CHAPTER 807

FOREST FIRE CONTROL

SUBCHAPTER 1

GENERAL PROVISIONS

§8901. Forest rangers

1. Appointment. The Director of the Bureau of Forestry shall appoint forest rangers, subject to the Civil Service Law and the State Supervisor of the forest protection unit of the Bureau of Forestry. Rangers assigned to posts at Clayton Lake, St. Pamphile, Estcourt Station, Daaquam, Musquacook Lake, Snare Brook and Baker Lake must be bilingual in French and English.

A. The forest protection unit of the Bureau of Forestry shall employ no fewer than 45 and no more than 50 forest rangers classified as Forest Ranger II to serve as wildfire control specialists and forestry law enforcement officers, and no fewer than 16 forest rangers classified as follows: 3 Regional Rangers, 8 District Rangers, one Forest Fire Prevention Specialist, one Ranger Pilot Supervisor and 3 Ranger Pilots. Each forest ranger and the state supervisor of the forest protection unit of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry must meet the training requirements of Title 25, section 2804-L. [PL 2017, c. 456, §1 (AMD).]

[PL 2017, c. 456, §1 (AMD).]

2. Powers and duties. Forest rangers and the state supervisor shall:

A. Subject to supervision of the director, supervise the state wildfire control program, including personnel and facilities of all types; [PL 2013, c. 130, §1 (AMD).]

B. Have the final on-site authority and responsibility for the control of wildfires; [PL 2013, c. 130, §1 (AMD).]

C. Develop and carry out a comprehensive program of wildfire prevention education and training of persons at all levels of command in order to meet supervisory needs during wildfire emergencies; [PL 2013, c. 130, §1 (AMD).]

D. Enforce Title 36, chapter 701 relating to blueberries, all laws relating to forests and forest preservation, laws relating to the Maine Land Use Planning Commission and laws and rules relating to lands under the jurisdiction of the Bureau of Parks and Lands; [PL 2013, c. 130, §1 (AMD); PL 2013, c. 405, Pt. A, §24 (REV).]

E. Investigate and gather evidence regarding the cause of wildfires; [PL 2013, c. 130, §1 (AMD).]

F. Have the authority to set backfires to control wildfires; [PL 2013, c. 130, §1 (AMD).]

G. Carry out such other duties as the director prescribes; and [PL 1989, c. 174, §1 (AMD).]

H. Have rights of access to all lands within the State to carry out the duties they are authorized by law to administer and enforce. Entry into private property under this paragraph is not a trespass. This paragraph does not authorize entry into any building or structure. [PL 1989, c. 174, §2 (NEW).]

Forest rangers and the state supervisor may also exercise the powers in this subsection when appropriate for agricultural and park fires.

[PL 2013, c. 130, §1 (AMD); PL 2013, c. 405, Pt. A, §24 (REV).]

3. Law enforcement powers. In addition to any law enforcement powers expressly provided to forest rangers by another law:

A. Forest rangers and the state supervisor, for the purpose of enforcing Title 36, chapter 701 relating to blueberries, forest and forest preservation laws, laws of the Maine Land Use Planning Commission and laws and rules relating to the lands under the jurisdiction of the Bureau of Parks and Lands, have statewide law enforcement powers equivalent to those of a sheriff, or a sheriff's deputy, in the sheriff's county, including the right to execute or serve criminal and civil violation processes against offenders, make warrantless arrests for crimes, investigate and prosecute offenders, require aid in executing forest ranger duties and deputize temporary aides; [PL 2013, c. 130, §2 (AMD); PL 2013, c. 405, Pt. A, §24 (REV).]

B. The Director of the Bureau of Forestry, at the director's discretion, may authorize forest rangers and the state supervisor while on duty to arrest without a warrant a person who has committed or is committing in the ranger's or supervisor's presence any crime involving the use or threatened use of physical force against a person.

For the purposes of this paragraph, criminal conduct has been committed or is being committed in the presence of a law enforcement officer when one or more of the officer's senses afford that officer personal knowledge of facts that are sufficient to warrant a prudent and cautious law enforcement officer's belief that a crime involving the use or threatened use of physical force against a person is being or has just been committed and that the person arrested has committed or is committing that crime. An arrest made pursuant to this paragraph must be made at the time of the commission of the criminal conduct, or some part thereof, or within a reasonable time thereafter or upon fresh pursuit; and [PL 1999, c. 352, §1 (NEW); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

C. Forest rangers and the state supervisor while on or off duty are authorized to provide assistance in a life-threatening emergency consistent with agency policies and within the scope of individual training. [PL 1999, c. 351, §1 (NEW).]

[PL 2013, c. 130, §2 (AMD); PL 2013, c. 405, Pt. A, §§23, 24 (REV).]

3-A. Liability. When a forest ranger or the state supervisor provides assistance under subsection 3, paragraph C, the forest ranger or the state supervisor has the same immunity from tort liability and all the pension, relief, disability, workers' compensation and insurance benefits and any other benefits the forest ranger or the state supervisor enjoys while performing duties under subsection 3, paragraphs A and B.

[PL 1999, c. 352, §2 (NEW).]

4. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Escaped prescribed fire" means an uncontrolled fire on wildland caused by a prescribed fire that escaped control efforts and burned unintended land area. [PL 2013, c. 130, §3 (NEW).]

B. "Escaped wildland fire use" means an out of control fire caused by a wildland fire use that escaped control efforts and burned unintended land area. [PL 2013, c. 130, §3 (NEW).]

C. "Prescribed fire" means a forest or land management practice using fire, applied in a knowledgeable manner to naturally occurring fuels on a specific land area under selected weather conditions to accomplish predetermined, well-defined management objectives. [PL 2013, c. 130, §3 (NEW).]

D. "Wildfire" means an unplanned, unwanted wildland fire including an unauthorized human-caused fire, an escaped wildland fire use, an escaped prescribed fire and any other wildland fire with respect to which the Director of the Bureau of Forestry has determined that the objective is to put the fire out. [PL 2013, c. 130, §3 (NEW); PL 2013, c. 405, Pt. A, §23 (REV).]

E. "Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, powerlines and similar transportation facilities, and structures, if any, are widely scattered. [PL 2013, c. 130, §3 (NEW).]

F. "Wildland fire use" means a management practice using a naturally occurring fire burning forest fuels on wildland that is not immediately controlled. The fire is allowed to burn within a predetermined area and is used to promote certain wilderness or management objectives. [PL 2013, c. 130, §3 (NEW).]

[PL 2013, c. 130, §3 (NEW); PL 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1985, c. 108, §2 (AMD). PL 1985, c. 785, §B76 (AMD). PL 1987, c. 69, §1 (AMD). PL 1987, c. 349, §H11 (AMD). PL 1987, c. 769, §A51 (AMD). PL 1987, c. 816, §§KK14,KK15 (AMD). PL 1989, c. 174, §§1,2 (AMD). PL 1991, c. 652, §§1,2 (AMD). PL 1995, c. 502, §E30 (AMD). PL 1999, c. 155, §A4 (AMD). PL 1999, c. 352, §§1,2 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2011, c. 657, Pt. X, §7 (AMD). PL 2011, c. 682, §38 (REV). PL 2013, c. 130, §§1-3 (AMD). PL 2013, c. 405, Pt. A, §§23, 24 (REV). PL 2015, c. 267, Pt. Z, §1 (AMD). PL 2017, c. 284, Pt. SS, §1 (AMD). PL 2017, c. 456, §1 (AMD).

