

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994
MISCELLANEOUS TOPICS
Part 525
SUSTAINABLE FORESTRY ON STATE FORESTLANDS

324.52501 Definitions.

Sec. 52501.

As used in this part:

- (a) "Breast height" means 4.5 feet from highest ground at the base of the tree.
- (b) "Certification" means a process where an independent third party organization assesses and evaluates forest management practices according to the standards of a certification program resulting in an issuance of a certificate of compliance or conformity.
- (c) "Certification program" means a program that develops specific standards that measure whether forest management practices are consistent with principles of sustainable forestry.
- (d) "Conservation" means the wise use of natural resources.
- (e) "Diameter class specifications" means a classification of trees based on the diameter at breast height.
- (f) "Plan" means the forestry development, conservation, and recreation management plan for state forests as provided for in section 52503.
- (g) "Reforestation" means adequate stocking of forestland is assured by natural seeding, sprouting, suckering, or by planting seeds or seedlings.
- (h) "Residual basal area" means the sum of the cross-sectional area of trees 4 inches or greater in diameter measured at breast height left standing within a stand after a harvest.
- (i) "State forest" means state land owned or controlled by the department that is designated as state forest by the director.
- (j) "Sustainable forestry" means forestry practices that are designed to meet present and future needs by employing a land stewardship ethic that integrates the reforestation, managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat, and visual qualities.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 125, Imd. Eff. May 28, 2004

Popular Name: Act 451

Popular Name: NREPA

324.52502 Management of state forest; manner; duties of department.

Sec. 52502.

- (1) The department shall manage the state forest in a manner that is consistent with principles of sustainable forestry.
- (2) In fulfilling the requirements of subsection (1), the department shall do all of the following:
 - (a) Manage forests with consideration of their economic, social, and environmental values by doing all of the following:
 - (i) Broadening the implementation of sustainable forestry by employing an array of economically, environmentally, and socially sound practices in the conservation of forests, using the best scientific information available.
 - (ii) Promoting the efficient utilization of forest resources.
 - (iii) Broadening the practice of sustainable forestry by cooperating with forestland owners, wood producers, and consulting foresters.
 - (iv) Where appropriate, promoting working forests for the production of forest products and ecological value.
 - (v) Actively managing for enhanced wildlife habitat.
 - (b) Conserve and protect forestland by doing all of the following:
 - (i) Ensuring long-term forest productivity and conservation of forest resources through prompt reforestation, soil conservation, afforestation, and other measures.
 - (ii) Protecting the water quality in streams, lakes, and other water bodies in a manner consistent with the

department's best management practices for water quality.

(iii) Managing the quality and distribution of wildlife habitats, contributing to the conservation of biological diversity, implementing stand and landscape-level measures that promote habitat diversity and the conservation of forest plants and animals, including aquatic flora and fauna and unique ecosystems, while giving due consideration to loss of economic values.

(iv) Managing forests to mitigate or minimize impacts from wildfire, pests, diseases, and other damaging agents.

(v) Managing areas of ecologic, geologic, cultural, or historic significance in a manner that recognizes their special qualities.

(vi) Managing activities in high conservation value forests by maintaining or enhancing the attributes that define those forests, while giving due consideration to loss of economic values.

(c) Communicate to the public by doing all of the following:

(i) Publicly reporting the department's progress in fulfilling its commitment to sustainable forestry.

(ii) Informing the public of the positive aspects of managed forests.

(iii) Providing opportunities for persons to participate in the commitment to sustainable forestry.

(iv) Preparing, implementing, and keeping current a management plan that clearly states the long-term objectives of management and the means of achieving those objectives.

(d) Promote continual improvement in the practice of sustainable forestry and monitor, measure, and report performance in achieving sustainable forestry.

(e) Consider the local community surrounding state forestland by doing both of the following:

(i) Requiring that forest management plans and operations comply with applicable federal and state laws.

(ii) Requiring that forest management operations maintain or enhance the long-term social and economic well-being of forest workers and local communities.

History: Add. 2004, Act 125, Imd. Eff. May 28, 2004 ;-- Am. 2018, Act 238, Eff. Sept. 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.52503 Forestry development, conservation, and recreation management plan.

Sec. 52503.

(1) The department shall adopt a forestry development, conservation, and recreation management plan for state-owned lands owned or controlled by the department. Parks and recreation areas, state game areas, and other wildlife areas on these lands shall be managed according to their primary purpose. Subject to subsection (2)(g), the department may update the plan as the department considers necessary or appropriate. The plan and any plan updates shall be consistent with section 52502 and shall be designed to ensure a stable, long-term, sustainable timber supply from the state forest as a whole.

(2) The plan and any plan updates shall include all of the following:

(a) An identification of the interests of local communities, outdoor recreation interests, the tourism industry, and the forest products industry.

(b) Methods to promote and encourage the use of the state forest for outdoor recreation, tourism, and the forest products industry.

