

# TITLE XIX-A FORESTRY

## CHAPTER 227-G POLICY, DEFINITIONS, AND ADMINISTRATION

### Section 227-G:1

**227-G:1 Declaration of Purpose.** – It is hereby recognized and declared that the public welfare of this state requires the maintenance, protection, conservation, multiple use, and rehabilitation of forests for the social, economic, and environmental benefits that result from a diverse forest cover. Such benefits include forest products, a viable forest-based economy, recreation opportunities, scenic values, healthful surroundings, climate mitigation, clean water, and biologically diverse populations of plants and animals. It is further recognized that long-term sustainability of the state's forests will require: the prudent acquisition and management of state-owned forests; data collection, planning, and education; protection of critical resources; monitoring and protection of forest health; and control of woodland fires.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### Section 227-G:2

**227-G:2 Definitions.** – In this title:

I. "Basal area" means the cross sectional area of a tree measured at a height of 4- 1/2 feet above the ground, usually expressed in square feet per acre for a stand of trees.

II. "Commissioner" means the commissioner of the department of resources and economic development.

III. "Department" means the department of resources and economic development.

IV. "Director" means the director of the division of forests and lands, department of resources and economic development, also known as the state forester.

V. "Division" means the division of forests and lands, department of resources and economic development.

VI. "Forest benefits" include, but are not limited to, forest products, a viable forest-based economy, recreation opportunities, scenic values, healthful surroundings, climate mitigation, clean water, and biologically diverse populations of plants and animals.

VII. "Forest fire district" means a geographical area of responsibility for a forest ranger of the department of resources and economic development, division of forests and lands.

VIII. "Forestland" means all lands in this state, except those owned and managed by the United States of America, which by reason of their location and character of soil have the capacity to grow trees and the continuance of which under forest cover is of substantial importance to the public interest.

IX. "Forest management" means the application of scientific and economic principles to conserve forest resources and obtain forest benefits.

X. "Forest resources" include, but are not limited to, soil, air, and water and the full range of plants, animals, and other organisms.

XI. "Forestry" means the science of silviculture and the practice and art of managing and using for human benefit forestlands and the natural resources that occur in association with forestlands, including trees, other plants, animals, soil, water, and related air and climate.

XII. "Fourth order streams" means those streams on a list maintained by the office of energy and planning, as of the effective date of this section, using the Strahler method whereby the highest year-round streams in a watershed are first order streams, their juncture yields second order streams, the juncture of second order streams yields third order streams, and the juncture of third order streams yields fourth order.

XIII. "Primary forest product" means any portion of a tree, after felling, which will be processed into a secondary forest product, or will be utilized in its primary form.

XIV. "Primary wood processing mill" means any permanent or portable mill, or any off-site log yard operated by a primary wood processing mill, wherever located, sawing or otherwise processing logs, bolts, pulpwood, or other primary forest products into secondary forest products.

XV. "Quarantine" means a legal restriction duly imposed or enacted as a means for preventing or delaying the spread of a forest pest.

XVI. "Reservation" means public land under the jurisdiction of the department including, but not limited to: state forest, state park, natural area, historic site, geological site, recreation trail, memorial area, fire tower, wayside area, heritage park, resource center, agricultural area, state forest nursery, fish pier, administrative facility, information center, demonstration forest, certain islands, and lands under lease to the department.

XVII. "Special purpose" means the management of reservations and state-owned forestlands which have been excluded from forest management due to environmental, public safety, or other reasons unique to the reservation or state-owned forestland as determined by the agency responsible for the reservation or state-owned forestland.

XVIII. "Wood concentration yard" means any site established and used for the purchase and resale of primary forest products from off-site locations and which is not a primary wood processing mill. Any site used primarily to process or store bark mulch shall not be a wood concentration yard.

XIX. "Woodland" includes cut-over land, slash, and such other land as bears a sufficient amount of wood growth, wood, weeds, grass, or other growth as to be likely to be burned

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2003, 319:9, eff. July 1, 2003. 2004, 257:44, eff. July 1, 2004. 2007, 88:1, eff. Aug. 10, 2007.

### **Section 227-G:3**

#### **227-G:3 Duties and Authority of the Director of the Division of Forests and Lands. –**

I. The director shall:

(a) Execute all matters pertaining to forestry, forest management, and forestlands within the jurisdiction of the state, including cooperation with other state and federal agencies, with the approval of governor and council as required.

(b) Be responsible for the forest management of all reservations and state-owned forestlands except those areas managed for special purposes. The director shall consult with the directors of all agencies responsible for such areas in regard to forest management.

(c) Execute all matters pertaining to the use of state reservations, except matters pertaining to the recreational development, administration, and maintenance, which shall be done in cooperation with the director of the division of parks and recreation, department of resources and economic development, with the approval of governor and council as required.

(d) Gather information on the state's forest resources and plan for the multiple use and perpetuation of those resources.

(e) Enforce provisions on timber harvesting in RSA 227-J.

(f) Be responsible for overall forest health monitoring, reporting, and protection.

(g) Be responsible for the overall prevention and control of woodland fires throughout the state except within the boundaries of the White Mountain National Forest.

(h) Administer the funds in RSA 227-G:5.

(i) Prepare biennially a report to the governor on the activities and plans of the division. Such report shall contain an itemized statement of all expenses incurred or authorized by the director or by the commissioner.

(j) Carry out such other duties relating to forests, forest management, and forestlands as may be delegated by the commissioner lying within the jurisdiction of the department.

II. The director may:

(a) Within the limits of appropriations, hire such field and office assistants as, in the judgment of the commissioner, are necessary for the proper execution of the director's duties.

(b) With the consent of the commissioner secure the assistance of experts and pay such experts' expenses, as necessary for the proper execution of their duties.

(c) Upon terms approved by the commissioner, enter into cooperative agreements with departments of the federal government and other public and private agencies and organizations for the promotion of forestry within the state.

(d) Conduct investigations within the state on forestry matters and publish for distribution literature of scientific or general interest pertaining to forestry.

(e) Call training sessions of division employees, representatives of cooperating public and private agencies and organizations, town forestry officials, interested citizens, and others.

(f) With the approval of the commissioner or the commissioner's agents, impose administrative fines as provided in RSA 227-J:14, and RSA 227-L:2, V.

III. All duties and authorities assigned to the director under this title shall be performed under the supervision of the commissioner.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-G:4**

**227-G:4 Rulemaking.** – The commissioner shall adopt rules, under RSA 541-A, relative to:

- I. The management of reservations, pursuant to RSA 227-H.
- II. Registration of primary wood processing mills, and regulation of mill sites.
- III. The cutting of timber near certain waters and public highways, pursuant to RSA 227-J:9.
- IV. The preparation and issuance of a standard request form to exceed the cutting limits near certain waters and public highways and the criteria for evaluating such a request pursuant to RSA 227-J:9, V.
- V. Imposition of administrative fines pursuant to RSA 227-J:14.
- VI. The regulation and permitting of floating timber, pursuant to RSA 485-B.
- VII. The definition of buying and selling of forest products in relation to deceptive forestry business practices pursuant to RSA 227-J:15.
- VIII. The designation of control areas for forest insect and disease infestations and rights of appeal pursuant to RSA 227-K.
- VIII-a. Quarantine measures that may be taken when forest pests are found in any geographic area pursuant to RSA 227-K.
- VIII-b. The issuing of orders and permits pursuant to RSA 227-K:15.
- IX. The preparation and issuance of burning permits, and the kindling of camp or cooking fires, pursuant to RSA 227-L:17.
- X. Emergency rules during high forest fire danger periods.
- XI. Any other rules specifically authorized under the provisions of this title.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2007, 88:2, eff. Aug. 10, 2007.

## **Section 227-G:5**

### **227-G:5 Forest Funds. –**

- I. Forest management and protection fund.
  - (a) There is hereby established a forest management and protection fund. This fund shall be used for the following:
    - (1) Managing state-owned forestlands.
    - (2) Monitoring of forest health and protection of state and private forestlands from disease and insect infestations.
    - (3) Enforcing the laws relating to the harvesting of timber.
  - (b) The forest management and protection fund shall be a nonlapsing fund administered by the treasurer of the state of New Hampshire. The fund shall be continually appropriated and expended at the discretion of the director of the division and the commissioner. Any funds in excess of that appropriated from the fund may be expended by the commissioner, with prior approval of the fiscal committee and governor and council, in accordance with RSA 227-G:5, I(a). Revenues shall be derived from the proceeds of the sale of timber and other forest products from state-owned forestlands, the amount of which shall be the difference between the total receipts from the sale of timber within any fiscal year and \$150,000, the average annual stumpage receipt from the sale of timber from state forestlands for the period 1983-1992. Revenues shall also be derived from the lease of state-owned forestlands, or billable services provided by the division of

forests and lands, if the revenues are not dedicated to any other purpose. Revenues for the fund shall also be derived from administrative fines collected pursuant to RSA 227-J:14.

II. Forest improvement fund.

(a) All revenue derived from rentals and sales of forest products from federal lands placed under the jurisdiction of the department shall be kept by the state treasurer in a separate account as a continuous fund to be known as the forest improvement fund from which the expenses of forest management and silvicultural operations on these federal lands may be paid. Such funds may be used interchangeably between the various federal lands under the jurisdiction of the department, with the approval of the concerned federal agency or agencies.

(b) All revenues derived from the sale of state lands and buildings under the jurisdiction of the department shall be kept by the state treasurer in a separate account as a continuous fund within the forest improvement fund from which payment shall be made by the department for the purchase and improvement of areas suitable for state reservations.

(c) At the close of each fiscal year the unexpended balance of moneys in the forest improvement fund shall not lapse but shall be carried forward and be made available for use in subsequent years for such purposes.

III. Forest protection personnel training fund. The court or justice of any court in which a complaint for a violation of any law or rule relating to this title and other laws pertaining to the protection and improvement of forestlands is prosecuted shall, within 30 days after any fine or forfeiture is paid, remit the amount of such fine or forfeiture to the commissioner, provided, however, that from each fine collected by a municipal or district court, there shall be deducted \$10 and 20 percent of that part of the fine that exceeds \$10 and the same shall be dispensed of as provided for in RSA 502:14 or 502-A:8. The portion of the fine or forfeiture returned to the commissioner shall be placed in an account to be known as the forest protection personnel training fund which shall be continually appropriated to the division for the purpose of training forest protection personnel. All administrative fines collected under RSA 227-L:2, V shall be deposited into this fund.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-G:5-a**

### **227-G:5-a Fines. –**

I. The commissioner shall recommend a uniform fine schedule for any forestry law violation, which shall be submitted to the supreme court for its use under RSA 502-A:19-b, V.