§8902. Forest fire wardens

The director shall appoint a forest fire warden in each organized municipality. The municipal fire chief shall be appointed as forest fire warden if practicable and no other person may be appointed without the approval of the municipal officers. All appointed forest fire wardens shall serve at the pleasure of the director and shall be sworn to the faithful discharge of these duties and a certificate thereof shall be returned to the bureau. Whoever has been notified of this appointment shall file with the director his acceptance or rejection within 10 days. The appointed forest fire warden may appoint one or more deputy forest fire wardens subject to approval of the municipal officers. A deputy forest fire warden may act for the forest fire warden in the absence of the appointed forest fire warden, but no compensation in addition to that provided in this section may be made. [PL 1985, c. 108, §3 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

The State shall pay the appointed forest fire warden an annual fee of $100. This payment shall be made contingent upon attendance at forest fire training schools, preparation of an annual forest fire plan for his town and such reports as the director may require. This fee in no way limits payment to the warden from his town. His services for work on actual forest fires, as well as that of deputy forest fire wardens, shall be paid by the town and at a rate determined by the town. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 556, §6 (AMD). PL 1985, c. 108, §3 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§8903. General deputy wardens

The director may appoint general deputy wardens as an adjunct to the personnel regularly employed in the forest fire control program. They shall aid in forest fire prevention and shall take immediate action to control any unauthorized forest fires, employ assistance when required and notify the nearest forest ranger or town forest fire warden with dispatch. Such general deputy wardens and those they employ may receive the prevailing local fire fighting wages for the period so engaged. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§8904. Coordinating protective agencies

The director shall formulate emergency plans of action to establish staffing pools, equipment reserves, facilities for feeding, transportation and communication on forest fires. In preparing the plan, other agencies and organizations having needed facilities should be contacted, such as fire chiefs, emergency management units, the American Red Cross, sheriffs, the American Legion, the State Police, the Maine National Guard, the Department of Transportation, the Department of Inland Fisheries and Wildlife, the State Grange, colleges, the Civil Air Patrol and any other protective group as determined by the director. Whenever or wherever a major forest fire occurs or threatens, the bureau is the coordinating agency until the Governor declares an emergency. [PL 2013, c. 462, §1 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV). PL 2013, c. 462, §1 (AMD).

§8905. Chain of command

The director shall be responsible for the control of forest fires in all areas of the State. In carrying out these duties, the director shall have an unbroken chain of command down to, and including, town forest fire wardens. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§8906. Other authority

1. Administrative units. The director shall have the authority to divide the State into administrative units so as to most effectively provide for protection against loss or damage by forest fires.
[PL 1979, c. 545, §3 (NEW).]

2. Equipment. The director may establish lookout stations connected by telephone and radio, and construct, equip and maintain office-storehouse headquarters for necessary supplies, tools and equipment and provide for any other facilities essential for forest fire control. All fire lookout towers must be staffed during periods of fire danger. The director shall notify the joint standing committees of the Legislature having jurisdiction over energy and natural resources and appropriations and financial affairs in writing prior to implementing any major policy changes in the operation and staffing of the fire lookout tower system. Within the unorganized territory, the director may, in addition to this subsection, construct and maintain roads and trails. In the event the director determines that any currently active fire tower should not be reopened for the subsequent fire season, the director shall provide notice to the Legislature of intended action by January 15th. This notice must include the location of the fire towers affected and the justifications for the closures. Notice of closures must be reviewed by the joint standing committee of the Legislature having jurisdiction over natural resources. Unless the Legislature determines otherwise, the director may close towers so indicated. If any fire tower is not reopened, the department shall work closely with the municipality in which the fire tower is located to minimize the impact that action will have on the municipality's responsibility to control forest fires.
[PL 1991, c. 9, Pt. Y, §2 (AMD).]

3. Contingency. If the funds available for forest fire control are not sufficient to meet actual suppression costs in any year, the Governor may make additional funds available from the treasury not otherwise appropriated.
[RR 2011, c. 2, §11 (COR).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 367 (AMD). PL 1983, c. 556, §7 (AMD). PL 1983, c. 819, §A39 (AMD). PL 1985, c. 506, §A17 (AMD). PL 1991, c. 9, §Y2 (AMD). RR 2011, c. 2, §11 (COR).

§8907. Forest service citation form

1. Form. The Director of the Bureau of Forestry, referred to in this section as the "director," shall designate the Uniform Summons and Complaint as the citation form to be used by the Maine Forest Service, except that the director may permit the use of any citation forms approved by the Chief Judge of the District Court before May 1, 1991 that are in current stock as of May 1, 1991 until those stocks are depleted.
[PL 1991, c. 459, §3 (RPR); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

2. Citation books. The director is responsible for any forms approved by the Chief Judge of the District Court prior to May 1, 1991. The director may provide citation books to other law enforcement agencies and officers for their use in the enforcement of chapters 807 and 809. The director may not require other agencies to use this form. The Department of Public Safety is responsible for all Uniform Summons and Complaints issued to the Maine Forest Service. The director or the director's designee is responsible for the further issuance of Uniform Summons and Complaint books to individual law enforcement officers and for the proper disposition of those books.
[PL 1991, c. 459, §3 (RPR).]

3. Disposition; prohibited act. It is unlawful and official misconduct for any forest ranger or other public employee to dispose of an official citation form or Uniform Summons and Complaint except in accordance with law and as provided for in an applicable official policy or procedure of the Maine Forest Service.
[PL 1991, c. 459, §3 (RPR).]

4. Lawful complaint. A Maine Forest Service citation form or a Uniform Summons and Complaint may be filed in a court having jurisdiction and constitutes a lawful complaint to commence any criminal prosecution or civil violation proceeding if the form or Uniform Summons and Complaint is duly sworn to as required by law and otherwise legally sufficient in respect to the form of a complaint and charging an offense.
[PL 1991, c. 459, §3 (RPR).]

5. Lawful summons. A Maine Forest Service citation or a Uniform Summons and Complaint, when served upon a person by a law enforcement officer, functions as a summons to appear in court. Any person who fails to appear in court after having been served with a summons commits a Class E crime. Upon that person's failure to appear, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear resulted from just cause.

A. [PL 1991, c. 459, §3 (RP).]

B. [PL 1991, c. 459, §3 (RP).]
[PL 1991, c. 459, §3 (RPR).]

6. Refusal to sign; prohibited act. Any person who refuses to sign a citation or a Uniform Summons and Complaint after having been ordered to do so by a law enforcement officer commits a Class E crime.
[PL 1991, c. 459, §3 (RPR).]

7. Refusal to sign; prohibited act.

[PL 1991, c. 459, §3 (RP).]

SECTION HISTORY

PL 1989, c. 174, §3 (NEW). PL 1991, c. 459, §3 (RPR). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§8908. Aerial Fire Suppression Fund

1. Establishment of fund. The Aerial Fire Suppression Fund, referred to in this section as "the fund," is established through the Office of the State Controller as a nonlapsing fund under the jurisdiction of the bureau to ensure the viability of its aerial fire suppression program. The bureau may assess charges to agencies of the State for the use of the bureau's aerial fire suppression resources for purposes other than fire suppression and shall deposit any such money received into the fund. The bureau may apply for and accept any appropriation, grant, gift or service made available from any public or private source consistent with the purpose of this section and shall deposit any such money into the fund.
[PL 2005, c. 28, §1 (NEW); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

2. Use of fund. The bureau may use the fund to pay operating expenses and to purchase aerial fire suppression resources, including helicopters, airplanes and spare parts, in accordance with the bureau's plan to diversify and modernize its aerial fire suppression fleet.
[PL 2019, c. 616, Pt. K, §1 (AMD).]

SECTION HISTORY

PL 2005, c. 28, §1 (NEW). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV). PL 2019, c. 616, Pt. K, §1 (AMD).

