NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994
INLAND WATERS
Part 301
INLAND LAKES AND STREAMS

324.30101 Definitions.

Sec. 30101.

As used in this part:

(a) "Bottomland" means the land area of an inland lake or stream that lies below the ordinary high-water mark and that may or may not be covered by water.

(b) "Bulkhead line" means a line that is established pursuant to this part beyond which dredging, filling, or construction of any kind is not allowed without a permit.

(c) "Dam" means an artificial barrier, including dikes, embankments, and appurtenant works, that impounds, diverts, or is designed to impound or divert water.

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

(e) "Expand" means to occupy a larger area of an inland lake or stream than authorized by a permit issued under this part for marina mooring structures and watercraft moored at the marina.

(f) "Fund" means the land and water management permit fee fund created in section 30113.

(g) "Height of the dam" means the difference in elevation measured vertically between the natural bed of an inland lake or stream at the downstream toe of the dam, or, if it is not across a stream channel or watercourse, from the lowest elevation of the downstream toe of the dam, to the design flood elevation or to the lowest point of the top of the dam, whichever is less.

(h) "Impoundment" means water held back by a dam, dike, floodgate, or other barrier.

(i) "Inland lake or stream" means either of the following:

(i) An artificial or natural lake, pond, or impoundment that is a water of the United States as that term is used in section 502(7) of the federal water pollution control act, 33 USC 1362.

(ii) A natural or artificial lake, pond, or impoundment; a river, stream, or creek which may or may not be serving as a drain as defined by the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630; or any other body of water that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water, including the St. Marys, St. Clair, and Detroit Rivers.

Inland lake or stream does not include the Great Lakes, Lake St. Clair, or a lake or pond that has a surface area of less than 5 acres.

(j) "Marina" means a facility that is owned or operated by a person, extends into or over an inland lake or stream, and offers service to the public or members of the marina for docking, loading, or other servicing of recreational watercraft.

(k) "Minor offense" means either of the following violations of this part if the project involved in the offense is a minor project or the department determines that restoration of the affected property is not required:

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

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

(l) "Mooring structures" means structures used to moor watercraft, including, but not limited to, docks, piers, pilings, mooring anchors, lines and buoys, and boat hoists.

(m) "Ordinary high-water mark" means the line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

(n) "Project" means an activity that requires a permit pursuant to section 30102.

(o) "Property owners' association" means any group of organized property owners publishing a directory of their membership, the majority of which are riparian owners and are located on the inland lake or stream that is affected by the proposed project.

(p) "Reconfigure" means to, without expanding the marina, do either of the following:

(i) Change the location of the dock or docks and other mooring structures at the marina to occupy an area of the inland lake or stream that was not previously authorized by a permit issued under this part.

(ii) Decrease the distance available for ingress and egress to an outside slip as described in section 30106a.

(q) "Riparian interest area" means that portion of an inland lake or stream over which a riparian owner has an ownership interest.

(r) "Riparian owner" means a person who has riparian rights.

(s) "Riparian rights" means those rights which are associated with the ownership of the bank or shore of an inland lake or stream.

(t) "Seasonal structure" includes any type of dock, boat hoist, ramp, raft, or other recreational structure that is placed into an inland lake or stream and removed at the end of the boating season.

(u) "Seawall" means a vertically sloped wall constructed to break the force of waves and retain soil for the purpose of shore protection.

(v) "Structure" includes a wharf, dock, pier, seawall, dam, weir, stream deflector, breakwater, groin, jetty, sewer, pipeline, cable, and bridge.

(w) "Upland" means the land area that lies above the ordinary high-water mark.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1999, Act 106, Imd. Eff. July 7, 1999 ;-- Am. 2006, Act 275, Imd. Eff. July 7, 2006 ;-- Am. 2009, Act 139, Imd. Eff. Nov. 4, 2009 ;-- Am. 2014, Act 351, Eff. Jan. 16, 2015 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.
Popular Name: Act 451
Popular Name: NREPA

324.30101a Applicability of powers and duties of department to "navigable waters" and "waters of the United States" as defined in federal law.

Sec. 30101a.

For the purposes of this part, the powers, duties, functions, and responsibilities exercised by the department because of federal approval of Michigan's permit program under section 404(g) and (h) of the federal water pollution control act, 33 USC 1344, apply only to "navigable waters" and "waters of the United States" as defined under section 502(7) of the federal water pollution control act, 33 USC 1362, and further refined by federally promulgated rules and court decisions that have the full effect and force of federal law. Determining whether additional regulation is necessary to protect Michigan waters beyond the scope of federal law is the responsibility of the Michigan legislature based on its determination of what is in the best interest of the citizens of this state.

History: Add. 2013, Act 98, Imd. Eff. July 2, 2013
Popular Name: Act 451
Popular Name: NREPA

324.30102 Operations prohibited without permit; exception.

Sec. 30102.

(1) Except as provided in this part, a person without a permit from the department shall not do any of the following:

(a) Dredge or fill bottomland.

(b) Construct, enlarge, extend, remove, or place a structure on bottomland.

(c) Construct, reconfigure, or expand a marina.

(d) Create, enlarge, or diminish an inland lake or stream.

(e) Structurally interfere with the natural flow of an inland lake or stream.

(f) Construct, dredge, commence, extend, or enlarge an artificial canal, channel, ditch, lagoon, pond, lake, or similar waterway where the purpose is ultimate connection with an existing inland lake or stream, or where any part of the artificial waterway is located within 500 feet of the ordinary high-water mark of an existing inland lake or stream.

(g) Connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake, or similar water with an existing inland lake or stream for navigation or any other purpose.

(2) A person shall not remove submerged logs from rivers or streams for the purpose of submerged log recovery.

This subsection does not prohibit the department from issuing a permit under this part for other purposes, including removing logjams or removing logs that interfere with navigation of the river or stream.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2009, Act 139, Imd. Eff. Nov. 4, 2009 ;-- Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.
Popular Name: Act 451
Popular Name: NREPA

324.30103 Exceptions; "water withdrawal" and "agricultural drain" defined.

Sec. 30103.

(1) A permit is not required under this part for any of the following:

(a) Any fill or structure existing before April 1, 1966, in waters covered by former 1965 PA 291, and any fill or structures existing before January 9, 1973, in waters covered for the first time by former 1972 PA 346.

(b) A seasonal structure placed on bottomland to facilitate private noncommercial recreational use of the water if it does not unreasonably interfere with the use of the water by others entitled to use the water or interfere with water flow.

(c) Reasonable sanding of beaches to the existing water's edge by the riparian owner or a person authorized by the riparian owner.

(d) Maintenance of an agricultural drain, regardless of outlet, if all of the following requirements are met:

(i) The maintenance includes only activities that maintain the location, depth, and bottom width of the drain as constructed or modified at any time before July 1, 2014.

(ii) The maintenance is performed by the landowner or pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(e) Maintenance and operation of a waste collection or treatment facility either ordered to be constructed or approved for operation under a state or a federal water pollution control law and this part. For purposes of this subdivision, "operation" includes dredging, filling, or construction and placement of structures in the waste collection or treatment facility in compliance with this act.

(f) Construction and maintenance of minor drainage structures and facilities that are identified by rule promulgated by the department under section 30110. Before a rule is promulgated pursuant to this subsection, the rule must be approved by the majority of a committee consisting of the director of the department, the director of the department of agriculture and rural development, and the director of the state transportation department or their designated representatives. The rules shall be reviewed at least annually.

(g) Maintenance of a drain that either was legally established and constructed before January 1, 1973, pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, except those legally established drains constituting mainstream portions of certain natural watercourses identified in rules promulgated by the department under section 30110, or was constructed or modified under a permit issued pursuant to this part. As used in this subdivision, "maintenance of a drain" means the physical preservation of the location, depth, and bottom width of a drain and appurtenant structures to restore the function and approximate capacity of the drain as constructed or modified at any time before July 1, 2014, and includes, but is not limited to, the following activities if performed with best management practices:

(i) Excavation of accumulated sediments back to original contours.

(ii) Reshaping of the side slopes.

(iii) Bank stabilization where reasonably necessary to prevent erosion. Materials used for stabilization must be compatible with existing bank or bed materials.

(iv) Armoring, lining, or piping if a previously armored, lined, or piped section is being repaired and all work occurs within the footprint of the previous work.

(v) Replacement of existing control structures, if the original function of the drain is not changed and the original approximate capacity of the drain is not increased.

(vi) Repair of stabilization structures.

(vii) Culvert replacement, including culvert extensions of not more than 24 additional feet per culvert.

(viii) Emergency reconstruction of recently damaged parts of the drain. Emergency reconstruction must occur within a reasonable period of time after damage occurs in order to qualify for this exemption.

(h) Projects constructed under the watershed protection and flood prevention act, 16 USC 1001 to 1012.

(i) Construction and maintenance of privately owned cooling or storage ponds used in connection with a public utility except at the interface with public waters.

(j) Maintenance of a structure constructed under a permit issued pursuant to this part and identified by rule promulgated under section 30110, if the maintenance is in place and in kind with no design or materials modification.

(k) A water withdrawal.

(l) Annual installation of a seasonal dock or docks, pilings, mooring buoys, or other mooring structures previously authorized by and in accordance with a permit issued under this part.

(m) Controlled access of livestock to streams for watering or crossing if constructed in accordance with applicable practice standards set by the United States Department of Agriculture, Natural Resources Conservation Service.

(n) Temporary drawdowns of impoundments at hydroelectric projects licensed by the federal energy regulatory commission (FERC) and subject to FERC's authority if both of the following apply:

(i) The FERC licensee has consulted this state during the drawdown plan development and this state's concerns have been addressed in the drawdown plan as FERC considers appropriate.

(ii) Adverse environmental impacts, including stream flow, aquatic resources, and timing, have been avoided and minimized to the extent practical.

(o) Removal, by the riparian owner or a person authorized by the riparian owner, of plants that are an aquatic nuisance as defined in section 3301, if the removal is accomplished by hand-pulling without using a powered or mechanized tool and all plant fragments are removed from the water and properly disposed of on land above the ordinary high-water mark as defined in section 30101.

(p) Raking of lake bottomlands by the riparian owner or a person authorized by the riparian owner. To minimize effects on the lake bottomlands, the areas raked shall be unvegetated before raking and predominantly composed of sand or pebbles, and the raking shall be performed without using a powered or mechanized tool. For the purposes of this subdivision, the pulling of a nonpowered, nonmechanized tool with a boat is not the use of a powered or mechanized tool.

(2) As used in this section, "water withdrawal" means the removal of water from its source for any purpose.

(3) As used in this part, "agricultural drain" means a human-made conveyance of water that meets all of the following requirements:

(a) Does not have continuous flow.

(b) Flows primarily as a result of precipitation-induced surface runoff or groundwater drained through subsurface drainage systems.

(c) Serves agricultural production.

(d) Was constructed before January 1, 1973, or was constructed in compliance with this part or former 1979 PA 203.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2006, Act 33, Imd. Eff. Feb. 28, 2006 ;-- Am. 2009, Act 139, Imd. Eff. Nov. 4, 2009 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013 ;-- Am. 2014, Act 253, Imd. Eff. June 30, 2014 ;-- Am. 2018, Act 163, Eff. Aug. 21, 2018
Popular Name: Act 451
Admin Rule: R 281.811 et seq. of the Michigan Administrative Code.
Popular Name: NREPA

324.30104 Application for permit; fees; refund.

Sec. 30104.

(1) A person shall not undertake a project subject to this part except as authorized by a permit issued by the department pursuant to part 13. An application for a permit must include any information that may be required by the department. If a project includes activities at multiple locations, 1 application may be filed for the combined activities.

(2) Except as provided in subsections (3) and (4), until October 1, 2025, an application for a permit must be accompanied by an application fee based on an administrative cost in accordance with the following schedule:

(a) For an initial permit for a seasonal drawdown or associated reflooding, or both, of a dam or impoundment for the purpose of weed control that is issued for the first time after October 9, 1995, a fee of $500.00, but for subsequent permits for the same purpose a fee of $50.00.

(b) For activities included in a minor project category established under section 30105(7), a fee of $100.00.

(c) For activities included in a general permit category established under section 30105(8), a fee of $50.00.

(d) For construction or expansion of a marina, a fee as follows:

(i) $50.00 for an expansion of 1-10 marina slips to an existing permitted marina.

(ii) $100.00 for a new marina with 1-10 proposed marina slips.

(iii) $250.00 for an expansion of 11-50 marina slips to an existing permitted marina, plus $10.00 for each marina slip over 50.

(iv) $500.00 for a new marina with 11-50 proposed marina slips, plus $10.00 for each marina slip over 50.

(v) $1,500.00 if an existing permitted marina proposes maintenance dredging of 10,000 cubic yards or more, unless the dredge material is determined through testing to be 90% or more sand, or the addition of seawalls, bulkheads, or revetments of 500 feet or more.

(e) For major projects other than a project described in subdivision (d)(v), involving any of the following, a fee of $2,000.00:

(i) Dredging of 10,000 cubic yards or more, unless the dredge material is determined through testing to be 90% or more sand.

(ii) Filling of 10,000 cubic yards or more.

(iii) Seawalls, bulkheads, or revetments of 500 feet or more.

(iv) Filling or draining of 1 acre or more of wetland contiguous to a lake or stream.

(v) New dredging or upland boat basin excavation in areas of suspected contamination.

(vi) Shore projections, such as groins and underwater stabilizers, that extend 150 feet or more into a lake or stream.

(vii) New commercial docks or wharves of 300 feet or more in length.

(viii) Stream enclosures 100 feet or more in length.

(ix) Stream relocations 500 feet or more in length.

(x) New golf courses.

(xi) Subdivisions.

(xii) Condominiums.

(f) For the removal of submerged logs from bottomland of an inland lake, a $500.00 fee.

(g) For all other projects not listed in subdivisions (a) to (f), a fee of $500.00.

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

(a) Section 3104.

(b) Part 303.

(c) Part 323.

(d) Part 325.

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

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

(5) If the department denies an application for a permit under this part, the department shall promptly refund the application fee paid under this section.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1995, Act 171, Imd. Eff. Oct. 9, 1995 ;-- Am. 1996, Act 97, Imd. Eff. Feb. 28, 1996 ;-- Am. 1999, Act 106, Imd. Eff. July 7, 1999 ;-- Am. 2003, Act 163, Imd. Eff. Aug. 12, 2003 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004 ;-- Am. 2006, Act 275, Imd. Eff. July 7, 2006 ;-- Am. 2006, Act 531, Imd. Eff. Dec. 29, 2006 ;-- Am. 2008, Act 276, Imd. Eff. Sept. 29, 2008 ;-- Am. 2009, Act 139, Imd. Eff. Nov. 4, 2009 ;-- Am. 2011, Act 90, Imd. Eff. July 15, 2011 ;-- Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011 ;-- Am. 2013, Act 13, Imd. Eff. Mar. 27, 2013 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013 ;-- Am. 2015, Act 76, Eff. Oct. 1, 2015 ;-- Am. 2019, Act 84, Imd. Eff. Sept. 30, 2019 ;-- Am. 2021, Act 91, Imd. Eff. Oct. 20, 2021

Popular Name: Act 451

Popular Name: NREPA

324.30104b Applicability of MCL 324.30306b to proposed project or proposed permit application.

Sec. 30104b.

Section 30306b applies to a proposed project or a proposed permit application under this part.

History: Add. 2006, Act 592, Imd. Eff. Jan. 3, 2007 ;-- Am. 2010, Act 179, Imd. Eff. Sept. 30, 2010 ;-- Am. 2015, Act 76, Eff. Oct. 1, 2015

324.30105 Pending applications; posting on website; public hearing; review of application; statement; final inspection and certification; notice of hearing; conditional permit in emergency; provisions applicable to minor project; issuance of general permits; minor project category; general permit for activities in drains; definitions.

Sec. 30105.

(1) The department shall post on its website all of the following under this part:
(a) A list of pending applications.
(b) Public notices.
(c) Public hearing schedules.
(2) The department may hold a public hearing on pending applications.
(3) Except as otherwise provided in this section, upon receiving an application, the department shall submit copies for review to the director of the department of community health or the local health department designated by the director of the department of community health, to the city, village, or township and the county where the project is to be located, to the local conservation district, to the watershed council established under part 311, if any, to the local port commission, if any, and to the persons required to be included in the application pursuant to section 30104. Each copy of the application shall be accompanied by a statement that unless a written request is filed with the department within 20 days after the submission for review, the department may grant the application without a public hearing where the project is located. The department may hold a public hearing upon the written request of the applicant or a riparian owner or a governmental unit or other person that is entitled to receive a copy of the application pursuant to this subsection.
(4) After completion of a project for which an application is approved, the department may cause a final inspection to be made and certify to the applicant that the applicant has complied with the department's permit requirements.
(5) At least 10 days' notice of a hearing to be held under this section shall be given by publication in a newspaper circulated in the county where the project is to be located, to the person requesting the hearing, and to the governmental units and other persons that are entitled to receive a copy of the application pursuant to subsection (3).
(6) In an emergency, the department may issue a conditional permit before the expiration of the 20-day period referred to in subsection (3).
(7) After providing notice and an opportunity for a public hearing, the department shall establish minor project categories of activities and projects that are similar in nature, have minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. The department may act upon an application received pursuant to section 30104 for an activity or project within a minor project category without providing notices pursuant to subsection (3). The department shall develop a minor project category under this subsection for repair or replacement of a failed seawall. All other provisions of this part, except provisions applicable only to general permits, are applicable to a minor project.
(8) The department, after notice and an opportunity for a public hearing, shall issue general permits on a statewide basis or within a local unit of government for projects that are similar in nature, that will cause only minimal adverse environmental effects when performed separately, and that will only have minimal cumulative adverse effects on the environment. Before authorizing a specific project to proceed under a general permit, the department may provide notice pursuant to subsection (3) but shall not hold a public hearing and shall not typically require a site inspection. A general permit issued under this subsection shall not be valid for more than 5 years. Among the activities the department may consider for general permit eligibility under this subsection are the following:
(a) The removal of qualifying small dams.
(b) The maintenance or repair of an existing pipeline, if the pipeline is maintained or repaired in a manner to ensure that any adverse effects on the inland lake or stream will be minimized.
(9) The department may issue, deny, or impose conditions on project activities authorized under a minor project category or a general permit if the conditions are designed to remove an impairment to the inland lake or stream, to mitigate the effects of the project, or to otherwise improve water quality. The department may also establish a reasonable time when the proposed project is to be completed or terminated.
(10) If the department determines that activity in a proposed project, although within a minor project category or a general permit, is likely to cause more than minimal adverse environmental effects, the department may require

that the application be processed according to subsection (3) and reviewed for compliance with section 30106.

(11) The department shall develop by December 31, 2013 and maintain a general permit for activities in drains legally established pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630. The general permit is subject to all of the following:

(a) The general permit shall cover installation and replacement of culverts, clear span bridges, and end sections; culvert extensions; drain realignments; installation of bank stabilization structures and grade stabilization structures; spoil placement; and other common drain activities that use best management practices.

(b) A drain commissioner or drainage board may submit an application for an authorization under the general permit on a countywide basis. The department of agriculture and rural development may submit an application for an authorization under the general permit on behalf of an intercounty drainage board on a drainage-district-wide basis.

(c) The department shall grant or deny an authorization under the general permit by March 1 if the drain commissioner or drainage board applies for the authorization by the preceding January 20. An authorization under the general permit is valid until March 30 of the year after the year in which the authorization is granted.

(d) By December 31 of each year, the drain commissioner or drainage board shall submit a report to the department that includes the names of the drains on which activities were performed under the general permit during that calendar year, the locations and nature of the activities, and plans and other documentation demonstrating that those activities met the general permit requirements.

(e) A drain commissioner or drainage board is not eligible to be granted a new authorization under the general permit if significant violations of the general permit under a previous authorization granted to that drain commissioner or drainage board have not been corrected.

(12) As used in this section:

(a) "Failed seawall" means a seawall that has deteriorated to the point that it no longer effectively breaks the force of waves or retains soil for the purpose of shore protection and meets either or both of the following:

(i) The seawall is currently breaking the force of waves and retaining soil across a minimum of 50% of its length and there is evidence of a previous seawall along the other 50% of its length.

(ii) The seawall was breaking the force of waves and retaining soil but was damaged by a single catastrophic event which occurred within the 2 years prior to the repair or replacement of the seawall.

(b) "Qualifying small dam" means a dam that meets all of the following conditions:

(i) The height of the dam is less than 2 feet.

(ii) The impoundment from the dam covers less than 2 acres.

(iii) The dam does not serve as the first dam upstream from the Great Lakes or their connecting waterways.

(iv) The dam is not serving as a sea lamprey barrier.

(v) There are no threatened or endangered species that have been identified in the area that will be affected by the project.

(vi) There are no known areas of contaminated sediments in the area that will be affected by the project.

(vii) The department has received written permission for the removal of the dam from all riparian property owners adjacent to the dam's impoundment.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1995, Act 171, Imd. Eff. Oct. 9, 1995 ;-- Am. 1999, Act 106, Imd. Eff. July 7, 1999 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004 ;-- Am. 2006, Act 275, Imd. Eff. July 7, 2006 ;-- Am. 2006, Act 531, Imd. Eff. Dec. 29, 2006 ;-- Am. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013 ;-- Am. 2014, Act 351, Eff. Jan. 16, 2015
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Admin Rule: R 281.811 et seq. of the Michigan Administrative Code.

324.30106 Prerequisite to issuance of permit; specification in permit.

Sec. 30106.

The department shall issue a permit if it finds that the structure or project will not adversely affect the public trust or riparian rights. In passing upon an application, the department shall consider the possible effects of the proposed action upon the inland lake or stream and upon waters from which or into which its waters flow and the

uses of all such waters, including uses for recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry. The department shall not grant a permit if the proposed project or structure will unlawfully impair or destroy any of the waters or other natural resources of the state. This part does not modify the rights and responsibilities of any riparian owner to the use of his or her riparian water. A permit shall specify that a project completed in accordance with this part shall not cause unlawful pollution as defined by part 31.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30106a Construction, expansion, or reconfiguration of marina; issuance of permit; conditions; definitions.

Sec. 30106a.

(1) The department shall issue a permit to construct, expand, or reconfigure a marina if the department determines that the marina meets the conditions of section 30106 and all of the following conditions:

(a) The marina extends from riparian property of the applicant.

(b) The marina does not unreasonably interfere with navigation.

(c) The marina is located and designed to be operated consistently with the correlative rights of other riparians, including the rights of adjacent riparians.

(2) In order to be designed consistently with the correlative rights of other riparians as required under subsection (1), the marina shall be configured so that all boat mooring under any wind condition will occur solely within the marina's riparian interest area. Additionally, boat mooring and ingress and egress for an outside slip shall require a minimum maneuvering distance of 1.5 times the length of the slip. This minimum distance shall be measured from the end of the slip or, for broadside moorage, the outside beam of a watercraft moored at the slip, to the boundary of the marina's riparian interest area.

(3) In order to support the determinations under this section, the department may require the applicant to do either of the following:

(a) Submit a riparian interest area estimate survey, sealed by a licensed surveyor. In making its determination on the need for a riparian interest area estimate survey, the department shall consider factors such as the shape of the water body, the location of the marina on the water body, how much frontage is available to locate the marina, and the dock and mooring configurations.

(b) Obtain an easement from any affected adjacent riparian owner authorizing an incursion and record the easement with the register of deeds for the county in which the marina is located.

(4) The owner or operator of a marina existing on the effective date of the amendatory act that added this section that has not been authorized by a permit issued under this part shall obtain a permit under this section before expanding or reconfiguring the marina, or by January 1, 2012, whichever comes first. The owner or operator of a marina existing on the effective date of the amendatory act that added this section that has been authorized by a construction permit under this part does not need to obtain a new construction permit except to expand or reconfigure.

(5) As used in this section:

(a) "Marina's riparian interest area" means the riparian interest area of an applicant for a permit under subsection (1) and any adjacent area for which the applicant has secured written authorization from the riparian owner whose interest is or may be affected.

(b) "Outside slip" means a slip that is accessed from a location between the boundary of the marina's riparian interest area and the mooring structure.

(c) "Slip length" means the longer of either of the following:

(i) The total length of all mooring structures, including the docks and pilings.

(ii) The total length of the vessel moored in the slip, including, but not limited to, outboard engines, boat hoists, bowsprits, and swim platforms.

History: Add. 2009, Act 139, Imd. Eff. Nov. 4, 2009
Popular Name: Act 451
Compiler's Notes: NREPA

324.30106b Dredging or placing dredged spoils on bottomland; permit; conditions.

Sec. 30106b.

A permit under this part to dredge or place dredged spoils on bottomland is subject to both of the following:

(a) The permit shall be valid for a period of 5 years.

(b) During the term of the permit, the department shall not require additional environmental studies or surveys unless an act of God results in significant geological or ecological changes to the permitted area.

History: Add. 2013, Act 87, Imd. Eff. June 28, 2013
Popular Name: Act 451
Popular Name: NREPA

324.30107 Duration, terms, and revocation of permit; hearing; modification or revocation of general permit.

Sec. 30107.

(1) A permit is effective until revoked for cause but not beyond its term and may be subject to renewal. A permit may specify the term and conditions under which the work is to be carried out. A permit may be revoked after a hearing for violation of any of its provisions, any provision of this part, any rule promulgated under this part, or any misrepresentation in application.

(2) A general permit may be modified or revoked if, after opportunity for a public hearing, the department determines that the activities authorized by the general permit have more than a minimal adverse impact on the environment on an individual or cumulative basis, or the activities generally would be more appropriately processed according to section 30105(3) and reviewed for compliance with section 30106.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2006, Act 531, Imd. Eff. Dec. 29, 2006
Popular Name: Act 451
Popular Name: NREPA

324.30108 Bulkhead line; establishment; application; jurisdiction; duties.

Sec. 30108.

The department may establish by permit a bulkhead line on its own application or on the application of a local unit of government. The application shall be filed as provided in section 30104(1) with public notice and hearings as provided in section 30105. Upon acceptance of the bulkhead line by the affected units of government, the area landward of the bulkhead line shall after that acceptance be under the jurisdiction of those units of government as to the placement of structures and fills in the waters unless jurisdiction is returned to the state. In establishing a bulkhead line, the department shall provide for local requirements and ensure the public trust in the adjacent waters against unreasonable interferences.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30109 Ordinary high-water mark agreement with riparian owner; agreement as proof of location; fee.

Sec. 30109.

Upon the written request of a riparian owner and upon payment of a service fee, the department may enter into a written agreement with the riparian owner establishing the location of the ordinary high-water mark for his or her property. In the absence of substantially changed conditions, the agreement is conclusive proof of the location in all matters between this state and the riparian owner and his or her successors in interest. Until October 1, 2025, the service fee provided for in this section is $500.00. The department shall forward service fees collected under this section to the state treasurer for deposit into the fund.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1995, Act 171, Imd. Eff. Oct. 9, 1995 ;-- Am. 1999, Act 106, Imd. Eff. July 7, 1999 ;-- Am. 2003, Act 163, Imd. Eff. Aug. 12, 2003 ;-- Am. 2008, Act 276, Imd. Eff. Sept. 29, 2008 ;-- Am. 2011, Act 90, Imd. Eff. July 15, 2011 ;-- Am. 2015, Act 76, Eff. Oct. 1, 2015 ;-- Am. 2019, Act 84, Imd. Eff. Sept. 30, 2019 ;-- Am. 2021, Act 91, Imd. Eff. Oct. 20, 2021
Popular Name: Act 451
Popular Name: NREPA

324.30110 Rules; promulgation and enforcement; hearing; review; proceeding by riparian owner.

Sec. 30110.

(1) The department may promulgate and enforce rules to implement this part.