II. Any person charged with a violation of any provision of title XIX-A, excluding any offense for which the penalty is a misdemeanor or felony, may plead guilty or nolo contendere by mail by entering a plea as provided in RSA 502-A:19-b. If the plea is accepted by the court, the defendant shall not be required to appear.

III. Unless otherwise provided by law, any person who violates any rule adopted under RSA 227-G:4 shall be guilty of a violation.

**Source.** 2003, 43:1, eff. May 6, 2003. 2007, 88:3, eff. Aug. 10, 2007.

### **Section 227-G:6**

**227-G:6 Expenditure of Federal Funds.** – In case the federal government shall make available to the division for its activities any funds in excess of the amounts estimated for such activities in the so-called appropriation acts, the division, with the approval of the governor and council, may expend such additional federal funds.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-G:7**

#### **227-G:7 Powers; Arrest; Validity of Prosecutions.** –

I. The director and the director's authorized agents shall have the authority of peace officers as defined under RSA 594:1 to serve criminal processes and make arrests to enforce the provisions of this title and any other laws, including title LXII, insofar as they pertain to the protection and improvement of forestlands throughout the state, and for the protection of persons and property on lands or property owned by, leased to, or otherwise under the control of the department.

II. Wardens, deputy wardens, and other persons authorized by the director may arrest without a warrant any person taken by the authorized person in the act of violating any of the laws for the protection and improvement of woodlands and may bring such person forthwith before the court or justice having jurisdiction.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-G:8**

**227-G:8 Validity of Prosecutions.** – Forest rangers and officials of the division appointed to enforce this title and other laws provided for in RSA 227-G:7 are authorized, upon successful completion of the preparatory training programs for full-time or part-time police officers established by the police standards and training council under RSA 188-F and their subsequent certification as full-time or part-time police officers, to prosecute these laws within the jurisdiction of municipal and district courts, unless the prosecutorial jurisdiction over a particular case or class of cases is preempted by the county attorney or the attorney general. Prosecutions for violations of any provisions of this title are declared to be valid and proper, notwithstanding the existence of any law of this state dealing with matters that may be the same as or similar to those covered by this title.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2007, 88:4, eff. Aug. 10, 2007.

### **Section 227-G:9**

**227-G:9 Training of Forest Rangers. –**

I. Any forest ranger of the division appointed to enforce the provisions of this title and other laws provided for in RSA 227-G:7, shall successfully complete the preparatory training for part-time police officers established by the police standards and training council pursuant to RSA 188-F no later than one year from the date of hire. Upon successful completion of the training program, such forest ranger shall be certified as a part-time police officer.

II. Any forest ranger of the division hired after January 1, 2005 appointed to enforce the provisions of this title and other laws provided for in RSA 227-G:7, shall successfully complete the preparatory training for full-time police officers established by the police standards and training council pursuant to RSA 188-F no later than one year from the date of hire. Upon successful completion of the training program, such forest ranger shall be certified as a full-time police officer.

III. Any forest ranger of the division hired before January 1, 2005 shall be certified as a full-time police officer upon successful completion of the preparatory training for full-time police officers established by the police standards and training council pursuant to RSA 188-F.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2007, 88:5, eff. Aug. 10, 2007.

## **TITLE XIX-A FORESTRY**

### **CHAPTER 227-I FOREST RESOURCES EDUCATION, PROMOTION, AND PLANNING**

#### **Section 227-I:1**

**227-I:1 Declaration of Purpose. –** It is hereby recognized and declared that accurate and detailed information concerning the state's forest resources and uses is essential to planning for the multiple use and perpetuation of those resources and that the welfare of the state is served by making such information as complete, current, and available as possible. It is further recognized that the public welfare is served by educating the citizens of this state about the value of forest resources and benefits and forestry.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

#### **Section 227-I:2**

**227-I:2 Duties and Authority of the Director. –**

I. The director shall:

(a) As far as other duties may permit, carry on an educational course of lectures and

other public information programs and activities on forests and forest resources and conduct exhibits on forestry at state facilities and at fairs and other similar public assemblies, delegating such duties to authorized assistants as necessary, within the limits of available time and funds.

(b) Provide New Hampshire forest landowners, natural resource professionals, forest products industries, communities, and the non-landowning public with unbiased, research-based educational assistance on subject matters including, but not limited to, sustainable forest management practices, stewardship of all forest resources, timber harvesting, and the utilization and marketing of forest products.

(c) Enable the division to provide the educational assistance referred to in subparagraphs (a) and (b) by enacting and maintaining a memorandum of understanding with the University of New Hampshire cooperative extension to support and implement a joint forest resources educational program between the division, the cooperative extension and cooperating federal, state, and county partners. Such memorandum shall be reviewed and updated every 3 years or less as may be necessary.

(d) At least every 10 years undertake an inventory, assessment, and analysis of the forest resources as provided in RSA 227-I:6-8.

II. The director may:

(a) Upon request and whenever the director deems it essential to the best interest of the people of the state, cooperate with counties, towns, corporations, and individuals in preparing plans for the protection, management, and reforestation of woodlots and timber tracts, on such terms as the commissioner may approve.

(b) Assist, at its request, any city or town which has established a city or town forest.

(c) Keep an inventory of all city and town forests in the state.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-I:3**

#### **227-I:3 Education and Promotion. –**

I. The governor shall annually proclaim one week during the month of May, as recommended by the director, as forest conservation week, to encourage the proper care and utilization of the state's forest resources. The governor shall urge forest landowners to observe the occasion by seeking professional forestry advice on the forest management of their woodlots and shall urge others to develop a greater awareness of the forest by obtaining informational pamphlets, publications and material, and by participating in forestry education activities and programs.

II. The governor shall annually proclaim the last Friday in April in each year as Arbor Day, designating this day for the recognition of the significant contribution of trees and shrubs to the well-being, comfort, and inspiration of the people of this state. The governor shall direct the director to encourage appropriate local and state celebrations and educational programs in commemoration of the occasion and to encourage all citizens of the state, individually and in organized groups, to enrich their surroundings by the planting of trees and shrubs on their own properties and in approved public places.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-I:4**

**227-I:4 Recommended Forest Management Practices.** – The director shall coordinate an effort to produce educational tools that identify recommended voluntary forest management practices for sites or practices which are ecologically sensitive due to soils, wildlife habitat, and other unique natural features such as high elevations, steep slopes, deer wintering areas, riparian zones, sensitive soils, and clearcutting.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Planning**

### **Section 227-I:5**

**227-I:5 State Forest Advisory Board.** – The director may appoint a state forest advisory board, the chairperson of which shall be elected annually by the members of the board. The advisory board shall be representative of diverse forest interests and geographic regions of the state and shall advise and assist the director in carrying out the provisions of this chapter. The members shall meet at least semiannually and shall receive such travel expenses as may be made available by state appropriations or other sources and as authorized by the director.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-I:6**

#### **227-I:6 Forest Resources Inventory and Assessment.** –

I. The director, under the guidance of the state forest advisory board and within the limits of available financial and other resources, shall undertake an inventory, assessment, and analysis of the forest resources of the state at least every 10 years. Such inventory and assessment, whenever practicable, shall be undertaken in conjunction with the United States Department of Agriculture forest service's forest inventory and analysis of the state.

II. In preparing the inventory and assessment, the director shall:

(a) Solicit the cooperation of and information collected by public agencies and private organizations, federal agencies, regional and local planning organizations, and forest industries. For the purpose of assisting the director in preparing the inventory and assessment or its revisions, the director, in consultation with the state forest advisory board, may appoint such special advisory committees as the director deems necessary. Such committees shall consist of individuals with practical expertise in forest resource fields and shall include representatives of public and private agencies and organizations and of the forest industry and others concerned with the use of forest resources; and

(b) Evaluate the accuracy of existing data required to complete the inventory and assessment and identify high priority needs for completing such database.

III. The director shall prepare an interim report at least every 5 years following an inventory and assessment.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-I:7**

**227-I:7 Elements of the Inventory and Assessment.** – The inventory shall include, but shall not be limited to, the following:

- I. Forestland ownership and management objectives.
- II. Quantity and quality of timber and forestland in the state.
- III. Efficiency of utilization of forest products.
- IV. Contribution to energy needs being made by wood.
- V. Status of forest protection.
- VI. Status of forest resources and benefits.
- VII. A description and evaluation of current public and private forestry programs.
- VIII. Evaluation of management status on public and private lands.
- IX. Analysis of present and anticipated supply and demand for the various forest resources in the state.
- X. Evaluation of forest-related employment and associated economic benefits, including, but not limited to, timber.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-I:8**

**227-I:8 Forest Resources Plan.** – Based on the inventory and assessment prepared pursuant to RSA 227-I:6 and RSA 227-I:7, the director, with the advice and assistance of the state forest advisory board and within the limits of available financial and other resources, shall prepare and submit to the governor and the legislature at least every 10 years a comprehensive statewide forest resources plan and at least every 5 years an interim status report and 5-year program that addresses problems and opportunities on all ownerships. Such plan and program shall include, but not be limited to, the following:

- I. A discussion of management responsibilities, policy considerations, laws, rules, regulations, and other factors expected to influence and significantly affect the use, ownership, and management of forest resources.
- II. A statement of policies regarding management of the forest resources of the state.
- III. A description of specific fiscal needs and legislative priorities for promoting both public and private resource management programs in New Hampshire.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Forest Resource Information**

### **Section 227-I:9**

**227-I:9 Primary Wood Processing Mills; Wood Concentration Yards; Registration; Penalty. –**

I. In order to protect and develop the state's forest resources, provide for the safety of woodlands from fire in relation to primary wood processing mills, and to respond to forest health threats, such mills and wood concentration yards shall be registered by the director. Primary wood processing mills shall provide the director with information on the locations, owner, type of mill, operating capacity, species, volumes, and state of origin of wood harvested and timber processed, purchased, and sold, and the output of wood and timber products.

II. (a) No person shall operate or cause to be operated any mill processing primary forest products or wood concentration yard unless said mill or wood concentration yard shall be registered by the director.

