

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**

**Act 451 of 1994**

**SUBCHAPTER 4**

**FORESTS**

**THE TIMBER INDUSTRY**

**PART 501**

**FOREST IMPROVEMENTS**

**SUBPART 1**

**GENERAL PROVISIONS**

**324.50101 Meanings of words and phrases.**

Sec. 50101. As used in this part, the words and phrases defined in sections 50102 to 50105 have the meanings ascribed to them in those sections.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50102 Definitions; A to D.**

Sec. 50102. (1) "Agency of this state" means a board, bureau, commission, department, or other division of the executive branch of government of this state.

(2) "Board" means the board of directors of the forest improvement district.

(3) "Bond" means a bond, note, or any other instrument issued to evidence indebtedness.

(4) "Cost-share payment" means a payment made by a forest improvement district pursuant to section 50145 to a member who owns or occupies forest land.

(5) "County with high unemployment" means a county with an annual unemployment rate, as reported by the Michigan employment security commission, higher than the mean annual unemployment rate of this state.

(6) "District" or "forest improvement district" means a governmental subdivision of the state established under section 50123.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50103 Definitions; F to P.**

Sec. 50103. (1) "Fish and wildlife habitat improvements" means measures designed to protect, maintain, or enhance fish and wildlife habitats.

(2) "Follow-up work" means forest practices to promote the survival of seeds or seedlings planted or the protection or enhancement of other work previously undertaken under this part.

(3) "Forest improvement project" or "project" means each of the following:

(a) Production, processing, handling, storage, marketing, or transportation of forest resources, conducted in carrying out the purposes of this part, including sawmills, hardboard mills, power stations, warehouses, air and water pollution control equipment, and solid waste disposal facilities.

(b) Forest practice or follow-up work.

(c) Study, planning, or other work intended to improve forest lands or forest resources or to demonstrate means of improving forest lands or forest resources.

(4) "Forest land" means a tract of land or the timber rights in that land owned or occupied by a member, which land is at least 10% occupied by forest tree species with a growth potential of 50 cubic feet per acre per year and consists of 40 acres or more. Forest land includes land from which forest tree species have been removed and have not been restocked, but does not include land converted to uses other than the growing of forest tree species or land currently zoned for uses incompatible with forest practices.

(5) "Forest management plan" means a forest and land management plan submitted to a district pursuant to subpart 5.

(6) "Forest practice" includes, but is not limited to, the following:

(a) The preparation of management plans for forest land.

(b) The improvement of forest tree species.

(c) Reforestation.

- (d) The harvesting of forest tree species.
- (e) Road construction associated with the improvement or harvesting of forest tree species or reforestation.
- (f) Use of chemicals or fertilizers for the purpose of growing or managing forest tree species.
- (g) The management of slashings resulting from other forest practices.
- (h) Any other actions intended to improve forest land or forest resources.
- (7) "Forest resources" means those products, uses, and values associated with forest land, including recreation and aesthetics, fish, forage, soil, timber, watershed, wilderness, and wildlife.
- (8) "Gross territorial boundary" means the jurisdictional limit of the area of the district within which landowners are eligible for membership in the district.
- (9) "Proposed gross territorial boundary" means the proposed jurisdictional limit of the area of the district within which owners or occupiers of land are eligible for membership in the district.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50104 Definitions; H to P.**

Sec. 50104. (1) "Harvest" means the point at which timber that has been cut, severed, or removed for purposes of sale or use is first measured in the ordinary course of business as determined by reference to common practice in the timber industry.

(2) "Land occupier" or "occupier of land" means a person who is in possession of forest land whether as a lessee or tenant, or otherwise.

(3) "Landowner" or "owner of land" means a person who holds an ownership interest in forest land and is a voluntary member in the district.

(4) "Member" means a person who is a voluntary participant in a district and who owns or occupies forest land within the gross territorial boundaries of a district.

(5) "Notice of a hearing" means notice as required by the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(6) "Project costs" means the sum total of all reasonable or necessary costs incurred for carrying out the acquisition, construction, or undertaking of a forest improvement project under this part. Project costs include the following costs: studies and surveys; plans, specifications, and architectural and engineering services; legal, marketing, or other special services; financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair, or remodeling of existing buildings; interest and carrying charges during construction and before full earnings are achieved, and operating expenses before full earnings are achieved or for a period of 1 year after the completion of construction, whichever occurs first; and a reasonable reserve for payment of principal and interest on bonds of a district.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50105 Definitions; R to U.**

Sec. 50105. (1) "Reforestation" means planting of tree seedlings, cuttings, or seed.

(2) "Small business entity" means a business enterprise with \$500,000.00 or less average annual gross revenue during its last 3 tax years.

(3) "Stumpage value" of timber means values determined from log grade value tables adopted or used by the department.

(4) "Timber" means wood growth, mature or immature, growing or dead, standing or down. Timber does not include any of the following:

(a) Christmas trees and associated greens.

(b) Material harvested from an individual's own land and used on that land for the construction of fences or buildings or for other personal use.

(c) Fuel wood harvested for use in individual homes.

(5) "Timber owner" means a person who holds an ownership interest in forest tree species on forest land. An ownership interest includes a license or other right to timber on state lands.

(6) "Timber volume agreement" means that portion of the difference between the allowable cut volume and a projected future need volume which can be committed to a person.

(7) "Unit of proper measurement" means a unit of measurement commonly used in the timber industry for measuring timber and harvested timber products.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50106 Purpose.**

Sec. 50106. (1) The purpose of this part is to stimulate improved management and utilization of forest land and forest resources within this state as recommended by Jaakko Poyry and company, Helsinki, Finland, in Michigan's timber resource development project. Economic and community development opportunities based on the forest resource will be enhanced by ensuring adequate future high-quality timber supplies, increased employment opportunities, a diversified economy, and other economic benefits and the protection, maintenance, and enhancement of a productive and stable forest resource system for the public benefit of present and future generations.

(2) The primary purpose of this part is to demonstrate and improve the timber productivity of forest land within this state. Consistent with this purpose, the objective is to effect a utilization of waste material and determine the commercial feasibility of that waste material, as well as to improve all forest resources, such as fish and wildlife habitat and soil resources, so that the overall effect is to improve the total forest resource system.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50107 Liberal construction.**

Sec. 50107. This part, being necessary to secure the public health, safety, welfare, and convenience of the citizens of the state, shall be liberally construed to effect the public policy and purposes declared in this subpart.

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

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 2**

### **FOREST RESTORATION PILOT PROJECT**

### **324.50108 Forest restoration pilot project; purpose; sources of funding; allocation of funds.**

Sec. 50108. (1) The department may fund a forest restoration pilot project or any other district created under this part to implement this part. The forest restoration pilot project may consist of the establishment and funding of the forest improvement district formed under this part.

(2) The department may fund the pilot project or any other district created pursuant to this part from funds appropriated annually by the legislature and from the following sources:

- (a) General fund of the state.
- (b) Grants from the federal government.
- (c) Grants or gifts from private persons.
- (d) Any other permissible source.

(3) When allocating available funds among proposed pilot projects, the department shall consider those projects that in its judgment will produce the greatest public benefit, giving consideration to all of the following factors:

- (a) The need to demonstrate the potential commercial benefits of forest practices that can be recognized by the establishment of a forest improvement district.
- (b) The need to demonstrate the potential benefits to long-term production, maintenance, and enhancement of the total forest resource system.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50109 Expenses.**

Sec. 50109. A district board of directors shall determine the annual expenses of the district and shall submit an itemized list of the expenses to the department. The department shall include those expenses in its annual budget request to the legislature.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50110 Repealed. 2013, Act 45, Imd. Eff. June 6, 2013.**

**Compiler's note:** The repealed section pertained to definitions.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50111 Western Upper Peninsula forest improvement district; establishment; petition; selection of lands by committee; employment of forester; activation of working forests; factors in determining and allocating funds.**

Sec. 50111. (1) A forest restoration pilot project organized as a forest improvement district with a gross territorial boundary encompassing the western 6 counties of the Upper Peninsula of this state with its headquarters and industrial site in or near the village of Baraga shall be established as a governmental subdivision of the state when a petition signed by 25 or more landowners of a total combined acreage of more than 55,000 acres within the gross territorial boundary is filed with the department. The name of the district shall be the "western Upper Peninsula forest improvement district". The petition shall set forth those requirements prescribed by section 50124(1)(a), (b), and (e). The district forester of the department may sign the petition and include in the petition forest lands under the jurisdiction of the department to establish 1 working forest within each district. In the western Upper Peninsula pilot project district, at least 25% of the lands shall be composed of nonindustrial private timber owners of at least 40-acre tracts and not more than 640-acre tracts. Not more than 15,000 acres in each district may be owned by 1 timber owner. One timber owner shall not have a majority ownership in more than 1 working forest in a district. One timber owner of more than 7,500 acres shall not vote for a director from more than 1 working forest.

(2) The pilot project district shall give preference to land well stocked predominantly with hardwood trees and may include other broadleaf trees having approximately 6 inches or more diameter breast height and having above average future market values to expedite marketability from the restructuring of the land.

(3) The selection of land composing each working forest in the pilot project district shall be made from the written applications received from the timber owners on application forms prescribed by a committee composed of 7 members, 3 of whom shall be the 3 directors of forest restoration, inc., and 4 of whom shall be members of the public appointed by these 3 directors. Not less than 4 members of the committee shall be graduate foresters who have had at least 5 years' experience supervising logging operations. The committee shall select the land and may employ a full-time forester.

(4) When the selection of land is made and the working forests identified, the committee shall establish a sequence for the activation of the working forests in the pilot project district when, and as, a substantial use for or marketing of waste wood becomes available, if more than 4 working forests are identified. When the working forests are to be activated, the forest management plans of the members shall be approved, and the members of each activated working forest then shall elect a director of the district.

(5) The department or any other state agency shall remit to the western Upper Peninsula forest improvement district funds appropriated for such purposes by the legislature.

(6) The funds otherwise appropriated for the western Upper Peninsula forest improvement district shall be determined and allocated to produce the greatest public benefit based on the following factors:

(a) The potential economic benefits of forest practices which can be recognized by the establishment of the western Upper Peninsula forest improvement district.

(b) The potential benefits to long-term production, maintenance, and enhancement of the total forest resource system.

(c) The potential benefits from a large-volume use of waste wood as a primary fuel for electric generating plants or as raw material for processing and manufacturing plants.

(d) The potential increased employment produced by the adoption of forest practices.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50112 Repealed. 2013, Act 45, Imd. Eff. June 6, 2013.**

**Compiler's note:** The repealed section pertained to the board of directors of western Upper Peninsula forest improvement district.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50113 Report.**

Sec. 50113. During the years of operation of the western Upper Peninsula forest improvement district, a detailed report of the operation and impact of the district shall be submitted by the board of the district to the departments and the legislature for an analysis and evaluation.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50114 Notices; contents; certification.**

Sec. 50114. Within 30 days after receipt of the certificate from the secretary of state pursuant to section 50127, the western Upper Peninsula forest improvement district board shall record a notice pursuant to this part setting forth the names and addresses of the member landowners and the legal description of each member's forest lands in the office of the register of deeds for each county in which the land is situated. When forest lands are added or withdrawn, a like notice shall be recorded within 30 days thereafter, and copies of all notices shall be served upon the appropriate local taxing authorities. The notices shall be certified under oath.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50115 Mandate for public benefit; standards for conduct of forest practices.**

Sec. 50115. For the public benefit, the board shall mandate the continuous growing, improvement, and harvesting of forest trees to protect and maintain the forest soil, air, water resources, wildlife, and aquatic habitat within the district. The board of the western Upper Peninsula forest improvement district shall establish minimum standards for the conduct of forest practices on forest land within the district. These standards shall do all of the following:

(a) Provide for the improvement and harvesting of forest trees in a manner that will increase the productivity of the forest land, reduce soil and debris entering streams, and protect wildlife and fish habitat.

(b) Provide for road construction that will ensure the maintenance of forest productivity and water quality during construction and maintenance.

(c) Provide for reforestation that will maintain the growing and harvesting of desirable forest tree species by describing the conditions under which reforestation will be required, specifying the minimum and maximum number of trees per acre and the maximum period of time allowed after harvesting for reforestation, and requiring stabilization of soils that have become exposed as a result of harvesting. An acreage exemption from reforestation may be established, except that, on the land exempted, within 1 year after harvesting, some form of vegetative cover shall be required sufficient to provide continuing soil productivity and stabilization.

(d) Provide for management of slashings resulting from the harvesting, management, or improvement of forest tree species so as to protect reproduction and residual stands, to reduce the risk from fire, insects, and disease, to optimize the conditions for future regeneration of forest trees, and to maintain water quality and fish and wildlife habitat.

(e) Coordinate the notification requirement of this subpart and all other submission requirements imposed upon members so as to minimize the requirements for submission of information.

(f) Require having specific forest fire fighting equipment readily available.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50116 Changes in forest management plan; approval; appeal; determination; service of changes on members; effective date of changes.**

Sec. 50116. (1) A member who has submitted and obtained approval of the member's forest management plan and desires to effect a change in the plan shall set forth the proposed change in writing and obtain the written approval of the supervisory forester of the working forest in which the member's lands are located.

(2) If the supervisory forester does not grant the approval, the member may appeal the denial to the forestry director, if any, or to the board, and the forestry director's and the board's determination shall be final.

(3) Changes in forestry management plans determined by the board shall be set forth in writing and served upon the members and shall take effect 30 days after the service is made.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50117 Security for repayment of bonds.**

Sec. 50117. The security for the repayment of bonds issued by the district may be a pledge or mortgage on all lands owned by the district and all of the district's installations, buildings, and equipment, tools, furniture, fixtures, or other personal property owned by the district.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50118 Approved reserve fund; establishment; purpose; payments into fund; resolution as to use of money; limitations.**

Sec. 50118. (1) The western Upper Peninsula forest improvement district shall establish 1 or more special debt service reserve funds to secure its bonds, referred to in this part as approved reserve funds. The district shall pay into an approved reserve fund the money appropriated and made available by the state for the purpose of the fund. The money held in an approved reserve fund and the income on that money shall be used as required by the resolution authorizing the issuance of bonds and creating the fund for their repayment.

(2) An approved reserve fund requirement in the resolution of the board authorizing the bonds with respect to which the fund is established shall not exceed the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds secured in whole or in part by the fund. The district shall not issue bonds secured in whole or in part by an approved reserve fund if, upon the issuance of the bonds, the amount in the fund would be less than the requirement for the fund, unless the district at the time of issuance of the bonds deposits in the fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in the fund, is not less than the approved reserve fund requirement for the fund.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50119 Applicability of part.**

Sec. 50119. Except where expressly modified by this subpart, this part applies to the western Upper Peninsula forest restoration pilot project.

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

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 3 DEPARTMENT POWERS**

### **324.50120 Duties of department generally; applicability of provisions to western Upper Peninsula forest improvement district.**

Sec. 50120. (1) The department shall do all of the following:

(a) Provide the technical assistance of the department to the board of directors of a forest improvement district and to agencies of the state and persons with respect to the development of forest practices guidelines, the development and implementation of forest management plans, and other matters as to which the department has special expertise.

(b) Secure the cooperation and assistance of the United States or an agency of the United States, and an agency of this state, or any combination of federal and state agencies, in the work of a district, and formulate policies and procedures as necessary to facilitate the extension of aid from an agency of the United States or an agency of this state to the district.

(c) Keep the board of each forest improvement district informed of the activities and experience of all other districts organized under this part and facilitate an interchange of advice, experience, and cooperation between them.

(d) Pay all the expenses for the serving of notice, the conduct of hearings, and elections held during the district formation procedures pursuant to subpart 4. The department shall make all determinations as to eligibility of persons to vote. A determination made by the department is final without a right of appeal. A referendum or election shall be conducted by a district except for the first board of directors election. The

department shall supervise the conduct of any referendum or election required by this part. A referendum or election shall be conducted in a manner so as to preserve the purity of the ballot and to prevent fraud and corruption.