(c) A landscape management plan for the state forest incorporating biodiversity conservation goals, indicators, and measures.

(d) Standards for sustainable forestry consistent with section 52502.

(e) An identification of environmentally sensitive areas.

(f) An identification of the need for forest treatments to maintain and sustain healthy, vigorous forest vegetation and quality habitat for wildlife and environmentally sensitive species.

(g) Yearly harvest objectives for all state forest land by forest region for a 10-year period. At least every 5 years, the department shall review the yearly harvest objectives. At least once every 10 years, the department shall update the yearly harvest objectives for all state forest land for a 10-year period. The department shall post and maintain the current yearly harvest objectives on the department's website. The harvest objectives for each forest region shall not exceed the sustainable yields. In setting harvest objectives, the department may consider physical, biological, environmental, and recreational objectives.

(3) Beginning October 1, 2018 and each year thereafter, the department shall prepare for sale a minimum of 90% of the yearly statewide harvest objective.

History: Add. 2004, Act 125, Imd. Eff. May 28, 2004 ;-- Am. 2018, Act 238, Eff. Sept. 25, 2018
Popular Name: Act 451
Popular Name: NREPA

324.52504 Harvest and sale of timber; deposit of proceeds into forest development fund; report.

Sec. 52504.

(1) The department shall harvest timber from the state forest and other state owned lands owned or controlled by the department in compliance with the plan and any plan updates.

(2) Unless otherwise dedicated by law, proceeds from the sale of timber from the state forest and other state owned lands owned or controlled by the department shall be forwarded to the state treasurer for deposit into the forest development fund established pursuant to section 50507.

(3) Not later than December 31 of each year, the department shall submit a report, to the standing committees of the senate and house of representatives with jurisdiction over forestry issues, that includes all of the following:

(a) The total number of acres in the state forest that have been identified by the department as having site conditions that restrain timber sales.

(b) The site conditions applicable to acreage identified under subdivision (a).

(c) The total number of acres identified under subdivision (a) in the previous year's report that are not identified under subdivision (a) in the current report and have been made available for timber sale.

(d) The locations where the acres identified under subdivision (a) and acres as identified under subdivision (c) are located.

(e) A statement of what the department intends to do to remove the particular site conditions identified under subdivision (b).

History: Add. 2004, Act 125, Imd. Eff. May 28, 2004 ;-- Am. 2006, Act 500, Imd. Eff. Dec. 29, 2006
Popular Name: Act 451
Popular Name: NREPA

324.52505 Third-party certification that forestry standards satisfied; report.

Sec. 52505.

(1) The department shall seek and maintain third-party certification that the management of the state forest and other state owned lands owned or controlled by the department satisfies the sustainable forestry standards of at least 1 credible nonprofit, nongovernmental certification program and this part.

(2) Beginning January 1, 2006, the department shall ensure that the state forest is certified as provided for in subsection (1).

(3) Beginning the effective date of the amendatory act that added this section, the department shall commence a review and study to determine the appropriateness of certifying parks and recreation areas, state game areas, and other wildlife areas on state owned lands owned or controlled by the department. Not later than 1 year after the effective date of the amendatory act that added this section, the department shall report and recommend to the legislature the appropriateness and feasibility of certifying those lands.

History: Add. 2004, Act 125, Imd. Eff. May 28, 2004
Popular Name: Act 451
Popular Name: NREPA

324.52506 Report.

Sec. 52506.

By January 1 of each year, the department shall prepare and submit to the natural resources commission, the standing committees of the senate and the house of representatives with primary jurisdiction over forestry issues, and the senate and house appropriations committees a report that details the following from the previous state fiscal year:

- (a) The number of harvestable acres in the state forest, as determined from information in the state forest management plan under section 52503.
- (b) The number of acres of the state forest that were harvested and the number of cords of wood that were harvested from the state forest.
- (c) The number of acres of state-owned lands owned or controlled by the department other than state forest that were harvested and the number of cords of wood that were harvested from those lands.
- (d) Efforts by the department to promote recreational opportunities in the state forest.
- (e) Information on the public's utilization of the recreational opportunities offered by the state forest.
- (f) Efforts by the department to promote wildlife habitat in the state forest.
- (g) The status of the plan and whether the department recommends any changes in the plan.
- (h) The status of certification efforts required in section 52505 and a definitive statement of whether the department is maintaining certification of the entire state forest.

History: Add. 2004, Act 125, Imd. Eff. May 28, 2004 ;-- Am. 2018, Act 238, Eff. Sept. 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.52511 Repealed. 2004, Act 123, Eff. Dec. 31, 2011.

Compiler's Notes: The repealed section pertained to establishment and design of forest pilot project areas and contracts for management of each area.

Popular Name: Act 451

Popular Name: NREPA

Part 527 MUNICIPAL FORESTS

324.52701 Definitions.

Sec. 52701.