(b) There shall be an annual mill registration fee of \$20 for all mills processing primary forest products or wood concentration yards, regardless of size, type of mill or wood concentration yard, or primary product being processed.

(c) Application for registration shall be made on forms provided by the director, giving the name of owner or owners, and locations of a primary wood processing mill or a wood concentration yard. Primary wood processing mills shall provide the director with information on the products produced, type, capacity, and such other pertinent information as the director may require. One application shall cover a mill complex in a given location involving more than one unit of equipment.

(d) The director shall issue to the applicant a permanent registration number assigned to the mill or wood concentration yard described in the application together with a sign or plate denoting such registration number, to be displayed in a conspicuous place at the mill or wood concentration yard.

III. The director, or duly authorized agent, may, at any time, inspect any primary wood processing mill or wood concentration yard to assure compliance with the provisions of this chapter.

IV. Any person who violates any of the provisions of this section or rules adopted under RSA 541-A shall, for the first 30-day period, be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person. Each subsequent 30-day period or part thereof shall constitute a separate offense.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2007, 88:10, eff. Aug. 10, 2007.

**Section 227-I:10**

**227-I:10 Tabulation of Statistics. –** The director shall require each mill registered in a given year to submit, on or before January 31 of the following year, a tabulation by species and volume of primary forest products processed during the preceding calendar year on the basis of the International 1/4 Inch Rule, or its equivalent, or other commonly used basis of measure for products not measurable in board feet. The director shall annually publish a statewide tabulation of these statistics, in addition to other general information about primary wood processing mills derived from registration applications.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

# TITLE XIX-A FORESTRY

## CHAPTER 227-J TIMBER HARVESTING

### Section 227-J:1

**227-J:1 Declaration of Purpose.** – It is hereby recognized and declared that the public welfare of this state requires the care and protection of forest cover adjacent to certain waters of the state and along public highways, and the proper disposal of slash and mill residue resulting from forest operations in certain circumstances to help conserve the amount and quality of surface waters and groundwaters of the state; reduce the incidence and severity of forest fires; promote healthful surroundings, recreational opportunities, and scenic values; ensure future forest productivity; improve conditions for wildlife; and provide other benefits to the public as the result of perpetuating a proper forest cover, while continuing to meet the timber needs of forest industries and providing income and employment for our citizens without undue infringement on the rights of private forest landowners.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### Section 227-J:2

#### **227-J:2 Duties and Authority of the Director.** –

- I. The director, or the director's authorized agents shall:
  - (a) Be the primary enforcement agency for this chapter.
  - (b) Enforce the provisions of RSA 637 insofar as they pertain to the protection and improvement of forestlands.
- II. The director or the director's authorized agents may:
  - (a) For the purpose of performing the duties under this chapter, enter upon all lands in this state, posted or otherwise.
  - (b) Exercise the powers of arrest pursuant to RSA 227-G:7.

[Paragraph II(c) effective until January 1, 2011; see also paragraph II(c) set out below.]

(c) Issue a written cease and desist order against any timber operation in violation of this chapter, with the exception of RSA 227-J:4. Any such violation may be enjoined by the superior court, upon application of the attorney general. A person failing to comply with the cease and desist order shall be guilty of a violation.

[Paragraph II(c) effective January 1, 2011; see also paragraph II(c) set out above.]

(c) Issue a written cease and desist order against any timber operation in violation of this chapter, with the exception of RSA 227-J:4. Any such violation may be enjoined by the superior court, upon application of the attorney general. A person failing to comply with the cease and desist order shall be guilty of a class A misdemeanor.

(d) Issue cease and desist orders to temporarily suspend logging or other operations in forest areas when the director determines that such actions have resulted in, or are likely to result in, pollution of surface water or groundwater. In such instances, the director shall immediately notify the division of water supply and pollution control, which shall investigate at once. The cease and desist order issued by the director shall remain in force until such time as the division of water supply and pollution control determines whether the action in question constitutes a threat to water supplies.

III. The director may enter into cooperative agreements or memoranda of understanding for the enforcement of the provisions of this chapter.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2010, 171:3, eff. Jan. 1, 2011.

### **Section 227-J:3**

**227-J:3 Special Deputy Forest Rangers.** – The director may appoint, as special deputy forest rangers, persons to assist the director in the enforcement of the provisions of this title and any other laws for which the division has enforcement authority, the protection and improvement of forestlands throughout the state, and the protection of persons and property on property owned, leased, or under the control of the department. Such individuals shall be employees of the division and shall have powers and duties exercised only at the discretion of the director. Such appointees shall be allowed, for their services, such compensation as may be fixed by the commissioner and the director, and such compensation shall be deemed an expense of enforcing state forest protection laws and paid by the state.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2008, 98:1, eff. July 20, 2008.

### **Section 227-J:4**

**227-J:4 Licensed Foresters.** – It shall be unlawful for any person to practice for compensation or offer to practice for compensation in this state, the profession of forestry, as defined in RSA 310-A:99, II, or to use in connection with a name or otherwise assume, use, or advertise any title or description tending to convey the impression that such person is a forester, unless such person has been duly licensed according to the provisions of RSA 310-A. Failure to comply with these requirements may result in penalties under RSA 310-A.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-J:5**

**227-J:5 Notice of Intent to Cut and Report of Wood Cut.** – Pursuant to RSA 79:10 and 11, any owner, as defined in RSA 79:1, II, conducting a cutting operation shall file an intent to cut and a report of wood cut. Pursuant to RSA 79:10, I(d), the intent to cut form as signed or properly noted as being signed by the assessing officials or the certificate issued by the department of revenue administration shall be posted prior to starting a cutting operation. Failure to comply with these requirements and those contained in RSA 79 may result in penalties to the owner or any other person doing the cutting, or both, under RSA 79.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 1998, 286:1, eff. Jan. 1, 1999. 2003, 138:5, eff. Jan. 1, 2004.

### **Section 227-J:6**

#### **227-J:6 Operations in Wetlands. –**

I. Pursuant to RSA 482-A no person shall excavate, remove, fill, dredge, or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department of environmental services. Failure to comply with these requirements may result in penalties under RSA 482-A.

II. Pursuant to RSA 482-A:3, V, persons who have complied with notice of intent to cut wood requirements under RSA 79:10, and who have filed an appropriate notification of forest management activities having minimum wetlands impact with the department of environmental services and the department of resources and economic development, shall have satisfied the permitting requirements for minimum impact activities.

III. Pursuant to the rules of the department of environmental services, skid trails, truck roads and culverts, bridges, pole fords, or other crossings on the skid trails or truck roads shall be constructed in accordance with procedures as currently cited in the Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, published by the department.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 1996, 296:37, eff. Aug. 9, 1996.

### **Section 227-J:7**

#### **227-J:7 Alteration of Terrain. –**

I. Pursuant to RSA 485-A:17, any person proposing to dredge, excavate, place fill, mine, transport forest products, or undertake construction in or on the border of the surface waters of the state, and any person proposing to significantly alter the characteristics of the terrain, in such a manner as to impede the natural runoff or create an unnatural runoff shall comply with the provisions of RSA 485-A. Failure to comply with these requirements may result in penalties under RSA 485-A.

II. Permits are obtained by signing the intent to cut form as provided in RSA 485-A:17, III.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-J:8**

### **227-J:8 Trespass; Civil Penalty. –**

I. No person shall negligently cut, fell, destroy, injure, or carry away any tree, timber, log, wood, pole, underwood, or bark which is on the land of another person, or aid in such actions without the permission of that person or the person's agent.

II. In addition to any other civil or criminal penalty allowed by law, any person who violates the provisions in paragraph I shall forfeit to the person injured no less than 3 and not more than 10 times the market value of every such tree, timber, log, lumber, wood, pole, underwood, or bark cut, felled, destroyed, injured, or carried away.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 1998, 286:2, eff. Jan. 1, 1999.

## **Section 227-J:8-a**

### **227-J:8-a Trespass; Criminal Penalty. –**

I. No person shall recklessly cut, fell, destroy, injure, or carry away any tree, timber, log, wood, pole, underwood, or bark which is on the land of another person, or aid in such actions without the permission of that person or the person's agent.

II. A person who violates the provisions of paragraph I shall be guilty of a class B felony if the loss is greater than \$1,000, or a misdemeanor for any other loss.

**Source.** 1998, 286:3, eff. Jan. 1, 1999.

## **Section 227-J:9**

### **227-J:9 Cutting of Timber Near Certain Waters and Public Highways of the State; Penalty. –**

I. Within a 12-month period, no more than 50 percent of the basal area of trees shall be cut or otherwise felled, leaving a well distributed stand of healthy, growing trees:

(a) Within 150 feet of:

- (1) Any great pond;
- (2) Any standing body of water 10 acres or more in area;
- (3) Any fourth order or higher stream; or
- (4) Any public highway; or

(b) Within 50 feet of:

- (1) Any stream, river, or brook not included in subparagraph (a)(3) which normally flows throughout the year; or
- (2) Any standing body of water less than 10 acres in area associated with a stream, river, or brook which normally flows throughout the year.

This paragraph shall not apply if the person who pushes over, cuts, saws, or operates upon, or causes to be pushed, cut, sawed, or operated upon, any trees described in subparagraphs (a) or (b), obtains the prior written consent of the director, or of the director's agents in accordance with paragraph V.

II. Timber cutting for land conversion purposes, other than timber growing and forest uses, shall be exempt from this section if those persons intending to convert the use of the

land have secured all required local permits including, but not limited to, building, subdivision or zoning permits, excavation permits, or site plan approval necessary for the use to which the land will be converted, and are able to furnish proof of such permits.

III. No person shall clear land of natural vegetation on a given lot, tract, or parcel proposed for subdivision pursuant to RSA 485-A:32, unless such subdivision plan has been submitted and approved in accordance with the requirements of RSA 485-A.

IV. Timber cutting for land conversion purposes, other than timber growing and forest uses, that does not require any local permits shall be exempt from this section if conversion occurs within 180 days of exceeding the provisions in paragraph I, or there has been prior written consent to extend the 180-day period from the director or the director's agents in accordance with paragraph V.

V. (a) Before the director grants a request to exceed the limits established in this section, the landowner or authorized agent shall demonstrate that it is necessary to exceed such limits and that any and all actions are consistent with the purposes of this chapter. The director shall provide a standard request form for this purpose. This form shall be submitted to the director or the director's agents at least 30 days prior to commencing the timber cutting operation.

