

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**

**Act 451 of 1994**

Subchapter 4

THE MICHIGAN STATE WATERWAYS COMMISSION

GENERAL

Part 781

MICHIGAN STATE WATERWAYS COMMISSION

**324.78101 Definitions.**

Sec. 78101.

As used in this part:

- (a) "Commercial motor vehicle" means that term as defined in section 74101.
- (b) "Commission" means the Michigan state waterways commission.
- (c) "Department" means the department of natural resources.
- (d) "Designated state-operated public boating access site" means a state-operated public boating access site designated under section 78105(2).
- (e) "Director" means the administrative director of the commission.
- (f) "Diesel motor fuel" means any liquid fuel used in the operation of engines of the diesel type in motor vehicles or watercraft.
- (g) "Gasoline" means gasoline, casing head or natural gasoline, benzole, benzine, and naphtha. Gasoline also means any liquid prepared, advertised, offered for sale, sold for use as, or used for, the generation of power for the propulsion of motor vehicles or watercraft, including any product obtained by blending together any 1 or more products of petroleum, regardless of their original names or characteristics, with or without other products, unless the resultant product obtained is entirely incapable of use for the generation of power for the propulsion of motor vehicles or watercraft. Gasoline does not include diesel fuel, liquefied petroleum gas, or commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed, sold, or used exclusively for purposes other than as a fuel for motor vehicles or watercraft.
- (h) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected so as to be a place of safety for watercraft, including contrivances used or designed for navigation on water and used or owned by the United States.
- (i) "Harbor facilities" means the structures at a harbor constructed to protect the lake or body of water and the facilities provided within the harbor and ashore for the mooring and servicing of watercraft and the servicing of crews and passengers.
- (j) "Inland lake or stream" means that term as defined in section 30101.
- (k) "Liquefied petroleum gas" means gases derived from petroleum or natural gases that are in the gaseous state at normal atmospheric temperature and pressure, but that may be maintained in the liquid state at normal atmospheric temperature by suitable pressure.
- (l) "Marina" means a site that contains harbor facilities.
- (m) "Motor vehicle" means that term as defined in section 74101.
- (n) "Navigable water" means any waterway navigable by vessels, or capable of being made navigable by vessels through artificial improvements, and includes the structures and facilities created to facilitate navigation.
- (o) "Nonresident motor vehicle" means that term as defined in section 74101.
- (p) "Person" includes any individual, partnership, corporation, association, or body politic, except the United States and this state, and includes any trustee, receiver, assignee, or other similar representative of those entities.
- (q) "Public boating access site" means a publicly owned site for the launching of recreational watercraft.
- (r) "Recreational boating facilities" means boat launches, harbors, marinas, and locks assisting recreational boats accessing water bodies at different elevations.
- (s) "Recreation passport fee" means that term as defined in section 2001.
- (t) "Resident motor vehicle" means that term as defined in section 74101.
- (u) "Retail fuel dealer" includes any person or persons, both private and municipal, who engage in the business of selling or distributing fuel within this state.
- (v) "Secretary of state" means the secretary of state of this state, acting directly or through a duly authorized deputy, investigators, agents, and employees.
- (w) "Vessel" means all watercraft except the following:
  - (i) Watercraft used for commercial fishing.
  - (ii) Watercraft used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship.
  - (iii) Watercraft owned by this state, any political subdivision of this state, or the federal government.

(iv) Watercraft when used in interstate or foreign commerce and watercraft used or owned by any railroad company or railroad car ferry company.

(v) Watercraft when used in trade, including watercraft when used in connection with an activity that constitutes a person's chief business or means of livelihood.

(x) "Watercraft" means any contrivance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat, but does not include contrivances used or owned by the United States.

(y) "Waterway" means any body of water.

(z) "Waterways account" means the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 210, Imd. Eff. July 1, 1998 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006 ;-- Am. 2006, Act 466, Imd. Eff. Dec. 20, 2006 ;-- Am. 2010, Act 34, Eff. Oct. 1, 2010 ;-- Am. 2010, Act 302, Imd. Eff. Dec. 16, 2010

**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.78102 Michigan state waterways commission; creation; appointment, qualifications, and terms of members; oath; reimbursement for expenses; removal of members; vacancies; seal; rules; election of officers; action by commission; offices and equipment.**

Sec. 78102.

There is created a state commission to be known and designated as the Michigan state waterways commission. The commission shall consist of 7 members, who shall be appointed by the governor, with the advice and consent of the senate. The term of office of each member shall be 3 years, except that of members first appointed, 2 shall be appointed for 1 year, 2 shall be appointed for 2 years, and 1 shall be appointed for 3 years. Not less than 2 members shall reside north of townline 16, 1 of whom shall reside in the upper peninsula and 1 of whom shall reside in the lower peninsula. One of the members shall be an individual who owns or operates a harbor or marina in this state at the time of his or her appointment and during his or her membership on the commission. One member shall be a representative of the marine-trades industry who does not own or operate a harbor or marina. The first term of the individual who owns or operates a harbor or marina shall expire on September 18, 1989. The first term of the marine-trade representative who does not own or operate a harbor or marina shall expire on September 18, 1988. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. Members shall qualify by taking and filing the constitutional oath of office. A member of the commission shall not receive a salary for his or her services as a commissioner, but may be reimbursed for actual and necessary expenses incurred in performance of official duties. The members of the commission may be removed by the governor for inefficiency, neglect of duty, misuse of office, or malfeasance in office, in the manner provided by law for the removal of other public officers for similar causes. Vacancies shall be filled for the unexpired term in the same manner as original appointments. The commission shall, immediately upon its appointment, organize, adopt a seal, and make, amend, and revise the rules necessary for the administration of the commission's duties under this part. The commission at the organization meeting shall elect from its members a chairperson and vice-chairperson to serve for 1 year and annually thereafter shall elect such officers, each to serve until his or her successor is appointed and qualified. Action shall not be taken by the commission with less than a majority assent of its members. The department of management and budget shall provide suitable offices and equipment for the use of the commission.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.78103 Waterways commission; conducting business at public meeting; notice of meeting; availability of**

**writings to public.**

Sec. 78103.