(2) If a person is aggrieved by any action or inaction of the department, he or she may request a formal hearing on the matter involved. The hearing shall be conducted by the commission in accordance with the provisions for contested cases in the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(3) A determination, action, or inaction by the commission following the hearing is subject to judicial review as provided in Act No. 306 of the Public Acts of 1969.

(4) This section does not limit the right of a riparian owner to institute proceedings in any circuit court of the state against any person when necessary to protect his or her rights.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Admin Rule: R 281.811 et seq. of the Michigan Administrative Code.

324.30111 Rights of riparian owner as to water frontage and exposed bottomland.

Sec. 30111.

This part does not deprive a riparian owner of rights associated with his or her ownership of water frontage. A riparian owner among other rights controls any temporarily or periodically exposed bottomland to the water's edge, wherever it may be at any time, and holds the land secure against trespass in the same manner as his or her upland subject to the public trust to the ordinary high-water mark.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30111b Public road end; prohibited use; violation as misdemeanor; fine; civil action; definitions.

Sec. 30111b.

(1) A public road end shall not be used for any of the following unless a recorded deed, recorded easement, or other recorded dedication expressly provides otherwise:

(a) Construction, installation, maintenance, or use of boat hoists or boat anchorage devices.

(b) Mooring or docking of a vessel between 12 midnight and sunrise.

(c) Any activity that obstructs ingress to or egress from the inland lake or stream.

(2) A public road end shall not be used for the construction, installation, maintenance, or use of a dock or wharf other than a single seasonal public dock or wharf that is authorized by the local unit of government, subject to any permit required under this part. This subsection does not prohibit any use that is expressly authorized by a recorded deed, recorded easement, or other recorded dedication. This subsection does not permit any use that exceeds the uses authorized by a recorded deed, recorded easement, other recorded dedication, or a court order.

(3) A local unit of government may prohibit a use of a public road end if that use violates this section.

(4) A person who violates subsection (1) or (2) is guilty of a misdemeanor punishable by a fine of not more than $500.00. Each 24-hour period in which a violation exists represents a separate violation of this section. A peace officer may issue an appearance ticket as authorized by sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g, to a person who violates subsection (1) or (2).

(5) This section does not prohibit a person or agency from commencing a civil action for conduct that violates this section.

(6) As used in this section:

(a) "Local unit of government" means a township, city, or village in which the public road end is located.

(b) "Public road end" means the terminus at an inland lake or stream of a road that is lawfully open for use by the public.

History: Add. 2012, Act 56, Imd. Eff. Mar. 22, 2012 ;-- Am. 2014, Act 168, Imd. Eff. June 12, 2014
Popular Name: Act 451
Popular Name: NREPA

324.30111d Issuance of written emergency order; violation of Part 301.

Sec. 30111d.

(1) The director of the department may issue a written emergency order that requires any person that the department determines to be in violation of this part to take emergency action necessary to prevent significant harm to public health, safety, welfare, property, or natural resources or the public trust in natural resources. The emergency action may include, but is not limited to, immediate repair or removal of a structure or fill owned by the person and located on bottomlands. This subsection does not expand the department's authority under part 315 as limited by section 31506(2)(a). If a person fails to comply with an order under this subsection, or is unavailable or unable to be contacted, the department may take the action necessary and may recover the costs incurred from that person in a civil action in a court of competent jurisdiction. The director of the department may modify an emergency order. The director of the department may terminate an emergency order upon a determination in writing that all necessary emergency actions have been completed and that an emergency no longer exists.

(2) Within 15 days after the director of the department issues an emergency order to a person under subsection (1), the department shall provide the person with an opportunity for a hearing pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.288. At the hearing, the director of the department shall determine, based on information and fact, if the emergency order must be continued, modified, suspended, or terminated as necessary for or consistent with the protection of public health, safety, welfare, property, or natural resources or the public trust in natural resources.

(3) Before taking action to recover costs incurred under subsection (1), the department shall consider any evidence, provided by the person liable for the costs, that the person is unable to pay the costs.

History: Add. 2024, Act 102, Eff. Apr. 2, 2025
Popular Name: Act 451
Popular Name: NREPA

324.30112 Civil action; commencement by department; fine; violation as misdemeanor; penalty; civil sanction as appropriate to violation.

Sec. 30112.

(1) The department may commence a civil action in the circuit court of the county in which a violation occurs to enforce compliance with this part, to restrain violation of this part or any action contrary to an order of the department denying a permit, to enjoin the further performance of, or order the removal of, any project that is undertaken contrary to this part or after denial of a permit by the department, or to order the restoration of the affected area to its prior condition.

(2) In a civil action commenced under this part, the circuit court, in addition to any other relief granted, may assess a civil fine of not more than $5,000.00 per day for each day of violation.

(3) Except as provided in subsection (4), a person who violates this part or a permit issued under this part is guilty of a misdemeanor, punishable by a fine of not more than $10,000.00 per day for each day of violation.

(4) A person who commits a minor offense is guilty of a misdemeanor, punishable by a fine of not more than $500.00 for each violation. A law enforcement officer may issue and serve an appearance ticket upon a person for a minor offense pursuant to sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g.

(5) A person who knowingly makes a false statement, representation, or certification in an application for a permit or in a notice or report required by a permit, or a person who knowingly renders inaccurate any monitoring device or method required to be maintained by a permit, is guilty of a misdemeanor, punishable by a fine of not more than $10,000.00 per day for each day of violation.

(6) Any civil sanction assessed, sought, or agreed to by the department shall be appropriate to the violation.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019
Popular Name: Act 451
Popular Name: NREPA

324.30113 Land and water management permit fee fund.

Sec. 30113.

(1) The land and water management permit fee 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. The state treasurer shall annually present to the department an accounting of the amount of money in the fund. The department shall be the administrator of the fund for auditing purposes.

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

(4) The department shall expend money from the fund, upon appropriation, only to implement this part and the following:

(a) Sections 3104, 3107, and 3108.

(b) Part 303.

(c) Part 315.

(d) Part 323.

(e) Part 325.

(f) Part 339.

(g) Part 353.

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

(5) The department shall annually report to the legislature how money in the fund was expended during the previous fiscal year.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1995, Act 171, Imd. Eff. Oct. 9, 1995 ;-- Am. 2004, Act 246, Eff. Oct. 1, 2004 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004 ;-- Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006 ;-- Am. 2014, Act 253, Imd. Eff. June 30, 2014
Popular Name: Act 451

Part 303
WETLANDS PROTECTION

***** 324.30301 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30301 Definitions; technical wetland delineation standards.

Sec. 30301.

(1) As used in this part:
(a) "Department" means the department of environmental quality.
(b) "Director" means the director of the department.
(c) "Exceptional wetland" means wetland that provides physical or biological functions essential to the natural resources of this state and that may be lost or degraded if not preserved through an approved site protection and management plan for the purposes of providing compensatory wetland mitigation.
(d) "Fill material" means soil, rocks, sand, waste of any kind, or any other material that displaces soil or water or reduces water retention potential.
(e) "Hydric soil" means a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.
(f) "Landscape level wetland assessment" means the use of aerial photographs, maps, and other remotely sensed information to predict and evaluate wetland characteristics and functions in the context of all of the following:
(i) The wetland's landscape position and hydrologic characteristics.
(ii) The surrounding landscape.
(iii) The historic extent and condition of the wetland.
(g) "Minor drainage" includes ditching and tiling for the removal of excess soil moisture incidental to the planting, cultivating, protecting, or harvesting of crops or improving the productivity of land in established use for agriculture, horticulture, silviculture, or lumbering.
(h) "Nationwide permit" means a nationwide permit issued by the United States Army Corps of Engineers under 72 FR 11091 to 11198 (March 12, 2007), including all general conditions, regional conditions, and conditions imposed by this state pursuant to a water quality certification under section 401 of title IV of the federal water pollution control act, 33 USC 1341, or a coastal zone management consistency determination under section 307 of the coastal zone management act of 1972, 16 USC 1456.
(i) "Ordinary high-water mark" means the ordinary high-water mark as specified in section 32502.
(j) "Person" means an individual, sole proprietorship, partnership, corporation, association, municipality, this state, an instrumentality or agency of this state, the federal government, an instrumentality or agency of the federal government, or other legal entity.
(k) "Rapid wetland assessment" means a method for generally assessing the functions, values, and condition of individual wetlands based on existing data and field indicators.
(l) "Rare and imperiled wetland" means any of the following:
(i) Great Lakes marsh.
(ii) Southern wet meadow.
(iii) Inland salt marsh.
(iv) Coastal plain marsh.
(v) Interdunal wetland.
(vi) Lakeplain wet prairie.
(vii) Lakeplain wet-mesic prairie.
(viii) Coastal fen.
(ix) Wet-mesic prairie.
(x) Wet prairie.
(xi) Prairie fen.
(xii) Northern fen.
(xiii) Patterned fen.

(xiv) Poor fen.

(xv) Muskeg.

(xvi) Relict conifer swamp.

(xvii) Southern floodplain forest.

(m) "Water dependent" means requiring access or proximity to or siting within an aquatic site to fulfill its basic purpose.

(n) "Wetland" means a land or water feature, commonly referred to as a bog, swamp, or marsh, inundated or saturated by water at a frequency and duration sufficient to support, and that under normal circumstances does support, hydric soils and a predominance of wetland vegetation or aquatic life. A land or water feature is not a wetland unless it meets any of the following:

(i) Is a water of the United States as that term is used in section 502(7) of the federal water pollution control act, 33 USC 1362.

(ii) Is contiguous to the Great Lakes, Lake St. Clair, an inland lake or pond, or a stream. As used in this subparagraph, "pond" does not include a farm or stock pond constructed consistent with the exemption under section 30305(2)(g).

(iii) Is more than 5 acres in size.

(iv) Has the documented presence of an endangered or threatened species under part 365 or the endangered species act of 1973, Public Law 93-205.

(v) Is a rare and imperiled wetland.

(2) In 2019 and every 5 years thereafter, the department of natural resources may make recommendations to the legislature for changes in the list of rare and imperiled wetlands to reflect the status of each type of wetland to be included on the list as rare and imperiled throughout this state.

(3) As used in section 30312f:

(a) "Altered or degraded wetland" means wetland that meets any of the following criteria:

(i) Has been partially or fully drained, such as by ditching, tiling, or pumping.

(ii) Has been partially or fully filled by direct placement of material in the wetland or significant sedimentation.

(iii) Invasive plant species dominate in a majority of the vegetated surface area of the wetland.

(iv) Has undergone land use conversion or alteration to vegetation, soil, or hydrology that currently affects the wetland functions and services.

(b) "Former wetland" means land that was wetland but that has been modified to the point that it no longer has the hydrologic characteristics of wetland.

(c) "Net increase in wetland functions and services" means an increase in 1 or more wetland functions and services with not more than a minimal decrease in other wetland functions and services.

(d) "Voluntary wetland restoration project", subject to subdivision (e), means any of the following:

(i) Activities that are voluntarily undertaken to restore, reestablish, rehabilitate, or enhance altered or degraded wetland or former wetland and that result in a net increase in wetland functions and services.

(ii) Activities to maintain or manage sites where activities described in subparagraph (i) have taken place, including sites restored before October 1, 1980, the effective date of former 1979 PA 203.

(e) Voluntary wetland restoration project does not include an activity undertaken to fulfill, currently or in the future, a federal, state, or local wetland permit mitigation requirement.

(f) "Wetland functions and services" means any of the following:

(i) Wetland hydrology that approximates the predisturbance condition or that emulates the natural condition of the wetland.

(ii) Fish and wildlife habitat quality or quantity.

(iii) Plant community quality, characterized by native vegetation types and diversity.

(iv) Water- and soil-related functions of the wetland, such as nutrient removal, sediment retention, flood control, or groundwater recharge.

(v) Recreational use of the wetland, including, but not limited to, fishing, hunting, trapping, and birdwatching.

(4) The department and local units of government shall apply the technical wetland delineation standards set forth in the United States Army Corps of Engineers January, 1987, Wetland Delineation Manual, technical report Y-87-1, and appropriate regional United States Army Corps of Engineers supplements, in identifying wetland boundaries under this part, including, but not limited to, section 30307.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2003, Act 14, Imd. Eff. June 5, 2003 ;-- Am. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2012, Act 247, Imd. Eff. July 2, 2012 ;-- Am. 2018, Act 562, Eff. Mar. 28, 2019 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and

environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30302 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30302 Legislative findings; criteria to be considered in administration of part.

Sec. 30302.

(1) The legislature finds that:
(a) Wetland conservation is a matter of state concern since a wetland of 1 county may be affected by acts on a river, lake, stream, or wetland of other counties.
(b) A loss of a wetland may deprive the people of the state of some or all of the following benefits to be derived from the wetland:
(i) Flood and storm control by the hydrologic absorption and storage capacity of the wetland.
(ii) Wildlife habitat by providing breeding, nesting, and feeding grounds and cover for many forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
(iii) Protection of subsurface water resources and provision of valuable watersheds and recharging ground water supplies.
(iv) Pollution treatment by serving as a biological and chemical oxidation basin.
(v) Erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
(vi) Sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.
(c) Wetlands are valuable as an agricultural resource for the production of food and fiber, including certain crops which may only be grown on sites developed from wetland.
(d) That the extraction and processing of nonfuel minerals may necessitate the use of wetland, if it is determined pursuant to section 30311 that the proposed activity is dependent upon being located in the wetland and that a prudent and feasible alternative does not exist.
(2) In the administration of this part, the department shall consider the criteria provided in subsection (1).

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30303 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30303 Studies regarding wetland resources; contracts; study as public record for distribution at cost; identification of land suitable for cranberry production activities.

Sec. 30303.

(1) The department may enter into an agreement to make contracts with the federal government, other state agencies, local units of government, private agencies, or persons for the purposes of making studies for the efficient preservation, management, protection, and use of wetland resources. A study shall be available as a public record for distribution at cost as provided in section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.

(2) Within 180 days after the effective date of the 2009 amendatory act that added this subsection, the commission of agriculture in consultation with the department of environmental quality shall identify at least 2,500 acres of land suitable for cranberry production activities. Priority shall be given to upland sites, sites that have been drained for agricultural use and are no longer wetland, and sites that have been drained for agricultural use and continue to be wetland. The department and the department of agriculture shall make available to the public a map of the areas identified as provided in this section. The map is for informational purposes and does not constitute a regulatory determination for purposes of this part.

(3) After 2,000 acres of sites identified under subsection (2) have been developed for cranberry production activities, at least an additional 2,500 acres shall be identified as provided in subsection (2).

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2009, Act 120, Eff. Nov. 6, 2009
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

324.30303b Repealed. 2009, Act 120, Eff. Oct. 1, 2012.

Compiler's Notes: The repealed section pertained to implementation of pilot program to facilitate role of local units of government, conservation districts, nonprofit organizations, and wetland professionals seeking assistance with certain proposed projects.
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

324.30303d Repealed. 2009, Act 120, Eff. Oct. 1, 2012.

Compiler's Notes: The repealed section pertained to pilot program for development of wetland mitigation banks, participants, and report.
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30304 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30304 Prohibited activities.

Sec. 30304.

Except as otherwise provided in this part or by a permit issued by the department under this part and pursuant to part 13, a person shall not do any of the following:

(a) Deposit or permit the placing of fill material in a wetland.

(b) Dredge, remove, or permit the removal of soil or minerals from a wetland.

(c) Construct, operate, or maintain any use or development in a wetland.

(d) Drain surface water from a wetland.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019

Popular Name: Act 451

Popular Name: NREPA

Popular Name: Wetland Protection Act

***** 324.30304b THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30304b Issuance of state programmatic general permits; agreement with United States army corps of engineers; applicability of subsections (2) and (3).

Sec. 30304b.

(1) The department shall pursue an agreement with the United States army corps of engineers for the corps to issue state programmatic general permits under section 404(e) of title IV of the federal water pollution control act, 33 USC 1344, for activities regulated under this part in waters over which the corps retains jurisdiction under section 404(g)(1) of title IV of the federal water pollution control act, 33 USC 1344.

(2) This subsection applies beginning January 1, 2011. This subsection applies to an application for a permit under this part only if the application is for an activity or use in waters over which the corps retains jurisdiction under section 404(g)(1) of title IV of the federal water pollution control act, 33 USC 1344, and if the corps has not issued a state programmatic general permit for the activity or use. In such a case, if requested by the applicant in the application, all of the following apply:

(a) The department shall approve or deny the application for a permit under this part not more than 30 days after the corps grants or denies an application for a permit for the project under section 404(a) of title IV of the federal water pollution control act, 33 USC 1344, or by the end of the processing period otherwise provided for in section 1301, whichever is later. If a project proposed in a permit application processed under this subsection also requires authorization under 1 or more of parts 31, 301, 315, 323, 325, or 353, the requirements of this subdivision also apply to the department's decision under that part or parts.

(b) Subject to subsection (3), if the corps grants a permit for the project, the department shall grant a permit under this part without conditions or limitations other than those imposed by the corps unless any of the following apply:

(i) The wetland is a rare and imperiled wetland.

(ii) The wetland is regionally significant for the protection of fisheries, wildlife, or migratory birds.

(iii) The site is described in section 30309(a), (e), or (g).

(iv) The proposed project involves a use or activity not regulated under section 404(a) of title IV of the federal water pollution control act, 33 USC 1344.

(3) The department shall inform the applicant in writing of the basis for a finding that the requirements of subsection (2)(b)(i), (ii), (iii), or (iv) are met and the specific reasons why denial of the permit or the imposition of additional conditions or limitations on the permit is consistent with this part and rules promulgated under this part.

(4) Subsections (2)(b) and (3) apply only to the department's decision under this part notwithstanding that the project proposed in the application also requires authorization under 1 or more of parts 31, 301, 315, 323, 325, and 353.

History: Add. 2009, Act 120, Eff. Nov. 6, 2009

Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1,

MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30305 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30305 Activities not requiring permit under part; uses allowed without permit; farming operation in wetland not requiring permit; incidental creation of wetland; area created as result of commercial excavation; activities not subject to regulation; subsection (6) inapplicable to certain lands; "agricultural drain" defined.

Sec. 30305.

(1) Activities that require a permit under part 325 or part 301 or a discharge that is authorized by a discharge permit under section 3112 or 3113 do not require a permit under this part.

(2) The following uses are allowed in a wetland without a permit subject to other laws of this state and the owner's regulation:

(a) Fishing, trapping, or hunting.

(b) Swimming or boating.

(c) Hiking.

(d) Grazing of animals, including fencing and post placement if the fence is designed to control livestock, does not exceed 11 feet in height, and utilizes an amount of material that does not exceed that of a woven wire fence utilizing 6-inch vertical spacing and posts.

(e) Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. All of the following apply for the purposes of this subdivision:

(i) Beginning October 1, 2013, to be allowed in a wetland without a permit, these activities shall be part of an established ongoing farming, ranching, horticultural, or silvicultural operation. Farming and silvicultural activities on areas lying fallow as part of a conventional rotational cycle are part of an established ongoing operation, unless modifications to the hydrological regime or mechanized land clearing are necessary to resume operation. Activities that bring into farming, ranching, horticultural, or silvicultural use an area not in any of these uses, or that convert an area from a forested or silvicultural use to a farming, ranching, or horticultural use, are not part of an established ongoing operation.

(ii) Minor drainage does not include drainage associated with the immediate or gradual conversion of a wetland to a nonwetland, or conversion from 1 wetland use to another. Minor drainage does not include the construction of a canal, ditch, dike, or other waterway or structure that drains or otherwise significantly modifies a stream, lake, or wetland.

(iii) Wetland altered under this subdivision shall not be used for a purpose other than a purpose described in this section without a permit from the department.

(f) Maintenance or operation of serviceable structures in existence on October 1, 1980 or constructed pursuant to this part or former 1979 PA 203.

(g) Construction or maintenance of farm or stock ponds.

(h) Maintenance of an agricultural drain, regardless of outlet, if all of the following requirements are met:

(i) The maintenance includes only activities that maintain the location, depth, and bottom width of the drain as constructed or modified at any time before July 1, 2014.

(ii) The maintenance is performed by the landowner or pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(iii) The maintenance does not include any modification that results in additional wetland drainage or conversion of a wetland to a use to which it was not previously subject.

(i) Maintenance of a drain that was legally established and constructed pursuant to the drain code of 1956, 1956

PA 40, MCL 280.1 to 280.630, if the drain was constructed before January 1, 1973 or under a permit issued pursuant to this part. As used in this subdivision, "maintenance of a drain" means the physical preservation of the location, depth, and bottom width of a drain and appurtenant structures to restore the function and approximate capacity of the drain as constructed or modified at any time before July 1, 2014, including the placement of spoils removed from the drain in locations along that drain where spoils have been previously placed. Maintenance of a drain under this subdivision does not include any modification that results in additional wetland drainage or conversion of a wetland to a use to which it was not previously subject.

(j) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to ensure that any adverse effect on the wetland will be minimized. Borrow material for road construction or maintenance shall be taken from upland sources if feasible. In determining whether an alternative will minimize any adverse effect on the wetland, the department shall consider cost, existing technology, and logistics in light of overall project purposes.

(k) Maintenance of public streets, highways, or roads that meets all of the following requirements:

(i) Does not include any modification that changes the original location or footprint.

(ii) Is done in a manner that minimizes any adverse effect on the wetland.

(l) Maintenance or repair of utility lines and associated support structures that meets all of the following requirements:

(i) Is done in a manner that minimizes any adverse effect on the wetland.

(ii) Does not include any modification to the character, scope, or size of the originally constructed design.

(iii) Does not convert a wetland area to a use to which it was not previously subject.

For the purposes of this subdivision and subdivision (m), "utility line" means any pipe or pipeline used for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone or telegraph messages, or radio or television communication.

(m) Installation of utility lines having a diameter of 6 inches or less using directional drilling or boring, or knifing-in, and the placement of poles with minimal (less than 1 cubic yard) structure support, if the utility lines and poles are installed in a manner that minimizes any adverse effect on the wetland. Directional drilling or boring under this subdivision shall meet all of the following requirements:

(i) The top of the utility line is at least 4 feet below the soil surface of the wetland. However, if the presence of rock prevents the placement of the utility line at the depth otherwise required by this subparagraph, the bottom of the utility line is not placed higher than the top of the rock.

(ii) The entry and exit holes are located a sufficient distance from the wetland to ensure that disturbance of the wetland does not occur.

(iii) The operation does not result in the eruption or release of any drilling fluids up through the ground and into the wetland and there is an adequate plan to respond to any release of drilling mud or other fill material.

(n) Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on October 1, 1980 or constructed pursuant to this part or former 1979 PA 203.

(o) Placement of biological residuals from activities, including the cutting of woody vegetation or the in-place grinding of tree stumps, performed under this section within a wetland, if all the biological residuals originate within that wetland.

(3) An activity in a wetland that was effectively drained for farming before October 1, 1980 and that on and after October 1, 1980 has continued to be effectively drained as part of an ongoing farming operation is not subject to regulation under this part.

(4) A wetland that is incidentally created as a result of 1 or more of the following activities is not subject to regulation under this part:

(a) Excavation as part of commercial sand, gravel, or mineral mining, if the area was not a wetland before excavation. This exemption from regulation applies until the property on which the wetland is located meets both of the following requirements:

(i) Is no longer used for excavation as part of commercial sand, gravel, or mineral mining.

(ii) Is being used for another purpose unrelated to excavation as part of commercial sand, gravel, or mineral mining.

(b) Construction and operation of a water treatment pond, lagoon, or storm water facility in compliance with the requirements of state or federal water pollution control laws.

(c) A diked area associated with a landfill if the landfill complies with the terms of the landfill construction permit and if the diked area was not a wetland before diking.

(d) Construction of drains in upland for the sole purpose of removing excess soil moisture from upland areas that are primarily in agricultural use.

(e) Construction of roadside ditches in upland for the sole purpose of removing excess soil moisture from upland.

(f) An agricultural soil and water conservation practice designed, constructed, and maintained for the purpose of enhancing water quality.

(5) An area that becomes contiguous to a water body created as a result of commercial excavation for sand, gravel, or mineral mining is not subject to regulation under this part solely because it is contiguous to the created water body. This exemption from regulation applies until the property on which the wetland is located meets both of the following requirements:

(a) Is no longer used for excavation as part of commercial sand, gravel, or mineral mining.

(b) Is being used for another purpose unrelated to excavation as part of commercial sand, gravel, or mineral mining.

(6) Except as provided in subsection (7), the following activities are not subject to regulation under this part:

(a) Leveling of sand, removal of vegetation, grooming of soil, or removal of debris, in an area of unconsolidated material predominantly composed of sand, rock, or pebbles, located between the ordinary high-water mark and the water's edge.

(b) Mowing of vegetation between the ordinary high-water mark and the water's edge.

(7) Subsection (6) does not apply to lands included in the survey of the delta of the St. Clair River, otherwise referred to as the St. Clair flats, located within Clay township, St. Clair county, as provided for in 1899 PA 175.

(8) As used in this part, "agricultural drain" means a human-made conveyance of water that meets all of the following requirements:

(a) Does not have continuous flow.

(b) Flows primarily as a result of precipitation-induced surface runoff or groundwater drained through subsurface drainage systems.

(c) Serves agricultural production.

(d) Was constructed before January 1, 1973, or was constructed in compliance with this part or former 1979 PA 203.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 550, Imd. Eff. Jan. 15, 1997 ;-- Am. 2003, Act 14, Imd. Eff. June 5, 2003 ;-- Am. 2012, Act 247, Imd. Eff. July 2, 2012 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30305b THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30305b Cranberry beds.

Sec. 30305b.

(1) The department shall consider construction of cranberry beds, including associated dikes and water control structures associated with dikes, such as headgates, weirs, and drop inlet structures, to be a water dependent activity.

(2) The following activities associated with cranberry operations are not considered to be water dependent:

(a) The construction of roads, ditches, reservoirs, and pump houses that are used during the cultivation of cranberries.

(b) The construction of secondary support facilities for shipping, storage, packaging, parking, and similar purposes.

(3) The demonstration by an applicant under section 30311 that there is no feasible and prudent alternative to the construction of cranberry beds, including dikes and water control structures associated with dikes, is not subject to either of the following presumptions:

(a) That feasible and prudent alternatives that do not involve a wetland are available.

(b) That a feasible and prudent alternative that does not affect a wetland will have less adverse effects on the aquatic ecosystem.

History: Add. 2009, Act 120, Eff. Nov. 6, 2009
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1,

MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30306 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30306 Permit for use or development listed in MCL 324.30304; filing, form, and contents of application; proposed use or development as single permit application; fee; work done in violation of permit requirement; fee refund; conditional permit.

Sec. 30306.

(1) Except as provided in section 30307(6), to obtain a permit for a use or development listed in section 30304, a person shall file an application with the department on a form provided by the department. The application shall include all of the following:

(a) The person's name and address.

(b) The location of the wetland.

(c) A description of the wetland.

(d) A statement and appropriate drawings describing the proposed use or development.

(e) The wetland owner's name and address.

(f) An environmental assessment of the proposed use or development if requested by the department. The assessment shall include the effects upon wetland benefits and the effects upon the water quality, flow, and levels, and the wildlife, fish, and vegetation within any contiguous inland lake or stream.

(2) For the purposes of subsection (1), a proposed use or development of a wetland shall be covered by a single permit application under this part if the scope, extent, and purpose of a use or development are made known at the time of the application for the permit.

(3) Except as provided in subsections (4) and (5), an application for a permit submitted under subsection (1) shall be accompanied by the following application fee, as applicable:

(a) For a project in a category of activities for which a general permit is issued under section 30312(2), a fee of $50.00.

(b) For activities included in a minor project category established under section 30312(1), a fee of $100.00.

(c) For a major project, including any of the following, a fee of $2,000.00:

(i) Filling or draining of 1 acre or more of coastal or inland wetland.

(ii) 10,000 cubic yards or more of wetland fill.

(iii) A new golf course affecting wetland.