(b) Failure of the division to act upon the request within 30 days shall serve as automatic approval.

VI. (a) Any person who violates the provisions of this section shall be guilty of a misdemeanor.

(b) Each 200 linear feet or fraction thereof of frontage on the affected great pond, any standing body of water 10 acres or more in area, fourth order stream or higher, or public highway, or any other stream, river or brook which normally flows throughout the year or standing body of water less than 10 acres in size associated with a stream, river or brook which normally flows throughout the year, from which trees are cut in excess of limits prescribed in this section shall constitute a separate offense.

VII. This section shall be enforceable by the municipality in which the land is situated; provided, however, that before initiating any enforcement action, the municipality shall notify the director, who shall take action to the extent the director deems necessary to ensure uniform statewide enforcement. If, within 10 days of notification to the director, no enforcement action has been taken by the director or the director's agent, the municipality may proceed with actions necessary to ensure compliance with the law.

VIII. Forest management not associated with shoreland development nor land conversion and conducted in compliance with the provisions of this section shall be exempt from the provisions of RSA 483-B.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 1996, 86:1, eff. Jan. 1, 1997.

## **Section 227-J:10**

**227-J:10 Care of Slash and Mill Residue; Penalty.** – Whoever pushes over, cuts, saws, or operates on or causes to be pushed over, cut, sawed, or operated on any timber, brush, lumber, or wood shall dispose of the slash and mill residue caused by such action so that slash and mill residue shall not remain:

I. In any stream, river, or brook which normally flows throughout the year or in any

other standing body of water, public highway, or active railroad bed.

II. On the property of another, or in a cemetery.

III. Within 25 feet of land of another, or fourth order stream.

IV. Within 50 feet of any great pond, any standing body of water 10 acres or more in area, public highway, or active railroad bed.

V. Within 100 feet of any occupied structure as defined in RSA 635:1, III, including all barns, sheds, and other storage buildings, except a temporary lumber camp.

VI. Disposal of slash and mill residue shall be in such manner that it is disposed of within the area between 50 feet and 150 feet of any great pond, standing body of water 10 acres or more in area, or public highway so it lies on the ground and no part of the slash or residue extends more than 4 feet above the ground.

VII. If more than one of the limitations in paragraphs I-VI on the disposal of slash and mill residue shall be applicable, the most restrictive shall control.

VIII. Any person who pushes over, cuts, saws, or operates on or who causes to be pushed over, cut, sawed, or operated on any such timber, brush, lumber or wood, or any owner of land where cutting is done, shall be guilty of a misdemeanor for each 200 linear feet or fraction thereof of property boundaries, water frontage, public highway, and railroad frontage from which the slash and mill residue is not properly removed or disposed of as provided under RSA 227-J:10, I-VII, within 30 days after such cutting unless an extension is approved by the director. If the person refuses or neglects to properly remove or dispose of the slash or mill residue within the time prescribed, the person shall be guilty of a misdemeanor as provided in this paragraph for each subsequent 30-day period of refusal or neglect to so remove or dispose of such slash or mill residue.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-J:11**

#### **227-J:11 Prohibition on the Transportation of Coniferous Trees; Penalty. –**

I. During the period from October 1 to December 25, inclusive, no person shall transport at any one time more than 3 coniferous trees, obtained from another, from place to place along any public highway unless the person has available for inspection evidence that the person is the owner of the trees, and can furnish the name, address, and telephone number of the person from whom the trees were obtained.

II. Any person violating the provisions of this section shall be guilty of a violation.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-J:12**

#### **227-J:12 Mill Logs; Penalty. –**

I. No person shall knowingly cut out or alter the mark of any mill log, or cut into any lumber or log belonging to another person, without the permission of the owner or the owner's agent.

II. In addition to any other civil or criminal penalty allowed by law, any person who

violates the provisions of paragraph I shall forfeit to the person injured 10 times the market value of every such mill log or lumber, cut or altered.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-J:13**

**227-J:13 Damage to Fences.** – Pursuant to RSA 539:3, no person shall knowingly throw down, damage, or leave open any fence, gate or bar belonging to or enclosing land held in common, or belonging to another person, or shall aid in such act, without being subject to the penalties provided in RSA 539:3.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-J:14**

#### **227-J:14 Administrative Fines.** –

I. The director, with the approval of the commissioner and after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) A schedule of administrative fines which may be imposed under this paragraph for violation of this chapter.

(b) Procedures for notice and hearing prior to the imposition of an administrative fine.

II. The proceeds of administrative fines levied pursuant to paragraph I shall be deposited by the commissioner into the forest management and protection fund established under RSA 227-G:5, I.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-J:15**

#### **227-J:15 Deceptive Forestry Business Practices.** –

I. A person is guilty of a class B felony if the loss is greater than \$1,000 or otherwise guilty of a misdemeanor who in the course of buying and selling of a forest product, as defined under RSA 227-G:4, VII, recklessly:

(a) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity as provided under RSA 438; or

(b) Sells, offers, or exposes for sale or delivers less than the represented quantity of any forest product or service; or

(c) Takes or attempts to take more than the represented quantity of any forest product or service when as buyer the person furnishes the weight or measure; or

- (d) Sells, offers, or exposes for sale adulterated or mislabeled commodities; or
- (e) Does not remunerate the owner of the timber for the value of the forest products pursuant to a written contract; or
- (f) Does not furnish the owner, upon written request, with all scale slips to verify the amount of the forest products removed from the owner's property.

II. In this section, "adulterated" means varying from a standard of composition or quality prescribed by any statute providing criminal penalties for such variance, or set by established commercial usage. In this section, "mislabeled" means varying from a standard of truth or disclosure in labeling prescribed by any law providing criminal penalties for such variance, or set by established commercial usage. In this section, "scale slip" means a written or printed form or combination of forms which provide an accurate, readily understandable record containing the species of wood product, board footage of each individual log when the standard unit of measurement is per thousand board feet, or tonnage or cordage when not sold per thousand board feet, gross scale, defect, net scale, date wood was measured, and the name of the party scaling the wood.

III. A person is guilty of a misdemeanor if, in the course of buying or selling a forest product as defined in RSA 227-G:4, VII, he or she recklessly fails to provide a written contract to the owner, prior to the cutting from the owner's property any forest products which are subject to a notice of intent to cut as defined in RSA 79:10. The contract shall be signed by both parties, specify the remuneration for the forest products to be cut, and the time in which remuneration shall be made.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 1998, 286:4, eff. Jan. 1, 1999. 2003, 43:2, eff. May 6, 2003. 2007, 88:11, eff. Aug. 10, 2007.

## **TITLE XIX-A FORESTRY**

### **CHAPTER 227-K FOREST HEALTH**

#### **Section 227-K:1**

**227-K:1 Declaration of Purpose.** – It is hereby recognized and declared that the public welfare of this state requires monitoring and assessment of the status of changes and long-term trends in the health of the state's forests and the ability to detect and reduce the incidence and severity of forest insect and disease infestations.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

#### **Section 227-K:2**

### **227-K:2 Duties of the Director. –**

I. The director shall:

(a) Be responsible for the protection of forests from forest pests in order to reduce and prevent loss of timber resources, enhance the growth and maintenance of forests, conserve forest cover on watersheds, and promote stability of forest-using industries.

(b) Coordinate forest pest control efforts with the commissioner of agriculture and the state entomologist. The director and commissioner of agriculture shall establish and publish an annual work plan outlining these efforts and specifying the responsibilities of each agency.

(c) Coordinate efforts with the federal forest health monitoring program.

(d) Prepare a biennial report summarizing the status of forest health.

II. The director or the director's authorized agents may, for the purpose of performing the duties under this chapter, enter upon all lands in this state, posted or otherwise.

III. The director, in consultation with the commissioner and under the direction of the commissioner of agriculture, markets, and food, or designee, may establish quarantines as specified in the law or under the rules to prevent dissemination of forest pests within the state or into the state that have the potential to cause serious damage to forests.

IV. The director, with the approval of the commissioner and after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter. Rehearings and appeals from a decision of the director under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) A schedule of administrative fines which may be imposed under this paragraph for violation of this chapter.

(b) Procedures for notice and hearing prior to the imposition of the administrative fine.

V. The proceeds of administrative fines levied pursuant to paragraph IV shall be deposited by the director into the forest management and protection fund established under RSA 227-G:5, I.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2007, 88:6, eff. Aug. 10, 2007.

### **Section 227-K:3**

#### **227-K:3 Designation of Control Areas. –**

I. The director may publicize information concerning forest insects and diseases.

II. Control areas may be designated upon determination of the director, in consultation with the commissioner, the state entomologist, the commissioner of the department of agriculture, other agencies as necessary, and affected landowners, that an exotic, non-native forest insect or disease poses a significant threat to forests and that there is the potential for localized infestations to spread to adjacent lands. Notification of such designation may be provided as authorized under paragraph I.

III. (a) A landowner within a control area shall carry out such control measures as are ordered by the director, to the extent practical and where proven technology is available,

including but not limited to, the removal and destruction of any plants harboring insects or diseases.

(b) If such control measures are not immediately taken by the property owner, the director or authorized agent may remove and destroy infected vegetation from any land within the control area. Cost of actions taken by the state shall be borne by the state.