SUBCHAPTER 2

FIRE PREVENTION EMERGENCY

§9001. Proclamation by Governor

1. Determination by director. The director shall inform the Governor when the director determines that:

A. A high degree of forest fire danger exists in any part of the State; and [PL 1979, c. 545, §3 (NEW).]

B. Human activity is likely to pose a forest fire menace. [PL 1995, c. 586, §1 (AMD).]
[PL 1995, c. 586, §1 (AMD).]

2. Proclamation. The Governor may, by proclamation, suspend the open season for hunting or fishing or prohibit out-of-door smoking or building or using out-of-door fires or prohibit any other human activity likely to be a menace to the forests for such time and in such areas of the State as considered necessary. The type and manner of hunting and fishing or other human activity that is prohibited must be designated in the proclamation.
[PL 1995, c. 586, §1 (AMD).]

3. Out-of-door fires at campgrounds.

[PL 1995, c. 586, §2 (RP).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1995, c. 586, §§1,2 (AMD).

§9001-A. Definitions

As used in this subchapter, the following terms have the following meanings. [PL 1995, c. 586, §3 (NEW).]

1. Licensed camping facility. "Licensed camping facility" means a recreational camp, youth camp or camping area licensed under Title 22, section 2495.
[PL 2009, c. 211, Pt. B, §4 (AMD).]

SECTION HISTORY

PL 1995, c. 586, §3 (NEW). PL 2009, c. 211, Pt. B, §4 (AMD).

§9001-B. Exemptions

1. General. The Governor may, in a proclamation issued under section 9001, exempt from the prohibitions specified in the proclamation human activities or out-of-door fires that the Governor determines are not a significant menace to the forests.
[PL 1995, c. 586, §3 (NEW).]

2. Certain public campsites. The Governor may, in a proclamation issued under section 9001, exempt from the prohibitions specified in the proclamation out-of-door fires and the use of charcoal and gas grills at campsites under the jurisdiction of the Department of Agriculture, Conservation and Forestry or the Baxter State Park Authority, as long as the campsite and the use of out-of-door fires and charcoal and gas grills at the campsite comply with rules adopted under subsection 4.
[PL 1995, c. 586, §3 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

3. Licensed camping facilities. The Governor may, in a proclamation issued under section 9001, exempt from the prohibitions specified in the proclamation out-of-door fires and the use of charcoal and gas grills at a licensed camping facility if:

A. The facility and the use of out-of-door fires and charcoal and gas grills at the facility comply with rules adopted under subsection 4; [PL 1995, c. 586, §3 (NEW).]

B. The owner or operator of the facility notifies the director in writing that the facility complies with rules adopted pursuant to subsection 4; and [PL 1995, c. 586, §3 (NEW).]

C. The director provides the owner or operator of the facility written confirmation of receipt of notification required under paragraph B. Confirmation of receipt does not imply a determination that the facility complies with the rules adopted pursuant to subsection 4. [PL 1995, c. 586, §3 (NEW).]

[PL 1995, c. 586, §3 (NEW).]

4. Rules. The director shall adopt rules that establish standards of design, construction and use under which the use of an out-of-door fire or a charcoal or gas grill at a public campsite or licensed camping facility may be exempted pursuant to subsections 2 and 3.

Rules adopted pursuant to this subsection are major substantive rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A.
[PL 1995, c. 586, §3 (NEW).]

5. Inspection. The director may at any time inspect a licensed camping facility to determine whether that facility complies with rules adopted under subsection 4. If the director determines that a facility fails to comply with the rules, the facility is not exempt. A facility that fails an inspection may not be granted a future exemption unless the director inspects the facility and determines that it complies with the rules. The director may delegate authority to conduct inspections to a state or municipal employee.
[PL 1995, c. 586, §3 (NEW).]

6. Notification. The owner or operator of a licensed camping facility and the supervisor of a campsite under the jurisdiction of the Department of Agriculture, Conservation and Forestry or the

Baxter State Park Authority shall post a notice of a proclamation issued under section 9001 and any standards of use to be met under rules adopted pursuant to subsection 4.
[PL 1995, c. 586, §3 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1995, c. 586, §3 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

§9002. Posting and publishing

The proclamation must be published in such newspapers of the State and posted in such places as the Governor considers necessary and a copy of that proclamation must be filed with the Secretary of State. A copy must be furnished to the director, who shall attend to the posting and publication of the proclamation. The expense of posting and publication and the expense of enforcing the proclamation are paid by the director, after allowance by the State Controller, from the appropriation for general forestry purposes. [PL 1995, c. 586, §4 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1995, c. 586, §4 (AMD).

§9003. Repeal; amend

If, after issuing the proclamation provided for in section 9001, by reason of rains or otherwise the Governor is satisfied that the occasion for the issuance of the proclamation has passed, the Governor may amend, repeal and replace it by another proclamation affecting the sections covered by the original proclamation, or any part of the original proclamation, and that new proclamation must be published and posted in the same manner as provided for the issuance of the original proclamation. [PL 1995, c. 586, §4 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1995, c. 586, §4 (AMD).

§9004. Penalty

1. Violation of proclamation. Notwithstanding section 9701, any person who in fact violates the provisions of a proclamation issued under section 9001 commits a Class E crime.
[PL 1995, c. 586, §5 (NEW).]

2. Violation at licensed camping facility. Notwithstanding subsection 1 and section 9701, a person who is an occupant or customer of a licensed camping facility commits a Class E crime if that person:

A. Is notified of a proclamation in accordance with section 9001-B, subsection 6 and violates a proclamation issued under section 9001. [PL 1995, c. 586, §5 (NEW).]

[PL 1995, c. 586, §5 (NEW).]

3. Violation at exempt licensed camping facility. Notwithstanding subsection 1 and section 9701, a person who is an occupant or customer of a licensed camping facility provided an exemption under section 9001-B, subsection 3 commits a Class E crime if that person:

A. Is notified of an exemption and standard of use in accordance with section 9001-B, subsection 6 and burns an out-of-door fire or utilizes a charcoal or gas grill in violation of a rule adopted under section 9001-B, subsection 4. [PL 1995, c. 586, §5 (NEW).]

[PL 1995, c. 586, §5 (NEW).]

4. Violation by owner or operator of licensed camping facility. Notwithstanding section 9701, an owner or operator of a licensed camping facility commits a Class E crime if the owner or operator:

A. Fails to notify a person in accordance with section 9001-B, subsection 6; [PL 1995, c. 586, §5 (NEW).]

B. Allows a person to violate a proclamation issued under section 9001; or [PL 1995, c. 586, §5 (NEW).]

C. Operates a facility that is exempt pursuant to section 9001-B that does not comply with rules adopted under section 9001-B, subsection 4. [PL 2013, c. 588, Pt. A, §10 (AMD).]

[PL 2013, c. 588, Pt. A, §10 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1995, c. 586, §5 (RPR). PL 2013, c. 588, Pt. A, §10 (AMD).

SUBCHAPTER 3

LOCAL CONTROL

§9201. Responsibility for control of forest fires

Responsibility for the control of forest fires in municipalities lies in the first instance with the town forest wardens appointed for these municipalities by the director. When in the judgment of a forest ranger the situation so warrants, the forest ranger may relieve a town forest fire warden of responsibility for control of a forest fire within a municipality and assume responsibility therefor. Final authority and responsibility for the control of a forest fire shall be that of the forest ranger. [PL 1983, c. 556, §8 (AMD).]

Municipal fire department personnel and equipment shall not be moved within or without municipal limits upon the order of a town forest fire warden or a forest ranger, except with the approval of the fire chief or proper municipal official having authority to grant such approval. [RR 2019, c. 2, Pt. A, §18 (COR).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 556, §8 (AMD). RR 2019, c. 2, Pt. A, §18 (COR).

§9202. Right to call and employ assistance

Forest rangers and town forest fire wardens may employ any person considered necessary to assist in fighting forest fires. All called and employed for assistance shall proceed to help control forest fires as directed by the forest ranger or forest fire warden in charge. [PL 1983, c. 556, §9 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 556, §9 (AMD).