(1) The business which the Michigan state waterways commission may perform shall be conducted at a public meeting of the commission 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 meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.78104 Waterways commission; director; appointment; qualifications; term; compensation; duties; assistants; salaries; expenses.**

Sec. 78104.

There is established the office of administrative director of the commission. The director qualified by a record of experience in connection with boating shall be appointed by the commission to serve for an indefinite term, during his or her efficient, honest, and businesslike execution of his or her duties. He or she shall receive such compensation as the commission may determine, not in excess of \$8,400.00, and shall be reimbursed for all traveling and other expenses incurred by him or her in the discharge of his or her official duties. The director shall be charged with the administration of this part in accordance with the policies established by the commission. The department, upon recommendation of the director, subject to the approval of the commission, may employ such assistants, and make such expenditures as may be necessary in implementing this part related to the powers and duties of the commission. The salaries of all employees, and the necessary expenses while traveling in performing any of their duties, shall be paid in the same manner as the salaries and expenses of other state employees are paid.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.78105 Powers and duties of department; designation of state-operated boating access sites requiring passes; fees.**

Sec. 78105.

(1) The department has the following powers and duties:

(a) To acquire, construct, and maintain harbors, channels, and facilities for vessels in the navigable waters lying within the boundaries of this state.

(b) To acquire, by purchase, lease, gift, or condemnation the lands, rights of way, and easements necessary for harbors and channels. For the purposes of this subdivision, the department shall be considered a state agency under 1911 PA 149, MCL 213.21 to 213.25.

(c) To acquire, by purchase, lease, gift, or condemnation suitable areas on shore for disposal of the material from dredging.

(d) To enter into any contracts or agreements that may be necessary in carrying out this part, including agreements to hold and save the United States free from damages due to the construction and maintenance by the United States of those works that the United States undertakes.

(e) To provide for the granting of concessions within the boundaries of harbors, so as to furnish the public gas, oil, food, and other facilities.

(f) To represent this state and the governor in dealings with the chief of engineers of the United States army and

his or her authorized agents for the purposes set forth in this part.

(g) To charge fees for both seasonal and daily moorage at state-operated small craft mooring facilities. All revenues derived from this source shall be deposited in the waterways account.

(h) To collect the proceeds from the sale of marine fuel at harbors operated by the department. The proceeds from the sales shall be credited to the waterways account and used for the purchase of marine fuel supplies as may be needed. Any remaining revenue from this source not needed for the purchase of marine fuel supplies may be expended in the same manner as other funds within the waterways account.

(2) The director shall designate state-operated public boating access sites that, subject to section 78119(4), shall not be entered by a resident motor vehicle unless the recreation passport fee has been paid or by a nonresident or commercial motor vehicle unless a pass purchased under subsection (3) is affixed to the motor vehicle as described in section 78119.

(3) The department shall charge fees for passes authorizing seasonal or daily entry by nonresident motor vehicles or commercial motor vehicles at designated state-operated public boating access sites. Fee revenue under this subsection shall be deposited in the waterways account.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006 ;-- Am. 2010, Act 34, Eff. Oct. 1, 2010 ;-- Am. 2013, Act 81, Eff. May 1, 2014

**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.78106 Authority of local agencies and public colleges and universities to enter contracts with department.**

Sec. 78106.

The local units of government of this state, within the jurisdiction of which are situated inland waterways connected with or connecting the waters of the Great Lakes, or within which channels to nearby inland lakes and streams may be constructed or opened for navigation and shelter of light draft vessels, may by majority vote of their respective legislative bodies enter into contracts and agreements with the department in carrying out the purposes of this part. In addition, the public colleges and universities of the state may enter into contracts and agreements with the department in carrying out the purposes of this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2003, Act 19, Imd. Eff. June 18, 2003

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.78107 Facilities in harbors and connecting waterways; use.**

Sec. 78107.

Facilities in harbors and connecting waterways established under this part shall be open to all on equal and reasonable terms.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.78108 Financing local agencies and public colleges and universities to obtain federal participation;**

**contracts with army corps of engineers.**

Sec. 78108.

(1) The department may do 1 or more of the following:

(a) Take actions as may be necessary to provide the finances required of local agencies and public colleges and universities as condition for United States' participation in any project in which the department is empowered to act.

(b) Use any part or all of the appropriation and funds otherwise available to meet the portion of the requirement of local participation as the department considers proper.

(c) Enter into agreements with any public college or university or political subdivision of the state in connection with participation with the United States in any project in which the department is empowered to act and provide adjustments which in the judgment of the department are considered to be in the best interest of the state.

(2) The department may enter into any contract or agreement with the army corps of engineers of the United States, or any other agency or instrumentality of the United States for the dredging of harbors, the erection of breakwaters, piers or any other device for the protection of vessels, and may do any act or enter into any contract or agreement desirable in implementing this part. The department may take such steps as may be necessary to take advantage of any act of congress that may be of assistance in carrying out the purposes of this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2003, Act 19, Imd. Eff. June 18, 2003

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.78109 Administration of part; advice by commission.**

Sec. 78109.

The commission shall advise the department on the administration of this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

**324.78110 Waterways account; use.**

Sec. 78110.

Money in the waterways account shall be used only for the following:

(a) The construction, operation, and maintenance of the following that are associated with recreational boating facilities:

(i) Ramps and related support infrastructure for launching watercraft.

(ii) Piers, jetties, breakwaters, or other similar structures connected to existing or proposed recreational boating facilities or harbors of refuge.

(iii) Moorage facilities and related support infrastructure at marinas to provide dockage for transient and seasonal users.

(iv) Studies and surveys necessary for the development of recreational boating facilities or the operation of recreational boating facilities, and the implementation of recommendations from these studies and surveys.

(v) Restrooms, sewage treatment facilities, showers, potable water supplies, security lights, and parking areas.