(e) Oversee the issuance of bonds by a district under this part and, if the department determines that the forest improvement project to be funded from the proceeds of the bonds is economically feasible and desirable, that the terms and conditions of the bond issuance, including the required reserve fund level, as specified in the resolution authorizing the issuance of bonds, are appropriate and acceptable, and that the bond issuance promotes the policy and purposes declared in this part and should be approved and supported by the department, then the department shall officially approve the bond issuance and designate the reserve fund established in connection with the bond issuance as an approved reserve fund.

(f) Receive the certification submitted by a district pursuant to section 50158 concerning the amounts necessary to restore approved reserve funds to amounts equal to their reserve fund requirements, review that certification and the financial affairs of the district to determine the accuracy of the amounts required, and certify, before April 2 of each year, to the governor and the budget director the amount, if any, necessary to restore an approved reserve fund to an amount equal to the approved reserve fund requirement of the fund. The governor and the budget director shall include in the annual budget the amount certified by the department.

(g) Disseminate information throughout the state concerning the activities and programs of the forest improvement districts and encourage the formation of these districts in areas where their organization is desirable.

(h) Monitor financings by districts under this part and determine, for recommendation to the legislature, what additional steps, which may include a recommendation to the legislature for the issuance of faith and credit bonds for a vote of the people, may be necessary in order to accomplish the policies and purposes declared in this part.

(2) Subsection (1)(c), (d), (e), (g), and (h) do not apply to the western Upper Peninsula forest improvement district until 5 years after the district is established and activated.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50121 Rules, guidelines, and publications.**

Sec. 50121. The department shall promulgate rules, adopt guidelines, and issue publications under 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, as may be necessary to implement and administer this part.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50122 Primary consideration in promulgating rules and disposing of timber and other products; timber volume agreement; forest improvement program.**

Sec. 50122. (1) The department, in promulgating its rules and in disposing of the timber and other products from state forest land, shall give primary consideration to the purposes for the creation of a forest improvement district.

(2) In order to accomplish the purposes of this part, the department may enter into a timber volume agreement with a district, or with a person specified by a district, which commits a portion of the timber from state land within a district to the use of that district or person.

(3) A forest improvement program is created. The program may be financed by annual appropriations made by the legislature. The program shall be used solely for the purpose of grants to districts for the purposes of this part and shall be administered by the department.

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

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 4 FOREST IMPROVEMENT DISTRICT**

### **324.50123 Establishment authorized; powers generally.**

Sec. 50123. A forest improvement district may be established pursuant to this part, and when established

has the powers conferred by this part.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50124 Petitions.**

Sec. 50124. (1) A district may be established by filing a petition, signed by 10 or more owners of forest land who control a total combined acreage of not less than 50,000 acres lying within the limits of the gross territorial boundary proposed to be organized into a district, with the department asking that a district be organized in the territory described in the petition. The petition shall state all of the following:

(a) The proposed name of the district.

(b) A legal description of the forest land proposed to be organized as the district, including the proposed gross territorial boundary of the district.

(c) A tentative implementation schedule for the forest practices functions and services the district will perform.

(d) An analysis that demonstrates the economic and administrative feasibility of a district within the defined boundaries.

(e) A request that the boundaries for the district be established.

(2) If more than 1 petition is filed covering parts of the same territory, the department shall determine which of the districts shall encompass that territory.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50125 Creation of district; hearing; notice; determination; defining boundaries of district; actual notice.**

Sec. 50125. (1) Within 30 days after a petition has been filed, the department shall give notice of a proposed hearing upon the question of the desirability, necessity, and feasibility of the creation of the district, upon the question of the appropriate boundaries to be assigned to the district, and upon all other relevant issues.

(2) If it appears at the hearing that it may be desirable to include territory outside of the area within which notice of the hearing was given, the hearing shall be adjourned and notice of the further hearing shall be given to forest owners or occupiers of land throughout the entire area considered for inclusion in the district, and a further hearing held. The gross territorial boundary of a district shall not include an area included within the gross territorial boundary of another district.

(3) If the department concludes after a 30-day grace period following the hearing, upon the facts presented and upon other relevant information available, that need for a district exists, it shall make and record that determination, and shall define, by metes and bounds or by plat maps, the forest land of the district. The gross territorial boundary of the district shall be defined by metes and bounds or by plat maps.

(4) In making its determination and in defining the boundaries of a district, the department shall consider the forest tree species in the proposed district, the condition of the forest land, the prevailing forest practices, the benefits forests may receive from being included within the district, the relation of the proposed area to other districts already organized or proposed for organization, and other physical, geographical, and economic factors considered relevant.

(5) In making a determination as to district boundaries, if the department determines that the forest improvement projects will impact upon the property value of nonparticipating landowners, the department shall provide actual notice of hearings as provided for in this section.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50126 Operation of district; feasibility.**

Sec. 50126. (1) If the department makes and records a determination that the need for a district exists and defines its boundaries, the department shall then consider the question of whether the operation of a district within those boundaries is administratively and economically feasible.

(2) If the department determines that the operation of a district is feasible, it shall record that determination and shall proceed with the organization of that district.

(3) If the department determines the operation of a district is not feasible, it shall record the reasons for its

determination and deny the petition. After 6 months have expired from the date of the denial of a petition by the department, subsequent petitions covering the same or substantially the same territory may be filed and a new hearing and determination made.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50127 Board of directors; appointment and qualifications of directors; presentation and contents of application; certification statement; examination and recordation of application and statement; issuance and contents of certification.**

Sec. 50127. (1) If the operation of a district is determined to be feasible, the department shall appoint 2 directors who, with the 3 directors elected as provided in sections 50131 and 50132, constitute the first board of directors of the district. The directors appointed shall be persons who are by training and experience qualified to perform the functions which are required of them by this part.

(2) The board shall present the secretary of state with an application that states all of the following:

(a) That a petition for the creation of a district was filed with the department pursuant to this part; that the proceedings specified in this part were taken pursuant to the petition; and that the application is being filed in order to complete the organization of the district and that they are the directors.

(b) The name and official residence of each of the directors, together with a certification evidencing their right to office.

(c) The term of office of each of the directors.

(d) The proposed name of the district.

(e) The location of the principal office of the district.

(f) The date the district is to come into existence under this part. The application shall be subscribed and sworn to by each of the directors before an officer authorized by the laws of the state to take and certify oaths.

(3) The application shall be accompanied by a statement by the department that certifies all of the following:

(a) That a petition was filed, notice given, and a hearing held as required.

(b) That the department determined there is a need for a district to function in the proposed territory and defined its boundaries.

(c) That the department subsequently determined that the operation of the proposed district is administratively and economically feasible.

(4) The secretary of state shall examine the application and statement and shall receive and record them in an appropriate book of record and shall issue a certificate to the board specifying the date of creation and the gross territorial boundary of the district.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50128 District as governmental subdivision and public body corporate and politic.**

Sec. 50128. The district shall constitute a governmental subdivision of the state and a public body corporate and politic on the date specified in the directors' application or on the date the application and statement are filed and recorded, whichever is later.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50129 Petition for discontinuance; filing; form; notice.**

Sec. 50129. A petition for discontinuance of membership in, for deletion of member forest land within, and for including additional territory within an existing district shall be filed with the board. The board shall prescribe the form for the petition. The board annually shall notify the department of any changes in membership or land ownership status changes.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50130 Petitions for change of boundary line; filing; contents; hearing; determination;**

**application for certificate evidencing change of boundary; statement; effect of filing; issuance and contents of certificate.**

Sec. 50130. (1) Petitions signed by a majority of the members of each of the boards of adjoining districts may be filed with the department asking that the boundary line between the districts be changed. These petitions shall identify the existing boundary line between the districts and the proposed new gross territorial boundary.

(2) Within 30 days after a petition has been filed, the department shall hold a public hearing upon the question of the proposed boundary change. All members of the affected districts, and all other interested persons, may attend the hearing and be heard.

(3) After the hearing, the department shall determine, upon the facts presented at the hearing and upon other relevant information, whether the operation of the districts within the proposed new gross territorial boundaries would be administratively and economically feasible. If the department determines the operation of the districts within the proposed new boundaries will be feasible, it shall record that determination and notify the boards of the districts of its determination.

(4) The boards of the affected districts shall present an application to the secretary of state, signed by them, for a certificate evidencing the change of boundary. The application shall be accompanied by a statement of the department certifying that the boundary between the districts has been changed pursuant to the procedures prescribed and identifying the new gross territorial boundary lines. When the application and statement are filed, the change of boundary is effective and the date of filing shall be identified on the certificate which the secretary of state shall issue to the boards of the affected districts.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50131 Board of directors as governing body of district; officers; election and appointment of directors; terms; eligibility to vote; vacancy; annual meeting; fiscal year; quorum; concurrence of majority for determination; expenses; delegation of powers and duties; recall petition; notice; recall election; cessation of term; furnishing commission with documents and other information; surety bonds; records; audit; representatives of local legislative body.**

Sec. 50131. (1) The governing body of a district shall be the board of directors which shall consist of 5 persons. The board may elect a chairperson and other officers which it considers necessary or convenient for implementing this part. The term of office of a director shall be 3 years except for the first board. The board of directors of the western Upper Peninsula forest improvement district shall be determined pursuant to subpart 2.

(2) The first board shall consist of 3 directors elected as provided in section 50132 and the 2 directors appointed by the department. The directors shall take office on the date specified by the secretary of state as the beginning of a district's existence or as soon as appointed, whichever is later. The term of office of the director first appointed shall be 1 year, the second director shall be appointed for 2 years, and the directors first elected at the time of the referendum shall serve as follows: the director receiving the highest number of votes shall serve for 3 years, the director receiving the next highest number of votes shall serve for 2 years, and the director receiving the next highest number of votes shall serve for 1 year. Thereafter, as the terms of the directors of the first board expire, the department shall appoint a director to the board if the state land encompassed by the district's gross territorial boundary is greater than 5% of the forest land which comprises the district and a timber volume agreement has been made. The other positions on the board shall be filled by elections at the annual meeting of the members of a district. If the state land encompassed by a district's gross territorial boundary is 5% or less of the forest land which comprises the district, all of the positions on the board shall be filled by those elections.

(3) All members who own forest land within a district, except for state lands, shall be eligible to vote for 1 or more candidates for the board, according to the amount of forest land owned within the district pursuant to the following schedule:

- (a) An owner of less than 100 acres may cast 3 votes.
- (b) An owner of at least 100 acres but less than 500 acres may cast 4 votes.
- (c) An owner of at least 500 acres but less than 1,000 acres may cast 5 votes.
- (d) An owner of at least 1,000 acres but less than 5,000 acres may cast 6 votes.
- (e) An owner of at least 5,000 acres but less than 10,000 acres may cast 7 votes.
- (f) An owner of at least 10,000 acres but less than 20,000 acres may cast 8 votes.

(g) An owner of at least 20,000 acres but less than 50,000 acres may cast 9 votes.

(h) An owner of 50,000 acres or more may cast 10 votes.

(4) A vacancy shall be filled by appointment by the board and a director appointed shall serve until the next annual meeting when a director shall be elected to finish the unexpired term. The annual meeting shall be held within 30 days after the close of the fiscal year of a district. The fiscal year of a district shall be the same as the fiscal year of this state.

(5) A majority of the directors constitutes a quorum, and the concurrence of a majority of the directors in any matter within their power shall be required for the board's determination. A quorum shall consist of 3 members of the board at least 2 of whom shall be elected members. A director shall not receive compensation for services rendered, but is entitled to expenses, including traveling expenses, necessarily incurred in the discharge of duties performed as a director. The directors may delegate to their chairperson, to 1 or more directors, or to 1 or more agents or employees, power and duties as they consider proper.

(6) A petition may be filed with the department for an election to recall 1 or more directors if the petition is signed by members within a district whose forest land comprises 20% or more of the forest land within the district. Within 30 days after a petition has been filed, the board shall give notice in the manner provided by the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws, of the holding of a recall election. The recall election shall be held within 45 days after the filing of a petition. All members who own forest land within the boundaries of a district, except for state land, are eligible to vote in the recall election pursuant to the schedule in subsection (3). A 2/3 majority of the votes cast is required to recall a director. The term of a director who is recalled shall cease on the date the results of the election are published by the department.

(7) A board shall furnish the department with copies of ordinances, rules, regulations, orders, contracts, forms, and other documents it adopts or employs, and with other information concerning its activities as the department requires in the performance of its duties under this part.

(8) A board shall require the execution of surety bonds for each employee or officer who is entrusted with funds or property; shall provide for the keeping of a full and accurate record of each proceeding and each resolution, regulation, or order issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(9) The board shall invite the legislative body of each local unit of government or county located within, partially within, or near the territory comprising a district to designate a representative to advise and consult with the board on all questions which may affect the property or other interests of that local unit of government or county.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50132 Nominating petition; filing; signatures; notice; eligibility to vote.**

Sec. 50132. (1) A candidate for the first board of directors shall file nominating petitions with the department at or before the hearing on the need for a district. A candidate shall be a member of the proposed district. A nominating petition shall not be accepted by the department unless it is subscribed by 6 or more members of a proposed district. A member may sign more than 1 nominating petition. The department shall give notice of the initial election of 3 directors. Notice shall be posted at the business office of each governmental unit in the proposed district, published in each newspaper of record distributed in the proposed district, mailed to each individual elected governmental official within the proposed district and mailed to any individual requesting written notification of the initial election. The 3 candidates who receive the largest number of the votes cast shall be the elected directors for a district.

(2) All members within a district are eligible to vote for 1 or more candidates for the first board of directors, according to the amount of forest land owned within a proposed district, pursuant to the schedule in section 50131(3).

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50133 Consolidation into single district; petition; notice; hearing; determination; order; board of consolidated district; certificate of organization; powers and duties; property, agreements, and obligations of consolidated district.**

Sec. 50133. (1) Two or more districts may petition the department for consolidation into a single district.

The department shall not act on the petition unless it is signed by a majority of the board of each of the districts involved. Within 30 days after receipt of a petition, the department shall give notice of a hearing on the proposed consolidation. Notice shall be given to all members in the area proposed to be included in the consolidated district.

(2) Based on the facts presented at the hearing and other relevant facts, the department shall determine if consolidation is desirable. If the department determines that consolidation is desirable, it shall issue an order which states that the districts are to be consolidated on a date specified, the name of the consolidated district, and its gross territorial boundaries.

(3) The board of the consolidated district shall consist of the chairperson of the board of each of those districts consolidated, who shall serve for a term of 2 years, and 3 other members appointed by the department, who shall serve for a term of 1 year. Thereafter, directors shall be elected or appointed as provided in section 50131.

(4) Upon receipt of the order of consolidation, the secretary of state shall issue a certificate of proper organization to the directors of the consolidated district. The consolidated district shall have the same powers and duties as other districts organized under this part.

(5) The assets, liabilities, records, documents, writings, or other property of the districts consolidated shall become the property of the consolidated district. All agreements made by, and obligations of the districts consolidated shall be binding upon and enforceable by the consolidated district.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50134 Discontinuance of district; petition; public hearings; notice of referendum; eligibility to vote; publishing results of referendum; determination; certificate of determination; payment of debt and disposition of property; application for discontinuance; issuance and recordation of certificate of dissolution; contracts, bonds, or other obligations; limitation on petition for discontinuance.**

Sec. 50134. (1) The members within a district, whose total lands compose 25% or more of the private forest land which comprise the district, may file a petition with the department requesting that the district be discontinued. The petition shall identify the provisions to be taken for the payment of outstanding debt and the disposition of district property.

(2) The department may conduct public hearings to assist it in its consideration of the petition. Within 60 days after a petition has been filed, the board shall give notice for the holding of a referendum upon the issue of the discontinuance of a district. All members of the district shall be eligible to vote in the referendum pursuant to the schedule in section 50131(3).

