

**CONSERVATION AND DEVELOPMENT
PARKS AND RESERVATIONS**

Title 13
Chapter 9
State Forest Fire Service

13:9-1. Forest fire service established

The Department of Environmental Protection shall maintain a forest fire service for the protection of forests, and property adjacent thereto, wherever the department shall determine the necessity therefor.

13:9-2. General powers of department

The department, through its agents, shall have power to:

- a. Determine forest fire hazards;
- b. Remove or cause to be removed brush, undergrowth or other material which contributes to forest fire hazards;
- c. Maintain or cause to be maintained fire breaks;
- d. Plough lands, set prescribed fires and back fires, order any highway or road closed to traffic and adopt regulations for burning forests or any forest material;
- e. Summon any person between the ages of 18 and 50, who may be within the jurisdiction of the State, to assist in extinguishing fires; and
- f. Require the use of materials, equipment or property needed for extinguishing wildfires when required to abate an emergency.

13:9-3. Duties of and regulations governing firewardens

The department shall have power from time to time, subject to the limitations of this chapter, to prescribe such duties and make such regulations for the government of firewardens for the prevention and extinguishing of forest fires, and for the employment, discharge and pay of firewardens, as in its judgement, shall be efficacious to that purpose. Firewardens shall perform such service and have such authority as shall be determined by the department.

13:9-4. Material, supplies, equipment and property; purchase and distribution; custodian

The department may purchase and distribute to the firewardens such material, supplies and equipment and purchase such other property as it may deem necessary to effectuate the provisions of this chapter. The department shall be custodian of all property, equipment and supplies used in the protection of forests.

13:9-5. Expenses of administration of chapter; how paid

All expenses incurred by the department in carrying out the provisions of this chapter, including the compensation of officers and employees in the forest fire service shall be paid by the State; but such sums shall not exceed the amount appropriated therefor by the Legislature with the amount available from cooperative forest fire funds received from the Federal Government or any county, municipality, corporation or person.

13:9-6. Divisions, sections and districts

The department shall divide the forest areas of the State into divisions, sections and districts.

13:9-7. State firewarden, supervisors, deputies and other officers and employees; appointment, removal and compensation

The department may appoint, removable by the department after charges have been preferred and hearing granted, a State firewarden, and such supervisors, deputies, assistants, other officers and employees as may be needed and fix their compensation. The department may create job titles and appoint with or without annual salary, a work force necessary to conduct the business of the service.

13:9-7.1. Mandatory training requirement for fire service instructors of forestland fire fighters

In accordance with the legislative findings and declarations in section 1 of P. L. 1995, c.266 (C. 13:9-7.1 Note; 52:27D-25I Note), training for fire service instructors of forestland fire fighters shall be mandatory and shall be implemented under the authority and pursuant to regulations of the Department of Environmental Protection. This training requirement shall apply to instructors of fire fighters with the State forest fire service in the Division of Parks and Forestry of the Department of Environmental Protection whose job descriptions, duties and training standards are determined, regulated and implemented by the State forest fire service in accordance with standards of the United States Forest Service and of nationally recognized forest fire service associations or organizations. L. 1995, c.266, § 7, eff. May 1, 1996.

13:9-9. Emergency help; cooperative or contractual agreements

The department shall, when the emergency arises, employ work crews and purchase equipment to fight forest fires as may be deemed necessary. The department may enter into cooperative or contractual agreements with the United States or any agency or department thereof, other State departments and any subdivisions of this State or any other person or body politic for the accomplishment of the purposes of this amendatory and supplementary act. The department shall cooperate with any public and private agencies or persons in the conduct of fire management plans and other matters of mutual interest.

13:9-10. Deputy firewardens; designation

Each firewarden, subject to the approval of the department, may designate one or more proper persons to act as deputy or deputies in case of his absence or disability from any cause.

13:9-13. General powers of state firewarden

The State firewarden, under the direction of the commissioner, shall administer and supervise the forest fire service, cooperating agencies and such laws as shall deal with the protection of forests, from wildfire.