(vi) Pump outs.

(vii) Access roads, bridges, signals, and other infrastructure to provide the public access to recreational boating facilities.

(viii) Engineering costs, including planning and construction costs and costs of environmental assessments and permit applications.

(ix) Dredging, stump removal, and aquatic weed control when the activities can be shown to clear lanes to make a water body more accessible primarily for recreational boats as opposed to general navigation.

- (x) Navigational aids in the immediate area of recreational boating facilities.
- (xi) Signage for the effective use of recreational boating facilities.
- (xii) Publication of guides, brochures, maps, road signs, internet sites, and other aids to inform boaters of recreational boating facilities.
- (xiii) Projects that compensate or mitigate for natural resource losses caused by activities described in this subdivision.
- (xiv) Locks used exclusively by recreational boaters.
- (xv) Leases of property for recreational boating facilities or parking areas for the exclusive use of recreational boating facilities.
- (xvi) Boat storage facilities, boat lift facilities, and boat servicing facilities within recreational boating facilities when constructed so as to be leased to a private marina operator under the guidelines of part 791.
- (xvii) Equipment used exclusively for the development, maintenance, or operation of recreational boating facilities.
- (b) The acquisition of property or rights in property for the purposes of this part, including both of the following:
  - (i) Land acquisition for the development of recreational boating facilities or parking areas exclusively for the servicing of recreational boating facilities.
  - (ii) Water rights for the securing of recreational boating access facilities.
  - (c) For grants to local units of government and state colleges or universities to acquire and develop harbors of refuge and public boating access sites under section 78115.
  - (d) For the purposes provided in part 791.
  - (e) For the administration of this part and part 791, including the following:
    - (i) Administrative and overhead cost directly related to recreational boating facilities.
    - (ii) Employee wages and benefits incurred for the administration of this part.
    - (iii) Conferences, meetings, and training for employees working at or on recreational boating facilities.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 210, Imd. Eff. July 1, 1998 ;-- Am. 2003, Act 19, Imd. Eff. June 18, 2003 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006 ;-- Am. 2010, Act 302, Imd. Eff. Dec. 16, 2010

**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular Name:** Act 451

**Popular Name:** NREPA

### 324.78111 State appropriation as advancement.

Sec. 78111.

It is the purpose of this part, in providing for harbors and channels, that the appropriation made by the state be considered an advancement, and that the fees, taxes, and other revenues received under this part, to be credited to the waterways account, shall be applied against the advancement, until all advancements have been fully paid. Thereafter, all such fees, taxes, and revenues shall be available for continued expansion and development of harbors and connecting waterways. However, subject to the approval of the state administrative board, the necessary expense of administration of this part, and any expense necessary to the protection of the harbors, and connecting waterways, constructed or established under the provisions of this part, or any improvement to the harbors and connecting waterways necessary for the proper and adequate protecting of vessels, shall be paid from the fees, taxes, and revenues before being credited to the advancements. The state administrative board shall from time to time provide for the transfer of credits to advancements from the waterways account to the general fund, until the advancements have been fully paid.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006

**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.78112 State acceptance of federal program for construction of harbors of refuge.**

Sec. 78112.

In addition to the other matters contained in this part, this part shall constitute prima facie evidence of the acceptance by the state of Michigan of the provisions for state participation in the federal program for construction of certain harbors of refuge within the boundaries of the state of Michigan as provided for in chapter 19, 59 Stat. 10, Public Law 14 of the 79th Congress authorized March 2, 1945, pursuant to House Document No. 446 of the 78th Congress.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.78113 Public boating access site advisory committee.**

Sec. 78113.

(1) Within 30 days after the effective date of this section, the department shall establish a public boating access site advisory committee to advise the department and the legislature on the state's method of acquiring public boating access sites. The advisory committee shall consist of not more than 20 members representing the boating industry, recreational users, riparian owners, local public officials who have public boating access sites within their local unit of government, experts from Michigan institutions of higher education, and other interested parties as appointed by the department. At least 2 members of the advisory committee shall be representatives of the general public. The advisory committee shall review and make recommendations regarding the current method of acquiring and operating public boating access sites. Additionally, the committee shall make recommendations on all of the following:

(a) The protection of the ecological integrity of lakes from degradation.

(b) The protection of the boating public and other lake users, including, but not limited to, riparian owners, from overly intense use of lakes.

(c) The provision of recreational boating opportunities for members of the general public.

(d) Other issues the advisory committee considers relevant.

(2) A meeting of the advisory committee shall be held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) Within 6 months after the advisory committee is established under subsection (1), the advisory committee shall deliver a report to the department, the commission, and the legislature on administrative and any legislative changes that the state should consider in acquiring and operating public boating access sites.

(4) Not later than 1 year after the advisory committee is established under subsection (1), the advisory committee shall be disbanded.

**History:** Add. 1998, Act 210, Imd. Eff. July 1, 1998

**Compiler's Notes:** For transfer of public boating access site advisory committee to department of natural resources by type III transfer, see E.R.O. No. 2010-13, compiled at MCL 324.99917.

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.78114 Acquisition of public boating access site; placement of land option.**

Sec. 78114.

(1) Prior to acquiring a public boating access site, the department shall obtain a 90-day option on the land proposed for acquisition. In obtaining this option, the department shall attempt to negotiate an option that may be transferred to a local unit of government. Upon placing the option on the land, the department shall notify the municipality and the county in which the land is located of the option and whether the department plans to hold a

public hearing on the proposed purchase and development of the land as a public boating access site. The municipality or county in which the proposed public boating access site is located may hold a public hearing on the proposed purchase and development of the land as a public boating access site. If a municipality or county holds a public hearing under this subsection, the municipality or county shall notify the department, and a representative of the department shall attend the public hearing.