(3) The board shall publish the results of the referendum. If a majority of the votes cast are in favor of discontinuing a district, the department shall determine that the district will be discontinued. Even if a majority of the votes cast are not in favor of discontinuing a district, the department may determine that the district not continue in existence. If the department determines that the district shall continue, it shall record that determination and deny the petition. If the department determines that a district shall be discontinued, it shall record its determination and certify its decision to the board of the district. In making its determination, the department shall consider the economic and administrative feasibility of the continuation of a district, the extent of outstanding debt of the district, the attitudes of the members within the district, the number of members eligible to vote in the referendum who voted, the proportion of the votes cast in favor of the discontinuance of the district to the total number of votes cast, and other economic and social factors which may be relevant to the determination.

(4) Upon receipt from the department of a certification of a determination that a district shall be discontinued, the board shall proceed to terminate the affairs of the district. The board shall provide for the payment of all outstanding debt and for the disposition of district property to the state. The board shall thereafter file an application with the secretary of state for the discontinuance of the district. The application shall identify the action taken to provide for the payment of all outstanding debt and for the disposition of district property. The secretary of state shall issue a certificate of dissolution to the board of the district which specifies the effective date of discontinuance and shall record the certificate in the appropriate book of record.

(5) Each contract, bond, or other obligation to which a district is a party shall remain in force and effect for the period provided in the contract, bond, or other indebtedness. If a district is discontinued, the department shall be substituted for the district as a party to each contract entered into by the district, except the department is not responsible for any coupon or bond issued by a district under this part. The department is

entitled to all benefits and subject to all responsibilities under each contract for which it is substituted as a party and has the same right to perform, to require performance, to sue and be sued, and to modify or terminate the contract by mutual consent or otherwise, as the board of a district would have had.

(6) The department shall not entertain a petition for the discontinuance of a district, or make determination pursuant to a petition under this section, more often than once every 2 years.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50135 Additional powers of district.**

Sec. 50135. In addition to those powers granted elsewhere in this part, a district has all of the following powers, which are subject to federal and state environmental laws:

(a) To obtain real property for purposes of industrial site development within the gross territorial boundary of a district, a municipality located within the gross territorial boundary may take private property under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, for the purpose of transfer to the district and may transfer the property to the district for use in an industrial site. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public. For the purposes of this section, "industrial site development" means the location of industrial plant facilities for production, processing, handling, storage, marketing, manufacturing, or directly related transportation facilities of forest resources. Each district shall have only 1 industrial site not to exceed 150 acres.

(b) To act as the marketing agent for the members or an association of the members within a district after obtaining their consent, in order to facilitate cooperation among the members to increase their bargaining power, including the power to make commitments of private timber in a manner, volume, and for periods prescribed by the board.

(c) To conduct business operations with the powers provided in section 261 of the business corporation act, Act No. 284 of the Public Acts of 1972, being section 450.1261 of the Michigan Compiled Laws.

(d) To conduct and publish the results of surveys, investigations, and support research by research institutions relating to the need and nature of forest practices within a district.

(e) To develop comprehensive management plans for forest practices within the district which specify the procedures, performances, and resources necessary or desirable for the effectuation of the plans. If the state land encompassed by a district's gross territorial boundary is greater than 5% of the total forest land area, the department and the district administrators shall cooperate in the development of comprehensive management plans. The plans shall be published so as to bring them to the attention of the members within a district.

(f) To conduct projects to demonstrate the means and methods of forest practices within a district on forest land owned or controlled by the state or an agency of the state, with the cooperation of the agency administering and having jurisdiction, and on any other forest land within a district upon obtaining the consent of the owner or the necessary rights or interest in the land.

(g) To carry out and to assist members in carrying out forest practices within a district.

(h) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, property, real or personal, or rights or interests in real or personal property; to maintain, administer, and improve property acquired; to receive income from the property and to expend that income in implementing this part; and to sell, lease, or otherwise dispose of its property or interests.

(i) To make available to members within a district, on terms the board shall prescribe, foresters, forest managers, forest practice and harvesting machinery and equipment, seeds, and seedlings and other material, equipment, or personnel, as will be of assistance in carrying out forest practices.

(j) To construct, improve, operate, and maintain sawmills, hardboard mills, and other structures or facilities as may be necessary or convenient to carry out this part, and to cooperate with owners of existing structures and facilities.

(k) To assume by purchase, lease, or otherwise, and to administer, a forest improvement project undertaken within the boundaries of a district by the United States or an agency of the United States, or an agency of the state; to manage, as agent of the United States or an agency of the United States, or an agency of the state, a forest improvement project within its boundaries; to act as agent for the United States, or an agency of the United States, or for an agency of the state, in connection with the acquisition of real or personal property for, or in the construction, operation, or administration of, a forest improvement project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or an agency of the United States, from an agency of the state, or from any other source, and to use or expend that money or those services, materials, or other contributions in carrying on its operations subject to policies

and procedures as adopted by the department; and to accept money, gifts, and donations from any source.

(l) To cooperate with industrial and trade development agencies in efforts to promote the expansion of industrial and manufacturing activities utilizing wood products.

(m) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless discontinued as provided in this part; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; and to promulgate rules consistent with this part and the rules of the department in order to carry into effect the policy and purposes of this part.

(n) To extend benefits to members as considered desirable by the board and to require contributions in money, services, materials, or otherwise of members of forest land as a condition of extending benefits under this part.

(o) To defray all or part of the project costs of a forest improvement project, borrow money, and issue bonds as provided in this part. A bond or coupon issued under this part shall not be a general obligation of, or constitute a debt of the state or a political subdivision of the state, other than the issuing district.

(p) To enter into lease, lease-purchase, installment sale, loan, or other agreements with a person to provide for the acquisition, construction, equipping, improving, or financing of a forest improvement project.

(q) To mortgage any of the following in favor of the holders of the bonds issued in conjunction with a project:

(i) The project.

(ii) The industrial site of the district.

(iii) Any building, equipment, or other personal property situated on the site.

(iv) District owned forest land.

(v) Member owned forest land, with the member's consent.

(r) To sell and convey any district owned property, including without limitation the sale and conveyance of the industrial site and its facilities subject to a mortgage, for a price and at a time the board determines. A sale or conveyance shall not be made in a manner as to impair the rights or interests of the holders of bonds.

(s) To employ a district manager, foresters, architects, attorneys, accountants, construction and financial experts, and other employees and agents as are necessary to implement this part.

(t) To receive and accept from a public or private agency loans or grants for or in aid of a project or portion of a project undertaken, and receive and accept a loan, grant, aid, or contribution from any source of money, property, labor, or any other thing of value, to be held, used, and applied only for the purposes for which the loan, grant, aid, or contribution is made.

(u) To issue bonds for purposes of funding a forest improvement district or forest practices.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50136 Repealed. 2013, Act 45, Imd. Eff. June 6, 2013.**

**Compiler's note:** The repealed section pertained to cooperation between state agency and district board.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50137 Expenses of district; sources of payment; allocation of funds.**

Sec. 50137. (1) The expenses of a district may be paid from 1 or more of the following:

(a) An appropriation by the legislature.

(b) The revenues of the district's facilities and operations.

(c) The proceeds of the service fees authorized by this part.

(d) The proceeds of sales of state timber within the district except for the redemption of the bonds in case of default.

(e) Federal grants or from gifts or grants from private persons.

(f) The proceeds from the sale of the bonds of the district.

(g) Any other funds available to the district.

(2) When allocating available funds among proposed districts, the department shall consider the proposed district or districts which in its judgment will produce the greatest public benefit, giving consideration to all of the following factors:

(a) The need for and potential commercial benefits of forest improvement if the district is formed within the proposed gross territorial boundaries.

(b) The need for and potential benefits to long-term production, maintenance, and enhancement of the total forest resource system.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50138 Cooperative exercise of powers.**

Sec. 50138. The boards of any 2 or more districts may cooperate in the exercise of powers conferred in this part.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50139 Report.**

Sec. 50139. During the years of operation of a district, a detailed report of the operation and impact of the district shall be submitted by the board of the district to the departments and the legislature for analysis and evaluation.

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

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 5 FOREST PRACTICES**

### **324.50140 Conduct of forest practices; minimum standards.**

Sec. 50140. For the public benefit, the board shall mandate the continuous growing, improvement, and harvesting of forest tree species so as to protect and maintain the forest soil, air, water resources, wildlife, and aquatic habitat within a district. The board of a district shall establish minimum standards for the conduct of forest practices on forest land within a district. These standards shall do all of the following:

(a) Provide for the improvement and harvesting of forest tree species in a manner that will increase the productivity of the forest land, reduce soil and debris entering streams, and protect wildlife and fish habitat.

(b) Provide for road construction that will ensure the maintenance of forest productivity, water quality, and fish and wildlife habitat during construction and maintenance.

(c) Provide for reforestation that will maintain the growing and harvesting of desirable forest tree species by describing the conditions under which reforestation will be required, specifying the minimum and maximum number of trees per acre and the maximum period of time allowed after harvesting for reforestation, and requiring stabilization of soils which have become exposed as a result of harvesting. An acreage exemption from reforestation may be established, except that on the land exempted, within 1 year after harvesting, some form of vegetative cover shall be required sufficient to provide continuing soil productivity and stabilization.

(d) Provide for management of slashings resulting from the harvesting, management, or improvement of forest tree species so as to protect reproduction and residual stands, to reduce the risk from fire, insects, and disease, to optimize the conditions for future regeneration of forest tree species, and to maintain air and water quality and fish and wildlife habitat.

(e) Coordinate the notification requirement of this subpart, the application requirement of section 50148, and all other submission requirements imposed upon members so as to minimize the requirements for submission of information.

(f) Provide for public uses of member forest land within the district, consistent with the purposes of this part.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50141 Notification of compliance with forest practice rules; forest management plan; forms; contents of notification; notice of change in information; validity of notification.**

Sec. 50141. (1) A member shall notify the district of compliance with the forest practice rules by submitting a forest management plan on forms prescribed and provided by the board. The notification shall include the name and address of the member, the legal description of the area in which the forest management plan is to be implemented, the specific forest practices to be conducted during the plan, and other information the board considers necessary.

(2) The member shall notify the board of each subsequent change in the information provided in the notification within 30 days after the change.

(3) The notification shall be valid for not more than 5 years after the date of original notification.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50142 Violation of district forest practice rule; notice; order; hearing.**

Sec. 50142. (1) If the board determines that a district forest practice rule was violated, it shall notify the member of the violation within 10 days after its determination. The notice shall specify the nature of the violation charged and identify the damage or unsatisfactory condition that has occurred as a result of the violation.

(2) When a notice of violation is served, the board:

(a) Shall issue and serve an order directing that further violations cease.

(b) May issue and serve an order directing the member to make reasonable efforts to repair the damage or correct the unsatisfactory condition.

(3) If the member requests a hearing within 10 days after the issuance of an order affecting the member's forest land, the board shall hold a hearing on its order within 30 days after the receipt of the request.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50143 Noncompliance with order directing repair of damage or correction of unsatisfactory condition; estimate of cost; notice of estimate; review; determination of expenditure; appearance of member; itemized certified statement of expenditures; expenditures as lien; certification and filing of notice of lien; legal action; error or mistake in notice of lien; termination of lien.**

Sec. 50143. (1) If an order directs the repair of damage or correction of an unsatisfactory condition and if the member fails to comply, the board shall estimate the cost to repair the damage or the unsatisfactory condition and shall notify the member in writing of the amount of the estimate. Upon written agreement with the member to pay the cost, the district may have the damage repaired or the unsatisfactory condition corrected.

(2) If the member does not agree to pay the cost within 30 days after being notified, the board shall review the matter and determine whether the district shall repair the damage or correct the unsatisfactory condition, and shall approve the amount to be expended. The expenditure approved may include reasonable administrative costs directly associated with repairing the damage or correcting the unsatisfactory condition. The member shall be afforded the opportunity to appear before the board to present the facts pertaining to the alleged violation and the proposed expenditure.

(3) The board shall keep a complete account of expenditures incurred in repairing damage or correcting an unsatisfactory condition. Not more than 90 days after the completion of the work, the board shall prepare an itemized statement and deliver a copy to the member. An itemized certified statement of the expenditures incurred by the district shall be accepted as prima facie evidence of the expenditures in a proceeding authorized by this subpart.

(4) Upon the initiation of the forest practice work, the expenditures of a district shall become a lien upon a member's forest land located within the district. A written notice of the lien, containing a statement of the demand, an itemization of expenditures incurred, the date incurred and where incurred, and the names of the parties against whom the lien is attached, shall be certified under oath by the district and filed in the office of the register of deeds in each county where the real and personal property of the member is located, if considered necessary to recover the expenditures incurred by the district. This written notice shall be filed within 6 months but not sooner than 30 days after the date of delivery of the itemized statement referred to in subsection (3). The prosecuting attorney of a county in which a lien is filed shall bring legal action on behalf of a district to recover the debt. An error or mistake in the notice of lien of the description of real or personal property does not affect the validity of the lien, if the real or personal property can be identified by the description.

(5) A lien provided for in this section shall terminate 5 years after the date of filing of the notice of the lien unless legal action is instituted before that time.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.50144 Conversion of forest land to other use; procedures and criteria.**

Sec. 50144. This subpart does not prevent forest land from being converted to any other use. A board shall establish the procedures and criteria for excluding land being converted or to be converted from the requirements of this subpart. The procedures and criteria shall conform with zoning ordinances and land use plans of any other political subdivision within which forest land of a district is located.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **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.

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

**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.

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

**Popular name:** Act 451

**Popular name:** NREPA

**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.

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

**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.

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

**Popular name:** Act 451

**Popular name:** NREPA

**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.

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

**Popular name:** Act 451

**Popular name:** NREPA

**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.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **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.

**Popular name:** Act 451

**Popular name:** NREPA

### **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.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **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.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50155 Collection of fees; enforcement.**

Sec. 50155. The board shall enforce collection of the fees pursuant to the procedure contained in section 50143.

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

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 7 BOND ISSUANCE PROVISIONS**

### **324.50156 Resolution authorizing bonds; provisions.**

Sec. 50156. A resolution authorizing bonds to be issued under the power granted in section 50135 may contain provisions, which shall be part of the contract with the holders of the bonds, as to:

(a) The use and disposition of the payments received under the agreement, including the creation and maintenance of reserves.

- (b) The issuance of other or additional bonds of equal standing with bonds of a district already issued.
- (c) The insurance to be carried on the forest improvement project and the use and disposition of insurance money.
- (d) The terms and conditions upon which the holder of the bonds, or a portion of the bonds, or a trustee of the bonds, shall be entitled to the appointment of a receiver by a court which has jurisdiction in those proceedings, who may enter and take possession of the forest improvement project and lease and maintain it, prescribe rentals, and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as a district may do under this part.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.50157 Resolution authorizing bonds; principal, interest, payment, and security; full faith and credit; trustees.**

Sec. 50157. (1) The bonds shall be payable and secured as set forth in the resolution authorizing the issuance. The resolution may provide that the principal of and interest on any bonds issued shall be payable and secured by 1 or more of the following:

- (a) The net revenues derived from a forest improvement project.
- (b) Amounts derived from the disposition of projects and other property mortgaged or otherwise pledged as security for payment of the bonds.
- (c) Gifts or grants by any person.
- (d) Federal funds.
- (e) Loan repayments.
- (f) An assignment of a percentage of gross revenues received by the district.
- (g) Any other source approved by the board.

(2) District debt may also be secured by the full faith and credit of the district but shall not be general obligations of the state of Michigan. The resolution may also provide for the appointment of 1 or more trustees for bondholders. A trustee may be a person domiciled or located within or outside the state and may be given appropriate powers.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.50158 Special debt service reserve fund; creation; purpose; sources and use of money; transfer of income or interest; limitation on approved reserve fund requirement; limitation on issuance of bonds.**

Sec. 50158. (1) A district, with the approval of the department, may create and establish 1 or more special debt service reserve funds, to secure its bonds, referred to in this part as approved reserve funds. A district shall pay into an approved reserve fund the money appropriated and made available by the state for the purpose of the fund; proceeds of the sale of bonds, to the extent provided in the resolution of the district authorizing the issuance of bonds; and other money made available for the purpose of a fund from any other source. The money held in an approved reserve fund shall be used as required by the resolution authorizing the issuance of bonds and creating the fund. Income or interest earned by, or increment to an approved reserve fund due to the investment of money in the fund may be transferred by a district to other funds or accounts of the district to the extent the transfer does not reduce the amount of an approved reserve fund below the required level for a fund, as specified in the bond authorizing resolution.