(iv) A subdivision affecting wetland.

(v) A condominium affecting wetland.

(d) For all other projects, a fee of $500.00.

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

(a) Section 3104.

(b) Part 301.

(c) Part 323.

(d) Part 325.

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

(5) If work has been done in violation of a permit requirement under this part, the department shall consider accepting and may accept an application for a permit if the application is accompanied by a fee equal to twice the application fee otherwise required under this section.

(6) If the department determines that a permit is not required under this part or denies an application for a permit under this part, the department shall promptly refund the application fee paid under this section.

(7) The department may issue a conditional permit before the expiration of the 20-day period referred to in section 30307 if emergency conditions warrant a project to protect property or the public health, safety, or welfare.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 228, Imd. Eff. July 3, 1998 ;-- Am. 2003, Act 14, Imd. Eff. June 5, 2003 ;-- Am. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2012, Act 247, Imd. Eff. July 2, 2012 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30306b THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30306b Preapplication meeting; fee; withdrawal of request; refund of fee; duration of written agreement.

Sec. 30306b.

(1) If a preapplication meeting is requested in writing by the landowner or another person who is authorized in writing by the landowner, the department shall meet with the person or his or her representatives to review a proposed project or a proposed permit application in its entirety. The preapplication meeting shall take place at the department's district office for the district that includes the project site or at the project site itself, as specified in the request.

(2) Except as provided in this subsection, the request shall be accompanied by a fee. The fee for a preapplication meeting at the district office is $150.00. The fee for a preapplication meeting at the project site is $250.00 for the first acre or portion of an acre of project area, plus $50.00 for each acre or portion of an acre in excess of the first acre, but not to exceed a fee of $1,000.00. However, both of the following apply:

(a) If the location of the project is a single family residential lot that is less than 1 acre in size, there is no fee for a preapplication meeting at the district office, and the fee for a preapplication meeting at the project site is $100.00.

(b) There is no fee for a preapplication meeting for cranberry and blueberry production activities, whether at the district office or project site.

(3) If the person withdraws the request at least 24 hours before the preapplication meeting, the department may agree with the person to reschedule the meeting or shall promptly refund the fee and need not meet as provided in this section. Otherwise, if, after agreeing to the time and place for a preapplication meeting, the person requesting the meeting is not represented at the meeting, the person shall forfeit the fee for the meeting. If, after agreeing to the time and place for a preapplication meeting, the department is not represented at the meeting, the department shall refund the fee and send a representative to a rescheduled meeting to be held within 10 days after the first scheduled meeting date.

(4) Any written agreement provided by the department as a result of the preapplication meeting regarding the need to obtain a permit is binding on the department for 2 years after the date of the agreement.

History: Add. 2006, Act 435, Imd. Eff. Oct. 5, 2006 ;-- Am. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2010, Act 180, Imd. Eff. Sept. 30, 2010 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451

***** 324.30307 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30307 Hearing; location; notice; approval or disapproval of permit application; appeal; legal action; website and electronic notification of pending permit applications, public notices, and public hearing schedules; effect of ordinance regulating wetlands; review of permit application by local unit of government; effect of failure to approve or disapprove within time period; recommendations; notice of permit issuance.

Sec. 30307.

(1) Within 60 days after receipt of the completed application and fee, the department may hold a hearing. If a hearing is held, it shall be held in the county where the wetland to which the permit is to apply is located. Notice of the hearing shall be given in the same manner as for the promulgation of rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may approve or disapprove a permit application without a public hearing unless a person requests a hearing in writing within 20 days after the mailing of notification of the permit application as required by subsection (3) or unless the department determines that the permit application is of significant impact so as to warrant a public hearing.

(2) The action taken by the department on a permit application under this part or part 13 may be appealed pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A property owner may, after exhaustion of administrative remedies, bring appropriate legal action in a court of competent jurisdiction.

(3) The department shall post on its website, and shall have a process to provide electronic mail notification of, all of the following under this part:

(a) A list of pending applications.

(b) Public notices.

(c) Public hearing schedules.

(4) A local unit of government may regulate wetland within its boundaries, by ordinance, only as provided under this part. This subsection is supplemental to the existing authority of a local unit of government. An ordinance adopted by a local unit of government pursuant to this subsection shall comply with all of the following:

(a) The ordinance shall not provide a different definition of wetland than is provided in this part, except that a wetland ordinance may regulate wetland of less than 5 acres in size.

(b) If the ordinance regulates wetland that is smaller than 2 acres in size, the ordinance shall comply with section 30309.

(c) The ordinance shall comply with sections 30308 and 30310.

(d) The ordinance shall not require a permit for uses that are authorized without a permit under section 30305, and shall otherwise comply with this part.

(5) A local unit of government that adopts an ordinance regulating wetlands under subsection (4) shall notify the department.

(6) A local unit of government that adopts an ordinance regulating wetlands shall use an application form supplied by the department, and each person applying for a permit shall make application directly to the local unit of government. Upon receipt, the local unit of government shall forward a copy of each application along with any state fees that may have been submitted under section 30306 to the department. The department shall begin reviewing the application as provided in this part. The local unit of government shall review the application pursuant to its ordinance and shall modify, approve, or deny the application within 90 days after receipt. If a local unit of government does not approve or disapprove the permit application within the time period provided by this subsection, the permit application shall be considered approved, and the local unit of government shall be considered to have made the determinations as listed in section 30311. The denial of a permit shall be accompanied by a written statement of all reasons for denial. The failure to supply complete information with a permit application may be reason for denial of a permit. If requested, the department shall inform a person whether or not a local unit of government has an ordinance regulating wetlands. If the department receives an application with respect to a wetland located in a local unit of government that has an ordinance regulating wetlands, the department

immediately shall forward the application to the local unit of government, which shall modify, deny, or approve the application under this subsection. The local unit of government shall notify the department of its decision. The department shall proceed as provided in this part.

(7) If a local unit of government does not have an ordinance regulating wetlands, the department shall promptly send a copy of the permit application to the local unit of government where the wetland is located. The local unit of government may review the application; may hold a hearing on the application; may recommend approval, modification, or denial of the application to the department or may notify the department that the local unit of government declines to make a recommendation. The recommendation of the local unit of government, if any, shall be made and returned to the department within 45 days after the local unit of government's receipt of the permit application.

(8) In addition to the requirements of subsection (7), the department shall notify the local unit of government that the department has issued a permit under this part pertaining to wetland located within the jurisdiction of that local unit of government within 15 days of issuance of the permit. The department shall enclose a copy of the permit with the notice.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1995, Act 103, Imd. Eff. June 23, 1995 ;-- Am. 1998, Act 228, Imd. Eff. July 3, 1998 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004 ;-- Am. 2006, Act 430, Imd. Eff. Oct. 5, 2006 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30308 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30308 Adoption of wetlands ordinance by local unit of government; availability of wetland inventory; completion of inventory map; notice; enforceable presumptions not created; processing wetland use applications.

Sec. 30308.

(1) Prior to the effective date of an ordinance authorized under section 30307(4), a local unit of government that wishes to adopt such an ordinance shall complete and make available to the public at a reasonable cost an inventory of all wetland within the local unit of government, except that a local unit of government located in a county that has a population of less than 100,000 is not required to include public lands on its map. A local unit of government shall make a draft of the inventory map available to the public, shall provide for public notice and comment opportunity prior to finalizing the inventory map, and shall respond in writing to written comments received by the local unit of government regarding the contents of the inventory. A local unit of government that has a wetland ordinance on December 18, 1992 has until June 18, 1994 to complete an inventory map and to otherwise comply with this part, or the local unit of government shall not continue to enforce that ordinance. Upon completion of an inventory map or upon a subsequent amendment of an inventory map, the local unit of government shall notify each record owner of property on the property tax roll of the local unit of government that the inventory maps exist or have been amended, where the maps may be reviewed, that the owner's property may be designated as a wetland on the inventory map, and that the local unit of government has an ordinance regulating wetland. The notice shall also inform the property owner that the inventory map does not necessarily include all of the wetlands within the local unit of government that may be subject to the wetland ordinance. The notice may be given by including the required information with the annual notice of the property owner's property tax assessment. A wetland inventory map does not create any legally enforceable presumptions regarding whether property that is or is not included on the inventory map is or is not a wetland.

(2) A local unit of government that adopts a wetland ordinance shall process wetland use applications in a manner that ensures that the same entity makes decisions on site plans, plats, and related matters, and wetland determinations, and that the applicant is not required to submit to a hearing on the application before more than 1 local unit of government decision making body. This requirement does not apply to either of the following:

(a) A preliminary review by a planning department, planning consultant, or planning commission, prior to

submittal to the decision making body if required by an ordinance.

(b) An appeal process that is provided for appeal to the legislative body or other body designated to hear appeals.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30309 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30309 Regulation by local unit of government of wetland less than 2 acres; permit application; determination.

Sec. 30309.

A local unit of government that has adopted an ordinance under section 30307(4) that regulates wetland within its jurisdiction that is less than 2 acres in size shall comply with this section. Upon application for a wetland use permit in a wetland that is less than 2 acres in size, the local unit of government shall approve the permit unless the local unit of government determines that the wetland is essential to the preservation of the natural resources of the local unit of government and provides these findings, in writing, to the permit applicant stating the reasons for this determination. In making this determination, the local unit of government must find that 1 or more of the following exist at the particular site:

(a) The site supports state or federal endangered or threatened plants, fish, or wildlife appearing on a list specified in section 36505.

(b) The site represents what is identified as a locally rare or unique ecosystem.

(c) The site supports plants or animals of an identified local importance.

(d) The site provides groundwater recharge documented by a public agency.

(e) The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetland.

(f) The site provides wildlife habitat by providing breeding, nesting, or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.

(g) The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.

(h) The site provides pollution treatment by serving as a biological and chemical oxidation basin.

(i) The site provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.

(j) The site provides sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30310 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30310 Regulation by local unit of government of wetland less than 2 acres; revaluation for assessment purposes; protest and appeal; judicial review; right to initiate proceedings not limited by section.

Sec. 30310.

(1) A local unit of government that adopts an ordinance authorized under section 30307(4) shall include in the ordinance a provision that allows a landowner to request a revaluation of the affected property for assessment purposes to determine its fair market value under the use restriction if a permit is denied by a local unit of government for a proposed wetland use. A landowner who is aggrieved by a determination, action, or inaction under this subsection may protest and appeal that determination, action, or inaction pursuant to the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(2) If a permit applicant is aggrieved by a determination, action, or inaction by the local unit of government regarding the issuance of a permit, that person may seek judicial review in the same manner as provided in the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(3) This section does not limit the right of a wetland owner to institute proceedings in any circuit of the circuit court of the state against any person when necessary to protect the wetland owner's rights.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30311 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30311 Permit for activity listed in MCL 324.30304; approval conditioned on certain determinations; criteria; findings of necessity; criteria for determining unacceptable disruption to aquatic resources; additional showing; feasible and prudent alternatives; determination of unreasonable costs.

Sec. 30311.

(1) A permit for an activity listed in section 30304 shall not be approved unless the department determines that the issuance of a permit is in the public interest, that the permit is necessary to realize the benefits derived from the activity, and that the activity is otherwise lawful.

(2) In determining whether the activity is in the public interest, the benefit which reasonably may be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity. The decision shall reflect the national and state concern for the protection of natural resources from pollution, impairment, and destruction. The following general criteria shall be considered:

(a) The relative extent of the public and private need for the proposed activity.

(b) The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.

(c) The extent and permanence of the beneficial or detrimental effects that the proposed activity may have on the public and private uses to which the area is suited, including the benefits the wetland provides.

(d) The probable effects of each proposal in relation to the cumulative effects created by other existing and anticipated activities in the watershed.

(e) The probable effects on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.

(f) The size of the wetland being considered.

(g) The amount of remaining wetland in the general area.

(h) Proximity to any waterway.

(i) Economic value, both public and private, of the proposed land change to the general area.

(3) In considering a permit application, the department shall give serious consideration to findings of necessity

for the proposed activity which have been made by other state agencies.

(4) A permit shall not be issued unless it is shown that an unacceptable disruption will not result to the aquatic resources. In determining whether a disruption to the aquatic resources is unacceptable, the criteria set forth in section 30302 and subsection (2) shall be considered. A permit shall not be issued unless the applicant also shows either of the following:

(a) The proposed activity is primarily dependent upon being located in the wetland.

(b) A feasible and prudent alternative does not exist.

(5) If it is otherwise a feasible and prudent alternative, a property not presently owned by the applicant which could reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity may be considered. If all of the following requirements are met, there is a rebuttable presumption that alternatives located on property not presently owned by the applicant are not feasible and prudent:

(a) The activity is described in section 30304(a) or (b).

(b) The activity will affect not more than 2 acres of wetland.

(c) The activity is undertaken for the construction or expansion of a single-family home and attendant features, the construction or expansion of a barn or other farm building, or the expansion of a small business facility.

(d) The activity is not covered by a general permit.

(6) Consideration of feasible and prudent alternatives regarding the size of a proposed structure shall be based on the footprint of the structure and not the square footage of the structure.

(7) The choice of and extent of the proposed activity within a proposed structure shall not be considered in determining feasible and prudent alternatives.

(8) An alternative that entails higher costs, as described in R 281.922a(11) of the Michigan administrative code, is not feasible and prudent if those higher costs are unreasonable. In determining whether such costs are unreasonable, the department shall consider both of the following:

(a) The relation of the increased cost to the overall scope and cost of the project.

(b) Whether the projected cost is substantially greater than the costs normally associated with the particular type of project.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30311a THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30311a Guideline, bulletin, interpretive statement, or form with instructions; effect.

Sec. 30311a.

A guideline, bulletin, interpretive statement, or form with instructions under this part shall not be given the force and effect of law. A guideline, bulletin, interpretive statement, or form with instructions under this part is not legally binding on the public or the regulated community and shall not be cited by the department for compliance and enforcement purposes.

History: Add. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental

protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30311b THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30311b Permit; validity; duration; conditions.

Sec. 30311b.

(1) A permit issued under this part shall not be valid for more than 5 years.
(2) The department may establish a reasonable time when the construction, development, or use authorized under any permit issued under this part is to be completed or terminated.
(3) The department may impose on any permit or authorization under a general permit under this part conditions designed to do any of the following:
(a) Remove or reduce an impairment to wetland benefits, as set forth in section 30302, that would otherwise result from the project.
(b) Improve the water quality that would otherwise result from the project.
(c) Remove or reduce the effect of a discharge of fill material.
(4) The department may impose a condition on an authorization under a general permit under subsection (3) only after consultation with the applicant or applicant's agent.

History: Add. 2009, Act 120, Eff. Nov. 6, 2009
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30311d THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30311d Compensatory wetland mitigation; methods; submission of mitigation plan; financial assurance.

Sec. 30311d.

(1) The department may impose as a condition on any permit, other than a general permit, under this part a requirement for compensatory wetland mitigation. The department may approve 1 or more of the following methods of compensatory wetland mitigation:
(a) The acquisition of approved credits from a wetland mitigation bank. The department shall not require a permit applicant to provide compensatory wetland mitigation under subdivision (b), (c), or (d) if the applicant

prefers and qualifies to use approved credits from the wetland mitigation bank to provide required compensatory wetland mitigation under this subdivision.

(b) The restoration of previously existing wetland. The restoration of previously existing wetland is preferred over the creation of new wetland where none previously existed.

(c) The creation of new wetlands, if the permit applicant demonstrates that ecological conditions necessary for establishment of a self-sustaining wetland ecosystem exist or will be created.

(d) The preservation of exceptional wetlands.

(2) If compensatory wetland mitigation under subsection (1)(b), (c), or (d) is required, a permit applicant shall submit a mitigation plan to the department for approval. In approving a compensatory mitigation plan, the department shall consider how the location and type of wetland mitigation supports the sustainability or improvement of aquatic resources in the watershed where the activity is permitted. The permit applicant shall provide for permanent protection of the wetland mitigation site. The department may accept a conservation easement to protect wetland mitigation and associated upland.

(3) If a permittee carries out compensatory wetland mitigation under subsection (1)(b), (c), or (d) in cooperation with public agencies, private organizations, or other parties, the permittee remains responsible for the compensatory wetland mitigation to the extent otherwise provided by law.

(4) The department may require financial assurance to ensure that compensatory wetland mitigation is accomplished as specified. To ensure that wetland benefits are replaced by compensatory wetland mitigation, the department may release financial assurance only after the permit applicant or mitigation bank sponsor has completed monitoring of the mitigation site and demonstrated compliance with performance standards in accordance with a schedule in the permit or mitigation banking agreement.

(5) If compensatory wetland mitigation is required, in setting the mitigation ratio the department shall consider the method of compensatory mitigation, the likelihood of success, differences between the functions lost at the impacted site and the functions expected to be produced by the compensatory mitigation project, temporary losses of aquatic resource functions, the difficulty of restoring or establishing the desired aquatic resource type and functions, and the distance between the affected aquatic resource and the mitigation site.

(6) For agricultural activities, a permit applicant may provide for protection and restoration of the impacted site under a conservation easement with the department as part of mitigation requirements. A permit applicant may make a payment into the stewardship fund, if established under subsection (7), as part of mitigation requirements, as an alternative to providing financial assurances required under subsection (4).

(7) The department may establish a stewardship fund in the state treasury. 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. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department shall be the administrator of the fund for auditing purposes. The department shall expend money from the fund, upon appropriation, only to develop mitigation for impacted sites or as an alternative to financial assurance required under subsection (4).

(8) By 1 year after the effective date of the amendatory act that added this subsection, the department shall submit to the office of regulatory reform for informal review revised administrative rules on mitigation that do all of the following:

(a) Reduce the preference for on-site mitigation.

(b) Allow flexibility in mitigation ratios for uses of wetlands.

(c) Allow a reduction of mitigation ratios when approved credits from a wetland mitigation bank are used.

(d) Allow consideration of additional ecologically beneficial features.

(e) Allow any excess mitigation for any project to be credited to another project at a later date.

(9) The department shall submit revised administrative rules that encourage the development of wetland mitigation banks to the office of regulatory reform for informal review within 1 year after the effective date of the amendatory act that added this subsection. The rules shall do all of the following:

(a) Enlarge mitigation bank service areas. However, a service area shall be located within the same watershed or ecoregion as the permitted project or activity, ensure no net loss of the wetland resources, and protect the predominant wetland functions of the service area. The department shall consider enlarging the size of ecoregions for mitigation bank service areas.

(b) Allow earlier release of credits if the benefits of a mitigation bank have been properly established and the credits are revocable or covered by a financial assurance.

(c) Allow wetland preservation to be used in areas where wetland restoration opportunities do not exist, if an unacceptable disruption of the aquatic resources will not result.

(10) The department shall establish a wetland mitigation bank funding program under part 52 that provides grants and loans to eligible municipalities for the purposes of establishing mitigation banks.

History: Add. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013

Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both

of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30312 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30312 Minor project categories of activities; general permit for category of activities; notice and public hearing; determinations; requirements and standards; duration of general permit; determination of more than minimal adverse effects; coordination of general permit and minor project categories; conversion to blueberry farming or certain other agriculture.

Sec. 30312.

(1) After providing notice and an opportunity for a public hearing, the department shall establish minor project categories of activities that are similar in nature, have minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. The department may act upon an application received pursuant to section 30306 for an activity within a minor project category without holding a public hearing or providing notice pursuant to section 30307(1) or (3). A minor project category shall not be valid for more than 5 years, but may be reestablished. All other provisions of this part, except provisions applicable only to general permits, are applicable to a minor project.

(2) The department, after notice and opportunity for a public hearing, shall issue general permits on a statewide basis or within a local unit of government for a category of activities if the department determines that the activities are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. A general permit shall be based on the requirements of this part and the rules promulgated under this part, and shall set forth the requirements and standards that shall apply to an activity authorized by the general permit. A general permit shall not be valid for more than 5 years, but may be reissued.

(3) Before authorizing a specific project to proceed under a general permit, the department may provide notice pursuant to section 30307(3) but shall not hold a public hearing and shall not typically require a site inspection. The department shall issue an authorization under a general permit if the conditions of the general permit and the requirements of section 30311 are met. However, in determining whether to issue an authorization under a general permit, the department shall not consider off-site alternatives to be feasible and prudent alternatives.

(4) If the department determines that activity in a proposed project, although within a minor project category or a general permit, is likely to cause more than minimal adverse effects on aquatic resources, including high-value aquatic habitats, the department may require that the application be processed under section 30307.

(5) The department shall coordinate general permit and minor project categories under this part and parts 301 and 325 and may develop and maintain new general permit and minor project categories consistent with nationwide permits, as appropriate. The department may alter the scope of the activities covered under general permit and minor project categories corresponding to nationwide permits if any adverse environmental effects will be minimal.

(6) The department shall develop by October 1, 2013 and maintain a general permit for alteration of wetland for blueberry farming that includes minimal drainage and earth moving if all of the following requirements are met:

(a) The wetland will be restored when farming activities in the wetland cease.

(b) The farmed wetland is placed under conservation easement protection until the wetland is restored when farming activities cease.

(c) Activities that convert the wetland to a nonwetland are prohibited.

(d) Roads, ditches, reservoirs, pump houses, and secondary support facilities for shipping, storage, packaging, parking, and similar purposes are prohibited unless authorized under section 30305.

(7) By December 31, 2013, the department shall propose new general permits or minor project categories for conversion of wetland to blueberry farming or other agriculture that includes more than minimal drainage or earth

moving.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2003, Act 14, Imd. Eff. June 5, 2003 ;-- Am. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2012, Act 247, Imd. Eff. July 2, 2012 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

324.30312b Repealed. 2009, Act 120, Eff. Oct. 1, 2012.

Compiler's Notes: The repealed section pertained to new or existing general permits or minor project categories equivalent to certain nationwide permits.
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30312d THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30312d Blueberry production assistance program.

Sec. 30312d.

The department shall develop a blueberry production assistance program to provide wetland delineation and preapplication services and assistance with avoidance and minimization. The department shall coordinate this program with the department of agriculture and rural development. The department shall also provide education and outreach on wetland regulations and agricultural activities and assist interested parties with the development of wetland mitigation banks for the purpose of providing required compensatory mitigation for agricultural impacts.

History: Add. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013 ;-- Am. 2018, Act 561, Eff. Apr. 27, 2019
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

324.30312f Voluntary wetland restoration program; permit applications; exceptions; eligible applicants; review and approval process; joint agency restoration committee; qualified activities; applicability to former wetlands.

Sec. 30312f.

(1) The legislature finds that voluntary restoration of altered or degraded wetland or former wetland by qualified agencies and organizations helps to restore lost wetland functions and services, and is therefore valuable to the people of this state. Accordingly, the department shall develop a program to facilitate voluntary wetland restoration projects in coordination with state, federal, tribal, and nongovernmental agencies and organizations specializing in wetland restoration and conservation. The program shall include, but not be limited to, enhancing coordination, consistency, and operational procedures and improving and streamlining the permitting process, to facilitate a net increase in wetland functions and services. The department shall convene these agencies and organizations at least quarterly to review the program, suggest and develop improvements, and provide training and guidance in voluntary wetland restoration.

(2) The department and the department of natural resources shall develop and lead a voluntary wetland restoration group to simplify and streamline the permit process for voluntary wetland restoration projects with the intent of giving greater credence and flexibility to agencies and organizations specializing in wetland restoration and conservation. The voluntary wetland restoration group shall consist of designated staff from the department and the department of natural resources, working in collaboration on the review of permit applications. The group shall, after seeking input from agencies and organizations specializing in wetland restoration and conservation, develop voluntary wetland restoration permit applications and guidelines to implement a voluntary wetland restoration permit program consistent with this section.

(3) A permit is not required for voluntary wetland restoration activities that meet any of the following:

(a) The section 30305(2)(f) exemption for maintenance or operation of serviceable structures. Operation of serviceable structures as used in section 30305(2)(f) includes management of water levels using serviceable structures.

(b) The section 30305(2)(n) exemption for operation or maintenance of serviceable dikes and levees.

(4) There is no fee for a preapplication meeting under section 30306b with the voluntary wetland restoration group for a voluntary wetland restoration project conducted with a person described in subsection (5). The purpose of such a preapplication meeting is an outcome-based assessment of a project made by evaluating overall net increases in wetland functions and services and acreage. Such a preapplication meeting may include, but is not limited to, any of the following:

(a) Presentation of project outcomes related to net increases in wetland functions and services and project purposes and justifications.

(b) Suggestions that will minimize permitting delays, including information needed for permit application review.

(c) Options for maximizing net increases in wetland functions and services while minimizing other impacts.

(d) Coordination with the United States Environmental Protection Agency, United States Army Corps of Engineers, and United States Fish and Wildlife Service, if applicable.

(5) Any of the following persons may apply for a permit under this part, including authorization to proceed under a general permit, for a voluntary wetland restoration project:

(a) A state or federal agency, including the department of natural resources, the United States Fish and Wildlife Service, the United States Forest Service, or the United States Department of Agriculture, Natural Resources Conservation Service.

(b) A tribal agency.

(c) A nongovernmental organization whose stated primary mission, purpose, or programs include wetland conservation.

(d) A person that is in partnership through a written agreement with an entity described in subdivision (a), (b), or (c).

(6) Voluntary wetland restoration applications shall be processed subject to all of the following:

(a) Not more than 30 days after submission of an application for a permit for a voluntary wetland restoration project, the voluntary wetland restoration group shall review the application and do 1 of the following:

(i) Notify the applicant of the status of the application.

(ii) Recommend issuance of a permit to the department.

(iii) If the application is not administratively complete, request additional information from the applicant to make the application administratively complete as provided in part 13.

(b) If the department has not made a permit decision within 60 days after an application for a permit is considered administratively complete, at the request of the applicant, any conflict shall be mediated by the joint agency restoration committee created under subsection (9).

(c) The department, voluntary wetland restoration group, and the joint agency restoration committee shall expedite permit review for voluntary wetland restoration projects to the extent possible.

(d) Except for sections 1313 to 1317, part 13 applies to a voluntary wetland restoration permit application. Applicable time periods under part 13 and this section run concurrently.

(7) In reviewing a permit application for a voluntary wetland restoration project, the voluntary wetland restoration group shall evaluate the net increase in wetland functions and services from the project. An applicant

shall provide justification for the asserted net increase in wetland functions and services based on federal or state agency programmatic authority, published research, case studies, ecological reference, demonstration projects, or federal, regional, or statewide wetland or wildlife restoration and management plans.

(8) The department shall issue a permit for a voluntary wetland restoration project if the project contributes to a net increase in wetland functions and services and meets the requirements of this part and section 404 of title IV of the federal water pollution control act, 33 USC 1344.

(9) The department shall create a joint agency restoration committee comprised of the directors or their designees of the department, the department of natural resources, and the office of the Great Lakes to mediate permit conflicts regarding voluntary wetland restoration projects and make a recommendation to the department. The department shall give serious consideration to recommendations of the joint agency restoration committee in its permit decision. The applicant may further request review under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) The department shall not require compensatory mitigation for voluntary wetland restoration project activities that result in a net increase in wetland functions and services.

(11) The department, in cooperation with the department of natural resources and voluntary wetland restoration agencies and organizations, shall develop new or modified general permit or minor project categories for voluntary wetland restoration projects that address the scope and intent of this section.

(12) A voluntary wetland restoration project may include, but is not limited to, any of the following activities in altered or degraded wetland or previously restored wetland if the activity results in a net increase in wetland functions and services:

(a) The removal of accumulated sediments.

(b) The installation, removal, and maintenance of water control structures, dikes, and berms; as well as discharges of dredged or fill material to restore appropriate grade configuration after water control structures, dikes, and berms are removed.

(c) The installation of water supply devices.

(d) The removal of existing drainage structures, such as drain tiles, and the filling, blocking, grading, or reshaping of drainage ditches to restore wetland hydrology.