(2) During the 90-day period in which the department holds an option under subsection (1), the municipality or county in which the land is located may do either of the following:

(a) Notify the department that it intends to operate a public boating access site on that land. If the department receives a notice pursuant to this subdivision, the department shall transfer the option, if possible, to the municipality or county so that it may exercise the option and purchase the land. If the municipality exercises the option and purchases the land, the exercise of the option shall be contingent upon the municipality or county and the department entering into a legally enforceable agreement that specifies how the public boating access site will be operated. The agreement shall provide that the public boating access site will be operated in the same manner as a public boating access site that is operated by the department, unless the department agrees to alternative terms. The agreement shall also provide that if the municipality or county violates the agreement, the department may operate the public boating access site in compliance with the agreement.

(b) Identify another suitable location on the lake that the department could acquire for a public boating access site. The public boating access site shall be comparable for development as the one proposed by the department.

**History:** Add. 1998, Act 210, Imd. Eff. July 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.78115 Public boating access sites grant program.**

Sec. 78115.

(1) The department shall establish a public boating access sites grant program. The grant program shall provide funding with money in the waterways account to local units of government and public colleges or universities for all or a portion of the cost of either or both of the following:

(a) The acquisition of land for the establishment of a public boating access site.

(b) The cost of developing a public boating access site.

(2) A grant under subsection (1)(a) may be used as the required match by a local unit of government or a public college or university under part 19 or another state or federal program.

(3) A local unit of government or a public college or university receiving a grant under subsection (1)(b) must agree to operate the public boating access site in accordance with the department's operational requirements. The operational requirements shall be included within a grant agreement that is entered into by the grant recipient and the department. The grant agreement may contain, but need not be limited to, 1 or more of the following provisions as required by the department:

(a) Any net revenues accruing from the operation of the public boating access site shall be separately accounted for and reserved in a restricted fund by the grantee for the future maintenance or expansion of the public boating access site or, with the approval of the department, the construction of other recreational boating facilities. Unless otherwise provided in the grant agreement or otherwise authorized in writing by the department, if a fee is charged for the use of the public boating access site, the fee shall be the same as the fee rates set by the department.

(b) Unless otherwise provided in the grant agreement or otherwise authorized in writing by the department, the public boating access site and any facilities constructed for use in conjunction with the public boating access site shall be reserved by the grantee exclusively for the use or rental, on a daily basis, of recreational watercraft.

(c) Unless otherwise provided in the grant agreement or otherwise authorized in writing by the department, commercial operations of any type shall not be permitted to regularly use the public boating access site or any of the facilities constructed for use in conjunction with the public boating access site.

(d) The public boating access site and any facilities constructed for use in conjunction with that public boating access site shall be open to the public at all times on equal and reasonable terms.

(4) A local unit of government or a public college or university that wishes to be considered for a grant under this section shall submit an application to the department in a manner prescribed by the department and containing the information required by the department.

**History:** Add. 1998, Act 210, Imd. Eff. July 1, 1998 ;-- Am. 2003, Act 19, Imd. Eff. June 18, 2003 ;-- Am. 2004, Act 587, Eff. Dec. 23,

2006

**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Compiler's Notes:** Act 451

**Popular Name:** NREPA

### **324.78116 Rules.**

Sec. 78116.

The department may promulgate rules to implement this part.

**History:** Add. 1998, Act 210, Imd. Eff. July 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.78117 Township ordinances regulating activities at public boating access site; scope.**

Sec. 78117.

A township may by ordinance regulate activities at a public boating access site owned by the department and located on an inland lake or stream. However, the scope of the ordinance shall not exceed the scope of applicable rules promulgated or orders issued by the department under section 504.

**History:** Add. 2006, Act 466, Imd. Eff. Dec. 20, 2006

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.78119 Entry into state-operated boating access site; pass, tab, or sticker required; recreation passport fee; exceptions; violation as civil infraction; fine; evidence.**

Sec. 78119.

(1) Subject to subsection (4), a person shall not enter, in a nonresident motor vehicle or commercial motor vehicle, a state-operated public boating access site designated under section 78105(2) without a valid pass affixed to the lower right-hand corner of the windshield. A seasonal pass shall be affixed permanently for the season.

(2) Subject to subsection (4), the operator of a resident motor vehicle shall not enter a state-operated public boating access site designated under section 78105(2) with the resident motor vehicle unless the recreation passport fee has been paid for that motor vehicle. Payment of the recreation passport fee authorizes entry into all state parks and recreation areas and designated state-operated public boating access sites until expiration of the motor vehicle registration.

(3) Subject to subsection (4), if the secretary of state issues registration tabs or stickers as described in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805, the operator of a resident motor vehicle shall not enter a designated state-operated public boating access site with the resident motor vehicle unless the resident motor vehicle has a registration tab or sticker marked as provided under that section to show that the recreation passport fee has been paid.

(4) Subsections (1) to (3) do not apply under any of the following circumstances:

(a) If the motor vehicle is used in the operation or maintenance of the public boating access site, is an emergency motor vehicle, is a state-owned or law enforcement motor vehicle, or is a private motor vehicle being operated on official state business.

(b) If the motor vehicle is registered under section 803e(1) of the Michigan vehicle code, 1949 PA 300, MCL

257.803e, and is exempt under section 803e(6) of the Michigan vehicle code, 1949 PA 300, MCL 257.803e, from the registration tax, or if the motor vehicle is registered under section 217d or 803f of the Michigan vehicle code, 1949 PA 300, MCL 257.217d and 257.803f.

(c) If and to the extent the department waives the requirements for department-sponsored events or other circumstances as determined by the director or the director's designee.

(5) A person who violates subsection (1), (2), or (3) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00. A person shall not be cited for a violation of both subsections (2) and (3) for the same incident.

(6) In any proceeding for the violation of this part or a rule promulgated under this part, if a motor vehicle is found parked in a designated state-operated public boating access site, the registration plate displayed on the motor vehicle constitutes prima facie evidence that the owner of the motor vehicle was the person who parked or placed it at the location where it was found.

