

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

WILDLIFE CONSERVATION

PART 401

WILDLIFE CONSERVATION

**324.40101 Meanings of words and phrases.**

Sec. 40101. For purposes of this part, the words and phrases defined in sections 40102 to 40104 have the meanings ascribed to them in those sections.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.40102 Definitions; A to F.**

Sec. 40102. (1) "Animals" means wild birds and wild mammals.

(2) "Bag limit" means the number of animals that may be taken and possessed as determined by the department.

(3) "Bow" means a device for propelling an arrow from a string drawn, held, and released by hand where the force used to hold the string in the drawn position is provided by the archer's muscles.

(4) "Buy" or "sell" means an exchange or attempt or offer to exchange for money, barter, or anything of value.

(5) "Chase" means to follow animals with dogs or other wild or domestic animals trained for that purpose.

(6) "Cormorant damage" means adverse impacts of double-crested cormorants on fish, fish hatchery stock, wildlife, plants, and their habitats and on man-made structures.

(7) "Cormorant depredation order" means the depredation order for double-crested cormorants to protect public resources, 50 CFR 21.48, issued by the United States Department of the Interior, Fish and Wildlife Service.

(8) "Crossbow" means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire an arrow, bolt, or quarrel by the release of a bow string that is controlled by a mechanical or electric trigger and has a working safety and a draw weight of 100 pounds or greater.

(9) "Deer or elk feeding" means the depositing, distributing, or tending of feed in an area frequented by wild, free-ranging white-tailed deer or elk. Deer or elk feeding does not include any of the following:

(a) Feeding wild birds or other wildlife if done in such a manner as to exclude wild, free-ranging white-tailed deer and elk from gaining access to the feed.

(b) The scattering of feed solely as the result of normal logging practices or normal agricultural practices.

(c) The storage or use of feed for agricultural purposes if 1 or more of the following apply:

(i) The area is occupied by livestock actively consuming the feed on a daily basis.

(ii) The feed is covered to deter wild, free-ranging white-tailed deer or elk from gaining access to the feed.

(iii) The feed is in a storage facility that is consistent with normal agricultural practices.

(d) Baiting to take game as provided by an order of the commission under section 40113a.

(10) "Disability" means a determinable physical characteristic of an individual that may result from disease, injury, congenital condition of birth, or functional disorder.

(11) "Feed" means a substance composed of grain, mineral, salt, fruit, vegetable, hay, or any other food material or combination of these materials, whether natural or manufactured, that may attract white-tailed deer or elk. Feed does not include any of the following:

(a) Plantings for wildlife.

(b) Standing farm crops under normal agricultural practices.

(c) Agricultural commodities scattered solely as the result of normal agricultural practices.

(12) "Firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive. A pneumatic gun, as defined in section 1 of 1990 PA 319, MCL 123.1101, other than a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact, is also considered a firearm for the purpose of this act.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998;—Am. 1999, Act 66, Imd. Eff. June 25, 1999;—Am. 2000, Act 347, Imd. Eff. Dec. 28, 2000;—Am. 2007, Act 48, Imd. Eff. Aug. 3, 2007;—Am. 2015, Act 24, Eff. July 1, 2015.

**Popular name:** Act 451

Popular name: NREPA

**324.40103 Definitions; G to R; "conservation" defined.**

Sec. 40103. (1) "Game" means any species of wildlife designated by the legislature or the commission as game under section 40110 and any of the following animals but does not include privately owned cervidae species located on a cervidae livestock facility registered under the privately owned cervidae producers marketing act, 2000 PA 190, MCL 287.951 to 287.969:

- (a) Badger.
- (b) Bear.
- (c) Beaver.
- (d) Bobcat.
- (e) Brant.
- (f) Coot.
- (g) Coyote.
- (h) Crow.
- (i) Deer.
- (j) Duck.
- (k) Elk.
- (l) Fisher.
- (m) Florida gallinule.
- (n) Fox.
- (o) Geese.
- (p) Hare.
- (q) Hungarian partridge.
- (r) Marten.
- (s) Mink.
- (t) Moose.
- (u) Muskrat.
- (v) Opossum.
- (w) Otter.
- (x) Pheasant.
- (y) Quail.
- (z) Rabbit.
- (aa) Raccoon.
- (bb) Ruffed grouse.
- (cc) Sharptailed grouse.
- (dd) Skunk.
- (ee) Snipe.
- (ff) Sora rail.
- (gg) Squirrel.
- (hh) Virginia rail.
- (ii) Weasel.
- (jj) Wild turkey.
- (kk) Wolf.
- (ll) Woodchuck.
- (mm) Woodcock.

(2) "Interim order of the department" means an order of the department issued under section 40108.

(3) "Kind" means an animal's sex, age, or physical characteristics.

(4) "Normal agricultural practices" means generally accepted agricultural and management practices as defined by the commission of agriculture and rural development.

(5) "Open season" means the dates during which game may be legally taken.

(6) "Parts" means any or all portions of an animal, including the skin, plumage, hide, fur, entire body, or egg of an animal.

(7) "Protected" or "protected animal" means an animal or kind of animal that is designated by the department as an animal that shall not be taken.

(8) "Residence" means a permanent building serving as a temporary or permanent home. Residence may include a cottage, cabin, or mobile home, but does not include a structure designed primarily for taking game, a tree blind, a tent, a recreational or other vehicle, or a camper.

(9) "Conservation" means the wise use of natural resources.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998;—Am. 1999, Act 66, Imd. Eff. June 25, 1999;—Am. 2000, Act 191, Eff. June 1, 2001;—Am. 2012, Act 520, Imd. Eff. Dec. 28, 2012;—Am. 2013, Act 21, Imd. Eff. May 8, 2013;—Am. 2014, Act 281, Eff. Mar. 31, 2015;—Am. 2016, Act 382, Imd. Eff. Dec. 22, 2016.

**Compiler's note:** Act 160 of 2004, which was approved by the governor and filed with the secretary of state on June 18, 2004, provided for the amendment of Act 451 of 1994 by amending Sec. 40103 and adding Sec. 40110a. The amended and added sections were effective June 18, 2004. On March 28, 2005, a petition seeking a referendum on Act 160 of 2004 was filed with the Secretary of State. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 160 of 2004 was presented to the electors at the November 2006 general election as Proposal 06-3, which read as follows:

"PROPOSAL 06-3

"A REFERENDUM ON PUBLIC ACT 160 OF 2004 — AN ACT TO ALLOW THE ESTABLISHMENT OF A HUNTING SEASON FOR MOURNING DOVES

"Public Act 160 of 2004 would:

"Authorize the Natural Resources Commission to establish a hunting season for mourning doves.

"Require a mourning dove hunter to have a small game license and a \$2.00 mourning dove stamp.

"Stipulate that revenue from the stamp must be split evenly between the Game and Fish Protection Fund and the Fish and Wildlife Trust Fund.

"Require the Department of Natural Resources to address responsible mourning dove hunting; management practices for the propagation of mourning doves; and participation in mourning dove hunting by youth, the elderly and the disabled in the Department's annual hunting guide.

"Should this law be approved?

"Yes [ ]

"No [ ]"

Act 160 of 2004 was rejected by a majority of the electors voting thereon at the November 2006 general election.

Enacting section 1 of Act 281 of 2014 provides:

"Enacting section 1. This act reenacts all or portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108. If any portions of 2012 PA 520 or 2013 PA 21 or 2013 PA 22 or 2013 PA 108 not amended by this act are invalidated pursuant to referendum or any other reason, then any such invalidated portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108 which are otherwise included in this act, shall be deemed to be reenacted pursuant to this act."

Enacting section 2 of Act 281 of 2014 provides:

"Enacting section 2. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Public Act 281 of 2014 was proposed by initiative petition pursuant to Const 1963, art II, § 9. The initiative petition was approved by an affirmative vote of the majority of the Senate on August 13, 2014 and by the House of Representatives on August 27, 2014. The initiative petition was filed with the Secretary of State on August 27, 2014.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40104 Definitions; T, V.**

Sec. 40104. (1) "Take" means to hunt with any weapon, dog, raptor, or other wild or domestic animal trained for that purpose; kill; chase; follow; harass; harm; pursue; shoot; rob; trap; capture; or collect animals, or to attempt to engage in such an activity.

(2) "Transport" means to carry or ship animals within this state or to points outside this state.

(3) "Trap" means taking or attempting to take animals by means of a trap or other device designed to kill or capture animals.

(4) "Vehicle" means every device in, upon, or by which any person or property is or may be transported, except devices exclusively moved by human power.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40105 Animals as property of state; taking of animals to be regulated.**

Sec. 40105. All animals found in this state, whether resident or migratory and whether native or introduced, are the property of the people of the state, and the taking of all animals shall be regulated by the department as provided by law.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40106 Game or protected animal; taking, releasing, transporting, selling, buying, or possessing; construction of section.**

Sec. 40106. A person shall not take, release, transport, sell, buy, or have in his or her possession game or

any protected animal, whether living or dead, or parts of any game or protected animal, from this state or from outside of this state, except as provided for in this part or by an order of the department or an interim order of the department. This section does not enhance the department's powers to establish an open season for an animal that is not game or give the department the power to designate a species as game.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.40107 Management of animals; orders of department; procedures for exercising power; revision of order; filing orders to take place of former 1929 PA 286; filing and effective date of orders.**

Sec. 40107. (1) The department shall manage animals in this state. In managing animals, the department may issue orders to do all of the following:

(a) Make recommendations to the legislature regarding animals that should be added or deleted from the category of game.

(b) Determine the kinds of animals that may be taken.

(c) Determine the animals or kinds of animals that are protected.

(d) Except as otherwise provided in section 40110, establish open seasons for taking or possessing game.

(e) Establish lawful methods of taking game.

(f) Establish lawful methods of taking game for persons who have certain disabilities.

(g) Establish bag limits.

(h) Establish geographic areas within the state where certain regulations may apply to the taking of animals.

(i) Determine conditions under which permits may be issued by the department.

(j) Establish fees for the issuing of permits by the department.

(k) Regulate the hours during which animals may be taken.

(l) Require that a person involved in a chase of an animal have in his or her possession a valid license that would authorize the taking of the animal being chased.

(m) Establish conditions under which animals taken or possessed outside of this state may be imported into this state.

(n) Regulate the buying and selling of animals and parts of animals.

(o) Establish methods of taking animals that are primarily taken because of the value of their pelts, which methods supplement the lawful methods of taking such animals that exist on October 1, 1988.

(2) In exercising a power under this section, the department shall comply with the following procedures in a manner that assures adequate public notice, opportunity for public comment, and due regard for traditional methods and practices that were lawful prior to October 1, 1988:

(a) An order shall be prepared by the department after comments from department field personnel and interested persons have been solicited and considered.

(b) The order shall be on the department agenda for at least 1 month prior to its consideration.

(c) The department shall provide an opportunity for public comment on the order.

(d) Except as otherwise provided in this subdivision, the department prior to issuance of an order shall provide a copy of each order to each member of the senate and the house of representatives standing committees that consider legislation pertaining to conservation, environment, recreation, tourism, and natural resources. The members of the standing committees have 30 days to review and submit comments to the department regarding an order. This subdivision shall not apply to an order that does not alter the substance of a lawful provision that exists in the form of a statute, rule, regulation, or order at the time the order is prepared.

(e) The department shall approve, reject, or modify the order.

(3) The department may revise an order issued pursuant to this section, and any revision of such an order shall comply with the procedure set forth in subsection (2).

(4) Not later than January 1, 1990, the commission shall issue orders pursuant to subsection (1) and file orders with the secretary of state that the commission considers sufficient to take the place of former 1929 PA 286. The orders filed with the secretary of state pursuant to this subsection shall indicate that the orders become effective upon filing with the secretary of state. Following the effective date of this part, the department shall undertake all of the powers given to the commission in former 1988 PA 256.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998.

**Popular name:** Act 451

Popular name: NREPA

#### **324.40107a Repealed. 2003, Act 242, Eff. Jan. 4, 2009.**

Compiler's note: The repealed section pertained to raptors.

Popular name: Act 451

Popular name: NREPA

#### **324.40107b Taking of live raptors for use in falconry; order; establishment of season; scope of section.**

Sec. 40107b. (1) The department shall issue an order in the manner provided in section 40107(2) establishing a season or seasons for falconers to take live raptors for use in falconry. The order shall designate the numbers of raptors that may be taken and possessed and any other conditions pertaining to the taking and possession of raptors that the department considers advisable.

(2) This section does not, and an order issued under this section shall not, designate any species of raptor as game. This section does not prohibit the department from determining that any species of raptor is a protected animal.

History: Add. 2009, Act 36, Imd. Eff. June 4, 2009.

Popular name: Act 451

Popular name: NREPA

#### **324.40107c Control and management of double-crested cormorants; administration of program; organization of states; funds.**

Sec. 40107c. (1) To reduce cormorant damage, the department shall administer a program to control and manage double-crested cormorants. The department shall administer the program in cooperation with federal agencies and in a manner that complies with the cormorant depredation order.

(2) In consultation with the department of environmental quality, the department shall participate in a federally recognized organization of states, such as the Mississippi flyway council, to coordinate a regional effort to reduce cormorant damage that includes urging the federal government to do both of the following:

(a) Expand state options for double-crested cormorant control by revising the cormorant depredation order.

