administration activities.

(6) By January 1 of each year until January 1, 2017, the department shall prepare and submit to the governor, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the department's administration of the operator training and certification program under section 3110, section 4104, and section 9 of the safe drinking water act, 1976 PA 399, MCL 325.1009, in the previous fiscal year. This report shall include, at a minimum, all of the following as itemized for each operator training and certification program:

(a) The type and number of training programs offered by the department, including the total number of participants in each type of training program.

(b) The type and number of certification exams given.

(c) The type and number of certifications awarded.

(d) The amount of revenue in the fund at the end of the fiscal year.

History: Add. 2011, Act 148, Imd. Eff. Sept. 21, 2011.

Popular name: Act 451

Popular name: NREPA

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