(e) The installation of structures or fills necessary to restore or enhance wetland hydrology.

(f) The construction of open water areas.

(g) Activities needed to establish or reestablish native vegetation, including plowing or disking for seedbed preparation and the planting of appropriate species.

(h) The reestablishment of submerged aquatic vegetation.

(i) Mechanized land clearing or other activities to remove nonnative or invasive vegetation.

(j) The installation of nesting structures and islands, micro and macro topography reestablishment, dredging, soil manipulation, controlling, disking, and other activities related to a specific wetland habitat or species conservation practices.

(k) The installation and removal of temporary coffer dams, soil mats, and other devices used during voluntary wetland restoration construction activities.

(l) Construction of ancillary facilities that increase recreational access, such as a parking lot or boat ramp. However, such ancillary facilities and their use, alone, do not constitute an increase in wetland functions and services.

(13) All of the following apply to a voluntary wetland restoration project:

(a) A change in wetland plant communities that occurs when wetland hydrology is more fully restored during voluntary wetland restoration activities is not considered a conversion to another aquatic habitat type.

(b) The placement of fill in an area of altered or degraded wetland is not considered a loss of wetland if that area continues to sustain the characteristics of wetland as described in section 30301(1)(m).

(c) Voluntary wetland restoration projects or activities are not considered a major discharge as defined in the memorandum of agreement between the United States Environmental Protection Agency and the department under section 404 of title IV of the federal water pollution control act, 33 USC 1344, upon approval by the United States Environmental Protection Agency of an amendment to the memorandum so providing.

(14) Former wetland is not regulated under this part unless the wetland was modified in violation of this part or former 1979 PA 203.

History: Add. 2018, Act 561, Eff. Apr. 27, 2019
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30313 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE

EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30313 Grounds for revocation or modification of general permit; grounds for termination or modification for cause of general permit.

Sec. 30313.

(1) A general permit may be revoked or modified if, after opportunity for a public hearing or a contested case hearing under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, the department determines that the activities authorized by the general permit have an adverse impact on the environment or the activities would be more appropriately authorized by an individual permit.

(2) A permit may be terminated or modified for cause, including:

(a) A violation of a condition of the permit.

(b) Obtaining a permit by misrepresentation or failure to fully disclose relevant facts.

(c) A change in a condition that requires a temporary or permanent change in the activity.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30313b THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30313b Minor permit revisions.

Sec. 30313b.

(1) The department may make minor revisions in a permit issued under this part if all of the following apply:

(a) The project is in compliance with the permit and this part.

(b) The minor revisions are requested by the permittee in writing.

(c) The request is accompanied by a fee of $250.00.

(d) If the request is for a transfer of the permit, the request is accompanied by a written agreement between the current and new owners or operators containing a specific date for transfer of responsibility, coverage, and liability under the permit.

(2) The department shall approve or deny the request within 20 business days. However, if the only minor revision requested is a transfer under subsection (4)(a), the department shall approve or deny the request within 10 business days. If the department fails to approve or deny the request within the time required by this subsection, the department shall refund the fee.

(3) If the department determines that none of the changes requested are minor revisions, the department shall retain the fee but the permittee may apply the fee toward a new permit for a project at that site.

(4) As used in this section, "minor revision" means either of the following with respect to a permit issued under this part:

(a) A transfer.

(b) A revision that does not increase the overall impact of a project on wetlands and that is within the scope of the project as described in the original permit.

History: Add. 2006, Act 431, Imd. Eff. Oct. 5, 2006

Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30314 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30314 Information required to obtain compliance with part; conditions for entering on premises.

Sec. 30314.

(1) The department shall require the holder of a permit to provide information the department reasonably requires to obtain compliance with this part.

(2) The department may enter on, upon, or through the premises on which an activity listed in section 30304 is located or on which information required to be maintained under subsection (1) is located under any of the following circumstances, as applicable:

(a) Upon obtaining a search warrant, an administrative warrant issued by the director of the department, or the consent of the person who owns or controls the premises.

(b) If there is an imminent threat to the public health or environment.

(c) Upon reasonable cause, if the wetland is a water of the United States as that term is used in section 502(7) of the federal water pollution control act, 33 USC 1362.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30315 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30315 Violation; order requiring compliance; civil action.

Sec. 30315.

(1) If, on the basis of information available to the department, the department finds that a person is in violation of this part or a condition set forth in a permit issued under section 30311 or 30312, the department shall issue an order requiring the person to comply with the prohibitions or conditions or the department shall request the attorney general to bring a civil action under section 30316(1).

(2) An order issued under subsection (1) shall state with reasonable specificity the nature of the violation and shall specify a time for compliance, not to exceed 30 days, which the department determines is reasonable, taking into account the seriousness of the violation and good faith efforts to comply with applicable requirements.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30316 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30316 Civil action; commencement; request; venue; jurisdiction; violations; civil fines and penalties; restoration of wetland; award of attorney fees.

Sec. 30316.

(1) The attorney general may commence a civil action for appropriate relief, including injunctive relief upon request of the department under section 30315(1). An action under this subsection may be brought in the circuit court for the county of Ingham or for a county in which the defendant is located, resides, or is doing business. The court has jurisdiction to restrain the violation and to require compliance with this part. In addition to any other relief granted under this section, the court may impose a civil fine of not more than $10,000.00 per day of violation. A person who violates an order of the court is subject to a civil fine not to exceed $10,000.00 for each day of violation.

(2) A person who violates this part is guilty of a misdemeanor punishable by a fine of not more than $2,500.00.

(3) A person who willfully or recklessly violates a condition or limitation in a permit issued by the department under this part, or a corporate officer who has knowledge of or is responsible for a violation, is guilty of a misdemeanor punishable by a fine of not less than $2,500.00 or more than $25,000.00 per day of violation or by imprisonment for not more than 1 year, or both. A person who commits a violation described in this section a second or subsequent time is guilty of a felony punishable by a fine of not more than $50,000.00 for each day of violation or by imprisonment for not more than 2 years, or both.

(4) In addition to the civil fines and penalties provided under subsections (1), (2), and (3), the court may order a person who violates this part to restore as nearly as possible the wetland that was affected by the violation to its original condition immediately before the violation. The restoration may include the removal of fill material deposited in the wetland or the replacement of soil, sand, or minerals.

(5) The award of attorney fees in a civil action under this part is subject to applicable provisions of chapter 24 of the revised judicature act of 1961, 1961 PA 235, MCL 600.2401 to 600.2461. However, regardless of whether this state's position was substantially justifiable, reasonable expert professional witness fees, as determined by the court, shall be awarded to a landowner that prevails against this state on the issue of whether the landowner's property is wetland.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30317 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30317 Disposition of fees and civil fines; expenditures; report.

Sec. 30317.

(1) The civil fines collected under this part shall be forwarded to the state treasurer for deposit in the general fund of the state. The fees collected under this part shall be deposited in the land and water management permit fee fund created in section 30113.

(2) Subsection (1) does not apply to fines or fees collected under an ordinance adopted under section 30307(4).

(3) Subject to section 30113, the department shall expend money from the land and water management permit fee fund, upon appropriation, to support guidance for property owners and applicants, permit processing, compliance inspections, and enforcement activities under this part. Not more than 90 days after the end of each state fiscal year, the department shall prepare a report describing how money from the land and water management permit fee fund was expended during that fiscal year and shall submit the report to the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate. Other than civil fines and costs, the disposition of which is governed by section 8379 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8379, or criminal fines, funds collected by a local unit of government under an ordinance authorized under section 30307(4) shall be deposited in the general fund of the local unit of government.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 530, Imd. Eff. Jan. 13, 1997 ;-- Am. 1998, Act 228, Imd. Eff. July 3, 1998 ;-- Am. 2009, Act 120, Eff. Nov. 6, 2009
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30318 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30318 Revaluation of property for assessment purposes.

Sec. 30318.

If a permit is denied for a proposed wetland activity, the landowner may request a revaluation of the affected property for assessment purposes to determine its fair market value under the use restriction.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30319 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30319 Rules; hearing; award of costs; judicial review; proceedings to protect wetland owner's rights.

Sec. 30319.

(1) The department shall promulgate and enforce rules to implement this part.
(2) If a person is aggrieved by any action or inaction of the department, the person may request a formal hearing on the matter involved. The hearing shall be conducted by the department pursuant to the administrative procedures

act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The award of costs in a contested case under this part and the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, is subject to chapter 8 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.321 to 24.328. However, regardless of whether the department's position was substantially justifiable, reasonable expert professional witness fees, as determined by the presiding officer, shall be awarded to a landowner that prevails on the issue of whether the landowner's property is wetland.

(4) A determination, action, or inaction by the department following the hearing is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) This section does not limit the right of a wetland owner to institute proceedings in any circuit of the circuit court of the state against any person if necessary to protect the wetland owner's rights.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act
Admin Rule: R 281.921 et seq. of the Michigan Administrative Code.

***** 324.30320 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30320 Inventories of wetland; use; updating; maps, ground surveys, and descriptions as public documents; availability and cost of aerial photographs and satellite telemetry data reproduction to county register of deeds.

Sec. 30320.

(1) As inventories of wetland are completed, the inventories shall be used as 1 of the criteria by the department in issuing permits. The inventories shall be periodically updated. The maps, ground surveys, and descriptions of wetlands included in the inventories shall be submitted to the respective county register of deeds and shall become a public document available to review by any member of the public.

(2) Aerial photographs and satellite telemetry data reproductions shall be made available to the respective county register of deeds for cost as determined by the department.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30321 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30321 Basis and filing of preliminary inventory of wetland; assessment of property; report; determination; agricultural drain; culvert, ditch, or channel; assessment; fee; providing copy of delineation forms.

Sec. 30321.

(1) The department shall make or cause to be made a preliminary inventory of all wetland in this state on a county by county basis and file the inventory with the agricultural extension office, register of deeds, and county clerk.

(2) A person who owns or leases a parcel of property may request that the department of environmental quality assess whether the parcel of property or a portion of the parcel is wetland. The request shall satisfy all of the following requirements:

(a) Be made on a form provided by the department.

(b) Be signed by the person who owns or leases the property.

(c) Contain a legal description of the parcel and, if only a portion of the parcel is to be assessed, a description of the portion to be assessed.

(d) Include a map showing the location of the parcel.

(e) Grant the department or its agent permission to enter on the parcel for the purpose of conducting the assessment.

(3) The department shall assess the parcel within a reasonable time after the request is made. The department may enter upon the parcel to conduct the assessment. Upon completion of the assessment, the department shall provide the person with a written assessment report. The assessment report shall do all of the following:

(a) Identify in detail the location of any wetland in the area assessed.

(b) If wetland is present in the area assessed, describe the types of activities that require a permit under this part.

(c) If the assessment report determines that the area assessed or part of the area assessed is not wetland, state that the department lacks jurisdiction under this part as to the area that the report determines is not wetland and that this determination is binding on the department for 3 years from the date of the assessment.

(d) Contain the date of the assessment.

(e) Advise that the person may request the department to reassess the parcel or any part of the parcel that the person believes was erroneously determined to be wetland if the request is accompanied by evidence pertaining to wetland vegetation, soils, or hydrology that is different from or in addition to the information relied upon by the department.

(f) Advise that the assessment report does not constitute a determination of wetland that may be regulated under local ordinance or wetland areas that may be regulated under federal law and advise how a determination of wetland areas regulated under federal law may be obtained.

(g) List regulatory programs that may limit land use activities on the parcel, advise that the list is not exhaustive, and advise that the assessment report does not constitute a determination of jurisdiction under those programs. The regulatory programs listed shall be those under the following parts:

(i) Part 31, with respect to floodplains and floodways.

(ii) Part 91.

(iii) Part 301.

(iv) Part 323.

(v) Part 325.

(vi) Part 353.

(4) A wetland is not contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream if the department determines that there is no direct physical contact and no surface water or interflowing groundwater connection to such a body of water.

(5) A person may request that, as part of an assessment, the department make a determination whether a wetland is contiguous to the Great Lakes, Lake St. Clair, an inland lake or pond, or a stream. The department shall make the determination in writing within 30 days after an on-site evaluation. As used in this subsection, "pond" does not include a farm or stock pond constructed consistent with the exemption under section 30305(2)(g).

(6) The department shall not consider an agricultural drain, as defined in section 30305, in determining whether a wetland is contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream.

(7) A drainage structure such as a culvert, ditch, or channel, in and of itself, is not a wetland. A temporary obstruction of drainage, in and of itself, is not a wetland until the presence of water is of sufficient frequency and duration to be identified as wetland pursuant to section 30301(4).

(8) A person may request the department to reassess any area assessed under subsections (2) and (3) that the person believes the department erroneously determined to be wetland. The requirements of subsections (2) and (3) apply to the request, assessment, and assessment report. However, the request shall be accompanied by evidence pertaining to wetland vegetation, soils, or hydrology that is different from or in addition to the information relied upon by the department. The assessment report shall not contain the information required by subsection (3)(e).

(9) If an assessment report determines that the area assessed or part of the area assessed is not a wetland regulated by the department under this part, then the area determined by the assessment report not to be a wetland is not a wetland regulated by the department under this part for a period of 3 years after the date of the assessment.

(10) The department may charge a fee for an assessment requested under subsection (2) based upon the cost to the department of conducting an assessment.

(11) There shall be no fee for an assessment under the blueberry production assistance program.

(12) The department shall, upon request of the applicant and without charge, provide to the applicant a copy of any delineation forms completed by the department associated with a permit application.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 530, Imd. Eff. Jan. 13, 1997 ;-- Am. 2013, Act 98, Imd. Eff. July 2, 2013 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30322 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30322 Notice to owners of record of change in status of property.

Sec. 30322.

As wetland inventories are completed as specified in section 30321, owners of record as identified by the current property tax roll shall be notified of the possible change in the status of their property. Notification shall be printed on the next property tax bill mailed to property owners in the county. It shall contain information specifying that a wetland inventory has been completed and is on file with the agricultural extension office, register of deeds, and county clerk, and that property owners may be subject to regulation under this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30323 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30323 Legal rights or authority not abrogated; action to determine if property taken without just compensation; court order; limitation on value of property.

Sec. 30323.

(1) This part shall not be construed to abrogate rights or authority otherwise provided by law.
(2) For the purposes of determining if there has been a taking of property without just compensation under state law, an owner of property who has sought and been denied a permit from the state or from a local unit of government that adopts an ordinance pursuant to section 30307(4), who has been made subject to modifications or conditions in the permit under this part, or who has been made subject to the action or inaction of the department pursuant to this part or the action or inaction of a local unit of government that adopts an ordinance pursuant to section 30307(4) may file an action in a court of competent jurisdiction.
(3) If the court determines that an action of the department or a local unit of government pursuant to this part or an ordinance authorized pursuant to section 30307(4) constitutes a taking of the property of a person, then the court shall order the department or the local unit of government, at the department's or the local unit of government's option, as applicable, to do 1 or more of the following:
(a) Compensate the property owner for the full amount of the lost value.

(b) Purchase the property in the public interest as determined before its value was affected by this part or the local ordinance authorized under section 30307(4) or the action or inaction of the department pursuant to this part or the local unit of government pursuant to its ordinance.

(c) Modify its action or inaction with respect to the property so as to minimize the detrimental affect to the property's value.

(4) For the purposes of this section, the value of the property may not exceed that share of the state equalized valuation of the total parcel that the area in dispute occupies of the total parcel of land, multiplied by 2, as determined by an inspection of the most recent assessment roll of the township or city in which the parcel is located.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

324.30325 Repealed. 2013, Act 98, Imd. Eff. July 2, 2013.

Compiler's Notes: The repealed section pertained to agreement with United States environmental protection agency to expand categories of discharge subject to waiver.
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30327 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30327 Certifications by department under federal water pollution control act.

Sec. 30327.

The department may provide certifications under section 401 of title IV of the federal water pollution control act, 33 USC 1341.

History: Add. 2009, Act 120, Eff. Nov. 6, 2009
Compiler's Notes: Enacting section 1 of Act 120 of 2009 provides:"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a."(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

***** 324.30328 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30328 Applicability to "navigable waters" and "waters of the United States" as defined under federal law.

Sec. 30328.

For the purposes of this part, the powers, duties, functions, and responsibilities exercised by the department because of federal approval of Michigan's permit program under section 404(g) and (h) of the federal water pollution control act, 33 USC 1344, apply only to "navigable waters" and "waters of the United States" as defined under section 502(7) of the federal water pollution control act, 33 USC 1362, and further refined by federally promulgated rules and court decisions that have the full effect and force of federal law. Determining whether additional regulation is necessary to protect Michigan waters beyond the scope of federal law is the responsibility of the Michigan legislature based on its determination of what is in the best interest of the citizens of this state.

History: Add. 2013, Act 98, Imd. Eff. July 2, 2013
Popular Name: Act 451
Popular Name: NREPA

324.30329 Repealed. 2009, Act 120, Eff. Apr. 1, 2013.

Compiler's Notes: The repealed section pertained to the wetland advisory council.
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Wetland Protection Act

Part 305
NATURAL RIVERS

324.30501 Definitions.

Sec. 30501.

As used in this part:

(a) "Free flowing" means existing or flowing in natural condition without impoundment, diversion, straightening, riprapping, or other modification.

(b) "Natural river" means a river that has been designated by the department for inclusion in the wild, scenic, and recreational rivers system.

(c) "River" means a flowing body of water or a portion or tributary of a flowing body of water, including streams, creeks, or impoundments and small lakes thereon.

(d) "System" means all of those rivers or portions of rivers designated under this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30502 Natural river; designation; purpose; long-range plans; publicity; cooperation.

Sec. 30502.

The department, in the interest of the people of the state and future generations, may designate a river or portion of a river as a natural river area for the purpose of preserving and enhancing its values for water

conservation, its free flowing condition, and its fish, wildlife, boating, scenic, aesthetic, floodplain, ecologic, historic, and recreational values and uses. The area shall include adjoining or related lands as appropriate to the purposes of the designation. The department shall prepare and adopt a long-range comprehensive plan for a designated natural river area that sets forth the purposes of the designation, proposed uses of lands and waters, and management measures designed to accomplish the purposes. State land within the designated area shall be administered and managed in accordance with the plan, and state management of fisheries, streams, waters, wildlife, and boating shall take cognizance of the plan. The department shall publicize and inform private and public landowners or agencies as to the plan and its purposes, so as to encourage their cooperation in the management and use of their land in a manner consistent with the plan and the purposes of the designation. The department shall cooperate with federal agencies administering any federal program concerning natural river areas, and with any watershed council established under part 311, when such cooperation furthers the interest of the state.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30503 Qualifications for designation; categories of rivers.

Sec. 30503.

A river qualifying for designation as a natural river area shall possess 1 or more of the natural or outstanding existing values cited in section 30502 and shall be permanently managed for the preservation or enhancement of such values. Categories of natural rivers shall be defined and established by the department, based on the characteristics of the waters and the adjoining lands and their uses, both as existing and as proposed, including such categories as wild, scenic, and recreational. The categories shall be specified in the designation and the long-range comprehensive plan.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30504 Land acquisition; purpose; interest acquired; consent.

Sec. 30504.

The department may acquire lands or interests in lands adjacent to a designated natural river for the purpose of maintaining or improving the river and its environment in conformance with the purposes of the designation and the plan. Interests that may be acquired include, but are not limited to, easements designed to provide for preservation and to limit development, without providing public access and use. Lands or interests in lands shall be acquired under this part only with the consent of the owner.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30505 Federal financial assistance programs; leases; expenditures; purposes.

Sec. 30505.

(1) The department may administer federal financial assistance programs for natural river areas.
(2) The department may enter into a lease or agreement with any person or political subdivision to administer all

or part of their lands in a natural river area.

(3) The department may expend funds for works designed to preserve and enhance the values and uses of a natural river area and for construction, management, maintenance, and administration of facilities in a natural river area conforming to the purposes of the designation, if the funds are appropriated by the legislature.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30506 Public hearings; notice.

Sec. 30506.

Before designating a river as a natural river area, the department shall conduct public hearings in the county seat of any county in which a portion of the designated natural river area is located. Notices of the hearings shall be advertised at least twice, not less than 30 days before the hearing, in a newspaper having general circulation in each such county and in at least 1 newspaper having general circulation in the state and 1 newspaper published in the Upper Peninsula.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30507 Land uses; zoning; local ordinances; state rule.

Sec. 30507.

After designation of a river or portion of a river as a natural river area and following the preparation of the long-range comprehensive plan, the department may determine that the uses of land along the river, except within the limits of an incorporated municipality, shall be controlled by zoning contributing to accomplishment of the purposes of this part and the natural river plan. County and township governments are encouraged to establish these zoning controls and additional controls as may be appropriate, including, but not limited to, building and subdivision controls. The department may provide advisory, planning, and cooperative assistance in the drafting of ordinances to establish these controls. If the local unit does not, within 1 year after notice from the department, have in full force and effect a zoning ordinance or interim zoning ordinance established under authority of the acts cited in section 30510, the department, on its own motion, may promulgate a zoning rule in accordance with section 30512. A zoning rule may also be promulgated if the department finds that an adopted or existing zoning ordinance fails to meet adequately guidelines consistent with this part as provided by the department and transmitted to the local units concerned, does not take full cognizance of the purposes and objectives of this part, or is not in accord with the purposes of designation of the river as established by the department.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30508 Zoning ordinance or rule; purpose.

Sec. 30508.

A zoning ordinance adopted by a local unit of government or a zoning rule promulgated by the department shall provide for the protection of the river and its related land resources consistent with the preservation and

enhancement of their values and the objectives set forth in section 30502. The ordinance or rule shall protect the interest of the people of the state as a whole. It shall take cognizance of the characteristics of the land and water concerned, surrounding development, and existing uses and provide for conservation of soil, water, stream bed and banks, floodplains, and adjoining uplands.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30509 Zoning ordinance or rule; establishment of districts; powers; distance.

Sec. 30509.

The ordinance or rule shall establish zoning districts within which such uses of land as for agriculture, forestry, recreation, residence, industry, commerce, and additional uses may be encouraged, regulated, or prohibited. It may limit or prohibit the placement of structures of any class or designate their location with relation to the water's edge, to property or subdivision lines, and to flood flows and may limit the subdivision of lands for platting purposes. It may control the location and design of highways and roads and of public utility transmission and distribution lines, except on lands or other interests in real property owned by the utility on January 1, 1971. It may prohibit or limit the cutting of trees or other vegetation, but such limits shall not apply for a distance of more than 100 feet from the river's edge. It may specifically prohibit or limit mining and drilling for oil and gas, but such limits shall not apply for a distance of more than 300 feet from the river's edge. It may contain other provisions necessary to accomplish the objectives of this part. A zoning rule promulgated by the department shall not control lands more than 400 feet from the river's edge.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30510 Local zoning ordinance; conformance with applicable law; construction.

Sec. 30510.

A local unit of government, in establishing a zoning ordinance, in addition to the authority and requirements of this part, shall conform to the township zoning act, 1943 PA 184, MCL 125.271 to 125.310, or the county zoning act, 1943 PA 183, MCL 125.201 to 125.240, including, but not limited to, the variance provisions of those acts. Any conflict shall be resolved in favor of the provisions of this part. The powers granted under this part shall be liberally construed in favor of the local unit or the department exercising them, in such manner as to promote the orderly preservation or enhancement of the values of the rivers and related land resources and their use in accordance with a long-range comprehensive general plan to ensure the greatest benefit to the state as a whole.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2000, Act 17, Imd. Eff. Mar. 8, 2000
Popular Name: Act 451
Popular Name: NREPA

324.30511 Districts; valuation for tax purposes.

Sec. 30511.

Upon adoption of a zoning ordinance or rule, certified copies of the maps showing districts shall be filed with the local tax assessing officer and the state tax commission. In establishing true cash value of property within the

districts zoned, the assessing officer shall take cognizance of the effect of limits on use established by the ordinance or rule.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30512 Rules; enforcement; promulgation; variance; existing use.

Sec. 30512.

(1) The department shall prescribe administrative procedures and rules and provide personnel as it considers necessary for the enforcement of a zoning ordinance or rule enacted in accordance with this part. A circuit court, upon petition and a showing by the department that there exists a violation of a rule properly promulgated under this part, shall issue any necessary order to the defendant to correct the violation or to restrain the defendant from further violation of the rule.

(2) The department shall promulgate a zoning rule to implement this part. The rule shall include procedures for receiving and acting upon applications from local units of government or landowners for change of boundaries or change in permitted uses in accordance with chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. An aggrieved party may seek judicial review under chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306.

(3) A variance from a zoning rule promulgated by the department to implement this part may be applied for and granted pursuant to section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and the variance provisions of the zoning rule.

(4) The lawful use of any building or structure and of any land or premise as existing and lawful at the time of enactment of a zoning ordinance or rule or of an amendment of a zoning ordinance or rule may be continued although the use does not conform with the ordinance, rule, or amendment. The ordinance or rule shall provide for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon reasonable terms as set forth in the zoning ordinance or rule.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2000, Act 17, Imd. Eff. Mar. 8, 2000
Popular Name: Act 451
Popular Name: NREPA

324.30513 National wild and scenic river system; administration.

Sec. 30513.

This part does not preclude a component of the system from becoming a part of the national wild and scenic river system under the wild and scenic rivers act, Public Law 90-542, 16 U.S.C. 1271 to 1287. The department may enter into written cooperative agreements for joint federal-state administration of rivers that may be designated under the wild and scenic rivers act.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30514 Area plans; approval; rules.

Sec. 30514.

The department shall approve preliminary and final plans for site or route location, construction, or enlargement of utility transmission lines, publicly provided recreation facilities, access sites, highways, roads, bridges, or other structures and for publicly developed water management projects, within a designated natural river area, except within the limits of a city or incorporated village. The department may require any measure necessary to control damaging erosion or flow alteration during or in consequence of construction. The department shall promulgate rules concerning the approvals and requirements provided for in this section.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30515 Construction of part.

Sec. 30515.

This part does not prohibit a reasonable and lawful use of any other natural resource that benefits the general welfare of the people of this state and that is not inconsistent with the purpose of this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

Part 307
INLAND LAKE LEVELS

324.30701 Definitions.

Sec. 30701.

As used in this part:

(a) "Commissioner" means the county drain commissioner, or the board of county road commissioners in counties not having a drain commissioner. However, if more than 1 county is involved, commissioner means the drain commissioner or board of county road commissioners, as applicable, for each county.

(b) "County board" means the county board of commissioners. However, if more than 1 county is involved, county board means the county board of commissioners of each of those counties.

(c) "Court" means a circuit court. However, if more than 1 judicial circuit is involved, court means the circuit court designated by the county board or otherwise authorized by law to preside over an action.

(d) "Dam" means an artificial barrier, structure, or facility, and appurtenant works, used to regulate or maintain the level of an inland lake.

(e) "Delegated authority" means the county drain commissioner or any other person designated by the county board to perform duties required under this part.

(f) "Department" means the department of environment, Great Lakes, and energy.

(g) "Inland lake" means a natural or artificial lake, pond, impoundment, or a part of 1 of those bodies of water. Inland lake does not include the Great Lakes or Lake St. Clair.

(h) "Interested person" means the department and a person who has a record interest in the title to, a right of ingress to, or a reversionary right to land that would be affected by a permanent change in the natural or normal level of an inland lake.

(i) "Normal level" means the target level or levels of the water of an inland lake, around which actual levels may fluctuate, that provide the most benefit to the public; that best protect the public health, safety, and welfare; that best preserve the natural resources of this state; and that best preserve and protect the value of property around the inland lake. A normal level shall be measured and described as an elevation or elevations based on a geodetic vertical datum including ranges based on tolerance, operational or weather conditions, seasonality, or other similar natural and regional considerations. An inland lake shall be considered to be maintained at its normal level during temporary water level fluctuations resulting from weather or natural events, during construction activities authorized by the department, or if a county or its delegated authority operates lake level infrastructure in a manner

that may affect water levels but is reasonably intended to maintain a normal level. The application of this definition includes, but is not limited to, all normal levels established before the effective date of the amendatory act of the 2023-2024 legislative session that amended this section.