(b) Seek to amend the migratory bird convention with Mexico to designate the double-crested cormorant as a game species.

(3) The department shall seek funding from the Great Lakes protection fund authorized under part 331 for deposit in the cormorant control fund created in section 40107d.

History: Add. 2007, Act 47, Imd. Eff. Aug. 3, 2007.

Popular name: Act 451

Popular name: NREPA

#### **324.40107d Control and management of double-crested cormorants; administration of program; organization of states; funds.**

Sec. 40107d. (1) The cormorant control 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 implement section 40107c.

History: Add. 2007, Act 49, Imd. Eff. Aug. 3, 2007.

Popular name: Act 451

Popular name: NREPA

#### **324.40108 Interim orders.**

Sec. 40108. The department may modify an order issued under section 40107 by issuing an interim order consistent with federal regulations or when the department determines that animals are at risk of being depleted or extirpated, or the animal is threatening public safety or inflicting damage to horticulture, agriculture, or other property. The department shall publicize an interim order in a manner that ensures that interested persons are provided notice of the proposed interim order, the reasons for the requested

modifications, and the proposed effective date of the order. In addition, the department shall provide a copy of an interim order to each member of the senate and the house of representatives standing committees that consider legislation pertaining to conservation, environment, recreation, tourism, and natural resources. An interim order under this section shall be in effect for not longer than 6 months.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40109 Transportation of game; identification of sex and species; tagging; section inapplicable to skins, pelts, and hides.**

Sec. 40109. If game is transported, the sex and species of the game shall be readily identifiable unless the game is game that has been cleaned at a hunting preserve and tagged as required by law. If game is transported, it shall be tagged as required by law or a department order authorized under section 40107. This section does not apply to skins, pelts, or hides of game that is lawfully taken and legally possessed.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40109a Conduct in another state; prosecution, punishment, or penalty prohibited.**

Sec. 40109a. An individual shall not be prosecuted, punished, or penalized by this state for any of the following:

- (a) Lawfully taking game in another state.
- (b) Lawfully engaging in a hunt in another state.
- (c) Possessing game that was lawfully taken in another state or this state if that game is possessed in compliance with this act and with orders issued under this act.

**History:** Add. 2013, Act 111, Imd. Eff. Sept. 24, 2013.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40110 Designation of species as game; establishment of first open season; removal from list; orders; definitions.**

Sec. 40110. (1) Only the legislature or the commission may designate a wildlife species as game. Only the legislature or commission may establish the first open season for a game species designated under this section. The legislature retains the sole authority to remove a wildlife species from the list of game species. The commission shall exercise its authority under this subsection by issuing orders consistent with its duty to use principles of sound scientific wildlife management, as expressed in section 40113a. The commission may decline to issue orders authorizing an open season for a game species if doing so would conflict with principles of sound scientific wildlife management. The commission shall not designate any of the following as game under this subsection:

- (a) A domestic animal.
- (b) Livestock.
- (c) Any species added to the game list by a public act that is rejected by a referendum before May 14, 2013.

(2) After the legislature or commission authorizes the establishment of the first open season for game under this section, the department may issue orders pertaining to that animal for each of the purposes listed in section 40107.

(3) As used in this section:

- (a) "Domestic animal" means those species of animals that live under the husbandry of humans.
- (b) "Livestock" includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, and rabbits. Livestock does not include dogs and cats.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2013, Act 21, Imd. Eff. May 8, 2013;—Am. 2014, Act 281, Eff. Mar. 31, 2015;—Am. 2016, Act 382, Imd. Eff. Dec. 22, 2016.

**Compiler's note:** Enacting section 1 of Act 281 of 2014 provides:

"Enacting section 1. This act reenacts all or portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108. If any portions of 2012 PA 520 or 2013 PA 21 or 2013 PA 22 or 2013 PA 108 not amended by this act are invalidated pursuant to referendum or any other reason, then any such invalidated portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108 which are otherwise included in this act, shall be deemed to be reenacted pursuant to this act."

Enacting section 2 of Act 281 of 2014 provides:

"Enacting section 2. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Public Act 281 of 2014 was proposed by initiative petition pursuant to Const 1963, art II, § 9. The initiative petition was approved by an affirmative vote of the majority of the Senate on August 13, 2014 and by the House of Representatives on August 27, 2014. The initiative petition was filed with the Secretary of State on August 27, 2014.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40110a Open season for moose.**

Sec. 40110a. The legislature hereby authorizes the establishment of the first open season for moose. The commission may issue orders pertaining to moose for each of the purposes listed in section 40113a, including, but not limited to, orders establishing the first open season for moose.

**History:** Add. 2010, Act 366, Imd. Eff. Dec. 22, 2010.

**Compiler's note:** Act 160 of 2004, which was approved by the governor and filed with the secretary of state on June 18, 2004, provided for the amendment of Act 451 of 1994 by amending Sec. 40103 and adding Sec. 40110a. The amended and added sections were effective June 18, 2004. On March 28, 2005, a petition seeking a referendum on Act 160 of 2004 was filed with the Secretary of State. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 160 of 2004 was presented to the electors at the November 2006 general election as Proposal 06-3, which read as follows:

"PROPOSAL 06-3

"A REFERENDUM ON PUBLIC ACT 160 OF 2004 — AN ACT TO ALLOW THE ESTABLISHMENT OF A HUNTING SEASON FOR MOURNING DOVES

"Public Act 160 of 2004 would:

"Authorize the Natural Resources Commission to establish a hunting season for mourning doves.

"Require a mourning dove hunter to have a small game license and a \$2.00 mourning dove stamp.

"Stipulate that revenue from the stamp must be split evenly between the Game and Fish Protection Fund and the Fish and Wildlife Trust Fund.

"Require the Department of Natural Resources to address responsible mourning dove hunting; management practices for the propagation of mourning doves; and participation in mourning dove hunting by youth, the elderly and the disabled in the Department's annual hunting guide.

"Should this law be approved?

"Yes [ ]

"No [ ]"

Act 160 of 2004 was rejected by a majority of the electors voting thereon at the November 2006 general election.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40110b Legislative findings and declaration; establishment of first open season for wolf.**

Sec. 40110b. (1) The legislature finds and declares that:

(a) The wildlife populations of the state and their habitat are of paramount importance to the citizens of this state.

(b) The sound management of wolf populations in this state is necessary, including the use of hunting as a management tool, to minimize negative human and wolf encounters and to prevent wolves from threatening or harming humans, livestock, and pets.

(2) The legislature hereby authorizes the establishment of the first open season for wolf. The commission may issue orders under section 40113a establishing annual wolf hunting seasons throughout the state.

**History:** Add. 2012, Act 520, Imd. Eff. Dec. 28, 2012.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40111 Taking animal from in or upon vehicle; transporting or possessing firearm in or upon vehicle; person with disability; transporting or possessing unloaded firearm in or upon vehicle on sporting clays range; individual holding permit to hunt from standing vehicle; possessing and discharging firearm to take game from personal assistive mobility device; transporting or possessing bow or crossbow in or upon vehicle while on public land or highway, road, or street; written permission to hunt or discharge firearm within certain distance of property; definitions.**

Sec. 40111. (1) Except as otherwise provided in subsection (3) or (5), this part, or in a department order authorized under section 40107, an individual shall not take an animal from in or upon a vehicle.

(2) Except as otherwise provided in subsection (3), (4), or (5), this part, or in a department order authorized under section 40107, an individual shall not transport or possess a firearm in or upon a vehicle, unless the

firearm is unloaded and enclosed in a case, unloaded and carried in the trunk of a vehicle, or unloaded in a motorized boat.

(3) A person with a disability may transport or possess a firearm in or upon a vehicle, except for a car or truck, on a state licensed game bird hunting preserve if the firearm is unloaded and the vehicle is operated at a speed of not greater than 10 miles per hour. A person with a disability may possess a loaded firearm and may discharge that firearm to take an animal from in or upon a vehicle, except for a car or truck, on a state licensed game bird hunting preserve if the vehicle is not moving. The department may demand proof of eligibility under this subsection. An individual shall possess proof of his or her eligibility under this subsection and furnish the proof upon the request of a peace officer.

(4) An individual may transport or possess an unloaded firearm in or upon a vehicle on a sporting clays range.

(5) An individual holding a valid permit to hunt from a standing vehicle under section 40114 may transport or possess an uncased firearm with a loaded magazine on a personal assistive mobility device if the action is open. An individual holding a valid permit to hunt from a standing vehicle under section 40114 may possess a loaded firearm and may discharge that firearm to take game from a personal assistive mobility device if each of the following applies:

(a) The personal assistive mobility device is not moving.

(b) The individual holds a valid base license under section 43523a, holds any other necessary license under part 435, and complies with all other laws and rules for the taking of game.

(6) Except as otherwise provided in this part, an individual shall not transport or possess a bow or crossbow in or upon a vehicle while that vehicle is operated on public land or on a highway, road, or street in this state, unless the bow or crossbow is unstrung, enclosed in a case, or carried in the trunk of a vehicle.

(7) An individual shall not hunt with a firearm within 150 yards of an occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation, without obtaining the written permission of the owner, renter, or occupant of the property.

(8) As used in this section:

(a) "Person with a disability" means a disabled person as that term is defined in section 19a of the Michigan vehicle code, 1949 PA 300, MCL 257.19a, and who is in possession of 1 of the following:

(i) A certificate of identification or windshield placard issued to a disabled person under section 675 of the Michigan vehicle code, 1949 PA 300, MCL 257.675.

(ii) A special registration plate issued to a disabled person under section 803d of the Michigan vehicle code, 1949 PA 300, MCL 257.803d.

(b) "Personal assistive mobility device" means any device, including, but not limited to, one that is battery-powered, that is designed solely for use by an individual with mobility impairment for locomotion and is considered an extension of the individual.

(c) "Unloaded" means that the firearm does not have ammunition in the barrel, chamber, cylinder, clip, or magazine when the barrel, chamber, cylinder, clip, or magazine is part of or attached to the firearm.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2012, Act 246, Imd. Eff. July 2, 2012;—Am. 2012, Act 340, Imd. Eff. Oct. 16, 2012;—Am. 2015, Act 24, Eff. July 1, 2015;—Am. 2015, Act 185, Eff. Jan. 1, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40111a Deer and elk feeding; order; definition.**

Sec. 40111a. (1) The commission, after consultation with the commission of agriculture and rural development, shall issue in the manner provided in section 40113a an order concerning deer and elk feeding in this state.

(2) As used in this section, "deer and elk feeding" means the depositing, distributing, or tending of feed in an area frequented by wild, free-ranging white-tailed deer and elk to prevent them from starving or for recreational viewing. Deer and elk feeding does not include any of the following:

(a) Baiting to take game as provided by an order of the commission under section 40113a.

(b) The scattering of feed solely as the result of normal logging practices or normal agricultural practices.

(c) The storage or use of feed for agricultural purposes if 1 or more of the following apply:

(i) The area is occupied by livestock actively consuming the feed on a daily basis.

(ii) The feed is covered to deter wild, free-ranging white-tailed deer and elk from gaining access to the feed or is being used on a daily basis.

(iii) The feed is in a storage facility or is stored in a manner that is consistent with normal agricultural practices.

(d) Feeding wild birds or other wildlife if done in such a manner as to exclude wild, free-ranging

white-tailed deer and elk from gaining access to the feed.

**History:** Add. 1999, Act 66, Imd. Eff. June 25, 1999;—Am. 2004, Act 537, Imd. Eff. Jan. 3, 2005;—Am. 2009, Act 199, Imd. Eff. Dec. 29, 2009;—Am. 2015, Act 265, Imd. Eff. Dec. 23, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

**324.40111c Use of tranquilizer propelled from bow or firearm; use of unmanned vehicle or device; prohibitions.**

Sec. 40111c. (1) A person other than the department shall not take game using a tranquilizer propelled from a bow or firearm.

(2) An individual shall not take game or fish using an unmanned vehicle or unmanned device that uses aerodynamic forces to achieve flight or using an unmanned vehicle or unmanned device that operates on the surface of water or underwater.

**History:** Add. 2008, Act 301, Imd. Eff. Nov. 13, 2008;—Am. 2015, Act 13, Eff. July 13, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

**324.40112 Obstructing or interfering in lawful taking of animals or fish; prohibited conduct; petition; injunction; violation as misdemeanor; penalties; section inapplicable to peace officer.**

Sec. 40112. (1) An individual shall not obstruct or interfere in the lawful taking of animals or fish by another individual.

(2) An individual violates this section when the individual intentionally or knowingly does any of the following:

(a) Drives or disturbs animals or fish for the purpose of disrupting a lawful taking.

(b) Blocks, impedes, or harasses another individual who is engaged in the process of lawfully taking an animal or fish.

(c) Uses a natural or artificial visual, aural, olfactory, gustatory, or physical stimulus or an unmanned vehicle or unmanned device that uses aerodynamic forces to achieve flight or that operates on the surface of the water or underwater, to affect animal or fish behavior in order to hinder or prevent the lawful taking of an animal or a fish.

(d) Erects barriers to deny ingress or egress to areas where the lawful taking of animals or fish may occur. This subdivision does not apply to an individual who erects barriers to prevent trespassing on his or her property.

(e) Interjects himself or herself into the line of fire of an individual lawfully taking wildlife.

(f) Affects the condition or placement of personal or public property intended for use in the lawful taking of an animal or a fish in order to impair the usefulness of the property or prevent the use of the property.