As used in this part:

- (a) "Forestry commission" means a forestry commission appointed by a municipality pursuant to this part.
- (b) "Legislative body" means any board of supervisors, township board, city or village legislative body, or school district board.
- (c) "Municipality" means a county, township, city, village, or school district.

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

Popular Name: Act 451

Popular Name: NREPA

324.52702 Municipality; right to acquire and use lands for forestry.

Sec. 52702.

Any municipality may acquire by purchase, gift, or devise, or may provide land already in its possession, and use the land for a forestry or recreational purpose, or both, either within or outside of the territorial limits of the

municipality, and may carry on forestry or recreational activities, or both, on the land. However, the use of the land for forestry is the highest priority objective of the land and use of the land for recreational activities shall not interfere with its use for forestry. Any municipality may also receive and expend or hold in trust gifts of money or personalty for a forestry or recreational purpose, or both.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2012, Act 488, Imd. Eff. Dec. 28, 2012

Popular Name: Act 451

Popular Name: NREPA

324.52703 Municipal forestry commission; members; appointment; terms; vacancies.

Sec. 52703.

The legislative body of any municipality desiring to proceed under this part may appoint a forestry commission for the municipality to consist of 3 members, only 1 of whom shall be a member of the legislative body making the appointment. The members of a forestry commission shall hold office for a term of 4 years and until their successors are appointed and have qualified, except that when first appointed 1 shall be appointed for a term of 4 years, 1 for a term of 3 years, and 1 for a term of 2 years. Any vacancy shall be filled by appointment by the legislative body at any regular session.

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

Popular Name: Act 451

Popular Name: NREPA

324.52704 Forestry commission; powers and duties.

Sec. 52704.

A forestry commission shall supervise and manage all land of the municipality devoted to forestry and provide labor on forest land by foresters and others as may be necessary for the proper care and maintenance of the land as a forest producing area, to make reasonable rules and regulations concerning the land, and to expend money as may be appropriated or received for this purpose.

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

Popular Name: Act 451

Popular Name: NREPA

324.52705 Forestry commission; report; contents; filing.

Sec. 52705.

Every forestry commission shall annually at a time to be designated by the legislative body make a report to the legislative body showing the activities of the forestry commission and embracing a detailed statement of its receipts and expenditures during the preceding year. The forestry commission shall also file a copy of the report with the board of supervisors if it is not a county commission and a copy with the department.

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

Popular Name: Act 451

Popular Name: NREPA

324.52706 Authority to sell state lands to municipalities for forestry; reversion; relinquishing reversionary interest; re-acquisition; definitions; use of term "this section."

Sec. 52706.

(1) The department, the department of treasury, or a state officer having charge of state land, may sell homestead, tax, swamp, or primary school land to a public agency for a forestry or recreational purpose, or both, at a price set by the department, the department of treasury, or the state officer. However, the amount of land sold shall not exceed the amount that may be necessary for the public agency, and any land that is sold shall be suitable for and used for a forestry or recreational purpose, or both, unless conveyed as provided in this section. Land sold to a public agency under this section or section 6 of former 1931 PA 217 shall be used only for a forestry or recreational purpose, or both, if the land is prime land. When the prime land is no longer used for a forestry or recreational purpose, or both, the land shall revert to this state.

(2) Except as provided in subsection (6), the department shall relinquish a reversionary interest in municipal forestland, conveyed to a public agency under this section or section 6 of former 1931 PA 217 before October 12, 2004, within 90 days after the department receives, on a form prescribed by the department, a written request for relinquishment from the public agency that owns the municipal forestland subject to the reversionary interest. The department shall relinquish its reversionary interest by an instrument approved by the department of attorney general and recorded by the department with the register of deeds of the county where the municipal forestland is located. The instrument shall include provisions implementing subsections (3) through (8). The department may charge the public agency an amount equal to the charge for recording the release.

(3) A public agency to which a reversionary interest was relinquished under subsection (2) shall not convey the municipal forestland formerly subject to the reversionary interest unless the conveyance is approved by the department.

(4) Subject to subsection (5), a public agency to which a reversionary interest was relinquished under subsection (2) and any public agency that is a successor in interest shall not convey the municipal forestland formerly subject to the reversionary interest, or any part thereof, unless the conveyance is to a public agency for \$1.00 or to a public agency or any other person for fair market value. If the conveyance is to a public agency for \$1.00, the deed shall recite "MCL 324.52706 requires an accounting and specifies how proceeds are to be distributed when the property is subsequently conveyed for fair market value.". If the conveyance is to a public agency or any other person for fair market value, the public agency conveying the property shall have an accounting taken, shall retain 50% of the proceeds, and shall submit the remaining 50% of the proceeds to the department of treasury for deposit as follows:

(a) The first \$18,000,000.00 in total proceeds from all such conveyances shall be deposited in the general fund.

(b) Any proceeds in excess of \$18,000,000.00 shall be deposited in the fire protection fund created in section 732a of the Michigan vehicle code, 1949 PA 300, MCL 257.732a.