(j) "Normal level project" means a project to establish or maintain a normal level.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2024, Act 112, Eff. Apr. 2, 2025
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.
Popular Name: Act 451
Popular Name: NREPA

324.30702 Determination of normal inland lake level; motion or petition to initiate action; delegation of powers and duties by county board; maintenance.

Sec. 30702.

(1) The county board of a county in which an inland lake is located may upon the board's own motion, or shall within 45 days following receipt of a petition to the board of 2/3 of the owners of lands abutting the inland lake, initiate action to take the necessary steps to cause to be determined the normal level of the inland lake.

(2) Unless required to act by resolution as provided in this part, the county board may delegate powers and duties under this part to that county's commissioner, road commission, or other delegated authority.

(3) If a court-determined normal level is established pursuant to this part, the delegated authority of the county or counties in which the lake is located shall maintain that normal level.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.
Popular Name: Act 451
Popular Name: NREPA

324.30703 Preliminary study; costs; contents of study.

Sec. 30703.

(1) Before proceeding on a motion made or a petition filed under section 30702, the county board may require that a preliminary study be conducted by a licensed professional engineer. The county board, by resolution, may require a cash payment from the petitioners sufficient to cover the actual preliminary study costs or of $10,000.00, whichever is less.

(2) A preliminary study shall include all of the following:

(a) The feasibility of a project to establish and maintain a normal level of the inland lake.

(b) The expediency of the normal level project.

(c) Feasible and prudent alternative methods and designs for controlling the normal level.

(d) The estimated costs of construction and maintenance of the normal level project.

(e) A method of financing initial costs.

(f) The necessity of a special assessment district and the tentative boundaries if a district is necessary.

(g) Other information that the county board resolves is necessary.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451

Popular Name: NREPA

324.30704 Initiating proceeding for determining normal inland lake level and establishing special assessment district; required finding; multicounty lake; joinder permitted.

Sec. 30704.

(1) If the county board, based on the preliminary study, finds it expedient to have and resolves to have determined and established the normal level of an inland lake, the county board shall direct the prosecuting attorney or other legal counsel of the county to initiate a proceeding by proper petition in the court of that county for determination of the normal level for that inland lake and for establishing a special assessment district if the county board determines by resolution that one is necessary as provided in section 30711.

(2) If the waters of an inland lake are located in 2 or more counties, the normal level of the lake may be determined in the same manner if the county boards of all counties involved, by resolution, direct the prosecuting attorney or other legal counsel of 1 or more of the counties to institute proceedings. All counties may make a single preliminary study.

(3) The department may join a proceeding initiated under this section.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30705 Special assessment bonds or notes; lake level orders; proceedings; full faith and credit.

Sec. 30705.

(1) A special assessment district provided for in section 30704 may issue any of the following in anticipation of the collection of special assessments:

(a) Bonds or notes, subject to section 30716.

(b) Lake level orders.

(2) Bonds or notes issued under subsection (1) shall have a final maturity date not more than 40 years after the date of original issuance.

(3) All proceedings relating to the making, levying, and collection of special assessments authorized by this part and the issuance of bonds, notes, or lake level orders in anticipation of the collection of the special assessments shall conform as nearly as possible to the proceedings for levying special assessments and issuing special assessment bonds as set forth in the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(4) A county board by a vote of 2/3 of its members may pledge the full faith and credit of the county for payment of bonds or notes issued by a special assessment district under subsection (1).

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 215, Imd. Eff. Apr. 29, 2002 ;-- Am. 2020, Act 221, Imd. Eff. Oct. 16, 2020
Popular Name: Act 451
Popular Name: NREPA

324.30706 Initiation of proceedings by director of department.

Sec. 30706.

If the department finds it expedient to have the normal level of an inland lake determined, the department may initiate by civil action on behalf of the state, in the court of any county in which the lake is located, a proceeding for

determination of the normal level.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30707 Hearing; notice; service; powers and duties of court.

Sec. 30707.

(1) Upon filing of a civil action under this part, the court shall set a day for a hearing. The prosecuting attorney or other legal counsel of the county or counties or the department shall give notice of the hearing by publication in 1 or more newspapers of general circulation in the county and, if the waters of the inland lake are situated in 2 or more counties, in 1 or more newspapers of general circulation in each of the counties in which the inland lake is located. The notice shall be published at least once each week for 3 successive weeks before the date set for the hearing.

(2) The commissioner shall serve a copy of the published notice of hearing by first-class mail at least 3 weeks prior to the date set for the hearing to each person whose name appears upon the latest city or township tax assessment roll as owning land within a tentative special assessment district at the address shown on the roll; to the governing body of each political subdivision of the state in which the lake is located; and to the governing body of each affected political subdivision of the state. If an address does not appear on the roll, then a notice need not be mailed to the person. The commissioner shall make an affidavit of mailing. The failure to receive a notice properly mailed shall not constitute a jurisdictional defect invalidating proceedings under this part.

(3) The prosecuting attorney or the legal counsel of the county shall serve notice on the department at least 21 days prior to the date of the hearing.

(4) In a determination of the normal level of an inland lake, the court shall consider all of the following:

(a) Past lake level records, including the ordinary high-water mark and seasonal fluctuations.

(b) The location of septic tanks, drain fields, sea walls, docks, and other pertinent physical features.

(c) Government surveys and reports.

(d) The hydrology of the watershed.

(e) Downstream flow requirements and impacts on downstream riparians.

(f) Fisheries and wildlife habitat protection and enhancement.

(g) Upstream drainage.

(h) Rights of riparians.

(i) Testimony and evidence offered by all interested persons.

(j) Other pertinent facts and circumstances.

(5) The court shall determine the normal level to be established and maintained, shall have continuing jurisdiction, and may provide for departure from the normal level as necessary to accomplish the purposes of this part. The court shall confirm the special assessment district boundaries within 60 days following the lake level determination. The court may determine that the normal level shall vary seasonally.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30708 Maintenance of normal level; acquisition by gift, grant, purchase, or condemnation; contract for operation and maintenance of existing dam; dam in adjoining county; operation of pumps and wells.

Sec. 30708.

(1) After the court determines the normal level of an inland lake in a proceeding initiated by the county, the delegated authority of any county or counties in which the inland lake is located shall provide for and maintain that normal level.

(2) A county may acquire, in the name of the county, by gift, grant, purchase, or condemnation proceedings, an

existing dam that may affect the normal level of the inland lake, sites for dams, or rights in land needed or convenient in order to implement this part. A county may enter into a contract for operation and maintenance of an existing dam. The county may construct and maintain a dam that is determined by the delegated authority to be necessary for the purpose of maintaining the normal level. A dam may be acquired, constructed, or maintained in a county adjoining the county in which the lake is located.

(3) For the purpose of maintaining the normal level, a delegated authority may drill wells or pump water from another source to supply an inland lake with additional water, may lower the level of the lake by pumping water from the lake, and may purchase power to operate pumps, wells, or other devices installed as part of a normal level project.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30709 Powers of department.

Sec. 30709.

(1) After the court determines the normal level of an inland lake in a proceeding initiated by the department, the department may provide for and maintain that normal level.

(2) In a proceeding initiated by the department, the department has the same powers in connection with a normal level project as a county has under sections 30708, 30713, and 30718.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30710 Condemnation of private property.

Sec. 30710.

If the department or the delegated authority determines that it is necessary to condemn private property for the purpose of this part, the department or county may condemn the property in accordance with the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30711 Defraying project costs by special assessment; special assessment roll; reassessment.

Sec. 30711.

(1) The county board may determine by resolution that the whole or a part of the cost of a project to establish and maintain a normal level for an inland lake shall be defrayed by special assessments against the following that are benefited by the project: privately owned parcels of land, political subdivisions of this state, and state owned lands under the jurisdiction and control of the department of natural resources. If the county board determines that a special assessment district is to be established, the delegated authority shall compute the cost of the project and prepare a special assessment roll.

(2) If the revenues raised pursuant to the special assessment are insufficient to meet the computation of cost

under section 30712, or if these revenues are insufficient to meet bond obligations, the special assessment district may be reassessed without hearing using the same apportioned percentage used for the original assessment.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2024, Act 112, Eff. Apr. 2, 2025
Popular Name: Act 451
Popular Name: NREPA

324.30712 Computation of project costs.

Sec. 30712.

(1) Computation of the cost of a normal level project shall include the cost of all of the following:
(a) The preliminary study.
(b) Surveys.
(c) Establishing a special assessment district, including preparation of assessment rolls and levying assessments.
(d) Acquiring land and other property.
(e) Locating, constructing, operating, repairing, and maintaining a dam or works of improvement necessary for maintaining the normal level.
(f) Legal fees, including estimated costs of appeals if assessments are not upheld.
(g) Court costs.
(h) Interest on bonds and other financing costs for the first year, if the project is so financed.
(i) Any other costs necessary for the project which can be specifically itemized.
(2) The delegated authority may add as a cost not more than 15% of the sum calculated under subsection (1) to cover contingent expenses.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30713 Contract with agency or corporation; provisions.

Sec. 30713.

The delegated authority of a county in which an inland lake is located may contract with a state or federal government agency or a public or private corporation in connection with a project for the establishment and maintenance of a normal level. The contract may specify that the agency or corporation will pay the whole or a part of the cost of the project or will perform the whole or a part of the work connected with the project. The contract may provide that payment made or work done relieves the agency or corporation in whole or in part from assessment for the cost of establishment and construction of the project.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30714 Special assessment roll; public hearing; notice; approval; appeal.

Sec. 30714.

(1) A special assessment roll shall describe the parcels of land to be assessed, the name of the owner of each

parcel, if known, and the dollar amount of the assessment against each parcel.

(2) The delegated authority shall set a time and place for a public hearing or hearings on the project cost and the special assessment roll. Notice of a hearing shall be by both of the following:

(a) By publication of notice at least twice prior to the hearing in a newspaper that circulates in the special assessment district, the first publication to be at least 10 days before the hearing.

(b) As provided in Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.746 of the Michigan Compiled Laws.

(3) At or after a public hearing, the delegated authority may approve or revise the cost of the project or the special assessment roll. Before construction of a project is begun, the county board shall approve the cost and the special assessment roll by resolution.

(4) The special assessment roll with the assessments listed shall be final and conclusive unless appealed in a court within 15 days after county board approval.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30715 Assessment payments; installments; amount; interest, penalty, and collection; lien; preliminary study payment credited.

Sec. 30715.

(1) The county board may provide that assessments under this part are payable in installments.

(2) Assessment payments shall be sufficient to meet bond and note obligations of the special assessment district.

(3) Special assessments under this part shall be spread upon the county tax rolls, and shall be subject to the same interest and penalty charges and shall be collected in the same manner as county taxes.

(4) From the date of approval of the special assessment roll by the county board, a special assessment under this part shall constitute a lien on the parcel assessed. The lien shall be of the same character and effect as a lien created for county taxes.

(5) A payment for the cost of the preliminary study under section 30703 shall be credited against an assessment for the amount of the payment made by the person assessed.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30716 Bonds and notes; issuance; exempt from MCL 141.2505.

Sec. 30716.

(1) With approval of the county board and pursuant to section 30705, the district may issue bonds or notes that are payable by special assessments under this part. Except as provided in subsection (2) and section 30717(3), the issuance of the bonds and notes is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Bonds or notes shall not be issued exceeding the cost of the lake level project that is being financed.

(2) Notwithstanding any other provision of this part, bonds, notes, and other obligations issued under this part are exempt from section 505 of the revised municipal finance act, 2001 PA 34, MCL 141.2505.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 216, Imd. Eff. Apr. 29, 2002 ;-- Am. 2024, Act 112, Eff. Apr. 2, 2025
Popular Name: Act 451
Popular Name: NREPA

324.30717 Special assessment district; acceptance and repayment of advance.

Sec. 30717.

(1) A special assessment district under this part may borrow money or accept an advance of work, material, or money from a public or private corporation, a partnership, an association, an individual, or the federal government or any agency of the federal government for payment of financing of any costs in connection with a normal level project, including all of the following:

(a) Costs of easement and land acquisition.

(b) Engineering fees.

(c) Financing costs.

(d) Legal fees.

(e) Costs of a preliminary, feasibility, practicability, environmental assessment, or impact study.

(f) Any other permissible costs under this part.

(2) The special assessment district shall pay or provide reimbursement for the obligations under subsection (1), with or without interest as may be agreed, when funds are available. The obligation of the special assessment district under this subsection may be evidenced by a contract or note. The contract or note may pledge the full faith and credit of the special assessment district and may be made payable out of any of the following:

(a) Assessments made or to be made against public corporations at large or against lands in the special assessment district.

(b) The proceeds of lake level orders, notes, or bonds issued by the special assessment district pursuant to this act.

(c) Any other available funds.

(3) A contract or note described in subsection (2) is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, unless the principal amount of the obligation is more than $600,000.00. However, if the principal amount of the obligation is $600,000.00 or less, the contract or note is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177. Projects in which advances or loans are made by any public corporation, the federal government, or any agency of the federal government are not subject to either the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

(4) The county board of commissioners by a majority vote of its members may pledge the full faith and credit of the county for the payment of a contract or note of the special assessment district.

(5) All notes previously issued under this section shall be considered to have been validly issued.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 217, Imd. Eff. Apr. 29, 2002 ;-- Am. 2024, Act 112, Eff. Apr. 2, 2025

Popular Name: Act 451

Popular Name: NREPA

324.30718 Dam construction or maintenance; plans and specifications; approval by department; bids; work relief project.

Sec. 30718.

Plans and specifications for a dam constructed or maintained under this part shall be prepared by a licensed professional engineer under the direction of the delegated authority. The plans and specifications shall be approved by the department before construction begins. The department shall review and approve or reject the plans and specifications within 30 days after they are received by the department. If the plans and specifications are rejected, the department shall propose changes in the plans and specifications that would result in their approval by the department. Bids for doing the work may be advertised in the manner the delegated authority directs. The contract shall be let to the lowest responsible bidder giving adequate security for the performance of the contract, but the delegated authority may reserve the right to reject any and all bids. The county may erect and maintain a dam as a work relief project in accordance with the law applicable to a work relief project.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30719 Dam construction; underspill device; fish ladder.

Sec. 30719.

(1) The department may require that a new dam that is proposed to be constructed be equipped with an underspill device for the release of cold bottom waters for the protection of downstream fish habitats.

(2) The department may require the installation of a fish ladder or other device to permit the free passage of fish.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30720 Unauthorized change of level; penalty.

Sec. 30720.

A person who is not authorized by a delegated authority or the department to operate a dam or other normal level control facility and who changes, or causes to change, the level of an inland lake, the normal level of which has been established under this part or any previous act governing lake levels, and for which the delegated authority or the department has taken steps to maintain the normal level, is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 or imprisonment for not more than 1 year, or both, and shall be required to pay the actual cost of restoration or replacement of the dam and any other property including any natural resource that is damaged or destroyed as a result of the violation.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30721 Establishment of normal inland lake level prohibited in certain cases.

Sec. 30721.

A normal level shall not be established for an inland lake in either of the following cases:

(a) The inland lake is used as a reservoir for a municipal water supply system, unless a normal level determination is petitioned for by the governing body of the municipality.

(b) The state has title, flowage rights, or easements to all riparian land surrounding the inland lake, unless a normal level determination is petitioned for by the department.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30722 Inspection; report; repairs; penalty; expenditure.

Sec. 30722.

(1) The delegated authority of a county shall cause an inspection to be made of each dam on an inland lake within the county which has a normal level established under this part or under any previous act governing lake levels. The inspection shall be conducted by a licensed professional engineer. The inspection shall take place every third year from the date of completion of a new dam or every third year from the determination of a normal level for an existing dam. An inspection report shall be submitted promptly to the department in the form and manner the department prescribes.

(2) If a report discloses a need for repairs or a change in condition of the dam that relates to the dam's safety or danger to natural resources, the department shall conduct an inspection to confirm the report. If the report is confirmed and the public safety or natural resources are endangered by the risk of failure of the dam, the department may require the county either to repair or to replace the dam. Plans and specifications for the repairs or replacement shall be prepared by a licensed professional engineer under the direction of the delegated authority. The plans and specifications shall be approved by the department before construction begins. The department shall review and approve or reject the plans and specifications within 30 days after they are received by the department. If the plans and specifications are rejected, the department shall propose changes in the plans and specifications that would result in their approval by the department. If the dam is in imminent danger of failure, the department may order an immediate lowering of the lake level until necessary repair or replacement is complete.

(3) A person failing to comply with this section, or falsely representing dam conditions, is guilty of misconduct in office.

(4) If an inspection discloses the necessity for maintenance or repair, the delegated authority, without approval of the county board, may spend not more than $10,000.00 annually for maintenance and repair of each lake level project. An expenditure of more than $10,000.00 annually shall be approved by resolution of the county board.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30723 Other requirements not abrogated.

Sec. 30723.

This part does not abrogate the requirements of other state statutes.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

Part 309
INLAND LAKE IMPROVEMENTS

324.30901 Definitions.

Sec. 30901.

As used in this part:

(a) "Benefit" or "benefits" means advantages resulting from a project to public corporations, the inhabitants of public corporations, the inhabitants of this state, and property within public corporations. Benefit includes benefits that result from elimination of pollution and elimination of flood damage, elimination of water conditions that jeopardize the public health or safety; increase of the value or use of lands and property arising from improving a lake or lakes as a result of the lake project and the improvement or development of a lake for conservation of fish and wildlife and the use, improvement, or development of a lake for fishing, wildlife, boating, swimming, or any other recreational, agricultural, or conservation uses.

(b) "Inland lake" means a public inland lake or a private inland lake.

(c) "Interested person" means a person who has a record interest in the title to, right of ingress to, or

reversionary right to a piece or parcel of land that would be affected by a permanent change in the bottomland of a natural or artificial, public or private inland lake, or adjacent wetland. In all cases, whether having such an interest or not, the department is an interested person.

(d) "Local governing body" means the legislative body of a local unit of government.

(e) "Preliminary costs" includes costs of the engineering feasibility report, economic study, estimate of total cost, and cost of setting up the assessment district.

(f) "Private inland lake" means an inland lake other than a public inland lake.

(g) "Public inland lake" means a lake that is accessible to the public by publicly owned lands or highways contiguous to publicly owned lands or by the bed of a stream, except the Great Lakes and connecting waters.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30902 Petition for improvement of lake or wetland; local governing bodies' powers; lake boards.

Sec. 30902.

(1) The local governing body of any local unit of government in which the whole or any part of the waters of any public inland lake is situated, upon its own motion or by petition of 2/3 of the freeholders owning lands abutting the lake, for the protection of the public health, welfare, and safety and the conservation of the natural resources of this state, or to preserve property values around a lake, may provide for the improvement of a lake, or adjacent wetland, and may take steps necessary to remove and properly dispose of undesirable accumulated materials from the bottom of the lake or wetland by dredging, ditching, digging, or other related work.

(2) Upon receipt of the petition or upon its own motion, the local governing body within 60 days shall set up a lake board as provided in section 30903 that shall proceed with the necessary steps for improving the lake or to void the proposed project.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30903 Lake board; composition; election of chairperson, treasurer, and secretary; quorum; concurrence of majority required; technical data; recommendations.

Sec. 30903.

(1) The lake board shall consist of all of the following:

(a) A member of the county board of commissioners appointed by the chairperson of the county board of commissioners of each county affected by the lake improvement project; 1 representative of each local unit of government, other than a county, affected by the project, or, if there is only 1 such local unit of government, 2 representatives of that local unit of government, appointed by the legislative body of the local unit of government; and the county drain commissioner or his or her designee, or a member of the county road commission in counties not having a drain commissioner.

(b) A member elected by the members of the lake board serving pursuant to subdivision (a) at the first meeting of the board or at any time a vacancy exists under this subdivision. Only a person who has an interest in a land contract or a record interest in the title to a piece or parcel of land that abuts the lake to be improved is eligible to be elected and to serve under this subdivision. An organization composed of and representing the majority of lakefront property owners on the affected lake may submit up to 3 names to the board, from which the board shall make its selection. The terms served by this member shall be 4 years in length.

(2) The lake board shall elect a chairperson, treasurer, and secretary. The secretary shall attend meetings of the lake board and shall keep a record of the proceedings and perform other duties delegated by the lake board. A majority of the members of the lake board constitutes a quorum. The concurrence of a majority in any matter within the duties of the board is required for the determination of a matter.

(3) The department, upon request of the lake board, shall provide whatever technical data it has available and make recommendations in the interests of conservation.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 522, Eff. Mar. 1, 2005
Popular Name: Act 451
Popular Name: NREPA

324.30904 Initiation of action by freeholders.

Sec. 30904.

Action may be initiated under section 30902 relating to any private inland lake only upon petition of 2/3 of the freeholders owning lands abutting the lake.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30905 Preliminary costs; revolving funds; assessments.

Sec. 30905.

The county board of commissioners may provide for a revolving fund to pay for the preliminary costs of improvement projects within the county. The preliminary costs shall be assessed to the property owners in the assessment district by the lake board after notice of the hearing is given pursuant to Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.746 of the Michigan Compiled Laws, and shall be repaid to the fund where the project is not finally constructed.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30906 Institution of proceedings for lake improvement; conflicts with local ordinances and charters.

Sec. 30906.

(1) Whenever a local governing body, in accordance with section 30902, considers it expedient to have a lake improved, it, by resolution, shall direct the lake board to institute proceedings as prescribed in this part.
(2) When the waters of any inland lake are situated in 2 or more local units of government, the improvement of the lake may be determined jointly in the same manner as provided in this part, if the local governing bodies of all local units of government involved determine it to be expedient in accordance with section 30902 and, by resolution, direct the lake board to institute proceedings as prescribed in this part. Where local ordinances and charters conflict, this part shall govern.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30907 Lake improvement; initiation by department.

Sec. 30907.

If the department considers it expedient, in accordance with section 30902, to have a lake dredged or improved, the department may petition the local governing body or governing bodies in which the lake is located for an improvement of the lake. The department may also join with the local governing body of any local unit of government in instituting proceedings for improvements as set forth in this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30908 Lake board; determination of scope of project; establishment of special assessment districts; ministerial duties.

Sec. 30908.

The lake board, when instructed by resolution of the local governing body, shall determine the scope of the project and shall establish a special assessment district, including within the special assessment district all parcels of land and local units which will be benefited by the improvement of the lake. The local governing body may delegate to the lake board other ministerial duties including preparation, assembling, and computation of statistical data for use by the board and the superintending, construction, and maintenance of any project under this part, as the local governing body considers necessary.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30909 Engineering and economic reports; cost estimates.

Sec. 30909.

(1) The lake board shall retain a licensed professional engineer to prepare an engineering feasibility report, an economic study report, and an estimate of cost. The report shall include, when applicable, recommendations for normal lake levels and the methods for maintaining those levels.

(2) The engineering feasibility report shall include the methods proposed to implement the recommended improvements, such as dredging, removal, disposal, and disposal areas for undesirable materials from the lake. The report shall include an investigation of the groundwater conditions and possible effects on lake levels from removal of bottom materials. A study of existing nutrients and an estimate of possible future conditions shall be included. Estimate of costs of right-of-way shall be included.

(3) The estimate of cost prepared under subsection (1) shall show probable assessments for the project. The economic report shall analyze the existing local tax structure and the effects of the proposed assessments on the local units of government involved. A copy of the report shall be furnished to each member of the lake board.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30910 Review of reports by board; determinations of practicability; public hearings; notice;

determination.

Sec. 30910.

Within 60 days after his or her receipt of the reports, the chairperson shall hold a meeting of the lake board to review the reports required under section 30909 and to determine the practicability of the project. The hearing shall be public, and notice of the hearing shall be published twice in a newspaper of general circulation in each local unit of government to be affected. The first publication shall be not less than 20 days prior to the time of the hearing. The board shall determine the practicability of the project within 10 days after the hearing unless it is determined at the hearing that more information is needed before the determination can be made. Immediately upon receipt of the additional information, the board shall make its determination.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30911 County contributions toward costs of improvement.

Sec. 30911.

The county board of commissioners may provide up to 25% of the cost of a lake improvement project on any public inland lake.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30912 Approval of plans and cost estimates; sufficiency of petition; resolution; publication; assessment roll.

Sec. 30912.

If the lake board passes a resolution in which it determines the project to be practicable, the lake board shall determine to proceed with the project, shall approve the plans and estimate of costs as originally presented or as revised, corrected, amended, or changed, and shall determine the sufficiency of the petition for the improvement. The resolution shall be published once in a newspaper of general circulation in each local unit of government to be affected. After the resolution has been published, the sufficiency of the petition shall not be subject to attack except in an action brought in a court of competent jurisdiction within 30 days after publication. The lake board, after finally accepting the special assessment district, shall prepare an assessment roll based upon the benefits to be derived from the proposed lake improvement, and the lake board shall direct the assessing official of each local unit of government to be affected to join in making an assessment roll in which shall be entered and described all the parcels of land to be assessed, with the names of the respective owners of the parcels of land, if known, and the total amount to be assessed against each parcel of land and against each local unit of government to be affected, which amount shall be such relative portion of the whole sum to be levied against all parcels of land and local units of government in the special assessment district as the benefit to such parcel of land and local unit of government bears to the total benefit to all parcels of land and local units of government in the special assessment district. When the assessment roll has been completed, each assessing official shall affix to the assessment roll his or her certificate stating that it was made pursuant to a resolution of the lake board adopted on a specified date, and that in making the assessment roll he or she has, according to his or her best judgment, conformed in all respects to the directions contained in the resolution and the statutes of the state.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30913 Report of assessment to lake board; review; notice and hearing; confirmation.

Sec. 30913.

The assessment roll shall be reported to the lake board by the assessing official of the local unit or units of government initiating the proceeding and filed in the office of the clerk of each local unit of government to be affected. Before confirming the assessment roll, the lake board shall appoint a time and place when it will meet and review the assessment roll and hear any objections to the assessment roll, and shall publish notice of the hearing and the filing of the assessment roll twice prior to the hearing in a newspaper of general circulation in each local unit of government to be affected, the first publication to be at least 10 days before the hearing. Notice of the hearing shall also be given in accordance with Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.746 of the Michigan Compiled Laws. The hearing may be adjourned from time to time without further notice. Any person or local unit of government objecting to the assessment roll shall file his or her objection in writing with the chairperson before the close of the hearing or within such further time period as the lake board may grant. After the hearing, the lake board may confirm the special assessment roll as reported to it or as amended or corrected by it, may refer it back to the assessing officials for revision, or may annul it and direct a new roll to be made. When a special assessment roll has been confirmed, the clerk of each local unit of government shall endorse on the assessment roll the date of the confirmation. After confirmation, the special assessment roll and all assessments on the assessment roll shall be final and conclusive unless attacked in a court of competent jurisdiction within 30 days after notice of confirmation has been published in the same manner as the notice of hearing.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30914 Special assessments; installments; interest; penalties.

Sec. 30914.

Upon the confirmation of the assessment roll, the lake board may provide that the assessments be payable in 1 or more approximately equal annual installments, not exceeding 30. The amount of each installment, if more than 1, need not be extended upon the special assessment roll until after confirmation. The first installment of a special assessment shall be due on or before such time after confirmation as the board shall establish, and the several subsequent installments shall be due at intervals of 12 months from the due date of the first installment or from such other date as the board shall establish. All unpaid installments, prior to their transfer to the tax roll of each local unit of government involved, shall bear interest, payable annually on each installment due date, at a rate to be set by the board, not exceeding 6% per annum, from such date as established by the board. Future due installments of an assessment against a parcel of land may be paid to the treasurer of each local unit of government at any time in full, with interest accrued to the due date of the next installment. If any installment of a special assessment is not paid when due, then it shall be considered to be delinquent and there shall be collected on the installment, in addition to interest as above provided, a penalty at the rate of 1/2 of 1% for each month or fraction of a month that it remains unpaid before being reported to the township board for reassessment upon the tax roll.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30915 Special assessments; liens.