(g) Enters or remains upon private lands without the permission of the owner or the owner's agent, for the purpose of violating this section.

(h) Engages in any other act or behavior for the purpose of violating this section.

(3) Upon petition of an aggrieved person or an individual who reasonably may be aggrieved by a violation of this section, a court of competent jurisdiction, upon a showing that an individual was engaged in and threatens to continue to engage in illegal conduct under this section, may enjoin that conduct.

(4) An individual who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$500.00 or more than \$1,000.00, or both, and the costs of prosecution. An individual who violates this section a second or subsequent time is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than \$1,000.00 or more than \$2,500.00, or both, and the costs of prosecution. In addition to the penalties provided for in this subsection, any permit or license issued by the department authorizing the individual to take animals or fish shall be revoked. A prosecution under this section does not preclude prosecution or other action under any other criminal or civil statute.

(5) This section does not apply to a peace officer while the peace officer performs his or her lawful duties.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 316, Eff. July 1, 1996;—Am. 2015, Act 12, Eff. July 13, 2015

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40113 Artificial light.**

Sec. 40113. (1) Except as otherwise provided in a department order authorized under section 40107 for a specified animal, a person shall not use an artificial light in taking game or in an area frequented by animals; throw or cast the rays of a spotlight, headlight, or other artificial light in a field, woodland, or forest while having a bow or firearm or other weapon capable of shooting a projectile in the person's possession or under the person's control unless otherwise permitted by law. A licensed hunter may use an artificial light 1 hour before and 1 hour after shooting hours while in possession of any unloaded firearm or bow and traveling afoot to and from the licensed hunter's hunting location.

(2) Except as otherwise provided in a department order authorized under section 40107, a person shall not throw, cast, or cause to be thrown or cast, the rays of an artificial light from December 1 to October 31 between the hours of 11 p.m. and 6 a.m. for the purpose of locating animals. Except as otherwise permitted by law or an order of the department, from November 1 to November 30, a person shall not throw, cast, or cause to be thrown or cast, the rays of a spotlight, headlight, or other artificial light for the purpose of locating animals. This subsection does not apply to any of the following:

- (a) A peace officer while in the performance of the officer's duties.
- (b) A person operating an emergency vehicle in an emergency.
- (c) An employee of a public or private utility while working in the scope of his or her employment.
- (d) A person operating a vehicle with headlights in a lawful manner upon a street, highway, or roadway.
- (e) A person using an artificial light to identify a house or mailbox number.
- (f) The use of artificial lights used to conduct a census by the department.

(g) A person using an artificial light from November 1 to November 30 on property that is owned by that person or by a member of that person's immediate family.

(3) The operator of a vehicle from which the rays of an artificial light have been cast in a clear attempt to locate game shall immediately stop the vehicle upon the request of a uniformed peace officer or when signaled by a peace officer with a flashing signal light or siren from a marked patrol vehicle.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40113a Legislative findings and declarations; taking of game; issuance of orders; right to hunt, fish, and take game.**

Sec. 40113a. (1) The legislature finds and declares that:

(a) The fish and wildlife populations of the state and their habitat are of paramount importance to the citizens of this state.

(b) The conservation of fish and wildlife populations of the state depend upon the wise use and sound scientific management of the state's natural resources.

(c) The sound scientific management of the fish and wildlife populations of the state, including hunting of bear, is declared to be in the public interest.

(d) The sound scientific management of bear populations in this state is necessary to minimize human/bear encounters and to prevent bears from threatening or harming humans, livestock, and pets.

(2) The commission has the exclusive authority to regulate the taking of game as defined in section 40103 in this state. The commission shall, to the greatest extent practicable, utilize principles of sound scientific management in making decisions regarding the taking of game. The commission may take testimony from department personnel, independent experts, and others, and review scientific literature and data, among other sources, in support of its duty to use principles of sound scientific management. The commission shall issue orders regarding the taking of game following a public meeting and an opportunity for public input. Not less than 30 days before issuing an order, the commission shall provide a copy of the order to each of the following:

(a) Each member of each standing committee of the senate or house of representatives that considers legislation pertaining to conservation, the environment, natural resources, recreation, tourism, or agriculture.

(b) The chairperson of the senate appropriations committee and the chairperson of the house of representatives appropriations committee.

(c) The members of the subcommittee of the senate appropriations committee and the subcommittee of the house of representatives appropriations committee that consider the budget of the department of natural resources.

(3) The legislature declares that hunting, fishing, and the taking of game are a valued part of the cultural heritage of this state and should be forever preserved. The legislature further declares that these activities play

an important part in the state's economy and in the conservation, preservation, and management of the state's natural resources. Therefore, the legislature declares that the citizens of this state have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by subsection (2) and law.

**History:** Add. 1996, Act 377, Eff. Dec. 5, 1996;—Am. 1997, Act 19, Imd. Eff. June 12, 1997;—Am. 2013, Act 21, Imd. Eff. May 8, 2013;—Am. 2013, Act 22, Imd. Eff. May 8, 2013;—Am. 2014, Act 281, Eff. Mar. 31, 2015;—Am. 2016, Act 382, Imd. Eff. Dec. 22, 2016.

**Compiler's note:** This section, as added by Act 377 of 1996, was submitted to, and approved by, the electors of the state at the general election held on November 5, 1996.

Enacting section 1 of Act 281 of 2014 provides:

"Enacting section 1. This act reenacts all or portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108. If any portions of 2012 PA 520 or 2013 PA 21 or 2013 PA 22 or 2013 PA 108 not amended by this act are invalidated pursuant to referendum or any other reason, then any such invalidated portions of 2012 PA 520, 2013 PA 21, 2013 PA 22 and 2013 PA 108 which are otherwise included in this act, shall be deemed to be reenacted pursuant to this act."

Enacting section 2 of Act 281 of 2014 provides:

"Enacting section 2. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Public Act 281 of 2014 was proposed by initiative petition pursuant to Const 1963, art II, § 9. The initiative petition was approved by an affirmative vote of the majority of the Senate on August 13, 2014 and by the House of Representatives on August 27, 2014. The initiative petition was filed with the Secretary of State on August 27, 2014.

**Popular name:** Act 451

**Popular name:** NREPA

\*\*\*\*\* 324.40114 THIS SECTION IS AMENDED EFFECTIVE MARCH 29, 2017: See 324.40114.amended  
\*\*\*\*\*

**324.40114 Permits and licenses; issuance to individual who is paraplegic, amputee, or permanently disabled; taking of game with modified bow; permits for additional activities; suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of permit; disposition of fees; report; "cub bear" defined.**

Sec. 40114. (1) The department may issue a permit to an individual who is unable to walk because the individual is a paraplegic or an amputee or because of a disease or injury that has rendered the individual permanently disabled. A permit issued under this subsection authorizes the individual to take game during the open season for that game, including deer of either sex, from or upon a standing vehicle if that individual holds a license to take that game issued under part 435 and complies with all other laws and rules for the taking of game.

(2) The department may issue a permit to an individual who is permanently disabled, who has full use of only 1 arm, and who upon investigation is unable to hold, aim, and shoot a bow. A permit issued under this subsection authorizes the individual to take game during the open season for that game with a bow that has been modified so that the bow may be held, aimed, and shot with 1 arm, if that individual holds a license to take that game issued under part 435 and complies with all other laws and rules for the taking of game.

(3) The commission may issue an order under section 40113a regulating the taking of game with a modified bow that may be shot with 1 arm. Subsection (2) does not apply on or after the effective date of such an order.

(4) In addition, the department may issue permits authorizing 1 or more of the following:

(a) The taking or possession of animals for the purpose of rehabilitating animals.

(b) The taking of animals to prevent or control damage and nuisance caused by the animals subject to the following:

(i) Except during an open season for deer, deer may be taken under this subdivision if the department determines that deer have caused damage to emerging, standing, or harvested crops or to feed properly stored in accordance with normal agricultural practices. If the department receives a request for a permit issued under this subdivision, the department shall, within 5 business days after receiving the request, determine whether a permit should be issued. If the department determines that a permit should not be issued under this subdivision, the department shall deny the request in writing within 10 business days after receiving the request. In denying the request for a permit, the department shall advise the applicant on other techniques for controlling or preventing damage caused by deer.

(ii) A permittee under a deer damage shooting permit may designate not more than 15 authorized shooters to implement the provisions of the permit unless the department authorizes otherwise.

(iii) Except during an open season for bear, bear may be taken under this subdivision if the department determines that bear have caused damage to emerging, standing, or harvested crops or to feed properly stored

in accordance with normal agricultural practices. If the department receives a request for a permit issued under this subdivision, the department shall, within 4 days after receiving the request, respond to a request and evaluate whether a permit should be issued. The department may, within 10 days after responding to a request for a permit, attempt or recommend that the applicant attempt other methods for controlling or preventing damage caused by bear, if the applicant is not required to pay for those methods. Within 10 days after responding to a request for a permit, the department shall grant or deny the request in writing. In denying the request for a permit, the department shall advise the applicant on other techniques for controlling or preventing damage caused by bear. A permittee under a bear damage shooting permit may allow only an individual with a bear hunting license issued under section 43528 for that bear management unit and calendar year to implement the provisions of this subdivision. If an individual takes a bear under this subdivision, that individual shall not take another bear under a bear hunting license issued under section 43528 during that calendar year. An individual implementing this section is subject to the rules and regulations for a bear hunting license issued under section 43528 except that individuals shall not use bait to take a bear under this subdivision. An individual shall not take a cub bear or a female bear accompanied by a cub bear under this subdivision. Except as otherwise provided in this subdivision, the department shall not allow more than 5% of the bear hunting licenses issued for a bear management unit to be used to implement the provisions of this subdivision. In a bear management unit that offers fewer than 20 licenses, the department may allow 1 of those bear hunting licenses to be used to implement the provisions of this section. If an individual takes a bear under this subdivision, that individual shall register that bear at a field office of the department within 72 hours of taking the bear.

(c) The collection, transportation, possession, or disposition of animals and parts of animals for scientific purposes.

(d) The public exhibition of animals.

(e) Taxidermy.

(f) The disposition of accidentally or unlawfully taken or injured animals or animals that are unlawfully possessed.

(g) The taking of game with a crossbow by an individual who is permanently or temporarily disabled.

(h) The taking or possession of raptors for the purposes of falconry.

(5) A permit issued under this section may be suspended, revoked, annulled, withdrawn, recalled, canceled, or amended pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the holder of a permit is convicted of violating the permit or this section, his or her permit or license may be revoked and any animal and the parts of any animal in his or her possession shall be disposed of in a manner approved by the department.

(6) Fees received for permits and licenses issued under this section shall be forwarded by the department to the state treasurer to be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

(7) Within 3 years after the effective date of the amendatory act that added subsection (4)(b)(iii), the department shall issue a report in electronic form to each member of the legislature that includes all of the following:

(a) The number of bear damage shooting permits issued under subsection (4)(b)(iii).

(b) The number of bears taken under subsection (4)(b)(iii).

(c) Any recommendations for changes to the bear damage shooting permits under subsection (4)(b)(iii).

(8) As used in this section, "cub bear" means a bear that is less than 1 year of age.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2008, Act 169, Imd. Eff. July 2, 2008;—Am. 2009, Act 109, Imd. Eff. Oct. 1, 2009;—Am. 2010, Act 87, Imd. Eff. May 27, 2010;—Am. 2012, Act 65, Imd. Eff. Mar. 27, 2012;—Am. 2014, Act 407, Eff. Mar. 30, 2015.

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

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

\*\*\*\*\* 324.40114.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 29, 2017 \*\*\*\*\*

**324.40114.amended Permits or licenses; issuance to individual who is paraplegic, amputee, or permanently disabled; taking of game with modified bow; permits for additional activities; activities not considered hunting; suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of permit; disposition of fees; report; "cub**

**bear" defined.**

Sec. 40114. (1) The department may issue a permit to an individual who is unable to walk because the individual is a paraplegic or an amputee or because of a disease or injury that has rendered the individual permanently disabled. A permit issued under this subsection authorizes the individual to take game during the open season for that game, including deer of either sex, from or upon a standing vehicle if that individual holds a license to take that game issued under part 435 and complies with all other laws and rules for the taking of game.

(2) The department may issue a permit to an individual who is permanently disabled, who has full use of only 1 arm, and who upon investigation is unable to hold, aim, and shoot a bow. A permit issued under this subsection authorizes the individual to take game during the open season for that game with a bow that has been modified so that the bow may be held, aimed, and shot with 1 arm, if that individual holds a license to take that game issued under part 435 and complies with all other laws and rules for the taking of game.

(3) The commission may issue an order under section 40113a regulating the taking of game with a modified bow that may be shot with 1 arm. Subsection (2) does not apply on or after the effective date of such an order.

(4) In addition, the department may issue permits authorizing 1 or more of the following:

(a) The taking or possession of animals for the purpose of rehabilitating animals.

(b) The taking of animals to prevent or control damage to crops or feed, disease, or nuisance caused by the animals. The taking of animals to prevent or control damage to crops or feed is subject to the following:

(i) Except during an open season for deer, deer may be taken under this subdivision if the department determines that deer have caused damage to emerging, standing, or harvested crops or to feed properly stored in accordance with normal agricultural practices. If the department receives a request for a permit issued under this subdivision, the department shall, within 5 business days after receiving the request, determine whether a permit should be issued. If the department determines that a permit should not be issued under this subdivision, the department shall deny the request in writing within 10 business days after receiving the request. In denying the request for a permit, the department shall advise the applicant on other techniques for controlling or preventing damage caused by deer.

