

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Part 196

CLEAN MICHIGAN INITIATIVE IMPLEMENTATION

324.19601 Definitions.

Sec. 19601.

As used in this part:

- (a) "Baseline environmental assessment" means that term as defined in sections 20101 and 21302.
- (b) "Bonds" means the bonds authorized under the clean Michigan initiative act, 1998 PA 284, MCL 324.95101 to 324.95108.
- (c) "Brownfield project" or "project" means the entire project to be undertaken, including, but not limited to, the actual site remediation and its resulting economic development.
- (d) "Chief executive officer" means the mayor of a city, the village manager of a village, the township supervisor of a township, or the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners.
- (e) "Corrective action" means that term as it is defined in section 21302.
- (f) "Department" means the department of environmental quality.
- (g) "Due care activities" means those activities conducted under sections 20107a and 21304c.
- (h) "Eligible activities" for projects with funding allocated under section 19608(1)(a)(iv) means:
 - (i) Baseline environmental assessment activities.
 - (ii) Investigations.
 - (iii) Due care activities.
 - (iv) Response activities, including response activities that are more protective of the public health, safety, and welfare and the environment than required by section 20107a or 21304c.
 - (v) Removal and closure of underground storage tanks pursuant to parts 211 and 213.
 - (vi) Dust control related to construction activities.
 - (vii) Industrial cleaning.
 - (viii) Sheeting and shoring necessary for the removal of materials exceeding part 201 cleanup criteria at projects requiring a permit under part 301, 303, or 325.
- (ix) The following activities, provided that the total cost of these activities does not exceed the total cost of project-related activities identified in subparagraphs (i) to (viii):
 - (A) Disposal of solid waste, as defined in part 115, from the eligible property, provided it was not generated or accumulated by the authority or the developer.
 - (B) Lead, asbestos, or mold abatement, and demolition of structures that are not a response activity.
 - (C) Removal and disposal of lake or river sediments exceeding part 201 unrestricted criteria from, at, or related to an economic development project if the upland property either is a facility or would become a facility as a result of the deposition of dredged spoils.
- (i) "Eligible property" for projects with funding allocated under section 19608(1)(a)(iv) means property that is known or suspected to be a facility under part 201 or a site or property under part 213 and that was used or is currently being used for commercial, industrial, public, or residential purposes.
- (j) "Facility" means that term as it is defined in part 201.
- (k) "Fund" means the clean Michigan initiative bond fund created in section 19606.
- (l) "Gaming facility" means a gaming facility regulated under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.
- (m) "Local unit of government" means a county, city, village, or township, or an agency of a county, city, village, or township; or a brownfield redevelopment authority, economic development corporation, or an authority or other public body created by or pursuant to state law.
- (n) "Measurable economic benefit" means the permanent jobs that are created or retained, the capital invested, or the increased tax base to the applicable county, city, village, and township where the project is located.
- (o) "Measurable environmental benefit" means the extent that the requirements of part 201 or part 213, or both, are advanced at a brownfield project where environmental conditions inhibit the site's redevelopment or reuse.
- (p) "Part 213 property" means a property as defined in section 21303.
- (q) "Response activity" means that term as it is defined in part 201 or corrective action as defined in part 213.

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

Popular Name: Act 451

Popular Name: NREPA

324.19602 Findings and declaration.

Sec. 19602.

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

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

Popular Name: Act 451

Popular Name: NREPA

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

Sec. 19603.

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

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

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

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

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

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

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

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

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

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

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

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

board.

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

Popular Name: Act 451

Popular Name: NREPA

324.19604 Bonds as negotiable and exempt from taxation.

Sec. 19604.

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

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

Popular Name: Act 451

Popular Name: NREPA

324.19605 Bonds as securities; investment of funds.

Sec. 19605.

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

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

Popular Name: Act 451

Popular Name: NREPA

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

Sec. 19606.

- (1) The clean Michigan initiative bond fund is created in the state treasury.
- (2) The fund shall consist of all of the following:
 - (a) The proceeds of sales of the bonds and any premium and accrued interest received on the delivery of the bonds.
 - (b) Any interest or earnings generated by the proceeds described in subdivision (a).
 - (c) Any repayment of principal and interest made under a loan program authorized in this part.
 - (d) Any federal or other funds received.
- (3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

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

Popular Name: Act 451

Popular Name: NREPA

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

Sec. 19607.