Sec. 30915.

All special assessments contained in any special assessment roll, including any part of the special assessment payment that is deferred, constitute a lien, from the date of confirmation of the roll, upon the respective parcels of land assessed. The lien shall be of the same character and effect as the lien created for taxes in each local unit of government and shall include accrued interest and penalties. A judgment, decree, or any act of the board vacating a special assessment does not destroy or impair the lien upon the premises assessed for the amount of the assessment as may be equitably charged against the premises, or as by a regular mode of proceeding might be lawfully assessed on the premises.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30916 Special assessments; collections.

Sec. 30916.

When any special assessment roll is confirmed, the lake board shall direct the assessments made in the roll to be collected. The clerk of each local unit of government involved shall then deliver to the treasurer of each local unit of government the special assessment roll, to which he or she shall attach his or her warrant commanding the treasurer to collect the assessments in the roll in accordance with the directions of the lake board. The warrant shall further require the treasurer, on September 1 following the date when any assessments or any part of an assessment have become due, to submit to the lake board a sworn statement setting forth the names of delinquent persons, if known, a description of the parcels of land upon which there are delinquent assessments, and the amount of the delinquency, including accrued interest and penalties computed to September 1 of the year. Upon receiving the special assessment roll and warrant, the treasurer shall collect the amounts assessed as they become due.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30917 Delinquent assessments; reassessment.

Sec. 30917.

If the treasurer reports as delinquent any assessment or part of an assessment, the lake board shall certify the delinquency to the assessing official of each local unit of government, who shall reassess, on the annual tax roll of the local unit of government of that year, in a column headed "special assessments", the delinquent sum, with interest and penalties to September 1 of that year, and an additional penalty of 6% of the total amount. Thereafter, the statutes relating to taxes shall be applicable to the reassessments in each local unit of government.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30918 Division of land parcels; uncollected assessment apportioned.

Sec. 30918.

If any parcel of land is divided after a special assessment on the land has been confirmed and before the collection of the assessment, the lake board may require the assessment official to apportion the uncollected amounts between the divisions of the parcel of land, and the report of the apportionment when confirmed by the

lake board shall be conclusive upon all parties. If the interested parties do not agree in writing to the apportionment, then, before confirmation, notice of hearing shall be given to all the interested parties, either by personal service or by publication as provided in the case of an original assessment roll.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30919 Additional special assessments.

Sec. 30919.

If the assessments in any special assessment roll prove insufficient for any reason, including the noncollection of the assessment, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection of the assessment, then the lake board shall make additional pro rata assessments to supply the deficiency, but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30920 Special assessments; invalidity and new assessments.

Sec. 30920.

Whenever, in the opinion of the lake board, any special assessment is invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction adjudges such assessment illegal, the lake board, whether the improvement has been made or not and whether any part of the assessment has been paid or not, may proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on that reassessment and for the collection of the assessment shall be conducted in the same manner as provided for the original assessment. Whenever an assessment or any part of an assessment levied upon any premises has been set aside, if the assessment or part of an assessment has been paid and not refunded, the payment shall be applied upon the reassessment.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30921 Special assessments; exempt lands.

Sec. 30921.

The governing body of any department of the state or any of its political subdivisions, municipalities, school districts, townships, or counties, whose lands are exempt by law, may by resolution agree to pay the special assessments against the lands, in which case the assessment, including all the installments of the assessment, shall be a valid claim against the local unit of government.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451

Popular Name: NREPA

324.30922 Borrowing; issuance of lake level orders and bonds.

Sec. 30922.

The lake board may borrow money and issue lake level orders or the bonds of the special assessment district in anticipation of the collection of special assessments to defray the cost of any improvement made under this part after the special assessment roll has been confirmed. The bonds or lake level orders shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued. Collections on special assessments to the extent pledged for the payment of bonds or lake level orders shall be set aside in a special fund for the payment of the bonds or lake level orders. The issuance of special assessments bonds or lake level orders shall be governed by the general laws of this state applicable to the issuance of special assessments bonds or lake level orders and in accordance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Bonds or lake level orders may be issued in anticipation of the collection of special assessments levied in respect to 2 or more public improvements, but no special assessment district shall be compelled to pay the obligation of any other special assessment district. The local governing body may pledge the full faith and credit of a local unit of government for the prompt payment of the principal of and interest on the bonds or lake level orders as they become due. The pledge of full faith and credit of the local unit of government shall be included within the total limitation prescribed by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Bonds and lake level orders issued under this part shall be executed by the chairperson and secretary of the lake board, and the interest coupons to be attached to the bonds and orders shall be executed by the officials causing their facsimile signatures to be affixed to the bonds and orders.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 218, Imd. Eff. Apr. 29, 2002
Popular Name: Act 451
Popular Name: NREPA

324.30923 Condemnation; commencement and conduct of proceedings.

Sec. 30923.

Whenever the lake board determines by proper resolution that it is necessary to condemn private property for the purpose of this part, the condemnation proceedings shall be commenced and conducted in accordance with Act No. 149 of the Public Acts of 1911, being sections 213.21 to 213.25 of the Michigan Compiled Laws.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30924 Gifts and grants-in-aid; acceptance by lake board; contract or agreement.

Sec. 30924.

(1) The lake board may receive and accept gifts or grants-in-aid for the purpose of implementing this part.

(2) The lake board may contract or make agreement with the federal government or any agency of the federal government whereby the federal government will pay the whole or any part of the costs of a project or will perform all or any part of the work connected with the project. The contract or agreement may include any specific terms required by act of congress or federal regulation as a condition for the participation of the federal government.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

Popular Name: Act 451
Popular Name: NREPA

324.30925 Gifts and grants-in-aid; acceptance by department.

Sec. 30925.

The department in carrying out the purposes of this part may receive and accept, on behalf of the state, gifts and grants-in-aid.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30926 Advertising for bids; letting of contracts; work relief project.

Sec. 30926.

(1) Except as provided in subsection (2), the chairperson of the lake board shall advertise for bids. A contract shall be let to the lowest bidder giving adequate security for the performance of the contract, but the lake board shall reserve the right to reject any and all bids.

(2) The lake board may let a contract with a local, incorporated, nonprofit homeowner association, the membership of which is open on a nondiscriminatory basis to all residents within the geographic area to be assessed or serviced, without advertising for public bids. The homeowner association shall give adequate security for the performance of the contract.

(3) The local governing body may improve a lake as a work relief project pursuant to applicable provisions of law.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30927 Costs of projects; computation; expenditures; representation by attorney.

Sec. 30927.

(1) Within 10 days after the letting of contracts or, in case of an appeal, immediately after the appeal has been decided, the lake board shall make a computation of the entire cost of a project under this part that includes all preliminary costs and engineering and inspection costs incurred and all of the following:

(a) The fees and expenses of special commissioners.

(b) The contracts for dredging or other work to be done on the project.

(c) The estimated cost of an appeal if the apportionment made by the lake board is not sustained.

(d) The estimated cost of inspection.

(e) The cost of publishing all notices required.

(f) All costs of the circuit court.

(g) Any legal expenses incurred in connection with the project, including litigation expenses, the costs of any judgments or orders entered against the lake board or special assessment district, and attorney fees.

(h) Fees for any permits required in connection with the project.

(i) Interest on bonds for the first year, if bonds are to be issued.

(j) Any other costs necessary for the administration of lake board proceedings, including, but not limited to, compensation of the members of the lake board, record compilation and retention, and state, county, or local

government professional staff services.

(2) In addition to the amounts computed under subsection (1), the lake board may add not less than 10% or more than 15% of the gross sum to cover contingent expenses, including additional necessary hydrological studies by the department. The sum of the amounts computed under subsection (1) plus the amount added under this subsection is considered to be the cost of the lake improvement project.

(3) A lake board shall not expend money for improvements, services, or other purposes unless the lake board has adopted an annual budget.

(4) A lake board may retain an attorney to advise the lake board in the proper performance of its duties. The attorney shall represent the lake board in actions brought by or against the lake board.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 522, Eff. Mar. 1, 2005
Popular Name: Act 451
Popular Name: NREPA

324.30928 Intervention by department.

Sec. 30928.

Whenever a public inland lake is to be improved, the department may intervene for the protection and conservation of the natural resources of the state.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.30929 Lake board for inland lake; dissolution.

Sec. 30929.

A lake board for an inland lake is dissolved if all of the following requirements are met:

(a) The governing body of each local unit of government in which all or part of the lake is located holds a public hearing on the proposed dissolution, determines that the lake board is no longer necessary for the improvement of the lake because the reasons for the establishment of the lake board no longer exist, and approves the dissolution of the lake board. For a public inland lake, the governing body of each local unit of government in which all or part of the lake is located may hold the public hearing on the dissolution of the lake board on its own initiative. For a public or private inland lake, the governing body of each local unit of government in which all or part of the lake is located shall hold a public hearing on the dissolution of the lake board upon petition of at least 2/3 of the property owners owning land abutting the lake or upon petition of the property owners who have been assessed at least 2/3 of the cost of the most recent improvements, excluding the amount assessed to local units at large. Notice of the public hearing shall be published twice in a newspaper of general circulation in each local unit of government in which all or part of the lake is located. The first notice shall be published not less than 10 days before the date of the hearing.

(b) All outstanding indebtedness and expenses of the lake board are paid in full.

(c) Any excess funds of the lake board are refunded based on the last approved special assessment roll. However, if the amount of excess funds is de minimis, the excess funds shall be distributed to the local units of government in which all or part of the lake is located, apportioned based on the amounts assessed against each local unit of government and lands in that local unit on the last approved special assessment roll.

(d) The lake board determines that it is no longer necessary for the improvement of the lake, because the reasons for its establishment no longer exist, and adopts an order approving its dissolution.

History: Add. 2004, Act 522, Eff. Mar. 1, 2005 ;-- Am. 2011, Act 96, Imd. Eff. July 15, 2011
Popular Name: Act 451
Popular Name: NREPA

Part 311
LOCAL RIVER MANAGEMENT

324.31101 Definitions.

Sec. 31101.

As used in this part:

(a) "Board" means a river management board created as the governing body of a river management district in accordance with this part.

(b) "Council" means a watershed council created under this part.

(c) "District" means a river management district established under this part.

(d) "Level of stream flow" means a measure of water quantity including the amount of water passing a designated point over a designated period and the levels of lakes that are an integral part of the surface drainage system of the watershed.

(e) "Local agencies" means local units of government, special districts, or other legally constituted agencies of local units of government exercising powers that may affect water resources.

(f) "River management" means the control of river flow by the operation of dams, reservoirs, conduits, and other human-made devices in order to improve and expand the uses of the river for those who depend upon it for a variety of private and public benefits.

(g) "Watershed" means the drainage area of a stream.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31102 Watershed council; petition; contents; organizational meeting; notice.

Sec. 31102.

(1) To promote cooperation among local units of government in river management, a watershed council shall be established by the department upon a petition from 3 or more local units of government lying wholly or partially in the watershed as defined in the petition. The petition shall provide a statement of necessity, a description of general purposes and functions to be performed, a description of the area, including a map, and a list of all local units of government lying wholly or partly within the watershed, which shall be eligible for membership on the watershed council.

(2) Upon finding that the petition is in conformance with this part, the department shall establish the council, schedule an organizational meeting, and notify all local units of government eligible for membership by registered mail. The date for the meeting shall be not less than 60 or more than 90 days after the date of mailing the notice.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31103 Watershed council; membership; voting rights; term; river management board.

Sec. 31103.

(1) The watershed council shall be composed of representatives of local units of government within the watershed who are appointed to and maintain membership in the council in the following manner:

(a) Each local unit of government using the river for water supply or waste disposal shall appoint 1 representative for each 20,000 population or fraction thereof. The governing body of each local unit of government

shall determine the method by which its representatives are selected.

(b) Each county having 15% or more of its area in the watershed shall appoint 1 representative, and 1 additional representative for each 20,000 population or fraction thereof, which aggregate total shall be computed from the population of eligible townships not otherwise represented. These townships shall be eligible under this section if they have 15% or more of their respective areas in the basin. The methods by which the county representatives are selected shall be determined by the county board of commissioners.

(c) Any local agency wholly or partly within the basin may appoint a representative to the council upon a finding by the council that the agency is so affected by or concerned with the use and development of water resources in the basin as to warrant representation. If any township is represented under this subdivision, its population shall not be counted in determining the eligible total representatives of its county.

(2) Representatives on the watershed council shall be appointed for 2 years, but are subject to replacement at the pleasure of the appointing authority. A representative is not eligible to vote on the council unless the local government he or she represents has met its financial obligations to the council.

(3) Representatives to the watershed council may also represent their local units of government, if so designated by their local units of government, on river management boards established in accordance with this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31104 Watershed council; duties.

Sec. 31104.

In carrying out its authorized functions, the council shall do all of the following:

(a) Adopt bylaws that govern its operations.

(b) Prepare an annual operating budget, including apportionment of costs to member governments.

(c) Hold an annual meeting at which time it shall elect a chairperson, vice-chairperson, and secretary-treasurer, submit an annual report to the member governments, and adopt an annual budget that constitutes the council's authorization of activities for the year.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31105 Watershed council; powers.

Sec. 31105.

A watershed council may do 1 or more of the following:

(a) Conduct, or cause to be conducted, studies of the water resources of the watershed, including investigations of water uses, water quality, and the reliability of the water resource.

(b) Prepare periodic reports concerning, among other things, trends in water use and availability, emerging water problems, and recommendations for appropriate public policies and programs necessary to maintain adequate water resources for the watershed area.

(c) Request the department to survey the watershed for the purpose of determining minimum levels of stream flow necessary for health, welfare, and safety as provided in sections 31112 through 31117.

(d) Recommend the creation of a river management district or districts under the provisions of sections 31106 through 31111 when the need for river management seems to warrant such an action.

(e) Advise agencies of federal, state, and local units of government as to the council's view of the watershed's problems and needs.

(f) Cooperate with federal, state, and local agencies in providing stream gauges, water quality sampling stations, or other water resource data-gathering facilities or programs that aid the council in its responsibility for studying and reporting on water conditions.

(g) Employ an executive secretary and such other professional, administrative, or clerical staff, including consultants, as may be provided for in an approved budget.

(h) Establish such subcommittees or advisory committees as are considered helpful in the discharge of its functions.

(i) Establish special project funds as needed to finance special studies outside its annual budget capacity. For this purpose, the council may accept gifts and grants from any person.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31106 River management district; establishment; powers; consolidation; coordination.

Sec. 31106.

(1) The governing bodies of 2 or more local units of government may petition the department to establish a river management district in order to provide an agency for the acquisition, construction, operation, and financing of water storage and other river control facilities necessary for river management. The petition shall be accompanied by a statement of necessity, a description of the district purposes, functions, and operating procedures, which shall include methods of financing capital improvements and of apportioning benefit charges, and a general plan of development. Not later than 60 days following receipt of such a petition, the department shall establish the time and place for a public hearing on the petition and shall publish notice of the hearing. The notice shall be published twice in each county involved in at least 1 newspaper of general circulation in the county. At the hearing, the applicant and any other interested party may appear, present witnesses, and submit evidence. Following the hearing, the department may establish the district and publish notice of the establishment in the manner provided for publication of notice of hearing, upon finding the following conditions:

(a) That the proposal is consistent with the public interest in the conservation, development, and use of water resources, and the proposed district is geographically suitable to effectuation of the district purposes.

(b) That the establishment and operation of the district will not unreasonably impair the interests of the public or of riparians in lands or waters or the beneficial public use of lands or waters, and will not endanger public health or safety.

(2) A management district shall not be created that affects any city now or hereafter having a population of more than 1,500,000, except with the concurrence of the governing body of that city.

(3) Prior to approving the establishment of a district consisting of a portion of a river basin, the department shall determine the feasibility of establishing the district to include the entire river basin or as large a portion of the basin as possible. Approval of districts consisting of a portion of a river basin shall be on the basis that when in the judgment of the department it becomes feasible to form a district including the entire river basin, the river management boards shall initiate proceedings to combine the smaller districts into larger districts or into an entire watershed-wide district.

(4) Any plans for a river management district shall be coordinated with plans of adjacent river basins, organizations, or agencies and with any comprehensive regional master programs for river management.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31107 River management district; organizational meeting; notice; date; board; membership; term; voting rights.

Sec. 31107.

(1) Within 60 days after establishing a district, the department shall schedule an organizational meeting of the district board and shall provide notice of the meeting by registered mail to the governing bodies of all local units of government comprising the district. The date for the meeting shall be not less than 60 or more than 90 days after

the date of mailing the notice. At the meeting, the department shall serve as temporary chairperson. The board shall elect a chairperson, vice-chairperson, secretary, and treasurer and adopt bylaws.

(2) A district shall be governed by a river management board composed of representatives of local units of government within the district. The representation of each local unit of government on the board may be provided as part of the operating procedures submitted to the department in the petition of local units of government made in accordance with section 31106. If the composition of the board is not so designated, representation shall be established under section 31103.

(3) Representatives on the river management board shall be appointed for 2 years but are subject to replacement at the pleasure of the appointing authority. A representative is not eligible to vote on the board unless the local government he or she represents has met its financial obligations to the district.

(4) Representatives to the river management board may also serve as representatives of their local units of government, if so designated by their local units of government, on the watershed council.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31108 River management board; powers.

Sec. 31108.

A river management board may do any of the following:

(a) Conduct a continuing study of river use requirements and needs for river management within its area of jurisdiction; analyze alternative methods of meeting needs; and develop and adopt a river management program, including plans for constructing, operating, and financing water storage and river control structures and negotiating coordinated policies and programs relating to river use among local units of government within the district.

(b) Impound and control the waters of the river system within the district, subject to minimum levels of stream flow established pursuant to sections 31112 and 31113, through acquisition, construction, maintenance, and/or operation of water storage reservoirs, dams, or other river control structures as necessary to assure adequate quantity, quality, and stability of river flow to protect the public health, welfare, and safety. A river management district shall not release water in such an amount as to produce or increase flooding or otherwise damage downstream interests.

(c) Contract with or enter into agreement with the federal government or any agency or department of the federal government or with other governmental agencies or with private individuals or corporations that may maintain and operate reservoirs and control structures or that may construct, maintain, and operate new reservoirs and control structures as necessary to carry out the purposes of this part.

(d) Perform, with respect to the area within the district, the functions assigned to a watershed council by sections 31102 through 31105 whenever a relevant watershed council has not been formed, or if the appropriate watershed council's failure to act impairs the functions and programs of a district.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31109 River management district; body corporate; powers; taxing power.

Sec. 31109.

A district formed under this part is a body corporate with powers to contract; to sue and be sued; to exercise the right of eminent domain; to apportion administrative costs and benefit charges for river management and related facilities among the local units of government members, which costs shall be payable from general funds or taxes raised by the local units of government; to collect revenues for services rendered by the exercise of its functions; to issue bonds; to apply for and receive grants, gifts, and other devises from any governmental agency or from the federal government; and to exercise other powers as necessary to implement this part. The river management

district shall not have direct taxing power.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31110 River management board; duties.

Sec. 31110.

A river management board shall do all of the following:

(a) Adopt bylaws to govern its operations.

(b) Prepare an annual operating budget and levy an annual assessment of local unit of government members to cover costs of organizing, developing plans, and maintaining general overhead administration.

(c) Adopt and maintain a schedule of benefit assessments upon local units of government in the district levied to help defray the costs of capital improvements, which schedule constitutes a legal obligation upon those assessed.

(d) Hold an annual meeting at which it shall report to its members and to the watershed council, elect officers, and adopt an annual budget.

(e) Maintain a public record of its transactions.

(f) Do all other things necessary for the operation of the district.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31111 Executive secretary; additional staff.

Sec. 31111.

The executive secretary of a watershed council may serve as executive secretary to the river management board. If a relevant watershed council does not exist, or if the executive secretary of a watershed council is otherwise unavailable, the board may employ an executive secretary. In addition, the board may employ additional staff as it determines appropriate within its approved budget.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31112 Minimum level of stream flow; industrial use of water.

Sec. 31112.

Upon request of a council or a board, the department shall determine, within the watershed subject to the council, the minimum level of stream flow necessary to safeguard the public health, welfare, and safety, but a determination or order shall not prevent any industry along the stream from using water from the stream for industrial use sufficient for the industry's requirement if all the water used is returned to the stream within 72 hours of the taking.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31113 Minimum level of stream flow; order of determination; notice; publication; review.

Sec. 31113.

In carrying out its authority to determine minimum levels of stream flow, the department, after public hearing, shall issue an order of determination setting forth minimum levels at locations as necessary to carry out the purposes of this part. Notice of the order of determination shall be published and the order may be reviewed in the circuit court in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, upon petition filed by any person within 15 days following the last date of the publication.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31114 Minimum level of stream flow; determination by watershed council or department; request.

Sec. 31114.

A river management board may request a watershed council to seek a determination of minimum levels of stream flow in accordance with sections 31112 and 31113, or the board may request the department to make the determinations if a watershed council has not been formed for the larger watershed of which the district is a part, or when an appropriately established council fails to act within 90 days upon the district's request.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31115 Measurement of stream flow, lake levels, and water quality; gauges and sampling devices; entering public property.

Sec. 31115.

The department may maintain gauges and sampling devices to measure stream flow, lake levels, and water quality as necessary to implement this part, and may enter at all reasonable times in or upon any public property for the purpose of inspecting and investigating conditions relating to implementing this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31116 Preparation of river management plan; advice, assistance, and supervision by department.

Sec. 31116.

The department may cooperate and negotiate with any person in establishing and maintaining gauges and sampling devices to measure stream flow, lake levels, or water quality or in implementing any other provision of

this part. When requested by a council or board, the department shall provide technical advice and assistance in the preparation of a river management plan of the district. A river management plan shall not be placed into effect until it has been approved by the department as conforming to the stated objectives of the petition. The department shall maintain supervision over the functioning of the district to the extent it considers necessary for the purpose of ensuring conformance with the plan in the public interest.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31117 Rules.

Sec. 31117.

The department shall promulgate rules to implement this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31118 Authority of department not affected by part.

Sec. 31118.

This part does not abridge the authority vested in the department by part 31. Permits granted by the department in accordance with part 35 are not affected by this part. The granting of future permits under part 35 shall proceed without regard to anything contained in this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31119 Director of public health; powers unaffected.

Sec. 31119.

The functions, powers, and duties of the director of public health as provided for by Act No. 98 of the Public Acts of 1913, being sections 325.201 to 325.214 of the Michigan Compiled Laws, shall remain unaffected by this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

PART 312
WATERSHED ALLIANCES

324.31201 Definitions.

Sec. 31201.

As used in this part:

(a) "County agency" means an agency created or controlled by a county board of commissioners or a county executive, a board of county road commissioners, or an office of the county drain commissioner.

(b) "Member" means a municipality, county, county agency, public school district, public college or university, or other local or regional public agency that is a member of a watershed alliance as provided for in this part.

(c) "Watershed" means a geographic area in the state within which surface water drains into a common river, stream, or body of water.

(d) "Watershed alliance" means an organization established under section 31202.

(e) "Watershed management plan" means a written document prepared and approved by a watershed alliance that identifies water management issues and problems, proposes goals and objectives, and outlines actions to achieve the goals and objectives identified by members of a watershed alliance.

History: Add. 2004, Act 517, Imd. Eff. Jan. 3, 2005
Popular Name: Act 451
Popular Name: NREPA

324.31202 Watershed alliance; establishment by municipalities; purpose; resolution; bylaws; voluntary membership.

Sec. 31202.

(1) Two or more municipalities, by resolution of their respective governing bodies, may establish a watershed alliance for the purpose of studying problems and planning and implementing activities designed to address surface water quality or water flow issues of mutual concern within the portion of a watershed located within their boundaries, including 1 or more of the following:

(a) Preparation of watershed management plans and other required documents as part of state or federal requirements to obtain water discharge permits or grant funding.

(b) Monitoring, sampling, and analyses of data necessary to manage the watershed, including, but not limited to, surface water quality, water quantity and flows, ecosystem health, recreational use, and the publication of results.

(c) Conducting public surveys, preparing and distributing informational and educational materials, and organizing activities involving the public.

(d) Designing and implementing projects and conducting activities to protect or enhance water quality and related beneficial uses, or manage flows to protect or reduce damage to riparian property and aquatic habitat.

(e) Designing and implementing other actions consistent with watershed management plans adopted by a watershed alliance, or required to protect public health, and maintain and restore beneficial public uses of the surface water resources of the watershed.

(2) A resolution under subsection (1) establishing a watershed alliance shall include bylaws that identify, at a minimum, all of the following:

(a) The structure of the organization and decision-making process.

(b) The geographic boundaries of the watershed.

(c) The municipalities, counties, county agencies, public school districts, and other local or regional public agencies eligible for membership in the watershed alliance as provided under subsection (3).

(d) The basis for assessing costs to members.

(e) A mechanism to be used for adoption of an annual budget to support projects and activities.

(3) A watershed alliance shall provide an equitable basis for all municipalities, counties, and county agencies within the geographic boundaries of the watershed to voluntarily join as members. In addition, at its discretion, the watershed alliance may authorize the voluntary membership of any local public school district, public college or university, or any other local or regional public agency that has water management responsibilities. Following establishment of a watershed alliance under subsection (1), by resolution of its governing body, a municipality, county, county agency, public school district, public college or university, or other local or regional public agency established under state law with surface water management responsibility may voluntarily join a watershed alliance as provided for in this subsection.

History: Add. 2004, Act 517, Imd. Eff. Jan. 3, 2005
Popular Name: Act 451

Popular Name: NREPA

324.31203 Watershed alliance as body corporate; powers and authority.

Sec. 31203.

A watershed alliance is a body corporate with power to sue and be sued in any court of this state and with the authority to carry out its responsibilities under this part and as otherwise provided by law.

History: Add. 2004, Act 517, Imd. Eff. Jan. 3, 2005
Popular Name: Act 451
Popular Name: NREPA

324.31204 Watershed alliance; powers and authority; report; assessment or collection of fees or taxes.

Sec. 31204.

(1) A watershed alliance, consistent with the purposes identified in section 31202 and its bylaws, may do 1 or more of the following:

(a) Employ personnel to coordinate and implement actions.

(b) Enter into agreements or contracts with public or private entities to coordinate or implement actions.

(c) Assess and collect fees from members with approval of the governing bodies of the members.

(d) Solicit grants, gifts, and contributions from federal, state, regional, or local public agencies and from private sources.

(e) Expend funds provided by members, or through grants, gifts, and contributions.

(f) Represent members of the watershed alliance before other bodies considering issues affecting water quality or flow management issues within the designated watershed, including obtaining local, state, or federal permits or authorizations that may be required to carry out activities as may be authorized by its members.

(2) A watershed alliance shall prepare and deliver to its members on or before April 1 of each year a report detailing the revenue received and expenditures by the watershed alliance during the immediately prior January 1 through December 31 period.

(3) A watershed alliance shall have no independent authority to assess or collect any fees or taxes directly from individuals or property owners. A watershed alliance member may allocate the use of public funds from fees, taxes, or assessments generated under the provisions of other state laws for use by a watershed alliance.

History: Add. 2004, Act 517, Imd. Eff. Jan. 3, 2005
Popular Name: Act 451
Popular Name: NREPA

324.31205 Audit.

Sec. 31205.

(1) A watershed alliance shall obtain an audit of its financial records, accounts, and procedures at least every other year.

(2) A watershed alliance shall submit the results of an audit under subsection (1) to the governing bodies of its members and to the state treasurer.