(ii) A permittee under a deer damage shooting permit may designate not more than 15 authorized shooters to implement the provisions of the permit unless the department authorizes otherwise.

(iii) Except during an open season for bear, bear may be taken under this subdivision if the department determines that bear have caused damage to emerging, standing, or harvested crops or to feed properly stored in accordance with normal agricultural practices. If the department receives a request for a permit issued under this subdivision, the department shall, within 4 days after receiving the request, respond to a request and evaluate whether a permit should be issued. The department may, within 10 days after responding to a request for a permit, attempt or recommend that the applicant attempt other methods for controlling or preventing damage caused by bear, if the applicant is not required to pay for those methods. Within 10 days after responding to a request for a permit, the department shall grant or deny the request in writing. In denying the request for a permit, the department shall advise the applicant on other techniques for controlling or preventing damage caused by bear. A permittee under a bear damage shooting permit may allow only an individual with a bear hunting license issued under section 43528 for that bear management unit and calendar year to implement the provisions of this subdivision. If an individual takes a bear under this subdivision, that individual shall not take another bear under a bear hunting license issued under section 43528 during that calendar year. An individual implementing this section is subject to the rules and regulations for a bear hunting license issued under section 43528 except that individuals shall not use bait to take a bear under this subdivision. An individual shall not take a cub bear or a female bear accompanied by a cub bear under this subdivision. Except as otherwise provided in this subdivision, the department shall not allow more than 5% of the bear hunting licenses issued for a bear management unit to be used to implement the provisions of this subdivision. In a bear management unit that offers fewer than 20 licenses, the department may allow 1 of those bear hunting licenses to be used to implement the provisions of this section. If an individual takes a bear under this subdivision, that individual shall register that bear at a field office of the department within 72 hours of taking the bear.

(c) The collection, transportation, possession, or disposition of animals and parts of animals for scientific purposes.

(d) The public exhibition of animals.

(e) Taxidermy.

(f) The disposition of accidentally or unlawfully taken or injured animals or animals that are unlawfully possessed.

(g) The taking of game with a crossbow by an individual who is permanently or temporarily disabled.  
(h) The taking or possession of raptors for the purposes of falconry.  
(5) The taking of animals pursuant to a permit issued under subsection (4)(a), (b), (c), (d), (e), (f), and (h) is not considered hunting.

(6) A permit issued under this section may be suspended, revoked, annulled, withdrawn, recalled, canceled, or amended pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the holder of a permit is convicted of violating the permit or this section, his or her permit or license may be revoked and any animal and the parts of any animal in his or her possession shall be disposed of in a manner approved by the department.

(7) Fees received for permits and licenses issued under this section shall be forwarded by the department to the state treasurer to be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

(8) By March 30, 2018, the department shall issue a report in electronic form to each member of the legislature that includes all of the following:

- (a) The number of bear damage shooting permits issued under subsection (4)(b)(iii).
- (b) The number of bears taken under subsection (4)(b)(iii).
- (c) Any recommendations for changes to the bear damage shooting permits under subsection (4)(b)(iii).
- (9) As used in this section, "cub bear" means a bear that is less than 1 year of age.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2008, Act 169, Imd. Eff. July 2, 2008;—Am. 2009, Act 109, Imd. Eff. Oct. 1, 2009;—Am. 2010, Act 87, Imd. Eff. May 27, 2010;—Am. 2012, Act 65, Imd. Eff. Mar. 27, 2012;—Am. 2014, Act 407, Eff. Mar. 30, 2015;—Am. 2016, Act 356, Eff. Mar. 29, 2017.

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

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40115 Possession of certain game killed in collision with motor vehicle.**

Sec. 40115. (1) Subject to subsections (9) and (10), an individual may possess game, other than badger, bobcat, brant, coot, crow, cub bear, duck, elk, fisher, Florida gallinule, geese, marten, moose, otter, snipe, sora rail, spotted fawn deer, Virginia rail, wild turkey, wolf, and woodcock, that is either killed by, or injured and euthanized as allowed under law following, a collision with a motor vehicle. The driver of the motor vehicle has first priority to take possession of the game.

(2) An individual in possession of deer under subsection (1) shall do 1 of the following:

- (a) Obtain a salvage tag under subsection (8).
- (b) Promptly notify the department or a local law enforcement agency of his or her intent to maintain possession of the game under subsection (1) by telephone or on the department's website.
- (c) If the individual is the driver of the motor vehicle involved in the collision and as a result of that collision is calling 9-1-1 to report the collision, the individual must state his or her intent to maintain possession of the game under subsection (1).

(3) An individual in possession of beaver, coyote, fox, mink, muskrat, opossum, raccoon, skunk, weasel, or small game under subsection (1) shall prepare a written record with all of the following information:

- (a) The date and time the individual took possession of the game.
- (b) The location where the possession of the game occurred.
- (c) The type of game the individual seeks to possess.
- (d) Whether the individual has requested a salvage tag under subsection (8).
- (e) The individual's full name, including middle initial, date of birth, mailing address, telephone number, and driver license number.
- (f) The intended purpose for obtaining possession of the game, including, but not limited to, human consumption, bait, or other uses.

(4) An individual in possession of bear under subsection (1) shall obtain a salvage tag for that bear under subsection (8).

(5) If an individual notifies 9-1-1, the department, or a local law enforcement agency under subsection (2) of his or her intent to legally maintain possession of the game under subsection (1), that individual shall provide 9-1-1, the department, or the local law enforcement agency with the following information:

- (a) The date and time the individual took possession of the game.
- (b) The location where the possession of the game occurred.
- (c) The type of game the individual seeks to possess. If the game is a deer, identify whether the deer is an

antlered deer or antlerless deer. If it is an antlered deer, identify the number of antler points.

(d) Whether the individual has requested a salvage tag under subsection (8).

(e) The individual's full name, including middle initial, date of birth, mailing address, telephone number, and driver license number.

(f) The intended purpose for obtaining possession of the game, including, but not limited to, human consumption, bait, or other uses.

(6) For beaver, coyote, fox, mink, muskrat, opossum, raccoon, skunk, weasel, and small game, an individual shall maintain the written record prepared under subsection (3) until the individual obtains a salvage tag under subsection (8) or until the game and its parts are consumed, are composted, or are no longer possessed by any person. The record shall be kept at the location where the game or its parts are kept. The individual shall exhibit the record upon request of a law enforcement officer.

(7) An individual in possession of game under subsection (1) who has obtained a salvage tag under subsection (2), (4), or (8) shall upon the request of a conservation officer or peace officer produce the salvage tag. Immediately following the issuance of a salvage tag, an individual possessing game shall securely attach the salvage tag to the game. The salvage tag shall remain attached until the game is processed, butchered for consumption, or delivered to a business for the purpose of taxidermy or tanning. If the game is used for bait, the salvage tag may be removed, but the individual possessing that game shall produce the salvage tag if requested by a conservation officer or peace officer.

(8) The department shall promptly issue a salvage tag if requested by an individual in possession of game under subsection (1).

(9) The director may immediately suspend all salvage mechanisms for disease-affected areas by issuing an order based on sound science to address disease control. The department shall provide public notice of that order and notify the legislative committees with primary oversight of natural resources before issuing that order. The director shall revoke the suspension after the department verifies the absence of the identified disease in the affected area. The department shall provide public notice of the suspension and of the revocation of the suspension by posting notice on the department's website and at department offices throughout the disease-affected areas.

(10) This section does not apply to an individual who intentionally uses a motor vehicle to kill or injure game.

(11) The department shall annually issue a report in electronic form to each member of the legislature that includes all of the following:

(a) The number of salvage tags issued under subsection (8).

(b) The number of animals reported to the department under subsection (2)(b).

(c) If available, the number of animals reported to local law enforcement agencies or 9-1-1 under subsection (2)(b) and (c).

**History:** Add. 2014, Act 255, Eff. Sept. 28, 2014.

**Compiler's note:** Former MCL 324.40115, which pertained to issuance of permit to person with a disability, was repealed by Act 347 of 2000, Eff. July 1, 2000.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40116 Hunter orange or other authorized color; exceptions; noncompliance not as evidence of contributory negligence; review and determination by commission; "hunter orange" and "hunter pink" defined.**

Sec. 40116. (1) An individual shall not take game during the established daylight shooting hours from August 15 through April 30 unless the individual wears a cap, hat, vest, jacket, or rain gear of hunter orange or a color authorized by the commission under subsection (4). Hunter orange or a color authorized by the commission under subsection (4) includes camouflage that is not less than 50% hunter orange or a color authorized by the commission under subsection (4). The garments that are hunter orange or a color authorized by the commission under subsection (4) must be the hunter's outermost garment and be visible from all sides of the hunter.

(2) Subsection (1) does not apply to an individual engaged in the taking of deer with a bow or crossbow during archery deer season, an individual taking bear with a bow or crossbow, an individual engaged in the taking of turkey or migratory birds other than woodcock, an individual engaged in the sport of falconry, or an individual who is stationary and in the act of hunting bobcat, coyote, or fox.

(3) The failure of an individual to comply with this section is not evidence of contributory negligence in a civil action for injury to the individual or for the individual's wrongful death.

(4) The commission shall review and determine whether hunter pink or any additional colors are effective

and safe for individuals to wear while hunting. By October 1, 2017, the commission shall issue an order under section 40113a authorizing what additional garment colors may be worn under subsection (1) based on the determination made by the commission under this subsection.

(5) As used in this section:

(a) "Hunter orange" means the highly visible color commonly referred to as hunter orange and includes blaze orange, flame orange, and fluorescent blaze orange.

(b) "Hunter pink" means the highly visible color commonly referred to as hunter pink and includes blaze pink, flame pink, and fluorescent blaze pink.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 154, Imd. Eff. Apr. 3, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2009, Act 65, Imd. Eff. July 2, 2009;—Am. 2016, Act 377, Imd. Eff. Dec. 22, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40117 Possession of parts of animal as prima facie evidence of violation.**

Sec. 40117. In a prosecution for a violation of this part or an order or interim order issued under this part, the possession of the parts of any game or protected animal, except when the taking is permitted by this part, is prima facie evidence that the animal was taken in violation of this part by the person possessing the animal.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2000, Act 347, Imd. Eff. Dec. 28, 2000.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40118 Violation as misdemeanor; penalty.**

Sec. 40118. (1) An individual who violates this part, an order or interim order issued under this part, or a condition of a permit issued under this part, except for a violation specified in subsections (2) to (17), is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than \$50.00 or more than \$500.00, or both, and the costs of prosecution. In addition, a permit issued by the department under this part shall be revoked pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of any game, except deer, bear, wild turkey, wolf, waterfowl, moose, or elk, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than \$100.00 or more than \$1,000.00, or both, and the costs of prosecution.

(3) Except as otherwise provided in this subsection, an individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of deer, bear, wild turkey, or wolf is guilty of a misdemeanor and shall be punished by imprisonment for not less than 5 days or more than 90 days, and a fine of not less than \$200.00 or more than \$1,000.00, and the costs of prosecution. An individual shall not be punished under this subsection for lawfully removing, capturing, or destroying a wolf under 2008 PA 290, MCL 324.95151 to 324.95155, or 2008 PA 318, MCL 324.95161 to 324.95167.

(4) An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of elk is guilty of a misdemeanor punishable by imprisonment for not less than 30 days or more than 180 days, or a fine of not less than \$500.00 or more than \$2,000.00, or both, and the costs of prosecution.

(5) An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of moose is guilty of a misdemeanor and shall be punished by imprisonment for not less than 90 days or more than 1 year and a fine of not less than \$1,000.00 or more than \$5,000.00, and the costs of prosecution.

(6) An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of waterfowl is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$500.00, or both, and the costs of prosecution. An individual who violates a provision of this part or an order or interim order issued under this part regarding the possession or taking of waterfowl a second or subsequent time is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of \$500.00, or both, and the costs of prosecution.

(7) An individual sentenced under subsection (3), (14), or (15) shall not secure or possess a license of any kind to hunt during the remainder of the year in which convicted and the next 3 succeeding calendar years. An individual sentenced under subsection (11) shall not secure or possess a license to hunt during the remainder of the year in which convicted and the next succeeding calendar year, or longer in the discretion of the court.

(8) In addition to the penalties provided for violating this part or an order issued under this part, an individual convicted of the illegal killing, possessing, purchasing, or selling of a bear or an antlered white-tailed deer is subject to the following penalties:

(a) For a first offense, the individual shall not secure or possess a license of any kind to hunt for an additional 2 calendar years after the penalties imposed under subsection (7).

(b) For a second or subsequent offense, the individual shall not secure or possess a license of any kind to hunt for an additional 7 calendar years after the penalties imposed under subsection (7).

(9) In addition to the penalties provided for violating this part or an order issued under this part, an individual convicted of the illegal killing, possessing, purchasing, or selling of a wild turkey shall not secure or possess a license of any kind to hunt for an additional 2 calendar years after the penalties imposed under subsection (7).

(10) An individual sentenced under subsection (4) or (5) is subject to the following penalties:

(a) For a first offense, the individual shall not secure or possess a license of any kind to hunt for the remainder of the year in which convicted and the next 15 succeeding calendar years.

