

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Subpart 6

COST-SHARING AND LOANS FOR FOREST PRACTICES

324.50145 Agreements to share cost of forest practices; schedule of cost share percentages.

Sec. 50145.

(1) A district may enter into agreements to share the cost of implementing forest practices on member forest land within the district. A district may pay not more than 90% of the lesser of either of the following:

- (a) The member's actual cost per acre to accomplish the work.
- (b) The prevailing per acre cost for the forest practice as determined by the board.

(2) The board shall prepare a schedule of cost share percentages applicable to forest practices undertaken under this section. The schedule shall set forth the percentage amount which the member shall contribute for various categories of forest practices. The department shall provide technical assistance to a board in the preparation of a schedule. A member's cost share contributions may be made in the form of material, services, or equipment as well as funds.

(3) The scheduled percentage contribution for members owning less than 500 acres may be less than for members owning 500 acres or more. The schedule may also provide for a reduced percentage contribution by a member if 1 or more of the following apply:

- (a) The forest practices would provide relatively more employment opportunities than other proposed practices.
- (b) The forest practices would increase recreational opportunities for the public.
- (c) Forest land conservation measures or fish or wildlife habitat improvements are included in the project.

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

Popular Name: Act 451

Popular Name: NREPA

324.50146 Loans to members; purpose; term; interest; security; recordation of mortgage or deed of trust; repayment before maturity date; damage as grounds for release of obligation.

Sec. 50146.

(1) A district may make loans to a member for 1 or more of the following reasons:

- (a) To cover all or part of the member's cost share contribution required under section 50145.
- (b) To cover all or a part of the cost of forest practices, up to 100% of the lesser of either of the following:
 - (i) The actual cost per acre to accomplish the work.
 - (ii) The prevailing cost per acre.

(2) A loan made under this section may be made for a term of not more than 20 years and shall bear interest at the average annual rate being earned by the state on money deposited in the investment account of the general fund of this state. A loan shall be secured by a mortgage or deed of trust upon the parcel of land or the timber rights on the parcel of land upon which the forest practices were conducted. The board shall record the mortgage or deed of trust in the office of the register of deeds in each county in which the real property subject to the loan is located.

(3) An interest penalty shall not be charged to a member who repays a loan made under this section before its maturity date.

(4) The board may release a member's obligation to repay all or part of the principal and interest due under loans made under this section if the board finds that the parcel of land or the timber rights on the parcel of land securing the loan and upon which the forest practices were conducted have been substantially damaged by fire, flood, insects, disease, or other natural causes and the damage was not caused by the negligence or willful act of the member.

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Popular Name: Act 451

Popular Name: NREPA

324.50147 Annual incentive payments to members; purpose; application of income from sale of timber; term; interest; limitation; security; recordation of mortgage or deed of trust; effect of voluntary withdrawal of member; damage as grounds for release of obligation.

Sec. 50147.

(1) A district may make annual incentive payments to members to cover forest practice costs only, but not to cover ad valorem property taxes or the member's share of commercial forest act taxes levied pursuant to part 511. This payment is made in anticipation of future timber receipts, and the total principal and interest obligation shall not exceed 90% of the future expected market value of the timber as estimated in the management plan. Income received from the sale of timber covered by this agreement between the district and a member shall be applied to the outstanding obligation.

(2) An annual incentive payment made under this section may be made for a term of not more than 40 years and shall bear interest at the average annual rate being earned by the state on money deposited in the investment account of the general fund of this state. An annual payment shall not exceed \$50,000.00 to any 1 member. A payment shall be secured by a mortgage or deed of trust upon the parcel of land or timber, or both, upon which the payment was based. The board shall record the mortgage or deed of trust in the office of the register of deeds in each county in which the real property subject to the loan is located.

(3) A voluntary withdrawal of a member within a district will require full repayment of the obligation plus interest at the current commercial rate.

(4) The board may release a member's obligation to repay all or part of the principal and interest due under payments made under this section if the board finds that the parcel of land or the timber rights on the parcel of land securing the payment and upon which the forest practices were conducted have been substantially damaged by fire, flood, insects, disease, or other natural causes and the damage was not caused by the negligence or willful act of the member.

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324.50148 Cost-share payments, loans, or annual incentive payments; eligibility; conditions; guidelines.

Sec. 50148.

(1) The following conditions shall be met for a member to be eligible for cost-share payments, a loan, or an annual incentive payment:

(a) The member shall make application for financial assistance for forest practices to each federal program specified by the board. The board shall not make any determination as to whether and how much assistance a member will receive until the application is approved or disapproved by the governmental agency administering the federal program.

(b) The member shall submit an application for financial assistance in a form prescribed by the board.

(c) Before receiving assistance under this subpart, the member shall agree not to develop the land for a use incompatible with timber production within 10 years after the receipt of a cost-sharing payment agreement pursuant to section 50145, the making of a loan under section 50146, or the receipt of an annual incentive payment under section 50147. A district shall record the agreement in the office of the register of deeds in each county in which the forest land is located. Once recorded, the contract shall be binding upon each person to whom the parcel of land is sold, assigned, devised, or otherwise transferred by agreement or operation of law.