(2) An approved reserve fund requirement in the resolution of the board authorizing the bonds with respect to which the fund is established, shall not exceed the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds secured in whole or part by the fund. A district shall not issue bonds secured in whole or in part by an approved reserve fund if, upon the issuance of the bonds, the amount in the fund would be less than the requirement for the fund, unless the district at the time of issuance of the bonds, deposits in the fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in the fund, shall be not less than the approved reserve fund requirement for the fund.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50159 Statement of liability on face of bond.**

Sec. 50159. The state shall not be liable on bonds of a district, and the bonds shall not be a debt of the state. The bonds shall contain on their face a statement to that effect.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50160 Applicability of part and resolution; enforcement of duties; recital in bond as evidence of validity; publication and effective date of resolution.**

Sec. 50160. (1) This part, and the resolution authorizing the issuance of bonds under this part shall remain applicable until the principal and interest on bonds issued by a district have been fully paid or provided for. The duties of a district and its board under this part and the resolution authorizing the issuance of bonds under this part shall be enforceable by a bondholder by mandamus or other appropriate action in a court of competent jurisdiction.

(2) The resolution authorizing the issuance of bonds shall provide that the bonds shall contain a recital that they are issued under this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(3) A resolution authorizing the issuance of bonds under this part is not effective until publication at least once in a newspaper of general circulation within the area comprised by a district or, if such a newspaper does not exist, within the nearest city or county having a newspaper of general circulation.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50161 Refunding bonds.**

Sec. 50161. A district may issue its bonds to refund in whole or part, at any time, bonds previously issued by the district under this part.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50162 Adoption of bonds by resolution of majority of board; bonds subject to revised municipal finance act.**

Sec. 50162. The bonds of a district shall be authorized by resolution adopted by a majority of the board. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2002, Act 222, Imd. Eff. Apr. 29, 2002.

**Popular name:** Act 451

**Popular name:** NREPA

**324.50163 Pledge and lien of pledge valid and binding; recordation not required.**

Sec. 50163. A pledge made by a district shall be valid and binding from the time the pledge is made. The money or property pledged and thereafter received by a district is immediately subject to the lien of the pledge without physical delivery or a further act. The lien of a pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against a district, irrespective of whether the parties have notice of the claim. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50164 Liability on bonds.**

Sec. 50164. Neither the members of the board of a district nor a person executing the bonds is personally liable on the bonds or subject to personal liability or accountability by reason of the board's issuance or the person's execution of the bonds.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50165 Pledge and agreement of state not to impair rights and remedies of bondholders; bonds as negotiable instruments; bonds as securities; investment in bonds.**

Sec. 50165. (1) The state pledges and agrees with the holders of bonds issued under this part that the state will not limit or alter the rights vested in a district to fulfill the terms of agreements made with the holders of bonds or in any way impair the rights and remedies of the holders until the bonds, together with the interest on the bonds, with interest on any unpaid installments of interest and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. A district shall include this pledge and agreement of the state in each agreement with the holders of the bonds.

(2) The bonds authorized to be issued by this part are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, Act No. 174 of the Public Acts of 1962, being sections 440.1101 to 440.1102 of the Michigan Compiled Laws, subject only to the provisions of the bonds for registration.

(3) The bonds of a district are securities in which each public officer or body of the state and each political subdivision of the state; each insurance company and association and any other person carrying on an insurance business; each bank, trust company, savings bank and savings association, savings and loan association, or investment company; each administrator, guardian, executor, trustee, or other fiduciary; and any other person who is authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, which are either owned or controlled by the person or other entity.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50166 Exemption from taxation.**

Sec. 50166. The state covenants with the purchasers and all subsequent holders and transferees of bonds issued under this part, in consideration of the acceptance of and payment for the bonds, that the bonds issued under this part and the income from those bonds and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received, pledged to pay or secure the payment of the bonds at all times are exempt from state or local income taxation provided by the laws of the state, except for estate, inheritance, and gift taxes and taxes on transfers.

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

**Popular name:** Act 451

**Popular name:** NREPA

**PART 503**

**STATE FOREST PRODUCTS INDUSTRY DEVELOPMENT COUNCIL**

**324.50301 Duties of departments of agriculture and rural development and natural resources.**

Sec. 50301. The departments of agriculture and rural development and natural resources shall jointly do all of the following:

(a) Advise the legislature and the governor on forest management and development and other matters relevant to the development of the forest products industry in this state.

(b) Develop a forestry development plan to improve the state's business climate for forestry, assure a stable timber supply, and coordinate public and private forestry activities.

(c) Identify the needs of the forest products industry.

(d) Promote and encourage the expansion of the forest products industry in this state.

(e) Promote and encourage the retention and expansion of existing forest products companies in this state and attract new forest products companies to locate in this state.

(f) Perform other functions the departments consider necessary for the development of the forest products industry in this state.

(g) Promote and encourage the use of this state's value-added forest products in Michigan, in other states, and internationally.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2013, Act 47, Imd. Eff. June 6, 2013.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50302 Annual report.**

Sec. 50302. The departments of agriculture and rural development and natural resources, jointly, shall annually report to the governor and the legislature on their activities to promote the development of the forest products industry in this state.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2013, Act 47, Imd. Eff. June 6, 2013.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 505**

### **MICHIGAN FOREST FINANCE AUTHORITY**

### **324.50501 Purpose of part.**

Sec. 50501. The purpose of this part and of the authority created by this part is to preserve existing jobs, create new jobs, and alleviate and prevent unemployment through the retention, promotion, and development of forestry and forest industries and to protect the health and vigor of forest resources by doing all of the following:

(a) Funding practices prescribed and approved by the department that intensify management of certain highly productive portions of this state's forest system.

(b) Implementing a system of forest management that is investment-oriented, economically efficient, and environmentally sound.

(c) Implementing a system of forest management that is consistent with principles of sustainable forestry and with part 525.

(d) Promoting a stable and continuing supply of timber for future economic expansion.

(e) Providing dependable funding of scheduled forest management operations and practices.

(f) Promoting effective investment of revenues from timber sales for high future returns.

(g) Facilitating timely performance of forest management operations and practices.

(h) Earning additional revenues for forest management from timber sales.

(i) Establishing new stands of trees.

(j) Providing for reforestation, forest protection, and timber stand improvement.

(k) Providing an additional funding source for the purposes described in this section from indebtedness secured with revenues generated from future sale of timber harvested from state tax reverted lands, from lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and from other lands as provided by law.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 124, Imd. Eff. May 28, 2004;—Am. 2020, Act 287, Imd. Eff. Dec. 29, 2020.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50502 Definitions.**

Sec. 50502. As used in this part:

(a) "Authority" means the Michigan forest finance authority created in section 50503.

(b) "Board" means the board of directors of the Michigan forest finance authority, except where the context clearly requires a different definition.

(c) "Bonds" means bonds of the authority issued as provided in this part.

(d) "Forest management operations and practices" means activities related to the harvesting, reforestation, and other forest management, including, but not limited to, road access for silviculture activity and forest thinning, pest control, disease control, fertilization, forest protection, and wildlife management, that are consistent with principles of sustainable forestry.

(e) "Notes" means notes of the authority issued as provided in this part, including commercial paper.

(f) "State forester" means an employee of the department who has a 4-year degree in forest management from an accredited college or university and experience in forest management and who is designated as the state forester by the director.

(g) "Sustainable forestry" means that term as defined in section 52501.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 124, Imd. Eff. May 28, 2004;—Am. 2020, Act 287, Imd. Eff. Dec. 29, 2020.

**Popular name:** Act 451

**Popular name:** NREPA

**324.50503 Michigan forest finance authority; creation; exercise of powers, duties, and functions; handling of funds.**

Sec. 50503. The Michigan forest finance authority is created as a body corporate within the department of natural resources and shall be administered under the supervision of the department but shall exercise its prescribed statutory power, duties, and functions independently of the department. The budgeting, procurement, and related functions of the authority shall be performed under the direction and supervision of the department. Funds of the authority shall be handled in the same manner and subject to the same provisions of law applicable to state funds or in a manner specified in a resolution of the authority authorizing the issuance of bonds and notes.

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

**Compiler's note:** For transfer of powers and duties of Michigan forest finance authority from department of natural resources to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of powers and duties of Michigan forest finance authority, and of its board of directors, relating to borrowing money and issuing bonds or notes, to Michigan finance authority, see E.R.O. No. 2010-2, compiled at MCL 12.194.

For transfer of certain other powers and duties of Michigan forest finance authority to department of natural resources, see E.R.O. No. 2010-2, compiled at MCL 12.194.

For transfer of Michigan forest finance authority from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

**Popular name:** Act 451

**Popular name:** NREPA

**324.50504 Board of directors; appointment; terms; oath; vacancy; persons subject to MCL 15.321 to 15.330; discharge of duties; policies and procedures; conducting business at public meetings; notice; quorum; actions of board; representative as voting member; chairperson.**

Sec. 50504. (1) The authority shall be governed by a board of directors consisting of the director, the state treasurer, the director of the department of labor and economic growth, and 6 residents of the state, appointed by the governor with the advice and consent of the senate as follows:

- (a) One individual shall represent the forest products industry within the state.
- (b) One individual shall be a commercial logging contractor.
- (c) One individual shall be an owner of nonindustrial, private forestland.
- (d) One individual shall be from the wood products manufacturing industry.
- (e) One individual shall represent hunters, anglers, and other outdoor recreation interests.
- (f) One individual from a college or university in the state with knowledge and expertise in forest management.

(2) The 6 resident directors appointed under subsection (1)(a) to (f) shall serve terms of 3 years. In appointing the initial 6 resident members of the board, the governor shall designate 2 to serve for 3 years, 2 to serve for 2 years, and 2 to serve for 1 year.

(3) Upon appointment to the board under subsection (1), and upon the taking and filing of the constitutional oath of office, a member of the board shall enter the office and exercise the duties of the office.

(4) Regardless of the cause of a vacancy on the board, the governor shall fill a vacancy in the office of a member of the board by appointment with the advice and consent of the senate. A vacancy shall be filled for the balance of the unexpired term of the office. A member of the board shall hold office until a successor has been appointed and has qualified.

(5) Members of the board and officers and employees of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330. A member of the board or an officer, employee, or agent of the authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the board or an officer, employee, or agent of the authority, when acting in good faith, may rely upon the opinion of counsel for the authority, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the authority represented to the member of the board, officer, employee, or agent to be correct by the officer of the authority having charge of its books or account, or stated in a written report by the auditor general or a certified public accountant or the firm of the accountants fairly to reflect the financial condition of the authority.

(6) The board shall organize and make its own policies and procedures. The board shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Five members of the board constitute a quorum for

the transaction of business. An action of the board requires a concurring vote by 5 members of the board. A state officer who is a member of the board may designate a representative from his or her department to serve instead of that state officer as a voting member of the board for 1 or more meetings. The state treasurer shall serve as chairperson of the board.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 124, Imd. Eff. May 28, 2004.

**Compiler's note:** For transfer of powers and duties of Michigan forest finance authority, and of its board of directors, relating to borrowing money and issuing bonds or notes, to Michigan finance authority, see E.R.O. No. 2010-2, compiled at MCL 12.194.

For transfer of certain other powers and duties of Michigan forest finance authority to department of natural resources, see E.R.O. No. 2010-2, compiled at MCL 12.194.

For transfer of position of director of department of natural resources and environment as member of board of directors of Michigan forest finance authority to director of department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50505 Election of chairperson and vice-chairperson; state forester as executive director; qualifications, duties, and compensation of employees; delegation of powers or duties; rights and interests of authority; annual report; audits; records.**

Sec. 50505. (1) The authority shall elect a chairperson and a vice-chairperson from among its members. The state forester shall serve as the executive director of the authority. The authority may employ legal and technical experts and other officers, agents, or employees, permanent or temporary, paid from the funds of the authority. The authority shall determine the qualifications, duties, and compensation of those it employs, but an employee shall not be paid a higher salary than the director. The authority may delegate to 1 or more members, officers, agents, or employees any powers or duties it considers proper.

(2) The authority shall contract with the department for the purpose of maintaining and improving the rights and interests of the authority.

(3) The authority shall annually file a written report on its activities of the last year with the legislature. This report shall be submitted not later than 270 days following the end of the fiscal year. This report shall specify the amount and source of revenues received, the status of investments made, and a description of the forest management practices undertaken by the department with proceeds of bonds sold under this part.

(4) The accounts of the authority shall be subject to annual audits by the state auditor general or a certified public accountant appointed by the auditor general. Records shall be maintained according to generally accepted auditing principles.

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

**Compiler's note:** For abolishment of position of executive director of Michigan forest finance authority, see E.R.O. No. 2010-2, compiled at MCL 12.194.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50506 Powers of board.**

Sec. 50506. Except as otherwise provided in this part, the board may do all things necessary or convenient to implement the purposes, objectives, and provisions of this part, and the purposes, objectives, and powers delegated to the board by other laws or executive orders, including, but not limited to, all of the following:

(a) Adopt an official seal and bylaws for the regulation of its affairs and alter the seal or bylaws at its pleasure.

(b) Sue and be sued in its own name and plead and be impleaded.

(c) Borrow money and issue negotiable revenue bonds and notes pursuant to this part.

(d) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers.

(e) With the prior consent of the department, solicit and accept gifts, grants, loans, and other aid from any person, or the federal, state, or local government or any agency of the federal, state, or local government, or participate in any other way in a federal, state, or local government program.

(f) Acquire standing timber, timber cutting rights, and the state's interest in contracts granting cutting rights, on state tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law, to be used for any of the purposes provided in this part subject to the restrictions of section 50509. However, the state shall not convey to the authority fee title to any state forest lands.

(g) Procure insurance against loss in connection with the property, assets, or activities of the authority.

(h) Invest money of the authority, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.

(i) Contract for goods and services and engage personnel as necessary and engage the services of private consultants, managers, legal counsel, and auditors for rendering professional financial assistance and advice payable out of any money of the authority, subject to the restrictions of section 50507.

(j) Indemnify and procure insurance indemnifying members of the board from personal loss or accountability from liability asserted by a person on bonds or notes of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or notes, or by reason of any other action taken or the failure to act by the authority.

(k) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this part, rules promulgated under this part, or other laws that relate to the purposes and responsibilities of the authority.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 124, Imd. Eff. May 28, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

**324.50507 Financing forest management operations and practices; application of funds; interim procedure; annual list of activities and practices; projection of probable default; contracts for cutting and sale of timber; forest development fund; audit.**

Sec. 50507. (1) The authority shall finance only forest management operations and practices consistent with part 525 that follow the guidelines, rules, and objectives prescribed by the department.

(2) Funds managed by the authority shall be applied in a manner consistent with part 525 and the land management planning policies of the department on lands that have been identified for forest management practices. In the absence of an approved state forest management plan covering a candidate area, the department shall use an interim procedure to ensure that all forest values have been considered in selecting sites for investment with funds of the authority. The department shall annually submit a list of activities and practices funded from revenue generated under this part for the board's review and determination of consistency with this part.

(3) The executive director of the authority shall notify the department if the authority projects a probable default on any bonds or notes issued by the authority. Within 1 year after receipt of the notification, or less than 1 year if the notification indicates a shorter time period is necessary to avoid a default, the department shall identify and convey to the authority sufficient timber on tax reverted lands to enable the authority to avoid the projected default and to provide for timely payment of principal of and interest on the authority's bonds or notes. The authority may only issue contracts for the cutting and sale of timber that has been conveyed to the authority under this section to avoid a default on any bonds or notes issued by the authority. The determination of the board as to the need to cut and sell timber is conclusive. Contracts for the cutting and sale of timber shall be consistent with part 525 and with the guidelines, rules, and objectives prescribed by the department.