- (1) The total proceeds of all bonds shall be deposited into the fund and allocated as follows:
 - (a) Not more than \$335,000,000.00 shall be used for eligible activities at facilities and part 213 properties.
 - (b) Not more than \$50,000,000.00 shall be used for waterfront improvements.
 - (c) Not more than \$25,000,000.00 shall be used for remediation of contaminated lake and river sediments.
 - (d) Not more than \$50,000,000.00 shall be used for nonpoint source pollution prevention and control projects or wellhead protection projects.
 - (e) Not more than \$90,000,000.00 shall be used for water quality monitoring and water resources protection and pollution control activities.
 - (f) Not more than \$20,000,000.00 shall be used for pollution prevention programs.
 - (g) Except as provided under subsection (1)(a), not more than \$5,000,000.00 shall be used to abate lead hazards.
 - (h) Not more than \$50,000,000.00 shall be used for state park infrastructure improvements.
 - (i) Not more than \$50,000,000.00 shall be used for local recreation projects.
- (2) The state treasurer shall direct the investment of the fund. Except as may be required to maintain the exclusion from gross income of the interest paid on the bonds or to comply otherwise with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be allocated in the same proportion as earned on the investment of the proceeds of the bond issue.
- (3) Except as may be required to maintain the exclusion from gross income of the interest paid on the bonds or to comply otherwise with state or federal law, all repayments of principal and interest earned under a loan program authorized by this part shall be credited to the appropriate restricted subaccount of the fund and used for the purposes authorized for that subaccount or to pay debt service on any obligation issued which pledges the loan repayments and the proceeds of which are deposited in that subaccount.
- (4) The bond proceeds shall be expended in an appropriate manner that maintains the tax exempt status of the bonds.
- (5) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.
- (6) The department shall provide an annual accounting of bond proceeds spending on a cash basis to the department of treasury in order for the state to comply with requirements set forth for issuing tax exempt bonds, including arbitrage rebate calculations. This accounting shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate.

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

Popular Name: Act 451

Popular Name: NREPA

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

Sec. 19608.

- (1) Money in the fund that is allocated under section 19607 shall be used for the following purposes:
 - (a) Money allocated under section 19607(1)(a) shall be used by the department to fund all of the following:
 - (i) Corrective actions undertaken by the department to address releases from leaking underground storage tanks pursuant to part 213.
 - (ii) Response activities undertaken by the department at facilities pursuant to part 201 to address public health and environmental problems or to promote redevelopment.
 - (iii) Assessment activities undertaken by the department to determine whether a property is a facility.
 - (iv) \$75,000,000.00 shall be used to provide grants and loans to local units of government for eligible activities at eligible properties with redevelopment potential. Of the money provided for in this subparagraph, not more than

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The department, the department of natural resources, and the department of health and human services shall each submit annually a list of all projects that will be undertaken by that department that are recommended to be funded under this part. The list shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate. The list shall be submitted to the legislative committees not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. For each eligible project, the list shall include the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the

eligible project; and other information considered pertinent by the administering state department. A project that is funded by a grant or loan with money from the fund does not need to be included on the list submitted under this subsection. However, money in the fund that is appropriated for grants and loans shall not be encumbered or expended until the administering state department has reported those projects that have been approved for a grant or a loan to the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment and to the appropriations subcommittees in the house of representatives and the senate on natural resources and environmental quality. The department shall post on its website the criteria it will use in evaluating and recommending projects for funding under this part.

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

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

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

Popular Name: Act 451

Popular Name: NREPA

324.19608a Clean Michigan initiative grant and revolving loan program.

Sec. 19608a.

(1) The department shall create a clean Michigan initiative grant and revolving loan program for the purpose of making grants and loans to local units of government under section 19608(1)(a)(iv) for eligible activities at eligible properties with redevelopment potential.

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

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

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

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

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

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

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

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

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

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

Popular Name: Act 451

Popular Name: NREPA

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

Sec. 19608b.