**History:** Add. 2010, Act 34, Eff. Oct. 1, 2010 ;-- Am. 2013, Act 81, Eff. May 1, 2014

**Popular Name:** Act 451

**Popular Name:** NREPA

### Part 783 FERRY DOCKS AT THE STRAITS OF MACKINAC

#### **324.78301 Ferry docks at Straits of Mackinac; jurisdiction and control; transfer; description.**

Sec. 78301.

The jurisdiction and control of the following described lands is transferred from the state transportation department to the department:

Mackinaw City Dock

Lots 1 to 6, both inclusive, of block 9 and Railroad avenue lying east of the east line of Huron avenue in Wendell's addition to Mackinaw City, Cheboygan county, Michigan.

Oil Storage Area

All that part of the unplatted portion of government lot 1 of section 18, town 39 north, range 3 west, village of Mackinaw City, Cheboygan county, Michigan, and water lots 55 and 56, block B of the plat of "Mackinaw City" as recorded in the office of the register of deeds, Cheboygan county, Michigan, described as:

Beginning at a point on the southerly line of government lot 1 of said section 18 which is 93.7 feet easterly, measured along said southerly lot line from its intersection with the former westerly line of Huron avenue according to the recorded plat of the village of Mackinaw City, said point of beginning being the center line of the existing pavement on Huron avenue; thence northeasterly along said center line at an angle of 103° 03' 15" with the southerly line of said government lot 1, a distance of 418.54 feet to the northerly line of water lot 55 extended westerly; thence easterly at an angle to the right of 77° 02' 25", along said extension and the northerly line of said water lot 55, a distance of 410 feet more or less to the water's edge of the Straits of Mackinac; thence southerly along said water's edge, 408 feet more or less to the southerly line of government lot 1 of said section 18; thence westerly along said southerly line of said government lot 1, a distance of 520 feet more or less, to the point of beginning; reserving an easement for highway purposes in, over and upon that part of the above described property which lies westerly of a line 100 feet easterly of, measured at right angles to, and parallel with the center line of the existing pavement on Huron avenue. Subject to the reservation in favor of the Michigan Central railroad company and the New York Central railroad company as recorded in liber 122, on pages 467-469, office of the register of deeds, Cheboygan county, Michigan.

St. Ignace Dock 1

Lots 6 to 12, both inclusive, of block 2, of assessor's plat No. 5, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 49, register's office, Mackinac county, Michigan.

St. Ignace Dock 2

Lots 1 and 2, block 2, assessor's plat No. 5, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 49, register's office, Mackinac county, Michigan.

Also, that part of private claim 15 located south of assessor's plat No. 5, city of St. Ignace, lying between State street on the west and lake Huron on the east, city of St. Ignace, Mackinac county, Michigan.

Also, that part of the north 2/3 of private claim 14 lying between State street on the west and lake Huron on the east, city of St. Ignace, Mackinac county, Michigan.

St. Ignace Dock 3

Lots 16 to 28, both inclusive, of block 1 and entire blocks 5, 6, 7, 8, 9 and 10 of Straits subdivision, city of St.

Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 39, register's office, Mackinac county, Michigan.

Also, that part of private claim 2 located south of the south line of Straits subdivision and east of the east line of State street, city of St. Ignace, Mackinac county, Michigan.

Also, that part of private claim 1 located north of the north line of block 1 of the partition plat of private claim 1 and east of a line 363 feet east of, measured at right angles, and parallel with the centerline of State street, city of St. Ignace, Mackinac county, Michigan.

Also, lots 6 to 15, both inclusive, block 1; lots 6 to 19, both inclusive, block 2 and lots 1 to 4, both inclusive, block 5, including the streets and alley adjacent thereto, of the partition plat of private claim 1, city of St. Ignace, Mackinac county, Michigan.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.78302 Operation and maintenance of docks and approaches to docks; determination; purpose; relinquishment of control.**

Sec. 78302.

The department shall operate and maintain the docks, and approaches to the docks, as the department determines is necessary to serve tourism and boating in the area. The department shall relinquish control of the docks and approaches for use by the state or any of its agencies if for any reason the Mackinac Straits bridge becomes unusable, or in the event of an emergency declared by the governor.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.78303 Ferry docks at Straits of Mackinac; leases; concessions; rules.**

Sec. 78303.

Subject to the provisions of this part, the department may grant leases and concessions for the use of the properties transferred by this part. The department shall promulgate rules for the use of these properties by all persons without discrimination. The department shall not grant exclusive use of the docking facilities to any person, but may lease designated areas to particular persons for the operation of commercial enterprises. The department may make arrangements with other state agencies for use of portions of the properties transferred by this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.78304 Entering into lease with village of Mackinaw City; duration; duties of village.**

Sec. 78304.

The department may enter into a lease for a period not to exceed 25 years with the village of Mackinaw City, whereby the village agrees to operate and maintain the parking facilities located on the property described in section 78301 as the Mackinaw City dock, to construct, operate, and maintain buildings on the Mackinaw City dock, or to perform other functions in relation to the Mackinaw City dock, under such terms and conditions as may be agreed

upon by the department and the village of Mackinaw City.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.78305 Entering into lease with city of St. Ignace; duration; duties of city.**

Sec. 78305.

The department may enter into a lease for a period not to exceed 25 years with the city of St. Ignace, whereby the city agrees to operate and maintain the parking facilities located on the property described in section 78301 as the St. Ignace docks numbers 1 and 2, to construct, operate, and maintain buildings on the St. Ignace docks numbers 1 and 2, or to perform other functions in relation to the St. Ignace docks numbers 1 and 2, under such terms and conditions as may be agreed upon by the department and the city of St. Ignace.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.78306 Land transferred from Mackinac Island state park commission to department; small craft harbor facility.**

Sec. 78306.