(4) The authority shall establish a fund designated as the "forest development fund". Revenue as provided under section 53519 and any money on hand or received in the future from bond proceeds and from contracts for the cutting and sale of timber on tax reverted lands shall be deposited in the forest development fund. In addition, this fund may receive revenues from any other source. The authority shall use money in the forest development fund only for 1 or more of the following, subject to subsection (5):

(a) To provide for the payment of principal of and interest on any bonds or notes issued by the authority.

(b) For forest management operations and practices.

(c) To obtain and maintain certification of sustainable forestry standards in the state forest under section 52505.

(d) For the administration and enforcement of part 535. Revenue deposited in the forest development fund as provided under section 53519 shall be used only as provided in this subdivision.

(e) For the administration of the forest development fund.

(5) Money in the forest development fund shall not be used for payments in lieu of taxes under section 2154.

(6) The auditor general shall audit the expenditures of the forest development fund at least once every 3 years.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 124, Imd. Eff. May 28, 2004;—Am. 2016, Act 248, Eff. Sept. 22, 2016;—Am. 2018, Act 116, Eff. July 25, 2018;—Am. 2020, Act 287, Imd. Eff. Dec. 29, 2020.

**Popular name:** Act 451

Popular name: NREPA

**324.50508 Department as agent for authority; conveyance of state's interest in contracts granting timber cutting rights; deposit of money received; conveyance of title to timber.**

Sec. 50508. (1) Except as provided in section 50507(3), the department shall act as the agent for the authority in contracting for the cutting and sale of timber or other forest management operations and practices undertaken by the authority.

(2) The state's interest in all existing and future contracts granting timber cutting rights on state tax reverted lands are conveyed to the authority to be used for any of the purposes of this part subject to the restrictions of this part. The money received by the state from existing or future contracts for the cutting and sale of timber on state tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law shall be deposited in the forest development fund and utilized as provided in section 50507(4).

(3) In order to provide for additional security for indebtedness of the authority, the department may convey to the authority title to timber on all or any portion of tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law. The form of conveyance shall be approved by the attorney general and by resolution of the state administrative board. If the authority receives title to any timber, it may release and reconvey timber on state tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law if requested by the department, and the reconveyance from the authority to the department will not cause the authority to default on any obligation or covenant contained in any resolution of the authority authorizing issuance of bonds or notes.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 124, Imd. Eff. May 28, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

**324.50509 Bonds and notes generally; expenses; expenditures.**

Sec. 50509. (1) The authority may authorize and issue its bonds or notes payable solely from the revenues or funds available to the authority. Bonds and notes of the authority are not a debt or liability of the state and do not create or constitute any indebtedness, liability, or obligations of the state or constitute a pledge of the faith and credit of the state. All authority bonds and notes shall be payable solely from revenues or funds pledged or available for their payment as authorized in this part. Each bond and note shall contain on its face a statement to the effect that the authority is obligated to pay the principal of and the interest on the bond or note only from revenues or funds of the authority pledged for the payment of principal and interest and that the state is not obligated to pay that principal or interest and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the bond or note.

(2) All expenses incurred in carrying out this part shall be payable solely from revenues or funds provided or to be provided under this part. This part does not authorize the authority to incur any indebtedness or liability on behalf of or payable by the state.

(3) Any revenues or funds available to the authority that are not necessary to pay principal of or interest on any outstanding bonds or notes of the authority or which are not required to be deposited in a fund created to secure the bonds or notes of the authority or required to provide for the funding of any other matters required by a resolution authorizing the issuance of bonds or notes of the authority shall be expended to fund forest management programs in a manner prescribed by the department. Any money derived from the proceeds of bonds or notes shall be expended by the authority in the manner prescribed in the part and the resolution authorizing such indebtedness.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50510 Bonds or notes; purposes; payment; requirements; signature of board member or office of authority; sale of bonds or notes; applicability of other laws; interest rate agreement.**

Sec. 50510. (1) The authority may issue from time to time bonds or notes in principal amounts the authority considers necessary to provide funds for any purpose, including, but not limited to, all of the

following:

(a) The payment, funding, or refunding of the principal of, interest on, or redemption premiums on bonds or notes issued by the authority whether the bonds or notes or interest to be funded or refunded have or have not become due.

(b) The establishment or increase of reserves to secure or to pay authority bonds or notes or interest on those bonds or notes.

(c) The payment of interest on the bonds or notes for a period as the authority determines.

(d) The payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The bonds or notes of the authority shall not be a general obligation of the authority but shall be payable solely from the revenues or funds, or both, pledged to the payment of the principal of and interest on the bonds or notes as provided in the resolution authorizing the bond or note.

(3) The bonds or notes of the authority:

(a) Shall be authorized by resolution of the authority.

(b) Shall bear the date or dates of issuance.

(c) May be issued as either tax-exempt bonds or notes or taxable bonds or notes for federal income tax purposes.

(d) Shall be serial bonds, term bonds, or term and serial bonds.

(e) Shall mature at such time or times not exceeding 30 years from the date of issuance.

(f) May provide for sinking fund payments.

(g) May provide for redemption at the option of the authority for any reason or reasons.

(h) May provide for redemption at the option of the bondholder for any reason or reasons.

(i) Shall bear interest at a fixed or variable rate or rates of interest per annum or at no interest.

(j) Shall be registered bonds, coupon bonds, or both.

(k) May contain a conversion feature.

(l) May be transferable.

(m) Shall be in the form, denomination or denominations, and with the other provisions and terms as is determined necessary or beneficial by the authority.

(4) If a member of the board or any officer of the authority whose signature or facsimile of his or her signature appears on the note, bond, or coupon ceases to be a member or officer before the delivery of that note or bond, the signature shall continue to be valid and sufficient for all purposes, as if the member or officer had remained in office until the delivery.

(5) Bonds or notes of the authority may be sold at a public or private sale at the time or times, at the price or prices, and at a discount as the authority determines. Bonds and notes of the authority are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bond or note of the authority is not required to be filed under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, or the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703.

(6) The issuance of bonds and notes under this section is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

(7) For the purpose of more effectively managing its debt service, the authority may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the authority.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2002, Act 387, Imd. Eff. May 30, 2002;—Am. 2009, Act 98, Imd. Eff. Sept. 24, 2009.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50511 Refunding bonds or notes.**

Sec. 50511. (1) The authority may provide for the issuance of bonds or notes in the amounts the authority considers necessary for the purpose of refunding bonds or notes of the authority then outstanding, including the payment of any redemption premium and interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of these bonds or notes. The proceeds of bonds or notes issued for the purpose of refunding outstanding bonds or notes may be applied by the authority to the purchase or retirement at maturity or redemption of outstanding bonds or notes either on the earliest or subsequent redemption date, and pending such applications, may be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date or dates determined by the authority. Pending such application and subject to agreements with noteholders or bondholders, the escrowed proceeds may be invested and reinvested in the manner the authority determines, maturing at the date or times as appropriate to assure the prompt payment of

the principal, interest, and redemption premium, if any, on the outstanding bonds or notes to be refunded. After the terms of the escrow have been fully satisfied and carried out, the balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment of the proceeds shall be returned to the authority for use by the authority in any lawful manner.

(2) In the resolution authorizing bonds or notes to refund bonds or notes, the authority may provide that the bonds or notes to be refunded shall be considered paid when there has been deposited in escrow, money or investment obligations that would provide payments of principal and interest adequate to pay the principal and interest on the bonds to be refunded, as that principal and interest becomes due whether by maturity or prior redemption and that, upon the deposit of the money or investment obligations, the obligations of the authority to the holders of the bonds or notes to be refunded shall be terminated except as to the rights to the money or investment obligations deposited in trust.

(3) The authority shall not have outstanding at any time bonds or notes in an aggregate principal amount exceeding \$20,000,000.00 excluding bonds or notes issued to refund outstanding bonds or notes.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50512 Security to assure timely payment of bond or note.**

Sec. 50512. (1) The authority may authorize and approve an insurance contract, an agreement for a line of credit, a letter of credit, a commitment to purchase notes or bonds, an agreement to remarket bonds or notes, and any other transaction to provide security to assure timely payment of a bond or note.

(2) The authority may authorize payment from the proceeds of the notes or bonds, or other funds available, of the cost of issuance including, but not limited to, fees for placement, charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or agreements to provide security to assure timely payment of notes or bonds.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50513 Bonds or notes; authority of board member, executive director, or other officer of authority.**

Sec. 50513. Within limitations that shall be contained in the issuance or authorization resolution of the authority, the authority may authorize a member of the board, the executive director, or other officer of the authority to do 1 or more of the following:

(a) Sell and deliver, and receive payment for notes or bonds.

(b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured or are subject to redemption.

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purpose.

(d) Buy notes or bonds so issued and resell those notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(f) Direct the investment of any and all funds of the authority.

(g) Approve the terms of a contract, including, but not limited to, a contract for the sale or cutting of timber, and execute and deliver the contract subject to the restrictions of this part.

(h) Approve terms of any insurance contract, agreement for a line of credit, a letter of credit, a commitment to purchase notes or bonds, an agreement to remarket bonds or notes, an agreement to manage payment, revenue, or interest rate exposure, or any other transaction to provide security to assure timely payment of a bond or note.

(i) Perform any power, duty, function, or responsibility of the authority.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50514 Resolution authorizing bonds or notes; provisions.**

Sec. 50514. A resolution authorizing bonds or notes may provide for all of the following that shall be part of the contract with the holders of the bonds or notes:

(a) A pledge to any payment or purpose all or any part of authority revenues or assets to which its right then exists or may later come to exist, and of money derived from the revenues or assets, and of the proceeds of bonds or notes or of an issue of bonds or notes, subject to any existing agreements with bondholders or noteholders. The authority shall not mortgage or grant a security interest in or otherwise pledge its ownership rights in standing timber. This subdivision does not prohibit the authority from pledging any revenues derived from the sale of timber or any contracts for the cutting of timber.

(b) A pledge of a loan, grant, or contribution from the federal or state government.

(c) The establishment and setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds subject to this part.

(d) Authority for and limitations on the issuance of additional bonds or notes for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured.

(e) The procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent to the amendment or abrogation, and the manner in which the consent may be given.

(f) A contract with the bondholders as to the custody, collection, securing, investment, and payment of any money of the authority. Money of the authority and deposits of money may be secured in the manner determined by the authority. Banks and trust companies may give security for such deposits.

(g) Vest in a trustee, or a secured party, such property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the authority determines necessary or appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the right of the holders of bonds or notes of the authority to appoint a trustee under this part or to limit the rights, powers, and duties of the trustee.

(h) Provide to a trustee or the noteholders or bondholders remedies that may be exercised if the authority fails or refuses to comply with this part or defaults in an agreement made with the holders of an issue of bonds or notes, which may include any of the following:

(i) By mandamus or other suit, action, or proceeding at law or in equity, to enforce the rights of the bondholders or noteholders, and require the authority to carry out any other agreements with the holders of those notes or bonds and to perform the authority's duties under this part.

(ii) Bring suit upon the notes or bonds.

(iii) By action or suit, require the authority to account as if it were the trustee of an express trust for the holders of the notes or bonds.

(iv) By action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the holders of the notes or bonds.

(v) Declare the notes or bonds due and payable and, if all defaults shall be made good, then, as permitted by such resolution, annul that declaration and its consequences.

(i) Any other matters of like or different character that in any way affect the security of protection of the bonds or notes.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50515 Pledge.**

Sec. 50515. A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged and then received by the authority immediately is subject to the lien of the pledge without a physical delivery or further act. The lien of a pledge is valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the authority, and is valid and binding as against the transfers of the money or property pledged, irrespective of whether parties have notice. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be recorded in order to establish and perfect a lien or security interest in the property so pledged.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50516 Personal liability on bonds or notes.**

Sec. 50516. Neither the members of the authority nor any person executing bonds or notes issued under this part or any person executing any agreement on behalf of the authority is liable personally on the bonds or notes by reason of their issuance.

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

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**Popular name:** Act 451

**Popular name:** NREPA

### **324.50517 Purchasing, holding, canceling, or reselling bonds or notes.**

Sec. 50517. The authority may purchase bonds or notes of the authority out of funds or money of the authority available for that purpose. The authority may hold, cancel, or resell authority bonds or notes subject to or in accordance with an agreement with holders of authority bonds or notes.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50518 Rights and remedies.**

Sec. 50518. The state pledges to and agrees with the holders of bonds or notes issued under this part that the state shall not limit or restrict the rights vested in the authority by this part to fulfill the terms of an agreement made with the holders of authority bonds or notes, or in any way impair the rights or remedies of the holders of the bonds or notes of the authority until the bonds and notes, together with interest on the bonds or notes and interest on any unpaid installments of interest, and all costs and expenses in connection with an action or proceedings by or on behalf of those holders are fully met, paid, and discharged.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50519 Bonds or notes as legal investments; security.**

Sec. 50519. Notwithstanding any restriction contained in any other law, the state and a public officer, local unit of government, or agency of the state or a local unit of government; a bank, trust company, savings bank and institution, savings and loan association, investment company, or other person carrying on a banking business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, guardian, trustee, or other fiduciary may legally invest funds belonging to them or within their control in bonds or notes issued under this part, and authority bonds or notes shall be authorized security for public deposits.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50520 Property and income of authority; exemption from taxes and special assessments; bonds or notes exempt from taxation.**

Sec. 50520. Property of the authority is public property devoted to an essential public and governmental function and purpose. Income of the authority is considered to be for a public purpose. The property of the authority and its income and operation are exempt from all taxes and special assessments of the state or a political subdivision of the state. Bonds or notes issued by the authority, and the interest on and income from those bonds and notes, are exempt from all taxation of the state or a political subdivision of the state.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50521 Liberal construction; broad interpretation.**

Sec. 50521. This part shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authority for the performance of each and every act and thing authorized by this part, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.50522 Rules.**

Sec. 50522. The authority may promulgate rules as necessary to implement this part.

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

**Popular name:** Act 451

PART 507  
FOREST MANAGEMENT DEMONSTRATION PROGRAM

**324.50701 Conveyance by department of leasehold interest in state-owned property to certain counties; designation of forest lands to be leased; maximum term of leasehold interest; renewal; recreational use of property during leasehold.**

Sec. 50701. (1) In a county in which more than 50% of the land is owned by the state and in which the county annual average unemployment rate exceeds the state annual average unemployment rate, as determined by the Michigan employment security commission, due to reductions in staff at a state facility located in the county, the department is authorized to convey a leasehold interest, without monetary consideration, to the county in not more than 1% of the state owned property located in the county and under the control of the department. The county forestry committee created pursuant to section 50703, in cooperation with the department, shall designate the specific sections of property to be leased. The property designated pursuant to this subsection shall not include forest lands located in state parks or lands useful for forest preserves, game areas, and recreational purposes, including wilderness areas, quiet areas, or other special use areas. The property designated pursuant to this subsection shall consist of forest lands previously designated by the department for timber production and suitable for use in the forest management demonstration program established pursuant to this part.

(2) The term of a leasehold interest authorized by this part shall not exceed 15 years, but the leasehold interest shall be renewable for an additional 15 years if the primary objectives of the forest management demonstration program established pursuant to this part are met, as determined by the department.

(3) During the term of the leasehold interest authorized by this part, the leased property shall be open to the public for hunting, fishing, and other recreational uses as considered appropriate by the department.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50702 Use of leased property; purposes; use and disposition of proceeds; implementation of forest management demonstration program.**

Sec. 50702. (1) The property leased pursuant to this part shall be used by the county only for the following purposes:

(a) To establish a forest management demonstration program to produce forest products for the purpose of economic development in the county.

(b) To make forest land available to the local school districts for educational purposes.

(2) The proceeds from the forest management demonstration program shall be used exclusively for economic development in the county and, if the county has established an economic development corporation under the economic development corporations act, Act No. 338 of the Public Acts of 1974, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws, shall be deposited in the fund of the county established pursuant to section 27 of Act No. 338 of the Public Acts of 1974, being section 125.1627 of the Michigan Compiled Laws. If the county economic development corporation is dissolved, the proceeds from the forest management demonstration program shall be transferred to and deposited in the general fund of the county. If the county has not established an economic development corporation, the proceeds from the forest management demonstration project shall be deposited in the general fund of the county. The forest management demonstration program shall be implemented by the county forestry committee created pursuant to section 50703. In implementing the forest management demonstration program, the county forestry committee shall cooperate with the department in all matters pertaining to forest management.