(c) A landowner's right to appeal a decision by the director under this chapter shall be provided in rules adopted by the commissioner under RSA 541-A.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

#### **Section 227-K:4**

**227-K:4 Cooperation of Agencies.** – The commissioner and director may cooperate with departments of the federal government, the state department of agriculture, and the agricultural experiment station for the control or eradication of forest insects and diseases in the state generally, and for carrying out such investigations as are deemed advisable by the commissioner.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **White Pine Blister Rust Control Areas**

#### **Section 227-K:5**

**227-K:5 Entry on Land.** – The director or the director's authorized agents shall have the right to enter upon any public or private property to determine the presence of the fungus disease *Cronartium ribicola* commonly known as white pine blister rust in any of its stages, and to carry out the necessary eradication measures.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

#### **Section 227-K:6**

**227-K:6 Planting Currant or Gooseberry Bushes Within Control Area.** – No person shall plant any currant or gooseberry bush within a control area without the permission of the director.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

#### **Section 227-K:7**

**227-K:7 Diseased Plants, etc.** – Any currant or gooseberry bushes which are found to threaten any white pine trees with *Cronartium ribicola* are hereby declared to be a public pest, and any such plants may be destroyed by order of the director or the director's authorized agents.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-K:8**

**227-K:8 Obligation of Towns.** – When, in the opinion of the director and the commissioner of agriculture, markets, and food a necessity exists requiring the destruction of currant and gooseberry bushes in any town, the director or the director's authorized agents may remove or destroy any currant and gooseberry bushes within such town and charge the expense to state appropriations made available for this purpose or in the event state appropriations are not made available or are insufficient for this purpose, charge said expenses to the town; provided, however, that no town shall be required to expend more than \$400 in any one year for such control measures. If such order is not complied with, the governor and council may order such town to carry out any control measures specified by the director.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-K:9**

**227-K:9 Expense.** – The expenses to the town provided for in RSA 227-K:8 for control measures shall be deemed to be a judgment against the town and the amount shall, without vote of the town, be paid by the selectmen.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-K:10**

**227-K:10 Notice Required.** – Two weeks prior to removal or destruction of any currant or gooseberry bushes within any town by the director or the director's authorized agents, a written notice shall be given by the director to the selectmen of the town stating the date when, and the location where, operations for such removal or destruction will begin.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-K:11**

**227-K:11 Damages for Destruction of Bushes or Trees.** – If within any designated control area, bushes or trees other than currants and gooseberries which threaten white pine trees with *Cronartium ribicola* are designated by the director or the director's agents and destroyed by the director or the director's agent's specific order, the owner may be compensated, the damages to be assessed by the director at not more than the actual value of the material destroyed, and paid to the owner by the state treasurer upon authorization of the commissioner.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-K:12**

**227-K:12 Alternative.** – In lieu of money damages for any trees or bushes destroyed under RSA 227-K:11, the director may offer, and the owner may accept, forest planting stock to be furnished from the state forest nursery.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

# **Nursery Inspection**

## **Section 227-K:13**

**227-K:13 Nursery Inspection.** – [Repealed 2007, 88:12, effective August 10, 2007.]

## **Section 227-K:14**

**227-K:14 Regulation of Entry.** – The director's authorized agents, under the direction of the director, may prohibit or regulate the entry into the state, or the movement within the state, of any tree, timber, log, wood, pole, underwood, or bark, or the products thereof, which in the agent's judgment may cause the introduction or spread of a dangerous insect or disease. This authority shall not extend to agricultural crops, nurseries, or nursery stock as regulated under RSA 433.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2007, 88:7, eff. Aug. 10, 2007.

## **Section 227-K:15**

**227-K:15 Orders.** – The director and the commissioner of resources and economic development may issue such orders, notifications, and permits as may be necessary to carry out the provisions of RSA 227-K:14.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2007, 88:8, eff. Aug. 10, 2007.

## **Section 227-K:16**

**227-K:16 Expenses.** – The expenses necessary for carrying out the provisions of this subdivision shall be paid from the appropriation for nursery inspection or other funds of the department of agriculture, markets, and food.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-K:17**

**227-K:17. Prohibitions; Penalty.** –  
I. The following actions are prohibited:

- (a) Violating any provisions of a quarantine issued under RSA 227-K:2, III.
- (b) Violating any order or failing to obtain a permit issued under RSA 227-K:15.
- (c) Selling, offering for sale, giving away, moving or shipping any tree, timber, log, wood, pole, underwood, or bark, or the products thereof into this state, or within this state, knowing or having reason to believe that they may be harboring a forest pest declared as a dangerous insect or disease, or have been exposed to any such pest. This authority shall not extend to agricultural crops, nurseries, or nursery stock as regulated under RSA 433.

II. Any person, or employee or agent of that person, who violates any provision of this section or rule adopted under this chapter shall be guilty of a violation. For any subsequent offense, a person shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2007, 88:9, eff. Aug. 10, 2007.

# **TITLE XIX-A**

## **FORESTRY**

### **CHAPTER 227-L**

#### **WOODLAND FIRE CONTROL**

##### **Section 227-L:1**

**227-L:1 Declaration of Purpose.** – It is hereby recognized and declared that the public welfare of this state requires an efficient and effective statewide forest fire detection and protection program that will prevent control and reduce the incidence and severity of woodland fires through prevention, presuppression and suppression activities.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

##### **Section 227-L:2**

###### **227-L:2 Duties and Authority of Director.** –

I. The director shall:

- (a) Divide the state into forest fire districts to more effectively carry out a statewide forest fire control program.
- (b) Maintain the present forest fire towers, establish and maintain additional towers connected by telephone lines or radio communication, and use aircraft and other available means for surveillance, detection, reporting, and control of forest fires and shall have the right to receive and hold, in the name of the state, gifts of land for observatory sites and rights of way for paths and telephone and electric lines.
- (c) Establish an adopt-a-forest fire tower program by directly involving interested citizens, groups, associations, municipalities, and businesses in the maintenance of New

Hampshire's state fire forest towers. The director shall develop and recommend rules to be adopted by the commissioner, pursuant to RSA 541-A, relative to implementing the adopt-a-forest fire tower program, including an application and evaluation procedure to allow interested parties to adopt a forest fire tower, and a procedure for terminating an adopt-a-forest fire tower agreement.

II. The director may:

(a) Purchase firefighting equipment for resale to towns on such terms as the commissioner may approve.

(b) Cooperate with the forestry departments of the states of Maine, Massachusetts, and Vermont in the establishment and maintenance jointly of forest fire towers serving New Hampshire and any of such other states.

(c) Establish, at advantageous points throughout the state, supply stations for tools and apparatus used in firefighting and provisions necessary to personnel employed, make proper maps for the use of forest rangers and wardens, build fire trails and fire lines, employ paid patrols at suitable points and at necessary times, and use other means as seem advisable to the commissioner within the limits of the appropriation.

III. The director, or the director's authorized agents shall:

(a) Be the primary enforcement agency for this chapter.

(b) Enforce the provisions of RSA 637 insofar as they pertain to the protection and improvement of woodlands.

IV. The director or the director's authorized agents may:

(a) For the purpose of performing the duties under this chapter, enter upon all lands in this state, posted or otherwise.

(b) Exercise the powers of arrest pursuant to RSA 227-G:7.

(c) Issue a written cease and desist order against any operation in violation of this chapter. Any such violation may be enjoined by the superior court, upon application of the attorney general. A person failing to comply with the cease and desist order shall be guilty of a violation.

V. The director, with the approval of the commissioner and after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) A schedule of administrative fines which may be imposed under this paragraph for violation of this chapter.

(b) Procedures for notice and hearing prior to the imposition of an administrative fine.

VI. The proceeds of administrative fines levied pursuant to paragraph V shall be deposited by the commissioner into the forest protection personnel training fund established under RSA 227-G:5, III.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2010, 108:2-4, eff. July 31, 2010.

### **Section 227-L:3**

**227-L:3 Taking Land.** – If sites or rights of way necessary for the maintenance and effective operation of forest fire towers, fire trails, or lines cannot be acquired by gift or purchase, the department shall have the right to acquire the same under the power of eminent domain, and the value shall be determined as provided in RSA 227-H:3, II.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2010, 108:5, eff. July 31, 2010.

## **Forest Fire Personnel**

### **Section 227-L:4**

**227-L:4 Forest Fire Personnel.** – The commissioner, upon the recommendation of the director, shall appoint such field and office personnel and such other assistants as the state woodland fire control program may warrant.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:5**

#### **227-L:5 Cooperation in Forest Fire Protection.** –

I. The director, with the approval of the commissioner and the governor and council, may enter into an agreement with other states, Canadian provinces, or the federal government, or any combination of them, to exchange assistance in the control of forest fires and to train personnel. Any state employee assigned to fire control duties or training programs outside this state under such an agreement shall be deemed to be working within this state for the purposes of compensation and other employee benefits.

II. In this section, the term "employee" means any appointee, volunteer, or auxiliary member of a fire department, legally included within the firefighting forces of this state.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:5-a**

#### **227-L:5-a Firefighter Services Leave.** –

I. Any state employee who is a certified volunteer wildland firefighter may, with the authorization of the employee's supervisor, be granted a leave of absence with pay to participate in wildland fire emergencies to include non-wildland fire emergencies in another state or province pursuant to an agreement with the following: The Northeastern Interstate Forest Fire Protection Compact and the United States federal government. Requests for assistance shall be received and dispatched via the department of resources and economic development, division of forests and lands.

II. An employee, under this section, after completing one year in state service, may be entitled to not more than 30 working days in any fiscal year for such duty. Each participating employee shall be paid the employee's regular pay plus overtime. Upon the employee's return, the division of forests and lands shall bill the agency that requested aid

for all reimbursable costs incurred pursuant to the terms of the agreement with the Northeastern Interstate Forest Fire Protection Compact and/or the United States federal government. The division shall provide reimbursement to the departments for which the firefighter is employed.

III. All funds reimbursed for services provided under this section shall be deposited in the appropriate pay or overtime account of the agency for whom the state employee works.

IV. This section shall not apply to employees of the department of resources and economic development.

**Source.** 2008, 162:1, eff. June 6, 2008.

### **Section 227-L:6**

**227-L:6 Duties of Personnel.** – It shall be the responsibility of such personnel appointed within the provisions of RSA 227-L:4 to carry out duties assigned by the director in enforcing state forest laws and rules; directing and aiding forest fire wardens, deputy forest fire wardens, and other forest fire personnel in the performance of their duties; and performing other duties as may be authorized by law and as directed by the director and the commissioner.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Forest Fire Wardens and Deputy Wardens**

### **Section 227-L:7**

#### **227-L:7 Forest Fire Warden Appointment.** –

I. The selectmen of towns and the mayors of cities shall, and other citizens may, recommend to the director the names of such persons as may in their estimation be fit to fill the offices of forest fire warden and deputy forest fire warden in their respective towns and cities.

II. After investigation the director shall appoint from the persons so recommended not more than one competent person in each town or city to be the forest fire warden for the town or city, and such deputy forest fire wardens as the director deems necessary. In such towns or cities where the fire chief is not the appointed town or city forest fire warden, the fire chief shall be appointed as deputy forest fire warden. The director may appoint a forest fire warden or deputy forest fire warden for 2 or more towns or parts of towns.