(1) The jurisdiction and control of the following described land is transferred from the Mackinac Island state park commission to the department:

A parcel of land beginning at the northwest corner of lot No. 88 of assessors plat No. 2, city of Mackinac Island, county of Mackinac, extending along the south side of Huron street in a westerly direction 530 feet thence to the shoreline of lake Huron in a southerly direction, the distance from Huron street to the shore of lake Huron being approximately 80 feet; thence easterly along the shore of lake Huron to the southwest corner of Lot No. 88 of assessors plat No. 2, city of Mackinac Island, county of Mackinac, and thence northerly approximately 80 feet along the west line of lot No. 88, assessors plat No. 2, city of Mackinac Island, county of Mackinac, to the point of beginning; also the docks, piers, buildings and appurtenances situated thereon or attached thereto, which are now under the jurisdiction of the Mackinac Island state park commission.

(2) The department shall operate the properties transferred by this section as a harbor facility for small craft and shall not permit the operation of any commercial enterprise thereon except the sale of marine fuel and other supplies for small craft by the department.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

#### **324.78307 Disposition of revenues.**

Sec. 78307.

All revenues received by the department under this part shall be deposited in the state treasury to the credit of the state waterways fund and shall be expended as appropriated by the legislature.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451  
**Popular Name:** NREPA

### **324.78308 Administration of part; advice by commission.**

Sec. 78308.

The Michigan state waterways commission created in part 781 shall advise the department on the administration of this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995  
**Popular Name:** Act 451  
**Popular Name:** NREPA

## **Part 785 CHEBOYGAN LOCK AND DAM**

### **324.78501 Cheboygan lock and dam; acquisition.**

Sec. 78501.

The department may purchase and receive from its owners on behalf of the state for a nominal consideration of not to exceed \$1.00 and subject to an agreement that the department maintain the property and such terms, conditions, and stipulations as the department may approve, the locks, dams, races, structures, and related properties, facilities, flowage easements, and real estate connected with or a part of the facility now known as the Cheboygan lock and dam, at Cheboygan, Michigan.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995  
**Popular Name:** Act 451  
**Popular Name:** NREPA

### **324.78502 Cheboygan lock and dam; leases; agreements.**

Sec. 78502.

The department may operate, control, maintain, and lease such property and may establish and revise fees and hours of operation for the facility. The department may enter into agreements with any person with respect to water rights, water levels, controls, lockage fees, and related matters.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995  
**Popular Name:** Act 451  
**Popular Name:** NREPA

### **324.78503 Revenues; disposition.**

Sec. 78503.

Revenues received by the department under this part shall be deposited in the state treasury to the credit of the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006

**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.78504 Administration of part; advice by commission.**

Sec. 78504.

The Michigan state waterways commission created in part 781 shall advise the department on the administration of this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

## HARBOR DEVELOPMENT

### Part 791

## HARBOR DEVELOPMENT

### **324.79101 Definitions.**

Sec. 79101.

As used in this part:

(a) "Commission" means the Michigan state waterways commission created in part 781.

(b) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected in order to be a place of safety for watercraft.

(c) "Harbor facilities" means the structures of a harbor constructed to protect the lake or body of water and the facilities provided within the harbor and on shore for the mooring and servicing of watercraft and the servicing of crews and passengers.

(d) "Marina" means a site which contains harbor facilities.

(e) "Nonrevenue-producing harbor facilities" means any portion of harbor facilities that would not normally produce revenue and includes, but is not limited to, jetties, breakwaters, dredging, and shore protection.

(f) "Revenue-producing harbor facilities" means any portion of harbor facilities that normally produce revenue and includes, but is not limited to, watercraft slips, watercraft launching facilities, watercraft storage, lodging, access roads, watercraft repair facilities, parking lots, mechanical haul-out devices, and facilities for fuel, food, and other services.

(g) "Watercraft" means any contrivance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79102 Providing assistance to certain persons.**

Sec. 79102.

The department may provide assistance to a person seeking to secure construction, operation, and maintenance of recreational boat slips on the waters of this state as provided in this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79103 Purchase of real property for development of marinas.**

Sec. 79103.

The department may purchase real property accessible to, or capable of being made accessible to, the waters of this state for the development of marinas, as provided in this part, only when it can be demonstrated that the demand for recreational boat slips within a specific harbor or within a local unit of government exceeds the available supply.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79104 Purchase of property located within local unit of government.**

Sec. 79104.

The department shall not purchase property located within a local unit of government, under this part, if the local unit of government where the property is located imposes property taxes on property containing a shoreline recreational facility that is owned by an adjacent local unit of government.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79105 Sale of structures, real property, or rights or interest in real property.**

Sec. 79105.

The department may sell or remove buildings or other structures on real property acquired by the department under this part, and may sell real property or rights or interest in real property not considered essential for the purposes of this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79106 Construction of nonrevenue-producing harbor facilities.**

Sec. 79106.

If, in the judgment of the department, real property acquired under this part requires modification or improvement to make it financially attractive to potential investors in a marina, the department may construct nonrevenue-producing harbor facilities at those sites.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79107 Leases of real property.**

Sec. 79107.

After real property is acquired under this part, the department may enter into leases of the real property or portions of the real property the department determines will aid in the construction of a marina, the provision of summer or winter storage of watercraft, or the provision of services normally found at commercial marinas.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79108 Solicitation and evaluation of proposals.**

Sec. 79108.

(1) If the department determines that real property acquired by it under this part is suitable for use as a marina, the department shall publicly solicit proposals for the development of the marina and the lease of the real property. The solicitation of proposals shall include published notices in at least 1 local news publication of general circulation in the area in which the marina will be located and in at least 2 journals related to the marina, watercraft, or harbor industries, which journals have statewide circulation. A reasonable time shall be allowed for bidders to respond, and all proposals shall be publicly opened and read. A proposal received by the department in response to the solicitation may be rejected by the department for any reason or without cause if the department believes such action to be appropriate. The department may waive any defects in any proposals received, at its discretion, but is not required to do so.

(2) In evaluating proposals for the construction of revenue-producing harbor facilities and the operation of a marina, the department shall take into consideration, among other things, the technical qualifications of the applicants; the financial responsibility of the applicants; the ability of the applicants to perform efficiently the services necessary to maintain a sound facility, including the prior experience, if any, of the applicants in operating a marina; the proposed lease payments; the nature and scope of each applicant's plans for the marina; and the timetables for development of the proposed marina.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79109 Term of lease; extension; rule establishing penalty schedule for nonpayment of lease payments; notice of taxation.**

Sec. 79109.