(3) An audit under subsection (1) shall satisfy all audit requirements set under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

History: Add. 2004, Act 517, Imd. Eff. Jan. 3, 2005
Popular Name: NREPA
Popular Name: Act 451

324.31206 Additional authority prohibited.

Sec. 31206.

This part does not provide a watershed alliance or any of its members with any additional authority not otherwise provided by law.

History: Add. 2004, Act 517, Imd. Eff. Jan. 3, 2005
Popular Name: Act 451
Popular Name: NREPA

Part 313
SURPLUS WATERS

324.31301 Definitions.

Sec. 31301.

As used in this part:

(a) "Board" means the county board of commissioners.

(b) "Dams" means dams, embankments, dikes, pumps, weirs, locks, gates, tubes, ditches, or any other devices or construction to impound or release water.

(c) "Local unit" means any city, village, township, or soil conservation district acting through its governing body.

(d) "Optimum flow" means that rate and quantity of flow in any stream as determined in accordance with this part.

(e) "Plan" means a plan adopted by the board or boards and approved by an order of the department for the best development, utilization, and conservation of the surplus water of the state.

(f) "Surplus water" means water that may be impounded without decreasing the flow of a river or stream below its optimum flow.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31302 Request for surveys; utilization of reports.

Sec. 31302.

Any board or group of boards or local unit or units acting singly or in concert may request the department to undertake a survey of the water in a river basin or watershed located or partially located in the county or counties or in the local unit or units of government to determine whether there is surplus water that may be available and, if so, how it may be best impounded, utilized, and conserved. All studies, surveys, and reports made by public and other competent authorities may be utilized by the department in making this determination.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31303 Request for surveys; involvement of other boards.

Sec. 31303.

If it appears to the department, after a review of the request, that a feasible plan for the impoundment, utilization, and conservation of surplus water will involve the water in counties or local units other than those making the request, the department shall so inform the requestors. If the request was originally made by a local unit only, the board of the county in which the local unit is situated shall be informed of the decision of the department; and unless the board joins in the request and becomes an originator of the request, the department shall discontinue any further work on the survey. The requesting board may then request the other boards to join in the request so that a complete survey of the surplus water located in all affected counties may be made. Refusal on the part of any of the other boards to join in the request shall be reported to the department, and if the department believes that the plan can be effectuated without the cooperation of the refusing boards, the department shall enter a decision to that effect and the boards requesting the survey may proceed in accordance with this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31304 Request for surveys; determination of optimum flow; plan for improvement, utilization, and conservation of surplus water; factors; limitations.

Sec. 31304.

(1) Upon receipt of a request, the department shall determine the optimum flow for the rivers and streams that may be substantially affected by the impounding and releasing of surplus water and upon its completion shall require the boards to prepare and submit to the department a plan for the impoundment, best utilization, and conservation of the surplus water in accordance with this part. The department shall cooperate and collaborate with the boards in the preparation of the plan. The plan shall specify the persons who may make use of the water and the terms, conditions, and restrictions under which the water may be used.

(2) In making the determination of optimum flow and in preparing the plan, the department and boards shall consider the following factors:

(a) The range of stream flow variation.

(b) The uses that are being made of the water from the stream or that may be made in the foreseeable future by any riparian owner.

(c) The stream's waste assimilation capacity and its practical utility for domestic use, fish and wildlife habitat, recreation, municipal and industrial water supply, commercial and recreational navigation, including portages, public and private utilities, and water storage purposes.

(d) Other factors that appear to the department to be necessary to adequately protect and preserve the rights of riparians on the streams involved.

(3) A plan shall not permit the impounding of water if the flow is below the optimum flow. This part does not authorize the diversion of water from 1 watershed to another.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31305 Public hearing; determination of optimum flow; notice; order; review.

Sec. 31305.

(1) Before making a determination of optimum flow, the department shall hold a public hearing on the issue. The department shall set the time and place for the public hearing and shall publish notice of the hearing. The hearing shall be held not less than 180 days after the date of the first publication. The notice shall be published once during each of 2 separate weeks in at least 1 newspaper of general circulation in each county that requested the survey or later joined in the survey. Notice shall be given by first-class mail to each owner or party in interest of upper and lower riparian property that will be affected by the determination and whose name appears upon the most recent local tax assessment records. The notice shall be mailed at least 60 days prior to the date of the hearing to the address shown on the tax records. At the hearing, any interested person may appear, present witnesses, and submit evidence.

(2) Upon the completion of the public hearing pursuant to subsection (1), the department, if it believes it to further the public interest, shall enter an order making a determination of optimum flow. The order shall become final 30 days after the mailing of a copy of it by certified mail to those interested persons who appeared and testified or filed a written statement at the hearing. The order is subject to review as to questions of law only by a writ of superintending control in an action in the nature of certiorari brought before the order becomes final. Only an owner or party in interest of upper or lower riparian property affected by the order who appeared, testified, or filed a written statement at the hearing, who considers himself or herself aggrieved by the order, has the right to file a petition for a writ of superintending control in the nature of certiorari in the circuit court for the county of Ingham or in the circuit court for any county that requested the survey or joined in the survey.

(3) After the order of determination becomes final, the department shall hold a public hearing on the proposed plan as submitted by the board. The department shall set the time and place for the public hearing and shall publish notice in the manner provided in subsection (1). The hearing shall be held not less than 30 days after the date of the first publication. Notice shall be given by first-class mail to the persons and in the manner provided in subsection (1) and shall be mailed at least 30 days prior to the date of the hearing. At the hearing, any interested person may appear, present witnesses, and submit evidence. If the department finds that the proposed plan is in the public interest and in compliance with this part, it shall enter an order approving the plan. The order shall become final 30 days after the mailing of a copy of it by certified mail to those interested persons who appeared and testified or filed a written statement at the hearing. The order is subject to review as is provided in subsection (2).

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31306 Transmission of plans to boards; adoption; dams; supervision.

Sec. 31306.

(1) When the order has become final, the department shall transmit the plan to all of the boards involved, and, if the plan is adopted by the boards involved, the boards may construct, operate, and maintain, either singly or jointly, the dams necessary to impound the surplus waters and to make use or disposition of the surplus water in accordance with the plan. The department shall maintain supervision over the execution of the plan to the extent it considers necessary to protect the public interest of the state.

(2) For the implementation and effectuation of the plan, the boards, either singly or jointly, may establish a governmental agency or commission as may be necessary, may hire employees or assistants as may be required, and may enter into contracts with each other and any person as may be necessary to implement this part. The boards constructing, maintaining, or operating the dams shall be responsible for the proper construction, maintenance, and operation of the dams, and they shall be in full and complete charge of the dams and of the impoundments created by the dams.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31307 Gifts and grants; buying, selling, exchanging, or condemning land; restrictions on financing dams.

Sec. 31307.

For the purpose of implementing this part, the boards may receive and accept in the name of the county gifts and grants of land and other property and grants-in-aid from any person, and may buy, sell, exchange, or condemn land and other property or property interests, including the rights of riparian owners to surplus waters, in any county where the land and property are located. The department, if direct acceptance by the boards is not possible, may accept the gifts or grants on their behalf. The boards shall not use any money of the county to implement the terms and provisions of this part, but shall finance the construction, operation, and maintenance of the dams wholly and solely from gifts or grants-in-aid that may be received and from fees and charges as may be made for the use of the surplus water.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31308 Gifts and grants-in-aid; acceptance by department.

Sec. 31308.

The department, in carrying out the purposes of this part, may receive and accept on behalf of the state gifts and grants-in-aid from any person.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31309 Use of increased flowage; waste assimilation; rates for usage.

Sec. 31309.

All increased flowage resulting from operation of a plan shall be available for nonconsumptive use to all riparians. A person shall not utilize for waste assimilation, or divert from the stream, any surplus water created by release from dams operated under this part, except in accordance with the plan. The amount of surplus water released from any impoundment shall be determined by the department by the use of well-recognized engineering computations. The boards may charge users of the surplus water for waste assimilation or consumptive use, except those making an incidental, noncommercial, or recreational use, a reasonable fee or rate for the quantity of water or for the benefits they receive. Those users who contribute to the construction, maintenance, or operation of the dams may be charged a reduced fee or no fee, but the fees and rates charged by the boards shall be sufficient at all times to defray all costs, expenses, and other financial burdens assumed by the boards in the construction, maintenance, and operation of the dams.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31310 Permits granted by department not affected by part.

Sec. 31310.

This part does not abridge the authority of the department as it presently exists. Permits granted by the department in accordance with part 35 are not affected by this part. The granting of future permits under part 35

shall proceed without regard to anything contained in this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31311 Rules.

Sec. 31311.

The department shall promulgate rules to implement this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31312 Redetermination of optimum flow; modification of plan; hearings.

Sec. 31312.

After a determination or plan has been in effect for 5 years, any riparian owner may petition the department for a redetermination of the optimum flow or modification of the plan, and upon a showing of substantial changes in conditions, the department shall hold hearings as provided in section 31305 and may redetermine the optimum flow or modify the plan.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31313 Violation as misdemeanor.

Sec. 31313.

Any person knowingly violating this part, or any rule promulgated under this part, or any written order of the department in pursuance of this part, is guilty of a misdemeanor.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31314 Applicability of part to river management districts.

Sec. 31314.

This part does not apply within the boundaries of any river management district created under part 311.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

Popular Name: Act 451
Popular Name: NREPA

Part 315
DAM SAFETY

324.31501 Meanings of words and phrases.

Sec. 31501.

For purposes of this part, the words and phrases defined in sections 31502 to 31505 have the meanings ascribed to them in those sections.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31502 Definitions; A to D.

Sec. 31502.

(1) "Abandonment" means an affirmative act on the part of an owner to discontinue maintenance or operation of a dam.
(2) "Administrative procedures act of 1969" means Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.
(3) "Alteration" means a change in the design of an existing dam that directly affects or may directly affect the structural integrity of a dam.
(4) "Appurtenant works" means the structure or machinery incident to or annexed to a dam that is built to operate and maintain a dam, including spillways, either in a dam or separate from the dam; low level outlet works; and water conduits such as tunnels, pipelines, or penstocks, located either through the dam or through the abutments of the dam.
(5) "Auxiliary spillway" means a secondary spillway which is operational at all times and does not require stoplog removal or gate manipulation.
(6) "Dam" means an artificial barrier, including dikes, embankments, and appurtenant works, that impounds, diverts, or is designed to impound or divert water or a combination of water and any other liquid or material in the water; that is or will be when complete 6 feet or more in height; and that has or will have an impounding capacity at design flood elevation of 5 surface acres or more. Dam does not include a storage or processing tank or standpipe constructed of steel or concrete, a roadway embankment not designed to impound water, or a dug pond where there is no impoundment of water or waste materials containing water at levels above adjacent natural grade levels.
(7) "Days" means calendar days, including Sundays and holidays.
(8) "Design flood" means the design flow rate for spillway capacity and dam height design.
(9) "Design flood elevation" means the maximum flood elevation that is considered in the design of the spillway capacity and freeboard for a dam.
(10) "Downstream toe elevation" means the elevation of the lowest point of intersection between the downstream slope of an earthen embankment and the natural ground.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31503 Definitions; E to H.

Sec. 31503.

(1) "Emergency action plan" means a plan developed by the owner that establishes procedures for notification of the department, public off-site authorities, and other agencies of the emergency actions to be taken prior to and following an impending or actual failure of a dam.

(2) "Enlargement" means any change in or addition to an existing dam which raises or may raise the design flood elevation of the water impounded by the dam.

(3) "Failed dam" means a dam not capable of impounding water at its intended level due to a structural deficiency.

(4) "Failure" means an incident resulting in an unplanned or uncontrolled release of water from a dam.

(5) "Flood of record" means the greatest flow rate determined by the department to have occurred at a particular location.

(6) "Freeboard" means the vertical distance between the design flood elevation and the lowest point of the top of the dam.

(7) "Half probable maximum flood" means the largest flood that may reasonably occur over a watershed, and is derived from the combination of hydrologic runoff parameters and the half probable maximum storm that produces the maximum runoff.

(8) "Half probable maximum storm" means the spatial and temporal distribution of the probable maximum precipitation, divided by 2, that produces the maximum volume of precipitation over a watershed.

(9) "Hazard potential classification" means a reference to the potential for loss of life, property damage, and environmental damage in the area downstream of a dam in the event of failure of the dam or appurtenant works.

(10) "Height" means the difference in elevation measured vertically between the natural bed of a stream or watercourse at the downstream toe of the dam, or, if it is not across a stream channel or watercourse, from the lowest elevation of the downstream toe of the dam, to the design flood elevation or to the lowest point of the top of the dam, whichever is less.

(11) "High hazard potential dam" means a dam located in an area where a failure may cause serious damage to inhabited homes, agricultural buildings, campgrounds, recreational facilities, industrial or commercial buildings, public utilities, main highways, or class I carrier railroads, or where environmental degradation would be significant, or where danger to individuals exists with the potential for loss of life.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31504 Definitions; I to P.

Sec. 31504.

(1) "Impoundment" means the water held back by a dam.

(2) "Low hazard potential dam" means a dam located in an area where failure may cause damage limited to agriculture, uninhabited buildings, structures, or township or county roads, where environmental degradation would be minimal, and where danger to individuals is slight or nonexistent.

(3) "Maintenance" means the upkeep of a dam and its appurtenant works but does not include alterations or repairs.

(4) "One-hundred year flood" means a flood that has a 1% chance of being equaled or exceeded in any given year.

(5) "Owner" means a person who owns, leases, controls, operates, maintains, manages, or proposes to construct a dam.

(6) "Probable maximum precipitation" means the theoretically greatest depth of precipitation for a given duration that is physically possible over a given size storm area at a particular geographic location at a certain time of year.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31505 Definitions; R to T.

Sec. 31505.

(1) "Removal" means the physical elimination of a dam or impoundment.

(2) "Repair" means to substantially restore a dam to its original condition and includes only such restoration as may directly affect the structural integrity of the dam.

(3) "Riparian owner" means a person who has riparian rights.

(4) "Riparian rights" means rights which accrue by operation of law to a landowner on the banks of an inland lake or stream.

(5) "Significant hazard potential dam" means a dam located in an area where its failure may cause damage limited to isolated inhabited homes, agricultural buildings, structures, secondary highways, short line railroads, or public utilities, where environmental degradation may be significant, or where danger to individuals exists.

(6) "Spillway" means a waterway in or about a dam designed for the discharge of water.

(7) "Spillway capacity" means the maximum rate of discharge that will pass through a spillway at design flood elevation.

(8) "Two-hundred year flood" means a flood that has a 0.5% chance of being equaled or exceeded in any given year.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31506 Jurisdiction of dams and impoundments; exemptions.

Sec. 31506.

(1) Except as otherwise provided in subsections (2) and (3), dams and impoundments in the state are under the jurisdiction of the department.

(2) The following are exempt from this part:

(a) Projects licensed, projects that have preliminary permits, or projects for which an application for licensure has been filed under the federal power act, chapter 285, 41 Stat. 1063, 16 U.S.C. 791a to 793, 796 to 797, 798 to 818, 820 to 824a, and 824b to 825r, if federal dam safety inspection provisions apply during the license period and the inspection reports are provided to the department.

(b) Projects located on boundary waters under the jurisdiction and supervision of the United States army corps of engineers.

(c) Impoundments licensed pursuant to part 115 that contain or are designed to contain type III wastes as defined in rules promulgated under that part.

(3) Until January 1, 1998, a permit shall not be required under this part for the repair, reconstruction, or improvement of a dam, a portion of which is at least 75 years old, was damaged or destroyed by an act of God and is located in a county that has a per capita income of less than $8,500.00. However, a person who is performing a project for the repair, reconstruction, or improvement of a dam that is exempt from obtaining a permit under this subsection shall submit to the department and the joint capital outlay committee plans and specifications for the project. These plans and specifications shall be prepared by a licensed professional engineer and shall meet acceptable standards in the industry in order for a dam to be repaired, reconstructed, or improved. In reviewing plans and specifications for the project, the joint capital outlay committee may recommend environmental considerations to protect water quality such as underspill devices, minimum flow releases and removal of contaminated sediments that may be resuspended in the water column upon impoundment. Such contaminated sediments shall be disposed of in accordance with state law.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1995, Act 100, Imd. Eff. June 22, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31507 Prohibited conduct; exception.

Sec. 31507.

(1) A person shall not construct, enlarge, repair, reconstruct, alter, remove, or abandon any dam except in a manner provided for in this part.

(2) This section does not apply to maintenance performed on a dam that does not affect the structural integrity of the dam.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31508 Preparation of plans and specifications; licensed professional engineer required; exceptions.

Sec. 31508.

(1) Except as otherwise provided in subsection (2), a licensed professional engineer shall prepare all plans and specifications, except for minor projects undertaken pursuant to section 31513.

(2) A person who is not a licensed professional engineer may prepare plans and specifications only for repairs or alterations to a dam where the application is made by a nonprofit organization under the following circumstances:

(a) The nonprofit organization has assets of less than $30,000.00, is exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 U.S.C. 501, and is not composed primarily of the owners of property adjacent to or contiguous to an impoundment.

(b) The proposed repairs or alterations have a projected total cost of less than $25,000.00.

(c) The impoundment is open to the public and a notice of public access is posted.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31509 Activities requiring permit; application for permit; fees; waiver and disposition of fees.

Sec. 31509.

(1) Except as otherwise provided in this part or as authorized by a permit issued by the department pursuant to part 13, a person shall not undertake any of the following activities:

(a) Construction of a new dam.

(b) Enlargement of a dam or an impoundment.

(c) Repair of a dam.

(d) Alteration of a dam.

(e) Removal of a dam.

(f) Abandonment of a dam.

(g) Reconstruction of a failed dam.

(2) An application for a permit shall include information that the department determines is necessary for the administration of this part. If a project includes activities at multiple locations, 1 application may be filed for the combined activities.

(3) An application for a permit for construction of a new dam, reconstruction of a failed dam, or enlargement of a dam shall be accompanied by the following fees:

(a) For a dam with a height of 6 feet or more but less than 10 feet, $500.00.

(b) For a dam with a height of 10 feet or more but less than 20 feet, $1,000.00.

(c) For a dam with a height of 20 feet or more, $3,000.00.

(4) An application for a permit for the repair, alteration, removal, or abandonment of a dam shall be accompanied by a fee of $200.00, and an application for a permit for a minor project pursuant to section 31513(1) shall be

accompanied by a fee of $100.00.

(5) The department shall waive the fees under this section for applications from state agencies, department sponsored projects located on public lands, and organizations of the type described in section 31508(2)(a) through (c).

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

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004
Popular Name: Act 451
Popular Name: NREPA

324.31510 Request for notification of pending applications for permits; annual fee; biweekly list of applications; copies; contents.

Sec. 31510.

(1) A person who wants to be notified of pending applications for permits issued under this part may make a written request to the department, accompanied by an annual fee of $25.00. The fee shall be deposited in the state treasury and credited to the general fund.

(2) The department shall prepare a biweekly list of the applications made during the previous biweekly period and shall promptly mail copies of the list for the remainder of the calendar year to the persons who have requested notice and paid the fee under this section.

(3) The biweekly list shall state the name and address of each applicant, the legal description of the lands included in the applicant's project, and a summary statement of the purpose of the project.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31511 Copies of application and statement; submission; public hearing; notice.

Sec. 31511.

(1) Upon receipt of an application for a permit under this part, the department shall submit copies of the application accompanied by a statement indicating that the department may act upon the application without a public hearing unless a written request is filed with the department within 20 days after the submission for review. The department shall submit copies of the application to all of the following:

(a) The local unit of government where the project is to be located.

(b) The adjacent riparian owners.

(c) Any person considered appropriate by the department.

(d) Any person who requests copies.

(e) A watershed council, organized pursuant to part 311, of the watershed within which the project is located or is to be located.

(2) The department may hold a public hearing upon the written request of any of the following:

(a) An applicant.

(b) A riparian owner.

(c) A person or local unit of government that is entitled to receive a copy of the application pursuant to subsection (1).

(3) A public hearing held pursuant to this section shall be held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the hearing shall be given in the manner provided by that act. Additionally, the department shall mail copies of the public notice to the persons who have requested the biweekly list pursuant to section 31510, the person requesting the hearing, and the persons and local units of government that are entitled to receive a copy of the application pursuant to subsection (1).

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31512 Necessity for immediate action; emergency conditions; application for permit to reconstruct failed dam.

Sec. 31512.

(1) When immediate action is necessary to protect the structural integrity of a dam, the department may issue a permit before the expiration of the 20-day period referred to in section 31511(1). This subsection does not prohibit an owner from taking action necessary to mitigate emergency conditions if imminent danger of failure exists.

(2) A person applying for a permit to reconstruct a failed dam shall file a complete application not less than 1 year after the date of the failure. If such an application is filed more than 1 year after the date of the failure, the department shall consider the application to be an application to construct a new dam.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004
Popular Name: Act 451
Popular Name: NREPA

324.31513 Minor project categories; rules.

Sec. 31513.

(1) The department shall promulgate rules to establish minor project categories for alterations and repairs that have minimal effect on the structural integrity of a dam. The department may act upon an application and grant a permit for an activity or project within a minor project category, after an on-site inspection of the dam, without providing public notice.

(2) All other provisions of this part shall be applicable to minor projects, except that a final inspection by the department or certification of the project by a licensed professional engineer shall not be required for a project completed under a permit granted pursuant to subsection (1).

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31514 Effect of proposed activity on public health, safety, welfare, property, or natural resources.

Sec. 31514.

The department shall not issue a permit to construct a new dam, reconstruct a failed dam for which a complete application to reconstruct has been submitted more than 1 year after the date of the failure, or enlarge the surface area of an impoundment by more than 10% unless it determines, after a review of the application submitted, that the proposed activity for which a permit is requested will not have a significant adverse effect on public health, safety, welfare, property, or natural resources or the public trust in those natural resources.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31515 Approval of plans and specifications; completion of permitted activity; time; extension; approval of changes; duration and renewal of permit; terms and conditions; mitigating measures; recommendations; performance bond; suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of permit; hearings.

Sec. 31515.

(1) Except as otherwise provided in this section, a permit issued by the department under this part shall require that plans and specifications be approved by the department before construction begins. The department shall approve or reject complete plans and specifications within 60 days after their receipt. The permitted activity shall be completed within a specified time not to exceed 2 years after the date of issuance of the permit. Upon the written application of the permittee, and for good cause shown, the department may extend the time for completing construction. The permittee shall notify the department at least 10 days before beginning construction and shall otherwise notify the department as the department may require.

(2) A change in approved plans and specifications shall not be implemented unless the department gives its prior approval. The department shall approve or reject changes in plans and specifications within 30 days after the request for the changes.

(3) A permit is effective for the length of time specified in the permit unless it is revoked pursuant to this part. The department may renew a permit.

(4) A permit to alter, repair, or construct a new dam, reconstruct a failed dam, or enlarge the surface area of an impoundment by more than 10% may specify the terms and conditions including, but not limited to, requirements for minimum flows, cold water release, impoundment fluctuations, portage, contingency plans, and conditions under which the work is to be performed. The terms and conditions of a permit shall be effective for the life of the project. The department may consider, in issuing a permit, any mitigating measures in conjunction with the permitted activities and may make recommendations as to fish passage that may be required by part 483.

(5) A permit to construct a new dam or reconstruct a failed dam may require a performance bond to assure completion of the project or to provide for complete or partial restoration of the project site, as determined by the department in rules promulgated by the department.

(6) A permit may be suspended, revoked, annulled, withdrawn, recalled, canceled, or amended after a hearing for a violation of any of its provisions, a violation of this part, a violation of a rule promulgated under this part, or any misrepresentation contained in the application. Hearings shall be conducted by the department in accordance with the provisions for contested cases in the administrative procedures act of 1969.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31516 Spillway capacity; minimum criteria; freeboard; auxiliary spillway; duty of owner.

Sec. 31516.

(1) Spillway capacity shall meet the following minimum criteria:

(a) Low hazard potential dams shall be capable of passing the 100-year flood, or the flood of record, whichever is greater.

(b) Significant hazard potential dams shall be capable of passing the 200-year flood, or the flood of record, whichever is greater.

(c) High hazard potential dams, less than 40 feet in height, as measured from the 200-year design flood elevation to the lowest downstream toe elevation, shall be capable of passing the 200-year flood, or the flood of record, whichever is greater.

(d) High hazard potential dams, 40 feet or greater in height, as measured from the 200-year design flood elevation to the lowest downstream toe elevation, shall be capable of passing the half probable maximum flood. The half probable maximum flood criterion may be reduced to not less than the 200-year flood, with proper documentation evidencing a failure of a dam under half probable maximum flood conditions will not cause additional flood damage or loss of life.

(e) Spillway design capacity shall not be less than the flood of record.

(2) Freeboard shall be considered when determining spillway capacity.

(3) If a dam cannot pass the design flood, an auxiliary spillway must be provided. The owner must document, to the satisfaction of the department, that the dam has sufficient spillway capacity, and that proper means are available to operate the spillway or spillways during the design flood.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31517 Duties of owner; inspection; notice of final approval; notice of project not completed in accordance with plans, specifications, or conditions; enforcement action.

Sec. 31517.

(1) Except for minor projects authorized pursuant to section 31513, the owner shall do both of the following:

(a) Within 10 days after the completion of a new, reconstructed, enlarged, repaired, or altered dam, notify the department of its completion.

(b) Within 20 days after submitting the notice of completion, file with the department as-built plans and a statement signed by a licensed professional engineer certifying that the project was constructed in conformance with plans and specifications approved by the department.

(2) The department shall inspect the project and shall provide the owner with written notice of final approval if the project is determined to have been completed in accordance with approved plans, specifications, and permit conditions.

(3) If the project is determined not to be completed in accordance with plans and specifications approved by the department and permit conditions, the department shall provide notice to the permittee as to the specific reasons the department determines the project not to be completed in accordance with those plans, specifications, or conditions. The department may then take enforcement action as provided in this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31518 Inspection reports; determination of hazard potential classification; inspection schedule; notice; additional inspection reports; contents of inspection report; visual inspection and report; detailed investigation or evaluation; life or property threatened by breach of dam; cause of action; ordering actions to alleviate danger.

Sec. 31518.

(1) An owner shall submit to the department inspection reports prepared by a licensed professional engineer that evaluate the condition of the dam. The inspection report shall be submitted as follows:

(a) Not less than once every 3 years for high hazard potential dams.

(b) Not less than once every 4 years for significant hazard potential dams.

(c) Not less than once every 5 years for low hazard potential dams.

(2) The department shall determine the hazard potential classification of all dams and shall establish an inspection schedule. The inspection schedule shall require annual submission of inspection reports for approximately 1/3 of all high hazard potential dams, 1/4 of all significant hazard potential dams, and 1/5 of all low hazard potential dams. The department shall notify owners in writing when inspection reports are due. The department may order additional inspection reports following an event or change in condition that could threaten a dam.

(3) An inspection report required by this section shall include, at a minimum, all of the following:

(a) An evaluation of the dam's condition, spillway capacity, operational adequacy, and structural integrity.

(b) A determination of whether deficiencies exist that could lead to the failure of the dam.

(c) Recommendations for maintenance, repair, and alterations of a dam as are necessary to eliminate any

deficiencies.

(4) Instead of engaging a licensed professional engineer to prepare an inspection report, local units of government or an organization of the type described in section 31508(2)(a) through (c) may request the department to conduct a visual inspection of a dam owned by that local unit of government and prepare a report on the condition of the dam in accordance with subsection (3). The department shall notify a requesting local unit of government as to when the inspection is to occur.

(5) If an inspection report discloses the need for a more detailed investigation or evaluation of certain dam features for the purpose of determining the condition of the dam, the department may order the completion and submission of that detailed investigation or evaluation at the expense of the owner. An investigation or evaluation required under this subsection shall be conducted under the supervision of a licensed professional engineer.