III. In unorganized places, upon the recommendation of the forest ranger, the director shall appoint a forest fire warden and one or more deputy forest fire wardens, to have the same powers and the same duties as the town forest fire wardens.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:8**

**227-L:8 Special Deputy Forest Fire Wardens.** – The director may appoint as special deputy forest fire wardens persons in the employ of the department and, upon the recommendation of the forest ranger, such other persons as may be in a position to assist the director in preventing and suppressing fires. The appointees shall have the same powers and duties as the town forest fire wardens, but the powers and duties shall be exercised and performed only in emergencies or in the absence of a regularly appointed forest fire warden or deputy forest fire warden or when requested by the director or the director's agent. Appointees shall be allowed for their services such compensation as may be fixed by the commissioner and the director, and such compensation shall be deemed to be an expense of fighting woodland fires and paid by the state.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:9**

**227-L:9 Term.** – Upon the appointment of a forest fire warden or deputy forest fire warden in any town, city or place, the term of office of the forest fire warden or deputy forest fire warden previously acting in such capacity shall immediately cease, and the new appointee shall serve for 3 years, or until a successor is appointed as provided in this subdivision. The term of a special deputy forest fire warden shall be 3 years.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:10**

**227-L:10 Removal; Vacancy.** – The director shall have the discretionary power to remove any warden, deputy warden, or special deputy warden from office. Upon the termination in any manner of the term of office of any warden, deputy warden, or special deputy warden, a successor shall be appointed in the manner provided in this subdivision for the appointment of such officers.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:11**

**227-L:11 Duties of Forest Fire Wardens and Deputy Wardens.** –

I. Wardens and deputy wardens, or some agent or agents designated by them, shall:

(a) When directed by the director, patrol the woods in their respective cities, towns or places, warning persons who traverse the woods, campers, hunters, fishermen, and others about lighting and extinguishing fires. They shall post extracts from the fire laws and other notices sent them by the director along the highways, streams, and waters frequented by tourists and others, at campsites and in other public places.

(b) Extinguish all woodland fires occurring in their town, or elsewhere when so directed by the director or the director's authorized agent. Either of them may call such assistance as the person deems necessary to aid in extinguishing the fires, may require the use of vehicles or other equipment and property for that purpose, and may order any road

or highway closed to any motor vehicle if it becomes necessary in order to safeguard the proper extinguishing of such fire. Such authority shall not interfere with the authority of chiefs of city fire departments.

(c) Make reports to the forest ranger of the district in which they are located or to the director of the division, at such time and in such form as the director may require.

II. Forest fire wardens and deputy wardens or any agent designated by them may, with the approval of the director, brush-out and make passable old roads and trails useful for the passage of personnel and equipment in case of woodland fires. Expenditures for this purpose shall be shared by the state and town, place or municipality in the same proportion as other prevention expense, except that the state's share under this section shall not exceed \$25 to any one town, place, or municipality in any year.

III. If any warden or deputy warden shall willfully neglect or refuse to perform the duties prescribed in this subdivision, the warden or deputy warden shall, upon complaint of the director, be guilty of a misdemeanor.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-L:12**

### **227-L:12 Remuneration; Expenses. –**

I. Wardens and deputy wardens in towns and unorganized places shall be allowed for their services such remuneration as may be fixed by the commissioner and the director. Any regularly paid warden, deputy warden, lookout watcher, or fire patroler may be directed and used by the forest ranger or the director on any state or municipal forestry work or other public work, when in the judgment of the director the safety of woodlands is not endangered by such use.

II. The town forest fire wardens and deputy wardens attending training sessions called by the director under RSA 227-G:3, II(e) shall be paid for their time and expenses in attending such training sessions, within the limits of available funds, such payment to be borne equally by the municipalities represented and the state in the same manner as provided in RSA 227-L:22.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Public Duties**

### **Section 227-L:13**

#### **227-L:13 Public Duties; Penalties. –**

I. It shall be the duty of any person who discovers a woodland fire not under control or supervision of some person to extinguish it or report it immediately to the warden or deputy warden or other public official. Whoever fails so to do shall be guilty of a violation.

II. Any person who fails to respond to the warden's call for assistance or the use of the person's property, or any person who drives a motor vehicle over a road or highway that has been closed under RSA 227-L:11, I(b), after having been instructed not to do so, shall

be guilty of a violation.

III. Notwithstanding the provisions of paragraph II and RSA 227-L:11, I(b) no person authorized to compel assistance by conscription under such authority shall order any person under the age of 18 years or over the age of 45 years (except when such person has voluntarily consented to accept direction and if under the age of 18, has furnished parental consent in writing); or any person having a physical or mental disability or who is otherwise disabled in capability to perform acts of firefighting, to perform any act of firefighting which would subject such person to the possible risk of grievous bodily injury, harm or death, except in a dire emergency, and then only if such act or acts are deemed necessary to protect and preserve public property endangered by fire, or in the case of a national emergency. Notwithstanding this limitation, nothing in this section shall be construed to limit a person's ability, if over 18 years of age, to voluntarily consent to perform acts of firefighting so long as the person agrees to accept direction of qualified firefighters and the person accepting consent is authorized by paragraph II and RSA 227-L:11, I(b) to call for such assistance and reasonably believes that the person volunteering understands the personal risk.

IV. Owners of property required by the warden or deputy warden in the extinguishment of a woodland fire shall receive reasonable compensation for their services. In case the warden or deputy warden, and the persons summoned to assist or furnish the use of property, shall fail to agree upon the terms of compensation, the dispute shall be referred to the forest ranger, the director, or the commissioner for settlement, and the decision of the commissioner shall be final.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:14**

**227-L:14 Interference With Forest Fire Control Personnel; Penalty.** – It is unlawful to resist or attempt to resist arrest by any forest fire control personnel authorized to make arrests pursuant to RSA 227-G:7, or to obstruct or attempt to obstruct, or to intimidate or interfere with any such persons in the performance of their duties. Whoever violates the provisions of this section shall be guilty of a violation if a natural person and guilty of a misdemeanor if any other person.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Permits, Prohibitions, and Penalties**

### **Section 227-L:15**

**227-L:15 Prohibiting Smoking or Kindling of Fires; Penalty.** – The governor, upon the recommendation of the director, when there is danger of starting fires in the woodlands of the state due to a period of protracted drought or excessive dryness which requires extraordinary precautions, may, with verbal approval of the council, by official proclamation, prohibit smoking in or near woodlands and prohibit the kindling of any open fire in or near woodlands in any or all parts of the state for such time as they may

designate. Whoever is found guilty of violating the provisions of any proclamation issued pursuant to this section shall be guilty of a violation.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:16**

#### **227-L:16 Trespass Upon or Smoking in White Mountain National Forest;**

**Penalty.** – It shall be unlawful for any person to enter upon, or to smoke upon, lands of the United States known as the White Mountain National Forest, as now or hereafter constituted, at any time when such entry or smoking shall be forbidden by valid order made for the purpose of protecting such forest from forest fire, pursuant to the laws of the United States. Any person violating the provisions of this section shall be guilty of a violation.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:17**

#### **227-L:17 Permits; Damages; Penalties. –**

I. It shall be unlawful for any person to kindle or cause to be kindled a fire upon the land of another without first obtaining permission from the landowner or the landowner's agent, or upon public land without the written permission from the official caretaker, excepting that upon a public recreational area where fireplaces and a supervisor are provided, presence of an official supervisor or caretaker upon such land shall constitute permission.

II. No person, firm, or corporation shall kindle or cause to be kindled any fire or shall burn or cause to be burned any material, and no city or town shall kindle or maintain a fire on a public dump, except when the ground is covered with snow, without first obtaining a written permit from the forest fire warden of the town where the burning is to be done unless it is in the presence of the warden or the warden's agent.

III. Permits for the burning of blueberry stands to increase their productivity and for the burning of waste materials of mills processing forest products may be granted by the forest ranger, provided such burnings are done under the surveillance of the landowner or the landowner's agent.

IV. Camp or cooking fires may be kindled only with written permission of the landowner or the landowner's agent and written permission of the forest fire warden of the town in which the fire is to be kindled and only at suitable times and in suitable places when the fire will not endanger woodlands; except in such towns as have adopted bylaws or regulations equally as stringent as provided in this paragraph. Camp or cooking fires may be built without written permission on public camp or picnic grounds when such areas are open for public use or private camp and picnic places where suitable fireplaces approved by the forest fire warden are provided for such fires. As used in this paragraph, a camp or cooking fire shall be a small fire suitable for cooking purposes used in connection with camp, picnic or lunch purposes and does not include the burning of household rubbish, or large amounts of brush or other flammable material. Whoever shall

kindle or cause to be kindled any such fire or use an abandoned fire in or near woodlands shall totally extinguish the same before leaving it and, upon failure to do so, such person or persons shall be subject to the same liabilities and penalties as prescribed in this section.

V. Any person causing or kindling a fire without permit of the forest fire warden, when such permit is required, and any person by whose negligence, or by the negligence of the person's agents, any fire shall be caused, shall be liable in a civil action for the payment to the town, or the state or the United States, or any or all of the same, of the expenses incurred by the forest fire warden or deputy warden in attending or extinguishing such fire. The items of expenses of the fire shall be approved in writing by the director.

VI. Every person who sets fire on any land, that runs upon the land of any other person, shall pay to the owner all damages done by such fire.

VII. Any person violating any provision of this section shall be guilty of a misdemeanor, and any person who causes or kindles a fire by any means, willfully or recklessly, which shall endanger a woodland shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

**Source.** 1995, 299:1, eff. Jan. 1, 1996. 2000, 66:1, eff. Jan. 1, 2001.

### **Section 227-L:18**

#### **227-L:18 Flammable Material; Penalty. –**

I. No person, firm, or corporation shall place, drop, or throw any flammable waste material on, near, or adjacent to, a public highway or private way in any place where a fire starting or burning in such waste material is liable to be or may be communicated to woodlands. Whoever is found guilty of violating the provisions of this section shall be guilty of a violation.