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

**Popular name:** Act 451

**Popular name:** NREPA

**324.50703 County forestry committee; creation; appointment, qualifications, and terms of members; approval of committee actions; vacancy.**

Sec. 50703. A county forestry committee is created for purposes of this part and shall consist of 5 members who shall be appointed by the county board of commissioners. Two members of the county forestry committee shall be foresters registered under part 535, 1 member shall be a member of the county economic development corporation, 1 member shall be a member of the county board of commissioners, and 1 member

shall be a resident of the county who is not a county official or employee. If the county has not established an economic development corporation under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, 2 members shall be residents of the county who are not county officials or employees. The members of the county forestry committee shall be appointed for a term of 4 years, except that of the first appointments, 2 shall be for a term of 4 years, 1 shall be for a term of 3 years, 1 shall be for a term of 2 years, and 1 shall be for a term of 1 year. All actions of the county forestry committee shall be approved by the county board of commissioners. A vacancy on the county forestry committee shall be filled by the county board of commissioners for the remainder of the unexpired term.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2018, Act 116, Eff. July 25, 2018.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.50704 Instrument conveying leasehold interest; approval by attorney general.**

Sec. 50704. An instrument conveying a leasehold interest in real property authorized by this part shall be approved by the attorney general.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.50705 Conveyance to provide for use of property; termination of lease.**

Sec. 50705. The conveyance authorized by this part shall provide that the property be used exclusively for the purposes set forth in section 50702(1), and that termination of either or both of those purposes or the use of the property for any other purpose constitutes grounds for termination of the lease.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.50706 Submission of forest management plan.**

Sec. 50706. Within 30 days after the execution of a lease authorized by this part, the county forestry committee shall submit to the department for approval a forest management plan prepared by a forester registered under part 535.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2018, Act 116, Eff. July 25, 2018.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.50707 Conveyance of leasehold.**

Sec. 50707. A leasehold interest authorized by this part shall be conveyed by the department by October 8, 1982.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **TAX INCENTIVES**

#### **PART 511**

#### **COMMERCIAL FORESTS**

#### **324.51101 Definitions.**

Sec. 51101. As used in this part:

(a) "Ad valorem general property tax" means taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(b) "Commercial forest" or "commercial forestland" means forestland that is determined to be a commercial forest under section 51104.

(c) "Declassify" or "declassification" means the removal of the commercial forest designation pursuant to section 51116.

(d) "Forestland" means a tract of land that may include nonproductive land that is intermixed with productive land that is an integral part of a managed forest and that meets all the following:

(i) Does not have material natural resources other than those resources suitable for forest growth or the

potential for forest growth.

(ii) Is not used for agricultural, mineral extraction except as provided in section 51113, grazing, industrial, developed recreational, residential, resort, commercial, or developmental purposes.

(iii) The owner agrees to develop, maintain, and actively manage the land as a commercial forest through planting, natural reproduction, or other silvicultural practices.

(e) "Forest management plan" means a written plan prepared and signed by a registered forester or a natural resources professional that prescribes measures to optimize production, utilization, and regeneration of forest resources. The forest management plan shall include schedules and timetables for the various silvicultural practices used on commercial forestlands, including, but not limited to, timber harvesting and regeneration.

(f) "Fund" means the commercial forest fund created under section 51112.

(g) "Natural resources professional" means a person who is acknowledged by the department as having the education, knowledge, experience, and skills to identify, schedule, and implement appropriate forest management practices needed to achieve the purposes of this part on land subject to or to be subject to this part.

(h) "Owner" means a person who holds title to the surface estate of forestland subject to this part. However, if land is purchased on a land contract, the owner includes the person who holds the land contract vendee's interest and does not include the person who holds the land contract vendor's interest.

(i) "Personal use" means use for any noncommercial purpose.

(j) "Registered forester" means a person registered under part 535.

(k) "Silvicultural practices" means the management and manipulation of forest vegetation for the protection, growth, and enhancement of forest products.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2006, Act 383, Imd. Eff. Sept. 27, 2006;—Am. 2018, Act 116, Eff. July 25, 2018.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51102 Commercial forest; scope and authority of department; rules.**

Sec. 51102. The department shall establish and maintain commercial forests and may promulgate and enforce rules as necessary to accomplish the purpose of this part.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2013, Act 48, Imd. Eff. June 6, 2013.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51103 Commercial forest; application for classification; "contiguous" defined; requirements for eligibility; application form; postmark or delivery date; providing certain information and fee to department; brochure; notification; certification that forest management plan prepared and in effect; violation; exemption from disclosure.**

Sec. 51103. (1) The owner of at least 40 contiguous acres or a survey unit consisting of 1/4 of 1/4 of a section of forestland located within this state may apply to the department to have that forestland classified as a commercial forest under this part. For purposes of this subsection, "contiguous" means land that touches at any point. Even if portions of commercial forestland are contiguous only at a point, the privilege of hunting and fishing as provided in section 51113 shall not be denied for any portion of the land. The existence of a public or private road, a railroad, or a utility right-of-way that separates any part of the land does not make the land noncontiguous.

(2) To be eligible for classification as a commercial forest, forestland shall be capable of all of the following:

(a) Producing not less than 20 cubic feet per acre per year of forest growth upon maturity.

(b) Producing tree species that have economic or commercial value.

(c) Producing a commercial stand of timber within a reasonable period of time.

(3) An application for classification as commercial forest shall be submitted on a form prescribed by the department. The application shall be postmarked or delivered not later than April 1 to be eligible for classification as commercial forest for the following tax year. In addition to any information that the department may reasonably require by rule, the applicant shall provide all of the following to the department:

(a) A nonrefundable application fee in the amount of \$1.00 per acre or fraction of an acre, but not less than \$200.00 and not more than \$1,000.00. The department shall remit the application fee to the state treasurer for deposit into the fund.

- (b) A legal description and the amount of acreage considered for classification as a commercial forest.
- (c) A statement certifying that a forest management plan covering the forestland has been prepared and is in effect.
- (d) A statement certifying that the owner of the forestland owns the timber rights to the timber standing on the forestland.
- (4) The department shall prepare and distribute to any person desiring to apply for classification of forestland as commercial forest under this part a brochure that lists and explains, in simple, nontechnical terms, all of the following:
  - (a) The application, hearing, determination, declassification, and prosecution process.
  - (b) The requirements of the forest management plan.
- (5) Not later than 3 months after the effective date of the 2013 amendatory act that amended this section, the department shall notify each county and township and all owners of forestland that is classified as commercial forest under this part, who are on record with the department, of the amendments to this part that were enacted in 2013.
- (6) After an owner certifies to the department that a forest management plan has been prepared and is in effect, a violation of that forest management plan is a violation of this part.
- (7) A forest management plan that has been submitted to the department or the local tax collecting unit is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2006, Act 383, Imd. Eff. Sept. 27, 2006;—Am. 2013, Act 48, Imd. Eff. June 6, 2013.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51104 Forestland; evaluation; hearing; notice; conduct; approval; record.**

Sec. 51104. (1) Upon receipt of the application, the forest management plan certification, the timber rights certification, and the application fee described in section 51103, the department shall evaluate the forestland offered and fix a date for a public hearing upon the eligibility of the forestland for determination as a commercial forest. The hearing shall be held in the county where the land is located not later than November 1 following receipt of the application. Applications offering lands in the same county may be heard on the same day and at the same place. The department shall publish a notice of hearing and a list of the legal descriptions of lands being considered for determination as commercial forests in a newspaper of general circulation in the county in which the land is located. The notice of hearing shall be published at least 20 days before the date of the hearing. At the time of publication, the department shall provide a copy of the notice of hearing and a list of descriptions of land in each township to be considered for determination as a commercial forest to each township supervisor in whose township the lands are located. Any person who wishes may testify as to eligibility for determination as a commercial forest of any of the described lands. The hearing shall be conducted by the department.

(2) After the hearing, if the department determines that the applicant and forestland meet the requirements of this part and determines that all valid taxes assessed against that forestland have been paid, the department shall approve the application. Upon approval of the application, the department shall immediately record a listing certificate in the register of deeds office in the county in which the land is located with the department approval endorsed on the listing certificate and forward a copy of the listing certificate to the applicant and to the township supervisor of the township in which the land is located.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51105 Commercial forests not subject to ad valorem general property tax; specific tax; removal from land descriptions list; separate roll; collection; return and sale for nonpayment of taxes; valuation prohibited; lands not considered in connection with equalization distribution of sums collected; distribution; commercial forestland located in renaissance zone.**

Sec. 51105. (1) Commercial forests are not subject to the ad valorem general property tax after the date the township supervisor is notified by the department that the land is a commercial forest, except taxes as previously levied. Except as otherwise provided in part 512 and as provided in subsection (5), commercial forests are subject to an annual specific tax as follows:

- (a) Until December 31, 2006, \$1.10 per acre.

(b) Beginning January 1, 2007 through December 31, 2011, \$1.20 per acre.

(c) Beginning January 1, 2012 and every 5 years after that date, the amount of the annual specific tax under this section shall be increased by 5 cents per acre.

(2) The supervisor of the township shall remove from the list of land descriptions assessed and taxed under the ad valorem general property tax the land descriptions certified to him or her by the department as being commercial forests and shall enter those land descriptions on a roll separate from lands assessed and taxed by the ad valorem general property tax and shall spread against these commercial forests the specific tax provided by this section.

(3) The township treasurer shall collect the specific tax at the same time and in the same manner as ad valorem general property taxes are collected and this tax is subject to the same collection charges levied for the collection of ad valorem property taxes. Commercial forests are subject to return and sale for nonpayment of taxes in the same manner, at the same time, and under the same penalties as lands returned and sold for nonpayment of taxes levied under the ad valorem general property tax laws. A valuation shall not be determined for descriptions listed as commercial forests and these lands shall not be considered by the county board of commissioners or by the state board of equalization in connection with county or state equalization for ad valorem property taxation purposes.

(4) Except as provided in section 51109(2), all sums collected pursuant to this section shall be distributed by the township treasurer in the same proportions to the various funds as the ad valorem general property tax is allocated in the township.

(5) Commercial forestland located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the annual specific tax levied under this section to the extent and for the duration provided pursuant to that act.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 451, Imd. Eff. Dec. 19, 1996;—Am. 2006, Act 382, Imd. Eff. Sept. 27, 2006.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51106 Acreage as commercial forestlands; certifying to state treasurer; payment to county treasurer; distribution of remaining funds; payment in full required.**

Sec. 51106. (1) By November 1 of each year, the department shall certify to the state treasurer the number of acres that are commercial forestlands in each county. By December 1 of each year, the state treasurer shall transmit to the treasurer of each county in which these commercial forests are located a warrant on the state treasurer for an amount equal to \$1.30 per acre of commercial forest in the county. Beginning January 1, 2022 and every 5 years after that date, the amount of the annual payment under this section shall be increased by 5 cents per acre.

(2) From the payments received under subsection (1), the county treasurer of each county shall distribute an amount equal to 25 cents per acre for each acre of commercial forest in the county in the same proportions between the various funds as the ad valorem general property tax is distributed by the township treasurers in each township. Except as provided by section 51109(2), the county treasurer of each county shall distribute the remainder of the funds received under this section in the same manner and in the same proportion as the ad valorem general property tax is distributed.

(3) This state shall make payment in full to each county under this section.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2006, Act 382, Imd. Eff. Sept. 27, 2006;—Am. 2012, Act 604, Imd. Eff. Jan. 9, 2013;—Am. 2018, Act 239, Eff. Sept. 25, 2018.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51107 Repealed. 2006, Act 383, Imd. Eff. Sept. 27, 2006**

**Compiler's note:** The repealed section pertained to adjustment of annual specific tax and state payment computed by using state equalized value per acre of timber cutover lands.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51108 Withdrawal of forestland as commercial forest; application; fee; penalty; calculation; publication on website; withdrawal not subject to penalty; granting application without payment of fee or penalty; forestland acquired by federally recognized Indian tribe; disposition; distribution; notice to applicant, township assessor, and register of deeds; filing list of withdrawn lands; interdepartmental cooperation; definitions.**

Sec. 51108. (1) An owner of a commercial forest may withdraw his or her forestland, in whole or in part, from the classification as commercial forest under this part upon application to the department and payment of the withdrawal application fee and penalty, as provided in this section.

(2) Except as otherwise provided by this section, upon application to the department to withdraw forestland from the classification as commercial forest under this part, the applicant shall forward to the department a withdrawal application fee in the amount of \$1.00 per acre with a minimum withdrawal application fee of \$200.00 per application and a maximum withdrawal application fee of \$1,000.00 per application.

(3) Except as otherwise provided in this section, an application to withdraw forestland from the classification as commercial forest under this part shall be granted upon the payment of a penalty to the treasurer of the township in which the forestland is located. The withdrawal penalty shall be calculated in the following manner:

(a) Multiply the number of acres of forestland withdrawn from the classification as commercial forest under this part by 1 of the following:

(i) For 2007, 1/2 of the valuation per acre for the county in which the forestland is located.

(ii) Beginning in 2008, and for each subsequent year, the number described in subparagraph (i) adjusted annually by the inflation rate for each year after 2007.

(b) Multiply the product of the calculation in subdivision (a) by the average millage rate levied by all townships, excluding villages, in the county in which the forestland is located.

(c) Multiply the product of the calculation in subdivision (b) by the number of years, to a maximum of 7 years, in which the forestland withdrawn from the classification as commercial forest under this part has been classified as commercial forest under this part.

(d) Multiply the product of the calculation in subdivision (c) by the following:

(i) 0.2, if the forestland is located in Luce County.

(ii) 0.3, if the forestland is located in Grand Traverse, Manistee, Ottawa, or Wexford County.

(iii) 0.4, if the forestland is located in Charlevoix, Chippewa, Emmet, Gladwin, Leelanau, Midland, Oscoda, or Tuscola County.

(iv) 0.5, if the forestland is located in Cheboygan, Delta, Mackinac, Oceana, Otsego, or Schoolcraft County.

(v) 0.6, if the forestland is located in Alcona, Alger, Allegan, Alpena, Arenac, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Clare, Clinton, Crawford, Dickinson, Eaton, Genesee, Gogebic, Gratiot, Hillsdale, Houghton, Huron, Ingham, Ionia, Iosco, Iron, Isabella, Jackson, Kalamazoo, Kalkaska, Kent, Lapeer, Lenawee, Livingston, Macomb, Marquette, Mecosta, Monroe, Montcalm, Montmorency, Muskegon, Nawaygo, Oakland, Ogemaw, Osceola, Presque Isle, Roscommon, Saginaw, St. Clair, St. Joseph, Sanilac, Shiawassee, Van Buren, Washtenaw, or Wayne County.

(vi) 0.7, if the forestland is located in Antrim, Baraga, Mason, or Menominee County.

(vii) 0.8, if the forestland is located in Keweenaw, Lake, Missaukee, or Ontonagon County.

(4) The department shall publish all of the following on its website:

(a) The calculation described in subsection (3)(a)(i) for each county.

(b) The adjusted value and the inflation rate described in subsection (3)(a)(ii) for each county.

(c) The average millage rate described in subsection (3)(b) for each county.

(5) Until September 1, 2021, the owner of forestland located within a township and classified as commercial forest under this part not later than September 1, 2016 may withdraw not more than 160 acres of that forestland without a withdrawal penalty, subject to the following:

(a) The owner of the former commercial forestland must have continuously owned that former commercial forestland since not later than September 1, 2016.

(b) The former commercial forestland shall be made subject to the transitional qualified forest property specific tax act, as transitional qualified forest property under that act, as a result of all of the following:

(i) The owner of the forestland withdraws his or her forestland from the classification as commercial forest under this part as provided in this section.