§9203. Compensation

Town forest fire wardens shall receive compensation for forest fire fighting services at the prevailing rate in the town. Labor and equipment may be provided by individuals or goups on a forest fire without pay. All requested assistance, persons or equipment used in fighting forest fires shall, upon application, receive compensation fixed by the town in which the forest fire occurred, but labor coming from outside such town shall receive a rate of pay not less than that established annually by the Department of Transportation for state highway labor. Fire departments, organized crews or other groups used outside the town in which the forest fire occurred may receive pay at their usual rates. Forest fire fighters may be provided with subsistance while on the fire. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9204. Payment of costs

Municipalities shall pay the costs for controlling and extinguishing forest fires up to 1/4 of 1% of their state valuation on a calendar year basis. These costs must be approved by the forest fire warden in charge. A municipality going to the aid of another, even to protect itself, when requested by the state forest ranger in charge, is entitled to be paid by the municipality aided if the total suppression cost of the municipality is not over 1/4 of 1% of its state valuation. [PL 1991, c. 780, Pt. MM, §1 (RPR).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 556, §10 (AMD). PL 1985, c. 108, §4 (AMD). PL 1991, c. 780, §MM1 (RPR).

§9205. Payment of costs beyond 1/4 of 1% of state valuation

All forest fire suppression costs in municipalities in an amount greater than 1/4 of 1% of the state valuation of the municipality in which the fire occurred, excluding any costs for use or loss of that municipality's municipally owned equipment, must be paid by the State on a calendar year basis. Any municipality, in order to pay labor quickly, may pay beyond 1/4 of 1% of its state valuation and submit for full state reimbursement or forward the unpaid bills, approved by the state forest ranger in charge, for payment. [PL 1991, c. 780, Pt. MM, §2 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 556, §11 (AMD). PL 1985, c. 108, §5 (AMD). PL 1991, c. 780, §MM2 (AMD).

§9205-A. Payment of costs in the unorganized territory

Responsibility for the control of forest fires in the unorganized territory lies with the State. The unorganized territory shall reimburse the State for the costs of controlling and extinguishing forest fires up to 1/4 of 1% of the state valuation of the unorganized territory. The State may not require reimbursement for costs of services in the unorganized territory unless a municipality would be required to pay for the service under sections 9204 and 9205. [PL 1991, c. 780, Pt. MM, §3 (AMD).]

SECTION HISTORY

PL 1983, c. 556, §12 (NEW). PL 1983, c. 855, §1 (RPR). PL 1991, c. 780, §MM3 (AMD).

§9206. Reports and payrolls

Town forest fire wardens and state forest rangers shall promptly prepare a report of their investigation of the cause, extent and damage on all forest fires in their charge. They shall prepare an exact and detailed statement of expenses incurred therein immediately after total extinguishment of the forest fire on forms provided by the director. [PL 1979, c. 545, §3 (NEW).]

Statements of expenses shall have proper payroll receipts and vouchers. Forest fire suppression costs qualifying for town and state payment are labor, transportation, food, fire department equipment from outside the affected town, privately owned equipment and other costs approved by the state forest ranger in charge. [PL 1979, c. 545, §3 (NEW).]

All requests for the state 1/2 reimbursement shall be presented to the director within 60 days after total extinguishment of the forest fire or become void. The director may extend the time provided a preliminary report has been made. [PL 1979, c. 545, §3 (NEW).]

The director shall examine all forest fire suppression bills rendered by the town to the State for reimbursement or direct payment. After items not qualifying have been deducted, the director shall approve them for payment. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

SUBCHAPTER 4

REGULATION OF OPEN BURNING

ARTICLE 1

DUMPS

§9301. Hazard clearance

Any municipal or private dump within the State established and maintained for the disposal of solid waste, as defined in Title 38, section 1303, which might facilitate either the origin or spread of forest fires shall be operated under the following preventive measures: A strip 10 feet wide cleared to mineral soil shall be constructed on all sides of the dump; a water supply, the suitability of which shall be determined by the forest ranger and town forest fire warden, may be substituted for the cleared strip along any portion of the perimeter; and all grass, weeds, slash, brush and debris and other inflammable material shall be removed for a distance of 100 feet in all directions outside the cleared mineral soil strip. Live trees need not be removed, except that green branches of conifers and dead branches of all trees shall be pruned to a height of 10 feet above the ground. Dead snags of all trees shall be removed. During periods of high forest fire hazard if a municipal dump is burning, municipal officers shall maintain a watchkeeper at such dumps and owners and operators of private dumps shall do the same. [PL 1989, c. 174, §4 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1989, c. 174, §4 (AMD).

§9302. Closing

A municipal or private dump within the State not carrying out this subchapter shall be posted as "Closed to Dumping" by the town forest fire warden, or the director. Thereafter no person shall deposit refuse of any kind within, along the road leading to, or on land adjacent to such closed dump. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9303. Deposits on other's land forbidden

No person shall deposit refuse of any kind on land not his own without the consent of the owner or the public authority having custody or maintenance responsibility of such land. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9304. Loss of state reimbursement

Any municipality in which a municipal dump has been posted "Closed to Dumping" as set forth in this subchapter, which continues to permit dumping therein, shall, during that period, lose the benefits of state reimbursement of forest fire suppression costs on fires which escape from such dump as provided by section 9204 up to an amount equal to 1% of the state valuation of the municipality. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

ARTICLE 2

OUT-OF-DOOR FIRES

§9321. Criteria for allowable burning

1. Criteria. In issuing any permit or permission for allowable burning, the director shall consider the following criteria:

A. Forest fire danger indices and location of proposed burning; [PL 1979, c. 545, §3 (NEW).]

B. The time of day and season of the year; [PL 1979, c. 545, §3 (NEW).]

C. The temperature, humidity, wind speed and direction; [PL 1979, c. 545, §3 (NEW).]

D. The matter and type of burning proposed, giving due consideration to prohibitions and permissible open-burning rules of the Department of Environmental Protection; [PL 1991, c. 36, §1 (AMD).]

E. With regard to recreational fires, the feasibility of use of public campsites; [PL 1979, c. 545, §3 (NEW).]

F. The length of the burning period; [PL 1979, c. 545, §3 (NEW).]

G. The presence or availability of sufficient force and equipment to control the burning; [PL 1997, c. 512, §1 (AMD).]

H. Experience and capability of the permittee in the safe use and control of the proposed burning; [PL 1997, c. 672, §1 (AMD).]

I. In issuing a permit under section 9325, subsection 1, paragraph E, any prior convictions for violating that paragraph or section 9324, subsection 7-A; and [PL 2001, c. 626, §2 (AMD).]

J. In issuing a permit under section 9325, subsection 1, paragraph E, the public health risk from toxic chemicals in the smoke plume in accordance with guidelines issued by the Department of Environmental Protection and the practicality of locating the incinerator at least 300 feet from any abutting property boundary and at least 150 feet from any residential dwelling. These setback criteria may not be used to deny a permit. [PL 1997, c. 672, §3 (NEW).]

[PL 2001, c. 626, §2 (AMD).]

2. Revocation. The director or the director's delegate may revoke any permit during a period of high forest fire danger or any permit which results in creation of a nuisance condition without compliance with the provisions of Title 4, chapter 5 or Title 5, chapter 375.
[PL 1999, c. 547, Pt. B, §32 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

3. Delegation. The director may delegate the issuance of permits to forest rangers or town forest fire wardens and their deputies. A town forest fire warden or deputy authorized to issue permits pursuant to this subsection may issue permits using burn permit software acquired from a private party to establish a publicly accessible online system in accordance with section 9327.
[PL 2017, c. 449, §1 (AMD).]

4. Conditions. The director may issue a permit with stated conditions or restrictions to insure adequate control of permitted fires in accordance with criteria of subsection 1 and conformity to rules of the Department of Environmental Protection.
[PL 1991, c. 36, §2 (AMD).]