II. The department, by notice in writing to both the operator and the owner, may require the removal or disposal of lumber, slash, or other flammable material wherever located when in the judgment of the department such lumber, slash, or flammable material constitutes an unusual hazard endangering other property through the setting or spreading of woodland fires.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:19**

**227-L:19 Dropping Lighted Matches, etc; Penalty. –** No person shall drop or throw from any vehicle while the vehicle is upon a public highway or private way, or from any steam, gas, or electric car where the right-of-way is adjacent to woodlands, or drop, throw, or otherwise deposit on or near such woodlands except as permitted by law, any lighted match, cigar, cigarette, live ashes, or any other substance liable to cause a fire. Whoever is found guilty of violating the provisions of this section shall be guilty of a violation.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-L:20**

### **227-L:20 Suitable Exhaust Systems on Motorized Equipment; Penalty. –**

I. Any motorized vehicle, which does not bear a currently valid state inspection sticker, and other motorized equipment including generators operating in woodlands and which emits exhaust within 4 feet of the ground, shall be equipped with a suitable exhaust system which will inhibit the discharge of sparks and carbon deposits likely to cause fires. Baffled mufflers or spark arresters in good working order, tested and approved by the U.S. Forest Service or the director shall be deemed to meet these requirements. In the case of trucks, pickups, passenger cars, and motor bikes, primarily used for travel over gravel and other mineral soil roads, exhaust systems equivalent to original equipment are suitable. Any car, truck, or other vehicle that has been modified shall be required to have exhaust systems which are tight, have not been shortened excessively, and are directed away from the forest floor, or be equipped with a baffled muffler in good working condition.

II. Any such vehicle or equipment operating in woodlands, which, in the judgment of the director or the director's agent, presents an imminent danger of igniting a woodland fire, may be impounded by the director or the director's agent until equipped with a suitable exhaust system.

III. Any owner or operator who violates the provisions of this section shall be guilty of a violation.

IV. Any person who sells any new equipment or new vehicle covered by the provisions of this section that is not properly equipped shall be guilty of a violation.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Fire Control Payments**

### **Section 227-L:21**

#### **227-L:21 Fire Control Payments on Federal Lands. –**

I. The expenses lawfully incurred by a forest fire warden or other authorized local fire official in the extinguishment of woodland fires on the White Mountain National Forest or other federal land within the state under a cooperative forest fire protection agreement with the state computed at rates within limits established by the director and excluding the initial costs of firefighting equipment shall be paid in the first instance by the state.

II. The forest fire warden or other authorized local fire official shall render to the director a statement of expenses incurred in extinguishing woodland fires on the federal lands described in paragraph I, showing in detail the amount and character of the services performed including names, addresses, hours worked, dates, and recommended compensation for persons authorized for fire duty by the fire warden or other authorized local fire official, costs of food and other supplies, operating and repair expenses of motorized equipment, reimbursement costs for lost and damaged pumps, hose, tools, and other fire equipment and such other costs as may be actually incurred on such fire.

III. The director shall review such bills and, upon approval, shall forward them for payment to the state treasurer. The governor shall draw a warrant on the state treasury

from money in the treasury not otherwise appropriated for the payment of such bills. Upon such payment, the director shall prepare and submit to the receiving federal agency appropriate vouchers for reimbursement to the state treasury of such costs paid by the state treasurer under this section.

IV. The director shall also prepare and submit to the receiving federal agency appropriate vouchers for reimbursement of salary and expenses of permanent and temporary employees who remain on the state payroll while on authorized duty on federal lands within the state under a cooperative forest fire protection agreement with the state, the actual cost of food and other supplies, operating and repair costs of motorized equipment, reimbursement for lost or damaged pumps, hose, tools, and other fire equipment and such other costs as actually may be incurred by the state on such cooperative fire assignment.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-L:22**

### **227-L:22 Municipal Fire Control Payments; Apportionment of Expenses. –**

I. The expenses of presuppression and suppression of woodland fires in municipalities, and other expenses lawfully incurred by wardens and deputy wardens of municipalities in preventing woodland fires, shall be borne equally by the municipality and the state, except as otherwise provided in this chapter, and except that when in any one municipal fiscal year the net total of sums required for the presuppression, suppression, and prevention of woodland fires, excluding the initial cost of firefighting equipment, to be so borne by such municipality, computed at rates within limits established by the commissioner and the director, shall equal 1/4 of one percent of the latest equalized locally assessed valuation on such municipality, expenses incurred in excess of such sum shall be borne entirely by the state on the basis of the rate limits specified in this paragraph. The provisions of this section shall not apply to expenses incurred in fighting any woodland fire when, as determined by the commissioner, such fire was caused either by the negligence of the town or of its agents; or in cases in which there is negligence on the part of the town or its agents in collecting expenses from violators under RSA 227-L:17, V. Any determination of the commissioner under the provisions of the preceding sentence shall be subject to rehearing and appeal as provided in RSA 541.

II. The warden shall render to the selectmen or the mayor or the authorized city department, on blanks prepared by the director, a statement of the expenses under paragraph I, incurred by the municipality, or aiding municipality which had responded upon request, as soon as possible after they are incurred, showing in detail the amount and character of the services performed, including the costs of services rendered by volunteers, the exact duration of the service, and all disbursements made by the warden or wardens, and bearing the approval of the warden, and of the deputy warden if the expenses were incurred by the warden's authority.

III. Upon receipt of the statement, the selectmen of towns and mayors of cities, if the bill is approved, shall draw an order upon the treasurer for payment to each person employed of the amount of compensation due or to the warden for the total amount of the bill as approved, as the selectmen or mayor may determine. If payment is made to the

warden, the warden shall forthwith pay to each person employed the amount of compensation due. The account of the warden shall be audited and included in the town report.

IV. Bills incurred in rendering aid to another town after having been paid in the first instance as prescribed in paragraph III shall, within 30 days of the date the aid was rendered, be presented for reimbursement to the town receiving the aid.

V. A duplicate bill, showing that the bill has been audited and paid by the municipality, shall be filed by the selectmen or the mayor with the director within 60 days of the date in which the expenses were incurred. If the director finds the expenses to be reasonable, the director shall forward the bill to the state treasurer as approved, and the governor shall draw a warrant on the state treasury in favor of the municipality for the portion of the bill for which the state is liable in accordance with the provisions of this section from any money in the treasury not otherwise appropriated. The state, however, shall not reimburse municipalities or unorganized places at a rate in excess of that established from time to time by the commissioner and the director, nor shall the state be responsible for reimbursement to municipalities for such bills upon failure to render the bills within 60 days of the date expenses were incurred.

VI. If any such bill is not paid by a municipality within 30 days from the date rendered by the warden, the director may investigate the cause and may issue an order for payment. Upon receipt of the order, the bill shall be paid forthwith by the municipality.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-L:23**

### **227-L:23 State Fire Control Payments. –**

I. When, in the opinion of the director, the expenses of fighting woodland fires in municipalities, and other expenses lawfully incurred by wardens and deputy wardens of municipalities in preventing forest fires, shall exceed an amount equal to 1/4 of one percent of the latest equalized locally assessed valuation on such municipality, the state may pay such bills in the first instance.

II. The town forest fire warden shall submit all bills for payment to the director, certifying on the bills that the bills were lawfully incurred and a proper charge.

III. Upon receipt by the director of the bills, the director shall approve the bills and forward them for payment to the state treasurer. The governor shall draw a warrant on the state treasury from money in the treasury not otherwise appropriated for the payment of the bills.

IV. The director shall thereafter bill the responsible municipality for its proportionate share of fire expenses together with any amounts found by the director to be in excess of the rates established by the commissioner and the director as provided in RSA 227-L:22, I. Upon receipt of the bill the municipality shall reimburse the state for the amount specified.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Section 227-L:24**

**227-L:24 Unorganized Places Fire Control Payments. –**

I. The wardens and the deputy wardens in unorganized places shall render to the director a like statement of such expenses as they have lawfully incurred under this chapter in suppressing or preventing fires in woodlands within one month of the date upon which such expenses are incurred.

II. The statement shall be audited by the director, and, if approved, the director shall draw an order upon the state treasurer for the same.

III. The expenses lawfully incurred by a warden or deputy warden in presuppression, prevention, and suppression of woodland fires in unorganized places, computed at rates within limits established by the department and excluding the initial cost of firefighting equipment, shall be paid in the first instance by the state. Any person causing or kindling a fire in an unorganized place without a permit from the forest fire warden and written permission of the woodland owner, if no previous arrangement exists between the forest fire warden and the woodland owner when such permit is required under RSA 227-L:17, I-III, and any person, by whose negligence or by the negligence of the person's agents any fires shall be caused, shall be liable to the state in a civil action for the payment of all expenses incurred in extinguishing the fire. If a fire results from unknown or natural causes, up to 1/2 of the costs, but in no case to exceed 10 percent of the assessed valuation of the property in the place, shall thereafter be added to the tax assessed the following year against the place in the same manner as is provided for the assessment of property taxes.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

## **Northeastern Interstate Forest Fire Protection Compact**

### **Section 227-L:25**

**227-L:25 Authorization. –** The governor on behalf of this state is hereby authorized to enter into a compact, substantially in the following form, with any one or more of the states of Connecticut, Maine, New York, Rhode Island, and Vermont, and the Commonwealth of Massachusetts, and with such other states of the United States or provinces of the Dominion of Canada as may legally join therein, and the legislature hereby signifies in advance its approval and ratification of such compact so entered into, such approval and ratification to be effective upon the filing of a copy of such compact in the office of the secretary of state.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:26**

#### **227-L:26 Northeastern Interstate Forest Fire Protection Compact. –**

Article I.

The purpose of this compact is to promote effective prevention and control of forest fires in the northeastern region of the United States and adjacent areas in Canada by the development of integrated forest fire plans, by the maintenance of adequate forest fire fighting services by the member states, by providing for mutual aid in fighting forest fires among the states of the region and for procedures that will facilitate such aid, and by the establishment of a central agency to coordinate the services of member states and perform such common services as member states may deem desirable.

## Article II.

This agreement shall become operative immediately as to those states ratifying it whenever any 2 or more of the states of Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, and the Commonwealth of Massachusetts have ratified it and the Congress has given its consent. Any state not mentioned in this article which is contiguous with any member state may become a party to this compact. Subject to the consent of the Congress of the United States, any province of the Dominion of Canada which is contiguous with any member state may become a party to this compact by taking such action as its laws and the laws of the Dominion of Canada may prescribe for ratification. In this event, the term "state" in this compact shall include within its meaning the term "province" and the procedures prescribed shall be applied in the instance of such provinces, in accordance with the forms and practices of the Canadian government.