(6) If an owner does not submit an inspection report as required by subsection (1) or conduct additional investigations if required by subsection (5), the department or any person who would have life or property threatened by a breach of the dam may have a report prepared and recover the costs of preparing the report in a civil action commenced in a court of competent jurisdiction. This subsection does not limit the right of any person to bring a cause of action in a court of proper jurisdiction to compel an owner to comply with the requirements of this part.

(7) If, based on the findings and recommendations of the inspection report and an inspection by the department, the department finds that a condition exists which endangers a dam, it shall order the owner to take actions that the department considers necessary to alleviate the danger.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31519 Order to limit dam operations; order to remove dam; hearing.

Sec. 31519.

(1) Where significant damage to the public health, safety, welfare, property, and natural resources or the public trust in those natural resources or damage to persons or property occurs or is anticipated to occur due to the operation of a dam, the department may order the owner to limit dam operations. These orders may include, but are not limited to, cold water release, minimum flow releases from dams, impoundment fluctuation restrictions, or requirements for run-of-the-river operation. In issuing these orders, the department shall take into account social, economic, and public trust values.

(2) Where significant damage to persons, property, or natural resources or the public trust in those natural resources occurs as a result of the condition or existence of a dam, the department may order the removal of the dam following a determination by the department that, due to the continued condition or existence of the dam, the dam is likely to continue to cause significant damage. In issuing a removal order, the department shall take into account social and economic values, the natural resources, and the public trust in those natural resources and shall not issue a removal order when those factors exceed adverse impacts on natural resources or present danger to persons or property. The department shall not issue a removal order involving a dam subject to the regulatory authority of the Michigan public service commission or the federal energy regulatory commission unless that commission has concurred in writing with the order.

(3) Prior to finalizing an order under this section, the department shall provide an owner an opportunity for a hearing pursuant to the administrative procedures act of 1969.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31520 Sudden or unprecedented flood; unusual or alarming circumstance or occurrence; emergency drawdowns, repairs, breaching, or other action; notice.

Sec. 31520.

(1) The owner or his or her agent shall advise the department and the affected off-site public authorities and safety agencies of any sudden or unprecedented flood or unusual or alarming circumstance or occurrence existing or anticipated that may affect the safety of the dam within 24 hours of the flood, circumstance, or occurrence.

(2) The owner shall notify the department as soon as possible of any necessary emergency drawdowns, repairs, breaching, or other action being taken in response to an emergency condition.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31521 Emergency orders.

Sec. 31521.

(1) The department may issue emergency orders as provided in this section. The department may, by written notice, order an owner to immediately repair, draw down, breach, or cease operation of a dam where a dam is in imminent danger of failure and is causing or threatening to cause harm to public health, safety, welfare, property, or the natural resources or the public trust in those natural resources. If an owner fails to comply with an order, or is unavailable or unable to be contacted, then the department may undertake immediate repair, drawdown, breaching, or cessation of operation, as may be necessary to alleviate the danger, and may recover from the owner the costs incurred in a civil action commenced in a court of competent jurisdiction. The department may terminate an emergency order upon a determination in writing that all necessary emergency actions have been complied with by the owner and that an emergency no longer exists.

(2) When ordering emergency actions under subsection (1), the department may specify maximum drawdown level and discharge rates and require sediment surveys, water quality sampling, monitoring, or any other action determined necessary by the department to ensure adequate protection of the public health, safety, welfare, property, or natural resources or the public trust in those natural resources. The department may modify the requirements of an emergency order if, during the conduct of ordered actions, it determines that the modification is necessary to protect the public health, safety, welfare, property, or natural resources or the public trust in those natural resources.

(3) Upon the issuance of an emergency order, the department shall provide the owner with an opportunity for a hearing pursuant to the administrative procedures act of 1969 within 15 days of the date of its issuance. At the hearing, the department shall determine, based on information and fact, if the emergency order shall be continued, modified, or suspended as necessary to protect public health, safety, welfare, property, or natural resources or the public trust in those natural resources.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31522 Structural integrity and operation of dam; investigations and studies.

Sec. 31522.

The department may make, or cause to be made, hydrologic or other investigations and studies as may be required to facilitate its decisions regarding the structural integrity and operation of a dam.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31523 Emergency action plans; submissions; review; consistency with other plans; contents of plans.

Sec. 31523.

(1) An owner shall prepare, and keep current, emergency action plans for all high and significant hazard potential dams owned by that person.

(2) Emergency action plans shall be submitted to the department.

(3) The applicable county or local emergency management coordinators shall review for consistency emergency action plans with the county or local emergency operations plan prior to submission of those plans to the department.

(4) An emergency action plan shall be consistent with the applicable provisions of the affected county or local emergency operations plans and the Michigan emergency preparedness plan as developed pursuant to the emergency preparedness act, Act No. 390 of the Public Acts of 1976, being sections 30.401 to 30.420 of the Michigan Compiled Laws.

(5) Emergency action plans shall include, but not be limited to, the name, address, and telephone number of the person, and of an alternate person, responsible for operation of the dam; the name and telephone number of local emergency management coordinators; and a listing of occupied facilities, buildings, and residences that may be threatened with flooding due to a failure of the dam.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31524 Violation; order; suspension, modification, or revocation of permit; remedies cumulative; civil action.

Sec. 31524.

(1) If the department determines that a person is in violation of this part, a rule promulgated under this part, or a condition set forth in a permit issued under this part, the department may issue an order requiring the person to comply with the conditions or to restore the site affected by the violation as nearly as practicable to its original condition. Restoration may include, but is not limited to, removing fill material deposited or replacing soil, sand, or minerals.

(2) An order shall state the nature of the violation and the required remedial action, and shall specify a time for compliance that the department determines is reasonable, taking into account the seriousness of the violation and the nature of any threat to public health, safety, welfare, property, or natural resources, or the public trust in those natural resources, that may be involved.

(3) If the department determines that a person is in violation of this part, a rule promulgated under this part, an order issued by the department, or a permit, the department, after notice and opportunity for hearing pursuant to the administrative procedures act of 1969, may suspend, modify, or revoke a permit. The remedies under this section and section 31525 are cumulative and do not prevent the department from imposing other penalties available under this part, a rule promulgated under this part, or an order of the department.

(4) If the department determines that a person is in violation of this part, a rule promulgated under this part, an order issued by the department pursuant to this part, or a permit issued pursuant to this part, the department may bring a civil action in the circuit court.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31525 Commencement of civil action; request; place; civil fine; contempt; willful or reckless violation as misdemeanor; penalty; subsequent violations; fine for failure to obtain permit; restoration of site; schedule of administrative monetary penalties for minor violations.

Sec. 31525.

(1) The attorney general may commence a civil action for appropriate relief, including injunctive relief, upon request of the department under section 31524.

(2) Any civil action under this section may be brought in the circuit court for the county of Ingham or for the county in which the dam is located.

(3) In addition to any other relief granted under this section, the court may impose a civil fine of not more than $10,000.00 for each day of violation of this part, a rule promulgated under this part, or a permit issued under this part.

(4) A person found guilty of contempt of court for the violation of an order of the court shall be subject to a civil fine not to exceed $10,000.00 for each day of violation.

(5) A person who willfully or recklessly violates this part, a rule promulgated under this part, an order issued by the department, or a condition in a permit issued under this part, which violation places or may place a person in imminent danger of death or serious bodily injury or may cause serious property damage or serious damage to natural resources, or a person who has knowledge of or is responsible for such a violation, is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not less than $2,500.00 or more than $25,000.00 for each day of violation, or both. A person who violates this section a second or subsequent time is guilty of a felony, punishable by imprisonment for not more than 2 years or a fine of not less than $10,000.00 for each day of violation, or both.

(6) A person required to obtain a permit for activity regulated under this part who does not obtain that permit shall be fined not less than twice the fee charged for the appropriate permit application.

(7) In addition to the orders of compliance and penalties provided under this part, the court may order a person who violates this part, a rule promulgated under this part, or a permit issued under this part to restore the site affected by the violation as nearly as practicable to its original condition. Restoration may include, but is not limited to, removing fill material deposited or replacing soil, sand, or minerals.

(8) The department may establish, by rule, a schedule of administrative monetary penalties for minor violations of this part, a rule promulgated under this part, a permit issued pursuant to this part, or an order issued by the department pursuant to this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31526 Person aggrieved by action or inaction of department; hearing; determination; judicial review.

Sec. 31526.

(1) A person aggrieved by any action or inaction of the department under this part or rules promulgated under this part may request a hearing on the matter involved. The hearing shall be conducted by the department in accordance with the provisions for contested cases in the administrative procedures act of 1969.

(2) A determination of action or inaction by the department following the hearing may be subject to judicial review as provided in the administrative procedures act of 1969.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31527 Entering private or public property; time; purpose.

Sec. 31527.

The department may enter in or upon any private or public property anytime where the public safety may be in danger and at all reasonable times, after attempting to contact the owner before entering the site and having shown proper identification, for the purpose of inspecting or investigating conditions relating to the construction,

operation, or safety of a dam and for the purpose of determining compliance with the terms, conditions, and requirements of permits, orders, or notices of approval issued under this part and rules promulgated under this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31528 Rules.

Sec. 31528.

The department shall promulgate rules as necessary to implement and enforce this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.31529 Construction of part.

Sec. 31529.

(1) This part does not abrogate requirements of parts 31, 91, 301, 303, 305, 307, and 483 or other applicable law.
(2) This part does not relieve an owner of any legal duty, obligation, or liability incident to the ownership or operation of a dam or impoundment.
(3) This part does not deprive an owner of any legal remedy to which he or she may be entitled under the laws of this state.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

Part 317
AQUIFER PROTECTION AND DISPUTE RESOLUTION

324.31701 Definitions.

Sec. 31701.

As used in this part:
(a) "Agricultural well" means a high-capacity well that is located on a farm and is used for an agricultural purpose as that term is defined in section 32701.
(b) "Complaint" means a complaint submitted under section 31702 alleging a potential groundwater dispute.
(c) "Construction" means the process of building a building, road, utility, or another structure, including all of the following:
(i) Assembling materials.
(ii) Disassembling and removing a structure.
(iii) Preparing the construction site.
(iv) Work related to any of the items described in subparagraphs (i) to (iii).
(d) "Department" means the department of environmental quality.
(e) "Dewatering well" means a well or pump that is used to remove water from a mining operation or that is used for a limited time period as part of a construction project to remove or pump water from a surface or subsurface

area and ceases to be used upon completion of the construction project or shortly after completion of the construction project.

(f) "Director" means the director of the department or his or her designee.

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

(h) "Fund" means the aquifer protection revolving fund created in section 31710.

(i) "Groundwater" means the water in the zone of saturation that fills all of the pore spaces of the subsurface geologic material.

(j) "Groundwater dispute" means a groundwater dispute declared by order of the director or the director of the department of agriculture and rural development under section 31703.

(k) "High-capacity well" means 1 or more water wells associated with an industrial or processing facility, an irrigation facility, or a farm that, in the aggregate from all sources and by all methods, have the capability of withdrawing 100,000 or more gallons of groundwater in 1 day.

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

(m) "Owner of a high-capacity well" means the person that owns or controls the parcel of property where a high-capacity well is located.

(n) "Owner of a small-quantity well" means the person that owns or controls the parcel of property where a small-capacity well is located.

(o) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(p) "Potable water" means water that at the point of use is acceptable for human consumption.

(q) "Small-quantity well" means 1 or more water wells of a person at the same location that, in the aggregate from all sources and by all methods, do not have the capability of withdrawing 100,000 or more gallons of groundwater in 1 day.

(r) "Water well" means an opening in the surface of the earth, however constructed, that is used for the purpose of withdrawing groundwater. Water well does not include a drain as defined in section 3 of the drain code of 1956, 1956 PA 40, MCL 280.3.

(s) "Well drilling contractor" means a well drilling contractor registered under part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013
Compiler's Notes: Former MCL 324.31701, which pertained to definitions used in part, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31702 Allegation of potential groundwater dispute; submission of complaint by small-quantity well owner; investigation; on-site evaluation; inability to resolve complaint; toll-free facsimile and telephone line; duties of director of department of environmental quality and director of department of agriculture and rural development; unverified complaints; other resolutions.

Sec. 31702.

(1) The owner of a small-quantity well may submit a complaint alleging a potential groundwater dispute if the small-quantity well has failed to furnish the well's normal supply of water or the well has failed to furnish potable water and the owner has credible reason to believe that the well's problems have been caused by a high-capacity well. A complaint shall be submitted to the director or to the director of the department of agriculture and rural development if the complaint involves an agricultural well. The complaint shall be in writing and shall be submitted in person, via certified mail, via the toll-free facsimile telephone number provided in subsection (6), or via other means of electronic submittal as developed by the department. However, the director or the director of the department of agriculture and rural development may refuse to accept an unreasonable complaint. The complaint shall include all of the following information:

(a) The name, address, and telephone number of the owner of the small-quantity well.

(b) The location of the small-quantity well, including the county, township, township section, and address of the property on which the small-quantity well is situated, and all other available information that indicates the location of that well.

(c) A written assessment by a well drilling contractor that the small-quantity well failure was not the result of

well design or equipment failure. The assessment shall include a determination of the static water level in the well at the time of the assessment, if the static water level determination will not result in the well being damaged or decommissioned, and, if readily available, the type of pump and equipment.

(d) An explanation of why the small-quantity well owner believes that a high-capacity well has interfered with the proper function of the small-quantity well and any information available to the small-quantity well owner about the location and operation of the high-capacity well.

(e) The date or dates on which the interference by a high-capacity well occurred.

(f) Sufficient evidence to establish a reasonable belief that the interference was caused by a high-capacity well.

(2) The owner of a small-quantity well may call the toll-free telephone line provided for in subsection (6) to request a complaint form or other information regarding the dispute resolution process provided in this part.

(3) Within 2 business days after receipt of a complaint under subsection (1), the director or the director of the department of agriculture and rural development, as appropriate, shall contact the complainant and the owner of each high-capacity well identified in the complaint, shall provide actual notice of the complaint to the owner of each high-capacity well identified in the complaint, and shall begin an investigation.

(4) Within 5 business days after the owner of each high-capacity well has been provided with actual notice of the complaint under subsection (3), the director or the director of the department of agriculture and rural development, as appropriate, shall conduct an on-site evaluation. If the well is an agricultural well, the department shall consult with and provide technical assistance to the department of agriculture and rural development regarding the on-site evaluation. However, if the complaint is for a small-quantity well that is in close proximity to other small-quantity wells for which documented complaints have been received and investigated during the previous 60 days, the department or the department of agriculture and rural development, as appropriate, need not conduct an on-site evaluation unless it determines that an on-site evaluation is necessary. The director or the director of the department of agriculture and rural development, as appropriate, shall give affected persons an opportunity to contribute to the investigation of a complaint. In conducting the investigation, the director or the director of the department of agriculture and rural development, as appropriate, shall consider whether the owner of the high-capacity well is using industry-recognized water conservation management practices.

(5) After conducting an investigation, the director or the director of the department of agriculture and rural development, as appropriate, shall make a diligent effort to resolve the complaint. In attempting to resolve a complaint, the director or the director of the department of agriculture and rural development, as appropriate, may propose a remedy that he or she believes would equitably resolve the complaint.

(6) The director shall provide for the use of a toll-free facsimile line to receive complaints and a toll-free telephone line for owners of small-quantity wells to request complaint forms and to obtain other information regarding the dispute resolution process provided in this part.

(7) The director and the director of the department of agriculture and rural development shall do both of the following:

(a) Publicize the toll-free facsimile line and the toll-free telephone line provided for in subsection (6).

(b) Enter into a memorandum of understanding that describes the process that will be followed by each director when a complaint involves an agricultural well.

(8) A complainant who submits more than 2 unverified complaints under this section within 1 year may be ordered by the director or the director of the department of agriculture and rural development to pay for the full costs of investigation of any third or subsequent unverified complaint. As used in this subsection, "unverified complaint" means a complaint in response to which the director or the director of the department of agriculture and rural development determines that there is not reasonable evidence to declare a groundwater dispute.

(9) If an owner of a high-capacity well that is not an agricultural well does not wish to participate in the dispute resolution process under this part, that dispute shall be resolved as otherwise provided by law.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013
Compiler's Notes: Former MCL 324.31702, which pertained to complaints alleging potential groundwater disputes, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31702a Informal meeting between parties.

Sec. 31702a.

(1) If a complaint regarding an agricultural well is not resolved under section 31702, the director of the department of agriculture and rural development shall schedule and provide written notice of an informal meeting

between the parties to the dispute. The informal meeting shall be scheduled at least 10 business days prior to the issuance of an order declaring a groundwater dispute under section 31703. The participants at the informal meeting shall include the director of the department of agriculture and rural development, the owner of the agricultural well, and the owner or owners of the small-quantity wells that are alleged to be impacted by the agricultural well who wish to attend. However, upon written notice provided to the director of the department of agriculture and rural development, the owner of the agricultural well may waive the informal meeting.

(2) At the informal meeting held pursuant to subsection (1), the director of the department of agriculture and rural development shall present the information that he or she has obtained regarding the items listed in section 31703(1)(a) through (f) and (2). The owner of the agricultural well shall be given an opportunity to challenge the department's assertions and may submit information that the problems associated with the small-quantity well or wells are not being caused by the agricultural well. The owner or owners of the small-quantity wells alleged to be impacted may also submit additional information regarding the complaint.

History: Add. 2013, Act 86, Imd. Eff. June 28, 2013
Popular Name: Act 451
Popular Name: NREPA

324.31703 Duties of director or director of department of agriculture and rural development in groundwater dispute.

Sec. 31703.

(1) The director or the director of the department of agriculture and rural development, as appropriate, shall, by order, declare a groundwater dispute if an investigation of a complaint discloses all of the following, based upon reasonable scientifically based evidence, and within a reasonable amount of time the director or the director of the department of agriculture and rural development, as appropriate, is unable to resolve the complaint:

(a) That the small-quantity well has failed to furnish the well's normal supply of water or failed to furnish potable water.

(b) That the small-quantity well and the well's equipment were functioning properly at the time of the failure. The determination under this subdivision shall be made based upon an assessment from a well drilling contractor that is provided by the owner of the small-quantity well.

(c) That the failure of the small-quantity well was caused by the lowering of the groundwater level in the area.

(d) That the lowering of the groundwater level exceeds normal seasonal water level fluctuations and substantially impairs continued use of the groundwater resource in the area.

(e) That the lowering of the groundwater level was caused by at least 1 high-capacity well.

(f) That the owner of the small-quantity well did not unreasonably reject a remedy proposed by the director or the director of the department of agriculture and rural development under section 31702(5).

(2) In addition to the authority under subsection (1) to declare a groundwater dispute, if the director or the director of the department of agriculture and rural development, as appropriate, has clear and convincing scientifically based evidence that indicates that continued groundwater withdrawals from a high-capacity well will exceed the recharge capability of the groundwater resource of the area, the director or the director of the department of agriculture and rural development, as appropriate, by order, may declare a groundwater dispute.

(3) The director or the director of the department of agriculture and rural development, as appropriate, may amend or terminate an order declaring a groundwater dispute at any time. Prior to amending an order declaring a groundwater dispute regarding an agricultural well under this subsection, the director of the department of agriculture and rural development shall schedule an informal meeting and provide notice of the informal meeting in the manner provided under section 31702a.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013
Compiler's Notes: Former MCL 324.31703, which pertained to declaration of groundwater dispute by order of director, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31704 Order declaring groundwater dispute.

Sec. 31704.

(1) Subject to subsections (2) and (4), an order declaring a groundwater dispute is effective when a copy of the order is served upon the owner of a high-capacity well that is reasonably believed to have caused the failure of the complainant's small-quantity well.

(2) If a groundwater dispute requires action before service can be completed under subsection (1), oral notification in person by the director or the director of the department of agriculture and rural development, as appropriate, is sufficient until service can be completed. Oral notification is effective for not more than 96 hours.

(3) As soon as possible after an order declaring a groundwater dispute has been issued, the director or the director of the department of agriculture and rural development, as appropriate, shall provide copies of the order to the local units of government in which the high-capacity well and the small-quantity well are located and to the local health departments with jurisdiction over those wells.

(4) Within 14 days after service of an order under subsection (1), the owner of an agricultural well may contest the order by submitting an appeal to the commission of agriculture and rural development. The appeal shall be submitted on a form provided by the department of agriculture and rural development and shall outline the basis for the appeal. Upon receipt of an appeal under this subsection, the commission of agriculture and rural development shall schedule the appeal for consideration at the next scheduled meeting of the commission. Except for the provision of an adequate supply of potable water under section 31705(1), the terms of the order are stayed until a determination is made by the commission of agriculture and rural development regarding the appeal. At the commission's meeting, the commission shall review the order and consider any testimony or other documentation contesting the order and shall make a determination to affirm the order or dismiss the order. If the commission of agriculture and rural development dismisses the order, the department of agriculture and rural development shall reimburse the appellant for the cost of providing potable water under section 31705.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013
Compiler's Notes: Former MCL 324.31704, which pertained to service of order declaring groundwater dispute and effectiveness of oral notification, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31705 Declaration of groundwater dispute; temporary provision at point of use of adequate supply of potable water; extraction of groundwater; restriction; impact on viability of certain businesses; public water supply owned or operated by local government.

Sec. 31705.

(1) Upon declaration of a groundwater dispute, the director or the director of the department of agriculture and rural development, as appropriate, shall, by order, require the immediate temporary provision at the point of use of an adequate supply of potable water.

(2) Except as provided in subsections (3), (4), and (5), if the director or the director of the department of agriculture and rural development, as appropriate, issues an order declaring a groundwater dispute, the director or the director of the department of agriculture and rural development, as appropriate, may, by order, restrict the quantity of groundwater that may be extracted from a high-capacity well under either of the following conditions:

(a) If the high-capacity well is reasonably believed to have caused the failure of the complainant's small-quantity well and an immediate temporary provision of an adequate supply of potable water has not been provided to the complainant by the owner of the high-capacity well.

(b) If there is clear and convincing scientifically based evidence that continued groundwater withdrawals from the high-capacity well will exceed the recharge capability of the groundwater resource of the area.

(3) In issuing an order under subsection (2), the director or the director of the department of agriculture and rural development, as appropriate, shall consider the impact the order will have on the viability of a business associated with the high-capacity well or other use of the high-capacity well.

(4) If an operator of a high-capacity well withdraws water by a means other than pumping, the director or the director of the department of agriculture and rural development, as appropriate, may, by order, temporarily restrict the quantity of groundwater that may be extracted only if the conditions of subsection (2)(a) or (b) have not been met.

(5) The director or the director of the department of agriculture and rural development, as appropriate, shall not

issue an order that diminishes the normal supply of drinking water or the capability for fire suppression of a public water supply system owned or operated by a local unit of government.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013
Compiler's Notes: Former MCL 324.31705, which pertained to duties of director upon issuance of order declaring groundwater dispute, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31706 Compensation; conditions.

Sec. 31706.

If a groundwater dispute has been declared, the owner of a high-capacity well shall, subject to an order of the director or the director of the department of agriculture and rural development, as appropriate, provide timely and reasonable compensation as provided in section 31707 if there is a failure or substantial impairment of a small-quantity well and the following conditions exist:

(a) The failure or substantial impairment was caused by the groundwater withdrawals of the high-capacity well.

(b) The small-quantity well was constructed prior to February 14, 1967 or, if the small-quantity well was constructed on or after February 14, 1967, the well was constructed in compliance with part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013
Compiler's Notes: Former MCL 324.31706, which pertained to duty of owner of high-capacity well to provide compensation if there is substantial impairment of small-quantity well and certain other conditions exist, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31707 Compensation; requirements.

Sec. 31707.

(1) Timely and reasonable compensation under section 31706 consists of and is limited to either or both of the following:

(a) The reimbursement of expenses reasonably incurred by the complainant beginning 30 days prior to the date on which a complaint was made under section 31702 in doing the following:

(i) Paying for the cost of conducting a well assessment to determine that the small-quantity well and the well's equipment were functioning properly at the time of the failure.

(ii) Paying for the cost of obtaining an immediate temporary provision at the prior point of use of an adequate supply of potable water.

(iii) Obtaining 1 of the following:

(A) The restoration of the affected small-quantity well to the well's normal supply of water.

(B) The permanent provision at the point of use of an alternative potable supply of equal quantity.

(b) If an adequate remedy is not achievable under subdivision (a), the restriction or scheduling of the groundwater withdrawals of the high-capacity well so that the affected small-quantity well continues to produce either of the following:

(i) The well's normal supply of water.

(ii) The normal supply of potable water if the well normally furnishes potable water.

(2) The refusal of an owner of an affected small-quantity well to accept timely and reasonable compensation described in subsection (1) is sufficient grounds for the director to terminate an order imposed on the owner of a high-capacity well.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013
Compiler's Notes: Former MCL 324.31707, which pertained to limitations to timely and reasonable compensation and the effect of small-

quantity well owner's refusal to accept compensation, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Part 451
Popular Name: NREPA

324.31708 Appeal.

Sec. 31708.

Notwithstanding section 31704(4), the owner of a high-capacity well subject to an order under this part may appeal that order directly to circuit court pursuant to the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013
Compiler's Notes: Former MCL 324.31708, which pertained to appeal of order to circuit court, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31709 Exceptions.

Sec. 31709.

This part does not apply to a potential groundwater dispute involving either of the following:
(a) A high-capacity well that is a dewatering well.
(b) A high-capacity well that is used solely for the purpose of fire suppression.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013
Compiler's Notes: Former MCL 324.31709, which pertained to inapplicability of part to certain groundwater disputes, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31710 Aquifer protection revolving fund.

Sec. 31710.

(1) The aquifer protection revolving fund is created in the state treasury.
(2) The fund 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) Money in the fund shall be expended by the department only to implement this part and to reimburse the department of agriculture and rural development for its actual costs incurred in implementing this part.
(6) If money in the fund is used to conduct hydrogeological studies or other studies to gather data on the nature of aquifers or groundwater resources in the state, the department shall include this information in the groundwater inventory and map prepared under section 32802.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013
Compiler's Notes: Former MCL 324.31710, which pertained to aquifer protection revolving fund, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.

Popular Name: Act 451
Popular Name: NREPA

324.31711 Report.

Sec. 31711.

(1) Not later than April 1, 2013, and every 2 years thereafter, the department shall prepare and submit to the legislature a report that includes both of the following:

(a) An analysis of the department's costs of implementing this part.

(b) Recommendations on modifications to this part that would improve the overall effectiveness of this part.

(2) The department shall file with the secretary of the senate and the clerk of the house of representatives a report that evaluates the effectiveness of the dispute resolution process during the 5-year period beginning on the effective date of the amendatory act that added this subsection. The report shall be filed within 90 days after the expiration of that 5-year period.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013
Compiler's Notes: Former MCL 324.31711, which pertained to preparation and submission of report to legislative committees, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31712 Violation of order; civil fine or costs; default; deposit; action to enforce order.

Sec. 31712.

(1) A person who violates an order issued under this part is responsible for a civil fine of not more than $1,000.00 for each day of violation, but not exceeding a total of $50,000.00.

(2) A default in the payment of a civil fine or costs ordered under this section or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

(3) All civil fines recovered under this section shall be forwarded to the state treasurer for deposit into the fund.

(4) The director or the director of the department of agriculture and rural development, as appropriate, may bring an action in a court of competent jurisdiction to enforce an order under this part, including injunctive or other equitable relief.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013
Compiler's Notes: Former MCL 324.31712, which pertained to identification of at-risk geographic areas, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.
Popular Name: Act 451
Popular Name: NREPA

324.31713 Repealed. 2009, Act 176, Imd. Eff. Dec. 15, 2009.

Compiler's Notes: The repealed section pertained to penalty, default, disposition, and enforcement action relating to violation of an order.
Popular Name: Act 451
Popular Name: NREPA