(5) Once the municipal forestland or part thereof formerly subject to a reversionary interest is conveyed for fair market value and an accounting is taken and the proceeds are distributed as provided under subsection (4), subsection (4) does not apply to subsequent conveyances of that municipal forestland or part thereof, respectively.

(6) Subsection (2) does not apply to prime land.

(7) A public agency to which a reversionary interest is relinquished under subsection (2) shall not convey the municipal forestland formerly subject to the reversionary interest to a third person unless the public agency has conducted a public hearing on the proposed conveyance. The public agency may conduct a second public hearing on the proposed conveyance if the public agency determines that a second public hearing may be necessary. Notice of a public hearing under this subsection shall be published at least twice in a newspaper of general circulation in the county or counties where the municipal forestland is located, not more than 28 or less than 7 days before the hearing. The notice shall describe where the municipal forestland is located, specify the approximate size of the municipal forestland, describe its current use, and identify the person to whom the municipal forestland is proposed to be sold, if known. The public agency shall provide a copy of the notice to the director of the department not less than 7 days before the hearing.

(8) The requirements of subsection (7) do not relieve the public agency of any notice, hearing, or other requirements imposed by any other law.

(9) If municipal forestland was conveyed to a public agency under this section or section 6 of former 1931 PA 217 and the municipal forestland is subsequently conveyed by the public agency to the department, then, for purposes of subparts 13 and 14 of part 21, the municipal forestland shall not be considered to have been reacquired by the department on or after January 1, 1933 for natural resource purposes unless the municipal forestland was originally acquired by the department on or after January 1, 1933 for natural resource purposes.

(10) As used in this section:

(a) "Basal area" means the sum of the cross-sectional area of trees 4 inches or greater in diameter measured at

4.5 feet from the highest ground at the base of each tree.

(b) "Municipal forestland" means homestead, tax, swamp, or primary school land sold to a public agency under this section or section 6 of former 1931 PA 217 for a forestry or recreational purpose, or both.

(c) "Prime land" means municipal forestland that meets 1 or more of the following requirements:

(i) Is within a boundary of a program administered by the department.

(ii) Provides access to a public body of water.

(iii) Is not less than 121 acres in size and, at any time during the preceding 10 years, had a basal area of not less than 90 square feet per acre.

(d) "Public agency" means a school district, public educational institution, governmental unit of this state or agency of this state, or a municipality.

(e) "Recreational purpose" includes any motorized or nonmotorized recreational activity.

(11) The use in this section of the phrase "this section or section 6 of former 1931 PA 217" does not imply that the term "this section" as used elsewhere in this act does not include the relevant section as it existed in former law codified in this act.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 356, Imd. Eff. May 23, 2002 ;-- Am. 2004, Act 377, Imd. Eff. Oct. 12, 2004 ;-- Am. 2006, Act 179, Imd. Eff. June 6, 2006 ;-- Am. 2012, Act 488, Imd. Eff. Dec. 28, 2012

Popular Name: Act 451

Popular Name: NREPA

324.52707 Forestry commissions and department of natural resources; cooperation.

Sec. 52707.

A forestry commission and the department shall cooperate with each other in all matters pertaining to the establishment and maintenance of public forests. The department may inspect municipal forests as often as it considers necessary.

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

Popular Name: Act 451

Popular Name: NREPA

324.52708 Municipality; appropriation for forestry; limitation.

Sec. 52708.

The legislative body of any county, city, or village or the electors of any township or school district in which a forestry commission has been appointed may appropriate money to be used by the forestry commission to carry out the purposes of this part. However, if the legislative body desires to spend an amount in excess of 1/10 mill per dollar assessed valuation or in excess of \$5,000.00, or both, in any 1 year for the purposes of this part, the sum shall not be appropriated unless the electors of the county, city, or village agree to the expenditure at any general or special election by a 3/5 vote.

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

Popular Name: Act 451

Popular Name: NREPA

324.52709 Forestry funds; accounting.

Sec. 52709.

A separate account of all revenue and expense of all funds appropriated or invested, or both, to the forestry commission shall be kept by the financial officer of the municipality and the funds may be expended upon the warrant of 2 members of the forestry commission.

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

Popular Name: Act 451

Popular Name: NREPA

324.52710 Special forestry fund; creation; payments in lieu of property taxes.

Sec. 52710.

Any income from forest land shall be paid into the general fund of the municipality and may be set up in a special forestry fund by the municipality. A forestry commission and the townships and school districts in which its municipal forest lies by agreement shall determine a formula under which the forestry commission shall make payments to the townships and school districts in lieu of general property taxes which would otherwise be levied against the land and forests comprising the municipal forest.

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

Popular Name: Act 451

Popular Name: NREPA

Part 529

CHRISTMAS TREES, BOUGHS, PLANTS, AND OTHER TREES

324.52901 Removal of certain plants; "plant" defined; bill of sale or other evidence of title required.

Sec. 52901.