## Article III.

Each state joining herein shall appoint 3 representatives to a commission hereby designated as the Northeastern Forest Fire Protection Commission. One shall be the state forester or officer holding an equivalent position in such state who is responsible for forest fire control. The second shall be a member of the legislature of such state designated by the commission or committee on interstate cooperation of such state, or if there be none, or if said commission on interstate cooperation cannot constitutionally designate the said member, such legislator shall be designated by the governor thereof; provided that if it is constitutionally impossible to appoint a legislator as a commissioner from such state, the second member shall be appointed by the governor of said state in the governor's discretion. The third member shall be a person designated by the governor as the responsible representative of the governor. In the event that any province of the Dominion of Canada shall become a member of this commission, it shall designate 3 members who will approximate this pattern of representation to the extent possible under the law and practices of such province. This commission shall be a body corporate with the powers and duties set forth herein.

## Article IV.

It shall be the duty of the commission to make inquiry and ascertain from time to time

such methods, practices, circumstances, and conditions as may be disclosed for bringing about the prevention and control of forest fires in the area comprising the member states, to coordinate the forest fire plans and the work of the appropriate agencies of the member states and to facilitate the rendering of aid by the member states to each other in fighting forest fires. The commission shall formulate and, in accordance with need, from time to time, revise a regional forest fire plan for the entire region covered by the compact which shall serve as a common forest fire plan for that area. The commission shall, more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor and to the legislature of the state its recommendations relating to enactments to be made by the legislature of that state in furthering the interests and purposes of this compact. The commission shall consult with and advise the appropriate administrative agencies of the states party hereto with regard to problems connected with the prevention and control of forest fires and recommend the adoption of such regulations as it deems advisable. The commission shall have power to recommend to the signatory states any and all measures that will effectuate the prevention and control of forest fires.

#### Article V.

Any 2 or more member states may designate the Northeastern Forest Fire Protection Commission as a joint agency to maintain such common services as those states deem desirable for the prevention and control of forest fires. Except in those cases where all member states join in such designation for common services, the representatives of any group of such designating states in the Northeastern Forest Fire Protection Commission shall constitute a separate section of such commission for the performance of the common service or services so designated, provided that, if any additional expense is involved, the states so acting shall appropriate the necessary funds for this purpose. The creation of such a section as a joint agency shall not affect the privileges, powers, responsibilities, or duties of the states participating therein as embodied in the other articles of this compact.

#### Article VI.

The commission may request the United States Forest Service to act as the primary research and coordinating agency of the Northeastern Forest Fire Protection Commission, in cooperation with the appropriate agencies in each state and the United States Forest Service may accept the initial responsibility in preparing and presenting to the commission its recommendations with respect to the regional fire plan. Representatives of the United States Forest Service may attend meetings of the commission and of groups of member states.

#### Article VII.

The commission shall annually elect from its members a chairperson and a vice-

chairperson. The commission shall appoint such officers or employees as may be required to carry the provisions of this compact into effect, shall fix and determine their duties, qualifications and compensation, and may at its pleasure, remove or discharge any such officer or employee. The commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place but must meet at least once a year. A majority of the members of the commission representing a majority of the signatory states shall constitute a quorum for the transaction of its general business, but no action of the commission imposing any obligation on any signatory state shall be binding unless a majority of the members from such signatory state shall have voted in favor thereof. For the purpose of conducting its general business, voting shall be by state units. The representatives of any 2 or more member states, upon notice to the chairperson as to the time and purpose of the meeting, may meet as a section for the discussion of problems common to those states. Sections established by groups of member states shall have the same powers with respect to officers, employees and the maintenance of offices as are granted by this article to the commission. Sections may adopt such rules, regulations and procedures as may be necessary for the conduct of their business.

#### Article VIII.

It shall be the duty of each member state to formulate and put in effect a forest fire plan for that state and to take such measures as may be recommended by the commission to integrate such forest fire plan with the regional forest fire plan. Whenever the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling, or preventing forest fires, it shall be the duty of the state forest fire control agency of that state to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home. Each signatory state agrees to render aid to the forest service or other agencies of the government of the United States in combating, controlling, or preventing forest fires in areas under their jurisdiction located within the member state or a contiguous member state.

#### Article IX.

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges, and immunities as comparable employees of the state to which they are rendering aid. No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith. All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a

request for aid, shall be assumed and borne by the requesting state. Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees and equipment incurred in connection with such request. Provided, that nothing herein contained shall prevent any assisting member state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving member state without charge or cost. Each member state shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state. For the purposes of this compact the term employee shall include any volunteer or auxiliary legally included within the forest firefighting forces of the aiding state under the laws thereof. The commission shall formulate procedures for claims and reimbursement under the provisions of this article. Aid by a member state to an area subject to federal jurisdiction beyond the borders of such state shall not be required under this compact unless substantially the same provisions of this article relative to powers, liabilities, losses, and expenses in connection with such aid are embodied in federal laws.

#### Article X.

When appropriations for the support of this commission or for the support of common services maintained by the commission or a section thereof under the provisions of article V are necessary, the commission or section thereof shall allocate the costs among the states affected with consideration of the amounts of forested land in those states that will receive protection from the service to be rendered and the extent of the forest fire problem involved in each state, and shall submit its recommendations accordingly to the legislatures of the affected states. The commission shall submit to the governor of each state, at such time as the governor may request, a budget of its estimated expenditures for such period as may be required by the laws of such state for presentation to the legislature thereof. The commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time to the inspection of such representatives of the respective signatory states as may be duly constituted for that purpose. On or before the first day of December of each year, the commission shall submit to the respective governors of the signatory states a full and complete report of its activities for the preceding year.

#### Article XI.

The representatives from any member state may appoint and consult with an advisory committee composed of persons interested in forest fire protection. The commission may

appoint and consult with an advisory committee of representatives of all affected groups, private and governmental.

#### Article XII.

The commission may accept any and all donations, gifts and grants of money, equipment, supplies, materials, and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of its purposes and functions under this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts, and grants.

#### Article XIII.

Nothing in this compact shall be construed to authorize or permit any member state to curtail or diminish its forest firefighting forces, equipment, services or facilities, and it shall be the duty and responsibility of each member state to maintain adequate forest firefighting forces and equipment to meet normal demands for forest fire protection within its borders. Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying the same to provide for the prevention, control, and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control, and extinguishment in such state. Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between the United States Forest Service and a member state or states.

#### Article XIV.

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the governor of such state takes action to withdraw therefrom. Such action shall not be effective until 6 months after notice thereof has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:27**

**227-L:27 When Effective.** – When the governor shall have executed said compact on behalf of this state and caused a certified copy thereof to be filed in the office of the secretary of state, as required by RSA 227-L, and said compact shall have been ratified by one or more of the states named in article II thereof in accordance with the constitution of such state or states of the United States or provinces of the Dominion of Canada, in accordance with the laws of Canada, then said compact shall become

operative and effective as between this state and such other state or states of the United States or provinces of the Dominion of Canada. The governor is hereby authorized and directed, upon the execution of said compact by the governor and filing of the required copy thereof in the office of the secretary of state, to notify forthwith the governors of the said named states and the President of the United States, that the state on its part has ratified said compact; or in the instance of a province of the Dominion of Canada the proper officials of that province and that dominion through the United States Secretary of State. The original notice of ratification received from the governor or other duly authorized official of any state or province joining in said compact shall be filed with the official copy of said compact in the office of the secretary of state, and such notice, if any, as may be received from the President or the Congress of the United States, signifying the consent of the Congress to said compact, shall be filed in the same manner.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:28**

**227-L:28 Commission.** – After the aforesaid compact shall become operative and effective as provided for in RSA 227-L:27, the governor shall appoint 3 members hereinafter called commissioners of the Northeastern Forest Fire Protection Commission. One of such commissioners shall always be the director of the division of forests and lands, department of resources and economic development. The second shall be a member of the legislature, and the third shall be a citizen of the state designated by the governor as a responsible representative to serve at the pleasure of the governor.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:29**

**227-L:29 Compensation.** – The commissioners shall serve without compensation but shall be reimbursed for their actual expenses incurred in the performance of their duties.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:30**

**227-L:30 Report.** – The commissioners on the part of the state shall keep accurate accounts of all receipts and disbursements and shall report to the governor on or before the seventh day of January annually, setting forth in detail the transactions of the commission during the preceding calendar year, and shall include in said report recommendations for any legislative action that the commission deems advisable, including such amendments or additions to the laws of the state as may be necessary or desirable to carry out the intent and purposes of the Northeastern Interstate Forest Fire Protection Compact.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:31**

**227-L:31 Powers.** – There is hereby granted to the commission and the commissioners thereof all the powers provided for in the said compact and all the powers necessary or incidental to the carrying out of said compact in every particular. All officers of the state of New Hampshire are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of said compact in every particular; it being hereby declared to be the policy of the state of New Hampshire to perform and carry out the said compact and to accomplish the purposes thereof and to execute a compact on behalf of the state of New Hampshire with any one or more of the states of Maine, Vermont, Connecticut, Rhode Island, and New York and the Commonwealth of Massachusetts and with such other states of the United States or provinces of the Dominion of Canada as may legally join therein. All officers, bureaus, departments, and persons of and in the state government or administration of the state of New Hampshire are hereby authorized and directed at convenient times and upon request of the said commission to furnish the said commission with information and data possessed by them or any of them and to aid said commission by any means lying within their legal rights respectively.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:32**

**227-L:32 Payment by State.** – Upon recommendation of the director of the division of forests and lands, department of resources and economic development, and upon warrant of the governor with the approval of the council, the state treasurer shall pay out of any money in the treasury not otherwise appropriated to any state giving aid within the state under this chapter, such sums as shall be due under the terms of this chapter.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:33**

**227-L:33 Reimbursement by Towns.** – Each town receiving aid under the provisions of this chapter shall reimburse the state for payments made by the state under RSA 227-L:32 in the same proportion and to the same extent that such town would be required under RSA 227-L:22 to bear such expense if it had been incurred within the state.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:34**

**227-L:34 Reimbursement Procedure.** – When the state has made any payment under RSA 227-L:32, the director of the forests and lands shall, in writing, notify all towns involved, of the amount of their liability as provided in RSA 227-L:33, and within 60

days of the receipt of such notice, the respective towns shall remit the amount due to the state treasurer.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.

### **Section 227-L:35**

**227-L:35 Distribution to Towns.** – When the state receives payment from another state for aid given by towns under the provisions of this chapter, the director of the division of forests and lands shall advise the state treasurer the amount due each town involved, and the state treasurer shall distribute the amounts due, to the respective towns. The governor is hereby authorized to draw a warrant for the respective amounts due.

**Source.** 1995, 299:1, eff. Jan. 1, 1996.