

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Part 515

PREVENTION AND SUPPRESSION OF FOREST FIRES

324.51501 Definitions.

Sec. 51501.

As used in this part:

(a) "All hazard incident" means an incident, whether natural or human-caused, that requires an organized response by a public, private, or governmental entity to protect life, public health or safety, or other values or to minimize any disruption of governmental, social, or economic services. One or more kinds of incident, such as fire, flood, mass casualty, search, rescue, or evacuation, may occur simultaneously as part of an all hazard incident.

(b) "Certified prescribed burn manager" means an individual who has successfully completed the certification program of the department under section 51513 and possesses a valid certification number.

(c) "Department" means the department of natural resources.

(d) "Domestic purposes" refers to burning that is any of the following:

(i) A fire within the curtilage of a dwelling where the material being burned has been properly placed in a debris burner constructed of metal or masonry, with a metal covering device with openings no larger than 3/4 of an inch.

(ii) A campfire.

(iii) Any fire within a building.

(e) "Extinguished", in reference to prescribed burning, means that there is no longer any spreading flame.

(f) "Forest land", subject to subdivision (f), means any of the following:

(i) Timber land, potential timber-producing land, or cutover or burned timber land.

(ii) Wetland.

(iii) Prairie or other land dominated by grasses or forbes.

(g) "Forest land" does not include land devoted to agriculture.

(h) "Flammable material" means any substance that will burn, including, but not limited to, refuse, debris, waste forest material, brush, stumps, logs, rubbish, fallen timber, grass, stubble, leaves, fallow land, slash, crops, or crop residue.

(i) "Prescribed burn" or "prescribed burning" means the burning, in compliance with a prescription and to meet planned fire or land management objectives, of a continuous cover of fuels.

(j) "Prescription" means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a burn.

(k) "Primary public safety answering point" means that term as defined in section 102 of the emergency 9-1-1 service enabling act, 1986 PA 32, MCL 484.1102.

(l) "Wetland" means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 529, Imd. Eff. Jan. 3, 2005 ;-- Am. 2017, Act 60, Eff. Sept. 26, 2017 ;-- Am. 2018, Act 80, Eff. June 17, 2018

Compiler's Notes: In subdivision (f), the reference to "subject to subdivision (f)" evidently should read "subject to subdivision (g)."

Popular Name: Act 451

Popular Name: NREPA

324.51502 Department of natural resources; authority; appointment of assistants.

Sec. 51502.

The department shall have charge of the prevention and suppression of forest fires and shall appoint assistants as needed to implement this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.51503 Burning permits; conditions.

Sec. 51503.

(1) At any time the ground is not snow-covered, a person shall not burn any flammable material on or adjacent to forest land, except for domestic purposes, without a permit from the department.

(2) The department shall set the times of day and, consistent with this part, the conditions under which burning for other than domestic purposes on or adjacent to forest land is permitted.

(3) Any person doing any burning on or adjacent to forest land for other than domestic purposes, prior to such burning operations, and at all times while the burning continues, shall take such action in and around the area in which the burning is done so as to prevent the spread of fire as may be required by the department.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.51503b Prescribed burning; liability; requirements.

Sec. 51503b.

(1) Prescribed burning does not constitute a public or private nuisance when conducted in compliance with this part, part 55, and rules promulgated to implement this part or part 55.

(2) Subject to subsections (3) and (4), a property owner or his or her agent conducting prescribed burning is not liable for damage or injury caused by the fire or resulting smoke.

(3) Subsections (1) and (2) apply to a prescribed burn only if all of the following requirements are met:

(a) The landowner or his or her designee has specifically consented to the prescribed burn.

(b) The requirements of section 51503 are met.

(c) There are adequate firebreaks at the burn site and sufficient personnel and firefighting equipment for the control of the fire.

(d) A certified prescribed burn manager is present on site with a copy of the prescription, from ignition of the prescribed burn to its completion.

(e) The damage or injury does not result from the fire escaping the boundary of the area authorized in the permit under section 51503.

(f) The property owner or his or her agent is not grossly negligent.

(4) Subsection (2) does not affect liability for injury to or death of a person engaged in the prescribed burning.

