

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Part 49

CONSTRUCTION OF COLLECTING SEWERS

324.4901 Definitions.

Sec. 4901.

As used in this part:

(a) "Collecting sewers" means lateral, branch, submain, and trunk sewers consisting of pipes or conduits including pumps, lift stations, force mains, and other appurtenances necessary for a system to prevent or eliminate discharges of raw or inadequately treated sewage of human origin into any waters of the state. Collecting sewers do not include pipes or conduits that carry storm water, surface water, and street wash, or that convey sewage from a building to a common public sewer except that part lying within a public right-of-way; and sewers eligible for grants under Act No. 329 of the Public Acts of 1966, being sections 323.111 to 323.128 of the Michigan Compiled Laws.

(b) "Construction" means the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary to the construction of collecting sewers; the installation, erection, and building of collecting sewers; and the inspection and supervision of the construction of such sewers. Construction does not include acquisition of lands and rights-of-way.

(c) "Local agencies" means local units of government or other public bodies created by or pursuant to state law and having jurisdiction over collecting sewers.

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

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Environmental Assistance Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular Name: Act 451

Popular Name: NREPA

324.4902 State sewer construction fund; grants; funding.

Sec. 4902.

Grants to local agencies shall be funded from the state sewer construction fund for collecting sewer projects in the descending order of their priority as established by the department under sections 4909 to 4912.

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

Popular Name: Act 451

Popular Name: NREPA

324.4903 State sewer construction fund; establishment; eligibility.

Sec. 4903.

A fund to be known as the state sewer construction fund is established to be used for state grants to local agencies for their construction of collecting sewers. Grants shall be made only for collecting sewers on which contracts for construction were awarded prior to the exhaustion of the fund.

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

Popular Name: Act 451

Popular Name: NREPA

324.4904 State sewer construction fund; disposition.

Sec. 4904.

The proceeds of the sale of \$50,000,000.00 of the bonds authorized by former Act No. 76 of the Public Acts of 1968 or part 45, or any series of the bonds, and any premiums and accrued interest received on the delivery of the bonds, shall be deposited with the state treasurer in the state sewer construction fund. Disbursements from the fund shall be made only for specific eligible collecting sewer projects approved, as provided in section 4912, by the appropriations committees and by the legislature by concurrent resolution adopted by a roll call vote of a majority of the members elected to and serving in each house. A concurrent resolution shall include all or part of the projects on the priority list of eligible projects reported to the legislature by the department as provided in section 4912, but in case of a part only it shall be the entire part containing all projects on the list having priorities higher than those of projects not included in the resolution and shall not include projects lower in the order of priority. The income from temporary investments of the proceeds shall be deposited in the general fund.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 1995, Act 61, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4905 Grants; application; amount; limitations.

Sec. 4905.

(1) A local agency may apply to the department for a grant under this part.

(2) A grant shall be made in an amount equal to 1/2 that portion of the cost of construction of collecting sewers, computed upon the cost of the current year's project only, in excess of 10% of the state equalized value of all taxable property within the political boundaries of the unit of government served by the collecting sewers certified under subsection (2) of section 4906 or \$1,000,000.00, whichever is less.

(3) Grants are subject to the following limitations:

(a) A grant shall not be made for collecting sewers required under the subdivision control act of 1967, Act No. 288 of the Public Acts of 1967, being sections 560.101 to 560.293 of the Michigan Compiled Laws.

(b) A grant shall not be made for collecting sewers for which a federal grant has been made if the amount of the federal grant equals or exceeds the amount of the state grant that the collecting sewers would have received if there had been no federal grant. If the amount of the federal grant made for the collecting sewers is less than the amount of the state grant that the collecting sewers would have received if there had not been a federal grant, the amount of the state grant made for the collecting sewers shall not exceed the difference between the state grant that the collecting sewers would have received if there had not been a federal grant, and the federal grant.

(c) A grant shall not be made for collecting sewers, the construction of which would result in the discharge of untreated or inadequately treated sewage to the waters of the state.