5. Stricter requirements. Nothing in this section shall prohibit a municipality from adopting ordinances specifying stricter criteria for out-of-door fires.
[PL 1979, c. 545, §3 (NEW).]

5-A. Notification. Any person authorized by this subchapter to issue permits for open burning who issues a permit for out-of-door burning within a municipality shall notify the municipal officers or fire chief of that municipality that the permit has been issued.
[PL 1987, c. 618, §1 (NEW).]

6. Penalty. Notwithstanding section 9701, any person who engages in out-of-door burning in violation of this article, or who fails to comply with any stated permit condition or restriction, commits a Class E crime. In addition, if the State proves that while in violation that person's out-of-door fire resulted in fire suppression costs to municipal or State Government, the court, as part of any sentence imposed, may order restitution, pursuant to Title 17-A, chapter 69, to be paid to the government entities incurring the suppression costs. For each violation of this article:

A. The monetary award for restitution to a municipality may not exceed $25,000; and [PL 2003, c. 556, §1 (AMD).]

B. The total combined monetary award for restitution to municipalities and State Government may not exceed $125,000. [PL 2003, c. 556, §1 (AMD).]

When bringing an action under this article, the State shall, to the fullest extent permitted by law, seek restitution of fire suppression costs incurred by state governmental entities relating to the violation.
[PL 2019, c. 113, Pt. C, §17 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 504, §§1-3 (AMD). PL 1987, c. 618, §1 (AMD). PL 1989, c. 174, §5 (AMD). PL 1991, c. 36, §§1,2 (AMD). PL 1991, c. 528, §E10 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §E10 (AMD). PL 1997, c. 512, §§1,2 (AMD). PL 1997, c. 672, §§1-3 (AMD). PL 1999, c. 547, §B32 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 626, §2 (AMD). PL 2003, c. 556, §1 (AMD). PL 2017, c. 449, §1 (AMD). PL 2019, c. 113, Pt. C, §17 (AMD).

§9321-A. Possession and production of permit required; violation

1. Possession and production of permit in organized territory. Any person, firm or corporation that engages in out-of-door burning in any municipality, plantation or village corporation as permitted by this article shall possess the permit at the scene of the burning and shall produce the permit on the demand of authorized persons, including fire chiefs, town forest fire wardens or their designated agents, state forest rangers, municipal code enforcement officers and any law enforcement officer as defined in Title 17-A. A person, firm or corporation that is issued an electronic permit pursuant to section 9326 or section 9327 may produce the permit on an electronic device.
[PL 2017, c. 449, §2 (AMD).]

2. Violation. Any person, firm or corporation which violates this section commits a civil violation for which a forfeiture not to exceed $100 may be adjudged.
[PL 1987, c. 618, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 618, §2 (NEW). PL 1997, c. 512, §3 (AMD). PL 2017, c. 449, §2 (AMD).

§9322. Permits in the unorganized territory

1. Permits. No person may kindle or use an out-of-door fire in the unorganized territory unless a permit has been obtained from the director. The director may issue a permit on lands of another unless the majority ownerships of the land have withdrawn permission in writing to the director.
[PL 1983, c. 556, §13 (AMD).]

2. Exemptions. This section does not apply to the use of portable stoves which are fueled by propane gas, gasoline or sterno; to recreational fires kindled when the ground is covered with snow; or to residential use of outdoor grills and fireplaces for recreational purposes, such as preparing food.
[PL 1989, c. 174, §6 (AMD).]

3. Resident guides. Upon application, the Director of the Bureau of Forestry may issue a statewide yearly permit for out-of-door fires to resident guides licensed by the Department of Inland Fisheries and Wildlife. The director may restrict the scope of a permit to correspond with the classification of the guide license. Use of the permit is conditional upon the permittee:

A. Possessing a valid guide license; [PL 1993, c. 555, §2 (NEW).]

B. Complying with any landowner campfire restrictions; [PL 1993, c. 555, §2 (NEW).]

C. Complying with applicable out-of-door burning laws; and [PL 1993, c. 555, §2 (NEW).]

D. Complying with out-of-door fire restrictions established by the director for the area in which and the time during which fires are made. [PL 1993, c. 555, §2 (NEW).]

The director shall revoke the permit of any person who violates any condition or restriction established by this subsection. The director is not required to comply with the provisions of Title 4, chapter 5 or Title 5, chapter 375 in revoking a permit under this subsection.
[PL 1999, c. 547, Pt. B, §33 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

4. Saco River Corridor. For the purpose of issuing permits under this section, the lands within Oxford County within the Saco River Corridor, so designated by Private and Special Law 1973, chapter 150, as amended, shall be subject to the same requirements and procedures as lands within the unorganized territory.
[PL 1983, c. 556, §14 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1979, c. 663, §71 (AMD). PL 1981, c. 698, §81 (AMD). PL 1983, c. 556, §§13,14 (AMD). PL 1985, c. 108, §6 (AMD). PL 1989, c. 174, §6 (AMD). PL 1993, c. 555, §2 (AMD). PL 1999, c. 547, §B33 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§9323. Slash and brush permits

1. Prohibition. No person shall kindle or use a fire for clearing land or burning logs, stumps, roots, brush, slash, fields of grass, pasture or blueberry lands without a permit from the director.
[PL 1979, c. 545, §3 (NEW).]

2. Jurisdiction. The requirement for a permit under this section shall apply statewide.
[PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9324. Prohibited acts

1. Extinguishment of fire. Whoever by himself or by his servant, agent or guide or as the servant, agent or guide of any other person shall build a camp, cooking or other fire or use an abandoned camp, cooking or other fire in or adjacent to any woods in this State, shall, before leaving such fire, totally extinguish the same.
[PL 1979, c. 545, §3 (NEW).]

2. Time and manner of kindling. Whoever kindles or uses a fire on his own land shall do so at a suitable time and in a careful and prudent manner and is liable in a civil action to any person injured by his failure to comply with this provision.
[PL 1979, c. 545, §3 (NEW).]

3. Disposal of lighted material. No person shall dispose of a lighted match, cigarette, cigar, ashes or other flaming or glowing substance or any other substance or thing in such a condition that it is likely to ignite forest, brush, grass or other lands or dispose of any of the aforesaid objects or substances from a moving vehicle.
[PL 1979, c. 545, §3 (NEW).]

4. No person shall kindle or use an out-of-door fire on land of another without permission of the owner, except at public campsites and lunch grounds maintained or authorized by the bureau, state parks and state highway picnic areas. This subsection shall not apply to the use of portable stoves which are fueled by propane gas, gasoline or sterno.
[PL 1979, c. 545, §3 (NEW); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

5. Permit required. No person, firm or corporation may burn out of doors without a permit from a town forest fire warden or forest ranger, except as provided in sections 9322, 9324 and 9325.
[PL 1991, c. 36, §3 (AMD).]

6. Domestic trash.

[PL 1997, c. 512, §4 (RP).]

7. Trash.

[PL 2001, c. 626, §3 (RP).]

7-A. Solid waste. Except as provided in this subsection, the out-of-door burning of plastic, rubber, styrofoam, metals, food wastes, chemicals, treated wood or other solid wastes is prohibited in all areas of the State. For the purposes of this subsection, the term "lumber" means material that is entirely made of wood and is free from metal, plastics, coatings and chemical treatments and the term "wood wastes" means brush, stumps, lumber, bark, wood chips, shavings, slabs, edgings, slash, sawdust and wood from production rejects that are not mixed with other solid or liquid waste. The following materials are exempt from this subsection:

A. Wood wastes; [PL 2001, c. 626, §4 (NEW).]

B. Painted and unpainted wood from construction and demolition debris; [PL 2001, c. 626, §4 (NEW).]

C. Empty containers, including fiberboard boxes and paper bags, previously containing explosives and being disposed of in accordance with the provisions of Title 25, section 2472; and [PL 2001, c. 626, §4 (NEW).]