(ii) The former commercial forestland is exempt from the collection of general ad valorem property taxes under section 7vv of the general property tax act, 1893 PA 206, MCL 211.7vv.

(iii) The owner of the former commercial forestland submits, and obtains approval of, an application for a determination that the forestland is transitional qualified forest property under the transitional qualified forest property specific tax act. The owner shall submit to the department a copy of the executed transitional qualified forest property affidavit by November 1 of the year in which the land is withdrawn from this part.

(c) Any of the owner's remaining forestland within that township that previously qualified as commercial forest under this part must continue to qualify as commercial forest under this part or, subject to the penalty provided under subsection (3), must be withdrawn under this part.

(6) An application to withdraw forestland from the classification as commercial forest under this part that meets 1 or more of the following requirements shall be granted without payment of the withdrawal application fee or penalty under this section:

(a) Forestland that has been donated to a public body for public use prior to withdrawal.

(b) Forestland that has been exchanged for property belonging to a public body if the property received is classified as a commercial forest as determined by the department.

(c) Forestland that has been condemned for public use.

(7) An application to withdraw forestland from the classification as commercial forest under this part that meets all of the following requirements shall be granted without payment of the withdrawal application fee or penalty under this section:

(a) Evidence is submitted to the department that the land met the legal requirements to be exempt from ad valorem property tax on tax day for the tax year in which the list application was submitted and approved and that the land would have met the legal requirements to be exempt from ad valorem property tax on tax day for each year that the land was classified as commercial forest under this part, if the land had not been classified as commercial forest under this part. As used in this subdivision, "tax day" means that term as provided in section 2 of the general property tax act, 1893 PA 206, MCL 211.2.

(b) The application is submitted to the department by the same landowner that owned the land on tax day for the tax year in which the application was submitted and that submitted the application for determination under section 51103.

(c) The landowner reimburses the state treasurer for the specific tax that was paid by the state treasurer to the county treasurer, as provided in section 51106(1), for each tax year the land was classified as commercial forest under this part.

(8) The department may withdraw forestland from the classification as commercial forest under this part if the forestland has been acquired by a federally recognized Indian tribe and the associated property taxes are subsequently preempted under federal law. A withdrawal under this subsection is not subject to the withdrawal application fee or penalty under this section.

(9) The department shall remit the withdrawal application fee paid pursuant to subsection (2) to the state treasurer for deposit into the fund. The penalty received by the township treasurer under subsection (3) shall be distributed by the township treasurer in the same proportions to the various funds as the ad valorem general property tax is allocated in the township, except as provided by section 51109(2).

(10) If an application to withdraw forestland from classification as commercial forest under this part is granted, the department shall immediately notify the applicant, the assessor of the township, and the register of deeds of the county in which the lands are located of the action and shall file with those officials a list of the lands withdrawn.

(11) Not later than 30 days after the effective date of the amendatory act that added this sentence, the department of natural resources and the department of agriculture and rural development shall establish in writing a basis of interdepartmental cooperation when an owner of forestland seeks to withdraw that forestland from the classification as commercial forest without penalty under subsection (5).

(12) As used in this section:

(a) "Inflation rate" means the lesser of 1.05 or the inflation rate as defined in section 34d of the general property tax act, 1893 PA 206, MCL 211.34d.

(b) "Valuation" means the market value as determined by the state tax commission.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2006, Act 382, Imd. Eff. Sept. 27, 2006;—Am. 2008, Act 299, Imd. Eff. Oct. 8, 2008;—Am. 2012, Act 248, Imd. Eff. July 2, 2012;—Am. 2013, Act 48, Imd. Eff. June 6, 2013;—Am. 2014, Act 146, Imd. Eff. June 4, 2014;—Am. 2016, Act 262, Imd. Eff. June 28, 2016.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51109 Determining proportion for disbursement of revenues and attribution of revenues; number of mills levied for local school operating purposes; distribution of revenues; "revenues" defined.**

Sec. 51109. (1) For revenues disbursed after June 30, 1994, to determine the proportion for the disbursement of revenues under this part and for attribution of revenues under subsection (2)(b) for revenues collected under this part, the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, for the year for which the disbursement is

calculated.

(2) Except as provided in subdivision (b), for revenues disbursed after June 30, 1994, the revenues collected under this part shall be distributed as follows:

(a) In the case of intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, Act No. 94 of the Public Acts of 1979, being sections 388.1656 , 388.1662, and 388.1681 of the Michigan Compiled Laws, all or a portion of the amount that would otherwise be disbursed to these intermediate school districts from the following revenue sources, as determined under a formula prescribed by the department of management and budget on the basis of the tax rate utilized to compute the amount of state aid for the intermediate school district, shall be paid instead to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963:

(i) Revenues from that portion of the levy of a specific tax over 15 cents per acre pursuant to section 51105.

(ii) Revenues from that portion of state payments in excess of 25 cents per acre which are made pursuant to section 51106.

(iii) Revenues from remitted withdrawal penalties and fees imposed pursuant to section 51108.

(iv) Revenues from declassification penalties and fees pursuant to section 51116 .

(v) Revenues from remitted stumpage or yield tax collections made under former Act No. 94 of the Public Acts of 1925.

(b) For revenues disbursed after June 30, 1994, the amount that would otherwise be disbursed to a local school district for school operating purposes shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(3) Except as provided in subsection (2)(a), as used in this section "revenues" means all of the following:

(a) The specific tax levied pursuant to section 51105.

(b) State payments made pursuant to section 51106.

(c) Withdrawal penalties and fees imposed pursuant to section 51108.

(d) Declassification penalties and fees pursuant to section 51116.

(e) Revenue from remitted stumpage or yield tax collections made under former Act No. 94 of the Public Acts of 1925.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51110 Cutting, harvesting, or removing forest products prohibited; exceptions.**

Sec. 51110. (1) Except as provided in subsection (2), a person shall not cut, harvest, or remove forest products from a commercial forest.

(2) The owner of a commercial forest is entitled to cut or remove merchantable forest products on his or her commercial forest without withdrawing it or affecting its status as a commercial forest and without payment of a fee or penalty if the owner complies with all of the following:

(a) After an owner certifies to the department that a forest management plan has been prepared and is in effect under section 51103 and cuts, harvests, or removes forest products in compliance with his or her forest management plan.

(b) All other requirements of this part.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51111 Report to department.**

Sec. 51111. The owner shall report to the department prior to the cutting, harvesting, or removal of forest products from the commercial forest.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51112 Commercial forest fund.**

Sec. 51112. (1) The commercial forest fund is created within the state treasury.

(2) The state treasurer shall deposit the money collected from the following sources into the fund:

(a) The application fee and forest management plan fee pursuant to section 51103.

(b) The withdrawal application fee pursuant to section 51108.

- (c) The fee described in section 51116(1)(a).
  - (d) An amount equal to 10 cents for each acre of land enrolled under this part as certified by the department, to be appropriated each fiscal year from the general fund.
  - (e) Any restitution ordered by a court payable to this state for a violation of this part.
- (3) In addition to the revenues described in subsection (2), the state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.
- (4) Money in the fund appropriated from the general fund shall remain in the fund at the close of the fiscal year and shall not lapse to the general fund.
- (5) The department shall expend the money from the fund, upon appropriation, for enforcement, administration, and monitoring of compliance with part 512 and this part and rules promulgated under this part.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2006, Act 383, Imd. Eff. Sept. 27, 2006.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51113 Prohibited use of forestland by owner; exception; denying or inhibiting access for public hunting or fishing; exploration for minerals; removal of commercial mineral deposits, sand and gravel, and oil and gas; exploration for wind energy development.**

Sec. 51113. (1) Except as provided in this section, the owner of forestland that is classified as commercial forest shall not use that land in a manner that is prejudicial to its development as a commercial forest, use the land for agricultural, mineral extraction except as provided in this section, wind energy development except as provided in this section, grazing, industrial, developed recreational, residential, resort, commercial, or developmental purposes, or deny the general public the privilege of hunting and fishing on commercial forestland unless the land is closed to hunting or fishing, or both, by order of the department or by an act of the legislature. If the department determines that the owner of commercial forestland has taken an action that has the effect of denying or inhibiting access to the commercial forestland for public hunting and fishing, except as specifically provided in this part, the department may require withdrawal of the forestland as commercial forest under this part unless the owner corrects that action and allows access to the commercial forestland for public hunting and fishing. If there is not access to a parcel of commercial forestland and the lack of access is not the consequence of an action taken by the owner of commercial forestland, the forestland may remain as commercial forestland if all of the following apply:

(a) There is not a transfer of title for the parcel of commercial forestland, other than as a part of a larger sale of 10,000 or more acres.

(b) The landowner has not taken an action following acquisition of the commercial forestland that has the effect of denying or inhibiting access to the commercial forestland to the public for hunting and fishing.

(c) The commercial forestland is otherwise in compliance with this part.

(2) Exploration for minerals shall be permitted on forestland that is classified as commercial forest under this part. Except as provided in subsections (3) and (4), before the removal of any commercial mineral deposits, the owner shall withdraw the portion of the commercial forestland directly affected by the removal pursuant to section 51108. The withdrawal of commercial forestland due to mineral removal as provided in this section and section 51108 does not require the remaining portion of the commercial forestland to be withdrawn due to insufficient acreage of the remaining commercial forestland.

(3) Upon application to and approval by the department, sand and gravel may be removed from the commercial forestland without affecting the land's classification as a commercial forest. The department shall approve an application to remove sand and gravel deposits only if the removal site is not greater than 5 acres, excluding access to the removal site, and the sand and gravel are to be utilized by 1 or more of the following:

(a) The owner of a commercial forestland for personal use if the owner of the commercial forestland is also the owner of the sand and gravel deposits.

(b) The owner of the sand and gravel deposits for his or her personal use or for sale to the owner of the commercial forestland for personal use, if the owner of the commercial forestland is not also the owner of the sand and gravel deposits.

(c) For sale to this state, a local unit of government, a federal government agency, or a county road commission, for governmental use, or a contractor or other agent undertaking construction, maintenance, or a project for 1 of these governmental entities.

(4) Upon application to and approval by the department, deposits of oil and gas may be removed from the commercial forestland without affecting the land's classification as a commercial forest.

(5) The exploration for wind energy development is permitted on forestland classified as commercial forest under this part pursuant to this subsection. Upon application to and approval by the department, meteorological towers may be erected and wind energy exploration or development leases, easements, or license agreements may be entered into without affecting the land's classification as commercial forest. A landowner may be paid compensation for these leases, easements, and license agreements. Before any wind turbines are erected for the purpose of generating electricity for commercial purposes, the owner shall withdraw the portion of the commercial forest directly affected as follows:

(a) The actual physical footprint of each wind turbine, associated buildings, and adjacent areas that will be permanently removed from forest production shall be removed from the classification as commercial forest.

(b) Forestland under a wind energy development lease, easement, or license agreement where forest production will continue may continue to be classified as commercial forest.

(c) Forestland containing road and utility rights-of-way may continue to be classified as commercial forest.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2006, Act 383, Imd. Eff. Sept. 27, 2006;—Am. 2013, Act 48, Imd. Eff. June 6, 2013.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51114 Applications, statements, and reports under oath; forms.**

Sec. 51114. All applications, statements, reports, and information required by the department in the administration of this part shall be on forms prescribed by the department and shall be under oath.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51115 Transfer of title; effect; withdrawal; document; notification.**

Sec. 51115. (1) The transfer of title of forestland classified as commercial forest under this part does not affect that forestland's classification as a commercial forest if the forestland continues to meet all of the eligibility requirements under this part. If the purchaser desires to withdraw his or her forestland from the classification as commercial forest under this part, the purchaser shall withdraw that forestland pursuant to section 51108. If the forestland's eligibility to be classified as commercial forest is affected by the transfer of title, the department shall determine which forestlands may remain classified as commercial forest under this part and which forestlands must be withdrawn or declassified.

(2) A document that transfers any interest in commercial forestlands shall state on the face of the document that "this property is subject to part 511, the commercial forest part of the natural resources and environmental protection act". Failure to comply with this subsection does not affect the classification of the land as commercial forestland.

(3) Not later than 30 days after the county equalization office receives notice of a transfer of title or the transfer of any interest in a land contract concerning the commercial forestland, the county equalization office shall notify the department in writing of the transfer or ownership change.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2013, Act 48, Imd. Eff. June 6, 2013.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51116 Removal of designation; declassification; notice; recording; fee.**

Sec. 51116. If, after providing notice and an opportunity for a hearing, the department determines that a commercial forest was used in violation of this part, that the owner failed to pay the specific tax pursuant to section 51105, that the owner failed to report to the department pursuant to section 51111, that minerals were removed in violation of section 51113, or, after an owner certifies to the department that a forest management plan has been prepared and is in effect, that the owner failed to plant, harvest, or remove forest products in compliance with the owner's forest management plan, then the department shall remove the commercial forest designation for the commercial forest, serve a notice of declassification of the lands upon the owner, and record a copy of the declassification in the office of the register of deeds of the county in which the lands are located. Upon declassification, the land is subject to the ad valorem general property tax. Within 30 days after the service of the declassification notice on the owner, the owner shall pay both of the following:

(a) A fee equal to the withdrawal application fee described in section 51108 to the department for deposit into the fund.

(b) An amount equal to the penalty described in section 51108 to the township treasurer of the township in which the land is located to be distributed, except as provided in section 51109(2), in the same proportions to

the various funds as the ad valorem general property tax is allocated in the township.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2006, Act 382, Imd. Eff. Sept. 27, 2006.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51118 Applicability of changes in part; withdrawal; fees.**

Sec. 51118. (1) Except as provided in this section, changes in the terms, fees, taxes, or other provisions of this part apply to all forestlands that are commercial forests when the changes take effect.

(2) An owner, without penalty or payment of the withdrawal application fee pursuant to section 51108, may withdraw commercial forestland from the operation of this part if any change in the terms, fees, taxes, or other provisions of this part materially increases the burden on the owner. However, if an owner elects to withdraw his or her commercial forestlands under this subsection, the owner shall pay a fee for each acre withdrawn equal to the product of the current average ad valorem property tax per acre on timber cutover real property within the township in which the commercial forestland is located, as determined by the township assessor, multiplied by 5. If the township in which the commercial forestland is located does not contain any real property classified as timber cutover real property 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, then 1 of the following applies:

(a) If there is timber cutover real property located within the county in which the commercial forestland is located, the per acre average of the ad valorem property tax for all timber cutover real property located in the county in which the commercial forestland is located shall be used in calculating the penalty under this subsection.

(b) If there is no timber cutover real property located within the county in which the commercial forestland is located, the per acre average of the ad valorem property tax for all timber cutover real property in townships contiguous to the county in which the commercial forestland is located shall be used in calculating the penalty under this subsection.

(3) The fee described in subsection (2) shall not exceed \$100,000.00. The owner shall pay the fee described in subsection (2) before withdrawal.

(4) The owner may not withdraw commercial forestland under this section unless he or she makes application to do so within 1 year after the changes take effect. If an owner elects to withdraw commercial forestlands under this section, he or she shall withdraw all the commercial forestlands owned by him or her at the time of withdrawal.

(5) If an application to withdraw commercial forestlands under subsection (2) is initiated by an owner or by the department before changes in terms, fees, taxes, or other provisions of this part or former Act No. 94 of the Public Acts of 1925 become effective, the owner shall pay the stumpage fees, other fees, taxes, and penalties, if any, in the same manner and at the same rates as were in effect when the application was filed.

(6) The department shall remit the fees paid pursuant to this section to the township treasurer. Except as provided in section 51109(2), all fees remitted to the township treasurer under this section shall be distributed by the township treasurer in the same proportions to the various funds as the ad valorem general property tax is allocated in the township.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51119 Representatives of department; right of entry on commercial forestlands; access to books and papers.**

Sec. 51119. A duly authorized representative of the department may at any time go upon commercial forestlands to ascertain the validity of any report made pursuant to this part or otherwise determine compliance with this part. The duly authorized representative of the department may examine or cause to be examined any books, papers, records, or memorandum bearing upon the amounts of timber products cut from the commercial forestland or the owner's forest management plan.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51120 Violation of part; penalty.**

Sec. 51120. (1) Except as provided in subsection (2), a person who violates this part is guilty of a

misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(2) A person who harvests, cuts, or removes forest products having a value of more than \$2,500.00 in violation of this part is guilty of a felony punishable by imprisonment for not more than 3 years or a fine of not more than \$10,000.00, or both.