(1) A person shall not cut, remove, or transport, without having in possession a bill of sale from the owner or other evidence of title on a form prescribed by and available from the department or the department of agriculture or the federal agency that has jurisdiction, any of the following:

- | | |
|--|------------------------------|
| (a) Christmas trees. | |
| (b) Evergreen boughs. | |
| (c) Any other trees, shrubs, or vines. | |
| (d) Trailing arbutus | Epigaea. |
| (e) Bird's foot violet | Viola pedata. |
| (f) Climbing bittersweet | Celastrus scandens. |
| (g) Club mosses | Lycopodiaceae. |
| (h) Flowering dogwood | Cornus florida. |
| (i) All Michigan holly | Ilex sp. and nemopanthus sp. |
| (j) North American lotus | Nelumbo sp. |
| (k) Pipsissewa | Chimaphila umbellata. |
| (l) All native orchids | Orchidaceae. |
| (m) Trilliums | Trillium sp. |
| (n) Gentians | Eustoma sp. |

(o) Parts of any plant listed in this subsection.

(2) As used in this part, "plant" means a tree, bough, shrub, vine, or other native plant, or a part of a tree, bough, shrub, vine, or other native plant, listed in subsection (1).

(3) A person shall produce a bill of sale for a plant listed in subsection (1) or other evidence of title upon demand of a law enforcement officer.

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

324.52902 Transportation of plants.

Sec. 52902.

A person shall not transport within this state any plant in either of the following circumstances:

- (a) If the plant has been removed from property owned by the person, unless he or she has in possession a current tax receipt or deed with respect to the property or a copy of the receipt or deed.
- (b) If the plant has been removed from property not owned by the person, unless either of the following has been met:
 - (i) Each plant bears a tag placed on the plant by and identifying the person and his or her address and stating from whom the plant was acquired.
 - (ii) The person has in his or her possession a bill of sale or other evidence of title acquisition in a form prescribed by and available from the department or the department of agriculture or the federal agency that has jurisdiction. The person shall display the bill of sale or other evidence of title upon demand of a law enforcement officer.

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

324.52903 Sale of plants; bill of sale or other evidence of title required; records of transactions.

Sec. 52903.

A person shall not sell or offer for sale any plant without having in his or her possession the evidence of title prescribed by section 52902 or without furnishing the purchaser with a bill of sale or other evidence of title acquisition in a form prescribed by the department or the department of agriculture or the federal agency that has jurisdiction. Vendors shall maintain and keep records of their transactions for the period of time that the department or the department of agriculture or the federal agency that has jurisdiction prescribes by rule or regulation.

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

324.52904 Trees, shrubs, vines or plants; shipment; evidence of title.

Sec. 52904.

A common carrier shall not accept for shipment any of the trees, boughs, shrubs, vines, or plants listed in section 52901 unless the consignor whose name and address is recorded at the time of consignment exhibits the evidence of title prescribed by section 52902.

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

324.52905 Law enforcement officers; inspection; impoundment of plants or equipment; failure to exhibit bill of sale or other evidence of title.

Sec. 52905.

A law enforcement officer having probable cause to believe that this part is being violated, including authorized employees of the department of agriculture or the department, may make inspections to determine whether this part has been violated, including the right to stop any vehicle that is transporting a plant at any time, to inspect and make copies of bills of sale or other evidence of title prescribed by the department or the department of agriculture or the federal agency that has jurisdiction, to arrest persons found to have any plants in possession in violation of this part and to impound any plants or equipment used to remove or transport the plants. Pursuant to court order, any plants or equipment impounded pursuant to this section shall be permanently seized and disposed of as required under sections 1603 and 1604. Failure to exhibit a bill of sale or other evidence of title prescribed by the department or the department of agriculture or the federal agency that has jurisdiction is prima facie evidence that a bill of sale or other evidence of title does not exist.

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

Popular Name: Act 451

Popular Name: NREPA

324.52906 Construction of part.

Sec. 52906.

Nothing in this part shall be construed to interfere with the insect pest and plant disease act, Act No. 189 of the Public Acts of 1931, being sections 286.201 to 286.226 of the Michigan Compiled Laws.

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

Popular Name: Act 451

Popular Name: NREPA

324.52907 Enforcement of part; rules.

Sec. 52907.

The director of agriculture and the department, in cooperation with law enforcement agencies, shall enforce this part. The director of agriculture, after consultation with the department, shall promulgate rules as he or she considers necessary for the enforcement of this part.

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

Popular Name: Act 451

Popular Name: NREPA

324.52908 Violation of part; penalties; determination of total value; prior convictions; prohibition; additional penalties.

Sec. 52908.