(d) A grant shall not be made unless the local agency has received approval by the department of an official pollution control plan as required by sections 7 and 8 of Act No. 329 of the Public Acts of 1966, being sections 323.117 and 323.118 of the Michigan Compiled Laws, and the collecting sewers are in conformity with the official plan.

(e) A grant shall not be made for collecting sewers which the department determines would not meet an existing or imminent need or would constitute a noneconomic or speculative project.

(f) A local agency shall not be allotted more than 2% of the fund.

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

Popular Name: Act 451

Popular Name: NREPA

324.4906 State sewer construction fund; disbursements.

Sec. 4906.

(1) Disbursements from the state sewer construction fund shall be made by the director of the department of management and budget and the state treasurer in accordance with the accounting laws of the state only for the following purposes for which the bonds have been authorized:

- (a) Expense of issuing the bonds.
- (b) Grants to local agencies as provided in section 4905(2) and (3).

(2) Before any disbursement from the fund, as provided in subsection (3), is made to a local agency for a grant for the construction of collecting sewers, the department shall certify to the director of the department of management and budget and the state treasurer the amount of the grant which the agency is eligible to receive under this part. The certificate shall include or have attached to it a certificate by the department, or by the department of public health when so requested by the department, of the necessity and sufficiency of the collecting sewers.

(3) A disbursement from the fund to a local agency shall be made for projects on the priority list established under sections 4904 and 4912 upon certification to the director of the department of management and budget and the state treasurer by the department that the disbursement is due. A local agency may request and receive disbursement of the state grant in not more than 5 installments:

(a) An installment of 50% of the reasonable cost for preparing completed final construction plans and specifications, but not to exceed the amount of the grant, for the collecting sewers which have been certified as eligible for a state grant, on issuance of a construction permit by the department of public health for the collecting sewers for which the construction plans and specifications have been prepared and on receipt of evidence satisfactory to the department of the local agency's ability and intent to finance the local share of the project cost. A disbursement shall not be made under this subsection to a local agency which has received federal or other state grants for the preparation of final plans and specifications.

(b) An installment when not less than 25% of the cost of construction of the collecting sewers is completed.

(c) An installment when not less than 50% of the cost of construction of the collecting sewers is completed.

(d) An installment when not less than 75% of the cost of construction of the collecting sewers is completed.

(e) A final installment of the unpaid balance of the grant based upon the actual cost of the collecting sewers when construction is completed.

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

Popular Name: Act 451

Popular Name: NREPA

324.4907 Rules.

Sec. 4907.

The department may promulgate rules to implement this part.

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

Popular Name: Act 451

Popular Name: NREPA

324.4908 State agencies; officers and employees; use; purpose; grant recipients; records.

Sec. 4908.

(1) The department, with consent of the head of any other agency of this state, shall use the officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this part.

(2) A recipient of a grant under this part shall keep records as the department prescribes, including records that fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of construction

of the collecting sewers in connection with the grant given or used, and the amount of that portion of the cost of construction of the collecting sewers supplied by other sources, and other records as will facilitate an effective audit. The department, the auditor general, and the state treasurer or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to grants received under this part.

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

Popular Name: Act 451

Popular Name: NREPA

324.4909 Priority establishment and project certification procedures; compliance prerequisite to grant.

Sec. 4909.

Notwithstanding any other provision of this part or of any rule of the department, compliance with sections 4909 to 4912 is a prerequisite to the making of a grant under this part. Sections 4909 to 4912 provide procedures for establishing the priority of eligible projects and for certifying projects for grants for construction of collecting sewers.

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

Popular Name: Act 451

Popular Name: NREPA

324.4910 Collecting sewer projects; pollution control needs; assignment of points.

Sec. 4910.

(1) Points assigned to a collecting sewer project as a complete measure of pollution control needs shall not exceed 15.