(b) For a second offense, the individual shall not secure or possess a license of any kind to hunt for the remainder of that individual's life.

(11) An individual who violates section 40113(1) is guilty of a misdemeanor punishable by imprisonment for not less than 5 days or more than 90 days, or a fine of not less than \$100.00 or more than \$500.00, or both, and the costs of prosecution.

(12) An individual who violates section 40113(2) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than \$50.00 or more than \$500.00, or both, and the costs of prosecution.

(13) An individual who violates section 40113(3) is guilty of a misdemeanor and shall be punished by imprisonment for not less than 5 days or more than 90 days and a fine of not less than \$100.00 or more than \$500.00, and the costs of prosecution.

(14) An individual who violates a provision of this part or an order or interim order issued under this part regarding the taking or possession of an animal that has been designated by the department to be a protected animal, other than an animal that appears on a list prepared pursuant to section 36505, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$1,000.00, or both, and the costs of prosecution.

(15) An individual who buys or sells game or a protected animal in violation of this part or an order or interim order issued under this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both, for the first offense, and is guilty of a felony for each subsequent offense.

(16) An individual who willfully violates a provision of this part or an order or interim order issued under this part by using an illegally constructed snare or cable restraint is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of \$1,000.00 for the first illegally constructed snare or cable restraint and \$250.00 for each subsequent illegally constructed snare or cable restraint, or both, and the costs of prosecution.

(17) If an individual is convicted of a violation of this part or an order or interim order issued under this part and it is alleged in the complaint and proved or admitted at trial or ascertained by the court after conviction that the individual had been previously convicted 2 times within the preceding 5 years for a violation of this part or an order or interim order issued under this part, the individual is guilty of a misdemeanor and shall be punished by imprisonment for not less than 10 days or more than 180 days, and a fine of not less than \$500.00 or more than \$2,000.00, and costs of prosecution.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2000, Act 347, Imd. Eff. Dec. 28, 2000;—Am. 2012, Act 520, Imd. Eff. Dec. 28, 2012;—Am. 2015, Act 188, Eff. Feb. 14, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

**324.40119 Reimbursement of state for value of game or protected animal; restitution for illegal killing, possessing, purchasing, or selling antlered white-tailed deer, antlered elk, antlered moose, and turkey with beard; forfeiture; default as civil contempt; additional time for payment; reduction of amount forfeited; revocation of forfeiture; collection of default in payment; disposition of forfeiture damages; "point" defined.**

Sec. 40119. (1) In addition to the penalties provided for violating this part or an order issued under this part, and the penalty provided in section 36507, an individual convicted of the illegal killing, possessing,

purchasing, or selling of game or protected animals, in whole or in part, shall reimburse the state for the value of the game or protected animal as follows:

- (a) Elk, \$5,000.00 per animal.
- (b) Moose, \$5,000.00 per animal.
- (c) Bear, \$3,500.00 per animal.
- (d) Eagle, \$1,500.00 per animal.
- (e) Hawk or any animal that appears on a list specified in section 36505, \$1,500.00 per animal.
- (f) Deer, owl, and wild turkey, \$1,000.00 per animal.
- (g) Waterfowl, \$500.00 per animal.
- (h) Other game not listed in subdivisions (a) to (g), not less than \$100.00 or more than \$500.00 per animal.
- (i) Other protected animals, \$100.00 per animal.

(2) In addition to the restitution value established in subsection (1), an individual convicted of the illegal killing, possessing, purchasing, or selling of an antlered white-tailed deer also shall pay an additional restitution value that is equal to \$1,000.00 plus 1 of the following:

- (a) For an antlered white-tailed deer with at least 8 but not more than 10 points, \$500.00 for each point.
- (b) For an antlered white-tailed deer with 11 or more points, \$750.00 for each point.

(3) In addition to the restitution value established in subsection (1), an individual convicted of the illegal killing, possessing, purchasing, or selling of an antlered elk shall pay an additional restitution value that is equal to 1 of the following:

- (a) For an antlered elk with at least 8 but not more than 10 points, \$250.00 for each point.
- (b) For an antlered elk with 11 or more points, \$500.00 for each point.

(4) In addition to the restitution value established in subsection (1), an individual convicted of the illegal killing, possessing, purchasing, or selling of an antlered moose shall pay an additional restitution value that is equal to \$5,000.00.

(5) In addition to the restitution value established in subsection (1), an individual convicted of the illegal killing, possessing, purchasing, or selling of a turkey with a beard shall pay an additional restitution value of \$1,000.00.

(6) The court in which a conviction for a violation described in subsections (1) to (5) is obtained shall order the defendant to forfeit to the state a sum as set forth in subsections (1) to (5). If 2 or more defendants are convicted of the illegal killing, possessing, purchasing, or selling, in whole or in part, of game or protected animals listed in subsections (1) to (5), the forfeiture prescribed shall be declared against them jointly.

(7) If a defendant fails to pay upon conviction the sum ordered by the court to be forfeited, the court shall either impose a sentence and, as a condition of the sentence, require the defendant to satisfy the forfeiture in the amount prescribed and fix the manner and time of payment, or make a written order permitting the defendant to pay the sum to be forfeited in installments at those times and in those amounts that, in the opinion of the court, the defendant is able to pay.

(8) If a defendant defaults in payment of the sum forfeited or of an installment, the court on motion of the department or upon its own motion may require the defendant to show cause why the default should not be treated as a civil contempt, and the court may issue a summons or warrant of arrest for his or her appearance. Unless the defendant shows that the default was not due to an intentional refusal to obey the order of the court or to a failure to make a good-faith effort to obtain the funds required for the payment, the court shall find that the default constitutes a civil contempt.

(9) If it appears that the defendant's default in the payment of the forfeiture does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the forfeiture or of each installment, or revoking the forfeiture or the unpaid portion of the forfeiture, in whole or in part.

(10) A default in the payment of the forfeiture or an installment payment may be collected by any means authorized for the enforcement of a judgment under chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

(11) A court receiving forfeiture damages shall remit the damages to the county treasurer, who shall deposit the damages with the state treasurer, who shall deposit the damages in the game and fish protection account established in section 2010.

(12) As used in this section, "point" means a projection on the antler of a white-tailed deer or elk that is at least 1 inch long as measured from its tip to the nearest edge of the antler beam.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2013, Act 175, Eff. Feb. 25, 2014;—Am. 2015, Act 187, Eff. Feb. 14, 2016.

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

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part Rendered Friday, February 17, 2017

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40120 Michigan big game trophy records; official keeper; recognition.**

Sec. 40120. The department shall recognize commemorative bucks of Michigan, inc., as the official keeper of Michigan big game trophy records for deer, bear, elk, and turkey.

**History:** Add. 2006, Act 145, Imd. Eff. May 22, 2006.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 403

### WILDLIFE PRESERVATION

### **324.40301 Sale of items signifying interest in wildlife preservation.**

Sec. 40301. The department may issue for sale to the public a stamp, decal, medallion, or other item of personal property intended to signify the interest of the purchaser in contributing to wildlife preservation.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40302 Use of net proceeds.**

Sec. 40302. Net proceeds from the sale of an item authorized by this part shall be used by the department exclusively for wildlife research and habitat improvement for nongame wild animals or designated endangered species or designated plant species.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40303 Rights and privileges; marketing items.**

Sec. 40303. The department may attach such rights and privileges to the items sold as will best serve the interests of wildlife preservation and shall market the items without the use of general fund appropriation.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 405

### WILDLIFE RESTORATION, MANAGEMENT, AND RESEARCH

### **324.40501 Wildlife restoration, management, and research projects; authority of department to cooperate with federal government; use of hunters' license fees.**

Sec. 40501. The department shall perform such acts as may be necessary to conduct and establish wildlife restoration, management, and research projects and areas in cooperation with the federal government under the Pittman-Robertson wildlife restoration act, 16 USC 669 to 669i, and regulations promulgated by the United States secretary of the interior under that act. In compliance with that act, funds accruing to this state from license fees paid by hunters shall not be used for any purpose other than game and fish activities under the administration of the department.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2008, Act 416, Imd. Eff. Jan. 6, 2009.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 409

### HOMING PIGEONS

### **324.40901 Homing pigeons; prohibited acts.**

Sec. 40901. A person shall not at any time of the year or in any manner, hunt, take, pursue, capture, wound, kill, maim, or disfigure the homing pigeons of another person.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40902 Homing pigeons; use of certain devices prohibited.**

Sec. 40902. A person shall not at any time make use of any pit, pitfalls, deadfall, scaffold, cage, snarl, trap, net, baited hook, or any similar device, or any drug poison, chemical, or explosive for the purpose of injuring, capturing, or killing a homing pigeon of another person.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.40903 Violation of part as misdemeanor; penalty.**

Sec. 40903. A person who violates this part, upon conviction of a first offense, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$25.00 or more than \$100.00 and the cost of prosecution, or both.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 411

### PROTECTION AND PRESERVATION OF FISH, GAME, AND BIRDS

#### **324.41101 Definitions.**

Sec. 41101. As used in this part:

(a) "Area" means the whole of the state and the whole or any designated portion of any township or townships or county or counties within the state.

(b) "Waters" means any inland lake, stream, river, pond, or other body of water including the Great Lakes and connecting waters, any part or portion of such waters, and any and all chains, systems, or combinations of such waters, in any township or townships or county or counties, within this state, and in which any species of fish or waterfowl are protected by the laws of this state.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.41102 Regulatory powers of department; exception.**

Sec. 41102. (1) The department, in accordance with this part, may regulate the taking or killing of all fish, game and fur-bearing animals, and game birds protected by the laws of this state, and may suspend or abridge the open season provided by law for the taking or killing of such fish, animals, or game birds in any designated waters or area of this state, if in the opinion of the department it is necessary to assist in the increased or better protection of the fish, game or fur-bearing animals, or game birds, or any particular kinds or species of fish, game or fur-bearing animals, or game birds, which may in the opinion of the department be threatened from any cause or causes with depletion or extermination in the waters or area. The department may promulgate rules and orders necessary to implement this part after a thorough investigation has been made by the department.

(2) This section does not apply to privately owned cervidae species located on a registered cervidae livestock facility or involved in a registered cervidae livestock operation under the privately owned cervidae producers marketing act.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2000, Act 191, Eff. June 1, 2001.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.41103 Orders protecting fish, animals, or birds; provisions; duration; notice; newspaper publication; filing; printing order in Michigan fish and game laws; fisheries research; experimental game management areas; notice of availability of annual sports fishing handbook and amendments, corrections, or additions thereto.**

Sec. 41103. (1) If the department determines that any fish, game or fur-bearing animals, or game birds of any kind or species are in danger of depletion or extermination and require additional protection in any designated waters or area within the state, the department may issue an order suspending or abridging the

open season on fish, game or fur-bearing animals, or game birds, or may regulate their taking or killing in the waters or area as the department considers necessary for the further protection of fish, game or fur-bearing animals, or game birds in those waters or areas. The orders shall clearly specify the manner and condition relative to the taking or killing. The orders shall clearly and distinctly describe and set forth the waters or area affected by each order, and whether the order is applicable to all fish, game or fur-bearing animals, or game birds, or only to certain kinds or species designated in the order, and shall also clearly specify and set forth the length of time during which the order shall remain in effect. However, an order shall not remain in effect for more than 5 years. The public shall be notified of orders changing the rules pertaining to hunting, fishing, or trapping in the annual hunting, fishing, and trapping guides available by licensed agents of the department and field offices of the department or the department may publish the orders at least 21 days but not more than 60 days prior to taking effect, and at least once annually while in force, in at least 1 newspaper in each county, if a newspaper is published in a county, the whole or any portion of which is affected by the order. The first newspaper publication shall appear at least once each week for 3 successive weeks. A copy of the order as printed in the newspaper shall be filed with the clerk of each county. Proof by affidavit of the newspaper publication or other form of publication allowed in this section shall be filed with the department, and a copy of the order, while it is in force and effect, shall be included and printed in the authorized biennial compilation of the Michigan fish and game laws. The original of all orders on file in the Lansing office of the department shall be under the seal of the department and shall bear the signatures of the chairperson and secretary of the commission and shall be countersigned by the department. The department shall establish the seasons, size limits, creel limits, and methods of taking fish in certain designated inland lakes not to exceed 20 in number at any 1 time and in certain designated streams or portions of streams not to exceed 10 in number at any 1 time for the purpose of fisheries research. The department may establish not more than 1 experimental game management area that shall not exceed 40,000 acres in size, 4 experimental game management areas not to exceed 5,000 acres each in size, and 1 experimental game management area that shall include Beaver island in its entirety and the 4 islands that comprise the Little Beaver islands state game area. The department shall establish rules and orders governing the kind of game that may be taken in the areas designated in this subsection and the time, place, and manner or method of the taking.

(2) The department shall publish annually in 1 or more newspapers of general circulation in this state notice of the availability of the annual sports fishing handbook. The published notice shall inform the public of when, where, and how the annual sports fishing handbook may be obtained.

(3) The department shall notify the public of an amendment, correction, or addition to the annual sports fishing handbook in the same manner as provided for newspaper publication in subsection (1).