(d) The member shall submit a forest management plan for approval by the board. This plan shall also fulfill the notification requirements of subpart 5. If the proposed forest practices include preparation of a management plan, the plan need not be completed at the time of application. Assistance under this subpart for other forest practices on forest land within the same ownership shall not be made until the management plan has been approved.

(2) The board shall prepare guidelines specifying the factors to be considered and information which should be included in management plans submitted pursuant to this subpart and subpart 5.

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Popular Name: Act 451
Popular Name: NREPA

324.50149 Applications for financial assistance; selection of programs; factors; preferences; criteria for evaluation and approval.

Sec. 50149.

(1) When allocating available funds among applicants for assistance pursuant to this subpart, the board shall select those programs of forest practices which in its judgment produce the greatest public benefit, giving consideration to the following factors:

- (a) The need for and potential commercial benefits if the practices are undertaken.
- (b) The financial resources of the applicant.
- (c) The need for and potential benefits to long-term production, maintenance, and enhancement of the total forest resource system.

(2) The board shall give preference to applications covering forest land that has been substantially damaged by fire, flood, insects, disease, or other natural causes within 36 months before submission of an application under this subpart.

(3) The board shall also give preference to applications with respect to which 1 or more of the following factors is present:

- (a) The forest management plan involves reforesting forest land with a more commercially valuable forest tree species than it previously produced.
 - (b) The forest management plan would provide relatively more employment opportunities than other proposed plans.
 - (c) The forest land is located in a county with high unemployment.
 - (d) A small business entity will carry out the proposed plan.
 - (e) The forest management plan or other actions of the member would increase recreational opportunities for the public.
- (4) The board shall establish the criteria for evaluation and approval of applications for financial assistance.

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324.50150 Cost-share payments, loans, or annual incentive payments; federal payments or other assistance; limitation.

Sec. 50150.

Cost-share payments, loans, or annual incentive payments under this subpart may be made for forest practices that are also the subject of payments or other assistance provided under federal law. Payments or loans may be made to satisfy member cost shares or to repay loans received under federal programs. Combined state and federal payments and loans, and required member cost-share contributions, shall not together exceed the amount of the actual cost or the prevailing cost per acre of the forest practices as determined by the board, whichever is less.

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324.50151 Cost-share payments, loans, or annual incentive payments; refund; interest; payments as lien on forest land; filing lien; legal action.

Sec. 50151.

(1) All cost-share payments, loans, or annual incentive payments advanced to a member under this subpart shall be refunded to the district if either of the following applies:

(a) The member files an application for rezoning pursuant to local zoning laws permitting use of the land in a manner incompatible with timber production within 10 years after the date an agreement covering the land was signed under section 50148.

(b) The board finds that a member has not complied with the forest management plan required under section 50148.

(2) The refund shall bear interest from the date of occurrence of an activity described in subsection (1) until repayment, at the average annual rate being earned by the state on money deposited in the investment account of the general fund of this state.

(3) If the member fails to refund the payments or loans within 30 days after written demand by the district, the amount of the payments, together with interest due, shall become a lien upon the forest land upon which the forest practices were conducted as of the date of the event specified in subsection (1). The board shall file the lien in the office of the register of deeds in each county in which the forest land is located. The district may request the prosecuting attorney of a county in which a lien is filed to bring legal action on behalf of the district to recover the debt.

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Popular Name: Act 451

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324.50152 Severance and service fees generally.

Sec. 50152.

In order to provide a source of funds for the cost-share payments, loans, annual incentive payments, and other services authorized to be offered to members within a district, a district may charge a severance fee pursuant to the procedure described in section 50153 and collect fees for services provided to those members. The fees shall be deposited in a district forest management fund to be established by the board.

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

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324.50153 Schedule of fees for services; establishment; uniform severance fee.

Sec. 50153.

(1) The board may establish a schedule of fees for the services provided directly to members within a district.

(2) After a referendum in which a majority of the members in a district approve the charging of a severance fee, the district may charge the fee, if a member harvests timber from forest land in the district. The issue of the charging of a severance fee may be placed before the members at the time of the formation of a district. The severance fee shall be uniform throughout a district and shall not exceed 10% of the stumpage value of the timber harvested.

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324.50154 Severance and service fees; collection and disposition; responsibility for payment of severance fee; stumpage values and units of measurement; remittance; reports; records.

Sec. 50154.

(1) The board shall develop the necessary administrative procedures to collect the fees and shall deposit the revenue collected in the district forest management fund.

(2) The person responsible for payment of the severance fee is the timber owner before harvest. The department shall provide technical assistance to a district to develop appropriate methods of establishing stumpage values and units of proper measurement.

(3) The fees shall be remitted to a district, by check or money order, with reports as may be required by the board.

(4) The timber owner, for a period of 3 years, shall maintain and make available to the board the records the board may require to verify proper reporting and payment of the severance fee and service fees due a district.

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324.50155 Collection of fees; enforcement.

Sec. 50155.

The board shall enforce collection of the fees pursuant to the procedure contained in section 50143.

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