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

- (a) An applicant must be a local unit of government.
- (b) A recipient is not eligible to receive more than the following:
 - (i) Except as provided in subparagraphs (iii) and (iv), 1 grant per year, not to exceed \$1,000,000.00 per grant.
 - (ii) Except as provided in subparagraphs (iii) and (iv), 1 loan per year, not to exceed \$1,000,000.00 per loan.
 - (iii) Brownfield projects that have significant economic and environmental benefit may be considered for more than 1 grant or loan over consecutive years, provided that the loan or grant agreement includes project-specific benchmarks for eligible activities and failure to satisfy a benchmark would terminate the project's eligibility for additional grant or loan funding, as applicable.
 - (iv) A local unit of government may be considered for and awarded more than 1 grant or loan in a single year relating to multiple unrelated brownfield projects if the projects are determined to have significant environmental or economic benefits to the recipient's municipality or region.
- (c) Except for a grant described in section 19608a(2), the department may award a grant only if it determines that both of the following apply:
 - (i) The property is an eligible property.
 - (ii) The proposed development of the property is expected to result in measurable economic benefit in excess of the grant amount requested by the applicant.
- (d) The department may award a loan only if it determines that both of the following apply:
 - (i) The property is known or suspected to be an eligible property.
 - (ii) The property has economic development potential based on the applicant's planned use of the property.
- (e) The department may approve funding for response activities that are more protective of the public health, safety, and welfare and the environment than required by section 20107a or 21304c if those activities provide public health or environmental benefit. In its review of a work plan that includes activities that are more protective of the public health, safety, and welfare and the environment, the department may consider, but is not limited to, all of the following:
 - (i) Proposed new land use and reliability of restrictions to prevent exposure to contamination.
 - (ii) Cost of implementation activities minimally necessary to satisfy due care requirements, the incremental cost of response activities relative to the cost of activities minimally necessary to satisfy due care requirements, and the total cost of all response activities.
 - (iii) Long-term obligations associated with leaving contamination in place and the value of reducing or eliminating these obligations.
- (f) A grant or loan shall not be used to fund response activities that benefit a party that is responsible for an activity causing a release at the eligible property, except that a loan may be used to fund appropriate response activities related to redevelopment and due care activities necessary to facilitate redevelopment of the property if the party that is responsible for an activity causing a release at the eligible property meets all of the following:
 - (i) Is a local unit of government.
 - (ii) Has a proposed redevelopment for the property with measurable economic benefit.
 - (iii) Provides a minimum of 50% local matching funds for the project.
- (g) A grant or loan may be used to fund due care activities necessary to facilitate redevelopment if the party responsible for an activity causing a release is not the developer of proposed redevelopment.
- (h) A loan may be used to fund response activities if both of the following are met:
 - (i) A party responsible for an activity causing a release is neither the seller nor the developer of the property to receive funding.
 - (ii) The recipient can show that response activities are appropriate in relation to the redevelopment.

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

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

Sec. 19609.

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

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

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

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

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

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

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

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

(iv) The location of the property.

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

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

(vii) The current use of the property.

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

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

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

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

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

(xiii) Any other relevant information the department requires.

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

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

Sec. 19610.

(1) Upon receipt of a grant or loan application, for funding provided under section 19608(1)(a)(iv), the department shall review the application based on the following considerations:

(a) Whether the brownfield project proposed to be funded is authorized by this part.

(b) Whether the brownfield project is consistent with the local planning and zoning for the area in which the project is located.

(c) Whether the brownfield project provides measurable environmental benefit.

(d) Whether the brownfield project provides measurable economic benefit or will significantly contribute to the local unit of government's economic and community redevelopment or the revitalization of adjacent neighborhoods.

(e) The viability of the redevelopment plan.

(f) The level of public and private commitment and other resources available for the project.

(g) How the brownfield project relates to a broader economic and community development plan for the local unit of government as a whole.

(h) Other criteria that the department considers relevant.

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

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

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

Sec. 19610a.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

324.19611 Balancing distribution of grants and loans; considerations.

Sec. 19611.