13:9-15. Enforcement of laws and extinguishment of fires; summoning assistance

Firewardens shall be trained law enforcement officers and shall enforce the laws of this State for the protection of forests, from wildfire. They shall have control and direction of all persons and apparatus engaged in extinguishing fires in forests. They may plough lands or set back fires to check any fire. They may summon any person between the ages of 18 and 50 years, living or being within their jurisdiction, to assist in extinguishing fires, and may require the use of any property needed for such purpose. No physically fit person so summoned shall refuse or neglect to assist, nor shall any person refuse the use of any property, equipment or material required.

13:9-16. Obstruction, threat, abuse, assault, injury, or interference with firewarden, deputies or assistants

No person shall obstruct, threaten, abuse, assault, injure or in anywise interfere with any firewarden, his deputies or any one or more of them, in the performance of any duty under this chapter.

13:9-17. Right of trespass to extinguish wildfire; right of entry to inspect

No action for trespass shall lie against any person crossing or working upon lands of another to extinguish wildfire. Any duly authorized employee of the department and any law enforcement officer or fire protection officer having jurisdiction to enforce any provision of this amendatory and supplementary act shall have power to enter upon any forest lands at any time in order to inspect the same and to ascertain the degree of compliance with this act and rule, regulation or order adopted pursuant to this act.

13:9-19. Burning waste, vegetation or other materials; permits

In any district for which Firewardens have been appointed under provisions of this chapter, no person shall set fire to or cause to be set on fire in any manner whatsoever; or to start fires anywhere and permit them to spread to forests, thereby, causing damage to or threat to life or property, either accidentally or otherwise, directly or indirectly, in person or by agent, or cause to be burned, waste, fallows, stumps, logs, brush, dry grass, fallen timber or any property, material, or vegetation being grown thereon, or anything that may cause a forest fire, without first obtaining the written permission of the department. Within the designated protection area this requirement supersedes any law, rule, regulation or ordinance inconsistent therewith. No such permission shall be granted if, in the department's opinion, any forest will be endangered thereby; or if it violates the air pollution statutes; nor shall any such permission, if granted, relieve or exonerate any person from any penalties provided by this chapter, if by reason of such wildfire, any forest, be burned.

13:9-20. Burning forest; permit; back fires; liability; recreational or permitted fire; precautions

No person shall, unless granted a permit by the department, set fire to or burn, or cause to be burned any forest, but nothing in this section shall be interpreted to forbid any person from setting a back fire upon his own property to protect the same; but, if such permitted back fire be allowed to escape or does escape to adjoining property, the person setting such back fire, or causing it to be set, shall be subject to costs of extinguishment and all damage incurred upon the property of another. Any firewarden, however, shall have power to set any back fire. Any person maintaining a recreational fire or a permitted fire or a fire to burn any brush, grass, litter, undergrowth or other material shall keep and maintain a competent watch. All reasonable precautions must be taken to prevent its escape from control. No such fire shall be left until extinguished or certified by a firewarden to be safely contained.

13:9-21. Duty to extinguish fires and notify firewarden

In any district in which a fire service is established, any person finding a wildfire burning in a forest, or where the forest is endangered, shall immediately extinguish the same, and shall notify a firewarden as soon as possible.

13:9-22. Theft, mutilation or destruction of property, equipment or posted notices

No person shall willfully or maliciously steal, mutilate, tear down or destroy any forest fire service property, equipment or any notice concerning forest fires, which has been posted under regulations of the department.

13:9-23. Accumulations in forests as extraordinary fire hazard and public nuisance

The owner or lessee of any forest, any contractor or employee with authority of the owner of, or any person doing public work in or upon, such forest, who shall permit or suffer the accumulation by human activity of any litter from trees, to lie or be upon such forest within 100 feet of any road trail or fire break, to such an extent or in such manner as to facilitate either the origin or spread of forest fires, shall be deemed thereby to have created an extraordinary fire hazard which endangers life and property and to have made and maintained a public nuisance.