D. Explosives being disposed of under the direct supervision and control of the State Fire Marshal. [PL 2001, c. 626, §4 (NEW).]
[PL 2001, c. 626, §4 (NEW).]

8. Construction and demolition debris.

[PL 2001, c. 626, §5 (RP).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 504, §4 (AMD). PL 1991, c. 36, §3 (AMD). PL 1997, c. 512, §§4,5 (AMD). PL 2001, c. 277, §§1,2 (AMD). PL 2001, c. 626, §§3-5 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§9325. Open burning

1. Permissible open burning with permit. When not prohibited by statute, rule of any state agency or local ordinance, the types of burning described in this subsection are allowed provided that a permit has been obtained from the town forest fire warden or from the forest ranger having jurisdiction over the location where the fire is to be set. The burning must be conducted according to the terms and conditions of the permit and may not create a nuisance. A permit is required for:

A. Recreational campfires kindled when the ground is not covered by snow; [PL 1991, c. 36, §4 (NEW).]

B. Fires in conjunction with holiday and festive celebrations; [PL 1991, c. 36, §4 (NEW).]

C. Burning of solid or liquid fuels and structures for research or bona fide instruction and training of municipal, volunteer and industrial firefighters when conducted under the direct control and supervision of qualified instructors; [PL 1991, c. 36, §4 (NEW).]

D. Burning for agricultural purposes including, but not limited to, open burning of blueberry fields, potato tops and hayfields and prescribed burning for timberland management; [PL 1991, c. 36, §4 (NEW).]

E. Out-of-door burning of wood wastes as defined in section 9324, subsection 7-A and painted and unpainted wood from construction and demolition debris in the open or in an incinerator with a primary chamber volume no greater than 133 cubic feet or 1,000 gallons that is not licensed by the Department of Environmental Protection; [PL 2003, c. 245, §1 (AMD).]

F. Open burning of leaves, brush, deadwood and tree cuttings accrued from normal property maintenance by the individual landowner or lessee of the land unless expressly prohibited by municipal ordinance; [PL 2001, c. 626, §7 (AMD).]

G. Burning on site for the disposal of wood wastes and painted and unpainted wood from construction and demolition debris generated from the clearing of any land or by the erection, modification, maintenance, demolition or construction of any highway, railroad, power line, communication line, pipeline, building or development; [PL 2001, c. 626, §7 (AMD).]

H. Burning for hazard reduction purposes such as, but not limited to, the burning of grass fields; [PL 1991, c. 36, §4 (NEW).]

I. Burning for the containment or control of spills of gasoline, kerosene, heating oil or similar petroleum products; [PL 2001, c. 626, §7 (AMD).]

J. The burning of wood wastes and painted and unpainted wood from construction and demolition debris at solid waste facilities; and [PL 2001, c. 626, §7 (AMD).]

K. The burning of empty containers, including fiberboard boxes and paper bags, previously containing explosives and being disposed of in accordance with the provisions of Title 25, section 2472. [PL 2001, c. 626, §8 (NEW).]

[PL 2003, c. 245, §1 (AMD).]

2. Permissible open burning without permit. When not prohibited by state rule, local ordinance or water utility regulation, the following types of burning are permissible without a permit if no nuisance is created:

A. Recreational campfires kindled when the ground is covered by snow or on frozen bodies of water; [PL 1991, c. 36, §4 (NEW).]

B. Residential use of outdoor grills and fireplaces for recreational purposes such as preparing food; and [PL 1991, c. 36, §4 (NEW).]

C. Use of outdoor grills and fireplaces for recreational purposes such as preparing food at commercial campgrounds in organized towns as long as the commercial campgrounds are licensed by the health engineering division of the Department of Human Services. [PL 1991, c. 36, §4 (NEW).]

[PL 1991, c. 36, §4 (NEW).]

SECTION HISTORY

PL 1991, c. 36, §4 (NEW). PL 1997, c. 512, §6 (AMD). PL 2001, c. 626, §§6-8 (AMD). PL 2003, c. 245, §1 (AMD).

§9326. Electronic issuance of permits

The Director of the Bureau of Forestry shall develop or cause to be developed a system to electronically issue permits for burning in all areas of the State using a publicly accessible site on the Internet. [PL 2013, c. 35, §1 (AMD); PL 2013, c. 405, Pt. A, §23 (REV).]

The system developed under this section for electronically issuing permits must provide a fire warden with the ability to change the criteria for issuing a permit in a municipality except for times when the director imposes more restrictive criteria or a ban on the issuance of permits. [PL 2005, c. 12, Pt. U, §2 (NEW).]

A person may apply for a permit to burn using the Internet or as otherwise provided in this article. When a person applies for and is issued a permit electronically pursuant to this section, a fee of $7 must be paid. From the $7 fee, $4 must be deposited in the General Fund, $2 must be transferred to the municipality in which the permit is issued and the remainder of $1 must be used to cover administrative costs. For a permit issued in the unorganized and deorganized areas, from the $7 fee, $6 must be deposited in the General Fund and the remainder of $1 must be used to cover administrative costs. [PL 2017, c. 449, §3 (AMD).]

SECTION HISTORY

PL 2005, c. 12, §U2 (NEW). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 35, §1 (AMD). PL 2013, c. 405, Pt. A, §23 (REV). PL 2017, c. 449, §3 (AMD).

§9327. Private party burn permit software

The Director of the Bureau of Forestry shall allow a municipality to use burn permit software acquired from a private party to establish a publicly accessible online system to issue a permit to burn pursuant to section 9325 if the issuance of a permit to burn using the private party burn permit software is in accordance with the criteria in section 9321. [PL 2017, c. 449, §4 (NEW).]

1. Approval. The Director of the Bureau of Forestry shall approve private party burn permit software within 10 business days after a vendor or owner of a private party burn permit software system submits a request for review of the software to the director if the software submitted meets the requirements of this section and there are fewer than 2 private party burn permit software programs approved and in use pursuant to this section.

[PL 2017, c. 449, §4 (NEW).]

2. Limit on private party burn permit software. No more than 2 private party burn permit software programs may be approved and in operation in the State.

[PL 2017, c. 449, §4 (NEW).]

3. Notification. If the Director of the Bureau of Forestry does not approve the private party burn permit software that has been submitted for review under subsection 1, the director shall notify the vendor or owner of the private party burn permit software in writing of the reasons why the software has not been approved.

[PL 2017, c. 449, §4 (NEW).]

4. Appeal. A denial of approval of a private party burn permit software system is a final agency action that may be appealed in accordance with Title 5, chapter 375, subchapter 7.
[PL 2017, c. 449, §4 (NEW).]

5. Fee. If a person uses private party burn permit software to apply for a permit to burn, that person may not be charged a fee for the permit.
[PL 2017, c. 449, §4 (NEW).]

6. Private party burn permit software to be provided at no charge. A vendor or owner of a private party burn permit software system may not charge a municipality for use of private party burn permit software approved under subsection 1.
[PL 2017, c. 449, §4 (NEW).]

7. Application for burn permit not using private party burn permit software. A person may not be required to apply for a permit to burn using private party burn permit software, but may apply as otherwise provided in this article.
[PL 2017, c. 449, §4 (NEW).]

8. Rules. The Director of the Bureau of Forestry may adopt rules relating to private party burn permit software requirements. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2017, c. 449, §4 (NEW).]

SECTION HISTORY

PL 2017, c. 449, §4 (NEW).