(1) Prior to making a grant or loan with money from the fund, the administering state department shall consider the extent to which the making of the grant or loan contributes to the achievement of a balanced distribution of grants and loans throughout the state.

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

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

Popular Name: Act 451

Popular Name: NREPA

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

Sec. 19612.

- (1) A recipient of a grant or a loan made with money from the fund shall do both of the following:
 - (a) Keep an accounting of the money spent on the project or facility in a generally accepted manner. The accounting is subject to a postaudit.
 - (b) Obtain authorization from the administering state department before implementing a change that significantly alters the proposed project.
- (2) The administering state department may revoke a grant or a loan made with money from the fund or withhold payment if the recipient fails to comply with the terms and conditions of the grant or loan agreement or with the requirements of this part or the rules promulgated under this part, or with other applicable law or rules. If a grant or loan is revoked, the administering state department may recover all funds awarded.
- (3) The administering state department may withhold a grant or a loan until the administering state department determines that the recipient is able to proceed with the proposed project.
- (4) To assure timely completion of a project, the administering state department may withhold 10% of the grant or loan amount until the project is complete.
- (5) If an approved applicant fails to sign a grant or loan agreement within 90 days after receipt of a written grant or loan offer by the administering state department, the administering state department may cancel the grant or loan offer. The applicant may not appeal or contest a cancellation pursuant to this subsection.
- (6) The administering state department may terminate a grant or loan agreement and require immediate repayment of the grant or loan if the recipient uses grant or loan funds for any purpose other than for the approved activities specified in the grant or loan agreement. The administering state department shall provide the recipient written notice of the termination 30 days prior to the termination.
- (7) A loan made with money in the fund must be made on the following terms:
 - (a) A loan interest rate of not more than 50% of the prime rate as determined by the administering state department as of the date of approval of the loan.
 - (b) Loan recipients shall repay loans in equal annual installments of principal and interest beginning not later than 5 years after the first draw of the loan and concluding not later than 15 years after the first draw of the loan.
 - (c) A loan recipient shall enter into a loan agreement with the administering state department.
 - (d) Upon default of a loan, as determined by the administering state department, or upon the request of the loan recipient as a method to repay the loan, the department of treasury shall withhold from state payments payable to the loan recipient amounts consistent with the repayment schedule in the loan agreement until the loan is repaid. The department of treasury shall deposit the withheld or collected money into the fund until the loan is repaid.
- (8) Upon request of a loan recipient and a showing of financial hardship related to the project that was financed in whole or in part by the loan, the administering state department may renegotiate the terms of any outstanding loan, including the length of the loan, the interest rate, and the repayment terms. However, the administering state department shall not reduce or eliminate the amount of the outstanding loan principal. The department shall report to the legislature the number of loans refinanced under this subsection, the local unit of government or authority responsible for each loan refinanced, and the change in the terms of the loan, as appropriate. This information may be included in the report prepared by the department under section 16 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2666.
- (9) Loan payments and interest shall be deposited in the fund.

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

Popular Name: Act 451

Popular Name: NREPA

324.19613 Grants and loans under MCL 324.19608; conditions.

Sec. 19613.

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

- (a) A recipient of a grant shall receive not more than 1 grant per year not to exceed \$1,000,000.00 per grant.
- (b) A recipient of a loan shall receive a maximum of 1 loan per year not to exceed \$1,000,000.00 per loan.
- (c) A grant shall be awarded only if the department determines that both of the following apply:
 - (i) The property is a facility as defined in section 20101.
 - (ii) The proposed development of the property will result in measurable economic benefit in excess of the grant amount requested by the applicant.
- (d) A loan shall be awarded only if the department determines that both of the following apply:
 - (i) The property is a facility as defined in section 20101 or is suspected of being a facility.
 - (ii) The property has economic development potential based on the applicant's planned use of the property.

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

Popular Name: Act 451

Popular Name: NREPA

324.19614 Recovery of costs.

Sec. 19614.

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

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

Popular Name: Act 451

Popular Name: NREPA

324.19615 Performance audit.

Sec. 19615.

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

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

Popular Name: Act 451

Popular Name: NREPA

324.19616 Rules.

Sec. 19616.

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

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

Popular Name: Act 451
Popular Name: NREPA