(2) Two points shall be assigned for each of the following interests subject to pollution-caused injuries, which injuries will be corrected or substantially lessened by the proposed project:

- (a) Public health, safety, or welfare, but not including bathing.
- (b) Public water supply for domestic use.
- (c) Water supply for commercial or industrial use.
- (d) Irrigation or livestock water supply for agricultural use.
- (e) Organized public recreational use including bathing.
- (f) Aesthetic value or utility of riparian lands.
- (g) Water supply for wild animals, birds, and fish and adverse effects on aquatic life or plants.
- (h) Usefulness of fish or game for human consumption.

(3) Collecting sewers required to be constructed in compliance with a judgment rendered by a court of competent jurisdiction, a stipulation or an order of the department, or an agreement with the department of public health shall be assigned from 1 to 4 points in accordance with the following schedule, if the stipulation, order, or agreement specifically recites the existence of unlawful pollution and was in effect not less than 30 days before the deadline for filing applications and if the pollution abatement date is such that compliance would make it necessary to start construction during the year ending:

- (a) June 30 of the fiscal year for which the application is filed, 4 points.
- (b) June 30 of the first succeeding fiscal year, 3 points.
- (c) June 30 of the second succeeding fiscal year, 2 points.
- (d) June 30 of the third succeeding fiscal year, 1 point.

(4) An applicant in default of a performance date specified by an order, stipulation, or agreement may be assigned points under the preceding schedule only at the discretion of the department.

(5) A collecting sewer project for which construction contracts were awarded before the deadline date for filing applications shall be assigned 4 points. The combined total points assigned pursuant to subsections (3) to (5) shall not exceed 4 points.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
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324.4911 Total priority points; computation; tied projects; assignment of priority.

Sec. 4911.

(1) Total priority points for a collecting sewer project shall be the sum of the points assigned for water pollution control needs.

(2) If 2 or more projects receive the same priority point totals, the department shall assign priorities to the tied projects after considering factors such as waters affected, extent of public interests involved, relative magnitude of pollution injury, and other factors as the department considers appropriate.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.4912 Fiscal year; filing application for grant; assignment of point total; certification of projects; condition of certification; time extensions; validity of application; report to legislature; approval or rejection of projects.

Sec. 4912.

(1) For the purposes of sections 4909 to 4912, the fiscal year is July 1 to June 30.

(2) Applications for collecting sewer construction grants and official pollution control plans required by sections 7 and 8 of Act No. 329 of the Public Acts of 1966, being sections 323.117 and 323.118 of the Michigan Compiled Laws, shall be filed with the department not later than September 15 preceding the period or fiscal year for which the application is filed. Applications postmarked not later than midnight of September 15 meet this requirement.

(3) A point total shall be assigned by the department to each application that has been timely filed and conforms to the requirements of this part no later than the following January 1.

(4) Projects entitled to construction grants shall be certified to the director of the department of management and budget and the state treasurer from the eligibility list established by the department and as approved by the legislature. Certification shall be made following approval by the legislature.

(5) Certification of a project for a grant is subject to the condition that construction contracts for the project be awarded not later than March 1 of the fiscal year for which application for a state grant has been filed. Failure to comply with this condition of certification is cause for the department to take any action necessary to withdraw any grant offer that may have been obligated to such project. However, on a showing satisfactory to the department that the project will proceed within an extended period, the department may allow 30-day extensions totaling not more than 90 days.

(6) Except as otherwise provided in this part, an application for a collecting sewer construction grant filed with the department is valid only for the fiscal year for which the application is filed.

(7) The department shall report to the legislature by January 15 of each year a list of collecting sewer projects eligible for grants, the points and priorities assigned to them pursuant to this part, a list of projects that are recommended to be funded, and a list of projects which failed to comply with the conditions of certifications set forth in subsection (5) and on which the department has taken action to withdraw offers of state grants. If legislative approval or rejection of eligible projects is not given each year within 45 days after receipt of the department's list of eligible projects, the department list shall be considered approved.

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