- (1) A person who violates this part is guilty of a crime as follows:
- (a) If the damages are less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or 3 times the aggregate value of the property involved, whichever is greater, or both imprisonment and a fine.
- (b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:
- (i) The value of the property involved is \$200.00 or more but less than \$1,000.00.
- (ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this part.
- (c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:
- (i) The value of the property involved is \$1,000.00 or more but less than \$20,000.00.
- (ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this part. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).
- (d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:
- (i) The property involved has a value of \$20,000.00 or more.
- (ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this part. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).
- (2) The values of property damaged in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property damaged.
- (3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:
- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.
- (4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.
- (5) A person who forges a bill of sale or other evidence of title prescribed by the department or the department of agriculture or the federal agency that has jurisdiction is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.
- (6) In addition to the penalties provided for in this section, a person who violates this part by illegally removing or cutting a plant is liable in a civil action filed by the state or the property owner for up to 3 times the fair market value of the damage caused by the unlawful act or \$100.00, whichever is greater, and for court costs and attorney fees. Damages collected under this subsection shall be paid to the owner of the lands from which the plants were illegally removed or, if removed from state owned lands, to the state treasurer, who shall credit the deposit to the fund that was used to purchase the land on which the violation occurred.
- (7) A person who violates this part by not having in his or her possession a current tax receipt or deed with respect to property, or a copy of the receipt or deed, indicating that the person owned the land from which the plants were taken shall not be prosecuted under this part for that violation if he or she subsequently produces a current tax receipt or deed showing that person's ownership of the property from which the plants were taken.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2001, Act 155, Eff. Jan. 1, 2002

Popular Name: Act 451

Popular Name: NREPA

324.52909 Christmas trees; transportation during December.

Sec. 52909.

This part does not apply to the sale of or the transportation by any 1 person of not more than 2 Christmas trees between November 30 and December 31 of the same year.

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

Popular Name: Act 451

Popular Name: NREPA

PART 535. REGISTERED FORESTERS

324.53501 Definitions.

Sec. 53501.

As used in this part:

- (a) "Board" means the board of foresters created in section 53505(1).
- (b) "Department" means the department of natural resources.
- (c) "Forest development fund" means the forest development fund created in section 50507.
- (d) "Forester" means an individual who, by reason of his or her knowledge of the natural sciences, mathematics, and the principles of forestry, acquired by forestry education and practical experience, is qualified to engage in the practice of professional forestry.
- (e) "Practice of professional forestry" means the science, art, and practice of creating, managing, using, planning and researching, and conserving forests and associated resources for human benefit and in a sustainable manner to meet desired goals, needs, and values.
- (f) "Registered forester" means a forester registered under section 53509.
- (g) "SAF" means Society of American Foresters.
- (h) "State forester" means that term as defined in section 50502.
- (i) "Violations committee" means the violations committee appointed under section 53505.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.53503 Forester program evaluation; review; ceasing administration of part; conditions.

Sec. 53503.

- (1) The department shall timely review each registered forester program evaluation provided under section 53507.
- (2) The department may cease administering this part if either of the following applies:
 - (a) The revenue available from registered forester fees under section 53509 is not sufficient to administer this part.
 - (b) The department and the board agree to separate and cease operations under this part.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.53505 Board of foresters; creation; membership; qualifications; appointment; terms; vacancy; meetings; quorum; compliance with open meetings act; writings subject to freedom of information act; expenses; violations committee.

Sec. 53505.

(1) The board of foresters is an independent self-directed body appointed by the state forester and created within the department.

(2) To be eligible to serve on the board, an individual must be a citizen of the United States and a full-time resident of this state and must have at least 10 years of professional forestry experience. The board shall consist of not fewer than 5 or more than 7 of the following individuals, who shall be appointed by the state forester from and nominated by the group represented:

(a) An individual representing the Association of Consulting Foresters.

(b) An individual representing the Society of American Foresters.

(c) An individual representing the forestry program faculty of a university whose forestry program is accredited by the SAF.

(d) An individual representing state agencies that have forestry staff.

(e) An individual representing forest products advocacy or the forest products industry, including logging.

(f) An individual representing private forest landowners.

(g) An individual representing a municipal, urban, or community forestry field.

(3) The members first appointed to the board shall be appointed within 60 days after the effective date of the amendatory act that added this part.

(4) Members of the board shall serve for terms of 4 years or until a successor is appointed, whichever is later, except that, of the members first appointed, 3 shall serve for 2 years.

(5) If a vacancy occurs on the board, the state forester shall make an appointment for the unexpired term in the same manner as the original appointment. The state forester may remove a member of the board for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(6) The state forester shall call the first meeting of the board. At the first meeting, the board shall elect from among its members a chairperson, vice-chairperson, secretary, and other officers as it considers appropriate. Officers of the board shall serve for terms of 2 years. After the first meeting, the board shall meet once annually in person and once annually by conference call or video conference, or more frequently at the call of the chairperson or if requested by 2 or more members.

(7) Five or more members of the board constitute a quorum for the transaction of business at a meeting of the board. A majority of the members present and serving are required for official action of the board.

(8) Business that the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The secretary of the board shall record all proceedings of the board.