13:9-24. Removal of fire hazard and nuisance; penalty

On the complaint of a firewarden or any citizen, the department shall cause an investigation to be made of the alleged nuisance mentioned in section 13:9-23 of this Title. If, in its judgement, a situation endangering the security of adjacent property either with reference to the possible origin or spread of forest fires, exists, it shall require the responsible party to remove such menace within a reasonable specified time, in manner as directed and at his own cost. If he neglects to do so, he shall be subject to penalties provided for in this act. When the department considers it necessary to prevent danger to life or property, it may abate such public nuisance and charge the costs to the responsible person, owner, lessee, firm, corporation or public agency. If the removal is done by burning, all the provisions and requirements of this chapter shall be observed. If fire escapes and damages the property of another, nothing done under this chapter shall operate as a release of responsibility therefor.

13:9-25. Compliance with chapter; civil liability for damages

Compliance with the provisions of this chapter shall not bar any action for damages for which any person or corporation would otherwise be liable; but conformance with the provisions of this chapter and with the terms of any notice or order issued by the department may be shown and considered as evidence of the use of due care on the part of such person or corporation.

13:9-28. Penalties; payment and disposition

All payments on account of penalties under this chapter shall be made to the Department of Environmental Protection for the support of the fire service.

13:9-29. Arrests without warrant

Any firewarden may arrest, without warrant, any person whom he has probable cause to believe is committing a violation of this act.

13:9-44.1 “Forest Fire Prevention and Control Act”; Short Title

Sections 1 through 10 inclusive of this act shall be cited and may be known as the “Forest Fire Prevention and Control Act.”

Historical and Statutory Notes

An Act concerning the prevention and control of forest fires; amending, supplementing and repealing certain sections of Title 13 of the Revised Statutes, L.1981, C.369.

13:9-44.2 Legislative declarations

The Legislature declares it to be the policy of this State to prevent, control and manage wildfires on or threatening the forest or Wildland of New Jersey in order to preserve forests and other natural resources; to enhance the growth and maintenance of forests; to protect recreational, residential, wildlife, plant life, watershed, airshed, and other values; to promote the stability of forest using industries; and to prevent loss of life, bodily injury and damage to property from wildfire and conflagrations.

13:9-44.3 Definitions

As used in this amendatory and supplementary act:

- a. “Commissioner” means the Commissioner of Environmental Protection or an official designated by the commissioner.
- b. “Back fire” means a controlled fire purposely ignited in the path of wildfire along the inner edge of a control line.
- c. “Department” means the Department of Environmental Protection.
- d. “Forest” means and includes any forest, bushland, grassland, salt marsh, and any combination thereof.

- e. “Wildfire” means an uncontrolled fire burning the different types of vegetation that cover the land.

13:9-44.4 Authority to make, conduct or participate in investigation of cause or responsibility for wildfire; cooperation

The Department of Environmental Protection is authorized to make, conduct or participate in any investigation or survey designed to establish the cause of and responsibility for a particular wildfire and to cooperate with any law enforcement officers of this State with respect to violations of this act.

13:9-44.5 Rules and regulations; orders

The Department of Environmental Protection is authorized to formulate, promulgate, amend, and repeal rules and regulations and to issue orders to carry out the purposes of this act.

13:9-44.6 Discharge of incendiary device, operation of mechanism which might cause wildfire or machinery without spark arrestor; precautions; presumption on escape of fire

No person shall discharge or cause to be discharged any incendiary device on or across any forest land, or operate a welding torch or other mechanism which may cause a wildfire, without clearing flammable material surrounding the operation or without taking such other precautions as prescribed by the department to insure against the ignition and spread of wildfire, or cause to be operated any engine, locomotive, powered vehicle, equipment, or other suitable controls, approved by the department by rule to prevent the escape of fire or sparks. Spark arrestors or devices must be in good working order and in use. The department may prohibit the operation of any locomotive, rapid transmit, engine, equipment, or other motorized unit not properly equipped with department approved fire protection devices. Escape of fire from such equipment shall be presumed to be evidence that it was not maintained properly in compliance with this section. Any person in violations thereof may be put upon his proof to rebut such presumption in any civil proceeding under this act.