(1) A lease entered into by the department under this part shall be for an initial term of not more than 25 years. A lease may be extended for a period not to exceed 5 years, at the discretion of the department, if the lessee has

complied with the provisions of the lease and has made appropriate efforts to upgrade and maintain the real property.

(2) The department shall establish, by rule, a penalty schedule for nonpayment of lease payments. The department shall provide in a lease entered into under this part that, if a lessee is in default on a payment for more than 60 days, or if a lessee defaults on a payment or delays making a payment for more than 30 days on more than 2 occasions in a single year, the department may declare the lease agreement breached and seek its remedies at law or in accordance with the lease agreement.

(3) The department shall provide notice in any lease entered into under this part that the lessee may be subject to taxation under Act No. 189 of the Public Acts of 1953, being sections 211.181 to 211.182 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79110 Sale, transfer, or assignment of lease; transfer by bequest or descent of lessee.**

Sec. 79110.

A lease entered into by the department under this part or an interest in a lease entered into by the department under this part shall not be sold, transferred, or assigned unless the sale, transfer, or assignment is first approved by the department, after receipt of a written application containing the same information as to the purchaser, transferee, or assignee as is required of an original applicant. This section does not restrict the transfer by bequest or descent of the lessee.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79111 Consideration for issuance of lease; reduction of initial financial burden.**

Sec. 79111.

A lease entered into by the department under this part shall not be issued without consideration. However, the department may establish annual lease payments, which reduce the initial financial burden on the lessee as much as is reasonably possible, with subsequent payments to be appropriately increased to assure payment of the total lease obligation prior to the termination of the lease.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79112 Lease agreements with 1 or more local units of government; apportionment of revenue.**

Sec. 79112.

The department may enter into lease agreements for purposes of this part with 1 or more local units of government or public colleges or universities acting jointly with the department as a lessor. Revenue from each lease shall be apportioned according to the proportional share of the investments made by the department and the local unit or units of government or public colleges or universities in the construction of nonrevenue-producing harbor facilities and in consideration of the relative land investments of the entities.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2003, Act 19, Imd. Eff. June 18, 2003  
**Popular Name:** Act 451  
**Popular Name:** NREPA

### **324.79113 Minimum standards for construction and operation of harbor facilities by lessee.**

Sec. 79113.

The department may establish minimum standards applicable to the construction and operation of harbor facilities by a lessee including, but not limited to, restrooms and showers, the number of slips available to transient and seasonal watercraft rentals, construction material, parking lots, engineering and architectural plans and designs, watercraft launching facilities, and watercraft storage and repair facilities.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995  
**Popular Name:** Act 451  
**Popular Name:** NREPA

### **324.79114 Disposition of revenue from lease contracts.**

Sec. 79114.

All revenue from lease contracts entered into under this part shall be deposited in the state treasury and credited to the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006  
**Compiler's Notes:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."  
**Popular Name:** Act 451  
**Popular Name:** NREPA

### **324.79115 Liability.**

Sec. 79115.

The department shall not be liable for loss of life or injury or damage to persons or property as a result of the conditions on real property, waterways, or facilities on real property leased to persons by the department under this part. However, this section shall not relieve lessees of any obligations they may otherwise have to persons or to damages if they are found to have failed to meet their obligations properly.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995  
**Popular Name:** Act 451  
**Popular Name:** NREPA

### **324.79116 Rules.**

Sec. 79116.

The department shall promulgate rules as are necessary to implement this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79117 Administration of part; advice by department.**

Sec. 79117.

The Michigan state waterways commission created in part 781 shall advise the department on the administration of this part.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79118 Discrimination prohibited.**

Sec. 79118.

A person shall not deny another individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations created under this part because of religion, race, color, national origin, age, sex, or marital status.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

## **Part 793**

## **HARBORS, CHANNELS, AND OTHER NAVIGATIONAL FACILITIES**

### **324.79301 "Political subdivision" defined.**

Sec. 79301.

As used in this part, "political subdivision" means any local unit of government or port district of this state and any other governmental agency or subdivision, public corporation, authority, or district in this state, which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate harbors, channels, and other navigational facilities. Whenever used in this part, the term political subdivision includes any combination of political subdivisions acting jointly.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79302 Political subdivision; powers.**

Sec. 79302.

A political subdivision may do 1 or more of the following:

(a) Adopt and amend all necessary rules, regulations, and ordinances for the management, government, and use of any waterways, harbors, channels, or other navigational facilities under its control, either within or outside of its territorial limits; employ harbor guards, police, or a harbormaster with full police powers; establish penalties for the violation of the rules, regulations, and ordinances; and enforce those penalties.

(b) Adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of harbors, channels, connecting waterways, or other navigational facilities within the political subdivision or its political jurisdiction, which rules shall be consistent with and conform to, as nearly as possible, the laws of this state.

(c) Vest authority for the maintenance, operation, and regulation thereof in an officer, board, or body of the political subdivision by ordinances or resolution which shall prescribe the duties and powers of the officers, boards, or body.

(d) Employ a regular harbormaster for the harbors, channels, connecting waterways, or navigational facilities under its control; or, in cases where a harbor board or body is established, the harbormaster may be employed by the board or body.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79303 Political subdivisions; joint action.**

Sec. 79303.

All powers, rights, and authority granted to any political subdivision in this part may be exercised and enjoyed by 2 or more political subdivisions, or by this state through its appropriate agencies and 1 or more such political subdivisions acting jointly, either within or outside of the territorial limits of either of them, and contracts may be entered with each political subdivision for the purposes of implementing this part and authorizing joint action.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** NREPA

## **Part 795 WATERFRONT REVITALIZATION**

### **324.79501 Definitions.**

Sec. 79501.

As used in this part:

(a) "Commission" means the Michigan jobs commission.

