

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Part 59

AIR POLLUTION CONTROL FACILITY; TAX EXEMPTION

324.5901 "Facility" defined.

Sec. 5901.

As used in this part, "facility" means machinery, equipment, structures, or any part or accessories of machinery, equipment, or structures, installed or acquired for the primary purpose of controlling or disposing of air pollution that if released would render the air harmful or inimical to the public health or to property within this state. Facility includes an incinerator equipped with a pollution abatement device in effective operation. Facility does not include an air conditioner, dust collector, fan, or other similar facility for the benefit of personnel or of a business. Facility also means the following, if the installation was completed on or after July 23, 1965:

(a) Conversion or modification of a fuel burning system to effect air pollution control. The fuel burner portion only of the system is eligible for tax exemption.

(b) Installation of a new fuel burning system to effect air pollution control. The fuel burner portion only of the system is eligible for tax exemption.

(c) A process change involving production equipment made to satisfy the requirements of part 55 and rules promulgated under that part. The maximum cost allowed shall be 25% of the cost of the new process unit but shall not exceed the cost of the conventional control equipment applied on the basis of the new process production rate on the preexisting process.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.5902 Tax exemption certificate; application; contents; approval; notice; hearing; tax exemption.

Sec. 5902.

(1) An application for a pollution control tax exemption certificate shall be filed with the state tax commission in a manner and in a form as prescribed by the state tax commission. The application shall contain plans and specifications of the facility, including all materials incorporated or to be incorporated in the facility and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of pollution control, together with the proposed operating procedure for the control facility.

(2) Before issuing a certificate, the state tax commission shall seek approval of the department and give notice in writing by certified mail to the department of treasury and to the assessor of the taxing unit in which the facility is located or to be located, and shall afford to the applicant and the assessor an opportunity for a hearing. Tax exemption granted under this part shall be reduced to the extent of any commercial or productive value derived from any materials captured or recovered by any air pollution control facility as defined in this part.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.5903 Tax exemption certificate; findings of department; notice to state tax commission; issuance and effective date of certificate.

Sec. 5903.

If the department finds that the facility is designed and operated primarily for the control, capture, and removal of pollutants from the air, and is suitable, reasonably adequate, and meets the intent and purposes of part 55 and

rules promulgated under that part, the department shall notify the state tax commission, which shall issue a certificate. The effective date of the certificate is the date on which the certificate is issued.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.5904 Tax exemptions; statement in certificate.

Sec. 5904.

(1) For the period subsequent to the effective date of the certificate and continuing as long as the certificate is in force, a facility covered by the certificate is exempt from real and personal property taxes imposed under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(2) Tangible personal property purchased and installed as a component part of the facility is exempt from both of the following:

(a) Sales taxes imposed under the general sales tax act, Act No. 167 of the Public Acts of 1933, being sections 205.51 to 205.78 of the Michigan Compiled Laws.

(b) Use taxes imposed under the use tax act, Act No. 94 of the Public Acts of 1937, being sections 205.91 to 205.111 of the Michigan Compiled Laws.

(3) The certificate shall state the total acquisition cost of the facility entitled to exemption.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.5905 Tax exemption certificate; issuance; mailing to applicant, local tax assessors, and treasury department; filing; notice of refusal.

Sec. 5905.

The state tax commission shall send an air pollution control tax exemption certificate, when issued, by certified mail to the applicant, and certified copies by certified mail to the assessor of the taxing unit in which any property to which the certificate relates is located or to be located and to the department of treasury, which copies shall be filed of record in their offices. Notice of the state tax commission's refusal to issue a certificate shall be sent by certified mail to the applicant, to the department of treasury, and to the assessor.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.5906 Tax exemption certificate; modification or revocation; grounds; notice and hearing; statute of limitations.

Sec. 5906.

(1) The state tax commission, on notice by certified mail to the applicant and opportunity for a hearing, shall, on its own initiative or on complaint of the department, the department of treasury, or the assessor of the taxing unit in which any property to which the certificate relates is located, modify or revoke the certificate if any of the following appear:

- (a) The certificate was obtained by fraud or misrepresentation.
 - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of a facility or to operate the facility for the purpose and degree of control specified in the certification or an amended certificate.
 - (c) The facility covered by the certificate is no longer used for the primary purpose of pollution control and is being used for a different purpose.
 - (d) Substantial noncompliance with part 55 or any rule promulgated under that part.
- (2) On the mailing by certified mail to the certificate holder, the department of treasury, and the local assessor of notice of the action of the state tax commission modifying or revoking a certificate, the certificate shall cease to be in force or shall remain in force only as modified. If a certificate is revoked because it was obtained by fraud or misrepresentation, all taxes that would have been payable if a certificate had not been issued are immediately due and payable with the maximum interest and penalties prescribed by applicable law. A statute of limitations shall not operate in the event of fraud or misrepresentation.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.5907 Tax exemption certificate; refusal; appeal.

Sec. 5907.

A party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax exemption certificate may appeal from the finding and order of the state tax commission in the manner and form and within the time provided by the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.5908 State tax commission; rules; administration of part.

Sec. 5908.

The state tax commission may adopt rules as it considers necessary for the administration of this part. These rules shall not abridge the authority of the department to determine whether or not air pollution control exists within the meaning of this part.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA