

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994
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 Notes: 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 Notes: 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 Notes: 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

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 440.11102 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