13:9-44.7 Throwing or dropping object within forest likely to cause wildfire

No person shall throw or drop any object within forests which is likely to cause a wildfire, including but not limited to a lighted cigarette, lighted cigar, match or live ashes.

13:9-44.8 Rights-of-way of railroads; burning and clearance; failure to comply; notice; declaration as public nuisance

The rights-of-way of all railroads which are operated through forests shall be prescribed burned by the railroad during the fall and winter months and kept cleared of all obsolete ties or other flammable material. The department shall notify the owner of such property

that failure to comply will result in the property being declared a public nuisance which by reason of its conditions or operations is a special forest fire hazard and as such endangers other property or human life. The department shall notify the owner of such property of the person responsible for the conditions or operation thereof, that it has been declared a public nuisance and order him to abate it

13:9-44.9 Costs of extinguishment; recovery; action

The department may, in the name of the State, recover costs of extinguishment and costs associated therewith from any person or agency, public or private, whose negligence or whose knowing violation of any provision of this act caused any fire in the State for the services of persons and equipment under the provisions of this act to control, confine, extinguish, or suppress such fire. The claim shall be paid within 60 days and if not paid within that time, the department may bring suit against the person or agency in a court of competent jurisdiction for the collection of the claim.

13:9-44.10 Violations; injunction; penalties, criminal penalties; civil administrative remedy

If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant of this act, the department may:

- a. Institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation and the court may proceed in the action in a summary manner. Any person who violates the provisions of this act of any rule, regulation or order promulgated pursuant to this act shall be liable to a penalty of not more than \$5,000.00 for each offense, to be collected in a civil action by a summary proceeding under “the penalty enforcement law” (N. J. S. 2A:58-1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, municipal court and county district court shall have jurisdiction to enforce “the penalty enforcement law.” The Attorney General or the prosecuting attorney of the municipality or county in which the offense was committed may prosecute the case. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is authorized to settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.
- b. Petition the Attorney General to bring a criminal action against any person who knowingly violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act and thereby causes a wildfire. Such person shall, upon conviction, be guilty of a crime of the fourth degree and notwithstanding the provisions of N. J. S. 2C:43-3 shall be subject to a fine of not more than \$100,000.00 for each offense; or

- c. Levy a civil administrative remedy of not more than \$5,000.00 for each violation and additional penalties of not more than \$500.00 for each day during which such violation continues after receipt of an order from the department. No penalty shall be levied pursuant to this section until the person has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute violated; a concise statement of the facts alleged to constitute a violation; a statement of the person's right to a hearing. The person shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, then the notice shall become a final order after the expiration of the 20 day period. Payment is due when the final order is issued or notice becomes a final order.

Article 3. CLOSING OF FORESTS, ETC., FOR FIRE PROTECTION

13:9-52 Drought; closing of forests and suspension or curtailment of open seasons for game and fish; proclamation of commissioner

Notwithstanding the provisions of any other law to the contrary:

Whenever, by reason of drought, the forests of the State are in danger of fires, the commissioner shall have the authority to forbid by proclamation from entering forests, in such parts of the State as the department deems the public interest requires, and may by such proclamation suspend or curtail any open season for taking fish, game birds, game animals and furbearing animals, or any of them therein. Such proclamation shall be in effect at such time as the commissioner may determine after notice is given in the manner the commissioner may determine and remain in force and effect until rescinded by the commissioner. It shall be unlawful for any person or persons, except those authorized by written permission of the commissioner, to enter such forests, while such proclamation shall be in effect.