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

(c) "Gaming facility" means a gaming facility regulated under the Michigan gaming control and revenue act, the initiated law of 1996, MCL 432.201 to 432.226.

(d) "Grant" means a waterfront redevelopment grant under this part.

(e) "Response activity" means that term as it is defined in part 201.

(f) "Waterfront" means land that is contiguous to the Great Lakes or their connecting waterways, a river, or a lake or impoundment that has a surface area of not less than 50 acres.

(g) "Waterfront planning area" means the geographic area included within a waterfront redevelopment plan.

(h) "Waterfront redevelopment plan" means a waterfront redevelopment plan prepared by a local unit of government under section 79503 or a state approved recreation plan that includes waterfront improvements.

**History:** Add. 1998, Act 285, Eff. Dec. 1, 1998  
**Popular Name:** Act 451  
**Popular Name:** NREPA

**324.79502 Waterfront redevelopment grants program; establishment; provisions; funding sources; waterfront public access.**

Sec. 79502.

(1) The department shall establish a waterfront redevelopment grants program. A local unit of government may apply to the department for a grant to conduct a project that does any of the following:

- (a) Provides for response activities on waterfront property consistent with a waterfront redevelopment plan.
- (b) Provides for the demolition of buildings and other facilities along a waterfront that are inconsistent with a waterfront redevelopment plan.
- (c) Provides for the acquisition of waterfront property or the assembly of waterfront property consistent with a waterfront redevelopment plan.
- (d) Provides public infrastructure and public facility improvements to waterfront property consistent with a waterfront redevelopment plan.

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

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

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

(3) For any grant issued under this part, the department shall require that a local unit of government provide at least 25% of the total project's cost from other public or private funding sources.

(4) A project funded pursuant to this part shall provide for waterfront access to the general public.

**History:** Add. 1998, Act 285, Eff. Dec. 1, 1998  
**Popular Name:** Act 451  
**Popular Name:** NREPA

**324.79503 Waterfront redevelopment plan; preparation.**

Sec. 79503.

A local unit of government that wishes to apply for a grant shall prepare a waterfront redevelopment plan that provides for the improvement of the waterfront. The waterfront redevelopment plan, at a minimum, shall do both of the following:

- (a) Clearly designate the geographic area included within the waterfront planning area.
- (b) Identify the economic impact on the improved area, the surrounding neighborhood, and the region in which the waterfront planning area is located.

**History:** Add. 1998, Act 285, Eff. Dec. 1, 1998  
**Popular Name:** Act 451  
**Popular Name:** NREPA

**324.79504 Grant application.**

Sec. 79504.

A local unit of government that wishes to be considered for a grant shall submit a written grant application to the department in a manner prescribed by the department and containing the information required by the department. The grant application shall also include all of the following:

- (a) A detailed description of the project and how the grant would be used, including any private sector participation.
- (b) A copy of the waterfront redevelopment plan for the area in which the project is to be located.
- (c) An explanation of how the project will contribute significantly to the local unit of government's economic and community redevelopment or the revitalization of adjacent neighborhoods.
- (d) An explanation of how the project will provide for public access to the waterfront or will provide recreational opportunities for the public.
- (e) If the project includes the purchase of property, an identification of the intended use of the property, and a timeline for redevelopment of the property.
- (f) The total cost of the project and the source of the local unit of government's contribution to the project.
- (g) A detailed description of the practices the local unit of government will implement and maintain to control nonpoint source pollution from the project site both during construction activities and throughout the period of time in which the state is paying off the bonds that were issued pursuant to the clean Michigan initiative act.
- (h) Other information that the department and the commission consider relevant.

**History:** Add. 1998, Act 285, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79505 Grant application; review by department and commission.**

Sec. 79505.

Upon receipt of a grant application under section 79504, the department shall forward a copy of the application to the commission. The department and the commission shall jointly review the grant applications. In reviewing grant applications, the department and the commission shall consider all of the following:

- (a) Whether the project proposed to be funded is authorized by this part.
- (b) Whether the grant application submitted complies with this part.
- (c) Whether the project is consistent with the waterfront redevelopment plan for the area in which the project is located.
- (d) Whether the project provides significant public access to the waterfront or provides recreational opportunities for the public.
- (e) Whether the project will significantly contribute to the local unit of government's economic and community redevelopment or the revitalization of adjacent neighborhoods.
- (f) Whether there is evidence of adverse economic and socioeconomic conditions within the waterfront planning area.
- (g) The viability of the waterfront redevelopment plan.
- (h) Whether the project is innovative in comparison to other grant applications.
- (i) The level of public and private commitment and other resources available for the project.
- (j) The level of public and private commitment to other aspects of the waterfront redevelopment plan.
- (k) How the project relates to a broader economic and community development plan for the local unit of government as a whole.
- (l) The level of demonstrated commitment from other governmental agencies.
- (m) The level of public and private commitment to improving abandoned real property within the waterfront planning area in which the project is located.
- (n) Other criteria that the department and the commission consider relevant.

**History:** Add. 1998, Act 285, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79506 Issuance of grants.**

Sec. 79506.

The department, with the approval of the commission, shall issue grants under this part for projects that the department determines meet the requirements of this part and will contribute to the revitalization of waterfronts throughout the state that are not being used in a manner that maximizes economic and public value.

**History:** Add. 1998, Act 285, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79507 Recovery of costs.**

Sec. 79507.

The department and the department of attorney general may recover costs expended pursuant to section 79502(1)(a) and all other costs recoverable under part 201 from persons who are liable under part 201. Actions to recover costs shall proceed in the manner provided in part 201.

**History:** Add. 1998, Act 285, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA

### **324.79508 Administration of part.**

Sec. 79508.

Grants made under this part are subject to the applicable requirements of part 196. The department shall administer this part in compliance with the applicable requirements of part 196, including the reporting requirements to the legislature of the grants provided under this part.

**History:** Add. 1998, Act 285, Eff. Dec. 1, 1998

**Popular Name:** Act 451

**Popular Name:** NREPA