History: Add. 2004, Act 529, Imd. Eff. Jan. 3, 2005

Popular Name: Act 451

Popular Name: NREPA

324.51503c Prescribed burn; notice of location; record of attempts to notify; contents of notice; violation.

Sec. 51503c.

(1) Before conducting a prescribed burn, the department shall attempt to notify by telephone and electronic mail the township supervisor and the primary public safety answering point of each township where the prescribed burn is to take place. The department shall maintain a record of the notification attempts. The notice shall include all of the following:

(a) The location, expected date, and estimated number of acres of the prescribed burn.

(b) The name, electronic mail address, and telephone number of the person in charge of the prescribed burn.

(2) A violation of this section is not subject to section 51512.

History: Add. 2017, Act 60, Eff. Sept. 26, 2017

Popular Name: Act 451

Popular Name: NREPA

324.51504 Acts prohibited.

Sec. 51504.

A person shall not do any of the following:

(a) Dispose of a lighted match, cigarette, cigar, ashes or other flaming or glowing substances, or any other substance or thing that is likely to ignite a forest, brush, grass, or woods fire; or throw or drop from a moving vehicle any such object or substance.

(b) Set fire to, or cause or procure the setting on fire of, any flammable material on or adjacent to forest land without taking reasonable precautions both before and while lighting the fire and at all times after the lighting of the fire to prevent the escape of the fire; or leave the fire before it is extinguished.

(c) Set a backfire or cause a backfire to be set, except under the direct supervision of an established fire control agency or unless it can be established that the setting of the backfire is necessary for the purpose of saving life or valuable property.

(d) Destroy, break down, mutilate, or remove any fire control sign or poster erected by an established fire control agency in the administration of its lawful duties and authorities.

(e) Use or operate on or adjacent to forest land, a welding torch, tar pot, or other device that may cause a fire, without clearing flammable material surrounding the operation or without taking other reasonable precautions necessary to ensure against the starting and spreading of fire.

(f) Operate or cause to be operated any engine, other machinery, or powered vehicle not equipped with spark arresters or other suitable devices to prevent the escape of fire or sparks.

(g) Discharge or cause to be discharged a gun firing incendiary or tracer bullets or tracer charge onto or across any forest land.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.51505 Refuse disposal facilities; devices; conditions; rules.

Sec. 51505.

Any person maintaining or operating a refuse disposal facility shall provide devices and conditions that will promote the safe operation and guard against the escape of fire. The department may promulgate rules for the implementation of this section. This part does not give the department the authority to allow burning of garbage at refuse disposal facilities contrary to part 115.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.51506 Violation of part causing forest or grass fire; violation of MCL 324.51503c; liability; other right of action for damages.

Sec. 51506.

(1) Except as provided in section 51503b, a person who, in violating this part, causes a forest or grass fire is liable for all damages resulting from that fire, including the cost of any governmental unit fighting the fire. This subsection does not apply to a violation by the department of section 51503c.

(2) If the department violates section 51503c, the department is liable for any costs incurred by a township as a result of the prescribed burn.

(3) Except as provided in section 51503b, this part does not affect any other right of action for damages.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 529, Imd. Eff. Jan. 3, 2005 ;-- Am. 2017, Act 60, Eff. Sept. 26, 2017

Popular Name: Act 451

Popular Name: NREPA

324.51507 Extreme fire hazard conditions; proclamation by governor as to use of fire; prohibited acts.

Sec. 51507.

(1) Whenever the governor finds that conditions of extreme fire hazard exist and that it is necessary in the public interest and for the preservation of the public peace, health, and safety, he or she may forbid, by proclamation, the use of fire by any person entering forest lands or lands adjacent to forest lands in parts of the state as he or she considers the public interest requires. The proclamation shall be in full force and effect 24 hours after notice is given by the governor.

(2) During periods described in subsection (1), and in such areas as the governor proclaims, a person shall not do any of the following:

(a) Build a campfire of any nature, except within containers at authorized campgrounds or places of habitation.

(b) Smoke a pipe, cigarette, or cigar, except at places of habitation, authorized improved campgrounds, or in any automobile or truck.

(c) Burn or cause to be burned any flammable material unless he or she first obtains a permit, in writing, to do so as provided in this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.51508 Repealed. 2015, Act 210, Eff. Mar. 14, 2016.