ARTICLE 3

DISPOSAL OF SLASH

§9331. Slash defined

For the purposes of this Part "slash" is defined as branches, bark, tops, chunks, cull logs, uprooted stumps and broken or uprooted trees and shrubs left on the ground as a result of logging, right-of-way construction or maintenance and land clearance. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9332. Disposal along highways

A stumpage owner, operator, landowner or agent who cuts or causes or permits to be cut any forest growth on lands that are within or border the right-of-way of a public highway within the State shall dispose of the slash that is within the right-of-way or within 50 feet of the nearer side of the shoulder of the right-of-way as provided in this section. [PL 1999, c. 332, §1 (RPR).]

1. Slash may not remain. Except as provided in this section, slash may not remain on the ground within the right-of-way or within 50 feet of the nearer side of the shoulder of the right-of-way.
[PL 1999, c. 332, §1 (NEW).]

2. Slash with diameter of 3 inches or less. Slash with a diameter of 3 inches or less must be hauled away, burned or chipped.
[PL 1999, c. 332, §1 (NEW).]

3. Slash more than 3 inches in diameter. Slash that is more than 3 inches in diameter must be removed or limbed and placed on the ground surface so that the pieces are separated and not piled one

piece over another. Usable timber products generated from right-of-way maintenance may be piled within the right-of-way but must be removed within 30 days.
[PL 1999, c. 332, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1999, c. 332, §1 (RPR).

§9333. Disposal along railroads and utility lines

1. Stumpage owner. A stumpage owner, operator, landowner or agent who cuts or causes or permits to be cut any forest growth on lands that are within or border the right-of-way of a railroad, a pipeline or an electric power, telegraph, telephone or cable line may not place slash or allow it to remain on the ground within the right-of-way or within 25 feet of the nearer side of the right-of-way.
[PL 1999, c. 332, §1 (NEW).]

2. Construction. Slash accumulated by the construction and maintenance of a railroad, a highway, a pipeline or an electric power, telegraph, telephone or cable line may not be left on the ground but must be hauled away, burned or chipped. Slash may not be left or placed within the right-of-way or within 25 feet of the nearer side of the right-of-way. If a burning permit is denied or revoked under this chapter, the director may allow logs that are too large to be chipped to remain in the right-of-way until the director determines that their removal is economically feasible.
[PL 1999, c. 332, §1 (NEW).]

3. Utility line maintenance. Slash accumulated by the periodic maintenance of a pipeline or an electric power, telegraph, telephone or cable line may be disposed of in the following manner.

A. Slash with a diameter of 3 inches or less may be left in piles on the ground within the maintained portion of the right-of-way. A pile may not be higher than 18 inches from the ground or longer than 50 feet and must be separated from other piles by a minimum of 25 feet in every direction. A buffer strip with a minimum width of 10% of the total width of the maintained right-of-way must be kept totally free of slash with a diameter of 3 inches or less. [PL 1999, c. 332, §1 (NEW).]

B. Slash with a diameter of more than 3 inches must be removed, chipped or limbed and placed on the ground surface. The pieces must be separated and may not be piled one piece over another. Slash of this size may be left within the maintained buffer strips. [PL 1999, c. 332, §1 (NEW).]

C. If a utility line right-of-way is adjacent to a road, slash that is 3 inches or less in diameter must be removed, burned or chipped. Slash with a diameter of more than 3 inches may be left on the ground within the right-of-way and must be limbed and separated and may not be piled one piece over another. Usable timber products generated from the maintenance of a utility right-of-way may be piled within the right-of-way but must be removed within 30 days. [PL 1999, c. 332, §1 (NEW).]

[PL 1999, c. 332, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1999, c. 332, §1 (RPR).

§9334. Along land bordering on another

Whoever, as stumpage owner, operator, landowner or agent, cuts, causes or permits to be cut any forest growth on land which borders land of another outside the limits of the unorganized territory or within the unorganized territory which borders property outside shall dispose of the slash in the manner described: All slash resulting from such cutting of forest growth shall not remain on the ground within 25 feet of the property line, provided that the director on his own initiative or upon written complaint of another declares that the situation constitutes a fire hazard. [PL 1983, c. 556, §15 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1983, c. 556, §15 (AMD).

§9335. -- by dwelling houses

The director, by written notice to any stumpage owner, operator, landowner or agent cutting forest growth, may require the removal of slash within 100 feet of buildings and trailers currently used for human occupancy when, in his judgment, such slash constitutes an unusual hazard endangering other property through the setting or spreading of forest fires. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9336. Manner of

All slash resulting from cutting of forest growth shall be removed the required distances under this Article and scattered or chipped and not piled in windrows within 30 days after cutting or within 30 days of notification to remove by the director, as provided. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9337. Primary processors

All primary processors of wood products, including, but not limited to, sawmills, except a person processing for his own domestic use, and owners of lands on which such processing plants are located shall keep any slash resulting from cutting forest growth removed for a distance of 50 feet in all directions from the mill, sawdust pile and any open incinerator. Live trees need not be removed from the 50-foot cleared area but coniferous trees shall be pruned to a height of 10 feet above the ground and dead snags shall be removed. The sawdust pile shall be clear of all trees, free of slabs and edgings and located not less than 25 feet from any open incinerator and mill. All such processors and owners shall observe the slash provisions of this Article when on, or after change of, location. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9338. Prohibition

Failure to comply with the slash disposal requirements of this Article shall subject the person responsible to a penalty as set forth in section 9701. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

ARTICLE 4

PUBLIC CAMPSITES

§9341. Establishment

(REPEALED)

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1985, c. 696, §1 (RPR). PL 1997, c. 678, §16 (RP).

§9342. Seasonal use only

No person may place any trailer, camper, shelter or tent from May 1st to November 30th at any public campsite maintained or authorized pursuant to section 1825, subsection 4 and keep that trailer, camper, shelter or tent so located, vacant or occupied, for more than 14 days in any 30-day period. Persons already having placed a trailer, camper, shelter or tent at such a campsite for more than 14 days shall remove any such item and leave at the request of the commissioner, the commissioner's designee or any fish and wildlife warden. [PL 1997, c. 678, §17 (AMD).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1985, c. 696, §2 (AMD). PL 1997, c. 678, §17 (AMD).

SUBCHAPTER 5

RAILROADS

§9401. Patrol along tracks

Whenever in the judgment of the director the woodlands along the railroads traversing the forest lands of the State are in a dry and dangerous condition, he shall maintain a competent and efficient fire patrol along the right-of-way or lands of such railroads if, in his judgment, a satisfactory railroad fire patrol is not being provided. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9402. Report of fires

All fires starting upon the right-of-way of any railroad or lands adjacent thereto shall be immediately reported to the forest ranger or town forest fire warden by any railroad employee stating the location and origin of such fire and, if the fire was started by a locomotive, the number thereof. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9403. Expense of fire patrol paid by railroad

The director shall keep, or cause to be kept, an account of the cost of maintenance by the State of such fire patrol along the line of such railroad, including therein the wages and expenses of the employees engaged in maintaining such fire patrol, and the total cost thereof shall be paid to the director by the railroad company along whose land or right-of-way such patrol is maintained. All such funds received by the director shall be credited to the General Fund. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9404. Liability of railroad not affected

Nothing in sections 9401 to 9403 shall be construed as releasing any railroad company from any damage caused by fires set by their locomotives or employees. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

§9405. Removal of inflammable material

(REPEALED)

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1987, c. 464, §1 (AMD). PL 1993, c. 271, §1 (RP). PL 1993, c. 271, §4 (AFF).