(9) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) Members of the board shall serve without compensation. However, members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

(11) For the purposes of section 53517, the chairperson of the board shall appoint a violations committee consisting of 3 members of the board. Members of the violations committee shall serve on the committee for terms of 2 years.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.53507 Duties of board; power to call witnesses and receive evidence.

Sec. 53507.

(1) The board shall do all of the following:

(a) Adopt bylaws.

(b) Comply with section 53515.

(c) Make available a list of registered foresters. The department shall post the list on its website.

(d) Make an annual report to the state forester on proceedings, applications, renewals, complaints, and hearings under this part.

(e) On a biennial basis, provide the department an evaluation of the registered forester program, including both of the following:

(i) The number of registered foresters, economic data, and other relevant program data.

(ii) The sufficiency of the fee under section 53509 to operate a fiscally sound program. The department may recommend to the legislature changes in the fee.

(2) The board may call witnesses and receive evidence in hearings under this part.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.53509 Registration as forester; application; submission; contents; denial or approval; validity; duties of individual.

Sec. 53509.

(1) To be registered as a forester, an individual shall submit an application to the board on a form provided by the department. The application shall include all of the following:

(a) The name, address, telephone number, and electronic mail address of the applicant.

(b) Information demonstrating that the individual meets 1 or more of the following educational requirements:

(i) An associate's degree in forestry from an SAF-accredited university program or board-approved program, plus 4 years of experience under the guidance of a registered forester, an SAF-certified forester, or a member of the Association of Consulting Foresters.

(ii) A bachelor's degree in forestry from an SAF-accredited university program or a board-approved program, plus 2 years of forestry experience as described in subparagraph (i).

(iii) A bachelor's degree in a natural resource field from an SAF-accredited university program or a board-approved program, plus 2 years of forestry experience described in subparagraph (i).

(iv) A graduate degree in forestry from an SAF-accredited university program or a board-approved program, plus 2 years of forestry experience described in subparagraph (i).

(c) References or endorsements from 3 registered foresters.

(d) Verification of successful completion of any continuing education required by the board.

(e) Other relevant information required by the board.

(2) The board shall grant or deny registration within 30 days after a complete application is filed and notify the applicant of its determination in writing. If an application is denied, the notification shall include the reasons for the denial. If the application is approved, the department shall issue a registration certificate and certification number to the applicant. The registration is valid for 2 years.

(3) To maintain registration as a forester, an individual shall do all of the following:

(a) Pay the department a fee of \$200.00 for the registration period. The first payment shall be made not more than 30 days after the application for registration is granted under subsection (2).

(b) Successfully complete not fewer than 24 hours of continuing education every 2 years as approved by the board.

(c) Demonstrate completion of continuing education requirements under subdivision (b) as a condition for registration renewal by submitting evidence of fulfillment to the board within 60 days of a request to do so.

(d) Maintain good standing with the board by complying with section 53515.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.53511 Automatic registration of members of affiliated professional organizations; forester registered or licensed in another state or country.

Sec. 53511.

(1) The board shall determine whether members of affiliated professional organizations within and outside of this state are eligible for automatic registration under this part.

(2) The board shall register an applicant who is a registered or licensed forester in another state or country if the board considers the requirements of the state or country to be equivalent to the requirements for registration in this state.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.53513 Use of "registered forester" as title.

Sec. 53513.

An individual shall not use the title "registered forester" unless he or she is registered under this part.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.53515 Registered forester; requirements.

Sec. 53515.

A registered forester shall comply with all of the following:

(a) In his or her professional capacity, perform the following general forestry activities as necessary for the practice of sustainable forest management and silviculture:

(i) Forest management planning.

(ii) Forest stand improvement.

(iii) Forest mensuration, inventory, forest products appraisal, and timber sale administration.

(iv) Reconnaissance and mapping of forest and watershed lands; investigation of wildland soils; delineation and mapping of forestlands and forest management boundaries, not including the establishment of property corners or boundaries.

(v) Preparation and utilization of GIS/GPS maps, equipment, and software to assist in forest management planning, planting, harvesting, and protection. GIS/GPS maps created for forest management purposes are not official survey maps.

(vi) Forest economics.

(vii) Forest utilization, renewable energy production, and forest product development.

(viii) Forest protection and restoration.

(ix) Forest regeneration, reforestation, and afforestation.

(x) Forest nursery production.

(xi) Application of best management practices.

(xii) Addressing legal and social aspects of forestry and forestlands.

(xiii) Preparation of forest management related contracts, litigation reports, timber trespass investigation, and testimony.

(xiv) Development, maintenance, conservation, and protection of wildlife habitat and forest range resources.

(xv) Forest recreation and environmental studies.

(xvi) The development of access for protection and management of the resource.

(xvii) Adaptation of forests and forest practices related to climate change.

(xviii) Urban forestry and arboriculture.

(xix) Utility forestry and utility vegetation management.

(xx) Teaching collegiate-level forestry courses or forestry outreach based on sound scientific principles or

conducting scientific research in forestry at an SAF-accredited university or a board-approved program.