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.41104 Suspended open season; rescission or modification; exception.**

Sec. 41104. If the open season during which any species of fish, game or fur-bearing animals, or game birds may be taken or killed has been suspended or abridged in any waters or area by an order of the department as provided in this part, if that order is still in force, and if it appears to the department that the conditions existing in the waters or area affected by the order no longer require that additional protection for those species, then the department shall cause a thorough investigation to be made of the waters or area and the conditions prevailing in the waters or area. If after the investigation the department is satisfied that because of the increase of the fish, game or fur-bearing animals, or game birds protected by the order in the waters or area, or because of the removal of the cause threatening those species with depletion or extermination, the additional protection afforded by the order is no longer needed, the department may rescind or modify the original order. Notices of the rescinding or modifying of the order shall be published in the same manner as notice of the original order and filed in the same manner in the office of the clerk of each county. This part does not suspend, abridge, or regulate the open seasons established by law for the taking of fish for commercial purposes from the waters of Lakes Superior, Michigan, Huron, and Erie, and the bays of those waters.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.41105 Violation as misdemeanor; penalty.**

Sec. 41105. A person who takes or kills any fish, game, or fur-bearing animal, or game bird, contrary to an order or rule promulgated under this part, or who violates this part, is guilty of a misdemeanor, punishable for

the first offense by imprisonment for not more than 60 days or a fine of not more than \$100.00. For each offense that is charged as a second or subsequent offense, the person is guilty of a misdemeanor, punishable by imprisonment for not less than 20 days or more than 90 days, or a fine of not less than \$50.00 or more than \$250.00.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

PART 413  
TRANSGENIC AND NONNATIVE ORGANISMS

**324.41301 Definitions; possession of live organism.**

Sec. 41301. (1) As used in this part:

- (a) "Amphibian" means any frog, toad, or salamander of the class Amphibia.
- (b) "Aquatic", except as used in subdivision (p), describes an amphibian, crustacean, fish, mollusk, reptile, wiggler, or aquatic plant.
- (c) "Crustacean" means freshwater crayfish, shrimp, or prawn of the order Decapoda.
- (d) "Genetically engineered" refers to an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques, or the progeny of such an organism.
- (e) "Introduce", with reference to an organism, means to knowingly and willfully stock, place, plant, release, or allow the release of the organism in this state at any specific location where the organism is not already naturalized.
- (f) "Mollusk" means any mollusk of the classes Bivalvia and Gastropoda.
- (g) "Native" means indigenous to any location in this state.
- (h) "Nonaquatic" describes a bird, insect other than a wiggler, or mammal.
- (i) "Nonnative" means not native.
- (j) "Permitted aquatic species" means a species listed as provided in section 41302a.
- (k) "Prohibited species", subject to section 41302, means any of the following:
  - (i) Any of the following prohibited aquatic plant species, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant:
    - (A) African oxygen weed (*Lagarosiphon major*).
    - (B) Brazilian elodea (*Egeria densa*).
    - (C) Cyllindro (*Cylindrospermopsis raciborskii*).
    - (D) European frogbit (*Hydrocharis morsus-ranae*).
    - (E) Fanwort (*Cabomba caroliniana*).
    - (F) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or *herzogii*).
    - (G) Hydrilla (*Hydrilla verticillata*).
    - (H) Parrot's feather (*Myriophyllum aquaticum*).
    - (I) Starry stonewort (*Nitellopsis obtusa*).
    - (J) Water chestnut (*Trapa natans*).
    - (K) Yellow floating heart (*Nymphoides peltata*).
  - (ii) Any of the following prohibited terrestrial plant species, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant:
    - (A) Giant hogweed (*Heracleum mantegazzianum*).
    - (B) Japanese knotweed (*Fallopia japonica*).
  - (iii) The following prohibited bird species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant: Eurasian collared dove (*Streptopelia decaocto*).
  - (iv) The following prohibited crustacean species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant: rusty crayfish (*Orconectes rusticus*).
  - (v) Any of the following prohibited fish species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:
    - (A) Bighead carp (*Hypophthalmichthys nobilis*).
    - (B) Bitterling (*Rhodeus sericeus*).

- (C) Black carp (*Mylopharyngodon piceus*).
- (D) Eurasian ruffe (*Gymnocephalus cernuus*).
- (E) Grass carp (*Ctenopharyngodon idellus*).
- (F) Ide (*Leuciscus idus*).
- (G) Japanese weatherfish (*Misgurnus anguillicaudatus*).
- (H) Round goby (*Neogobius melanostomus*).
- (I) Rudd (*Scardinius erythrophthalmus*).
- (J) Silver carp (*Hypophthalmichthys molitrix*).
- (K) A fish of the snakehead family (family Channidae).
- (L) Tench (*Tinca tinca*).
- (M) Tubenose goby (*Proterorhinus marmoratus*).
- (vi) Any of the following prohibited insect species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:
  - (A) Asian longhorned beetle (*Anoplophora glabripennis*).
  - (B) Emerald ash borer (*Agrilus planipennis*).
- (vii) The following prohibited mammal species, including a hybrid or genetically engineered variant: nutria (*Myocastor coypus*).
- (viii) Any of the following prohibited mollusk species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:
  - (A) Brown garden snail (*Helix aspersa*).
  - (B) Carthusian snail (*Monacha cartusiana*).
  - (C) Giant African snail (*Achatina fulica*).
  - (D) Girdled snail (*Hygromia cinctella*).
  - (E) Heath snail (*Xerolenta obvia*).
  - (F) Wrinkled dune snail (*Candidula intersecta*).
- (l) "Recombinant nucleic acid techniques" means laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism.
- (m) "Relevant commission", "relevant department", or "relevant director" means the following:
  - (i) With respect to a species other than a plant or an insect, except a wiggler, the natural resources commission, department of natural resources, or the director of the department of natural resources, respectively.
  - (ii) With respect to a plant species or an insect species, other than a wiggler, the commission of agriculture and rural development, the department of agriculture and rural development, or the director of the department of agriculture and rural development, respectively.
- (n) "Reptile" means any turtle, snake, or lizard of the class Reptilia.
- (o) "Restricted species", subject to section 41302, means any of the following:
  - (i) Any of the following restricted aquatic plant species, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant:
    - (A) Curly leaf pondweed (*Potamogeton crispus*).
    - (B) Eurasian watermilfoil (*Myriophyllum spicatum*).
    - (C) Flowering rush (*Butomus umbellatus*).
    - (D) Phragmites or common reed (*Phragmites australis*).
    - (E) Purple loosestrife (*Lythrum salicaria*), except that cultivars of purple loosestrife developed and recognized to be sterile and approved by the director of the department of agriculture and rural development under section 16a of the insect pest and plant disease act, 1931 PA 189, MCL 286.216a, are not a restricted species.
  - (ii) The following restricted terrestrial plant species, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant: autumn olive (*Elaeagnus umbellata*).
- (iii) Any of the following restricted mollusk species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:
  - (A) Quagga mussel (*Dreissena bugensis*).
  - (B) Zebra mussel (*Dreissena polymorpha*).
- (p) "Wiggler" means an aquatic egg, nymph, or larva of an insect.
- (2) For the purposes of this part:
  - (a) A person is not considered to possess a live organism simply because the organism is present on land or in waters owned by that person unless the person has knowingly introduced that live organism on that land or

in those waters.

(b) A person is not considered to possess a live organism if the organism was obtained from the environment and the person only possesses the organism at the specific location at which it was obtained from the environment.

(c) A person is not considered to possess a live organism if the possession is for the purpose of promptly destroying the organism.

**History:** Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 77, Imd. Eff. July 19, 2005;—Am. 2009, Act 51, Eff. Sept. 21, 2009;—Am. 2014, Act 358, Imd. Eff. Dec. 9, 2014;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

**324.41302 Adding or deleting from list of prohibited species or restricted species; consultation; procedure; determination; review; emergency order; order setting conditions for harvesting, possessing, and transporting naturalized organism of aquatic restricted species.**

Sec. 41302. (1) The relevant commission may by order add to or delete a species from the list of prohibited species or restricted species under section 41301. Before the natural resources commission issues an order under this subsection, it shall consult with the department of agriculture and rural development. Before the commission of agriculture and rural development issues an order under this subsection, it shall consult with the department of natural resources. After the consultation, and at least 30 days before the relevant commission issues the order, the relevant department shall post a copy of the proposed order on the relevant department's website and shall submit a copy of the proposed order to all of the following:

(a) The legislature.

(b) The standing committees of the senate and house of representatives with primary responsibility for any of the following:

(i) Agricultural issues.

(ii) Environmental issues.

(iii) Natural resources issues.

(2) The relevant commission shall list a nonaquatic species as a prohibited species or restricted species if the relevant commission determines the following:

(a) For a nonaquatic prohibited species, all of the following requirements are met:

(i) The organism is not native.

(ii) The organism is not naturalized in this state or, if naturalized, is not widely distributed in this state.

(iii) One or more of the following apply:

(A) The organism has the potential to harm human health or to severely harm natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are not available.

(b) For a nonaquatic restricted species, all of the following requirements are met:

(i) The organism is not native.

(ii) The organism is naturalized and widely distributed in this state.

(iii) One or more of the following apply:

(A) The organism has the potential to harm human health or to harm natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are available.

(3) The relevant commission shall list an aquatic species as a prohibited species or restricted species if the relevant commission determines the following based on a review by the relevant department:

(a) For an aquatic prohibited species, all of the following requirements are met:

(i) The organism is not native or is genetically engineered.

(ii) The organism is not naturalized in this state or, if naturalized, is not widely distributed.

(iii) One or more of the following apply:

(A) The organism has the potential to harm human health or to severely harm natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are not available.

(b) For an aquatic restricted species, all of the following requirements are met:

(i) The organism is not native.

(ii) The organism is naturalized in this state.

(iii) One or more of the following apply:

(A) The organism has the potential to harm human health or to harm natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are available.

(4) The following apply to a review by the relevant department of an aquatic species for listing as a prohibited species or restricted species under subsection (3):

(a) By 1 year after the effective date of the amendatory act that added this subsection, the relevant department shall review each aquatic species listed as a prohibited species or restricted species on the effective date of the amendatory act that added this subsection.

(b) By 1 year after the effective date of the amendatory act that added this subsection, the relevant department shall review each aquatic animal listed as injurious wildlife under the Lacey act, 16 USC 3371 to 3378, and each aquatic plant designated as a noxious weed under the plant protection act, 7 USC 7701 to 7786, for listing as a prohibited species or restricted species.

(c) The relevant department shall review new listings or delistings on the federal lists identified under subdivision (b) within 180 days after the listing or delisting.

(d) The relevant department shall review each aquatic species that has the potential to harm human health or natural, agricultural, or silvicultural resources for listing as a prohibited species or restricted species even if the species is not currently on either federal list described in subdivision (b).

(e) The relevant department may review a previously unreviewed aquatic species petitioned for listing as a permitted species under section 41302a(5) for which the risk assessment process under section 41302a(2) or (3) indicated a high invasive species risk.

(f) The relevant department may review other aquatic species for listing as prohibited or restricted species.

(5) The relevant director may issue an emergency order designating an organism as a prohibited species or restricted species if the organism has the potential to harm human health or to severely harm natural, agriculture, or silvicultural resources. An emergency order is effective for not longer than 90 days. The relevant department shall do all of the following:

(a) Post a proposed emergency order on its website and otherwise publicize the proposed emergency order in a manner that ensures that interested persons are provided notice of the proposed emergency order, the reasons for the emergency order, and the proposed effective date of the order.

(b) Provide a copy of the proposed emergency order to each member of the standing committees of the senate and the house of representatives that consider legislation pertaining to conservation, the environment, recreation, tourism, or natural resources.

(c) Post the final emergency order on its website.

(6) The relevant department may issue an order setting forth the conditions under which naturalized organisms of an aquatic restricted species may be harvested, possessed, and transported.

**History:** Add. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41302a Permitted aquatic species list; risk assessment; protocol; failure to pass risk assessment for permitted species; compensation of person involved in commercialization or sale; adding new aquatic species to permitted species list for future commercialization and sale.**

Sec. 41302a. (1) By 2 years after the effective date of this section, the department of natural resources and the department of agriculture and rural development, after consultation and notice in the same manner as required of the respective commission under section 41302(1), shall each create a permitted species list for aquatic species for which it is the relevant department. Together, these lists compose the permitted aquatic species list. The initial permitted aquatic species list shall consist of all of the following:

(a) All species on the list of approved species for aquaculture under section 5 of the Michigan aquaculture development act, 1996 PA 199, MCL 286.875, on the effective date of this section or that are approved under a research permit under section 8 of the Michigan aquaculture development act, 1996 PA 199, MCL 286.878, on the effective date of this section.

(b) All native aquatic species, other than aquatic plants, that by the effective date of this section were, as live organisms, lawfully in commercial trade in this state. Within 1 year after the effective date of this section, the department of natural resources, in consultation with affected industries, shall determine which aquatic species qualify under this subdivision.

(c) All nonnative aquatic species, other than aquatic plants, that, by the effective date of this section, were, as live organisms, lawfully in wide commercial trade in this state for at least 5 years, if there is no evidence of

the species causing harm to human health or natural, agricultural, or silvicultural resources in the Great Lakes region. For the purposes of this subdivision and subdivision (d), within 1 year after the effective date of this section, the department of natural resources, in consultation with affected industries, shall determine which aquatic species, other than aquatic plants, were, as live organisms, in commercial trade in this state by the effective date of this section and whether each of those species had, as live organisms, been in wide commercial trade in this state for at least 5 years.