§9405-A. Railroad right-of-way; director may order flammable materials removed

A person, firm or corporation operating a railroad on or through forest, brush, grass-covered land or areas of high-value property shall maintain its right-of-way according to the minimum standards established in this section by destroying, removing, or modifying so as not to be flammable any vegetation or other flammable material as defined in this section. The director or an authorized agent is the final authority as to whether material is considered a flammable material and whether a condition is considered a fire hazard. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorized agent" means any forest ranger of the State. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

B. "Authorized railroad representative" means a person designated by a railroad to accept a legal summons and other documents. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

C. "Distance" means horizontal distance and not slope distance. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

D. "Fire hazard" means a condition resulting from a combination of the factors of ease of ignition, heat yield, and rate of fire spread as influenced by particular vegetation and other flammable materials, weather and slope. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

E. "Fire-start area" means an area that has experienced one or more railroad-caused fires in the previous 5 calendar years. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

F. "Flammable material" includes, but is not limited to, grass, weeds, brush, logs, waste railroad ties, refuse material, debris, dead and desiccated vegetation, and all materials that burn easily. "Flammable material" does not include:

(1) Wooden poles or towers and cross arms supporting switching circuits or other electrical power or communication conductors;

(2) Wooden components of trestles, tunnels and other structures; or

(3) Material that an authorized agent has evaluated and determines not flammable. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

G. "Forest, brush and grass-covered land" means land covered wholly or in part by timber, trees, brush, shrubs, grass, including grain and hay, and other natural vegetation. Cultivated agricultural land planted to crops other than grain or hay is not included. [RR 1993, c. 1, §37 (COR).]

H. "Operator" means the person or entity responsible for maintenance of the railroad right-of-way. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

I. "Railroad-caused fire" means a preventable fire resulting from operations upon a railroad right-of-way. It does not mean unpreventable fires such as those caused by wrecks, bombs or natural causes such as lightning or controlled burning for the purpose of destroying flammable materials. [RR 1993, c. 1, §37 (COR).]

J. "Right-of-way" means the strip of land, outside of yard limits, owned or controlled by the person or entity operating a railroad for a distance not exceeding 100 feet or to the property boundary measured at right angles to the axis of the rail at any given location. The distance must be measured from the outermost rail on both sides of the mainline or mainlines, on sidings, and also includes

intervening strips between sidings and mainlines. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

K. "Towpath" means a narrow strip of right-of-way adjacent to each side of ballast that is commonly referred to as the walkway and is normally kept clear for personnel safety and is not less than 6 feet from outside rail to outer edge. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

L. "High-value property" means homes, structures, fuel tanks, cut forest products, equipment and other improvements that are near the right-of-way and at risk should a fire start on the right-of-way. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

[RR 1993, c. 1, §37 (COR).]

2. Minimum standards. A railroad right-of-way must be maintained and kept in compliance with the following minimum fire hazard reduction standards.

A. The area within 7 feet of outside of rail, including ballast and towpath, must be kept clear of flammable material that by its physical arrangement or its accumulation is likely to contribute to the propagation of railroad-caused fires. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

B. For a fire-start area, the area within 25 feet of outside of rail, including ballast and towpath, must be kept clear of flammable material that by its physical arrangement or its accumulation is likely to contribute to the propagation of railroad-caused fires. A linear distance of 1/4 mile on either side of an identified fire-start area must be maintained along both sides of the railroad track as specified in this paragraph. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

C. Where a right-of-way passes through an area of high-value property and the right-of-way contains sufficient flammable material so that a fire starting on the right-of-way could travel to and threaten the high-value property, the minimum 7-foot standard is extended to 25 feet. [PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

[PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

3. Communications. The bureau shall inform annually a railroad company operating within the State of the 5-year fire-start areas and the areas that are high-value property along its right-of-way. In addition, the bureau shall notify a railroad company of new forest fire occurrences and changes in high-value property as they are observed.

A railroad company shall notify the bureau of the name and mailing address of its authorized railroad representative on the effective date of this section and thereafter whenever the name or mailing address changes.

[RR 1993, c. 1, §38 (COR); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

4. Failure to maintain. Failure to maintain a railroad right-of-way as provided in this section constitutes a violation. For the purposes of this section, every day from January 1st of the calendar year in which the violation occurred and continuing until full compliance is achieved is a separate offense.

[PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

5. Legal service. Legal service of a summons under this section occurs when a legal summons is delivered in person or by certified mail, return receipt requested, to the railroad company's authorized representative.

[PL 1993, c. 271, §2 (NEW); PL 1993, c. 271, §4 (AFF).]

SECTION HISTORY

RR 1993, c. 1, §§37,38 (COR). PL 1993, c. 271, §2 (NEW). PL 1993, c. 271, §4 (AFF). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§9406. Devices to prevent fires

Every railroad operating locomotives powered by diesel or other type fuel shall equip the same with devices designed to prevent the escape of live coals, sparks or carbon deposits which may cause fires. Employees shall exercise due care to keep such devices in effective operating condition. Every such railroad shall make and enforce regulations concerning the use of open-flame type signals or flares in such manner as to prevent the spread of fire upon the right-of-way or to adjacent land. No person shall throw or drop burning matches, burning cigars, burning cigarettes or parts thereof from any railroad equipment. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

SUBCHAPTER 6

FIRE PREVENTION PRACTICES

§9601. Spark arrester

1. Illegal operation. A person is guilty of illegal operation of power-driven equipment if that person knowingly:

A. Operates power-driven equipment in, through or within 1,000 feet of forest lands without an approved spark arrester; [PL 1989, c. 174, §7 (NEW).]

B. Requires the operation of power-driven equipment in, through or within 1,000 feet of forest lands without an approved spark arrester; or [PL 1989, c. 174, §7 (NEW).]

C. Permits the operation of power-driven equipment owned by that person in, through or within 1,000 feet of forest lands without an approved spark arrester. [PL 1989, c. 174, §7 (NEW).]

For the purposes of this section, "power-driven equipment" means vehicles, tools or other equipment with an internal combustion engine, but does not include boat motors.

Notwithstanding section 9701, any person who violates this subsection commits a Class E crime. In addition, if the State proves that while in violation of this section fires resulting from that person's power-driven equipment resulted in fire suppression costs to municipal or State Government, the court, as part of any sentence imposed, may, pursuant to Title 17-A, chapter 69, order restitution to be paid to the government entities incurring the suppression costs in an amount not to exceed the limitations established in section 9321.
[PL 2019, c. 113, Pt. C, §18 (AMD).]

2. Approved spark arresters. Spark arresters shall be approved by the director if judged effective to prevent the escape of sparks, carbon deposits or other substances likely to cause fires. The director may permit the use of spark arresters certified by the United States Forest Service, Department of Agriculture.
[PL 1989, c. 174, §7 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW). PL 1989, c. 174, §7 (RPR). PL 1991, c. 528, §E11 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §E11 (AMD). PL 2019, c. 113, Pt. C, §18 (AMD).

§9601-A. Prohibition on sale of equipment without spark arresters

No person may sell or offer to sell any internal combustion all-terrain vehicle, chain saw or skidder in this State that has not been provided with a spark arresting device approved by the director. This prohibition does not apply to casual sales as defined in Title 36, section 1752. [PL 1989, c. 174, §8 (AMD).]

SECTION HISTORY

PL 1983, c. 104 (NEW). PL 1989, c. 174, §8 (AMD).

§9602. Obstruction of discontinued woods roads prohibited

No person, unless authorized by the director, shall obstruct any improved woods road or way used for the removal of forest growth, upon the discontinuance from use or abandonment of the same, if it may be reasonably utilized for preventing or suppressing forest fires. This provision shall not prohibit a landowner from his right to close or cause to be closed such woods roads or ways by chains or gates. [PL 1979, c. 545, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 545, §3 (NEW).

SUBCHAPTER 7

FOREST FIRE ADVISORY COUNCIL

§9621. Forest Fire Advisory Council

(REPEALED)

SECTION HISTORY

PL 1983, c. 556, §16 (NEW). PL 1983, c. 812, §94 (AMD). PL 1989, c. 502, §A37 (AMD). PL 1991, c. 622, §S24 (RP).

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