Compiler's Notes: The repealed section pertained to persons subject to call to assistance in emergency.

324.51509 Fire suppression expenses; liability; determination; collection of claim; actions.

Sec. 51509.

(1) Except as provided in section 51503b, a person who sets fire on any land and negligently allows the fire to escape and become a forest or grass fire is liable for all expenses incurred by the state in the suppression of the fire.

(2) The department shall certify, in writing, to the person the claim of the state under subsection (1) and shall list the items of expense incurred in the suppression of the fire. The claim shall be paid within 60 days and, if not paid within that time, the department may bring suit against the person in a court of competent jurisdiction in the county of the residence of the defendant or of any defendant if there is more than 1, for the collection of the claim at any time within 2 years after the fire. If the amount of the claim is cognizable by a circuit court, the department may file the suit in the circuit court of Ingham county, or in the circuit court of the county of the residence of the defendant or any defendant if there is more than 1.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 529, Imd. Eff. Jan. 3, 2005
Popular Name: Act 451
Popular Name: NREPA

324.51510 Prohibited acts; exception.

Sec. 51510.

- (1) A person shall not do any of the following:
- (a) Willfully, maliciously, or wantonly set fire or cause or procure to be set on fire any forest land, lands adjacent to forest land, or flammable material on such forest land.
 - (b) Willfully, maliciously, or wantonly set, throw, or place any device, instrument, paraphernalia, or substance in or adjacent to any forest land with intent to set fire to the land or which in the natural course of events would result in fire being set to the forest land.
- (2) This section does not apply to a prescribed burn conducted in compliance with section 51503b.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 529, Imd. Eff. Jan. 3, 2005
Popular Name: Act 451
Popular Name: NREPA

324.51511 Department of natural resources officer, employee, or agent; right of entry.

Sec. 51511.

Any duly authorized officer, employee, or agent of the department, in the performance of his or her duty, may enter upon or enter into any premises on or in which he or she has reasonable cause to believe a violation of this part is occurring. For purposes of this section, premises shall not include buildings or dwellings.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.51512 Violation of part or rule; penalty.

Sec. 51512.

Any person who violates this part or any rule promulgated under this part is guilty of a misdemeanor. Any person convicted of violating section 51510 is guilty of a felony and upon conviction shall be imprisoned for not more than 10 years or fined not more than \$10,000.00, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.51513 Administration of part; rules; investigations; surveys; construction of part as to other law enforcement agencies and local ordinances and regulations.

Sec. 51513.

(1) The department shall administer this part and shall promulgate rules necessary to implement this part. The department shall adopt rules governing prescribed burning and for certifying and decertifying prescribed burn managers based on their past experience, training, certification by another state, and record of compliance with section 51503b. The department shall submit the proposed rules for public hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, within 6 months after the effective date of the 2004 amendatory act that amended this section.

(2) The department may make, conduct, or participate in investigations and surveys designed to establish the cause of or responsibility for a particular forest fire or forest fire conditions generally.

(3) This part does not limit or otherwise impair the jurisdiction or powers of any other department, agency, or officer of this state to investigate, apprehend, and prosecute violators of this part. This part does not preempt local ordinances or local regulations that are as restrictive or more restrictive than this part, except to the extent the ordinances or regulations conflict with the exemption from liability for, or otherwise apply to either of the following:

(a) Prescribed burns conducted in compliance with section 51503b.

(b) Prescribed burns conducted by a federal agency or state agency on land that the agency is authorized to manage.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 529, Imd. Eff. Jan. 3, 2005

Popular Name: Act 451

Popular Name: NREPA

324.51514 Forest fire and other hazard incidents; control; interstate and federal assistance agreements; employee training considered as work inside state; compensation and benefits.

Sec. 51514.

The department may enter into agreements with other states, territories of the United States, the federal government, Canada, or provinces of Canada to provide assistance and to accept assistance in the control of forest fires and all hazard incidents, including the training of personnel. Any employee of the department assigned to fire control duties and all hazard incidents or training programs outside this state shall be considered the same as working inside this state for purposes of compensation and any other employee benefits.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2018, Act 80, Eff. June 17, 2018

Popular Name: Act 451

Popular Name: NREPA