(d) All nonnative aquatic species, other than aquatic plants, that, by the effective date of this section, were, as live organisms, lawfully in commercial trade in this state, that do not meet the requirements of subdivision (c), but that are approved by the department of natural resources based on a risk assessment under subsection (2). Within 2 years after the effective date of this section, the department of natural resources shall perform the risk assessment and approve or disapprove the assessed species for listing as permitted aquatic species.

(e) All aquatic plants, native or nonnative, that, by the effective date of this section, were, as live organisms, lawfully in commercial trade in this state. Within 1 year after the effective date of this section, the department of agriculture and rural development, in consultation with affected industries including the horticulture industry, shall determine which aquatic plants qualify under this subdivision.

(2) To perform a risk assessment on an aquatic species other than an aquatic plant, the department of natural resources shall use the risk assessment aquatic protocol developed by the United States fish and wildlife service, aquatic fisheries and resources program. The natural resources commission shall periodically review and may modify or replace the assessment protocol by order consistent with the purposes of this part.

(3) To perform a risk assessment on an aquatic plant, the department of agriculture and rural development shall use the plant protection and quarantine (PPQ) weed risk assessment protocol developed by the United States department of agriculture's plant protection and quarantine, plant epidemiology, and risk analysis laboratory, Raleigh, North Carolina. Each aquatic plant cultivar, variety, or hybrid shall be assessed separately. The commission of agriculture and rural development shall periodically review and may modify or replace the assessment protocol by order consistent with the purposes of this part.

(4) If an aquatic species that was not previously a prohibited or restricted species under this part does not pass the risk assessment for permitted species under this section and is reviewed under section 41302(4)(e) and placed on the prohibited species list or restricted species list, any person involved in the commercialization or sale of an aquatic species that possesses live organisms of that prohibited or restricted species shall be compensated at fair market value by this state for the loss of that species product in the person's possession in this state when the species was placed on the prohibited species list or restricted species list.

(5) Aquatic species that on the effective date of this section are, as live organisms, not in commercial trade in this state or are unknown to or unanticipated by the relevant department may be added to the permitted species list upon evaluation using the risk assessment procedure described under subsection (2) or (3), as applicable. After the creation of the initial permitted species list, any person involved in the commercialization or sale of aquatic species may petition the relevant department to review and add a new aquatic species to the permitted species list for future commercialization and sale in this state. The petitioner has the burden of demonstrating that the species passes the risk assessment under subsection (2) or (3), as applicable. The petitioner shall provide information that is requested by the relevant department to perform the risk assessment. Any prior background materials generated as a result of a federal agency review and identified by the petitioner shall be considered by the department. The petitioner shall pay a reasonable fee that does not exceed the administrative costs for the relevant department to review the petitioned species. The relevant department may, but is not required to, review on its own initiative an aquatic species for placement on the permitted species list.

**History:** Add. 2014, Act 537, Eff. Apr. 15, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41303 Possession of live prohibited or restricted organism; prohibition; exceptions; notification of location where found; importing, selling, or offering to sell.**

Sec. 41303. (1) Subject to subsection (2), a person shall not knowingly possess a live organism if the organism is a prohibited species or restricted species, except under 1 or more of the following circumstances:

(a) The person intends to present a specimen of the prohibited species or restricted species, for identification or similar purposes, to a person who is a certified applicator or registered applicator under part 83, to a public or private institution of higher education, or to the department of natural resources, the department of agriculture and rural development, or any other state, local, or federal agency with responsibility for the environment, natural resources, or agriculture.

(b) The person has been presented with a specimen of a prohibited species or restricted species for identification or similar purposes under subdivision (a).

(c) The person possesses the prohibited species or restricted species in conjunction with otherwise lawful activity to eradicate or control the prohibited species or restricted species.

(d) The possession is pursuant to a permit issued for education or research purposes by the relevant department under section 41306 or, if the prohibited species or restricted species is a plant species or an insect other than a wiggler, by the United States department of agriculture.

(e) The species is an aquatic restricted species and the person possesses the species in compliance with an order under section 41302(6).

(2) A person described in subsection (1)(b) or (c) shall notify the department of natural resources, the department of agriculture and rural development, or the department of environmental quality if the prohibited species or restricted species was found at a location where it was not previously known to be present.

(3) Before initial establishment of the permitted aquatic species list, a person shall not import, sell, or offer to sell any live aquatic species unless the live aquatic species, by the effective date of the 2014 amendatory act that added this subsection, was lawfully in commercial trade in this state. After the initial establishment of the permitted aquatic species list, a person shall not import, sell, or offer to sell any live aquatic species not listed on the permitted aquatic species list.

**History:** Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 78, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41305 Introduction of prohibited or restricted species, or genetically engineered or nonnative bird, crustacean, fish, insect, mammal, or mollusk, or aquatic plant; prohibition; exceptions.**

Sec. 41305. A person shall not introduce a prohibited species, a restricted species, a genetically engineered or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant unless the introduction is authorized by 1 of the following, as applicable:

(a) For a fish, by a permit issued by the department of natural resources under section 48735.

(b) For a plant or an insect other than a wiggler, by a permit issued by the department of agriculture and rural development under section 41306.

(c) For any other species, by a permit issued by the department of natural resources under section 41306.

**History:** Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 79, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41306 Permit; application; fee; granting or denying; revocation; modification; hearing; administration; enforcement.**

Sec. 41306. (1) A person shall apply to the relevant department for a permit that section 41303 or 41305 describes as being issued under this section. The application shall be submitted on a form developed by the relevant department. The application shall be accompanied by a fee based on the cost of administering this part. The relevant department shall either grant an administratively complete application and issue a permit or deny the application.

(2) In determining whether to grant or deny an application for a permit for introduction of a genetically engineered organism required by section 41305, the relevant department shall consider whether any application for a federal permit or approval for the genetically engineered organism has been granted or denied.

(3) The relevant department may revoke or modify a permit it has issued under subsection (1) after providing an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) The relevant department shall administer and enforce this part. In addition, any peace officer may enforce the criminal provisions of this part.

**History:** Add. 2005, Act 79, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41307 Rules.**

Sec. 41307. The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, necessary to implement this part.

**History:** Add. 2003, Act 270, Eff. Mar. 30, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41309 Violation; penalties; suspension or revocation of permit or license; order; liability for damages to natural resources; exceptions.**

Sec. 41309. (1) A person who violates section 41303(2) is subject to a civil fine of not more than \$100.00.

(2) A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a restricted species is subject to a civil fine of not more than \$5,000.00. A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a prohibited species is subject to a civil fine of not more than \$10,000.00.

(3) A person who violates section 41303(1) knowing the possession is unlawful or who willfully or in a grossly negligent manner violates a condition of a permit issued under this part is guilty as follows:

(a) For a violation involving a restricted species, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(b) For a violation involving a prohibited species that is not an aquatic species, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(c) For a violation involving a prohibited species that is an aquatic species, the person is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$2,000.00 or more than \$100,000.00.

(4) A person who, with intent to damage natural, agricultural, or silvicultural resources or human health:

(a) Violates section 41303(1) with respect to a restricted species or possesses a nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) Violates section 41303(1) with respect to a prohibited species or possesses a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant is guilty of a felony and may be imprisoned for not more than 4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(5) A person who sells or offers to sell a restricted species is subject to a civil fine of not less than \$1,000.00 or more than \$10,000.00. A person who sells or offers to sell a prohibited species or who violates section 41303(3) is subject to a civil fine of not less than \$2,000.00 or more than \$20,000.00.

(6) A person who violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or a nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 6 months and shall be fined not less than \$500.00 or more than \$5,000.00.

(b) For a violation involving a prohibited species or a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(7) A person who violates section 41305 with respect to a restricted species or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant and who has actual or constructive knowledge of the identity of the restricted species or that the organism, whether a restricted species or other bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, is nonnative is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(8) A person who violates section 41305 with respect to a prohibited species that is not an aquatic species or with respect to a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant and who has actual or constructive knowledge of the identity of the prohibited species or that the bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant is genetically engineered, respectively, is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(9) A person who violates section 41305 with respect to a prohibited species that is an aquatic species and who has actual or constructive knowledge of the identity of the prohibited species is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$2,000.00 or more than \$100,000.00.

(10) A person who violates section 41305 knowing the introduction is unlawful, is guilty as follows:

(a) For a violation involving a restricted species or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) For a violation involving a prohibited species or a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(11) A person who, with intent to damage natural, agricultural, or silvicultural resources or human health, violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$1,000.00 or more than \$500,000.00.

(b) For a violation involving a prohibited species or a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 5 years and shall be fined not less than \$2,000.00 or more than \$1,000,000.00.

(12) If a person commits a criminal violation of this part or a rule promulgated or permit issued under this part or knowingly commits a violation described in subsection (5) and if the violation involves a prohibited species that is an aquatic species, the court shall order that any permit or license issued to the person under part 473 or 487 be suspended for 1 year, and that the person is not eligible to be issued any permit or license under part 473 or 487 for 1 year. If the remaining term of an existing permit or license under part 473 or 487 is less than 1 year, the court shall order that the permit or license be revoked and that the person is not eligible to be issued any permit or license under part 473 or 487 for 1 year. For a second violation described in this subsection, the court shall order that any permit or license issued to the person under part 473 or 487 be revoked and that the person is permanently ineligible to be issued any permit or license under part 473 or 487. An order under this subsection is self-effectuating. The clerk of the court shall send a copy of the order to the department of natural resources.

(13) In addition to any other civil or criminal sanction imposed under this section, a person who violates this part is liable for any damages to natural resources resulting from the violation, including, but not limited to, costs incurred to prevent or minimize such damages.

(14) This part does not apply to activities authorized under the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884.

**History:** Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 76, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 541, Eff. Apr. 15, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41310 Property used in criminal violation subject to seizure and forfeiture.**

Sec. 41310. A vehicle, equipment, or other property used in a criminal violation of this part or a permit issued under this part involving a prohibited species that is an aquatic species is subject to seizure and forfeiture as provided in chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

**History:** Add. 2014, Act 537, Eff. Apr. 15, 2015.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41311 Invasive species fund; creation; disposition of funds; money remaining in fund; expenditures; purposes.**

Sec. 41311. (1) The invasive species fund is created within the state treasury.

(2) The department of natural resources and the department of agriculture shall forward to the state treasurer and the state treasurer shall deposit into the fund civil fines collected under section 41309 and permit fees collected under section 41306. 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 of natural resources and the department of agriculture shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) The administration of this part, consistent with section 41306(4).

(b) Public education about preventing the introduction of, controlling, or eradicating prohibited species, restricted species, and other nonnative species and genetically engineered aquatic plants, birds, crustaceans, fish, insects, mammals, and mollusks.

**History:** Add. 2005, Act 80, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41313 Providing information on website; requirements.**

Sec. 41313. The department of natural resources and the department of agriculture shall each provide all of the following information on its website:

- (a) Information on the requirements of this part applicable to the public.
- (b) The penalties for violating the requirements of this part.
- (c) A list of prohibited species and restricted species along with a description and a photograph or drawing of each of those species.
- (d) Each annual report of the department under section 41323, for not less than 3 years after its issuance.

**History:** Add. 2005, Act 80, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41321 Repealed. 2009, Act 51, Eff. Sept. 21, 2009.**

**Compiler's note:** The repealed section pertained to the invasive species advisory council.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41323 Duties of department.**

Sec. 41323. (1) The department of natural resources shall do all of the following:

- (a) By March 1 of each year, submit to the governor and the legislature a report that makes recommendations on all of the following:
  - (i) Additions to or deletions from the classes of genetically engineered or nonnative organisms covered by this part.
  - (ii) The status of various prohibited species and other problematic invasive species in this state, including, but not limited to, a list of infested waterbodies by species.
  - (iii) Preventing the introduction of and controlling or eradicating invasive species or genetically engineered aquatic plants, birds, crustaceans, fish, insects, mammals, or mollusks.
  - (iv) Restoration or remediation of habitats or species damaged by invasive species or genetically engineered organisms.
  - (v) Prioritizing efforts to prevent violations of and otherwise further the purposes of this part.
  - (vi) The specific areas of responsibility for various state departments under this part and the sharing of information on permits under this part among responsible state departments.
  - (vii) Educating citizens about their responsibilities under this part and their role in preventing the introduction of and controlling or eradicating prohibited species, restricted species, invasive species, and genetically engineered aquatic plants, birds, crustaceans, fish, insects, mammals, or mollusks.
  - (viii) Simplifying citizen access to state government for compliance with this part.
  - (ix) Legislation and funding to carry out the recommendations of the department of natural resources and otherwise further the purposes of this part.
  - (x) Other matters that the department of natural resources considers pertinent to the purposes of this part.
- (b) Establish criteria for identifying waterbodies infested by prohibited species.
- (c) Monitor and promote efforts to rescind the exemption under 40 CFR 122.3(a) for ballast water discharges.

(2) The department of natural resources shall carry out its reporting and other duties under this section in cooperation with the aquatic nuisance species council created under Executive Order No. 2002-21 and the department of agriculture.

**History:** Add. 2005, Act 75, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.41325 Boat, boating equipment, or boat trailer with aquatic plant attached; placement in**

**state waters prohibited; order to remove aquatic plants; notice; posting; violation as civil infraction; penalty; definitions.**

Sec. 41325. (1) A person shall not place a boat, boating equipment, or boat trailer in the waters of this state if the boat, boating equipment, or boat trailer has an aquatic plant attached.

(2) A law enforcement officer may order the owner or operator of a boat, boating equipment, or boat trailer to remove aquatic plants from the boat, boating equipment, or boat trailer. The owner or operator shall obey such an order.

(3) The department shall prepare a notice that contains a summary of subsections (1), (2), (4), (5), and (6) and shall make copies of the notice available to owners of public boating access sites. The department shall include the notice in relevant department publications and post the notice on its website.

(4) The owner of a public boating access site shall post and maintain the notice described in subsection (3).

(5) A person who violates subsection (1), (2), or (4) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

(6) As used in this section:

(a) "Aquatic plant" means a submergent, emergent, or floating-leaf plant or a fragment or seed thereof. Aquatic plant does not include wild rice (*Zizania aquatica*).

(b) "Boat" means a vessel as defined in section 80104, and "boating" has a corresponding meaning.

**History:** Add. 2009, Act 91, Imd. Eff. Sept. 15, 2009.

**Popular name:** Act 451

**Compiler's note:** NREPA

PART 414

AQUATIC INVASIVE SPECIES ADVISORY COUNCIL

\*\*\*\*\* 324.41401 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015  
\*\*\*\*\*

**324.41401 Definitions.**

Sec. 41401. As used in this part:

(a) "Aquatic invasive species" or "AIS" means an aquatic species that is nonnative to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

(b) "Council" means the aquatic invasive species advisory council created in section 41405.

(c) "Draft next vessel general permit" means the draft permit that the EPA prepares and publishes notice of in accordance with 40 CFR 124.6 and other applicable regulations before issuing the next vessel general permit.

(d) "EPA" means United States environmental protection agency.

(e) "Great Lakes commission" means the Great Lakes commission created by the Great Lakes basin compact established by joint legislative action of the Great Lakes states in 1955 and granted congressional consent through Public Law 90-419.

(f) "Great Lakes states" means Michigan, Illinois, Indiana, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

(g) "Next vessel general permit" means the permit the EPA issued to supersede the vessel general permit.

(h) "Vessel general permit" means the general permit entitled "Final National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges Incidental to the Normal Operation of a Vessel" announced at 73 FR 79,473 (December 29, 2008).

**History:** Add. 2011, Act 284, Imd. Eff. Dec. 21, 2011.

**Popular name:** Act 451

**Popular name:** NREPA

\*\*\*\*\* 324.41403 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015  
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**324.41403 Legislative findings.**

Sec. 41403. The legislature finds all of the following:

(a) The waters of the Great Lakes basin are precious public natural resources shared and held in trust by the Great Lakes states and provinces.

(b) The waters of the Great Lakes basin are interconnected and part of a single hydrologic system.

(c) The Great Lakes basin can concurrently serve multiple uses, such as municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, fishing, tourism, the subsistence, economic and cultural activities of native peoples, water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem.

(d) The Great Lakes states and Canadian provinces have a shared duty to protect, conserve, restore, improve, and manage the Great Lakes for the use, benefit, and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving, and managing the Great Lakes is through the joint pursuit of unified and cooperative principles, policies, and programs mutually agreed upon, enacted, and adhered to by the Great Lakes states and by the Great Lakes Canadian provinces.

(e) AIS are a threat to public health and safety, the environment and natural resources, and the economy. AIS are a serious threat to the ecological integrity and uses of the Great Lakes.

(f) Over 180 AIS have become established in the Great Lakes, not including microbes. Ballast water discharge has been a major source of introduction of AIS.

(g) Forms of trade have been identified as potential vectors of AIS introduction and spread, through purposeful or incidental buying, selling, and transport. The overall goal of this state's AIS prevention efforts is to close the open pathways for AIS.

(h) This state's aquatic invasive species management plan provides a strategy to prevent and control AIS in waters of this state, including the Great Lakes. The plan, last updated in 2002, is being updated by the departments of environmental quality, natural resources, and agriculture and rural development to ensure that it provides a comprehensive approach to AIS including ballast water treatment standards and other AIS prevention, AIS monitoring, and AIS control and eradication, including rapid response to new AIS infestations.

(i) This state can effectively address the threat posed by AIS by updating and implementing a comprehensive AIS management plan, developing and adopting model programs to address AIS, and working cooperatively with other Great Lakes states and provinces to ensure a coordinated and consistent response to AIS.

**History:** Add. 2011, Act 285, Imd. Eff. Dec. 21, 2011.

**Popular name:** Act 451

**Popular name:** NREPA

\*\*\*\*\* 324.41405 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015 \*\*\*\*\*

**324.41405 Aquatic invasive species advisory council; creation; membership; appointment; vacancy; removal; first meeting; election of chairperson and officers; quorum; compliance with open meetings act; writings subject to freedom of information act; compensation; reimbursement; technical advisory committees.**

Sec. 41405. (1) The aquatic invasive species advisory council is created within the department of environmental quality.

(2) The council shall consist of the following:

- (a) The director of the department of environmental quality or his or her designee.
- (b) The director of the department of natural resources or his or her designee.
- (c) The director of the department of agriculture and rural development or his or her designee.
- (d) The director of the state transportation department or his or her designee.
- (e) The attorney general or his or her designee.

(f) The following members appointed by the governor:

- (i) A representative of the United States department of the interior, national park service.
- (ii) A representative of an association of Great Lakes shipping companies.
- (iii) A representative of the horticulture industry.
- (iv) A representative of a regional association of businesses that has an international port operator as a member.

(g) The following members appointed by the senate majority leader:

- (i) A representative of a statewide private conservation organization.
- (ii) A representative of the Great Lakes commission.
- (iii) A representative of a statewide association of businesses.
- (iv) A representative of an association of Indian tribes.
- (v) A representative of a public university with an aquatic research center.

(h) The following members appointed by the speaker of the house of representatives:

(i) A representative of a regional or national private conservation organization.

(ii) A representative of an association of industries in the Great Lakes region.

(iii) A representative of a public utility.

(iv) A representative of a statewide association of local units of government.

(v) A representative of a statewide association of aquaculture businesses.

(3) The members first appointed to the council shall be appointed within 30 days after the effective date of this section. Members of the council shall serve for the life of the council.

(4) If a vacancy occurs on the council, the vacancy shall be filled in the same manner as the original appointment was made. The appointing officer may remove a member of the council for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(5) The first meeting of the council shall be called by the director of the department of environmental quality or his or her designee. At the first meeting, the council shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the council shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 3 or more members.

(6) A majority of the members of the council constitute a quorum for the transaction of business at a meeting of the council. The council may adopt bylaws governing its organization and procedure. Unless otherwise provided in its bylaws, a majority of the members present and serving are required for official action of the council.

(7) The business that the council may perform shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A writing prepared, owned, used, in the possession of, or retained by the council in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) Members of the council shall serve without additional state compensation. However, members of the council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the council.

(10) The council may appoint technical advisory committees of individuals with relevant specific technical, scientific, or legal expertise, or relevant expertise in a trade listed in section 41409, or may appoint such individuals as adjunct members of the council without voting rights.

**History:** Add. 2011, Act 285, Imd. Eff. Dec. 21, 2011.

**Popular name:** Act 451

**Popular name:** NREPA

\*\*\*\*\* 324.41407 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015  
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### **324.41407 Final update to plan; recommendations; report.**

Sec. 41407. (1) Within 180 days after the effective date of the amendatory act that added this section or within 60 days of the issuance of a draft update to the Michigan aquatic invasive species management plan by the department of environmental quality, whichever is later, the council shall provide recommendations to the department of environmental quality on a final update to the plan. The final update shall address AIS prevention, AIS monitoring, and AIS control and eradication, including rapid response to new AIS infestations. In preparing the final update to the plan, the department of environmental quality shall consult with the advisory council.

(2) The council shall provide its recommendations under subsection (1) to the governor upon request. The recommendations are nonbinding and advisory in nature and may be used at the discretion of and in the manner determined by the governor. The recommendations shall be suitable for use by the executive branch in collaborating with other Great Lakes states and Canadian provinces to create or strengthen regional programs or coordinate state and provincial programs to achieve the purposes of this section.

(3) Within 60 days after the issuance of a final update to the aquatic invasive species management plan, the council shall submit a report with recommendations on the funding necessary to implement the plan and the method of providing that funding. The council shall submit the report to the governor, the senate majority leader, the speaker of the house of representatives, and the standing committees of the senate and house with primary responsibility for natural resources, conservation, agriculture, and commerce.

**History:** Add. 2011, Act 285, Imd. Eff. Dec. 21, 2011.

**Popular name:** Act 451

**Popular name:** NREPA

\*\*\*\*\* 324.41409 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015  
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**324.41409 Prevention of introduction and spread of AIS through trade; report; recommendations.**

Sec. 41409. (1) Within 240 days after the effective date of the amendatory act that added this section, the council shall submit a report with recommendations for legislation or rules to prevent the introduction and spread of AIS through trade. The council shall submit the report to the governor, the senate majority leader, the speaker of the house of representatives, and the standing committees of the senate and house with primary responsibility for natural resources, conservation, agriculture, and commerce. In preparing the report, the council shall review the AIS laws of this state and other jurisdictions, including the other Great Lakes states.

(2) In the report under subsection (1), the council shall make recommendations on all of the following:

(a) The definition of aquatic invasive species. Before making recommendations under this subdivision, the council shall consider and address issues related to the domestication and cultivation of and potential beneficial effects of nonnative species and consider the "Invasive Species Definition Clarification and Guidance White Paper" submitted by the definitions subcommittee of the national invasive species advisory committee (ISAC) and approved by ISAC on April 27, 2006.

(b) Risk assessment processes to screen aquatic species proposed for trade and to screen pathways of introduction and spread. The risk assessment processes shall consider potential net harm to public health and safety, the environment and natural resources, and the economy. The processes shall place the burden to demonstrate the harmlessness of an aquatic species or pathway on the importer or other person responsible for introduction or distribution. The risk assessment process for species shall classify species into 3 lists: "prohibited", "permitted", and "restricted".

(c) Harmonizing federal and state law so that aquatic species on federal lists of either prohibited or permitted species of plants and animals are placed on the appropriate lists of this state.

(d) Establishing a program for aquatic species in trade to certify that the organisms are free of disease, insect pests, and incidental contamination by other species.

(e) An education program on safe-usage practices directed to both buyers and sellers of aquatic species in trade.

(f) Connecting regulations and education on aquatic species in trade to the protection of this state's natural resources as a component of the pure Michigan tourism advertising campaign.

(g) Financial and other resources for implementing recommendations under this subsection.

(h) Proposals for collaborating with other Great Lakes states and Canadian provinces to create or strengthen regional programs or coordinate state and provincial programs to achieve the goals set forth in subsection (1).

(3) In preparing the report required by this section, the council shall consult with representatives of organizations and businesses that deal with organisms in trade, including the aquarium, bait, pet, water garden, horticulture, aquaculture, and shipping trades.

**History:** Add. 2011, Act 286, Imd. Eff. Dec. 21, 2011.

**Popular name:** Act 451

**Popular name:** NREPA

\*\*\*\*\* 324.41411 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015  
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**324.41411 Draft next vessel general permit; development of recommendations by council.**

Sec. 41411. The council shall develop recommendations regarding this state's comments on the draft next vessel general permit and certification response to the draft next vessel general permit under section 401 of title IV of the federal water pollution control act, 33 USC 1341, including a proposed ballast water treatment standard. The council shall provide its recommendations to the governor upon request. Such recommendations are nonbinding and advisory in nature and may be used at the discretion of and in the manner determined by the governor. The council's recommendations under this section shall be suitable for use by the executive branch in collaborating with other Great Lakes states to achieve a consistent position on the draft next vessel general permit. In developing its recommendations, the council shall regularly consult with the Great Lakes commission and the department of environmental quality, including the office of the Great Lakes.

**History:** Add. 2011, Act 284, Imd. Eff. Dec. 21, 2011.

**Popular name:** Act 451

**Popular name:** NREPA

**324.41412 Phragmites australis control measures; review and recommendations.**

Sec. 41412. The council shall review and provide recommendations on Phragmites australis control measures to the department and to the standing committees of the senate and house of representatives with primary jurisdiction relating to natural resources and the environment.

**History:** Add. 2012, Act 247, Imd. Eff. July 2, 2012.

**Popular name:** Act 451

**Popular name:** NREPA

\*\*\*\*\* 324.41413 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015  
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**324.41413 Duties of council.**

Sec. 41413. To facilitate coordination and minimize duplication in fulfilling its duties, the council shall do all of the following:

(a) Consider relevant recommendations and reports by other state, regional, federal, provincial, Canadian, and international bodies and collaborations.

(b) Regularly consult with the Great Lakes commission and the department of environmental quality, including the office of the Great Lakes.

**History:** Add. 2011, Act 286, Imd. Eff. Dec. 21, 2011.

**Popular name:** Act 451

**Popular name:** NREPA

\*\*\*\*\* 324.41415 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015  
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**324.41415 Repeal of part.**

Sec. 41415. This part is repealed effective 4 years after the effective date of the amendatory act that added this section.

**History:** Add. 2011, Act 286, Imd. Eff. Dec. 21, 2011.

**Popular name:** Act 451

**Popular name:** NREPA