(xxi) Forest research and monitoring.

(b) Fully disclose personal or financial interests in any forestry project undertaken by the registered forester if there is a potential conflict of interest.

(c) Not accept compensation or expenses from more than 1 client or employer for the same service, unless the parties involved are informed and consent.

(d) Not make exaggerated, false, misleading, or deceptive written or verbal statements, including, but not limited to, statements on the value of individual trees, timber, or timberlands, in the conduct of professional practice.

(e) Clearly and accurately represent his or her qualifications, the extent of the forestry services offered, and the basis for charges for those services.

(f) Not offer or make bribes or unlawful inducements to those responsible for letting forestry contracts.

(g) Not interfere with competitive bidding for forestry projects, including making false representations or misleading statements about bidders, prospective bidders, or competitors.

(h) Not issue a forestry plan, map, specification, or report prepared by that registered forester or under his or her actual supervision unless it is endorsed with the registered forester's name and certificate of registration number.

(i) Not endorse a forestry plan, specification, estimate, or map unless prepared by that registered forester or under his or her actual supervision.

(j) Provide forestry services in a manner that will ensure the public health, safety, and welfare and if, in his or her professional judgment, any of these are endangered, notify the client or employer and give appropriate recommendations or instructions.

(k) If a client or employer fails or refuses to follow recommendations or instructions under subdivision (j), notify the responsible governmental department or agency of the threat to public health, safety, or welfare.

(l) Not violate or conceal violations of this part and not knowingly permit others to do so.

(m) Report violations of this part to the board.

(n) Not conspire or collude to restrain trade through price arrangement with other registered foresters or forestry firms and not engage in price-fixing activities.

(o) Not take forestry project funds under false pretenses and not abandon a forestry project without notifying the client or employer.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.53517 Violation of MCL 324.53515 or order; complaint; determination by violations committee; notification; investigation; proposed order; objection; review; final order; revocation or suspension.

Sec. 53517.

(1) A person may submit to the chairperson of the board a complaint about a violation of section 53515 or of an order under this section. The department shall maintain on its website a complaint form that can be completed and submitted to the chairperson of the board online or printed and completed. The department shall also make complaint forms available at customer service centers. Unless the complaint form is submitted online, the complainant shall submit the form by mailing it to the chairperson of the board.

(2) If the chairperson of the board receives a completed complaint form, the chairperson shall, within 30 days, submit the complaint to the members of the violations committee. Within 30 days after receiving the complaint from the chairperson, the violations committee shall determine if there is sufficient reason to believe that a violation has occurred.

(3) If the violations committee determines that there is not sufficient reason to believe that a violation has occurred, the violations committee shall, within 30 days after its determination, notify the complainant in writing of its determination and the reasons for its determination. No further action shall be taken on that complaint.

(4) If the violations committee determines that there is sufficient information to believe that a violation has occurred, the violations committee shall, within 30 days after its determination, notify, by United States mail, the registered forester who is the subject of the complaint of all of the following:

(a) The allegations in the complaint.

(b) That the registered forester may respond to the allegations in writing.

(c) That the response must be received within 60 days after the date the notice was mailed.

(5) The board shall consider the allegations of the complaint and any written response to the allegations timely received from the registered forester and may further investigate the complaint. Within 30 days after the deadline

under subsection (4) for a response from the registered forester, the board shall do 1 of the following:

- (a) Dismiss the complaint and notify the complainant and registered forester in writing.
- (b) Issue a letter of caution to the registered forester and provide a copy to the complainant.
- (c) Issue to the registered forester a proposed order that, together with preliminary findings, includes proposed sanctions under subsection (8), a proposed negotiated resolution, or a proposed consent agreement and provide a copy to the complainant.
- (6) If the board issues a proposed order under subsection (5), the registered forester shall within 30 days submit to the board 1 of the following, in writing:
 - (a) A statement accepting the proposed order, at which point the board shall issue the order as a final order. Failure of the registered forester to timely respond shall be considered to be acceptance of the proposed order.
 - (b) A statement objecting to the proposed order and providing reasons for the objection.
- (7) If the registered forester objects to the proposed order, the board shall review the objections and issue to the registered forester a final order, amending the preliminary findings as necessary, within 90 days after issuance of the proposed order and shall provide a copy of the final order to the complainant.
- (8) The board may permanently revoke or temporarily suspend registered forester status for a violation of section 53515 or an order issued under this section.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA

324.53519 Revenue; fees; disposition.

Sec. 53519.

- (1) Revenue from registered forester fees under section 53509 shall be deposited in the forest development fund.
- (2) The state treasurer shall promptly transfer to the forest development fund the fund balance from registered forester fees in the licensing and regulation fund created in section 3 of the state license fee act, 1979 PA 152, MCL 338.2203.

History: Add. 2018, Act 116, Eff. July 25, 2018

Popular Name: Act 451

Popular Name: NREPA