(3) Upon conviction for a violation of this part, the court may declassify all or a portion of the commercial forest pursuant to section 51116.

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

**Popular name:** Act 451

**Popular name:** NREPA

## PART 512

### SUSTAINABLE FOREST CONSERVATION EASEMENT TAX INCENTIVES

#### **324.51201 Owner of commercial forestland subject to sustainable forest conservation easement; specific tax; application for sustainable forest conservation easement tax incentives; form; information; cutting or removing forest products; violation; penalty; definitions.**

Sec. 51201. (1) Notwithstanding section 51105, an owner of commercial forestland that is subject to a sustainable forest conservation easement is subject to an annual specific tax equal to the annual specific tax levied under section 51105 less 15 cents per acre. The specific tax described in this section shall be administered, collected, and distributed in the same manner as the specific tax levied in section 51105.

(2) An application for sustainable forest conservation easement tax incentives described in this part shall be submitted on a form prescribed by the department. The application shall be postmarked or delivered to the department not later than April 1 to be eligible for approval for the following tax year. In addition to any information that the department may reasonably require by rule, the applicant shall provide all of the following to the department:

(a) A nonrefundable application fee in the amount of \$2.00 per acre or fraction of an acre, but not less than \$200.00 and not more than \$1,000.00. The department shall remit the application fee to the state treasurer for deposit into the commercial forest fund under section 51112.

(b) A copy of the conservation easement covering the forestland.

(3) The owner of commercial forestlands subject to a sustainable forest conservation easement is entitled to cut or remove forest products on his or her commercial forestlands if the owner complies with part 511 and the requirements of the sustainable forest conservation easement.

(4) If commercial forestland subject to a sustainable forest conservation easement is used in violation of this part or the sustainable forest conservation easement, the owner in addition to any other penalties provided by law shall pay a penalty, per acre, for each year in which the violation occurs equal to the difference between the specific tax paid under this part and the specific tax that would otherwise be paid under part 511. The specific tax collected under this part shall be paid to the township treasurer in which the commercial forestland is located. The penalty shall be distributed by the township treasurer in the same manner as the specific tax is distributed.

(5) As used in this part:

(a) "Commercial forestland" means commercial forestland that is enrolled under part 511.

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

(c) "Forestland" means that term as defined in part 511.

(d) "Sustainable forest conservation easement" means a conservation easement described in section 2140 on commercial forestland that is approved by the department and meets all of the following:

(i) Is an easement granted in perpetuity to this state, a political subdivision of this state, or a charitable organization described in section 501(c)(3) of the internal revenue code, 26 USC 501, that also meets the requirements of section 170(h)(3) of the internal revenue code, 26 USC 170.

(ii) Covers commercial forestland of 40 or more acres in size.

(iii) Provides that the forestland subject to the conservation easement or the manager of the forestland subject to the conservation easement is and continues to be certified under a sustainable forestry certification program that uses independent third party auditors and that is recognized by the department.

(iv) Provides that the forestland subject to the conservation easement provides for the nonmotorized recreational use of the forestland by members of the public.

**History:** Add. 2006, Act 381, Imd. Eff. Sept. 27, 2006.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 513 PRIVATE FORESTRY

### **324.51301 Definitions.**

Sec. 51301. As used in this part:

- (a) "Conservation district" means that term as it is defined in section 9301.
- (b) "Demonstration project" means a forest improvement project designed to illustrate the implementation and impact of alternate forest practices.
- (c) "Commission" means the commission of agriculture and rural development.
- (d) "Department" means the department of agriculture and rural development.
- (e) "Director" means the director of the department or his or her designee.
- (f) "Follow-up work" means forest practices to promote the survival of seeds or seedlings or the protection or enhancement of other work previously undertaken under this part.
- (g) "Forest improvement project" means any of the following:
  - (i) Production, processing, handling, storage, marketing, or transportation of forest resources, including sawmills, hardboard mills, power stations, warehouses, air and water pollution control equipment, and solid waste disposal facilities.
  - (ii) Forest practice or follow-up work.
  - (iii) Study, planning, or other work intended to improve forestlands or forest resources or to demonstrate means of improving forestlands or forest resources.
- (h) "Forest management plan" means that term as it is defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].
- (i) "Forest practice" means that term as it is defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].
- (j) "Forest resources" means those products, uses, and values associated with forestland, including recreation and aesthetics, fish, forage, soil, timber, watershed, wilderness, and wildlife.
- (k) "Forestland" means a tract of land that may include nonproductive land that is intermixed with productive land that is an integral part of a managed forest and the owner of which agrees to develop, maintain, and actively manage the land as a private forest through planting, natural reproduction, or other silvicultural practices. Forestland includes land from which forest tree species have been removed and have not been restocked, but does not include land converted to uses other than the growing of forest tree species or land currently zoned for uses incompatible with forest practices.
- (l) "Fund" means the private forestland enhancement fund created in section 51305.
- (m) "Harvest" means that term as it is defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].
- (n) "Landowner" means a person who holds an ownership interest in nonindustrial private forestland.
- (o) "Nonindustrial private forestland" means a privately owned tract of land consisting of 20 or more acres, or the timber rights in the land if the timber rights have been severed, that has the productive capacity to grow on average not less than 20 cubic feet per acre per year and that meets either of the following conditions:
  - (i) For a tract of land that contains less than 40 acres, at least 80% of the land is occupied by forest tree species.
  - (ii) For a tract of land that contains 40 or more acres, at least 50% of the land is occupied by forest tree species.
- (p) "Qualified forester" means that term as it is defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].
- (q) "Technical assistance" means direct on-site assistance provided to individuals.
- (r) "Timber" means wood growth, mature or immature, growing or dead, standing or down. Timber does not include any of the following:
  - (i) Christmas trees and associated greens.
  - (ii) Material harvested from an individual's own land and used on that land for the construction of fences or buildings or for other personal use.
- (s) "Timber owner" means a person who holds an ownership interest in species of forest trees on forestland. An ownership interest includes a license or other right to harvest timber on state lands.

**History:** Add. 2013, Act 45, Imd. Eff. June 6, 2013.

**Compiler's note:** Former MCL 324.51301, which pertained to designation of tract of land as private forest reservation, was repealed

by Act 378 of 2006, Eff. Sept. 1, 2007.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51302 Management and utilization of private forestland and private forest resources; purpose and intent of part.**

Sec. 51302. (1) This part is intended to stimulate improved management and utilization of private forestland and private forest resources within this state. Economic and community development opportunities based on the private forest resource will be enhanced by ensuring adequate future high-quality timber supplies, increased employment opportunities, a diversified economy, and other economic benefits and the conservation, maintenance, and enhancement of a productive and stable forest resource system for the public benefit of present and future generations.

(2) The primary purpose of this part is to assist private landowners in understanding the value of forest resources and the potential threats to forest resources and to provide management guidance.

(3) The department may enter into cooperative agreements with the federal agencies that have been given authority by act of congress for the management of forestlands to assist landowners in management of their nonindustrial private forestlands.

**History:** Add. 2013, Act 45, Imd. Eff. June 6, 2013.

**Compiler's note:** Former MCL 324.51302, which pertained to number of trees planted on acre of land as subject to part, was repealed by Act 378 of 2006, Eff. Sept. 1, 2007.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51303 Repealed. 2006, Act 378, Eff. Sept. 1, 2007.**

**Compiler's note:** The repealed section pertained to number of forest trees planted on tract of private forest reservation to assure spacing of 6 feet by 6 feet.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51304 Repealed. 2006, Act 378, Eff. Sept. 1, 2007.**

**Compiler's note:** The repealed section pertained to receipt of benefit if landowner permits cattle, horses, hogs, or goats to pasture upon private forest reservation.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51305 Private forestland enhancement fund.**

Sec. 51305. (1) The private forestland enhancement fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including general fund/general purpose appropriations, gifts, grants, and bequests. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

- (a) Direct assistance.
- (b) Indirect assistance.
- (c) Administrative costs.

(6) The department shall establish criteria and procedures for approving proposed expenditures from the fund.

(7) The department of treasury shall, before November 1 of each year, notify the department of the balance in the fund at the close of the preceding fiscal year.

(8) As used in this section:

(a) "Administrative costs" includes, but is not limited to, costs incurred in administering the qualified forest program developed in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(b) "Direct assistance" includes, but is not limited to, programs that will provide for any of the following:

(i) Programs devoted to nonindustrial private forestland to encourage the judicious management of

forestlands to maximize economic and ecological value.

(ii) Incentive and cost-share programs to assist landowners.

(iii) Programs that enhance investment of private and federal funds in sustainable forest management.

(iv) Other programs established pursuant to this part.

(c) "Indirect assistance" includes, but is not limited to, programs that will provide for any of the following:

(i) Public education and demonstration programs on sustainable management of private forestland for increasing value for wildlife habitat or timber management, or both.

(ii) Educational programs.

(iii) Technical assistance programs.

(iv) The promotion of on-site evaluation systems and management practices.

**History:** Add. 2013, Act 45, Imd. Eff. June 6, 2013.

**Compiler's note:** Former MCL 324.51305, which pertained to stocking forest trees under rules of department, was repealed by Act 378 of 2006, Eff. Sept. 1, 2007.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51306 List of qualified foresters; preparation; maintenance; registration; removal; publication on department's website.**

Sec. 51306. (1) The department shall prepare and maintain a list of qualified foresters in the state.

(2) An individual who wishes to be included on the list of qualified foresters shall submit a registration to the department on a form prepared by the department. The registration form shall include all of the following:

(a) The category of qualified forester for which the individual meets the necessary requirements.

(b) The continuing education required for the individual to maintain his or her status as a qualified forester, including the date on which the continuing education is required to be completed.

(c) A place for an individual to certify with his or her signature that he or she meets the requirements of a qualified forester and is current with any continuing education that is required.

(d) A place to designate whether the individual is submitting a new registration or a renewal of registration.

(3) An individual may update his or her registration at any time by submitting a renewal of registration.

(4) An individual who no longer meets the requirements to be considered a qualified forester shall notify the department in writing, and the department shall remove the individual from the list of qualified foresters.

(5) The department shall publish the list of qualified foresters on the department's website.

**History:** Add. 2013, Act 45, Imd. Eff. June 6, 2013.

**Compiler's note:** Former MCL 324.51306, which pertained to complete restocking of private forest reservation with forest trees, was repealed by Act 378 of 2006, Eff. Sept. 1, 2007.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51307 Repealed. 2006, Act 378, Eff. Sept. 1, 2007.**

**Compiler's note:** The repealed section pertained to varieties of forest trees.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51308 Repealed. 2006, Act 378, Eff. Sept. 1, 2007.**

**Compiler's note:** The repealed section pertained to record of private forest reservations to be kept by county treasurer.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51309 Repealed. 2006, Act 378, Eff. Sept. 1, 2007.**

**Compiler's note:** The repealed section pertained to record of private forest reservations to be kept by township supervisor or assessor.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51310 Repealed. 2006, Act 378, Eff. Sept. 1, 2007.**

**Compiler's note:** The repealed section pertained to form of application and contract to be filed with county treasurer and form of notice by the treasurer to supervisor or assessing officer.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51311 Repealed. 2006, Act 378, Eff. Sept. 1, 2007.**

**Compiler's note:** The repealed section pertained to examination of private forest reservations by supervisor or assessor when real estate is assessed for taxation.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51312 Repealed. 2006, Act 378, Eff. Sept. 1, 2007.**

**Compiler's note:** The repealed section pertained to taxes levied and fees collected after 1993.

**Popular name:** Act 451

**Popular name:** NREPA

## **FOREST FIRES**

### **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 note:** 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 note:** 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

## **PART 517 PREVENTION OF FOREST FIRES**

### **324.51701 Legislation, rules, or policies creating conditions promoting, fostering, or leading to forest fires.**

Sec. 51701. The state or a department, bureau, board, commission, or other agency of the state or a political subdivision of the state shall not enact, adopt, promulgate, enforce, or practice any law, rule, policy, or concept that creates or tends to create a condition that promotes, fosters, or leads or may tend to promote, foster, or lead to the beginning or spreading of a forest fire that could jeopardize the public trust in the forests of the state or any private land contiguous to the forests of the state, except as may be required for the protection of the public health, safety, and welfare, or as prescribed for forest management or wildlife management programs under the authority of the department.

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

**Popular name:** Act 451

**Popular name:** NREPA

### **324.51702 Inconsistent acts or rules repealed.**

Sec. 51702. To the extent authorized by law, all acts and parts of acts or rules promulgated pursuant to acts or parts that are inconsistent with this part are repealed.

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

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 519 SLASH DISPOSAL**

### **324.51901 Forest cutting, slash, and debris; disposal methods, specifications, and elimination; approval by department.**

Sec. 51901. Any person who cuts any forest growth within any public road or highway, or on land bordering on any public road or highway in this state, shall dispose of all cutting, slash, and debris resulting from the cutting, and dead stubs and windfalls from the area cut over so that inflammable material does not constitute a fire hazard within the limits of the road or highway or within 50 feet of the edge of the cleared

portion of the limits of the road or highway. The method of disposal, the disposal specifications, and the elimination of fire hazards shall be approved by the department.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51902 Forest cutting, slash, and debris; public utilities; responsibility for disposal.**

Sec. 51902. All cuttings of forest growth, slash, and debris resulting from the construction and maintenance of any railroad, that is a common carrier, telephone, telegraph, power, oil and gas line, or other public utility shall be disposed of by the person either directly or indirectly responsible for creating the cuttings, slash, and debris, in a manner approved by the department.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51903 Forest cutting, slash, and debris; time for disposal; burning permit required.**

Sec. 51903. All cuttings of forest growth, slash, and debris referred to in sections 51901 and 51902 shall be disposed of within 30 days after cutting the same in the manner prescribed by the department. The disposal shall not be injurious to or endanger public or private property. Any burning of cuttings of forest growth, slash, and debris shall be done only under permit and at a time when forest and grass lands are not endangered by the fire.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51904 Forest cutting, slash, and debris; noncompliance; disposal by department; statement of expenditures; reimbursement; neglect or refusal to pay amount; action; money collected; disposition.**

Sec. 51904. If cuttings of forest growth, slash, and debris are not disposed of as provided under section 51903, the department shall notify, by registered mail, the person responsible for the cuttings of the requirements imposed for the removal or elimination of fire hazards. If the responsible party or parties fail to comply with the provisions in the notification, the department may remove or eliminate the fire hazards, and the department is not liable in any action or trespass for that action. The department shall pay for the disposal or elimination of fire hazards resulting from cuttings of forest growth, slash, and debris from the forest fire control appropriation, and the department shall keep an accurate account of the expenditures incurred by it in implementing this part. The department shall present a full and complete statement of its expenditures, verified by oath, requiring the person to pay to the state the amount set forth. If the offender refuses or neglects to pay that amount within 30 days after the notice and demand, the department may bring suit against the person in a court of competent jurisdiction in the county where the forest growth cuttings, slash, and debris were not disposed of as required by the department, or in the county of the residence of the defendant or of any defendant if there is more than 1. All money collected as result of action under this section shall be paid to the state treasurer and credited to the forest fire control appropriation from which the expenditures were made.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51905 Violation of part; penalty; civil liability.**

Sec. 51905. Any person who violates this part 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. If through the violation of this part any damage or injury is suffered by the owner of any property, the person who is guilty of the violation is liable in an action for damages to be recovered in an action of trespass on the case for the benefit of the owner who suffered the damage.

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

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.51906 Rules, regulations, and specifications.**

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Sec. 51906. All rules, regulations, and specifications prescribed under this part shall be prescribed in accordance with 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 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## 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 note:** 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.

**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